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'I' ITEM NOTE

From: General Secretariat of the Council

To: Permanent Representatives Committee (Part 2)

Subject: Proposal for a Decision of the European Parliament and of the Council amending Decision No 466/2014/EU granting an EU guarantee to the European Investment Bank against losses under financing operations supporting investment projects outside the Union

Proposal for a Regulation of the European Parliament and of the Council amending Regulation (EC, Euratom) No 480/2009 establishing a Guarantee Fund for external actions

- Confirmation of the final compromise text with a view to agreement

I. INTRODUCTION

- On 14 September 2016, the Commission transmitted to the Council its proposal for a Decision of the European Parliament and of the Council amending Decision 466/2014/EU granting an EU guarantee to the European Investment Bank against losses under financing operations supporting investment projects outside the Union (doc. 12197/16), and its proposal for a Regulation of the European Parliament and of the Council amending Regulation 480/2009 establishing a Guarantee Fund for external actions (doc. 12193/16).
- On 9 November 2016 the Permanent Representatives Committee confirmed the agreement reached at the Working Party on the proposal to amend Regulation No 480/2009 and agreed on a mandate with regard to the proposed External Lending Mandate Decision (No 466/2014/EU).
- On 31 March 2017, the Committee on budgets of the European Parliament voted its reports for the two files.

- That same day, the Permanent Representatives Committee reconfirmed the mandate for the two proposals and invited the Presidency to conduct negotiations with the European Parliament accordingly (st. 7398/17).
- Eight informal meetings between the European Parliament, the Council and the Commission took place on 12 April, 27 April, 4 May, 8 May and 30 May 2017, 22 June, 22 of November and 29 November.
- Compromise proposals were discussed by Financial Counsellors on several occasions and Permanent Representatives were kept informed about the state of play of negotiations and provided guidance on 6 June and 22 and 29 November 2017.
- The outcome of the informal meetings is set in the annexes to this note:

Annex A: Proposal for a Decision of the European Parliament and of the Council amending Decision 466/2014/EU granting an EU guarantee to the European Investment Bank against losses under financing operations supporting investment projects outside the Union.

Annex B: proposal for a Regulation of the European Parliament and of the Council amending Regulation 480/2009 establishing a Guarantee Fund for external actions.

II. MAIN ELEMENTS OF THE COMPROMISE

- The management of the Guarantee Fund remains with the EIB and an independent external evaluation will be required in 2019 to assess the opportunity to shift its management to the Commission or to a combination of the Commission and the EIB;
- The overall lending ceiling will remain at the level proposed by the Commission, i.e. EUR 32.3bn;
- The Pre-Accession regional ceiling will be reduced to 25% of the overall mandate;
- A part of the general mandate, and a newly created "private sector lending mandate" are agreed to be earmarked for projects directed to the long-term economic resilience of refugees, migrants, host and transit communities and communities of origin as a strategic response to addressing root causes of migration, and;
- More transparency and reporting is asked from the EIB, including for the EIB to make direct funding and funding via intermediaries contingent upon the disclosure of beneficial ownership information in accordance with Directive EU/2015/849.

III. CONCLUSIONS

1. Against this background, the Permanent Representatives Committee is invited to:
 - a) approve the final compromise texts, as set out in Annex A and Annex B to this note;
 - b) to authorise the Presidency to send a letter to the Chair of the European Parliament's Committee on Budgets (BUDG) confirming that, should the European Parliament adopt its position at first reading, in accordance with Article 294 paragraph 3 of the Treaty, in the form agreed at the informal meeting held between the three institutions on 29 November 2017 (subject to revision by the legal linguists of both institutions), the Council would, in accordance with Article 294 paragraph 4 of the Treaty, approve the European Parliament's position and the act shall be adopted in that wording subject, if necessary, to revision by the legal linguists of both institutions;

Proposal for a
DECISION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL
amending Decision No 466/2014/EU 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⁾,

Whereas

(1) The international community faces an unprecedented **migration and** refugee crisis which requires solidarity, efficient mobilisation of financial resources and the need to confront and surmount the existing challenges in a concerted manner. All actors need to work together to apply sustained, medium and long-term policies and an efficient use of existing processes and programmes in order to **develop and** support initiatives, which contribute to **the Sustainable Development Goals (SDGs) and to** addressing the **political, social, economic and environmental factors that constitute the** root causes of migration, **including but not limited to poverty; inequality; demographic growth; lack of employment, limited access to education and economic opportunities; instability; conflict; climate change and the long-term consequences of forced displacement.**

(1a) While providing resources to address the root causes of migration is of paramount importance, the Union remains fully committed to policies in other areas of key strategic priority as outlined in the EU Global Strategy.

(2) A new results-oriented partnership framework with third countries which takes account of all Union policies and instruments should be developed. As part of that new partnership framework, the External Investment Plan should be established in order to support investments in regions outside the Union, while contributing to the achievement of the sustainable development goals **and addressing the root causes of migration**. It should also ~~fulfill~~ **contribute to fulfilling** the objectives of the 2030 Agenda for Sustainable Development, **the Paris Agreement adopted under the United Nations Framework Convention on Climate Change** and the objectives pursued by the other financing instruments for external action.

(3) The proposal of the European Investment Bank (EIB) to contribute to the ~~External Investment Plan~~ EIP via the EIB Resilience Initiative **designed to foster investments** in the Southern Neighbourhood and Western Balkans ('EIB Resilience Initiative') was endorsed by the European Council on 28 June 2016.

(4) A key component of the EIB Resilience Initiative is the expansion, in both quantitative and qualitative terms, of the EIB External Lending Mandate (ELM). This should enable the EIB to rapidly contribute to the EIP's objectives, in particular by providing additional financing to private-sector beneficiaries, **with a view to crowd-in private investments and boost long-term investment**.

~~(5) Complementarity of EIB Resilience Initiative with the other components of the EIP is to be ensured through the Strategic Board of the European Fund for Sustainable Development, where the EIB is to have a full seat.~~

(5) The Strategic Board of the EFSD, where the EIB is a member, will provide guidance on complementarity between the EIB Resilience Initiative and the components of the EIP in line with its rules of procedure and without prejudice to the EIB internal governance rules.

~~(6) In addition, and in line with the European Council conclusions, the EIB should submit the private sector component of the EIB Resilience Initiative as the first investment window to the Neighbourhood Operational Board under the EIP.~~

(7) A budgetary guarantee for financing operations carried out outside the Union was granted to the EIB by Decision No 466/2014/EU of the European Parliament and of the Council¹.

(8) In accordance with ~~Article 19~~ of Decision No 466/2014/EU, the Commission, in cooperation with the EIB, prepared a mid-term review report evaluating the application of that Decision based on an independent external evaluation.

(8a) Improving the long-term economic resilience of refugees, migrants, host and transit communities and communities of origin as a strategic response to addressing root causes of migration should be added as a new objective supported by the EU guarantee.

(8b) Operations supported under the new objective of the EU Guarantee should be distinct from Union efforts in the areas of border control.

(9) In order to allow the ELM to respond to potential upcoming challenges and Union priorities, as well as to **fulfil the new objective supported by the EU guarantee** ~~provide a strategic response addressing root causes of migration~~, the maximum ceiling for the EIB financing operations under the EU guarantee should be increased to EUR 32 300 000 000 ~~by releasing the optional additional amount of EUR 3 000 000 000. Under the general mandate, the amount of EUR 1 400 000 000 should be earmarked for projects in the public sector directed to refugees and host communities in crisis affected areas.~~

(9a) Under the general mandate, the amount of EUR 1 400 000 000 should be earmarked for projects in the public sector directed to fulfilling the new objective supported by the EU guarantee.

(10) Under the new private sector lending mandate, the maximum amount of EUR 2 300 000 000 should be dedicated to projects ~~addressing root causes of migration~~ directed to **fulfilling the new objective supported by the EU guarantee** within the maximum increased ceiling and should benefit from the Comprehensive Guarantee by the Union.

¹ Decision No 466/2014/EU of the European Parliament and of the Council of 16 April 2014 granting an EU guarantee to the European Investment Bank against losses under financing operations supporting investment projects outside the Union (OJ L 135, 8.5.2014, p. 1).

(10 b) Success of one of the EIB's main objectives under the ELM, support for the local private sector development, in particular support to micro, small and medium-sized enterprises (SMEs), hinges on factors such as SMEs' access to finance, credit and, technical assistance, on promotion of entrepreneurship and on efforts to stimulate the transition from the volatile informal economy to the formal sector. In that context, the EIB financing operations should seek to support small investment projects run by SMEs. The EIB financing operations should also seek to support investment projects in remote rural areas and in the field of drinking water treatment, wastewater disposal and renewable energy.

~~(11) Addressing root causes of migration should be added as a new objective of the mandate.~~

(12) Complementarity and coordination with Union initiatives addressing root causes of migration should be ensured, including with Union support for the sustainable reintegration of returned migrants in the countries of origin.

(13) Following the Paris Agreement adopted under the United Nations Framework Convention on Climate Change⁴, the EIB should ~~aim~~ **endeavor** to sustain ~~the current~~ a high level of climate-relevant ~~spending operations under the ELM, contributing to increasing its climate-related investment in developing countries from 25 % to 35 % by 2020.~~, **the volume of which should represent at least 25 % of the total EIB financing operations outside the Union. EIB financing under this Decision should be consistent with reaching the target of at least 35% of total EIB financing operations in emerging economies and developing countries outside the EU by 2020. The EIB should take into account the European Council conclusions of 22 May 2013 on phasing out environmentally or economically harmful subsidies, including those for fossil fuels.**

(14) The risk to the Union budget associated with EIB financing operations under the private sector lending mandate should be priced ~~and~~. The revenues generated from ~~the~~ **such** risk pricing should be paid into the Guarantee Fund for external actions in order to cover the commercial risk and to avoid market distortions.

(15) The EIB should develop and implement a set of indicators in its Results Measurement framework for projects ~~in the public sector and in the private sector directed to refugees and host communities~~ **directed to fulfilling the new objective supported by the EU guarantee.** Therefore, an assessment of the contribution of EIB financing operations ~~addressing root causes of migration~~ **towards this objective, including where applicable the contribution to SDGs, the involvement of local civil society, and the alignment with Union external policy priorities and budget priorities** should be included in the Commission's annual reporting to the European Parliament and to the Council on EIB financing operations.

(15 a) **The visibility and transparency of EIB operations under the ELM should be ensured, in particular with regard to projects financed through financial intermediaries, improving access to information for the Union's institutions and for the general public, taking into account the need to protect confidential and commercially sensitive information.**

(15aa) **The relevant EU policy on non-cooperative jurisdictions for tax purposes is laid down in the legal acts of the Union and Council Conclusions, notably those of 8 November 2016, in particular in their Annex, and any subsequent updates.**

(15ab) **The due diligence on EIB financing operations under this Decision should include a thorough check of compliance with applicable EU legislation and agreed international and EU standards on anti-money laundering, fight against terrorism financing, tax fraud and tax avoidance. Moreover, in the context of ELM reporting, the EIB should provide information, country by country, on the compliance of the ELM operations with EIB policy on non-cooperative jurisdictions and the list of intermediaries with whom EIB cooperates.**

(15b) **On 12 October 2016, the EIB approved the implementation of the Economic Resilience Initiative in the Southern Neighborhood and Western Balkans. Projects under the Resilience Initiative which were approved after 12 October 2016 and before the entry into force of this Decision and the conclusion of the guarantee agreement should be able to be included within the EU guarantee coverage, subject to confirmation by the Commission that they are in line with the objective defined in Article 3.1 (d) and respect the terms to be agreed in the guarantee agreement.**

(15ba) EIB financing operations with corporates should only benefit from the private sector comprehensive guarantee if they promote inclusive growth and enhanced job creation and if they are not adequately served by local financial markets.

(15c) EIB financing operations shall be consistent with the principles contained in the Commission Communication entitled ‘A renewed EU strategy 2011-14 for Corporate Social Responsibility’, including with regard to financial intermediaries.

~~(16) Only where it concerns the need to address urgencies and crisis situations that could arise within the mandate period and which are recognised as the Union external policy priorities~~ **change, or in urgency and crisis situations that could arise within the mandate period, as expressed in relevant Parliament resolutions and Council decisions and conclusions, the ceiling for reallocation between the regions by the EIB in the course of the mandate should be increased from 10 % to 20 %. The private sector mandate of EUR 2 300 000 000 and the amount of EUR 1 400 000 000 dedicated to public sector projects cannot be reallocated because its purpose is to address root causes of migration. The Commission should keep the European Parliament and the Council regularly informed of such reallocations.**

(16a) Given the importance of the EIB Resilience Initiative in the EU's strategy to address the root causes of migration, and the needs of transit and host communities, it remains of utmost importance that the ELM regional ceilings earmarked for such projects are absorbed completely. Nevertheless, if due to unforeseen circumstances, the earmarked amounts cannot be absorbed fully, some increased flexibility should also be allowed. Therefore, if by 30 June 2019~~8~~ the EIB concludes that it is not in the position to absorb its forecasted target under the Resilience Initiative, the total amount of EUR 1 400 000 000 earmarked from the general mandate dedicated to public sector projects and EUR 2 300 000 000 earmarked under the private sector lending mandate may be reallocated up to 20 % within and/or between the regions "Pre-accession Countries and Beneficiaries" and "Neighbourhood and Partnership Countries" as defined by this Decision. Any such reallocation should be subject to a prior agreement between the Commission and the EIB.

(17) The lists of eligible regions and countries and potentially eligible regions and countries should be modified in order to exclude high income **regions and** countries with high credit rating, **namely** ~~(Brunei, Chile, Iceland, Israel, Singapore, South Korea and Taiwan)~~. In addition, Iran ~~is to be~~ **should** be added to the list of potentially eligible regions and countries.

(18) Decision No 466/2014/EU should therefore be amended accordingly,

HAVE ADOPTED THIS DECISION:

Article 1

Decision No 466/2014/EU is amended as follows:

(1) Article 2 is replaced by the following:

‘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 2014-20 shall not exceed EUR 32 300 000 000. 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 maximum amount of EUR 30 000 000 000 under a general mandate, of which an amount of up to EUR 1 400 000 000 is earmarked for projects in the public sector directed to **the long-term economic resilience of refugees, migrants, and host and transit communities and communities of origin as a strategic response to addressing root causes of migration;**

(b) a maximum amount of EUR 2 300 000 000 under a private sector lending mandate for projects **directed to the long-term economic resilience of refugees, migrants, host and transit communities and communities of origin as a strategic response to** addressing root causes of migration.

2. The maximum amounts under the general mandate and the private sector lending mandate referred to in paragraph 1 shall be broken down into regional ceilings and sub-ceilings as laid down in Annex I. Within the regional ceilings **and over the period referred to in Article 1 paragraph 5**, the EIB shall progressively ensure a ~~balanced~~ country distribution within the regions covered by the EU guarantee, **balanced in line with Union external policy priorities which shall be reflected in the regional technical operational guidelines referred to in Article 5;**

(2) Article 3 is amended as follows:

(aa) in paragraph 1, point (a) is amended as follows:

(a) local private sector development, in particular support to ~~SMEs~~ **micro, small and medium-sized enterprises (SMEs)**

(a) in paragraph 1, the following point ~~(d)~~ is added:

(d) the long-term economic resilience of refugees, migrants, host and transit communities and communities of origin as a strategic response to addressing root causes of migration.

(aa) in paragraph 3, the words "Pre-accession countries" are replaced by " Pre-accession countries and beneficiaries";

(a a) In Article 3, paragraph 4 is replaced by the following:

"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~~ **in particular towards** reducing poverty through inclusive growth and sustainable ~~economy~~ **economic**, environmental and social development."

(b) in paragraph 5, the first subparagraph is replaced by the following:

To ensure that private sector investments have the greatest development impact, the EIB shall endeavor to ~~strengthen~~ **contribute to creating favorable conditions for private enterprise and investment and shall ensure that as a priority** the local private sector, **including cooperatives and social enterprises** in beneficiary countries **is strengthened**, 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 endeavor to also enhance its support to investment projects run by SMEs **from the recipient country and** from the Union, **enabling access to finance for new investment projects run by SMEs. EIB financing operations shall allow SMEs to take advantage of, inter alia, market access for SMEs in the Union's third country partners and their integration into global value chains and shall further contribute to enhancing Union companies' competitiveness.**

In order to effectively monitor **and evaluate** the use of funds for the benefit of the SMEs concerned, the EIB shall **carry out thorough due diligence and** establish and maintain adequate contractual provisions imposing standard reporting obligations on both the financial intermediaries and the **final** beneficiaries; **The EIB shall endeavor to identify and contribute to addressing the obstacles to funding faced by SMEs;**

in paragraph 5, the second subparagraph is replaced by the following:

"The EIB shall cooperate with financial intermediaries that can support the specific needs of SMEs in the countries of operation and that **comply with the requirements of Article 13, as transposed into agreements under Article 13, paragraph 4** ~~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 **efficiency measures, 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."

(c) paragraphs 7 and 8 are replaced by the following:

"7. EIB financing operations supporting the general objectives set out in point (c) of paragraph 1 shall back investment projects in climate change mitigation and adaptation that contribute to the overall objectives of the United Nations Framework Convention on Climate Change and of the Paris Agreement adopted under that Convention, in particular by avoiding or reducing greenhouse gas emissions **and reducing the carbon footprint** 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 strategy² updated in 2015. On the basis of the methodologies for the assessment of project greenhouse gas emissions and emission variations drawn up by the EIB, an analysis of the carbon footprint shall be included in the environmental assessment procedure to determine whether project proposals optimise energy-efficiency improvements.

Over the period covered by this Decision, the EIB should endeavour to sustain ~~the current~~ a high level of climate-relevant operations, ~~while the minimum~~ volume of ~~these operations~~ **which** shall represent at least 25 % of the total EIB financing operations **outside the Union. EIB financing under this Decision shall be consistent with reaching the target of at least 35% of total EIB financing operations in emerging economies and developing countries outside the EU by 2020.**

EIB operations shall inter alia integrate concrete actions to phase out financing projects detrimental to the achievement of Union's climate objectives and step up efforts to support renewable energy sources and energy efficiency.

The EIB shall enhance the **climate change** adaptation elements in its contribution to ~~climate change~~ projects **across EIB financing operations within the External Lending Mandate.**

8. EIB financing operations supporting the general objectives set out in point (d) of paragraph 1 shall back investment projects that address root causes of the migration and contribute to long-term economic resilience and safeguard sustainable development in beneficiary countries **and to the SDGs.**

EIB financing operations shall, ~~in particular~~, address increased needs for infrastructure and related services to cater **directly or indirectly** for the migrants influx **while also benefitting the local population, or** ~~and~~ boost employment opportunities for host and refugee communities, **or** to foster economic integration and enable refugees to become self-reliant, **or strengthen humanitarian action and support for creation of decent jobs, while ensuring the full respect of human, labour and social rights, fundamental freedoms and gender equality by implementing a rights-based approach (RBA) encompassing all human and social rights in line with the principles of transparency, participation, non-discrimination and accountability.**

² 'EIB Climate Strategy – Mobilising finance for the transition to a low-carbon and climate-resilient economy' adopted by the EIB on the 22nd of September 2015.

Those financing operations shall support the following:

- (a) the private sector in the areas of SMEs **and midcaps**, corporate finance and microfinance;
- (b) the public sector, including municipalities and public sector entities, in terms of infrastructure and services, **including health care and special facilities for children, sanitation services and school education**, to address significantly increased needs;
- (ca) **the following paragraph is inserted:**

“8a. EIB financing operations supporting the general objectives set out in paragraph 1 shall recognise that gender equality is a cross-cutting issue to achieving sustainable development and an important element for project due diligence. A gender perspective shall be applied to all such financing operations. The EIB will develop a Gender Action Plan by 31 December 2017 in line with its commitment and shall ensure that all EIB financing operations comply with the commitments set out in its Gender Strategy approved in December 2016.

- (cb) **the following paragraph is inserted:**

“8b. The EIB shall seek to ensure that companies participating in projects co-financed by the EIB shall adhere to the principle of equal pay and pay transparency and to the principle of gender equality as set out in Directive 2006/54/EC of the European Parliament and of the Council^{1a}. EIB decisions on project financing shall take into account action by potential beneficiary companies in the field of equal pay and corporate social responsibility;

- (c c) **paragraph 9 is replaced by the following:**

"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 **which shall be compatible with the EIB's Statement of Environmental and Social Principles and Standards and Environmental and Social Handbook."**

- (2a) **in Article 5, paragraph 1 the following subparagraph is added after subparagraph 3: The EIB shall ensure that information about planned and approved operations or any significant change thereto is published and readily available to local civil society.**

(2b) in Article 5, paragraph 1 subparagraph 3 is amended as follows:

"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, **as well as internationally recognized principles and guidelines on corporate social responsibility.** 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."

(2 c) In Article 5, the following paragraph is inserted:

“1a. The Commission shall be empowered to adopt delegated acts in accordance with Article 18 concerning amendments to Annex IV.

(3) in Article 8(1), the following second subparagraph is added:

‘The Comprehensive Guarantee shall also apply to EIB financing operations under the private sector lending mandate referred to in Article 2(1)(b), **which on average shall have a higher risk profile than the portfolio covered under the Political Risk Guarantee in the two ERI regions.**’;

(3a) in Article 8, paragraph 5 is replaced by the following:

“5. Financing agreements with individual promoters relating to EIB financing operations shall also include appropriate **procurement**, environmental, **climate** and social provisions in accordance with the EIB’s own rules and procedures, **including requirements to make the EU guarantee and EIB involvement visible to the end beneficiary.**”

(3b) in Article 8, paragraph 6 is replaced by the following:

"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 **receive** the allocation policy in accordance with Article 14."

(3 c) in Article 9, the first subparagraph of paragraph 1 is replaced by the following:

"The EIB shall carry out thorough due diligence and, where appropriate **in accordance with its Statement of Environmental and Social Principles and Standards and Environmental and Social Handbook**, 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, **gender equality**, 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.

(3 d) in Article 9, paragraph 1, the following subparagraph is inserted after the first subparagraph:

"The EIB shall ensure that the principle of free prior informed consent is implemented, prior to financing operations affecting land and natural resources.";

(3e) in Article 9, the second subparagraph of paragraph 1, is replaced by the following:

~~Where appropriate~~ This appraisal shall include an assessment of ~~how~~ **whether** the capacities of the beneficiaries of EIB financing ~~can~~ **should** be reinforced throughout the project cycle with technical assistance, **and if so, how this should be done**. 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 **and to ensure that EIB financing operations under the Economic Resilience Initiative, and in particular the private sector mandate, improve the economic resilience of refugees, migrants, host and transit communities and communities of origin.**

As part of its available internal guidance on application of due diligence, the EIB shall improve as necessary practical guidance on the assessment of aspects related to all basic human rights through its Environmental and Social Handbook, to be used during the ex ante assessment and ongoing monitoring on a project-by-project basis, including for projects involving financial intermediaries, based on the existing frameworks, in particular the EU Strategic Framework and Action Plan for Human Rights, and taking into account existing human rights benchmarks provided by the Union, relevant United Nations bodies and human rights organisations.”

(3 f) Article 9(3) is replaced by the following:

"3. The EIB monitoring shall ~~also endeavour to~~ cover the implementation of intermediated operations and the performance of financial intermediaries in support of SMEs."

(3 g) in Article 9, paragraph 5 is replaced by the following:

"5. The results of monitoring shall, ~~where possible,~~ be disclosed, subject to confidentiality requirements and the agreement of relevant parties."

(4) in Article 10, the following ~~third~~ subparagraph is added:

‘The risk for the Union budget associated with EIB financing operations under the private sector lending mandate referred to in Article 2(1)(b) shall be priced and the revenues generated from the **commercial** risk pricing shall be paid into the Guarantee Fund for external actions.’

(5) Article 11(1) is amended as follows:

(a) in point (b), is amended as follows~~the following sentence is added:~~

(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 ~~end-effect,~~ the EIB shall use ~~performance~~ **outcome indicators in relation to development, environmental and social aspects, including human right **and gender equality** aspects, of projects funded, taking into account the relevant indicators under the 2005 Paris Declaration for Aid Effectiveness.**

Indicators for gender equality shall be developed in line with the EIB's Gender Strategy and forthcoming Gender Action Plan; they shall reflect the promotion of equality between women and men, and, where possible, shall be evaluated ex post by disaggregating data by sex.

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. **The EIB shall develop indicators for projects providing strategic response addressing root causes of migration shall be developed by the EIB and building long-term economic resilience of host and transit communities, taking into account the views of stakeholders, civil society, affected communities, and NGOs;**

(a a) point c is amended as follows:

"(c) an assessment of the contribution of EIB financing operations to the fulfilment of Union external policy and strategic objectives, taking into account **the compliance with the principles guiding Union external action as referred to in Article 21 TEU, the regional technical operational guidelines referred to in Article 5 and the EU Strategic Framework and Action Plan for Human Rights;**

a b) In Article 11, paragraph 1, point (e) is replaced by the following:

"(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 **as well as measures to maximise local engagement by promoting the involvement of affected communities, civil society organisations and NGOs;**"

(b) the following point (j) is added:

(j) An assessment of the contribution of EIB financing operations ~~in providing~~ contributing to the long-term economic resilience of refugees, migrants, host and transit communities and communities of origin as a strategic response to addressing root causes of migration.

(5 c) in Article 12, paragraph 1, point (a) is replaced by the following:

"(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, **climate and gender specific** impact."

(5 d) Article 12, paragraph 1, point (c) is replaced by the following:

"(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 ~~endeavor to make possible~~ **ensure** their disclosure;"

in Article 12, the following paragraph is inserted:

"2a. (new) Upon request, the EIB shall provide the European Parliament with Results Measurement sheets for investment projects covered by the EU guarantee, taking into account the protection of confidential and commercially sensitive information and subject to the respective internal rules governing the treatment of confidential information."

Article 13 is modified as follows:

"Article 13

Prevention of money laundering, fight against terrorism, taxation, non-cooperative jurisdictions

In its financing operations **covered by this Decision**, the EIB shall ~~not tolerate any activities carried out for illegal purposes, including~~ comply with applicable **EU** legislation and **agreed international and EU standards** and, **therefore**, shall not support projects under this decision that contribute to money laundering, terrorism financing, **tax avoidance**, 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.~~

In addition the EIB shall not enter into new or renewed operations with entities incorporated or established in jurisdictions listed under the relevant EU policy on non-cooperative jurisdictions, or that are identified as high risk third countries pursuant to article 9.2 of Directive 2015/849, or that do not effectively comply with EU or internationally agreed tax standards on transparency and exchange of information. The EIB may derogate from this principle only if the project is physically implemented in one of those jurisdictions, and does not present any indication that the relevant operation falls under any of the categories listed in paragraph 1.

When concluding agreements with financial intermediaries, the EIB shall transpose the requirements referred to in this Article into the relevant agreements and shall request the financial intermediaries to report on their observance.

The EIB shall review its policy on non-cooperative jurisdictions at the latest following the adoption of the Union list of non-cooperative jurisdictions for tax purposes.”

Every year thereafter, the EIB shall submit a report to the EP and to the Council on the implementation of its policy mentioned in the previous paragraph in relation to financing operations including country by country information and a list of intermediaries with whom they cooperate.

2. In its financing operations covered by this Decision, 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 and in particular in Regulation (EU) 2015/847 of the European Parliament and of the Council (1) and Directive (EU) 2015/849 of the European Parliament and of the Council (2). In particular, the EIB shall make both direct funding and funding via intermediaries under this Decision contingent upon the disclosure of beneficial ownership information in accordance with Directive (EU) 2015/849.

(5 f) in Article 14, paragraph 1 is replaced by the following:

"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 which shall be inform~~ **communicated to the European Parliament and the Council accordingly subject to the respective internal rules governing the treatment of confidential information.**"

(5 g) in Article 18 the following paragraph is inserted:

“2a. The delegation of power referred to in Article 5 shall be conferred on the Commission for an indeterminate period of time from [date of entry into force of this amending Decision].”

(5 h) in Article 18, paragraph 3 is replaced by the following:

"3. The delegation of power referred to in **Articles 4 and 5** 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."

(5 i) in Article 18, paragraph 5 is replaced by the following:

"5. A delegated act adopted pursuant to **Articles 4 and 5** 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."

(6) Article 20 is replaced by the following:

‘Article 20

Reporting

By 30 June 2019, the Commission shall submit to the European Parliament and the Council a report evaluating the application of this Decision that shall provide input for a possible new decision on the External Lending Mandate covered by the EU guarantee.

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

(6a) the following Article is inserted:

'Article 20a

Transitional provision

The EIB may finance projects that were approved after 12 October 2016 and before the entry into force of [Decision of the EP and of the Council n°.../2017/EU amending Decision n°466/2014/EU granting an EU guarantee to the EIB] and the conclusion of a guarantee agreement between the Commission and the EIB. Such projects may be included within the EU guarantee coverage, subject to confirmation by the Commission that they are in line with the objective defined in Article 3.1 (d) and respect the terms to be agreed in the guarantee agreement.

(7) Annexes I, II and III are replaced by the text in the Annexes ~~I, II and III~~ to this Decision

(7a) In the first paragraph of Annex IV, the words "candidates and potential candidates" are replaced by "Pre-accession countries and beneficiaries."

Article 2

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

Done at Brussels,

For the European Parliament

For the Council

The President

The President

ANNEX I

REGIONAL CEILINGS

A. Pre-accession countries **and beneficiaries**: EUR **8 075 000 000** ~~9 679 000 000~~ of which EUR **7 635 000** ~~9 239 000 000~~ under the general mandate and EUR 440 000 000 under the private sector lending mandate.

B. Neighbourhood and Partnership countries: EUR **19 680 000 000** ~~18 374 000 000~~, broken down into the following sub-ceilings:

(i) Mediterranean countries: EUR **13 030 000 000** ~~12 366 000 000~~ of which EUR **11 170 000** ~~10 506 000 000~~ under the general mandate and EUR 1 860 000 000 under the private sector lending mandate;

(ii) Eastern Europe, Southern Caucasus and Russia: EUR **6 650 000 000** ~~6 008 000 000~~;

C. Asia and Latin America: EUR **4 083 000 000** ~~3 785 000 000~~, broken down into the following sub-ceilings:

(i) Latin America: EUR **2 694 000 000** ~~2 543 000 000~~;

(ii) Asia: EUR **1 165 000 000** ~~1 040 000 000~~;

(iii) Central Asia: EUR **224 000 000** ~~202 000 000~~;

D. South Africa: EUR **462 000 000**.

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 20% of the regional ceilings between regions. **In the event that by 30 June 2019, the EIB governing bodies conclude that the EIB is not in the position to absorb its forecasted target under the Resilience Initiative, the total amount of EUR 1 400 000 000 earmarked from the general mandate dedicated to public sector projects and EUR 2 300 000 000 earmarked under the private sector lending mandate in points may be reallocated up to 20 % within and/or between the regions A and B shall not be modified of this Annex.**

Any reallocation under the Resilience Initiative is subject to a prior agreement between the Commission and the EIB. "

EIB governing bodies shall in particular use such possibility of reallocation to allow for a continued focus of the EU guarantee on projects with a higher risk profile in priority regions. The Commission shall keep the European Parliament and the Council regularly informed of such reallocations.

ANNEX II

POTENTIALLY ELIGIBLE REGIONS AND COUNTRIES

A. Pre-accession countries **and beneficiaries**

~~1. Candidates~~

Albania, **Bosnia and Herzegovina**, former Yugoslav Republic of Macedonia, **Kosovo***
Montenegro, Serbia, Turkey³

~~2. Potential candidates~~

~~Bosnia and Herzegovina, Kosovo~~

B. Neighbourhood and Partnership countries

1. Mediterranean countries

Algeria, Egypt, 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, Colombia, Costa Rica, Cuba, Ecuador, El Salvador, Guatemala, Honduras, Mexico, Nicaragua, Panama, Paraguay, Peru, Uruguay, Venezuela

2. Asia

Afghanistan, Bangladesh, Bhutan, Cambodia, China, India, Indonesia, Iran, Iraq, Laos, Malaysia, Maldives, Mongolia, Myanmar/Burma, Nepal, Pakistan, Philippines, Sri Lanka, ~~Taiwan~~, Thailand, Vietnam, Yemen

3. Central Asia

Kazakhstan, Kyrgyzstan, Tajikistan, Turkmenistan, Uzbekistan

D. South Africa

South Africa

³ **The EIB Resilience Initiative does not include Turkey because that is covered by a separate EU-Turkey agreement.**

* **This designation is without prejudice to positions on status, and is in line with UNSCR 1244/(1999) and the ICJ Opinion on the Kosovo declaration of independence.**

ANNEX III

ELIGIBLE REGIONS AND COUNTRIES

A. Pre-accession countries **and beneficiaries**

~~1. Candidates~~

Albania, **Bosnia and Herzegovina**, former Yugoslav Republic of Macedonia, **Kosovo***, Montenegro, Serbia, Turkey⁴

~~2. Potential candidates~~

~~Bosnia and Herzegovina, Kosovo~~

B. Neighbourhood and Partnership countries

1. Mediterranean countries

Algeria, Egypt, Jordan, Lebanon, Libya, Morocco, Palestine, 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, Colombia, Costa Rica, Ecuador, El Salvador, Guatemala, Honduras, Mexico, Nicaragua, Panama, Paraguay, Peru, Uruguay, Venezuela

2. Asia

Bangladesh, Bhutan, Cambodia, China, India, Indonesia, Iraq, Laos, Malaysia, Maldives, Mongolia, Myanmar/Burma, Nepal, Pakistan, Philippines, Sri Lanka, Thailand, Vietnam, Yemen

3. Central Asia

Kazakhstan, Kyrgyzstan, Tajikistan, Turkmenistan, Uzbekistan

D. South Africa

South Africa

⁴ **The EIB Resilience Initiative does not include Turkey because that is covered by a separate EU-Turkey agreement.**

* **This designation is without prejudice to positions on status, and is in line with UNSCR 1244/(1999) and the ICJ Opinion of 22 July 2010 on the Kosovo's declaration of independence.**

**Proposal for a
REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL
amending Regulation (EC, Euratom) No 480/2009 establishing a Guarantee Fund for external
actions**

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,

Whereas:

- (1) The Guarantee Fund for external actions is regulated by Council Regulation (EC, Euratom) No 480/2009 .
- (2) The Guarantee Fund is endowed by one annual payment from the general budget of the Union, by interest on Guarantee Fund resources invested and by amounts recovered from defaulting debtors.
- (3) Risk premium revenues generated under the financing operations of the European Investment Bank (EIB) that benefit from a Union budgetary guarantee should be paid to the Guarantee Fund.
- (4) The amount of the Guarantee Fund in surplus exceeding 10% of the Union's total outstanding capital liabilities should be paid back to the general budget of the Union in order to better protect the budget against potential additional risk of default of the EIB financing operations addressing **the long-term economic resilience of refugees, migrants, host and transit communities and communities of origin as a strategic response to addressing** root causes of migration;

~~(5) The financial management of the Guarantee Fund should be transferred from the EIB to the Commission, which has an established practice of managing similar investments. By taking over the asset management of the Guarantee Fund, the Commission should be able to streamline and consolidate its asset management activities, building on existing structures and a good track record.~~

(6) Regulation (EC, Euratom) No 480/2009 should therefore be amended accordingly,

HAVE ADOPTED THIS REGULATION:

Article 1

Regulation (EC, Euratom) No 480/2009 is amended as follows:

(1) in Article 2, the following ~~fourth~~ indent is added:

‘— risk premium revenues generated under the financing operations of the EIB for which the Union provides a guarantee **which is remunerated.**’;

(2) in Article 3, the third paragraph is replaced by the following:

‘If the amount of the Guarantee Fund exceeds 10% of the Union's total outstanding capital liabilities, the surplus shall be paid back to the general budget of the European Union. That surplus shall be paid in one transaction to a special heading in the statement of revenue in the general budget of the European Union of the year $n + 1$ on the basis of the year-end $n-1$ difference between 10% of the total outstanding capital liabilities amount and the value of the Fund's net assets, calculated at the beginning of the year $n.$ ’;

(3) Article 7 is replaced by the following:

‘Article 7

The Commission shall ~~ensure~~ **entrust** the financial management of the Fund **to the EIB**. ~~The Commission shall manage and invest the resources of the Guarantee Fund in accordance with the principle of sound financial management and shall follow appropriate prudential rules.~~

The Commission shall submit to the European Parliament and the Council by 30 June 2019 an independent external evaluation of the advantages and disadvantages of entrusting the financial management of the assets of the guarantee fund for external action and of the European fund for sustainable development to the Commission, EIB, or a combination of the two, taking into account the relevant technical and institutional criteria used in comparing asset management services, including the technical infrastructure, comparison of costs for the services given, institutional set-up, reporting, performance, accountability and expertise of each institution and the other asset management mandates for the EU Budget. The evaluation shall where appropriate be accompanied with a legislative proposal.

(4) Article 8 is replaced by the following:

‘Article 8

~~By 31 March of each year, the Commission shall submit to the European Parliament, to the Council and to the Court of Auditors, in the context of the financial statements of the Commission, the required information on the situation of the Guarantee Fund.~~

~~In addition, it~~ The Commission shall, by 31 May of each year, submit to the European Parliament, to the Council and to the Court of Auditors an annual report on the management of the Guarantee Fund in the previous calendar year. The annual report shall contain the presentation of the financial position **and functioning of the Guarantee Fund at the end of the previous calendar year, the financial flows ~~during the previous calendar year~~ as well as the significant transactions and any relevant information on the financial accounts, **such as detailed information on the outstanding capital of guaranteed loans or the Guarantee Fund's assets during the previous calendar year, as well as conclusions and lessons learned.** The report shall also include information about the financial management and performance and the risk of the Guarantee Fund at the end of the calendar year. **As of 2019 and every third year thereafter, it shall also include an assessment on the adequacy of the 9% target and of the 10% threshold for the Fund, refered to in second and third paragraph of Article 3 respectively.**’**

Article 2

This Regulation shall enter into force on the twentieth day following that of its publication in the Official Journal of the European Union.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels,

For the European Parliament

For the Council

The President

The President
