

**Counter Balance statement on the Commission proposal  
for a Decision of the European Parliament and the Council granting a EU guarantee to  
the EIB against losses under loans and guarantees for projects outside the EU,  
Brussels, 21.4.2010 COM(2010)174 final<sup>1</sup>**

Counter Balance – June 2010

The Commission proposal for a new European Investment Bank (EIB) mandate to lend outside the European Union contains several improvements compared to the previous version and includes various points that were raised by NGOs in the past. However, it leaves many concrete aspects to further decisions and allows a broad interpretation of important obligations. And above all, it increases the role and mandate of the EIB despite the Bank's poor record and in contrary to the result of the external lending mandate review.

Counter Balance is pleased to see an increased emphasis on development objectives, promotion of human rights and environmental sustainability and improved EIB due diligence, project appraisal and monitoring processes in this proposal. Thus while the recognition of the above is very welcome, there is no indication of how the EIB will concretely apply these obligations in practice. Likewise, while the Decision calls for systematic ex ante development impact assessment and monitoring of the projects, there is nothing about the implementation of these new procedures. That would mean the Decision leaves to the EIB to elaborate its procedure and content for its development assessment, which is extremely worrying considering the vagueness and poor quality of the current EIB procedure in that matter.

With that in mind, we urge the European Commission, the Council and the European Parliament to press further in concretising this proposal and tying EIB lending as concretely as possible to legally enforceable criteria.

We also have major concern about many of the sectors invoked to justify increased EIB lending, notably climate change and global loans, and urge the EP and EC to secure major changes in the institutional culture and practice of the EIB before empowering it to extend its lending capacities.

**Given this array of evidence that the EIB is not yet suited for a development role, plus the increased onus within the Decision precisely on development, we strongly oppose the recommendations that EIB receives the €2bn optional mandate for a new climate mandate, increase its overall investments and extend the range of financial instruments offered, and undertake concessional lending by mixing EIB money with EU grants.**

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<sup>1</sup> [http://ec.europa.eu/economy\\_finance/articles/financial\\_operations/2010-04-21-eib-mandate\\_en.htm](http://ec.europa.eu/economy_finance/articles/financial_operations/2010-04-21-eib-mandate_en.htm)

European Union governments must resource and empower other institutions than the EIB to make progress on poverty reduction and environmental goals. There is a need to reshape the overall EU development finance architecture. This approach is in line with the key priority of the aid effectiveness agenda to reduce fragmentation and duplication among institutions. As it currently operates, we suggest that the scope and extent of EIB lending operations outside the EU with the Community guarantee be progressively **reduced and become more selective according to few and clear priorities**, until such time as the Bank can demonstrate consistent fulfilment of its development obligations.

### **I. Releasing of EUR 2 billion “optional mandate”**

Taking into account the result of the mid term review, it is in our opinion unjustified to release optional mandate for the bank. Although the Wise Persons’ Panel, the independent group which analysed the EIB’s extra-EU lending under its former mandate, concluded that the optional mandate should be enacted, it came to several conclusions that undermined that recommendation, including:

- (i) [EIB’s] translation of EU policies into EIB lending strategies and the economic and sector analysis of country needs are very limited;*
- (ii) the EIB efforts to monitor project implementation, ensure local presence and follow up on environmental and social aspects appear still insufficient;*
- (iii) the EIB ability to satisfy the mandate requirements on development aspects is only indirect.<sup>2</sup>*

Releasing the optional mandate contradicts the findings of the review and undermines the effort which has been invested into this process. Moreover it is inappropriate to issue loans for adaptation, given that rich countries are deemed to be overwhelmingly responsible for climate change, so that only grants should be conceded for these actions.

There is a strong consensus among CSO from Northern and Southern countries that climate finance should be channelled through the United Nations Framework Convention on Climate Change (UNFCCC) as it is the most democratic and legitimate mechanism to manage the money.

**The EUR 2 billion should be used for climate adaptation and mitigation measures, by transferring it into a UN FCCC controlled fund(s) that will allow grant funding of adaptation in the most vulnerable regions and countries and adequate climate finance for mitigation and technology transfer measures.**

### **II. Compliance of the EIB’s operations with EU development objectives**

We welcome the acknowledgment of the need to align EIB activities with overall EU development and human rights objectives.

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<sup>2</sup> Report and Recommendations of the Steering Committee of ‘Wise Persons’, February 2010, p.26

The EC proposal has drawn conclusions from the November 2008 decision of the European Court of Justice (ECJ) and the EIB obligations under the Lisbon Treaty, as it clearly states that the EIB has to support EU development objectives like: rule of law, human rights, environmental standards.<sup>3</sup>

EIB's development obligations have taken a more central place in the decision; we welcome the recommendation in paragraph 13 that "*EIB should increase its development orientation...by reinforcing its capacity to appraise social and development aspects of projects, including human rights and conflict related risks, and by promoting local consultation,*" as well as the general principle expressed in paragraph 12 and article 6 of the decision.

We find it particularly encouraging that the Decision clearly states not only that the EIB needs to carry out an ex-ante development impact assessment for all projects covered by the guarantee, but also that it firmly monitors the development impact of the projects after their financing.

In this regard we believe it is crucial to enhance EIB cooperation with all the institutions involved in EU development policy.

However, it is still not enough to ensure that EIB's projects will be implemented in line with the horizontal high-level objectives and operational guidelines. Currently, the 'high-level objectives' are very ill-defined and open-ended and cannot constitute clear and focused objectives as they are defined now. They can include a wide range of investments – not necessarily coherent with one another – and it is unclear if these objectives are limitative or only indicative.

**The Decision should include a proposal for a procedure which will ensure compliance of the EIB operations guaranteed by the Community with the EU development policies and actions. The role and responsibility of the European Commission, which manages the Community guarantee, should be defined and included in the Decision.** Moreover this procedure should ensure that the cooperation between the Commission and the EIB, which is called for, is based on early and fully informative information exchange that enable both institutions to take mindful decisions within the scope of their competences. Furthermore this cooperation should be transparent to the public and on the level of regional operational guidelines and individual operations, participation of the public should be ensured.

### **Recommendations:**

The Decision of the Council and Parliament should include:

- Clarification on the horizontal high-level objectives of the EIB;
- Set up a small number of clear priority sectors (preferably sustainable energy, urban infrastructure, development of municipalities, locally owned financial institutions) , in line with overall EU objectives for EIB action in the different regions;
- A provision that the regional operational guidelines be designed with the European Parliament and publicly consulted;

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<sup>3</sup> "*EIB financing operations should contribute to the general principles guiding the EU's external action, as referred to in Article 21 of the Treaty on the European Union, of promoting and consolidating democracy and the rule of law, human rights and fundamental freedoms, and to the implementation of international environmental agreements to which the EU is a party.*"

- A provision that European Commission is obliged to provide under the Article 19 of the EIB Statute an opinion regarding each EIB operation granted with the Community guarantee; <sup>4</sup>
- Furthermore, a clear policy outlining detailed criteria to make an operation eligible under the community guarantee according to development priorities should be developed in consultation with all stakeholders and European institutions.

### III. EIB's development expertise and human resources

Both European Commission and the Wise Person Panel have recognised the lack of human capacity and development expertise in the bank to be able to finance in compliance with EU development objectives. . The Decision refers to EIB's need for sufficient capacity (see paragraphs 13/28): "*This should be implemented through a number of concrete measures, in particular by reinforcing its capacity to appraise social and development aspects of projects... to support EU development cooperation objectives, to increase focus on ex ante appraisal of the environmental, social and development aspects of its activities, and to effectively monitor projects during implementation.*"

Likewise, while the Decision makes a strong statement about the necessity for the EIB to have sufficient resources to implement its mandate, there is no information about whether the current staff incentive system – heavily biased in favour of lending against the quality of project development assessment – will be changed. It is imperative, however, that if the EIB is to add staff, that those staff are specifically orientated towards environmental and social work rather than financial, to correct the major imbalance in current EIB staffing.

#### Recommendations:

- The decision should include a requirement for the EIB and Commission to prepare a plan to change the staff incentive system in favour of project quality and development effectiveness more than quantity of lending and provide trainings and courses for current EIB employees in relevant areas. This plan should be accepted by the Council and EIB board of Directors before the Decision comes into force;
- The decision should place an obligation on the EIB to review its procedures for development, social and environmental impact assessment and project monitoring with the cooperation of European Commission and European Parliament all the while making the process open to public consultation.

### IV. Developing countries ownership of the EIB's operations. Promotion of local consultations

The Decision does not address at all the question of ownership of the EIB's operations in the developing countries. Given that it proposes to increase still further the involvement of the EU bank in the developing world, it is a glaring failure of democracy that the governments and peoples of the developing world have no say whatsoever in the operations or decision-making of the EIB. We urge the Council, EC and EP to include in the proposal appropriate procedure to guarantee developing countries and project affected people a voice regarding EIB's operations.

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<sup>4</sup> Currently European Commission shall deliver its opinion to EIB on an application for EIB loan. If no reply is received within specified period, the Bank may assume that there is no objection to the investment in question.

Moreover local consultation on EIB projects should be a prerequisite condition for all EIB operations. The concept of “promotion of local consultation” (paragraph 13), while welcomed, is weak. The Decision should put clear obligations on the EIB to conduct consultations of affected people within the EIB project due-diligence process. Affected people should be aware of the EIB’s involvement, its policies and standards and the aim of the EIB development intervention. Current EIB practice to merely tick the box next to ‘local consultation by project promoter’ should not be acceptable any more. The EIB already “promotes” local consultation and it does not bring an ownership effect over projects to local communities. Public consultation is currently understood by the EIB only in the framework of an Environmental Impact Assessment (EIA) procedure, which is often conducted long before EIB’s involvement. Many development projects may not require an EIA however and local people are therefore not being consulted at all.

#### **Recommendations:**

- The Decision should include that every country concerned has a right to be asked for an opinion on EIB’s operation on its territory on the basis of Article 19 of the EIB Statute. The EIB should not be eligible to finance projects for which negative opinion was provided by the country concerned;<sup>5</sup>
- The Decision should require the EIB to consult affected people on all projects, not only those that fall under Annex 1 or 2 of the EIA Directive, and this consultation should always take place at the project appraisal stage. Consultation must refer to all project aspects, including development and social impacts, not only environmental impacts with the EIB required to witness these consultations.

#### **V. Transparency and public access to information and documents**

EIB’s Transparency Policy, although reviewed last year, still constitute one of the weakest among policies of international financial institutions. Access to documents and information about EIB’s operations and EU development interventions can help to better achieve lending goals, reduce corruption, identify potential social, environmental and economic benefits, and avoid damaging communities and sensitive ecosystems.

The Wise Persons Panel Report concluded that: *“There is relatively little information on the quality of the sub-projects financed and consequently the final beneficiaries’ performance, which is linked to the absence of a requirement for financial intermediaries to send ex-post results on individual operations. More extensive and systematic access to project information, and greater involvement of project beneficiaries and local civil society that could be impacted by EIB financed investments should be ensured.”*<sup>6</sup> The Decision should ensure that EIB and Commission inform the public and people impacted by the project about their projects in advance including informing about the results of the due-diligence and their reasoning before these projects are approved by both institutions. Especially, as recommended by the Wise Persons Panel, transparency of use of funds should be ensured in

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<sup>5</sup> Currently only EU Member State concerned has the rights to deliver its opinion on the project on its territory to the EIB

<sup>6</sup> Report and Recommendations of the Steering Committee of ‘Wise Persons’, February 2010, p.16

EIB's lending to financial intermediaries, currently not subject to any transparency rules and development policy coherence scrutiny.<sup>7</sup>

Likewise the process of granting a Community guarantee should be subject to transparency principles.

**Recommendations:**

- The Decision should oblige the EIB to disclose its due-diligence reports (development, social and environmental impact assessment) before approval of the project by its Board;
- The Decision should oblige the EIB and Commission to publish Commission's opinion on each operation granted with the Community guarantee, including reasoning for granting a Community guarantee;
- The Decision should require disclosure of all reports provided by the EIB to the Commission and from the Commission to the European Parliament and the Council;
- The Decision should require disclosure of information about the beneficiaries of the loans through financial intermediaries, benefits transfer, agreements on environmental and social standards and requirements applied in these loans and monitoring reports regarding global loans' development impact.

**VI. Financing small and medium enterprises through financial intermediaries**

Community guarantee for financial intermediaries should only be granted to those Global Loans which aim at development and strengthening of local financial institutions and small and medium enterprises. Unfortunately, the European Investment Bank has been massively increasing **deeply non-transparent loans to large financial intermediaries**, which are disconnected from local economies in which they intervene and without accountability, transparency or clear development benefits.

**Recommendations:**

- The Decision should require to grant Community guarantee only for financial intermediaries not operating in offshore financial centres, which have substantial local ownership and are equipped to implement a pro-development approach supporting local SMEs;
- The Decision should require the EIB and Commission to prepare a definition of SMEs which would be more relevant to developing countries (taking into account the structure of the local economies) than the one which is applied in EU and which would be applied to all global loans for SMEs covered by the Community guarantee.

**VII. Financing of climate change mitigation measures under the General Mandate**

Financing of climate change mitigation measures through the existing portfolio should only be granted Community guarantee for projects regarded as particularly environmentally friendly and sustainable. There needs to be detailed criteria for projects, which should take into account the wide environmental impact of the project. Currently the Commission staff working document detailing the mitigation options considered for the EIB contains types of

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<sup>7</sup> Report and Recommendations of the Steering Committee of 'Wise Persons', February 2010, p. 25

projects which are likely to have significant negative impact on the environment, such as large dams, biofuels, CCS and cleaner fossil fuel technologies.

**Recommendations:**

- The Decision should require the EIB and Commission to establish detailed financing criteria for climate change mitigation projects, excluding large dams, biofuels and CCS
- In line with EU climate change cross-cutting priorities, the Decision should exclude fossil fuels sector from Community guarantee.

In the short term, rigorous do-no-harm policies (including mere development aspects) have to be put in place in order to align EIB lending to cross-cutting EU development and human rights objectives which should guide overall EU external action according to improvements in the Lisbon Treaty and minimise negative development impacts on the ground.

This recommendation would trigger in the medium-term the need to redefine the overall EU development finance architecture. We call on the EU institutions to ensure a transparent and participatory process is established to include all the relevant stakeholders in defining the future of the EU development finance architecture.

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**Counter Balance coalition** includes members from: Central and Eastern Europe: [CEE Bankwatch Network](#); France: [les Amis de la Terre](#); Germany: [urgewald](#); Italy: [Campagna per la Riforma della Banca Mondiale](#); Netherlands: [BothEnds](#); United Kingdom: [Bretton Woods Project](#)

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