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COUNCIL DECISION
of 14 April 1997
granting a Community guarantee to the European Investment Bank against losses under loans for projects outside the Community (Central and Eastern Europe countries, Mediterranean countries, Latin American and Asian countries, South Africa and the former Yugoslav Republic of Macedonia and Bosnia and Herzegovina)

98/729/EC

(97/256/EC)

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THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 235 thereof,

Having regard to the proposal of the Commission ([1]),

Having regard to the opinion of the European Parliament ([2]),

(1) Whereas the European Council meeting in Essen on 9 and 10 December 1994 defined the pre-accession strategy for the associated Central and Eastern Europe countries;

(2) Whereas the European Council in Cannes on 26 and 27 June 1995 agreed to supplement the budgetary assistance granted to the Mediterranean countries by an increase in European Investment Bank (EIB) loans to contribute to the creation of a free-trade area and to the Euro-Mediterranean partnership;

(3) Whereas the European Council meeting in Madrid on 15 and 16 December 1995 called on the Council and the Commission to implement the Declaration on the Euro-Mediterranean partnership and the work programme drawn up at the Barcelona Conference with the Mediterranean countries (Algeria, Cyprus, Egypt, Israel, Jordan, Lebanon, Malta, Morocco, Syria and Tunisia, Turkey, Gaza-West Bank); whereas, at the same meeting, the European Council confirmed the importance of the EIB's role as an instrument of cooperation between the Community and Latin America and called on the EIB to intensify its activities in the region; whereas the European Council also noted with respect to enlargement that the continued activities of the EIB will allow an overall increase in the input for accession preparations;

(4) Whereas the European Council meeting in Florence on 21 and 22 June 1996 welcomed the results of the Asia-Europe summit, which marked a turning-point in the relations between the two continents;

([1]) OJ No C 13, 14. 1. 1996, p. 9.
([2]) OJ No C 115, 14. 4. 1997.

(5) Whereas the Central and Eastern Europe countries (Albania, Bulgaria, Czech Republic, Estonia, Hungary, Latvia, Lithuania, Poland, Romania, Slovak Republic and Slovenia) are undertaking major political and social reforms and have embarked on a fundamental restructuring of their economies;

(6) Whereas the EIB is completing the current loan programmes for Central and Eastern Europe countries pursuant to Decision 93/696/EC ([1]) and the lending that is governed by the IV Protocols and horizontal financial cooperation in the Mediterranean non-member countries as set out in Regulation (EEC) No 1763/92 ([2]);

(7) Whereas the EIB has already completed the three-year lending programme in Latin American and Asian countries pursuant to Decision 93/115/EEC ([3]); whereas a new interim programme pursuant to Decision 96/723/EC ([4]) will permit the EIB to continue its lending activities in those countries;

([1]) Council Decision 93/696/EC of 13 December 1993 granting a Community guarantee to the European Investment Bank against losses under loans for projects in Central and Eastern European countries (Poland, Hungary, the Czech Republic, the Slovak Republic, Romania, Bulgaria, Estonia, Latvia, Lithuania and Albania) (OJ No L 321, 23. 12. 1993, p. 27).

([2]) Council Regulation (EEC) No 1763/92 of 29 June 1992 concerning financial cooperation in respect of all Mediterranean non-member countries (OJ No L 181, 1. 7. 1992, p. 5) as amended by Regulation (EC) No 1735/94 (OJ No L 182, 16. 7. 1994, p. 6).

([3]) Council Decision 93/115/EEC of 15 February 1993 granting a Community guarantee to the European Investment Bank against losses under loans for projects of mutual interest in certain third countries (OJ No L 45, 23. 2. 1993, p. 27).

([4]) Council Decision 96/723/EC of 12 December 1996 granting a Community guarantee to the European Investment Bank against losses under loans for projects of mutual interest in Latin American and Asian countries with which the Community has concluded cooperation agreements (Argentina, Bolivia, Brazil, Chile, Colombia, Costa Rica, Ecuador, Guatemala, Honduras, Mexico, Nicaragua, Panama, Paraguay, Peru, El Salvador, Uruguay and Venezuela; Bangladesh, Brunei, China, India, Indonesia, Macao, Malaysia, Pakistan, Philippines, Singapore, Sri Lanka, Thailand and Vietnam) (OJ No L 329, 19. 12. 1996, p. 45).

(8) Whereas the Council approved on 4 October 1994 a Cooperation Agreement between the Community and the Republic of South Africa that aims to promote harmonious, balanced and sustainable social and economic development; whereas the EIB will be completing in June 1997 the two-year lending programme in South Africa pursuant to Decision 95/207/EC ([1]);

(9) Whereas the Council calls on the EIB to continue its operations in support of investment projects carried out in the Central and Eastern Europe countries, Mediterranean countries, Latin American and Asian countries and South Africa;

(9a) Whereas the Community guarantee to the EIB against losses under loans for projects in Bosnia and Herzegovina is an exceptional and special action and does not constitute a precedent for any future guarantees; | 98/729/CE

(10) Whereas it is appropriate to effect certain improvements in the programmes of operations in respect of duration, instruments used and country coverage;

(11) Whereas the guarantee provided for in this Decision should be granted to the EIB;

(12) Whereas this guarantee is subject to the conditions set out in the Regulation (EC, Euratom) No 2728/94 ([2]);

(13) Whereas, in June 1996, the Commission, in agreement with the EIB, presented to the Council a proposal for a new guarantee system for EIB lending to third countries;

([1]) Council Decision 95/207/EC of 1 June 1995 granting a Community guarantee to the European Investment Bank against losses under loans for projects in South Africa (OJ No L 131, 15. 6. 1995, p. 31).

([2]) Council Regulation (EC, Euratom) No 2728/94 of 31 October 1994 establishing a Guarantee Fund for external actions (OJ No L 293, 12. 11. 1994, p. 1).

(14) Whereas the Council on 2 December 1996 has approved conclusions on new guarantee arrangements for EIB lending to third countries, according to which: 'The volume of external lending shall respect the Financial Perspective and Community Budget discipline as well as the EIB internal guidelines on lending to third countries and take into account the conclusions of European Councils at Essen, Cannes and Madrid. The approach of a blanket guarantee, without distinguishing regions and projects, is approved. A risk sharing element as proposed by the Commission and the EIB is accepted. Accordingly, the EIB is invited where possible to secure, on a significant proportion of its lending, adequate third-party guarantees for commercial risks, with the Budgetary guarantee in that case being responsible only for political risks arising from currency non-transfer, expropriation, war and civil disturbance. The EIB is invited to aim at 25 % of its total lending under the mandates as a target for the use of non-sovereign guarantees to be expanded on wherever possible insofar as the market permits on an individual mandate basis. The application of the target to individual mandates is to be specified at the time of negotiation of those mandates.';

(15) Whereas this Decision should conform to the above conclusions;

(16) Whereas a guarantee level of 70 % is sufficient to meet the total lending volume of the new lending mandates and other lending needs for the duration of this Decision;

(17) Whereas the new guarantee arrangements will not affect the excellent credit standing of the EIB;

(18) Whereas the Council concluded on 2 December 1996 that 'the provisioning rates of the Guarantee Fund will remain at the current levels up to 1999'; whereas the Council concluded on 27 January 1997 that 'each payment to the loan guarantee fund will be based on the percentage required at the time of payment, that is 15 % currently and 14 % as soon as feasible';

(19) Whereas the Commission and the EIB recognizing their respective areas of responsibility should ensure appropriate coordination between EIB operations in the eligible third countries and the implementation of the Community's other financial instruments;

(20) Whereas the Commission and the EIB should consult together in order to ensure that, in determining the rate at which the mandates are used, account will be taken of the annual fluctuations in the rate at which the Community is being asked to provide balance of payments support to third countries;

(21) Whereas the Council has approved this Decision and in particular the amounts of the mandates taking into account its conclusions of 27 January 1997 according to which: 'Member States and the Commission unanimously declare that they agree to the creation of a substantial pre-accession support facility. They invite the EIB to propose such a facility to the Board of Governors later this year. The facility will enter into force as soon as possible in the light of future accession. The facility will be approved under Article 18 of the EIB statute and carry no guarantee from the Community budget or from the Member States. The EIB lending envelopes covered by a Community guarantee can be considered to be consistent with a provision of ECU 1 050 million for macro-financial assistance (MFA) assuming that ECU 750 million is needed for Euratom lending; whereas the maximum for MFA should be increased to ECU 1 200 million, if Euratom lending in the period of application of the present decision does not exceed ECU 600 million.';

(22) Whereas, for the purpose of adopting this Decision, the only powers provided for by the Treaty are those set out in Article 235,

HAS DECIDED AS FOLLOWS:

Article 1 | 97/256/EC

1. The Community shall grant the European Investment Bank a global guarantee in respect of all payments not received by it but due in respect of credits opened, in accordance with its usual criteria for investment projects carried out in the Central and Eastern Europe countries, in the Mediterranean countries, in the Latin American and Asian countries, in the Republic of South Africa, in the Former Yugoslav Republic of Macedonia and in Bosnia and Herzegovina. | 98/729/EC

This guarantee shall be restricted to 70 % of the aggregate amount of the credits opened, plus all related sums. The overall ceiling of the credits opened shall be equivalent to ECU 7 355 million, broken down as follows:

— Central and Eastern Europe countries:

  ECU 3 520 million

— Mediterranean countries:

  ECU 2 310 million

— Latin American and Asian countries:

  ECU 900 million

— Republic of South Africa:

  ECU 375 million

— Former Yugoslav Republic of Macedonia:

  ECU 150 million

— Bosnia and Herzegovina:

  ECU 100 million.

That ceiling shall cover a period of three years beginning on 31 January 1997 for Central and Eastern Europe, Mediterranean and Latin American and Asian countries, on 1 July 1997 for the Republic of South Africa, and on 1 January 1998 for the Former Yugoslav Republic of Macedonia. For Bosnia and Herzegovina it shall cover a period of two years beginning on the date of publication of this Decision. If, on the expiry of each of these periods, the loans granted by the EIB have not attained the overall amounts referred to above, the relevant period shall be automatically extended by six months.

2. The countries included above are: | 97/256/EC

— Central and Eastern Europe: Albania, Bulgaria, Czech Republic, Estonia, Hungary, Latvia, Lithuania, Poland, Romania, Slovak Republic and Slovenia,

— Mediterranean countries: Algeria, Cyprus, Egypt, Israel, Jordan, Lebanon, Malta, Morocco, Syria, Tunisia, Turkey, Gaza-West Bank,

— Latin America: Argentina, Bolivia, Brazil, Chile, Colombia, Costa Rica, Ecuador, Guatemala, Honduras, Mexico, Nicaragua, Panama, Paraguay, Peru, Salvador, Uruguay and Venezuela, — 97/256/EC

— Asia: Bangladesh, Brunei, China, India, Indonesia, Macao, Malaysia, Mongolia, Pakistan, Philippines, Singapore, Sri Lanka, Thailand and Vietnam,

— Republic of South Africa,

— former Yugoslav Republic of Macedonia, — 98/348/EC

— Bosnia and Herzegovina. — 98/729/EC

3. The European Investment Bank is invited to aim to cover the commercial risk on 25 % of its lending under this decision from non-sovereign guarantees to be expanded upon whenever possible insofar as the market permits on an individual mandate basis. — 97/256/EC

Article 1a — 98/729/EC

1. This Article shall apply to EIB lending in Bosnia and Herzegovina.

2. The Community guarantee shall be conditional upon clearance in full by Bosnia and Herzegovina of its outstanding financial obligations towards the EIB and the Community and upon the acceptance by Bosnia and Herzegovina of responsibility by way of guarantee for such of those obligations as are not yet due.

3. EIB lending in Bosnia and Herzegovina shall be consistent with the policy of the Community in this country. The EIB shall operate within the framework of the reconstruction programme agreed at the various donors' conferences and shall finance projects of mutual interest in general infrastructure, including transport, energy and the environment, with the focus on the water, waste-water and sanitation projects designed to speed up the reconstruction process.

4. The Commission shall ensure appropriate coordination and consistency between operations undertaken pursuant to this Decision and those undertaken pursuant to Regulation (EC) No 1628/96 ([3]).

([1]) OJ L 204, 14.8.1996, p. 1. Regulation as last amended by Regulation (EC) No 851/98 (OJ L 122, 24.4.1998, p. 1).

5. Grants from the Community budget for projects in Bosnia and Herzegovina under this Decision shall take the form of interest-rate subsidies for loans granted by the EIB. The subsidy rate shall be 2 %. 98/729/EC

Financial decisions relating to this Decision shall be adopted in accordance with the procedures laid down in the Regulation (EC) No 1628/96.

6. Article 1(3) shall not apply to EIB lending in Bosnia and Herzegovina.

7. The Commission and the EIB shall cooperate whenever appropriate with all international financial institutions active in fields similar to its own in Bosnia and Herzegovina.

Article 2 97/256/EC

The Commission shall inform the European Parliament and the Council every six months of the situation regarding loans signed and progress made on risk sharing according to Article 1 (3). To that end, the EIB shall regularly transmit to the Commission the appropriate information.

The Commission shall submit to the European Parliament and the Council, at the latest by the end of 1999, a report on the implementation of this Decision, including an assessment of its impact. This report shall in particular take into account the evolution of the economic and financial situation in Bosnia and Herzegovina and the commitment level of EIB loans and shall make appropriate recommendations. To this end, the EIB shall transmit to the Commission the appropriate information. 98/729/EC

Article 3 97/256/EC

The Commission shall inform the European Parliament and the Council each year of the loan operations and shall, at the same time, submit an assessment of the operation of the scheme and of coordination between the financial institutions operating in that area.

Article 4

The Council shall evaluate the application of this Decision on the basis of a report presented in June 1998 by the Commission and the EIB.

Article 5

Detailed rules for the application of this Decision shall be laid down in an agreement to be concluded between the Commission and the EIB.

Article 6

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

97/256/EC