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►B 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)

Amended by:

		Official Journal		
		No	page	date
►M1	Commission Delegated Decision (EU) 2016/1455 of 15 April 2016	L 238	5	6.9.2016
►M2	Decision (EU) 2018/412 of the European Parliament and of the Council of 14 March 2018	L 76	30	19.3.2018
►M3	Commission Delegated Decision (EU) 2018/1102 of 6 June 2018	L 199I	11	7.8.2018

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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

Article 1

EU guarantee

1. The Union shall grant the European Investment Bank (EIB) a budgetary guarantee for financing operations carried out outside the Union ('EU guarantee'). The EU guarantee shall be granted as a global guarantee in respect of payments due to the EIB, but not received by it, in connection with loans, loan guarantees, and debt capital market instruments granted for or issued for the benefit of EIB investment projects that are eligible in accordance with paragraph 2.

2. Eligible for the EU guarantee shall be the EIB loans, loan guarantees, and debt capital market instruments that are granted for or issued for the benefit of investment projects carried out in eligible countries in accordance with the EIB's own rules and procedures, including the EIB's statement on environmental and social principles and standards, and in support of the relevant Union external policy objectives, where EIB financing has been granted in accordance with a signed agreement which has neither expired nor been cancelled ('EIB financing operations').

3. The EIB financing operations in support of Union external policies shall continue to be managed in accordance with the principles of sound banking practices.

4. The EU guarantee shall be restricted to 65 % of the aggregate amount disbursed and guaranteed under EIB financing operations, less amounts reimbursed, plus all related amounts.

5. The EU guarantee shall cover EIB financing operations signed during the period from 1 January 2014 to 31 December 2020.

6. If, on expiry of the period referred to in paragraph 5, the European Parliament and the Council have not adopted a decision granting a new EU guarantee to the EIB against losses under its financing operations outside the Union, that period shall be automatically extended once by six months.

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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 be EUR 32 300 000 000. Amounts initially earmarked for financing operations but subsequently cancelled shall not count against the ceiling.

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This maximum ceiling shall be broken down into:

(a) a maximum amount of EUR 30 000 000 000 under a general mandate, of which EUR 1 400 000 000 is earmarked for projects in the public sector directed towards 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;

(b) a maximum amount of EUR 2 300 000 000 under a private-sector lending mandate for projects directed towards 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 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 covered by this Decision, the EIB shall ensure a 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.

Article 3

General objectives and principles

1. The EU guarantee shall be granted only for EIB financing operations which have added value on the basis of the EIB's own assessment, and support any of the following general objectives:

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

(b) development of social and economic infrastructure, including transport, energy, environmental infrastructure, and information and communication technology;

(c) climate change mitigation and adaptation;

(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.

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

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

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

5. To ensure that private-sector investments have the greatest development impact, the EIB shall endeavour to contribute to creating favourable conditions for private enterprise and investment and shall ensure as a priority that the local private sector in beneficiary countries, including cooperatives and social enterprises, 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 endeavour to also enhance its support for 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 eligible countries and their integration into global value chains and shall further contribute to enhancing competitiveness of Union companies.

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 endeavour to identify and contribute to addressing the obstacles to funding faced by SMEs.

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 the third subparagraph of paragraph 1 of that Article.

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.

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7. EIB financing operations supporting the general objectives set out in point (c) of paragraph 1 shall support investment projects in climate-change mitigation and adaptation 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 Strategy. 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 shall endeavour to sustain a high level of climate-relevant operations, the volume of 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 Union by 2020.

EIB financing 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 projects across EIB financing operations within the EIB External Lending Mandate.

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

While ensuring the full respect of human, labour and social rights, fundamental freedoms and gender equality by implementing a rights-based approach encompassing all human and social rights in line with the principles of transparency, participation, non-discrimination and accountability, EIB financing operations shall:

(a) address increased needs for infrastructure and related services to cater directly or indirectly for the influx of migrants while also benefitting the local population;

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(b) boost employment opportunities for host and refugee communities;

(c) foster economic integration and enable refugees to become self-reliant; or

(d) strengthen humanitarian action and support for creation of decent jobs.

EIB financing operations shall support the following:

(a) the private sector in the areas of SMEs and mid-caps, corporate finance and microfinance;

(b) the public sector, including municipalities and public-sector entities, in terms of infrastructure and services, including healthcare and special facilities for children, sanitation services and school education, to address significantly increased needs.

9. EIB financing operations supporting the general objectives set out in paragraph 1 shall recognise that gender equality is a cross-cutting issue which is crucial 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 shall ensure that all EIB financing operations comply with the commitments set out in its Gender Strategy and Gender Action Plan.

10. The EIB shall seek to ensure that companies participating in projects co-financed by the EIB adhere to the principles of pay transparency and gender equality and to the principle of equal pay as set out in Directive 2006/54/EC of the European Parliament and of the Council [1]. EIB decisions on project financing shall take into account action by potential beneficiary companies with regard to equal pay and corporate social responsibility.

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

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Article 4

Countries covered

1. The list of countries potentially eligible for EIB financing under EU guarantee is set out in Annex II. The list of countries eligible for EIB financing under EU guarantee is set out in Annex III and shall include no countries other than those listed in Annex II. For countries not listed in Annex II, eligibility for EIB financing under the EU guarantee shall be decided on a case-by-case basis in accordance with the ordinary legislative procedure.

[1] Directive 2006/54/EC of the European Parliament and of the Council of 5 July 2006 on the implementation of the principle of equal opportunities and equal treatment of men and women in matters of employment and occupation (OJ L 204, 26.7.2006, p. 23).

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2. The Commission shall be empowered to adopt delegated acts in accordance with Article 18 concerning amendments to Annex III. The Commission's decisions shall be based on an overall assessment, including economic, social, environmental and political aspects, in particular those related to the democracy, human rights and fundamental freedoms as well as the relevant European Parliament resolutions and Council decisions and conclusions.

3. Delegated acts amending Annex III shall not affect the EU guarantee coverage of EIB financing operations signed before the entry into force of those delegated acts, subject to paragraph 4.

4. Disbursements on EIB financing operations benefiting from a Comprehensive Guarantee as referred to in Article 8(1) shall not be made in countries not listed in Annex III.

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

Article 5

Contribution of EIB financing operations to Union policies

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

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

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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 recognised 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.

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

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

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

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

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

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

Article 6

Cooperation with the Commission and the EEAS

1. The consistency of EIB external actions with Union external policy objectives shall be further strengthened, with a view to maximising synergies between EIB financing operations and Union budgetary resources, in particular through the updating of the regional technical operational guidelines referred to in Article 5, for which the EEAS shall be consulted on policy issues, as appropriate, as well as through regular and systematic dialogue and early exchange of information on:

(a) strategic documents prepared by the Commission or the EEAS as appropriate, such as country and regional strategy papers, indicative programmes, action plans and pre-accession documents;

(b) the EIB's strategic planning documents, investment project pipelines and EIB annual reporting to the Commission;

(c) other policy and operational aspects.

2. The cooperation shall be carried out on a region-by-region basis, including at Union delegation level, taking into consideration the EIB's role as well as the policies of the Union in each region.

Article 7

Cooperation with other European and international financial institutions

1. EIB financing operations shall be carried out, where appropriate, in cooperation with other European multilateral and Member States' financial institutions (‘European financial institutions’) and international financial institutions, including regional development banks (‘international financial institutions’) in order to maximise synergies, cooperation and efficiency, to develop jointly innovative financial instruments, to ensure prudent and reasonable sharing of risks and coherent investment project and sector conditionality, and in order to minimise possible duplication of costs and unnecessary overlap.

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2. The cooperation referred to in paragraph 1 shall be facilitated by coordination between the Commission, the EIB and the relevant European and international financial institutions operating in the different regions, carried out where appropriate in the context of memoranda of understanding or other Union regional cooperation frameworks.

Article 8

Coverage and terms of the EU guarantee

1. For EIB financing operations, except those consisting of debt capital market instruments, entered into with a State, or guaranteed by a State, and for other EIB financing operations entered into with regional or local authorities, or public enterprises or institutions owned or controlled by a State, where such other EIB financing operations have an appropriate EIB credit risk assessment taking into account the credit risk situation of the country concerned, the EU guarantee shall cover all payments due to the EIB, but not received by it ('Comprehensive Guarantee').

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The Comprehensive Guarantee shall also cover EIB financing operations under the private-sector lending mandate referred to in point (b) of Article 2(1), which on average shall have a higher risk profile than the portfolio covered under the Political Risk Guarantee referred to in paragraph 3 of this Article in pre-accession countries and beneficiaries and Neighbourhood and Partnership countries.

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2. For the purposes of paragraph 1, Palestine is represented by the Palestinian Authority and Kosovo [1] is represented by the Authorities of Kosovo.

3. For EIB financing operations other than those referred to in paragraph 1, the EU guarantee shall cover all payments due to the EIB but not received by it, where the non-receipt has been caused by the realisation of one of the following political risks ('Political Risk Guarantee'):

(a) non-transfer of currency;

(b) expropriation;

(c) war or civil disturbance;

(d) denial of justice upon breach of contract.

4. For EIB financing operations consisting of debt capital market instruments, only the Political Risk Guarantee shall apply.

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

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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.

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.

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7. When the EU guarantee is called, the Union shall be subrogated to any relevant rights of the EIB in respect of any obligation in connection to its financing operations, in accordance with the guarantee agreement referred to in Article 14.

Article 9

EIB assessment and monitoring of investment projects

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1. The EIB shall carry out thorough due diligence and, where appropriate in accordance with its Statement of Environmental and Social Principles and Standards and its 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 the project-planning and implementation stages 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.

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

This appraisal shall include an assessment of whether the capacities of the beneficiaries of EIB financing 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 the assessment of the environmental and social impact of investment projects and of aspects related to human rights and conflict

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prevention, to ensure that investment projects supported under this Decision are environmentally and socially sustainable and that EIB financing operations under the EIB Resilience Initiative, and in particular the private-sector lending mandate, improve the economic resilience of refugees, migrants, host and transit communities, and communities of origin.

As part of its available internal guidance on the 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 on Human Rights and Democracy, and taking into account existing human rights benchmarks provided by the Union, relevant United Nations bodies and human rights organisations.

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2. In addition to the *ex-ante* assessment of development-related aspects, the EIB shall monitor the implementation of financing operations. In particular, it shall require the project promoters to carry out thorough monitoring during project implementation until completion, inter alia, on the economic, development, social, environmental and human rights impact of the investment project. The EIB shall verify on a regular basis the information provided by the project promoters and make it publicly available if the project promoter agrees. Where possible, project completion reports related to EIB financing operations shall be published excluding confidential information.

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3. The EIB monitoring shall cover the implementation of intermediated operations and the performance of financial intermediaries in support of SMEs.

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4. The EIB shall establish a comprehensive system to *ex-ante* assess relative and absolute greenhouse gas emissions related to EIB financing operations where those emissions meet significant thresholds, as defined in a relevant methodology included in the EIB climate change strategy, and where data is available.

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

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Article 10

External assigned revenue for the Guarantee Fund

Repayments and revenues for an amount of EUR 110 000 000, originating from operations concluded before 2007, including capital repayments, guarantees released, and repayments of the principal of loans, dividends, capital gains, guarantee fees and interest on loans and on

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amounts on fiduciary accounts, paid back to the fiduciary account established for the Facility for Euro-Mediterranean Investment and Partnership and attributable to the support from the general budget of the Union, shall constitute external assigned revenue in accordance with Article 21(4) of Regulation (EU, Euratom) No 966/2012 and shall be used for the Guarantee Fund.

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

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

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Article 11

Annual reporting and accounting

1. The Commission shall report annually to the European Parliament and to the Council on EIB financing operations carried out under this Decision. The report shall be made public and include:

(a) an assessment of EIB financing operations at project, sector, country and regional levels and their compliance with this Decision;

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(b) an assessment of the added value, the estimated outputs, outcomes and development impact of EIB financing operations at an aggregated basis, drawing on the EIB's Results Measurement framework annual report. To that end, the EIB shall use outcome indicators in relation to development, environmental and social aspects, including human rights and gender equality aspects, of projects funded, taking into account the relevant indicators under the 2005 Paris Declaration on Aid Effectiveness.

Indicators for gender equality shall be developed in line with the EIB's Gender Strategy and 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 towards energy efficiency and technologies for reducing emissions. The EIB shall develop indicators for projects providing strategic response addressing root causes of migration and building long-term economic resilience of host and transit communities, taking into account the views of stakeholders, civil society, affected communities and non-governmental organisations;

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(c) an assessment of the contribution of EIB financing operations to the fulfilment of Union external policy and strategic objectives, taking into account 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 of this Decision and the EU Strategic Framework and Action Plan on human rights and democracy;

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(d) an assessment of the financial benefit transferred to beneficiaries of EIB financing operations on an aggregated basis;

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(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 for 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 non-governmental organisations;

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(f) detailed information on calls on the EU guarantee;

(g) information on the climate change and biodiversity financing volumes under this Decision, the impact on absolute and relative greenhouse gas emissions referred to in Article 9(4) on an aggregated basis as well as the number of projects assessed against the climate risk;

(h) a description of the cooperation with the Commission and other European and international financial institutions, including co-financing. The report shall in particular include a breakdown of Union financial resources and resources of other European and international financial institutions used in combination with EIB financing, thus giving an overview of the overall investment supported by EIB financing operations carried out under this Decision. The report shall also mention the conclusion of new memoranda of understanding between the EIB and other European or international financial institutions having a bearing on EIB financing operations under this Decision;

(i) information on the follow up of the functioning of the Memorandum of Understanding between the EIB and the European Ombudsman in so far as that Memorandum concerns EIB financing operations covered by this Decision;

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(j) an assessment of the contribution of EIB financing operations 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.

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2. For the purposes of the Commission's reporting referred to in paragraph 1, the EIB shall provide the Commission with yearly reports on EIB financing operations carried out under this Decision including all necessary elements allowing the Commission to report in accordance with paragraph 1. The EIB may also provide to the Commission additional information relevant for the European Parliament and the Council to have a comprehensive overview of EIB external activity.

3. The EIB shall provide the Commission with statistical, financial and accounting data on each EIB financing operation, as well as any additional information necessary to fulfil the Commission's reporting duties or requests by the Court of Auditors and an auditor's certificate on the outstanding amounts of the EIB financing operations. EIB shall also provide the Commission any other necessary documents in line with Regulation (EU, Euratom) No 966/2012.

4. For the purposes of the Commission's accounting and reporting of the risks covered by the EU guarantee, the EIB shall provide the Commission with the EIB's risk assessment and grading information concerning EIB financing operations.

5. The EIB shall provide the Commission, at least on a yearly basis, an indicative multiannual programme of the planned volume of signatures of EIB financing operations, so as to ensure compatibility of the EIB's forecast financing with the ceilings established in this Decision and for the Commission to ensure appropriate budgetary planning for provisioning the Guarantee Fund. The Commission shall take account of this forecast when preparing the draft general budget of the Union.

6. The EIB shall on a regular basis provide the European Parliament, the Council and the Commission with all its independent evaluation reports which assess the practical results achieved by the specific activities of the EIB under this Decision and other external mandates.

7. The EIB shall provide the information referred to in paragraphs 2 to 6 at its own expense. The EIB shall also make publicly available the information referred to in paragraphs 2, 3 and 6, in general terms and excluding any confidential information.

Article 12

Transparency and public disclosure of information

1. In accordance with its own transparency policy and Union principles on access to documents and information, and progressively with International Aid Transparency Initiative standards, the EIB shall make publicly available on its website information relating to:

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(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;

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(b) unless confidentiality requirements apply, any memoranda of understanding between the EIB and other European or international financial institutions having a bearing on EIB financing operations under this Decision;

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(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 ensure that it is possible for such agreements to be disclosed;

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(d) the EIB's allocation policy.

2. The Commission shall make publicly available on its website specific information relating to all cases of recoveries under the guarantee agreement referred to in Article 14, and the agreement laying down the detailed provisions and procedures relating to recovery of claims referred to in Article 15(2), unless confidentiality requirements apply.

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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.

4. 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 their respective internal rules governing the treatment of confidential information.

Article 13

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

1. In its financing operations covered by this Decision, the EIB shall comply with applicable Union legislation and agreed international and Union standards and, therefore, shall not support projects under this Decision that contribute to money laundering, terrorism financing, tax avoidance, tax fraud or tax evasion.

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In addition, the EIB shall not enter into new or renewed operations with entities incorporated or established in jurisdictions listed under the relevant Union policy on non-cooperative jurisdictions, or that are identified as high-risk third countries pursuant to Article 9(2) of Directive (EU) 2015/849 of the European Parliament and of the Council ([1]), or that do not effectively comply with Union 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 contributes to money laundering, the terrorism financing, tax avoidance, tax fraud or tax evasion.

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 European Parliament and to the Council on the implementation of its policy on non-cooperative jurisdictions in relation to its financing operations, including country-by-country information and a list of intermediaries with which it cooperates.

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, in particular Regulation (EU) 2015/847 of the European Parliament and of the Council ([2]) and Directive (EU) 2015/849. 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.

Article 14

Guarantee agreement

The Commission and the EIB shall sign a guarantee agreement laying down the detailed provisions and procedures relating to the EU guarantee as set out in Article 8. That guarantee agreement shall be communicated to the European Parliament and to the Council subject to their respective internal rules governing the treatment of confidential information.

([1]) Directive (EU) 2015/849 of the European Parliament and of the Council of 20 May 2015 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing, amending Regulation (EU) No 648/2012 of the European Parliament and of the Council, and repealing Directive 2005/60/EC of the European Parliament and of the Council and Commission Directive 2006/70/EC (OJ L 141, 5.6.2015, p. 73).

([2]) Regulation (EU) 2015/847 of the European Parliament and of the Council of 20 May 2015 on information accompanying transfers of funds and repealing Regulation (EC) No 1781/2006 (OJ L 141, 5.6.2015, p. 1).

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Article 15

Recovery of payments made by the Commission

1. Where the Commission makes any payment under the EU guarantee, the EIB shall, in the name and on behalf of the Commission, pursue the recovery of claims for the amounts paid.

2. No later than the date of signature of the guarantee agreement referred to in Article 14, the Commission and the EIB shall sign a separate agreement laying down the detailed provisions and procedures relating to recovery of claims.

Article 16

Auditing by the Court of Auditors

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

Article 17

Anti-fraud measures

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

2. OLAF may carry out investigations, including on-the-spot checks and inspections, in accordance with the provisions and procedures laid down in Regulation (EU, Euratom) No 883/2013 of the European Parliament and of the Council ([1]), Council Regulation (Euratom, EC) No 2185/96 ([2]) and Council Regulation (EC, Euratom) No 2988/95 ([3]) in order to protect the financial interests of the Union, with a view to establishing whether there has been fraud, corruption, money laundering or any other illegal activity affecting the financial Interests of the Union in connection with any financing operations. OLAF may transmit to the competent authorities of the Member States concerned information obtained in the course of investigations.

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

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

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

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

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3. Financing agreements signed in relation to projects supported under this Decision shall include clauses allowing suspension of EIB financing operations and, if necessary, appropriate recovery measures in cases of fraud, corruption or other illegal activity. The decision whether to suspend or cancel the EIB financing shall be taken by the EIB after due consideration of all circumstances and risks.

4. The EIB shall continue to rely on its single point of contact for anti-corruption and anti-fraud for EIB staff and all stakeholders.

5. In its financing operations, the EIB shall implement its exclusion mechanism for debarment of counterparties involved in fraud and corruption which includes the exclusion criteria of the Union's Central Exclusion Database ensuring that rights of all parties are respected.

Article 18

Exercise of the delegation

1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.

2. The delegation of power referred to in Article 4 shall be conferred on the Commission for an indeterminate period of time from 11 May 2014.

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2a. The delegation of power referred to in Article 5 shall be conferred on the Commission for an indeterminate period of time from 8 April 2018.

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 to revoke 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.

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4. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.

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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.

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Article 19

Mid-term review

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

The report shall include in particular:

(a) an assessment of the application of the allocation policy;

(b) an assessment of EIB reporting and where appropriate recommendations on how to improve it;

(c) an assessment of the REM, including performance indicators and criteria, and their contribution to the achievement of the objectives of this Decision;

(d) a detailed account of the criteria considered for the recommendation concerning the potential activation in whole or in part of the optional additional amount.

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Article 20

Reporting

By 30 June 2019, the Commission shall submit to the European Parliament and to the Council a report evaluating the application of this Decision and providing input for a possible new decision on the coverage of the EIB financing operations within the EIB External Lending Mandate by the EU guarantee.

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

Article 20a

Transitional provision

The EIB may finance projects that were approved after 12 October 2016 and before 8 April 2018 and the conclusion of a guarantee agreement between the Commission and the EIB. Such projects may be covered by the EU guarantee, subject to confirmation by the Commission that they are in line with the objective defined in point (d) of Article 3(1) and respect the terms of the guarantee agreement.

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Article 21

Entry into force

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

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ANNEX I

REGIONAL CEILINGS

A. Pre-accession countries and beneficiaries: EUR 8 075 000 000, of which EUR 7 635 000 000 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, broken down into the following sub-ceilings:

(i) Mediterranean countries: EUR 13 030 000 000, of which EUR 11 170 000 000 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.

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

(i) Latin America: EUR 2 694 000 000;

(ii) Asia: EUR 1 165 000 000;

(iii) Central Asia: EUR 224 000 000.

D. South Africa: EUR 462 000 000.

Within the overall 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 ings between regions. In the event that, by 30 June 2019, the EIB governing bodies conclude that the EIB is not in a position to absorb its forecasted target under the EIB Resilience Initiative, up to 20 % of the EUR 1 400 000 000 under the general mandate earmarked for public-sector projects and of the EUR 2 300 000 000 under the private-sector lending mandate may be reallocated within and/or between regions referred to in points A and B of this Annex.

Any reallocation under the EIB Resilience Initiative shall be subject to 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 regularly inform the European Parliament and the Council of such reallocations.

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ANNEX II

POTENTIALLY ELIGIBLE REGIONS AND COUNTRIES

A. Pre-accession countries and beneficiaries

Albania, Bosnia and Herzegovina, former Yugoslav Republic of Macedonia, Kosovo (*), Montenegro, Serbia, Turkey ([1])

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, Thailand, Vietnam, Yemen

3. Central Asia

Kazakhstan, Kyrgyzstan, Tajikistan, Turkmenistan, Uzbekistan

D. South Africa

South Africa

(*) 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.

([1]) The EIB Resilience Initiative does not include Turkey, which is covered by a separate EU-Turkey agreement.

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ANNEX III

ELIGIBLE REGIONS AND COUNTRIES

A. Pre-accession countries and beneficiaries

Albania, Bosnia and Herzegovina, former Yugoslav Republic of Macedonia, Kosovo (*), Montenegro, Serbia, Turkey ([1])

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

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

▼M2

3. Central Asia

Kazakhstan, Kyrgyzstan, Tajikistan, Turkmenistan, Uzbekistan

D. South Africa

South Africa

(*) 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.

([1]) The EIB Resilience Initiative does not include Turkey, which is covered by a separate EU-Turkey agreement.

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ANNEX IV

REGIONAL POLICY FRAMEWORK

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

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

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

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

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

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

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

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

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

EIB activity in South Africa takes place in the framework of the Joint EU Country Strategy Paper for South Africa. The main focal areas identified in that Strategy Paper are employment creation and capacity development for service delivery and social cohesion. EIB activities in South Africa have taken place in high complementarity with the Union development cooperation programme, namely through the EIB focus on private sector support and investments in expansion of infrastructure and social services (housing, electric power, drinking water purification and municipal infrastructure). The mid-term

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review of the EU Country Strategy Paper for South Africa conducted in 2009-10 has proposed the strengthening of actions in the area of climate-change through activities supporting the creation of green jobs. For the period 2014-20, EIB activity is expected to support in a complementary fashion Union external co-operation policies, programmes and instruments by continuing to focus on key EU-South Africa priorities in order to promote equitable and sustainable economic growth, contribute to employment creation and capacity development, and support the sustainable provision and equitable access to basic infrastructure and services.