



MEMORANDUM OF UNDERSTANDING

BETWEEN

THE EUROPEAN COMMISSION

AND

THE EUROPEAN INVESTMENT BANK

IN RESPECT OF

COOPERATION AND COORDINATION IN THE REGIONS COVERED

BY THE EXTERNAL MANDATE

WHEREAS

- (1) The European Investment Bank (the "EIB") is the financing institution of the European Union under the Treaty on the Functioning of the European Union (the "EU Treaty"). The role of the EIB is to finance investment projects in support of EU policy objectives, complementing the corresponding EU's external assistance policies, programmes and instruments in the different regions, and continuously adapting its activities to developments in EU policies. With a view to supporting EU external action, by Decision No 1080/2011/EU of the European Parliament and of the Council¹ (the "Decision") the EIB is granted an external mandate including an EU guarantee against losses under loans and loan guarantees for corresponding projects outside the EU (the "External Mandate").
- (2) The European External Action Service (the "EEAS") was established as a functionally autonomous body of the Union under the authority of the High Representative of the Union for Foreign Affairs and Security Policy by Council Decision 2010/427/EU of 26 July 2010 (hereafter the "EEAS Decision"). The EEAS supports the High Representative in fulfilling his/her mandates in accordance with Articles 18 and 27 of the TEU, and also has the task of assisting the Commission in the exercise of its functions in the area of external relations.
- (3) In accordance with Recital 28 of the Decision, at all levels, from upstream strategic planning to downstream project development, it should be ensured that EIB external financing operations comply with and support EU external policies and the high-level objectives set out in the Decision. The dialogue on policy and strategy should be further strengthened between the European Commission (the "Commission") and the EIB, with the participation of the EEAS, with a view to increasing the coherence of EU external action. To the same end, there should be enhanced cooperation and early mutual exchange of information between the relevant Commission services, the EEAS and the EIB at operational level. It is of particular importance to have an early exchange of views between the Commission, the EEAS and the EIB, as appropriate, in the process of preparing programming documents in order to maximise the synergies between their activities.
- (4) In accordance with Recital 27 of the Decision, with a view to enhancing the coherence of overall EU support in the regions concerned, opportunities should be seized to combine EIB financing with EU budgetary resources when and as appropriate, in the form of, for example, guarantees, risk capital and interest rate subsidies, investment co-financing, alongside technical assistance for project preparation and implementation through EU external financial instruments (notably the Instrument for Pre-Accession Assistance (the "IPA")², the European Neighbourhood and Partnership Instrument (the "ENPI")³ and the Development Cooperation Instrument (the "DCI")⁴). In accordance with Article 18 (4) of the TEU and the EEAS Decision, the High Representative shall ensure overall coordination of the Union's external action, ensuring the unity, consistency and effectiveness of the Union's external action in particular through these external financial instruments.

¹ OJ L 280, 27.10.2011, p. 1.

² Council Regulation (EC) No 1085/2006 of 17 July 2006 (OJ L 210, 31.7.2006, p. 82).

³ Regulation (EC) No 1638/2006 of the European Parliament and of the Council of 24 October 2006 (OJ L 310, 9.11.2006, p. 1).

⁴ Regulation (EC) No 1905/2006 of the European Parliament and of the Council of 18 December 2006 (OJ L 378, 27.12.2006, p. 41).

- (5) In accordance with Article 6(1) of the Decision, regional technical operational guidelines (the "Regional Guidelines"), jointly developed by the Commission and the EIB in consultation with the EEAS, and aiming at ensuring that EIB financing operations support EU policies, shall be consistent with the wider EU regional policy framework set out in Annex IV of the Decision. In particular the Regional Guidelines will ensure that EIB financing under the Decision and corresponding EU assistance policies, programmes and instruments in the different regions are complementary.
- (6) In accordance with Article 8 of the Decision, the consistency of EIB external actions with EU external policy objectives shall be strengthened, with a view to maximising synergies between EIB financing and EU budgetary resources, in particular through the establishment of the Regional Guidelines, as well as through regular and systematic dialogue and early exchange of information on:
- strategic documents prepared by the Commission services and/or the EEAS in accordance with Article 9(3) of the EEAS Decision, such as country or regional strategy papers, indicative programmes, action plans and pre-accession documents;
 - the EIB's strategic planning documents and project pipelines;
 - other policy and operational aspects;
- (7) In accordance with Article 8(2) of the Decision, the cooperation shall be carried out on a region-by-region basis, taking into consideration the EIB's role as well as the policies of the EU in each region.
- (8) In accordance with Article 6(2) of the Decision, the consistency of EIB financing operations with EU external policy objectives shall be monitored in accordance with Article 11 of the Decision.
- (9) In accordance with Article 9 of the Decision, EIB financing operations shall increasingly be carried out, where appropriate, in cooperation with other International Financial Institutions ("IFIs") or European bilateral financial institutions ("EBFIs"), in order to maximise synergies, cooperation and efficiency and to ensure prudent and reasonable sharing of risks and coherent project and sector conditionality, in order to minimise possible duplication of costs and unnecessary overlap. This cooperation shall be facilitated by coordination, carried out in particular in the context of memoranda of understanding or other EU regional cooperation frameworks, where appropriate, between the Commission, the EIB and the main IFIs and EBFIs operating in the different regions, whilst taking into account the EEAS Decision.
- (10) Article 11 of the Decision specifies that the Commission's annual report to the European Parliament and to the Council on the EIB financing operations carried out under the Decision shall include an assessment of EIB financing operations at project, sector country and regional levels, as well as an assessment of the contribution of those financing operations to the fulfilment of EU external policy and strategic objectives. It shall in particular assess the compliance of EIB operations with the Decision, based on the Regional Guidelines, the added value for the achievement of EU policy objectives, the assessment of the estimated development impact, the extent to which environmental and social sustainability has been taken into account in the design and monitoring of projects by the EIB and cooperation with the Commission, the EEAS and other IFIs and European Bilateral Financial Institutions, including co-financing.

- (11) This MoU sets out the principles of cooperation and coordination between the Commission and the EIB in the regions covered by the Decision, taking into account the EEAS Decision and the tasks of the EEAS.

THE PARTIES HAVE AGREED AS FOLLOWS:

ARTICLE 1

Objectives and Key Principles

1.1 Objective

This Memorandum of Understanding (the "MoU") is concluded between the Commission and the EIB (together defined as the "Parties"). The High Representative has approved the MoU as regards the participation of the EEAS.

The objective of the MoU is to ensure and enhance the cooperation and coordination of the Parties in the regions referred to in the Decision in support of the EU's external policy objectives and thereby strengthening the coherence, impact and visibility of EU external action.

1.2 Key Principles

To pursue the objective of the MoU the Parties agree to strengthen their cooperation on the basis of the following principles:

1.2.1. The Parties emphasise the importance of working in partnership and in a complementary manner so as to combine their respective capabilities, expertise and added value for the achievement of EU external policy objectives. With a view to optimising the partnership between the Parties, policy dialogue will be reinforced and coordination in strategic planning enhanced.

1.2.2. Coherence between the financing operations of the Parties will be strengthened, with a view to maximising the synergies of EIB financing and EU budget based instruments, notably those stemming from the "IPA", the "ENPI", the "DCI", as well as from other relevant financial instruments.

ARTICLE 2

Geographical coverage

The regions concerned by this MoU (the "Regions") are those covered by the Decision⁵, as may be amended from time to time:

- (a) Pre-Accession countries:
 - Candidates and potential candidates ("PA")
- (b) Neighbourhood and Partnership countries:

⁵ Cooperation and dialogue in ACP countries are taking place in the context of the Investment Facility under the Cotonou Agreement, including within the Investment Facility Committee, and the ensuing arrangements between the Commission and the EIB.

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- Mediterranean ("MED")
 - Eastern Europe, Southern Caucasus and Russia ("EAST")
- (c) Asia and Latin America:
- Latin America ("LA")
 - Asia
 - Central Asia ("CA")
- (d) South Africa ("SA").

Furthermore, the MoU shall apply to potentially eligible countries as from the date on which eligibility status is granted by the delegated act adopted by the Commission in accordance with Article 4(2) of the Decision.

ARTICLE 3

Co-operation

The Parties undertake that the cooperation in the areas mentioned below, shall be based on regular and systematic dialogue and early consultation on matters and documents of common interest. The cooperation shall be carried out in a region-by-region basis, taking into consideration the EIB's role as well as the policies of the Union in each region.

The aim of such contacts is to foster better understanding among the Parties with a view to aligning interests and identifying opportunities for closer cooperation in pursuit of the objectives referred to in Article 1.1. With the view to enhancing the coherence of overall EU support in the regions concerned, opportunities should be seized to combine EIB financing with EU budgetary resources when and as appropriate.

In particular, the Parties will enter into early mutual exchange of information and dialogue with respect to policy matters, preparation of papers of mutual significance, programming documents and project pipelines, as appropriate. Of particular importance will be early consultation and dialogue on documents prepared by the Commission services, the EEAS or the EIB to maximise the synergy of and policy coherence between the three Parties' activities in support of EU external policy objectives.

Regular dialogue will be held at strategic and geographical level to address policies and issues of general interest. This dialogue should be complemented by regular exchanges, at country level, on operational matters.

Regular meetings between relevant members of the Commission, including the High Representative of the Union for Foreign Affairs and Security Policy, and the EIB President shall be organised.

Additional supporting activities will be envisaged to facilitate this cooperation.

The modus operandi for co-operation is further detailed in Annex 1.

3.1. Strategic level

Regular and systematic dialogue will be held on overarching policy and sectoral aspects of common concern relating to the EU's external action. There will be an early exchange of information between

the Commission, the EEAS and the EIB in the process of preparing documents of mutual significance. Due account of EU policies will be taken in the preparation of EIB policy documents.

The Commission, with the participation of the EEAS, will coordinate, as appropriate, with the EIB in the process of preparing strategic documents. The EIB will coordinate, as appropriate, with the Commission and the EEAS in the process of preparing the financing strategies defined by the EIB.

The Parties will coordinate closely in the context of the 'EU Platform for Blending in External Cooperation and Development'. The overall objective of the Platform will be to improve the quality and efficiency of EU development and external cooperation blending mechanisms, taking due account of the policy frameworks that govern the EU relations with the different partner countries, notably EU Development, Neighbourhood and Enlargement policies. This includes promoting cooperation and coordination between the EU, EIB and other relevant financial institutions (FIs) and other stakeholders, thereby increasing the impact and visibility of EU external cooperation.

3.2. Geographical level

The horizontal high-level objectives in the Decision for EIB financing across all regions and eligible countries are the basis for EIB external financing activity, namely:

- local private sector development, in particular support to SMEs;
- development of social and economic infrastructure including transport, energy, environmental infrastructure, and information and communication technology;
- climate change mitigation and adaptation.

The EIB shall be invited to actively participate in the relevant stages of country and regional programming.

3.2.1. Regional level

Bearing in mind the above objectives, cooperation shall be carried out on a regionally differentiated basis, in line with priorities identified in the Regional Guidelines. Regular policy dialogue will take place to facilitate the identification of possible areas of cooperation.

Regular contacts should continue for each Region and include a meeting at least once a year at headquarter level, typically in Brussels or Luxembourg, between staff members responsible for the respective Regions. These meetings shall include country level officers, i.e. Commission and EEAS desk officers and EIB loan officers and technical/economic experts as appropriate. The meetings will be organised by the respective geographic Directors of the Parties.

3.2.2. Country level

The EIB will be involved as appropriate in discussions on the EU support to the countries concerned, including in the preparation of third country summits. Ad hoc meetings can be organized for early warning dialogue where politically sensitive issues arise in specific countries on aspects related to EIB activities. In bilateral contacts, at technical level, with third countries led by the Commission services and the EEAS on behalf of the EU, the EIB's activities should be duly taken into account, as

appropriate, including in the context of specific bilateral agreements⁶ with the EU. The Commission services and the EEAS will keep the EIB informed of those agreements and their implementation.

Cooperation on sectoral policies promoted by the EU in the different regions and countries should be enhanced where relevant, by seeking to align, as appropriate, EIB loan conditions with EU sectoral policies in the country concerned, while the EIB maintains its final autonomous decision-making procedures in respect of individual projects. Discussions at technical level of the Commission services and EEAS with their counterparts in the partner country, including in the relevant committees and sub-committees under existing bilateral agreements, will duly consider any sectoral issues faced by the EIB in the country concerned, in liaison with the EIB.

At field level, there will be ongoing and regular contact between EU delegations and the EIB. In this regard, and where relevant, the EIB will coordinate its missions to individual countries with the EU delegations, and include a briefing and/or debriefing meeting. Joint missions should be organised, when relevant to the implementation of the MoU. The EIB may also be invited to join any other relevant Commission services or EEAS missions or meetings in the field that are of relevance to EIB activities, both existing and future.

Enhanced co-operation between the Parties will in part be fostered wherever possible through the co-location of EIB offices outside the EU with EU delegations, as foreseen in the Decision. EIB press and communication activities will be coordinated with in-country EU presence, to demonstrate common EU engagement and to ensure joint visibility, as appropriate.

3.3. Interaction with other EU Institutions

The Parties will liaise with each other on matters which require interaction with other EU Institutions, notably with the Council and the European Parliament. The Commission will in particular liaise with the EIB concerning questions from Members of the European Parliament on the EIB's activity outside the EU.

The EIB will be invited, where possible, to participate as observer in relevant meetings with Member States where matters dealing with EIB activities are discussed.

3.4. Monitoring

The Parties agree to disseminate the MoU to all their relevant services at headquarters and field level, and to monitor the implementation of the obligations contained therein.

ARTICLE 4

Communication

Regular contacts between the Commission and the EIB, with the participation of the EEAS as appropriate, will continue mainly to take place on the basis of geographical and sectoral responsibilities. At geographic level, the Parties shall establish a list of contact points in the respective institutions, to be updated on a semi-annual basis (or more frequently, if required). The list will be coordinated and disseminated by the Institutional Strategy Directorate for the EIB and by DG ECFIN for the Commission and the EEAS.

⁶ Stabilisation and Association Agreements, Association Agreements, Euro-Mediterranean Association Agreements, Partnership and Co-operation Agreements etc.

ARTICLE 5

Confidentiality

5.1. The exchange of information and views and the cooperation under this MoU shall be subject to restrictions arising from confidentiality requirements on all Parties.

5.2. In view of the confidential or commercially sensitive nature of some of the information to be exchanged pursuant to this MoU, each Party undertakes not to disclose such information received from the other Parties without written consent. This undertaking shall not affect, however, any communication of information which is required by law, regulation, treaty, applicable accounting standards or by an order of a court having jurisdiction in the matter, in particular, to the Court of Auditors of the European Union pursuant to the Tripartite Agreement.

5.3. The Parties acknowledge that their relevant transparency rules and policies shall apply.

ARTICLE 6

Final provisions

6.1. The Parties declare their intention to put in their best efforts to implement this MoU in all its provisions from the day of its signature until any Party announces its withdrawal from it in accordance with Article 6.6.

6.2. The cooperation between the Parties, as foreseen under this MoU, shall be implemented while taking due account of, and without prejudice to, other existing agreements or Memoranda of Understanding, whether entered into jointly or separately by the Parties, which relate to investments in the Regions.

6.3. The Parties shall inform each other and the EEAS prior to concluding future agreements or Memoranda of Understanding with third parties which relate to investments in the Regions.

6.4. In case of joint activities, the Parties will take the necessary measures to ensure the visibility of EU financing or co-financing. Such measures must be in accordance with the applicable rules on the visibility of external action laid down and published by the Commission.

6.5. This MoU shall be implemented without prejudice to the normal decision-making processes of the Commission, the EEAS and the governing bodies of the EIB. The provisions of the MoU shall not prejudice the decision-making of the competent authorising officers, in line with the Financial Regulation⁷ and its Rules of application⁸, under the relevant financial instruments mentioned in Article 1.2.2.

6.6. Any Party has the right to withdraw from the MoU at any time by giving written notice to the other Parties.

⁷ Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council of 25 October 2012 on the financial rules applicable to the general budget of the Union and repealing Council Regulation (EC, Euratom) No 1605/2002 (OJ L 298, 26.10.2012, p. 1–96), as amended from time to time.

⁸ Commission Delegated Regulation (EU) No 1268/2012 of 29 October 2012 on the rules of application of Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council on the financial rules applicable to the general budget of the Union (OJ L 362, 31.12.2012, p. 1–111), as amended from time to time.

6.7. This MoU will be made publicly available by the Parties in accordance with their respective disclosure policies and all Parties agree to post it on their respective websites.

6.8. This MoU will be reviewed in the context of the Multiannual Financial Framework 2014-2020, as appropriate. Any review shall be coordinated by DG ECFIN for the Commission and EEAS and by the Institutional Strategy Directorate for the EIB.

Done at Brussels, this *12/09/2013*

Signed for and on behalf of

EUROPEAN COMMISSION

Signed for and on behalf of

**EUROPEAN INVESTMENT
BANK**



Olli REHN
Vice-President responsible for
Economic and Monetary
Affairs and the Euro



Werner HOYER
President

Annex 1 Modus operandi

1. Dialogue and early mutual exchange of information

Regular and systematic dialogue will be held on overarching policy and sectoral aspects of common concern relating to the EU's external action. There will be an early exchange of information between the Commission services, the EEAS and the EIB in the process of preparing documents of mutual significance. Due account of EU policies will be taken in the preparation of EIB policy documents.

Consultation shall be carried out sufficiently in advance of the Parties' formal internal decision-making procedures⁹ and shall duly take into account comments provided by the other Party and the EEAS. Appropriate feedback on the inclusion of comments should also be provided.

Relevant references to the activities of the respective Parties and the EEAS should be included, where appropriate, in the documents and papers concerned.

Typical documents concerned by regular and systematic dialogue and early exchange of information of the Commission services and the EEAS with the EIB include:

- Strategic documents as appropriate, such as inter alia:
 - Regional or Multi Country Strategy Papers and Regional or Multi Country Indicative Programmes
 - Country Strategy Papers and National Indicative Programmes, or equivalent documents
 - Action Plans providing a framework for relations with partner countries
 - Documents setting out geographical and sectoral priorities, which have a significant bearing on investment in the Regions
- Other policy and operational aspects.

Where appropriate, the Commission shall exchange views with the EIB and take into account EIB activities in its Operational Documents such as Annual Action Programmes at regional, multi-country and country level as well as other relevant documents.

The Commission services and the EEAS shall provide the EIB at least on an annual basis by 31 March of each year with a list of their respective upcoming Strategic Documents. The Commission services and EEAS will send their respective Strategic Documents to the EIB after their adoption.

Typical documents concerned by regular and systematic dialogue and early exchange of information of the EIB with the Commission services and the EEAS include:

- EIB documents to be submitted to the Management Committee, defining how EU policies and objectives set out in the Decision are transformed into concrete EIB financing activities with a multi-annual perspective
- Other relevant strategic or planning documents relating to the Regions, in particular documents to be submitted to the EIB Board of Directors, including the relevant sections of the EIB rolling Corporate Operational Plan ("COP")
- The project pipelines providing an updated list of projects being considered by the Bank in each of the different Regions. The pipelines will be provided to

⁹ i.e. before Inter-Service Consultation for Commission and EEAS documents and before submission to the Management Committee for EIB documents.

DG ECFIN on a quarterly basis, to be further disseminated specifically to Commission and EEAS country desk officers and EU Delegations, as well as other relevant Commission and EEAS staff for their feedback and further dialogue on specific project proposals¹⁰.

Informal co-operation in advance of the formal Article 19 procedure should be enhanced at both headquarters and field level, through the strengthened cooperation set out in Article 3 of the MoU.

The EIB shall provide the Commission services and the EEAS with a list of upcoming EIB Strategic Documents at least on an annual basis and by 31 March of each year. The EIB will send to the Commission services and the EEAS the EIB Strategic Documents after their adoption.

2. Supporting activities

The Parties and the EEAS shall exchange the advance planning of evaluations on matters of common concern relating to Regions. The Parties and the EEAS shall consult each other during the preparation of these evaluations.

The Parties and the EEAS shall endeavour to perform the following activities, notably taking into consideration the potential impact on their respective resources:

- put reciprocal links on the respective websites;
- exchange staff;
- organise joint seminars, conferences and training events.

The Parties and the EEAS shall consider participation in and reciprocal invitations to events, seminars and trainings¹¹. In particular, the EIB will be invited to relevant coordination meetings for matters relevant to its activity. When relevant, the Parties and the EEAS will invite each other to participate in relevant coordination meetings involving IFIs, when hosted by them.

¹⁰ The pipelines include projects at early stage of preparation, i.e. also including projects which have not yet been submitted under the consultation procedure foreseen under the Article 19 of EIB Statute.

¹¹ The MoU is without prejudice to existing specific rules and practices concerning participation by the Parties and the EEAS in relevant committees, such as the FEMIP committee, the IPA, ENPI or DCI committees or the Board of relevant Investment Facilities.