



MEMORANDUM OF UNDERSTANDING

BETWEEN

THE EUROPEAN COMMISSION

AND

THE EUROPEAN INVESTMENT BANK

IN RESPECT OF

COOPERATION AND COORDINATION IN THE REGIONS COVERED

BY COUNCIL DECISION 2006/1016/EC

WHEREAS

1. The European Investment Bank (the "EIB") is the financial institution of the European Union, created by the Treaty establishing the European Community (the "EC Treaty"). The role of the EIB is to finance investments in support of EU policy objectives, complementing the corresponding Community assistance policies, programs 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 Council Decision 2006/1016/EC¹ (the "Council Decision" or the "Decision") the EIB is granted a Community guarantee against losses under loans and loan guarantees for projects outside the Community.
2. In accordance with Recital 9 of Council Decision 2006/1016/EC, the policy dialogue between the European Commission (the "Commission") and the EIB, as well as strategic planning and coherence between EIB and Commission financing should be strengthened. The link between EIB activities outside the Community and EU policies should be strengthened via enhanced cooperation between EIB and the Commission at central as well as field level. Such strengthened coordination should include, *inter alia*, early mutual consultation with respect to policy matters, preparation of papers of mutual significance and project pipelines. Of particular importance will be early consultations on strategic programming documents prepared by the Commission or by the EIB, to maximise synergies between EIB and Commission activities and measure progress towards fulfilment of relevant EU policy objectives.
3. In accordance with Recital 15 of the Council Decision, with a view to enhancing the coherence of overall EU support in the regions concerned, opportunities should be sought to combine EIB financing with EU budgetary resources as appropriate, in the form of grant support, risk capital and interest rate subsidies, alongside technical assistance for project preparation, implementation or enhancement of the legal and regulatory framework.
4. In accordance with Article 3(1) of the Council Decision, the consistency of EIB external actions with the external policy objectives of the EU shall be strengthened with a view to maximising synergies of EIB financing and budgetary resources of the EU, notably through regular and systematic dialogue and early consultation on:
 - Strategic documents prepared by the Commission, such as country or regional strategy papers, action plans and pre-accession documents;
 - The EIB's strategic planning documents and project pipelines;
 - Other policy and operational aspects.
5. In accordance with Article 3(2) of the Council Decision, the cooperation shall be carried out on a regionally differentiated basis, taking into account the EIB's role as well as the policies of the EU in each region.

¹ As amended from time to time.

6. In accordance with Article 3(4) of the Council Decision, the consistency of EIB Financing Operations with the external policy objectives of the EU shall be monitored in accordance with Article 6 of the Council Decision.
7. In accordance with Article 4 of the Council Decision, EIB Financing Operations shall increasingly be carried out, where appropriate, in cooperation between and/or by means of cofinancing by the EIB and other International Financing Institutions ("IFIs"), or European bilateral institutions, in order to maximise synergies, cooperation and efficiency and to ensure reasonable sharing of risks and coherent project and sector conditionality. This cooperation shall be facilitated by coordination, carried out notably in the context of Memoranda of Understanding, where appropriate, between the Commission, the EIB and the main IFIs and European bilateral institutions operating in the different regions.
8. Article 6 of the Council Decision specifies that the Commission's annual report to the European Parliament and Council shall include an assessment of the contribution of the EIB Financing Operations to the fulfilment of the external policy objectives of the European Union, taking into account the operational objectives of the EIB, and of the extent of cooperation between the EIB and the Commission and between the EIB and other IFIs and bilateral donors.
9. In accordance with Article 9 of the Council Decision, the Commission shall present to the European Parliament and Council a mid-term report on the application of the Council Decision by 30 June 2010, including an assessment of the cooperation and coherence of actions between EIB and the Commission,

THE PARTIES HAVE AGREED AS FOLLOWS:

ARTICLE 1

Objective

This Memorandum of Understanding (the "MoU") is concluded between the Commission and the EIB (together defined as the "Parties").

The objective of the MoU is to strengthen the consistency of EIB external actions with the external policy objectives of the EU by reinforcing the policy dialogue between the Parties and by enhancing coordination in strategic planning and coherence between the financing operations of the Parties, with a view to maximizing the synergies between EU budget based instruments and EIB financing and optimizing the privileged partnership between the Community and the EIB.

ARTICLE 2

Geographical coverage

The regions concerned by this MoU (the "Regions") are those covered by the Council Decision², as may be amended from time to time:

a. Pre-Accession countries:

- Candidate and potential candidate countries ("PA")

b. Neighbourhood and Partnership countries:

- Mediterranean ("MED")
- Eastern Europe, Southern Caucasus and Russia ("EAST")

c. Asia and Latin America:

- Asia
- Latin America ("LA")
- Central Asia³ ("CA")

d. South Africa ("SA")

Furthermore, the MoU shall apply to not yet eligible countries as from the date on which eligibility status is granted by the Council in accordance with Article 2(2) of the Council Decision.

ARTICLE 3

Principles

In order to pursue the objective of the MoU the Parties agree to strengthen their co-operation and enhance their co-ordination, at central as well as field level, on the basis of the following principles (and as further detailed in the following Articles):

3.1 Complementarity and Autonomy

3.1.1. The Parties emphasise the importance of working in partnership and in a complementary way so as to combine their respective capabilities, expertise and added value for the achievement of the main shared common objectives, with a view to strengthening the

² 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.

³ As of the date of signature of the MoU, the Central Asian countries are not yet eligible under the Council Decision.

coherence of their activities and enhancing the synergy of EIB financing and budgetary resources of the EU, notably those stemming from the Instrument for Pre-Accession Assistance (the "IPA")⁴, the European Neighbourhood and Partnership Instrument (the "ENPI")⁵ and the Development Cooperation Instrument (the "DCI")⁶, as well as from other relevant financial instruments.

- 3.1.2. The MoU shall be implemented without prejudice to the normal decision-making processes of the Commission and the governing bodies of the EIB. The Parties will each maintain their own specific and autonomous character in accordance with the provisions of the Treaty. The provisions of the MoU shall not prejudice the decision-making of the competent authorizing officers, in line with the Financial Regulation⁷ and its Implementing Rules⁸, under the relevant financial instruments mentioned in Article 3.1.1.

3.2 Early mutual consultation

- 3.2.1. The Parties will enter into early mutual consultation with respect to policy matters, preparation of papers of mutual significance and project pipelines. Of particular importance will be early consultation and dialogue on documents prepared by the Commission or by the EIB in accordance with Articles 4.1 and 4.2, to maximise the synergy of and policy coherence between EIB and Commission activities in support of the external policy objectives of the EU.
- 3.2.2. The early mutual consultation will be carried out so as to enable the Parties to interact swiftly and efficiently during the consultation.

3.3 Regular and systematic dialogue

The Parties will hold regular and systematic dialogue on policy and operational aspects of common concern relating to the Regions.

3.4 Coherence between financing activities

Based on the experience of parallel co-financing⁹ of projects, of the implementation of the Facility for Euro-Mediterranean Investment and Partnership (FEMIP) and of a number of joint initiatives, the Parties will endeavour to ensure coherence between their respective financing activities in relevant countries and sectors so as to optimise the use of grant and loan resources.

⁴ Council Regulation (EC) No 1085/2006 of 17 July 2006 (OJ L 210, 31.7.2006, p. 82).

⁵ 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).

⁶ 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).

⁷ Council Regulation N° 1605/2002 on the Financial regulation applicable to the general budget of the European Communities (OJ L 248, 16.9.2002), as amended.

⁸ Commission Regulation (EC, Euratom) No 2342/2002 of 23.12.2002 (OJ L 357, 31.12.2002), as amended.

⁹ Parallel co-financing is broadly defined in Article 17(2) of Regulation (EC) No 1638/2006 of the European Parliament and of the Council of 24 October 2006 laying down general provisions establishing a European Neighbourhood and Partnership Instrument (ENPI).

3.5 Regional differentiation

The cooperation shall be carried out on a regionally differentiated basis, taking into account the EIB's role, expertise and added value as well as the policies of the EU in each region, and will build on existing arrangements and facilities.

3.6 Sectoral aspects

The cooperation shall include sectoral policies promoted by the Commission in the different Regions which are related to the Parties' interventions in the Regions.

3.7 Consistency with other Memoranda of Understanding

- 3.7.1. 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 two Parties, which relate to investments in the Regions.
- 3.7.2. The Parties shall inform each other prior to concluding future agreements or Memoranda of Understanding with third parties which relate to investments in the Regions.

ARTICLE 4

Modus operandi

4.1 Early consultation on documents prepared by the Commission

4.1.1. The Commission shall include, where appropriate, references to EIB's present and future activities in the Regions in its strategic documents and other relevant documents. The Commission Strategic Documents are:

- Regional or Multi Country Strategy Papers and Regional or Multi Country Indicative Programmes;
- Country Strategy Papers and National Indicative Programmes;

The Commission will also, where appropriate, consult the EIB on other policy documents such as EC Communications on development aid, Action Plans or Road Maps providing a framework for relations with partner countries, or documents setting out sectoral priorities, which have a significant bearing on investment in the Regions.

4.1.2. The Commission shall regularly consult the EIB during the preparation phase of the Commission Strategic Documents and allow the latter enough time to provide the relevant information or comments to the Commission in advance of the formal Commission internal decision-making procedures. The Commission shall duly consider the comments

made by the EIB on Commission Strategic Documents and provide the EIB with appropriate feedback, notably in case of rejection of the substance of such comments.

4.1.3. The Commission shall include, where appropriate, references to EIB activities in its Operational Documents and other relevant reports. The Commission Operational Documents are:

- Annual Action Programmes at regional or multi-country level (applicable to all Regions);
- Annual Action Programmes at country level (generally applicable to PA, MED, EAST, CA, SA, Asia and LA).

4.1.4. The Commission and the EIB will, in advance of the formal Commission internal decision-making procedures, exchange information on Commission Operational Documents during the early preparation phase of such documents. The Commission will provide more detailed information on specific projects listed in the Action Programmes, if deemed useful by the EIB.

4.1.5. The Commission shall, through the Steering Committee set up according to Article 5 below, provide the EIB with a list of upcoming Commission Strategic Documents at least on an annual basis.

4.1.6. The Commission will send the Strategic Documents to the EIB after their adoption.

4.2 Early consultation on documents prepared by the EIB

4.2.1. The EIB's strategic planning documents ("EIB Strategic Documents") shall be consistent with and support EU external policies, as notably outlined in Commission Strategic Documents, Council conclusions and decisions, and the objectives set out in the Council Decision for each of the Regions. The EIB Strategic Documents are:

- EIB regional or national financing strategies, defining how EU policies and objectives set out in the Council Decision are transformed into concrete EIB financing activities with a multi-annual perspective;
- Other relevant strategic or planning documents relating to Regions, in particular documents submitted to the EIB Board of Directors, including the relevant sections of the EIB rolling Corporate Operational Plan ("COP").

4.2.2. The EIB shall regularly consult the Commission during the preparation phase of EIB Strategic Documents and allow the latter enough time to provide the relevant information or comments to the EIB, prior to their submission to the EIB Management Committee. The EIB shall duly consider the comments made by the Commission on EIB Strategic Documents and provide the Commission with appropriate feedback, particularly in case of rejection of the substance of such comments.

4.2.3. Due account of EU policies shall also be taken in the preparation of EIB Operational Documents and project proposals. The EIB Operational Documents are:

- the project pipelines providing an updated list of projects being considered by the Bank in each of the different Regions.

4.2.4. As regards EIB Operational Documents, the EIB shall provide the Commission with project pipelines for the different Regions on a quarterly basis. In addition to and outside of the usual exchanges of information taking place during the consultation procedure provided for in Article 21 of the Statutes of the EIB, the EIB will provide more detailed information on specific project proposals listed in the regional project pipelines, if deemed useful by the Commission.

4.2.5. The EIB shall, through the Steering Committee set up according to Article 5 below, provide the Commission with a list of upcoming EIB Strategic Documents at least on an annual basis.

4.2.6. The EIB will send to the Commission the EIB Strategic Documents after their adoption.

4.3 Regular and systematic dialogue supplementing consultations under Articles 4.1 and 4.2

4.3.1. *On strategic level:* The Parties will hold regular and systematic dialogue on policy and sectoral aspects of common concern relating to the Regions. This dialogue will facilitate the early identification of possible areas of cooperation and provide early warnings in case of politically sensitive issues. It will involve regular meetings and contact between the services of the two Parties which are responsible for the same Regions. The frequency of such meetings or contact shall depend on the EIB's role, as well as the policies of the EU, in each Region. Ad hoc meetings can be organised for early warning dialogue where politically sensitive issues arise in specific countries or Regions. Contact shall be established between the respective headquarters in a manner that room for informal on-going dialogue and exchange on strategic matters is created.

4.3.2. *On operational level:* A regular exchange will also take place on operational matters which are particularly related to projects and programmes. Such on-going contact shall, as a general rule, take place in the field, notably between Commission delegations in the Regions and EIB external offices and headquarters, and will also involve Commission headquarters as needed. This will involve inter alia:

- Sharing documents of common relevance which relate to on-going projects and programmes in the Regions throughout the project/programme cycle;
- Sharing studies, analyses and reports of common relevance relating to the Regions;
- Organising joint missions in the Regions, when relevant to the implementation of the MoU, involving the invitation and exchange of information on upcoming missions;
- As a general rule, informing and, where appropriate, involving Commission delegations in relevant contact with local authorities in case of EIB staff missions in the Regions.

- As a general rule, informing and, where appropriate, involving the EIB in contacts with local authorities during relevant programming and operational missions of Commission staff in the Regions.

4.4 Supporting activities

- 4.4.1. 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).
- 4.4.2. The Parties shall, through the Steering Committee set up according to Article 5 below, exchange the advance planning of evaluations on matters of common concern relating to Regions. Each Party shall consult the other during the preparation of these evaluations.
- 4.4.3. The Parties shall endeavour to perform the following activities, notably taking into consideration the potential impact on their respective resources:
- Setting up a joint extranet and/or put reciprocal links on the respective websites;
 - Exchanging staff;
 - Organising joint seminars, conferences and training events.
- 4.4.4. The Parties shall consider participation in and reciprocal invitations to events, seminars and training¹⁰. In particular, the Commission will invite the EIB to participate in the annual meeting of the Heads of Delegations. In return, the EIB will invite the Commission to participate in relevant coordination meetings between IFIs, when hosted by the EIB.

ARTICLE 5

Steering Committee

- 5.1. The implementation of this MoU shall be supervised and coordinated by a Steering Committee composed of five representatives at senior management level from each Party¹¹.
- 5.2. The Steering Committee shall meet on an annual basis. Other meetings could also be organised, where necessary, at the request of one of the Parties.
- 5.3. The Steering Committee shall be assisted by a Secretariat ensured by the Commission-EIB Joint Working Party. This Secretariat will put in place a simple and pragmatic central recording system of the activities implemented under this MoU.
- 5.4. The Steering Committee shall, in its first meeting, adopt its Rules of Procedure.

¹⁰ The MoU is without prejudice to existing specific rules and practices concerning participation by the Parties in relevant committees, such as the FEMIP committee, the Board of the Neighbourhood Investment Facility or the IPA, ENPI or DCI committees.

¹¹ The Commission will be represented by a senior management staff member from each of DG AIDCO, DG DEV, DG ECFIN, DG ELARG and DG RELEX.

- 5.5. The Steering Committee shall in its first meeting establish the planning of the implementation of the activities provided for in this MoU and identify operational arrangements and responsible services.
- 5.6. With a view to contributing to the annual reports on the implementation of the EIB external mandate foreseen in Article 6 of the Council Decision, the Secretariat shall prepare an annual document, based on contributions prepared jointly by the relevant geographical departments of the Commission and the EIB, in order to outline the extent of cooperation between the Parties related to activities under the MoU, as determined by the Steering Committee in accordance with Article 5.5. The document shall be validated by the Steering Committee either during a meeting or by written procedure by 31st of March of each year at the latest¹².

ARTICLE 6

Confidentiality

- 6.1 The exchange of information and views and the cooperation under this MoU shall be subject to restrictions arising from confidentiality requirements on both parties.
- 6.2 In any event, 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 the information received from the other Party without written consent.

ARTICLE 7

Visibility

In case of joint activities, the Parties will take the necessary measures to ensure the visibility of the 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.

ARTICLE 8

Final provisions

- 8.1. The Parties declare their intention to put in their best efforts to implement the MoU in all its provisions from the day of its signature until either Party announces in writing to the other Party its intent not to follow it. In particular, the Parties agree to disseminate the MoU to all relevant services within the respective institution at headquarters and field level.

¹² The first annual document shall be validated by the Steering Committee not later than 31st March 2009 and cover cooperation between the Parties in 2008.

- 8.2. This MoU will be reviewed following the mid-term review of the Council Decision and on expiry of the period referred to in Article 1(6) of the Council Decision, as possibly extended under Article 1(7), or at an earlier date, at the request of either Party (e.g. in the light of possible future amendments of the Council Decision or of the evolution of the policies and financial instruments of the Commission and the EIB).
- 8.3. Any Party has the right to withdraw from the MoU at any time by giving written notice to the other Party.

Brussels, this _____ day of _____

Signed for and on behalf of
EUROPEAN COMMISSION

Signed for and on behalf of
EUROPEAN INVESTMENT BANK

Joaquín ALMUNIA
Commissioner for Economic
and Monetary Affairs

Philippe MAYSTADT
President