Initial appraisal of a European Commission Impact Assessment

European Commission proposal on the European Investment Bank's external mandate (2014-20)

Impact Assessment (SWD (2013) 179, SWD (2013) 178 (summary)) for a Commission Proposal for a Decision of the European Parliament and of the Council on granting an EU guarantee to the European Investment Bank against losses under financing operations supporting investment projects outside the Union (COM (2013) 293)

• Background

This note seeks to provide an initial analysis of the European Commission's Impact Assessment (IA) accompanying the above proposal, adopted by the Commission in May 2013. The European Investment Bank (EIB) is currently the largest multilateral lender in the world. This initiative deals exclusively with projects outside of the Union, which, although representing less than 10 per cent of the Bank's business, are often important in supporting EU external policy objectives. To this end, the EU provides a budgetary guarantee to the EIB covering risks of a sovereign and political nature in connection with its loan and loan guarantee operations. Since 2009, this is established by a Decision of the Council and of the European Parliament. Previously, it was only a Council Decision.

In 2011, the previous Decision foresaw that '[w]hen submitting the proposal on the EU guarantee under the next Multiannual Financial Framework, the Commission should be invited in particular to examine, in close cooperation with the EIB and taking into account the implications of the provisioning of the Guarantee Fund, the ceilings covered by the EU guarantee, the list of potentially eligible countries and the possibility for the EIB to provide micro-credit financing and other types of instruments. The Commission and the EIB should also examine the possibilities of enhancing in the future synergy between the financing through the IPA [Instrument for Pre-Accession], the ENPI [European Neighbourhood Policy Instrument], the DCI [Development Cooperation Instrument], the EIDHR [European Instrument for Democracy and Human Rights] and the Instrument for Stability and the external mandate of the EIB.'

The Council and the Parliament need to act now, as the current mandate expires at the end of 2013.

• Identification of the issue at stake

The IA identifies the following problems in need of EU action.

1. There is a risk that the EU guarantee is used in a sub-optimal way. One of the issues is that, in some cases, partly because of changes in the global landscape, the EU guarantee is provided to creditworthy countries and beneficiaries who can more easily access commercial funding.
2. The EIB cannot finance all types of micro-finance operations - which can potentially alleviate poverty - due to restrictive eligibility criteria.
3. The level of EIB funding for climate action is insufficient - two billion euro are currently explicitly allocated for climate change. Overall, it is estimated that around 15 per cent of guaranteed operations carried out in third countries since 2007 are linked to climate change. This amounts to approximately €4.15 billion (IA, p. 22 and footnote 24, p. 31).
4. A further problem is phrased as '[u]nclear EIB positioning as a key delivery tool of EU external financial support'. This refers to an insufficient alignment with EU policies and insufficient coherence and synergies with other EU instruments.

Arguably, the second and the third problems are examples of the insufficient alignment with EU policies, which is the content of the last - more general - problem. Evidence and opinions of various stakeholders are presented.

These issues affect several non-EU countries, which, according to the Decision currently in force, are divided into the following regions (from A to D) and sub-regions (in roman numerals), eligible for the EU guarantee[1].

A. Pre-accession countries: currently, Turkey, non-EU countries in the Balkans and Iceland.
B. Neighbourhood and Partnership countries:
    i. Mediterranean countries: in the Southern and Eastern shores of the Mediterranean;
    ii. Eastern Europe, Southern Caucasus and Russia.
C. Asia and Latin America:
    i. Latin America;
    ii. Asia;
    iii. Central Asia.
D. South Africa.

The rest of the African continent is covered by a specific mandate applying to the African, Caribbean and Pacific Group of States (ACP).

The IA tries to identify the causes of these problems. One could broadly distinguish: some regulatory causes, such as eligibility and other criteria in the current mandate, on the one hand; and some problematic issues in the current processes, on the other. The IA mentions the 'lack of a process to review [the criteria]... lack of a dynamic process to provide upstream political impetus' (IA, p. 25); the 'necessary time-lag between the moment a project is identified as "bankable" and its materialisation... In addition, pipeline of projects tend to be "sticky" in some sectors as the Bank needs to gradually diversify its traditional client base' (IA, p. 22).

Overall, the problem definition broadly follows the request to examine the issues highlighted in the quoted Decision from 2011. However, the 'ceilings covered by the EU guarantee', which

[1] This is a simplified version of the proposed list of eligible countries. For the complete list of countries, both in the 2011 Decision and the Commission proposal, please refer to Annex III.

were also mentioned, have a less prominent place in the analysis (see 'Scope' and 'Relations with third countries' below).

• Objectives of the legislative proposal

The operational objectives correspond to the identified problems. The aims of the proposal are, therefore, to '[1] focus the scope of the EU guarantee on beneficiaries where its use would display highest value...; [2] Explicitly extend the EU guarantee to all microfinance operations...; [3] Reinforce the climate change dimension of the EU guarantee in order to incentives EIB operations in this key sector of EU external action...; [4] increase the impact of EIB financing through better alignment with EU policies and coherence and synergies with EU instruments'. Curiously, the objective to 'explicitly extend the EU guarantee to all microfinance operations' is phrased in a narrow and rather leading way.

The IA also mentions two specific objectives: to 'better exploit EIB expertise and resources' and to 'improve the financial effectiveness of the EU guarantee whilst preserving a sound budgetary cover'. These are legitimate and understandable objectives and constraints, but they correspond less clearly to the way the problems are described.

• Range of the options considered

The IA considers the following options.

- Option 0: no new decision - i.e. new EIB operations outside the EU would not benefit from an EU guarantee.

- Option 1: no change (extending the previous Decision until the end of 2020 and with an overall ceiling of €25 billion) - base line scenario.

- Option 2: amend the existing guarantee. Three sub-options describe possible ways to achieve the above operational objectives.

2.1. CLOSE
- Asia and Latin America would not be eligible anymore;
- all micro-finance operations would be explicitly eligible, but 'reducing the risk for the Bank to an acceptable level' (IA, p. 30);
- four billion euros would be allocated to climate change;
- annual country strategy papers would be drafted to ensure coherence.

2.2. MICRO
- The geographical scope would cover all regions;
- two billion euros would be allocated to micro-finance and a comprehensive EU guarantee would be provided to reduce the risk;
- climate change targets would be set up at a regional level;
- technical operational regional guidelines would be updated to ensure coherence.

2.3. FOCUS
- There would be a focus on less creditworthy intermediaries in all regions;
- micro-finance would not be singled out as an area of intervention;
- there would be an overall lending volume target for climate change (for example, 25 per cent of total lending) and green-house gases emissions would be tracked;
- technical operational regional guidelines would be updated to ensure coherence.

- Option 3: provide the guarantee to other financial institutions, such as the investment facilities active in the Western Balkans, in Neighbourhood countries, in Central Asia, Latin America and Asia.

This appears to be a reasonably comprehensive set of options. Interestingly, the three sub-options are bundled as a package, which does not allow for a different combination of elements.

• Scope of the Impact Assessment

The overall ceiling
The Commission states that a calculation performed taking into account all budgetary and legislative constraints, as well as patterns of disbursements and reimbursement and other assumptions 'would allow for a fixed ceiling of around EUR 25 billion' (IA, p. 16). This is partially explained in the IA, but without performing the actual calculation and disclosing all values.

The analysis of the options
The analysis is based on the input of a broad range of studies, stakeholder consultation and the qualitative analysis of the Impact Assessment Steering Group. It deals with economic, social and environmental impacts, with a particular focus on budgetary and international aspects. First, the IA discards convincingly options 0, 1 and 3, as they are less effective for various reasons. Then, it analyses more in-depth the three sub-options of CLOSE, MICRO and FOCUS. The outcome of the analysis is that FOCUS, which focuses the guarantee on less creditworthy countries in all regions, is the Commission's preferred option.

Without questioning the substance and the outcome of the analysis, the presentation is not very clear. The front-runner options are compared according to seven criteria, each of them ranked in terms of their effectiveness, efficiency and coherence. This gives a total of 21 qualitative scores, each backed up by a rather lengthy description of the analysis. Somewhat confusingly, the seven criteria partly overlap with the four operational objectives mentioned above. Furthermore, one of the seven criteria is to 'Increase the impact/policy coherence': so, coherence seems to be counted twice. The IA mentions that 'two criteria (Impact on the [Guarantee Fund] and on EU Budget and Impact on EIB credit risk stance and resources) are probably the most important ones as they de facto set the boundaries within which the Decision can be implemented' (IA, p. 40). This is understandable. However, when drawing the conclusion, the scores are added up without applying any weighing.

• Subsidiarity

The subsidiarity principle does not apply, as the proposal falls under the exclusive competence of the EU. The legal bases are Articles 209 and 212 TFEU. In particular, Article 209 provides that the EIB 'shall contribute, under the terms laid down in its Statute, to the implementation of the measures... necessary for the implementation of development cooperation policy, which may relate to multiannual cooperation programmes with developing countries or programmes with a thematic approach.'

- **Budgetary or public finance implications**

The Guarantee Fund would be endowed by one annual payment from the EU budget amounting to €1.193 billion euro, which covers the whole MFF period of 2014-20.

The Explanatory Memorandum provides additional details about the implications for the EU budget. The Commission is responsible for managing the Guarantee Fund. The estimated human resources allocated to this are seven members of staff, who are either already assigned to the management of the action and/or will be reallocated within DG ECFIN (Explanatory Memorandum, p. 44).

- **SME test / Competitiveness**

Developing the local private sector, in particular supporting SMEs, is one of the three general aims stated in the current Decision, as well as in the previous Decision. The positive impact on SMEs is coherently analysed.

- **Simplification and other regulatory implications**

The Commission states that the overall ceiling of €25 billion would be consistent with the €1.193 billion allocated to the Guarantee Fund under the forthcoming Multiannual Financial Framework.

- **Relations with third countries**

Relations with third countries are coherently analysed. The chosen option takes into account the opinion of stakeholders, including the European External Action Service, which voiced some concerns about the outright exclusion of some regions, such as Asia and Latin America.

Regional ceilings are briefly analysed. The Commission recalls that in 2011, the ceilings were temporarily and exceptionally increased to face the Arab Spring and the crisis. This was clearly stated in the recitals of the Decision. So, as the IA puts it - seemingly just before the proposal was adopted - 'it is assumed that the 2009 regional balance should form the basis of the new legislative proposal' (IA, p. 17).

As far as individual countries are concerned, the Commission proposes to add Myanmar to the list of eligible countries and provides an analysis backing up this inclusion (IA, pp. 81-85). Moreover, the IA and the proposal identify Central Asia as a specific sub-region within the Asia and Latina America region 'to reflect enhanced EU cooperation with the area (IA, p. 35). This area is composed of Kazakhstan, Kyrgyzstan, Tajikistan, Turkmenistan and Uzbekistan.

- ## Quality of data, research and analysis

The assessments seem to be reasonable and are based on available research and analysis. These include:
- an evaluation of the previous mandate carried out by an external contractor;
- a mid-term review of the mandate carried out by the Commission;
- the results of the work of a Steering Committee of Wise Persons, composed of experts and representatives of civil society organisations;
- a qualitative analysis made by the Impact Assessment Steering Group, which included members of the relevant Directorate Generals of the Commission as well as of the European Action External Service. The EIB attended the meetings as observer;
- stakeholder consultation.

- ## Stakeholder consultation

Stakeholders consulted included non-governmental organisations, other international financial institutions, Member States' representatives, EIB loan beneficiaries and EU officials. The IA aims to strike a balance between their sometimes diverging opinions.

The issue of micro-finance was examined in the report, as requested in the 2011 Decision and by some Members of Parliament. The final choice made was not to depart from the previous mandate in this respect, as micro-finance would have entailed a higher degree of risk.

- ## Monitoring and evaluation

The IA informs that a tool required by the previous Decision, called REM (Results Measurement Framework), is currently in place and will be used to monitor outputs, outcomes and impacts. Relevant monitoring indicators are identified.

The IA mentions a mid-term review starting three years after the activation of the Decision.

- ## Commission Impact Assessment Board

The IA seems to comply with the main comments made by the Impact Assessment Board in its two opinions. In the second, positive, opinion, the Board asked DG ECFIN *inter alia* to: better explain the coherence between the EIB and other players involved in funding external action; provide concrete examples demonstrating the effects of the options; and better present stakeholders' views. The Commission's Board also asked DG ECFIN to 'justify the scores assigned in comparing the options'. This was done, but may have resulted in the long and not always informative analysis section.

- ## Coherence between the Commission's legislative proposal and IA

The legislative proposal of the Commission follows the recommendations expressed in the IA. An analysis of the additional elements provided in the Explanatory Memorandum and in the proposal allows for drawing the following additional conclusions.

The ceiling covered by the EU guarantee
Besides the overall ceiling of €25 billion mentioned in the IA, the Commission proposal also sets out an 'optional additional amount of EUR 3 billion. The activation in whole or in part of this optional amount and its regional distribution will be decided under ordinary legislative procedure following a mid-term review' (Explanatory Memorandum, p. 5). This conclusion does not seem to be the result of an analysis performed in the IA. For reference, the 2011 Decision had foreseen a higher overall ceiling of €29.5 billion.

List of potentially eligible countries
Syria, Belarus, Cuba, Afghanistan and Bhutan are the countries which are only 'potentially eligible' in the proposed Decision. The Explanatory Memorandum recalls that: 'As in the current Decision, the Commission is empowered to adopt delegated acts to activate or suspend the actual eligibility for EIB financing under the EU guarantee for countries listed as potentially eligible countries, while the modification of the list of potentially eligible countries would require a separate decision by the legislator.' (Explanatory Memorandum, p. 6). The Commission's decision to activate or suspend the actual eligibility '[s]hall be based on an overall economic and political assessment, including aspects related to the democracy, human rights and fundamental freedoms as well as the relevant European Parliament resolutions and Council decisions and conclusions.' (Art. 4 both in the 2011 Decision and the current proposal).

Syria was previously eligible and is currently suspended under delegated act. This is recalled in the IA as well (IA, p. 33). The status of the remaining four countries has not changed, but this is not analysed in the IA.

Regional ceilings
An analysis of the regional ceilings finally disclosed in the proposal broadly confirms that these are based on the 2009 regional balance, as anticipated in the IA. However, there are some marginal changes: Latin America and South Africa are losing out slightly to the benefit of Eastern Europe, Caucasus, Russia, Asia and Central Asia. The percentages of pre-accession and Mediterranean countries remained the same.

However, it should be recalled that there is some flexibility in the re-allocation of the fixed ceilings. This rule has slightly changed in the current proposal. This was anticipated in the IA as a way to enhance the flexibility to re-allocate amounts: 'the introduction of a dynamic mechanism to focus the use of the EU guarantee on operations where it displays the highest value added may potentially lead the EIB over the 7-year period of the Decision to reach certain sub-regional ceilings earlier than the end of the period while other may remain underutilised. Therefore, to cater for this potential problem, it would be important to enhance the flexibility to re-allocate amounts within sub-regions compared to the current Decision.' (IA, p. 35)

This is intended as a way to cater for the possible unintended consequences of a new choice. The proposed Annex I now reads: 'Within the overall fixed ceiling, the EIB shall, where appropriate, request the Commission to agree to reallocate an amount of up to 20 % of the sub-regional ceilings within regions and up to 10 % of the regional ceilings between regions.'

This means that up to 20 per cent of the ceilings may be reallocated, always outside the EU:

- from Mediterranean countries, on the one hand, to Eastern Europe, Southern Caucasus and Russia, on the other - and vice versa; and
- between Latin America, Asia and Central Asia.

Also, up to 10 per cent of the ceilings may be reallocated between any of the four macro-regions.

The process has slightly changed as well. Whereas the 'EIB governing bodies' would decide in the previous Decision, according to the current proposal the EIB is to make a request to the Commission, where appropriate.

- ## Committee follow-up

According to the Commission proposal, the activation in whole or in part of the additional €3 billion of guarantee and its regional distribution will be decided under the ordinary legislative procedure following the mid-term review. This review, to be finalised by end-2017 drawing also on an external evaluation, will therefore be of strategic importance. The annual reports on the implementation of the Decision, which the Commission will submit to the Parliament and the Council, will be important milestones for checking the progress made.

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This note, prepared by the Ex-ante Impact Assessment Unit for the European Parliament's Committee on Budgets (BUDG), analyses whether the principal criteria laid down in the Commission's own Impact Assessment Guidelines, as well as additional factors identified by the Parliament in its Impact Assessment Handbook, appear to be met by the IA. It does not attempt to deal with the substance of the proposal. It is drafted for informational and background purposes to assist the relevant parliamentary committee(s) and Members more widely in their work.
This document is also available on the internet at:
http://www.europarl.europa.eu/activities/committees/studies.html

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