Extending the European Investment Bank's External Lending Mandate to Iran

The European Commission adopted two delegated decisions designed to counter the effects of United States (US) extraterritorial sanctions against Iran on 6 June 2018. One of the decisions updates Regulation (EC) 2271/96, known as the Blocking Regulation, to prohibit EU companies from complying with the US sanctions against companies investing in, or transacting business with, Iran. The second decision (C(2018) 3730 final) – the subject of this 'At a glance' note – brings Iran within the remit of the European Investment Bank's (EIB) External Lending Mandate (ELM), by adding it to the list of countries outside the EU that are eligible for EIB lending. Both decisions are part of the EU's efforts to protect the Joint Comprehensive Plan of Action (JCPOA) from the repercussions of the unilateral US withdrawal. The JCPOA was agreed between Iran and the E3/EU+3 – France, Germany, the United Kingdom and the EU plus China, Russia and the USA – in 2015, and is designed to ensure the peaceful nature of Iran's nuclear programme.

Political context: the JCPOA and US sanctions on Iran

On 8 May 2016, President Donald Trump announced the unilateral US withdrawal from the JCPOA. He also announced that the US would re-impose sanctions on Iran that had been lifted as part of the implementation of the JCPOA after a 90- or 180-day wind-down period. These sanctions have extraterritorial effect, essentially making it illegal for EU companies and financial institutions to engage in a wide range of economic and commercial activities with Iran. The relaxing of some US sanctions against Iran and against both US-controlled and non-US companies operating in Iran was an important element of the 2015 JCPOA, in that the prospect of international investment in the Iranian economy was a key incentive for the Iranian authorities to engage diplomatically with the E3/EU+3, and to submit to a regime of inspections by the International Atomic Energy Agency (IAEA). EU companies, having entered into significant commercial and investment agreements with Iranian counterparts worth billions of euros, now face penalties and other legal repercussions under the US sanctions, not least because many of the companies also have important commercial ties with the US.

In response to the US re-imposition of sanctions, Iran has signalled that it will only adhere to the agreement if the EU signatories withstand US pressure and provide Iran with 'practical guarantees' that will allow the country to continue to reap the economic benefits of the JCPOA. The two delegated decisions adopted by the Commission on 6 June 2018 constitute part of the EU's efforts to bolster continued investment in Iran, first by protecting investments there by EU companies against US extraterritorial sanctions, and second by enabling the EIB to support projects in Iran, which is the purpose of delegated decision C(2018) 3730.

The European Investment Bank's External Lending Mandate

The EIB provides long-term funding, guarantees and advice to support economic and infrastructure development projects, primarily inside the EU Member States, which are the Bank's shareholders, but also outside the EU, in pursuit of the EU's external objectives. Part of the EIB's activities outside the EU, which in total account for roughly 9 % of the bank's portfolio, are subject to the terms of the ELM, and backed by an EU budget guarantee provided for in Decision No 466/2014/EU against losses on projects carried out within the mandate. That decision was amended most recently in March 2018, inter alia to increase the guarantee to €32.3 billion, to include new objectives linked to the EU's strategic response to addressing the root causes of migration, and to add Iran to the list of 'potentially eligible regions and countries' set out in Annex II to the decision.

According to the decision, the objectives of the EIB's activities outside the EU include: local private-sector development, including support for SMEs; development of social and economic infrastructure; climate

Author: Matthew Parry, Members' Research Service
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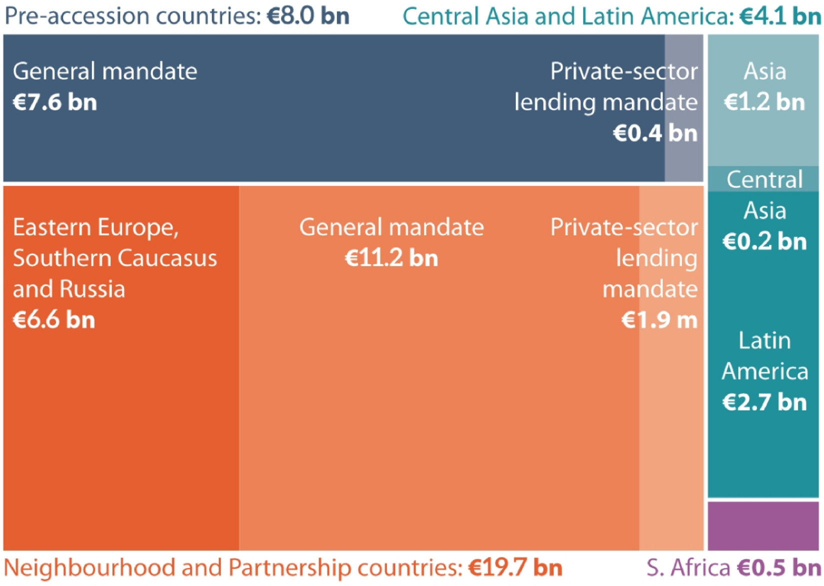
change mitigation and adaptation; and strengthening the long-term economic resilience of refugees, migrants, host and transit communities, and communities of origin for migrants.

What the Commission's delegated decision would mean

Commission delegated decision C(2018) 3730 would amend Annex III to Decision No 466/2014/EU granting the EIB an EU budget guarantee on external lending, by adding Iran to the list of 'eligible regions and countries'. The Commission's move to amend the EU guarantee by way of a delegated decision was made possible by the previous addition of Iran to the list of 'potentially eligible regions and countries', which was approved by Parliament and Council in March 2018 by means of the ordinary legislative procedure.

The delegated decision would allow the EIB to support projects in Iran, which the Commission hopes will encourage the Iranian authorities to adhere to the JCPOA, despite the US withdrawal from the agreement. The delegated decision would not oblige the EIB to operate in Iran; the final decision on this lies with the EIB's Board of Governors, which is made up of government ministers from the 28 EU Member States. The EIB also raises funds on US markets, and there are reportedly concerns within the bank that US sanctions may scare off EIB bond buyers. There would be a cap on the total amount that the EIB could invest in Iran within the overall ceiling of the EU budget-backed €32.3 billion ELM for the 2014-2020 period. Annex I of the Decision divides the ELM into regional ceilings, and the Asia region, which in the Decision includes Iran, is subject to a 2014-2020 regional ceiling of €1 165 million.

EIB External Lending Mandate, regional ceilings



Source: Annex I, Decision No 466/2014/EU.

Role of the European Parliament

Delegated decision C(2018) 3730 was adopted on 6 June 2018 and referred to Parliament as delegated act file 2018/2758(DEA), with the Committee on Budgets (BUDG) responsible for preparing Parliament's position. Under Rule 105 of its Rules of Procedure, Parliament has two months from reception of the delegated act, or until 6 August 2018, to object to the measure, which it may do by tabling a reasoned motion for a resolution to that effect. If BUDG decides not to object, a political group, or 40 Members, may also choose to table a motion for a resolution on the matter, for inclusion on the plenary agenda. The motion should state the reasons for Parliament's objections and may incorporate a request calling on the Commission to submit a new delegated act which takes account of Parliament's recommendations. Alternatively, BUDG may recommend that Parliament should declare in advance of the two-month deadline that it has no objections to the delegated act. The Council also has two months from reception of the delegated act to object or signal its non-objection before the two-month deadline, in its case acting by qualified majority vote. The European Commission is hoping for the delegated act to come into force before the first set of US secondary sanctions on Iran are re-imposed on 7 August 2018.

The BUDG committee is scheduled to discuss the EIB decision on 19 June 2018. For more on the related delegated decision updating the Blocking Regulation, see the June 2018 EPRS briefing on that file. For an explanation of the JCPOA and the implications of the US withdrawal, see the May 2018 EPRS briefing on the Future of the Iran nuclear deal.