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WORKING PAPER

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WORKING DOCUMENT

From:	Presidency
To:	Friends of the Presidency Group on the External Investment Plan and the European Fund for Sustainable Development
Subject:	European Fund for Sustainable Development - Compromise proposal

Further to the four-column document that you received on Friday, please find attached additional proposals concerning transparency, complaints procedures, EFTA countries/voting rights as well as synergies with pillars 2 and 3 of the EIP.

The Presidency invites delegates to examine these new suggestions with a view to the FoP meetings on 16th and 17th May. The Presidency tends to believe that these proposals, following the technical meeting on 12th May afternoon, may represent a possible way forward on the above mentioned issues.

Transparency & Complaints mechanism – Art. 10(1)(e); 12(2a); 12(3)(ea); 17; 17a

1. Art 10 (1) (e)

EP proposal

e) bodies governed by the private law of a Member State that provide adequate financial guarantees, by derogation from Article 58(1)(c)(vii) of Regulation (EU) No 966/2012, ~~and that disclose what extra-financial factors ("Environment Social and Governance ESG"), such as climate change, resource scarcity, misaligned executive compensation or corruption, they consider as part of their fiduciary duty;~~

2. Art 10.2 line 140

2. Eligible counterparts shall comply with the rules and conditions provided for in Article 60 of Regulation (EU, Euratom) No 966/2012. For bodies governed by the private law of a Member State or partner countries disclosure of information related to Environment, Social and Corporate Governance shall be encouraged.

3. Art 12.2 (a)

Line 161

~~2a. The guarantee agreements shall be made publicly available, with a limited regime of exceptions.~~

Replaced by

All guarantee agreements shall be made available to the European Parliament and the Council upon request taking into account possible banking law restriction as well as commercially sensitive information"

4. Art 17.2 line 230

2. The Commission shall publish on its web-portal information on financing and investment operations and the essential elements of all guarantee agreements, including information on the legal identity of counterparts, expected development benefits and complaints procedures in accordance with point (ea) of Article 12(3) taking into account possible banking law restriction as well as commercially sensitive information.

5. Art 12.3 (ea)

The guarantee agreements shall contain

a robust, safe and accessible complaints procedure for individuals, workers, communities and civil society organisations that could be negatively affected by eligible counterpart's operations or the investment supported by the EFSD.

Replace by

(ea) ~~a robust, safe and~~ clear and accessible complaints procedures for third parties that could be affected by the implementation of the EFSD Guarantee projects.

6. Art 17 line 234

~~The Commission shall establish a Union centralised grievance mechanism for all EFSD-supported projects. Stakeholders affected by EFSD operations and stakeholders dissatisfied with how their complaints are addressed by the grievance mechanisms of EFSD counterparts shall be able to directly contact the Union grievance mechanism.~~

Replace by

The Commission shall make available on its portal the information related to the grievance mechanism of the EU as well as of the eligible counterparts.

OTHER ISSUES

7. Contributions to the Guarantee Fund – Art. 11; 13(2)(b) line 146 p24

Enlarging the possibility to contribute by **EFTA countries** could potentially impact on voting (decision by consensus, voting only in exceptional circumstances) in the SB

Council could propose to limit the voting only to MS in art Art 5,3

*In case consensus cannot be achieved, voting rights **FOR MEMBER STATES**, taking due account of the source of financing, shall apply as agreed during the first meeting of the strategic board and laid down in its rules of procedure.*

8. Scoreboard of indicators – Art. 8(4a) and 15 h c p35 line 208

Possible compromise text:

Line 123:

4a. The Commission shall assess the operations supported by the EFSD guarantee against the eligibility criteria established in Article 8(1) and 8(2), wherever possible drawing on eligible counterparties' existing results measurement systems. It shall publish the results of its assessment for each investment window on an annual basis. ~~and publish a scoreboard of indicators reflecting the eligibility criteria set out in this Article, to be used to ensure an independent and transparent assessment of the potential and actual operations backed by the EFSD Guarantee. The Commission shall publish the results of its assessments.~~

Line 208:

b) an assessment, *on the basis of the ~~scoreboard of~~ indicators provided for in Article 8(4a), of the **additionality and** added value, the mobilisation of private sector resources, the estimated and actual outputs and the outcomes and impact of the financing and investment operations covered by the EFSD Guarantee on an aggregated basis, including the impact on [...] **decent job** creation, **the eradication of poverty and on the way in which the root causes of migration are addressed, including gender-disaggregated data where possible;***

9. Second and third pillars of the EIP – Art. 5(1); 15(1)(ha)

Potential compromise wording

an assessment of the synergies between actions developed under the second and third pillars of the EIP and the synergies between them and the ~~operations~~ actions covered developed under by the EFSD Guarantee, with particular regard to progress made on in the ~~fight against corruption and organised crime and illicit financial flows~~, good governance, the inclusion of local financial markets, the boosting of entrepreneurship as well as local business settings, respect for human rights and the rule of law as well as gender-responsive policies;