

GUARANTEE AGREEMENT

between

Kingdom of Belgium
Republic of Bulgaria
Czech Republic
Kingdom of Denmark
Federal Republic of Germany
Republic of Estonia
Ireland
Hellenic Republic
Kingdom of Spain
French Republic
Republic of Croatia
Italian Republic
Republic of Cyprus
Republic of Latvia
Republic of Lithuania
Grand Duchy of Luxembourg
Hungary
Republic of Malta
Kingdom of the Netherlands
Republic of Austria
Republic of Poland
Portuguese Republic
Romania
Republic of Slovenia
Slovak Republic
Republic of Finland
Kingdom of Sweden
United Kingdom of Great Britain and Northern Ireland

and

European Investment Bank

concerning loans to be made by the European Investment Bank
in favour of investment projects in the African, Caribbean
and Pacific States and in the Overseas Countries and Territories

This Agreement is made between:

KINGDOM OF BELGIUM,
REPUBLIC OF BULGARIA,
CZECH REPUBLIC,
KINGDOM OF DENMARK,
FEDERAL REPUBLIC OF GERMANY,
REPUBLIC OF ESTONIA,
IRELAND,
HELLENIC REPUBLIC,
KINGDOM OF SPAIN,
FRENCH REPUBLIC,
REPUBLIC OF CROATIA
ITALIAN REPUBLIC,
REPUBLIC OF CYPRUS,
REPUBLIC OF LATVIA,
REPUBLIC OF LITHUANIA,
GRAND DUCHY OF LUXEMBOURG,
HUNGARY,
REPUBLIC OF MALTA,
KINGDOM OF THE NETHERLANDS,
REPUBLIC OF AUSTRIA,
REPUBLIC OF POLAND,
PORTUGUESE REPUBLIC,
ROMANIA,
REPUBLIC OF SLOVENIA,
SLOVAK REPUBLIC,
REPUBLIC OF FINLAND,
KINGDOM OF SWEDEN,
UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND,

acting through the services and ministries indicated in Annex 1 to the present Agreement (the “**Guarantee Agreement**” or “**Guarantee**”) and represented by the signatories listed on the signature pages

(each a “**Guarantor**” and collectively the “**Guarantors**” or “**Member States**”)

and

EUROPEAN INVESTMENT BANK having its seat at 100, boulevard Konrad Adenauer, L-2950 Luxembourg Kirchberg, Grand Duchy of Luxembourg, represented by Mr. Werner Hoyer, President

(the “**Bank**”)
WHEREAS:

1. The Guarantors undertook certain obligations to act as guarantor in Article 4 of the Internal Agreement signed at Luxembourg and Brussels on 24 and 26 June 2013 respectively (the “**Cotonou Internal Agreement III**”) relating to the financing of Community aid under the multi-annual financial framework for the period 2014 to 2020 (equivalent to the third Financial Protocol) in accordance with the ACP-EU Partnership Agreement signed in Cotonou (Benin) on 23 June 2000 between the European Union and its Member States and the African, Caribbean and Pacific States, as first revised in Luxembourg on 25 June 2005 and as amended for the second time in Ouagadougou on 22 June 2010 (the “**Cotonou Agreement**”) and on the allocation of financial assistance for the Overseas Countries and Territories to which part four of the Treaty on the Functioning of the European Union applies under Council Decision 2001/822/EC of 27 November 2001¹ on the association of the Overseas Countries and Territories with the European Union (as amended or replaced from time to time, the “**Association Decision**”) (together the “**Cotonou Framework**”).
2. Having regard to the foregoing recital, the Board of Governors of the Bank decided on 31 May 2013 to authorise the Bank to grant finance from its own resources for investment projects over the period 2014 to 2020 covered by the third Financial Protocol to the Cotonou Agreement for a total amount of up to EUR 2 500 million, and up to EUR 100 million in the Overseas Countries and Territories.
3. In a continuation of the policy decided by the Board of Governors of the Bank on 1 March 2012 that the Bank may assume the full commercial risk on each individual private sector operation on own resources with a systematic carve-out of the political risk, which would continue to be guaranteed by the Member States, the aforementioned authorisation of the Board of Governors of the Bank was issued on condition that the finance granted by the Bank would be subject to the continued availability of a satisfactory guarantee (which is this Guarantee) from the Guarantors for their aggregate amount plus all related sums in accordance with the decision of the Board of Governors of 1 March 2012 and that the finance would be granted to finance investment projects satisfying the Bank’s normal criteria for lending from its own resources.
4. Article 4 of the Cotonou Internal Agreement III provides that this Guarantee shall be restricted to 75% of the total amount of the credits opened by the Bank under all Loan Agreements made pursuant to the Cotonou Partnership Agreement III and the Association Decision and that it shall cover all risks for public sector projects. It provides further that for private sector projects, this Guarantee shall cover all political risks and the EIB will assume the full commercial risk.
5. The said Article 4 further provides that Member States shall be liable under this Guarantee in proportion to their contributions to the capital of the Bank. Annex 2 of this Guarantee specifies, for information, the respective share of each Member State in the capital of the Bank as of the date of signature of this Guarantee.
6. The Guarantors and the Bank intend that, where the Guarantors are subrogated to the rights and remedies of the Bank in relation to any Loan, the Bank shall, if so requested by the Guarantors, administer and manage the Loan Agreement which

¹ Drafting note: If the new Association Decision is passed before signature of this Guarantee, the reference will be updated to refer to the new Association Decision.

has gone into default in accordance with the terms and conditions of the Cotonou III Arrears Administration Agreement concluded between the Bank and the Guarantors governing the procedures for payment and reimbursements under the Member States guarantee in favour of the Bank (the “**Cotonou III Arrears Administration Agreement**”).

IT IS HEREBY AGREED AS FOLLOWS:

Definitions

A. In this Guarantee:

“**Borrower**” means any beneficiary of a Loan from the Bank within the scope of the third Financial Protocol to the Cotonou Agreement or the Association Decision.

“**Credit Risk Policy Guidelines**” means the Bank’s credit risk policy guidelines for own resource operations outside the European Union as well as, where applicable, the Bank’s EU credit risk policy guidelines, as approved, amended, supplemented or modified by the Bank from time to time.

“**EIB Financing Operation**” means a Loan extended by the Bank to eligible investment projects carried out in a Host Country from the Bank’s own resources and in accordance with its own rules and procedures, granted under the Cotonou Framework and governed by a Loan Agreement entered into by the Bank with a Borrower.

“**Guaranteed Debtor**” means a Borrower or its Third-Party Guarantor.

“**Guaranteed Sum(s)**” means any obligation covered by this Guarantee consisting of principal, interest, commissions, indemnities, charges, expenses and other accessories and any other sum which is at any time owed by a Guaranteed Debtor to the Bank on account of a Loan or a Third-Party Guarantee.

“**Host Government**” means the authorities currently in place, or any successor authorities, that effectively control part or all of the territory of a Host Country or any political or territorial subdivision, or any other public authority of such country, and includes any entity located inside or outside the Host Country and vested with regulatory powers conferred by the laws of the Host Country.

“**Host Country**” means each ACP State and each Overseas Country and Territory within the meaning of the Cotonou Framework.

“**Loan**” means the provision of money from the Bank to a Borrower as a loan or as a bond or any equivalent instrument, which is acceptable to the Bank as a substitute for a loan in accordance with the Credit Risk Policy Guidelines, according to the terms laid down in a Loan Agreement.

"Loan Agreement" means a signed agreement concluded between the Bank and a Borrower, setting forth the terms applicable to an EIB Financing Operation in the form of Loan.

"Loan Loss Cover Account" means the account denominated in euro maintained by the Bank in the name of the Guarantors, which shall be funded from the income resulting from the application of risk-pricing on EIB Financing Operations, except for private sector operations, and which shall be managed in accordance with the provisions of the Cotonou III Arrears Administration Agreement.

"Proportional Participation" means, in respect of each Guarantor, the proportion of that Guarantor's contribution to the capital of the Bank; such proportion to be measured for the purposes of each call pursuant to Article 2 at the time of that call; the contributions of each Guarantor to the capital of the Bank as of the date of this Guarantee being set out at Annex 2 for information.

"Third-Party Guarantee" means a guarantee issued by a third party in favour of the Bank, including but not limited to a letter of credit or a comfort letter issued in connection with the grant of a Loan to a Borrower, and includes any undertaking by any party jointly liable for all or part of the Guaranteed Debtor's obligations towards the Bank in respect of a Loan granted by the Bank.

"Third-Party Guarantor" means an issuer of a Third-Party Guarantee on behalf of a Borrower.

B The following terms have the respective meanings assigned to them in the Recitals, Articles and Annexes specified hereafter:

<u>Term</u>	<u>Recital, Article or Annex</u>
Arbitral tribunal	Section 4 of Annex 3
Association Decision	Recital 1
binding	Section 4 of Annex 3
enforceable	Section 4 of Annex 3
Cotonou Framework	Recital 1
Cotonou Internal Agreement III	Recital 1
Cotonou III Arrears Administration Agreement	Recital 7
Cotonou Agreement	Recital 1
Political Risks	Article 2.03
Project	Section 4 of Annex 3
Project Agreement	Section 4 of Annex 3
Relevant Party	Section 4 of Annex 3

In this Guarantee, unless the context otherwise requires:

- (a) headings are for convenience only and do not affect the interpretation of this Guarantee;
- (b) words importing the singular include the plural and vice versa;

- (c) a reference to an Article, a party or an Annex is a reference to that Article of, or that party or Annex to, this Guarantee.

ARTICLE 1
Scope of Guarantee

- 1.01 To the extent of its Proportional Participation and without prejudice to Article 2.02, each Guarantor as primary obligor and not merely as surety hereby irrevocably:
- (a) guarantees, waiving any right to object, in accordance with the terms and conditions laid down below, the punctual and full performance of all financial obligations of every Guaranteed Debtor in respect of Loans made by the Bank from its own resources pursuant to the Cotonou Framework.
 - (b) undertakes to pay any amount of the Guaranteed Sum owed by the Guaranteed Debtor to the Bank, upon demand by the Bank, in euros and in accordance with the provisions laid down in Article 3.
- 1.02 The Guarantors' obligations defined in Article 1.01 above shall apply to all EIB Financing Operations concluded pursuant to the Cotonou Internal Agreement III in respect of which the relevant Loan Agreement is or has been signed during the period between 1 January 2014 and 31 December 2020.
- 1.03 A. This Guarantee shall cover:
- all risks for Loan Agreements concluded between the Bank and public sector Borrowers within the Cotonou Framework; and
 - Political Risks, as this term is defined in Article 2.03, for Loan Agreements concluded between the Bank and private sector Borrowers within the Cotonou Framework,
- B. The total liability of the Guarantors under this Guarantee in respect of the Cotonou Framework is limited to 75% of the total amount of the credits opened by the Bank pursuant to the Cotonou Framework which are subject to the following ceilings, namely:
- EUR 2500 million for the third Financial Protocol to the Cotonou Agreement; and
 - EUR 100 million for the Association Decision for the period after 31 December 2013.
- 1.04 The obligations of the Guarantors under this Guarantee shall continue until payment is made in full of the Guaranteed Sums.

ARTICLE 2
Calling of the Guarantee

- 2.01 This Guarantee may be called whenever a Guaranteed Debtor fails, in whole or in part, to pay any Guaranteed Sum on its due date. Any sum received or realised by the Bank for the purpose of discharge of a Guaranteed Sum shall be disregarded, if the Bank's use of such sum is in any way restricted.
- 2.02 Before calling the Guarantee when a Guaranteed Debtor fails, in whole or in part, to pay any Guaranteed Sum on its due date, the Bank shall give to the Guarantors such prior notice as is reasonably practicable of its intention to make a call in respect thereof. For the avoidance of doubt, the obligations of the Bank under this Article 2.02 will not be construed in any way as a condition precedent to the enforceability of the obligations of the Guarantors under Article 1.01.
- 2.03 However, for Loan Agreements concluded between the Bank and private sector Borrowers, this Guarantee may only be called upon whenever, because of the occurrence of one of the events defined in Annex 3 (hereafter a "Political Risk"):
- (i) a Guaranteed Debtor is unable to pay, or the Bank is unable to receive, a Guaranteed Sum on its due date; or
 - (ii) a Third-Party Guarantor is prevented from collecting amounts which are due to it in respect of a Guaranteed Sum, provided that:
 - (a) any demand for payment made by a Third-Party Guarantor on account of a payment that it has made on behalf of a Guaranteed Debtor must have been presented to the Bank at the latest 2 years from (x) the specified contractual final repayment date under the relevant agreement or (y) in case of early repayment, whether voluntary or obligatory, of the relevant Loan, the due date of that early repayment; and
 - (b) this Guarantee is limited to the amount which the Bank or, as the case may be, the Third-Party Guarantor could have recovered but for the occurrence of a Political Risk.
- 2.04 A precautionary demand upon the Bank under a Third-Party Guarantee can be made by a Third-Party Guarantor in the cases stated in Section 4, second paragraph, point (b), of Annex 3, where the enforcement period mentioned therein has not yet expired within the 2 years preclusion period set out in article 2.03 (ii) of this Guarantee. Such precautionary demand does not entitle the Bank to make a demand for payment under this Guarantee, but merely serves as a means to suspend the preclusion set out in article 2.03 (ii) of this Guarantee. Any remaining part of the preclusion period shall start to run again upon expiration of the enforcement period set out in Section 4, second paragraph, point (b), of Annex 3. The Bank shall inform the Guarantors of any precautionary demands made by a Third-Party Guarantor.
- 2.05 A. Subject to B below, the Bank's determination as to the occurrence of a Political Risk shall be final and binding. The determination shall take effect 15 calendar days following notice to the Guarantors.
- B. If a majority of the Guarantors, measured by their Proportional Participation, instructs the Bank to contest a Guaranteed Debtor's claim that a Political Risk

has occurred, the Bank shall execute such instructions pursuant to its obligations under the Cotonou III Arrears Administration Agreement. However, the Guarantors and the Bank shall be bound as between themselves by any final decision of a competent court or arbitral tribunal over a dispute between the Bank and a Guaranteed Debtor that determines the occurrence of a Political Risk. The Bank shall keep the Guarantors regularly informed of the status of any such proceedings.

- 2.06 The Bank shall inform the Guarantors of each occurrence of a Political Risk and of any disagreement between the Bank and a Guaranteed Debtor as to the occurrence of a Political Risk.
- 2.07 The Guarantee may also be called whenever a Guaranteed Debtor makes, or the Bank through the realisation of a Third-Party Guarantee receives, a payment which the Bank cannot, for any reason, use without restriction or over which it does not have unfettered control.

ARTICLE 3
Terms of payments under the Guarantee

- 3.01 The Guarantors shall pay to the Bank the amounts demanded by the Bank in euro. The amounts demanded by the Bank shall take into account any funds which are capable of being applied by the Bank from the Loan Loss Cover Account in respect of unpaid Guaranteed Sums. The Loan Loss Cover Account shall be managed in accordance with the provisions of the Cotonou III Arrears Administration Agreement and the terms and conditions laid down by the Bank's governing bodies from time to time.
- 3.02 The Guarantors' payment obligations under this Guarantee shall be made in accordance with the provisions of the Cotonou III Arrears Administration Agreement, and in any case shall be made no later than 3 years after demand in writing is made by the Bank under the Guarantee.
- 3.03 The Bank shall not require any individual Guarantor to make any payment due, unless at the same time and in each Guarantor's Proportional Participation, it requires the other Guarantors to make payment pursuant to this Guarantee. If the Bank has determined that a Political Risk has occurred, it may make such a demand, and the Guarantors shall comply with the demand, even in a case where the Guarantors have instructed the Bank in the terms envisaged by Article 2.05 B.

ARTICLE 4
Loan terms, Administration and Information

4.01 The Bank shall manage all Loans covered by this Guarantee in accordance with good banking practice and with the Bank's standard criteria and procedures, in particular, in accordance with its Credit Risk Policy Guidelines as modified from time to time, and subject to its usual controls. In recovering any Guaranteed Sum from any Guaranteed Debtor or from any security, the Bank shall act in a manner consistent with the care and diligence applied to recovery proceedings initiated for any sums to be recovered in relation to projects financed by the Bank without the benefit of this Guarantee.

The terms and conditions applicable to the Loans covered by this Guarantee shall be defined in accordance with the principles and guidelines laid down by the Bank's governing bodies from time to time.

4.02 The Guarantors hereby authorise the Bank to grant to a Guaranteed Debtor one or more extensions of time and to generally amend the terms of the relevant agreement with any Guaranteed Debtor, including an amendment that has the effect of reducing or writing off an amount outstanding as part of a restructuring or composition with creditors, while remaining within the scope of the Cotonou Framework.

4.03 The Bank shall provide to the Guarantors twice a year by 31 January and 31 July respectively:

- (i) an information sheet, in the form of Annex 4, containing information, effective as of 31 December and 30 June on the Loan Agreements covered by the present Guarantee; and
- (ii) the prudential limits, in the form of Annex 5, as defined in accordance with the principles and guidelines laid down by the Bank's governing bodies from time to time.

4.04 The Bank shall inform the Guarantors of any fact or circumstance, which it judges not to be already generally known and which it considers likely to result in the making of a demand under this Guarantee. The Bank is not obliged to seek such information.

ARTICLE 5
Subrogation

5.01 To the extent that a Guarantor makes any payment to the Bank pursuant to this Guarantee, it shall be subrogated to the rights, including security rights, of the Bank in respect of its claims against the Guaranteed Debtors. Such right of subrogation may not be invoked to the detriment of the Bank.

5.02 In every Third-Party Guarantee, the Bank shall exclude any right of contribution against the Guarantors by the Third-Party Guarantor and shall exclude any other

right of recourse of the Third-Party Guarantor against the Guarantors. The Bank shall indemnify the Guarantors for any liability towards Third-Party Guarantors resulting from this Guarantee.

- 5.03 Where the Guarantors are subrogated to the rights of the Bank, the Bank shall, if so requested by the Guarantors, administer and manage the relevant claims under Article 5.01 in accordance with the terms and conditions of the Cotonou III Arrears Administration Agreement.
- 5.04 The Guarantors and the Bank agree to apply the Cotonou III Arrears Administration Agreement to all recovery actions initiated by the Bank in respect of Loan Agreements covered by this Guarantee.
- 5.05 As part of the subrogation upon the occurrence of a Non-Transfer of Currency, as defined in Annex 3, the following provision applies:

When a Guaranteed Sum falls due and where the Guaranteed Debtor, on terms acceptable to the Bank, makes a deposit, in the amount of the said Guaranteed Sum, or equivalent financial asset in favour of the Bank in local currency, in the currency of the Loan or in any other freely convertible currency but where such deposit or other asset is not transferable or convertible, the Guarantors hereby authorise the Bank to limit the Guarantors' claim in respect of the portion of the Guaranteed Sum corresponding to the amount of the deposit or other asset, to such deposit or other asset.

ARTICLE 6 **Taxes and Expenses**

- 6.01 Any fiscal charges and other expenses incurred in connection with the making, the performance or the enforcement of this Guarantee shall be borne by the Guarantors pro-rata to their Proportional Participations.
- 6.02 The Guarantors will indemnify the Bank for all taxes and expenses incurred by the Bank in seeking recovery of Guaranteed Sums, in accordance with the Cotonou III Arrears Administration Agreement.

ARTICLE 7 **Law applicable**

- 7.01 This Guarantee shall be governed by and construed in accordance with the general principles common to the laws of the Member States.

ARTICLE 8
Jurisdiction

- 8.01 Any dispute between the parties to this Guarantee that is not promptly and amicably resolved shall be referred for decision to the Court of Justice of the European Union pursuant to Article 272 of the Treaty on the Functioning of the European Union.

ARTICLE 9
Confidentiality

- 9.01 Having regard to the fact that some of the information exchanged in the context of this Guarantee may be confidential and may even be in some instances commercially sensitive, both the Bank and the Guarantors undertake to abstain from divulging to a third-party, without the prior written consent of the other, any information communicated to either of them in the context of this Guarantee. This undertaking does not affect, however, the communication of information which is required by operation of law or by an order of a court of competent jurisdiction.

ARTICLE 10
Notices and Communications

- 10.01 Notices and other communications given hereunder to the Guarantors or to the Bank shall be sent by registered letter or other recognised means of communication addressed to the recipient at its address set out below:

For a Guarantor: Its address set out in Annex 1

For the Bank: 100, boulevard Konrad Adenauer
 L-2950 Luxembourg

Any change to the addresses as listed above shall have effect only after such change has been notified in writing to the other parties.

The Recitals and the five Annexes form an integral part of this Guarantee.

ARTICLE 11
Signature of Guarantee

- 11.01 This Guarantee will be binding in respect of each Guarantor immediately upon its valid signature or, as applicable, its ratification of this Guarantee and shall have effect from 1 January 2014.
- 11.02 The authentic texts of this Guarantee shall be in English, French and German. Each Guarantor may sign in any one of the three authentic languages.

11.03 This Guarantee is signed in counterparts, each Guarantor signing two originals and delivering them to the Bank. The Bank shall deliver to each Guarantor one original counterpart signed by that Guarantor and the Bank. The Bank shall produce a conformed copy in the English language.

IN WITNESS WHEREOF each of the parties hereto has caused this Guarantee to be signed by its authorised signatory.

Signed on behalf of the Kingdom of Belgium

{
by: _____ date: _____
Name of
signatory: _____

Signed on behalf the Republic of Bulgaria

{
by: _____ date: _____
Name of
signatory: _____

Signed on behalf of the Czech Republic

{
by: _____ date: _____
Name of
signatory: _____

Signed on behalf of the Kingdom of Denmark

{
by: _____ date: _____
Name of
signatory: _____

Signed on behalf of the Federal Republic of Germany

{
by: _____ date: _____
Name of
signatory: _____

Signed on behalf of the Republic of Estonia

by: _____ date: _____
Name of
signatory: _____

Signed on behalf of Ireland

by: _____ date: _____
Name of
signatory: _____

Signed on behalf of the Hellenic Republic

by: _____ date: _____
Name of
signatory: _____

Signed on behalf of the Kingdom of Spain

by: _____ date: _____
Name of
signatory: _____

Signed on behalf of the French Republic

by: _____ date: _____
Name of
signatory: _____

Signed on behalf of the Republic of Croatia

by: _____ date: _____
Name of
signatory: _____

Signed on behalf of the Italian Republic

by: _____ date: _____
Name of
signatory: _____

Signed on behalf of the Republic of Cyprus

by: _____ date: _____
Name of
signatory: _____

Signed on behalf of the Republic of Latvia

by: _____ date: _____
Name of
signatory: _____

Signed on behalf of the Republic of Lithuania

by: _____ date: _____
Name of
signatory: _____

Signed on behalf of the Grand Duchy of Luxembourg

by: _____ date: _____
Name of
signatory: _____

Signed on behalf of Hungary

by: _____ date: _____
Name of
signatory: _____

Signed on behalf of the Republic of Malta

by: _____ date: _____
Name of
signatory: _____

Signed on behalf of the Kingdom of the Netherlands

by: _____ date: _____
Name of
signatory: _____

Signed on behalf of the Republic of Austria

by: _____ date: _____
Name of
signatory: _____

Signed on behalf of the Republic of Poland

by: _____ date: _____
Name of
signatory: _____

Signed on behalf of the Portuguese Republic

by: _____ date: _____
Name of
signatory: _____

Signed on behalf of Romania

by: _____ date: _____
Name of
signatory: _____

Signed on behalf of the Republic of Slovenia

by: _____ date: _____
Name of
signatory: _____

Signed on behalf of the Slovak Republic

by: _____ date: _____
Name of
signatory: _____

Signed on behalf of the Republic of Finland

by: _____ date: _____
Name of
signatory: _____

Signed on behalf of the Kingdom of Sweden

by: _____ date: _____
Name of
signatory: _____

Signed on behalf of the United Kingdom of Great Britain and Northern Ireland

by: _____ date: _____
Name of
signatory: _____

Signed on behalf of the European Investment Bank

by: _____ date: _____
Name of
signatory: _____

Annex 1

List of Addresses for the purposes of Article 10

KINGDOM OF BELGIUM:	Service Public Fédéral Finances Administration de la Trésorerie Questions Financières Internationales et Européennes 30, avenue des Arts B-1040 Bruxelles
REPUBLIC OF BULGARIA:	Министерство на финансите Дирекция „Международни финансови институции и сътрудничество“ Отдел „Европейски финансови институции“ Улица „Раковски“, № 102 1040 София Република България Ministry of Finance International Financial Institutions and Cooperation Directorate European Financial Institutions Department 102 Rakovsky Str. 1040 Sofia Republic of Bulgaria
CZECH REPUBLIC:	Ministerstvo financí Mezinárodní vztahy Letenská 15 CZ-118 10 Praha 1
KINGDOM OF DENMARK:	Udenrigsministeriet Asiatisk Plads 2 DK - 1448 - Copenhagen K
FEDERAL REPUBLIC OF GERMANY:	Bundesministerium der Finanzen Referat EA2 Wilhelmstrasse 97 D-10117 Berlin
REPUBLIC OF ESTONIA:	Rahandusministeerium Suur-Ameerika 1 EE- 15006 Tallinn

IRELAND: Department of Finance
International Financial Institutions Section
South Block
Government Buildings
Upper Merrion Street
IE-Dublin 2

HELLENIC REPUBLIC : Υπουργείο Οικονομίας και Οικονομικών
Γενικό Λογιστήριο του Κράτους
Διεύθυνση 25η
Πανεπιστημίου 25
GR-10165 Αθήνα

Ministry of Economy and Finance
General Accounting Office of the State
25th Directorate
25, Panepistimiou street
GR-10165 Athens

KINGDOM OF SPAIN : Ministerio de Economía y Competitividad
Secretaría General del Tesoro y Política Financiera
Servicio de Avales
Paseo del Prado, Num. 6
E-28071 Madrid

FRENCH REPUBLIC : Ministère de l'Économie, de l'Industrie et de l'Emploi
Direction générale du Trésor et de la Politique Économique
Service des politiques macroéconomiques et des affaires
européennes
Teledoc 652
139 rue de Bercy
FR- 75572 Paris CEDEX 12

REPUBLIC OF CROATIA: Ministry of Finance
Katančićeva, 5
HR – 10000 Zagreb

ITALIAN REPUBLIC: Ministero dell'Economia e delle Finanze
Dipartimento del Tesoro
Rapporti Finanziari Internazionali - Ufficio XI
Via XX Settembre, 97
I -00187 Rome

REPUBLIC OF CYPRUS:	Υπουργείο Οικονομικών Διεύθυνση Χρηματοδοτήσεων και Επενδύσεων Γωνία Μιχαήλ Καραολή και Γρηγόρη Αυξεντίου CY-1439 Λευκωσία Ministry of Finance Finance and Investment Division Michael Karaoli and Grigori Afxentiou Str CY-1439 Nicosia
REPUBLIC OF LATVIA:	Latvijas Republikas Finanšu ministrija Smilšu iela 1 LV-1919, Rīga
REPUBLIC OF LITHUANIA:	Lietuvos Respublikos finansų ministerija Lukiškių 2 LT-01512 Vilnius
GRAND DUCHY OF LUXEMBOURG:	Ministère des Finances 3, rue de la Congrégation L-2931 Luxembourg
HUNGARY:	Nemzetgazdasági Minisztérium 1051 Budapest, József nádor tér 2-4
REPUBLIC OF MALTA:	Ministeru tal-Finanzi, I-Ekonomija u Investiment Maison Demandols Triq in-Nofsinhar MT-Valletta VLT 2000
KINGDOM OF THE NETHERLANDS:	Ministerie van Financiën Prinses Beatrixlaan 512 NL-2511 CW Den Haag
REPUBLIC OF AUSTRIA :	Sektion III, Wirtschaftspolitik und Finanzmärkte Bundesministerium für Finanzen Hintere Zollamtsstrasse 2b A-1030 Wien
REPUBLIC OF POLAND :	Ministerstwo Finansów ul. Świętokrzyska 12 PL-00 – 916 Warszawa

PORTUGUESE REPUBLIC :	Ministério das Finanças Direcção Geral do Tesouro Rua da Alfândega, 5-1º andar P-1194 Lisboa
ROMANIA :	Ministerul Finantelor Publice Directia Generala Relatii Financiare Internationale str. Apolodor, nr.17 RO-sector 5, Bucuresti
REPUBLIC OF SLOVENIA :	Ministrstvo za finance Župančičeva 3 SI-1502 Ljubljana
REPUBLIC OF FINLAND :	Ulkoasiainministeriö Kehityspoliittinen osasto Yleisen kehityspolitiikan ja suunnittelun yksikkö Katajanokanlaituri 3 FIN -00161 Helsinki
SLOVAK REPUBLIC :	Ministerstvo financií Slovenskej republiky Sekcia medzinárodných vzťahov Štefanovičova 5 SK-817 82 Bratislava
KINGDOM OF SWEDEN :	Finandepartementet/Ministry of Finance, Internationella avdelningen/International Department Drottninggatan 21 S-10333 Stockholm
UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND:	The Head of Europe Department Department for International Development 22 Whitehall UK-London SW1A 2EG

Annex 2

Respective participation of Guarantors as of the date of this Guarantee

EUR

Capital of the Bank **243,284,154,500**

**subscribed by the
Member States as:**

Germany	39,195,022,000
France	39,195,022,000
Italy	39,195,022,000
United Kingdom	39,195,022,000
Spain	23,517,013,500
Belgium	10,864,587,500
Netherlands	10,864,587,500
Sweden	7,207,577,000
Denmark	5,501,052,500
Austria	5,393,232,000
Poland	5,017,144,500
Finland	3,098,617,500
Greece	2,946,995,500
Portugal	1,899,171,000
Czech Republic	1,851,369,500
Hungary	1,751,480,000
Ireland	1,375,262,000
Romania	1,270,021,000
Croatia	891,165,500
Slovakia	630,206,000
Slovenia	585,089,500
Bulgaria	427,869,500
Lithuania	367,127,000
Luxembourg	275,054,500
Cyprus	269,710,500
Latvia	224,048,000
Estonia	173,020,000
Malta	102,665,000

Annex 3

DEFINITION OF POLITICAL RISKS

NAMELY NON-TRANSFER OF CURRENCY, EXPROPRIATION, WAR OR CIVIL DISTURBANCE AND DENIAL OF JUSTICE UPON BREACH OF CONTRACT

1. NON-TRANSFER OF CURRENCY

means:

any action by the Host Government which, directly or indirectly, prevents a Guaranteed Debtor from converting funds in local currency into the currency of the Loan Agreement or into a freely convertible currency or into another currency deemed acceptable by the Bank, or from transferring outside the Host Country the local currency concerned or the currency into which the local currency has been converted, for the purpose of (i) paying any Guaranteed Sum, (ii) receiving any Guaranteed Sum in the currency and in accordance with the terms and conditions agreed, or (iii) recovering any Guaranteed Sum which has been duly paid; and any failure by the Host Government to take action with a view to effecting or allowing such conversion or such transfer by or on behalf of the Bank, or a Guaranteed Debtor;

with the proviso that:

- (a) the Guaranteed Debtor is able freely and lawfully to avail itself within the Host Country of the local currency or other currency into which the local currency has been converted; and
- (b) the Guaranteed Debtor concerned or, as the case may be, the Bank has without success for a period of 30 days endeavoured by all reasonable means to complete the necessary legal formalities to effect the transfer or conversion.

2. EXPROPRIATION

means:

any measure or series of measures taken, directed, authorised, ratified, or approved by the Host Government, which is an administrative action or a legislative action and constitutes expropriation within the meaning of this Section 2.

A measure constitutes an act of expropriation within the meaning of this Section 2 if the measure:

- (a) prevents the Guaranteed Debtor from paying a Guaranteed Sum and results in a default that continues for a period of 90 days; or
- (b) deprives for a period of 90 days a Third-Party Guarantor or the Bank of its rights as a creditor against collateral security or commercial guarantees of repayment in respect of scheduled payments that have fallen due for other reasons than as a consequence of one of the risks defined in this Annex; or

- (c) deprives a Third-Party Guarantor or the Bank, for a 90-day period, of the use of funds deposited either in local currency or in foreign currency, with a financial institution in the Host Country, by him or for his account for the purposes of recovery under scheduled payments.

No measure on the part of the Host Government shall be deemed to constitute an expropriation if it constitutes a bona fide non-discriminatory measure of general application of a kind that governments normally take in the public interest for such purposes as ensuring public safety, raising tax revenue, protecting the environment or regulating economic activities, unless the measure is designed by the Host Government to have a confiscatory effect.

Breach by the Host Government of a contractual obligation owed to a Guaranteed Debtor shall not of itself constitute an expropriatory measure.

3. WAR OR CIVIL DISTURBANCE

means:

any act of war (declared or otherwise), revolution, insurrection, civil war, riot or social strife, terrorism or sabotage having the direct and immediate effect of

- (i) preventing a Guaranteed Debtor for a period of 90 days from paying a Guaranteed Sum; or
- (ii) preventing a Third-Party Guarantor or the Bank for a period of 90 days from effecting recovery in respect of Guaranteed Sums which have been duly paid or from receiving a Guaranteed Sum in the due currency and in the manner contractually provided for.

In all cases, to constitute an act of war or civil disturbance, the act must have been undertaken with the primary intent of pursuing a political objective. Acts undertaken principally in order to support labour, employment, students' interests or other non-political objectives shall not be covered under this Section 3.

The time periods of 30 or 90 days referred to in Sections 1, 2 and 3 of this Annex shall not apply if the payment default, deprivation of entitlement or non-recovery results from the extension of an event, as defined in this Annex, the existence of which has been duly established during a prior payment default for which the time periods referred to above have already been applied.

4. DENIAL OF JUSTICE UPON BREACH OF CONTRACT

means:

the repudiation or breach by a Host Government of a Project Agreement (as defined below), where the repudiation or breach either:

- (i) prevents, or materially contributes to preventing, the Guaranteed Debtor from performing its obligations towards the Bank; or

- (ii) prevents the Bank or a Third-Party Guarantor from realising the full value of security taken over the revenues or other benefits derived from any security interest in the Project Agreement.

Cover shall be limited to cases where an arbitral tribunal renders a final, binding and enforceable award providing for damages in respect of the Relevant Party's claim for damages for breach or repudiation; provided that:

- (a) the award is for a specified monetary amount, and is rendered for breach of a contractual obligation under, or for repudiation of, a Project Agreement by the Host Government;
- (b) the Relevant Party has made reasonable efforts to exhaust all legal remedies to enforce the award against the Host Government for a period of 180 consecutive days from the date of the award. A precautionary demand upon the Bank can be made by a Third-Party Guarantor in cases where this period has not yet expired within the 2 years preclusion period set out in Article 2.03(ii) of this Guarantee. Such precautionary demand does not entitle the Bank to make a demand for payment under this Guarantee, but merely serves as a means to suspend the preclusion set out in article 2.03(ii) of this Guarantee. Any remaining part of the preclusion period shall start to run again upon expiration of the enforcement period. The Bank shall inform the Guarantors of any precautionary demands made by a Third-Party Guarantor;
- (c) the Host Government's refusal to enforce the award is arbitrary and/or discriminatory.

For this purpose:

- (a) An "**arbitral tribunal**" means any arbitral tribunal or panel, wherever it is established, which is independent from the Host Government, and which is entrusted under the terms of the Project Agreement to make a final, binding and enforceable award on a claim by a Relevant Party there under and whose award is capable of enforcement in the Host Country under the provisions of the New York Convention on the Recognition and Enforcement of Arbitral Awards;
- (b) An award is deemed to be "**binding**", if it creates legal rights for the parties in relation to the subject matter of the dispute between them;
- (c) An award is deemed to be "**enforceable**" unless the arbitral tribunal that renders the award, or any other competent body, suspends or denies the enforcement of the award;
- (d) An award of an arbitral tribunal is deemed "**final**", if the time for appeal or challenge to the award has expired without an admissible challenge or appeal having been made;
- (e) "**Project**" means a project within the scope of the Cotonou Framework and described by a Project Credit Report;

- (f) **“Project Agreement”** means an agreement, contract or binding commitment between a Relevant Party and a Host Government which is directly related to a Project and is, in the reasonable opinion of the Bank, critical to the financial or technical viability of the Project, and includes, by way of illustration, any of the following types of agreement or commitment, namely supply agreements, off-take agreements, subsidy agreements, user agreements, concessions, licences to exploit, or price setting mechanisms;
- (g) **“Relevant Party”** means a Borrower or a parent company or a subsidiary of the Borrower situated in the same country than the Borrower.

The Relevant Party or the Third-Party Guarantor shall be obliged to take all reasonable efforts to exhaust available remedies to enforce the award against the Host Government or to use reasonable efforts to ensure that the Relevant Party or the Third-Party Guarantor which is able to exercise those remedies does so.

Each agreement with a Guaranteed Debtor shall reserve for the Bank the right to specify the measures that the Relevant Party or the Third-Party Guarantor shall take, or shall ensure be taken, to enforce an arbitral award on a claim for breach or repudiation of contract. The Bank is not obliged to require any party to take measures that are, in the judgement of the Bank, disproportionate to their likely benefit.

The Bank may agree to reimburse any Guaranteed Debtor for the reasonable cost of enforcement proceedings. The Guarantors shall reimburse the Bank for any cost it thereby incurs.

5. GENERAL EXCLUSION

None of the following acts or risks shall warrant the calling of the Guarantee:

- any act of the Host Country to which the Guaranteed Debtor or, in the case of Section 4 of this Annex, the Relevant Party, has freely consented or where the preponderant cause lies in the illegal and unreasonable conduct of the Guaranteed Debtor or the Relevant Party;
- any Political Risk, as defined above, clearly prevailing at the date on which the Bank signed the relevant Loan Agreement or security agreement and producing the effects referred to in this Annex at such date.

Annex 4

**GUARANTEE AGREEMENT BETWEEN THE MEMBER STATES AND THE EIB DATED DD/MM/YY
CONCERNING LOANS MADE BY THE EIB FROM ITS OWN RESOURCES UNDER THE FINANCIAL PROTOCOLS ¹⁾**

Semi-annual information sheet as of [31/12/YY] [30/06/YY] pursuant to Article 4.03 of the Guarantee Agreement
(all amounts in thousands of euros)

Notes:

- ¹⁾ Loan marked Yes under "Expected call" are those for which sums previously called on the Guarantee have not yet been repaid to the Member States and for which the Bank expects to call on the Guarantee also with respect to the next instalment.
- ²⁾ Euro amount of the next (half-yearly, unless otherwise stated) instalment of principal and interest. Amounts are indicative and stated without responsibility, as they may vary due to exchange fluctuations and other factors such as further disbursements of the Loan.

A. Previously Reported Loan Operations

Date of Signature	Project	Borrower	Loan Amount	Amounts Disbursed and Unrepaid	Third Party Guarantor	Act	Public /Private Sector	Expected call Yes/No ¹⁾	Next instalment ²⁾

B. New Loan Operations

Date of Signature	Project	Borrower	Loan Amount	Amounts Disbursed and Unrepaid	Third Party Guarantor	Act	Public /Private Sector	Expected call Yes/No ¹⁾	Next instalment ²⁾
TOTALS A + B									

Annex 5							
Semi-annual information sheet as of [31/12/YY] [30/06/YY] on Prudential Limits							
		Ceiling		Net approvals			
		%	EUR m	EUR m	% of ceiling		
Sovereign operations as a percentage of the Cotonou Mandate	Cotonou I	60%	1032				
	Cotonou II	80%	1624				
	Cotonou III	80%	2080				
Target ceiling to the expected loss on the portfolio of loans to sovereigns	Cotonou I	8%					
	Cotonou II	8%					
	Cotonou III	8%					
Debt outstanding from sovereign borrowers rated C as a percentage of the sovereign portfolio	Cotonou I	25%	258				
	Cotonou II	25%	406				
	Cotonou III	25%	520				
Sovereign exposure to any single country as a percentage of total exposure	Cotonou I	20%	206				
	Cotonou II	20%	325				
	Cotonou III	20%	416				

