

<p style="text-align: center;"><b>Recommendations from CSOs for the finalisation of the EFSD regulation</b> <b>April 2017</b></p>
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The Council and European Parliament are finalising the regulation for the European Fund for Sustainable Development (EFSD) proposed by the European Commission. The fund is part of the European External Investment Plan (EIP) for Africa and Neighbourhood countries.

CSOs have raised their voices to ensure that lessons are learnt from other investment initiatives at the multilateral and European level; both the positive examples of careful, evidence-led work and negative, long-term damaging examples of hastily established funds. We developed [overall recommendations](#)<sup>1</sup> on what should be part of the EIP including providing links to case studies for lessons learnt.

As negotiations progress, we would like to ensure that the following elements are key parts of the final EFSD:

1. Ensure full transparency and accountability including via a scoreboard of indicators;
2. Establish an EU centralised Grievance Mechanism for affected local communities;
3. Include an Exclusion List to ensure that climate, environmental and social standards are respected;
4. Ensure that the EFSD objectives reflect a Sustainable Development Theory of Change;

Our insistence on the above is based on the rationale that they are needed to ensure that these investments leave no one behind, reduce poverty and inequality, and contribute to the SDGs. In no way should beneficiaries be given flexibility because investments take place outside of Europe - the Sustainable Development Goals (SDGs) and human rights are universal.

### **1) Ensure full transparency and accountability including a scoreboard of indicators**

Blended finance tends to be much less transparent and accountable than pure public concessional funding, as shown by the experience from EU's blending facilities.<sup>2</sup> This threatens the quality of aid and affects the possibility to assess whether objectives are being met. The EU needs to not only respect and implement their own commitments but ensure that the financial institutions and private entities that they give funding to, sign up to and

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<sup>1</sup>[https://www.oxfam.org/sites/www.oxfam.org/files/file\\_attachments/joint\\_cso\\_recommendations\\_on\\_the\\_european\\_external\\_investment\\_plan\\_0.pdf](https://www.oxfam.org/sites/www.oxfam.org/files/file_attachments/joint_cso_recommendations_on_the_european_external_investment_plan_0.pdf)

<sup>2</sup> 2015 was the deadliest year for human rights activists, with 122 murders reported in Latin America alone – that accounts for 65% of all such killings across the world. See Oxfam's latest report: <https://www.oxfam.org/en/pressroom/pressreleases/2016-10-25/violence-against-human-rights-activists-latin-america-out-control>; The suffering of others Oxfam report: <http://policy-practice.oxfam.org.uk/blog/2015/04/risky-investment-and-human-rights-abuses>; The development effectiveness of supporting the private sector with ODA funds, TUDCN/ITUC and CPDE report, April 2016.

respect the Busan development effectiveness principles, particularly on ownership, alignment and transparency and behave responsibly. The European Parliament was clear on this in their 2016 report on the role of the private sector in development.<sup>3</sup>

The EC's evaluation on its blending facilities<sup>4</sup> shows that the EIP will struggle to meet its stated objectives. The evaluation found that *"In many cases the nature of the blending projects and the comparative advantage of blending meant that blending projects aimed at macroeconomic development rather than direct poverty alleviation"*. It also states, *"Large-scale infrastructure aiming at improving the macro scale economic development can be an important and also essential contribution to poverty alleviation – but the linkages are not automatic and the targeting and selection of the projects and the consideration of alternatives to better serve the poor need to be informed and justified by more in-depth analysis than was usually available."* Furthermore, other research has found that there is poor monitoring and evaluation for current blending facilities.<sup>5</sup>

### Recommendations:

- **Establish and make public a scoreboard of indicators** to be used in the selection of projects, covering all four dimensions of sustainable development (i.e. social, environmental and economic, as well as governance/participation), to ensure an independent and transparent assessment of the potential and actual use of the EFSD. The scoreboard of indicators should take into account the indicators of the Sustainable Development Goals and the mechanisms employed towards their measurement. The scoreboard of indicators should be applied as a priority assessment tool ex ante to all EFSD operations to ensure full compliance with the eligibility criteria. When adopted, the scoreboard for each individual project should be systematically disclosed.
- **Establish regular monitoring and evaluation systems** to demonstrate that the development additionality of the EIP is not only financial.
- In the annual report to the European Parliament include an **assessment of the actions developed under the second and third pillar of the EIP and the synergies between them and the operations covered by the EFSD Guarantee**, with particular regard to progress made in the fight against corruption and organised crime and illicit financial flows, good governance, the inclusion of local 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
- Ensure all procurements under the EIP **respect the highest possible standards of transparency, accountability and efficiency** such as the Open Contracting Global Principles<sup>6</sup>

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<sup>3</sup> which states *"all blending operations must be fully consistent with development effectiveness principles, such as ownership, accountability and transparency"* <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//NONSGML+TA+P8-TA-2016-0137+0+DOC+PDF+V0//EN>

<sup>4</sup> [https://ec.europa.eu/europeaid/evaluation-blending\\_en](https://ec.europa.eu/europeaid/evaluation-blending_en)

<sup>5</sup> See <http://devinit.org/post/aid-donors-must-improve-transparency-before-scaling-up-public-private-finance-new-report-finds/>

<sup>6</sup> <http://www.open-contracting.org/get-started/global-principles/>

- **Involve local communities**, including CSOs, in the monitoring and evaluation of the EFSD through annual consultations.
- Ensure transparency at governing bodies' level: **publish all information** related to investments carried out in the framework of the EIP including minutes of the strategic and operational board meetings.
- **Ensure a common standard of reporting is established** for all providers using blended finance instruments. This common standard should ensure data is timely, comparable, accessible and disaggregated enough to be used for tracking blended finance to the destination country and receiving entity, and reporting its impact. It is also important to agree on a way of reporting information on investee companies (such as their jurisdiction and size) - this is essential to understand whether or not ODA used in blending is complying with established standards of 'untied aid', or whether it is causing any distortions to local markets.
- The new EFSD should be **reported to the International Aid Transparency Initiative** (IATI) to ensure full transparency whether it is using some or all ODA.

## 2) Establish an EU centralised Grievance Mechanism for affected communities

No sufficient social, environmental, labour or human rights safeguards are yet in place to ensure that private finance in development reaches its stated goals: it is crucial to ensure the financial institutions and private entities involved in the EIP respect human rights and the environment. Commercial goals should not supersede developmental goals, and it is illusory to assume that these goals automatically converge. Despite the potential of having a larger role for the private sector in development, there are huge risks associated with mixing private finance with public development funding.<sup>7</sup> As expressly recognised in June 2016 Council Conclusions, corporate respect for human rights is indispensable to achieve the SDGs.<sup>8</sup> Promoting and financially supporting a greater corporate presence in developing countries in the absence of an adequate legal framework that guarantees corporate accountability and transparency, and ensures justice for victims of corporate malpractice risks incentivising exploitation and human and labour rights violations, rather than promote a dignified life with decent jobs. More than half of companies listed on the FTSE100 (UK), CAC40 (France) and DAX30 (Germany) indexes have been linked to human rights abuses.<sup>9</sup> Academics, legal experts and international organisations have long highlighted significant gaps in the current legal framework, which contribute to corporations being able to act with impunity. Companies' ability to evade responsibility is greater in developing countries where the legal system is frail or corrupt, and victims have little chance to demand justice. It is therefore crucial to adopt robust European and national policies to make business accountable for its human rights and environmental impacts.

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<sup>7</sup> Ibid 2

<sup>8</sup> [http://www.consilium.europa.eu/en/press/press-releases/2016/06/20-fac-business-human-rights-conclusions/?utm\\_source=dsms-auto&utm\\_medium=email&utm\\_campaign=Council+conclusions+on+business+and+human+rights](http://www.consilium.europa.eu/en/press/press-releases/2016/06/20-fac-business-human-rights-conclusions/?utm_source=dsms-auto&utm_medium=email&utm_campaign=Council+conclusions+on+business+and+human+rights)

<sup>9</sup> [http://corporatejustice.org/documents/ahrri\\_report\\_final-2.pdf](http://corporatejustice.org/documents/ahrri_report_final-2.pdf)

### **Recommendations:**

- **Make the eligibility criteria for the EFSD stringent**, so that the commitment to SDGs, Busan development effectiveness principles, the UNGPs and compliance with Article 21 of the EU treaties are operationalised in project selection. **If these commitments are not complied with, EU funds should not be used.** This includes ensuring companies are paying their fair share of taxes thereby contributing to domestic resources in the host country.
- Ask the European Commission to **develop a mechanism to ensure that all EFSD-supported projects are in compliance with the principles of EU external action as described in Article 21 TEU.** The EC shall report annually to the European Parliament and Council on this matter.
- **Establish an EU centralised Grievance Mechanism** for all EIP projects in the first year of operations and ensure recipients, stakeholders and local communities are aware of and have access to this mechanism. The European Commission shall assess the possibility for the European Ombudsman to host the above-mentioned centralised Grievance Mechanism.
- **Private sector entities should not be able to directly benefit from the guarantee**, but only as part of public banks investments. If not, it will make it harder for the EU to ensure accountability/transparency/environmental and social standards of those entities. At the end of the day, EFSD counterparts (EIB, EBRD, KfW, AFD, etc) will still finance public AND private sector operations as they currently do under existing blending facilities.

### **3) Include an Exclusion List to ensure that human rights, climate and environmental aspects are respected**

In order to contribute to the implementation of the Paris Agreement on climate change, all EFSD funded projects should meet the Agreement's stated objective to align financial flows with low greenhouse gas emission and climate resilient development, thus supporting operations and projects that actively promote climate protection and resilience, while respecting land rights of local communities. Having regard of the precautionary principle, and the polluters pay principle (Article 95 (3) and Article 174 (2) in the Lisbon Treaty) investments should prevent any harmful impact on the environment to occur out of Europe's external financial operations, and should place effective provisions against carbon dioxide emissions.

The new EFSD should explicitly carry an exclusion list to ensure a high level of environmental and social safeguards. This is crucial to specifically lay out what should not be funded by such a guarantee.

### Recommendations:

- The **Energy Efficiency First principle should be applied to all potential investments.** In addition, all EFSD funded projects should meet the Paris Agreement's stated objective to align financial flows with low greenhouse gas emission and climate resilient development and achieve global net zero greenhouse gas emissions by the second half of this century;
- In order to fulfil the political commitments of the EU on supporting climate change mitigation and adaptation in partner countries – including renewable energy and energy efficiency – **a minimum share of 40% of the funding** should be devoted to financing and investment operations relevant for these sectors.
- An exclusion list should be established and clearly state that the EFSD guarantee **should not support financing and investment operations which,**
  - (a) are linked to the military or security sector;
  - (b) support the development of nuclear energy;
  - (c) support production and use of fossil fuels or other activities that contribute to climate change such as deforestation and large-scale agriculture;
  - (d) deprive populations from accessing public services and natural resources
  - (e) Have significant environmental external costs
  - (f) Are in sectors or projects that have risks of undermining the human rights in partner countries, for example through land grabbing or the forced displacement of populations.

### 4) Ensure that the EFSD objectives reflect a Sustainable Development Theory of Change

There is concern about the underlying objectives and rationale of the EU EIP/EFSD, and how these are linked to the EU's migration control policy and the idea that economic growth will automatically trickle down development. There is an increasingly disputed assumption that economic growth per se generates jobs, it doesn't. Jobless economic growth is widespread - particularly in Europe which has also been accompanied with rising levels of poverty and inequality. The track record of global value chains to generate decent jobs is mixed at best: developing countries are often consigned to low-value added and low-profit activities<sup>10</sup> – this has serious consequences for workers' rights and for women workers in particular.

Evidence also suggests that increasing human development in less developed countries is generally associated, in the short term, with higher, rather than lower, levels of mobility – both emigration and immigration<sup>11</sup>. The drivers of migration are extremely complex and

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<sup>10</sup> UNCTAD, *Trade and development report, 2014*, pages 104-105.

<sup>11</sup> *inter alia*: de Haas, Hein: "Migration transitions: a theoretical and empirical inquiry into the developmental drivers of international migration", *Working Papers, International Migration Institute. University of Oxford: 2010.*

migration can contribute to innovation, and economic and personal development; development finance should never be used to stifle it.

**Recommendation:**

- **De-link the EFSD objectives from European migration control policies** and short-term foreign policy objectives. Development cooperation must be based on the needs and the rights of recipients and not used as foreign policy leverage or be concentrated geographically on the basis of strategic interests.
- **Adopt a multi-dimensional approach**, as required by the SDGs: not just focusing on statistics about quantity of goods and services produced (i.e. GDP), but fully integrate the social, environmental and governance dimensions.
- Ensure that financial and, more importantly, **development additionality are demonstrable**, risks for people and the environment are effectively minimized, women's rights, economic opportunities and decent work creation are effectively promoted, and the local public sector is not undermined but rather strengthened.
- Make sure the **focus is on local micro companies and local SMEs**, embedded in the local economy: they are the ones that need support, and they are the ones that are best placed to contribute to sustainable economies. The focus should also be on alternative inclusive business models, such as cooperatives and social enterprises.
- **Ensure the EFSD/EIP empowers the citizens** of partner countries to work together with their governments to develop common priorities to fight poverty, social injustice, climate change and inequality, and to reduce conflict.
- **Put in place measures to ensure local civil society organisations enjoy the space and resources needed to play their role.** Without civic space and participation, there can be no responsible investment – hence the importance of incorporating the governance dimension in the EIP. Promote an enabling environment not only for (local) private sector to flourish but also for CSOs and trade unions to operate freely and make a contribution to the sustainable development of countries where the EFSD will be deployed.

This paper has been compiled by Oxfam, ActionAid, Eurodad, Counter Balance, CEE Bankwatch Network, ITUC-TUDCN, UKAN, CARE International, Transparency International EU, Global Health Advocates, ACT Alliance EU, Plan International and supported by CONCORD.