

Brussels, 20/06/2017

Dear Mr Manservisi,

We would like to thank you for organising the CSO consultation on the External Investment Plan (EIP) on the 29th May, 2017. This meeting allowed civil society organisations to ask questions and share their numerous concerns after hearing from the European Commission how it sees the next steps towards implementation.

However, we are not sure those concerns were fully understood, as seen in the exchange between MEPs and the European Commission on the 30th May at the European Parliament DEVE Committee meeting; where our criticisms were reduced to minor issues. As a follow-up, we would like to share in writing our major concerns and recommendations regarding the EIP.

Our concerns and recommendations have already been expressed in two position papers specifically focusing on Pillar 1¹, opinion pieces published in the media², blogs³, and at the EP hearing⁴. In this letter, we highlight three major recommendations we would like to get a more detailed response from the European Commission on. We go into further detail in the annex of this letter.

1. We insist that the EIP Pillars 1 and 2 be pro-poor, pro-women, promote a climate resilient sustainable development path and human rights and deliver income-generation opportunities for people living in poverty;
2. We urge that there is visible improvement to the process of and to circumscribe the contents to the policy dialogue that is envisaged under Pillar 3 and which underlines Pillars 1 and 2;
3. We request that the Commission raises the bar on transparency, accountability and sustainability of the EIP and ensures strong social and environmental standards are in place.

We remain available for further interaction and exchanges around these constructive proposals.

Yours Sincerely,

Oxfam, ACT Alliance EU, ActionAid, CAN Europe, CARE International, Counter Balance, Eurodad, Global Health Advocates France, ITUC-TUDCN, Plan International, Save the Children, Transparency International EU, with the support of CONCORD

¹ CSO recommendations for the EIP and EFSI negotiations:

https://www.oxfam.org/sites/www.oxfam.org/files/file_attachments/joint_cso_recommendations_on_the_european_external_investment_plan_0.pdf; <http://eurodad.org/files/pdf/58f75ebc4ca05.pdf>; Eurodad paper: bit.ly/2qJ0SLt; Romero, MJ. A dangerous blend? The EU's agenda to 'blend' public development finance with private finance. 2013.

² <https://euobserver.com/opinion/138108>; <https://www.euractiv.com/section/global-europe/opinion/junckers-new-investment-plan-shows-he-still-has-not-understood-the-problem/>

³ <http://www.eurodad.org/blended-finance-aid-risk>; see also Oxfam published an op-ed in September <https://www.euractiv.com/section/global-europe/opinion/junckers-new-investment-plan-shows-he-still-has-not-understood-the-problem/>

⁴ Public Hearing on 8 March 2017: see the link here <http://www.counter-balance.org/counter-balance-raises-ngo-concerns-on-the-european-fund-for-sustainable-development-at-eu-parliament-hearing/>

Detailed Proposals related to the EIP implementation, June 2017

1) We insist that the EIP Pillars 1 and 2 be pro-poor, pro-women, promote a climate resilient sustainable development path and human rights and deliver income-generation opportunities for people living in poverty;

The independent evaluation of existing EU blending facilities for 2007-2014⁵ has shown that so far, there has been limited attention to the pro-poor development impact of projects: criteria of success did not include decent job creation, women's economic empowerment and women's rights, and were not pro-poor. The European Commission wants to increase the amounts available for blending, despite the lack of evidence that it can deliver on those key three areas. We appreciate that blending can be a tool to build large infrastructure projects in middle income countries, but are sceptical about the potential of that tool to deliver beyond that.

We therefore repeat our messages that the European Commission:

- **Adopt a 'Dashboard' of Indicators** to assess the potential of projects ex-ante and their impacts ex-post, covering the four dimensions of Agenda 2030 – social, economic, environmental and governance/participation and **disclose** at adoption stage of each project the assessment made based on the indicators.

- **Allocate at least 40%** of the funds available to financing operations in the sectors that contribute to **climate action**; specifically, renewable energy, energy efficiency and climate change mitigation and adaptation across all sectors. It is the EC's responsibility to ensure mainstreaming of all investments in accordance to implementation of the Paris Agreement.⁶

- **Ensure Environment Impact Assessments and Strategic Environment Assessment** are in place in line with the Common Implementing Regulation for external financial instruments (2014) as well as indicators on the impacts of projects on the natural environment including ecosystems, biodiversity and climate change.

- Pay particular attention to the potential **impact of projects on inequality**, which is one of the most pressing development challenges today and has been recognised as such in Agenda 2030 and in the new EU Consensus for Development.

- **Refine indicators related to women's and girls' rights** - that goes far beyond decent job creation. Women and girls can be directly and indirectly impacted by infrastructure and other projects - from violence against women in public transportation to gender-sensitive urban infrastructure, from confinement in low skilled and low paid jobs to marginalisation when formal employment opportunities mostly benefit men, for example⁷.

⁵ https://ec.europa.eu/europeaid/evaluation-blending_en

⁶ The **proposed 20% target is very low compared to the percentage of climate action already reached both by existing EU blending facilities and Financial Institutions** who will benefit from the EFSD. For instance, the European Investment Bank (EIB) has taken the commitment to raise its percentage of climate action in developing countries to 35%.

⁷ On women in global value chains, see notably

https://www.actionaid.org.uk/sites/default/files/publications/actionaiduk_briefing_traded_up_crowded_out.pdf; on

Violence against women and economic inequality, see notably

http://www.actionaid.org/sites/files/actionaid/actionaid_double_jeopardy_decent_work_violence_against_women.pdf;

on women's experience in urban public transport, see http://www.actionaid.org/sites/files/actionaid/178619_2785.pdf

- **Exclude health and education from the scope of the EIP** because of the risk to erode universal access and to encourage privatisation of essential public services. Prioritise gender-sensitive public services in budget support, as a way to promote women’s economic empowerment.

- **Focus the EIP support on inclusive and sustainable business models** i.e. social enterprises and cooperatives, and on domestic MSMEs because of their greater development potential in the long term.

- **Provide a space for CSOs that goes beyond reaching the so-called “poorest among the poorest” via charity work.** CSOs role is much more diverse and rich than that – for example, empowering people to claim their rights; addressing power imbalances in decision-making processes, in agriculture value chains and other supply chains; calling for transparency and accountability; fighting tax avoidance and corporate human rights abuses; representing the working poor and informal workers through trade unions. Local and international CSOs should have a meaningful space in the EIP, both in Europe and in partner countries, and the EIP should promote and defend their unique role. This would be in line with the principle of partnership between the EU and civil society as foreseen in the EU Global Strategy for Foreign and Security Policy and the new European Consensus on Development. Yet, even the latest EC report on CSO engagement does not reflect on blending and the role of CSOs.⁸

- **Increase in funding available for the for-profit sector such as through the EIP should go hand in hand with increase in funding available for the non-profit sector.** The intention to increase the funding available for blending in the future takes place at a time where there are huge cuts in public funding for CSOs in several EU member states. We are concerned that if a greater proportion of EU assistance is earmarked for blending, it may translate in less direct support available for CSOs. There is no democracy without a strong and vibrant civil society, and we urge the EU to continue being a champion for independent civil society, not only by means of funding but also by protecting its space, in line with the EU Action Plan on Human Rights and Democracy.

2) We urge that there is visible improvement to the process of and to circumscribe the contents to the policy dialogue that is envisaged under Pillar 3 and which underlines the Pillars 1 and 2;

We urge that Pillar 3 follows strict guidelines and a process that offers sufficient guarantees. Even if there is no explicit conditionality, governments from partner countries may find it hard in practice, to resist proposed policy reforms pushed via Pillar 3, because they may fear not benefiting from Pillar 1 if they do not comply with EU policy recommendations.

2.1 On process: EU human rights-based approach to development cooperation requires transparency, participation and accountability.

- We therefore call on **full transparency around the agenda** of such discussions under Pillar 3. This must be systematic and posted online.

- **Participation of CSOs** must be ensured to prepare and inform such policy dialogues.

- The interests of small scale farmers and entrepreneurs, with a focus on young people and women, need to be represented, especially those of marginalised women farmers. This means their representative organisations must be identified, funding must be made available to allow the **participation of those in need**, and language barriers must be addressed.

⁸ Latest report from EC shows no CSO engagement in past blending projects: <https://europa.eu/capacity4dev/policy-forum-development/documents/eu-engagement-civil-society>

- **Freedom of association, collective bargaining, labour rights and social dialogue between workers and employers** must be a fixed point on the agenda of such meetings.

- Under **no circumstances should the privatisation of essential public services** be on the agenda of Pillar 3 dialogue.

2.2. On content: Guidelines must be adopted to guide Pillar 3 dialogue and make sure it does not translate into corporate capture of decision-making processes, which is a serious risk everywhere, but even more in countries where the rule of law is not well-established, independent CSOs are repressed and parliamentary oversight is weak.

A few concrete examples on the risk around the interpretation of what could be meant by an “enabling business environment”: To create a ‘friendly environment’ for investors, may mean focusing on large European seed companies or local farmers, large transnational agribusiness companies dominating the food system or local agribusiness industries.

- The main investors in African agriculture are farmers themselves, and a friendly environment for them is not necessarily a friendly environment for foreign investors. Foreign investors may prioritise raw commodities for exports, to be processed in Europe by agro-food or biofuels companies, over the priorities of food insecure farmers and their families – creating dependency on commodity prices on international markets and generating risks related to monoculture.
- In some participating countries, the New Alliance for Food Security and Nutrition initially involved commitments by developing countries to make land available for investors and even to offer generous tax arrangements for foreign investors in agriculture⁹. Such practices incentivise land grabbing and lead to a decrease in crucial public finances to support essential services.
- The New Alliance also involves commitments by developing countries to reform their seed laws threatening the functioning of the existing farm-saved seed systems where farmers can keep, save and swap seeds, a crucial ingredient of food security, biodiversity and farmers’ climate resilience¹⁰.
- Creating an enabling business environment may involve the development of Export Processing Zones, where lower tax and labour standards can be applied.
- It may also require opening essential public services to foreign investors, thereby eroding the role of the State in respecting and protecting the core elements of the social contract such as the rights to health and education.

2.3 On priorities: Domestic investors are a major driver of sustainable economic development in a way that foreign investors seem to be inconsistent on. Using Pillar 3 to ensure a level playing field between domestic and European companies should not be part of development policy, which must in all cases comply with Art. 21 of the Lisbon treaty. The EIP lacks a nuanced and informed analysis of such dynamics, and seems to promote European interests abroad rather than genuine and transformational development in the Global South. Most developing-country governments want private investment—both domestic and, frequently, foreign—to help develop their economies and

⁹ <http://www.actionaid.org/sites/files/actionaid/new20alliance20new20risks20of20land20grabs.pdf>;

¹⁰ http://actalliance.eu/wp-content/uploads/2016/04/aprodev_pcd_seed_paper_final_18122014.pdf

create employment opportunities. There is, therefore, a rationale for private finance blending if it supports national strategies (supporting strategic industries or low-carbon development plans, for instance).

Concrete evidence provided by UNCTAD¹¹: UNCTAD reports have shown that the global value chains do not offer a reliable pathway to development and structural transformation because lead firms retain most of the value and wealth created in supply chains while generating a race to the bottom in terms of wages and working conditions, and environmental standards. Domestic MSMEs and cooperatives in developing countries are often not in a situation where they are competitive compared to European companies.

The EIP should explicitly support the development of domestic micro-enterprises and MSMEs, which constitute the overwhelming majority of the private sector, and to social economy enterprises, including cooperatives, whose main objective is to serve the members and not to obtain a return on investment as the traditional mainstream capital companies do.

- Domestic legislation should ensure a **preferential treatment for those local structures** – including via public procurement, local contents rules, favourable tax treatment¹².
- Pillar 3 should offer the opportunity for the EU to be the champion of the renegotiation of international trade and investment rules that are obstacles to the industrialisation and diversification of the economies of developing countries. It should also go together with the **cancellation of ISDS with partner countries**, whereby private investors' interests prevail over human rights and the environment. The coherence between FTAs and the EIP lies in ensuring FTAs are development and people-friendly – not ensuring the EIP serves provisions in trade agreements that restrict the regulatory space of partner countries to develop sound industrialisation policies and protect their small-scale farmers.

3) We request that the Commission raises the bar on transparency, accountability and sustainability of the EIP and ensures strong social and environmental standards are in place.

Europe's distinctiveness is its global vision grounded in multilateralism, solidarity, human rights, environmental protection, peace and the rule of law. We therefore reiterate our call for a proper grievance or redress mechanism, potentially as under the Green Climate Fund, to centralise all EIP-related complaints.

A high level of transparency should then be reached at both EIP governing bodies level, and at project level. For instance, there must be ample publicity at project level, including via signposts in local language with a contact detail for people to complain in case they suffer or may suffer negative impacts.

We call on the Commission to ensure that stringent due diligence procedures are carried out regarding every EFSD-supported project. Indeed, we think that relying solely on IFI due diligence processes will not be enough to ensure that environmental, labour and social safeguards are fully

¹¹ UNCTAD, Trade and development report, 2014;

¹² https://www.actionaid.org.uk/sites/default/files/publications/what_a_way_to_make_a_living_pdf.pdf

respected at project level. For instance, we are concerned with the latest publications of negative impact of EIB projects on people and communities.¹³

CSOs expect the EU, as a constituent and promoter of the Global Partnership for Effective Development Cooperation (GPEDC), to uphold the development effectiveness principles (ownership, focus on results, inclusive development partnerships and transparency and accountability) throughout the EIP and when engaging the private sector in blended finance.¹⁴

Finally, coherence would require from the EU to adopt a binding legal framework to hold its businesses accountable for the impacts of their operations in third countries, and to constructively engage in the UN negotiations about a Treaty on business and human rights.

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¹³ Latest evidence of negative impacts: https://www.eibinafrica.eu/electricity-at-all-costs/?utm_content=buffer982c6&utm_medium=social&utm_source=twitter.com&utm_campaign=buffer ; <https://eib.oneworld.nl/invisible-bank-in-luxembourg> ; <https://euobserver.com/investigations/137960> ; [:https://www.eibinafrica.eu/electricity-at-all-costs/?utm_content=buffer982c6&utm_medium=social&utm_source=twitter.com&utm_campaign=buffer](https://www.eibinafrica.eu/electricity-at-all-costs/?utm_content=buffer982c6&utm_medium=social&utm_source=twitter.com&utm_campaign=buffer) ; Going Abroad report with Bankwatch: <https://bankwatch.org/publications/going-abroad-critique-european-investment-banks-external-lending-mandate>

¹⁴ GPEDC HLM2 Nairobi Outcome Document, endorsed by the EU: <http://effectivecooperation.org/wp-content/uploads/2016/12/OutcomeDocumentEnglish.pdf>