

OPINION No 9/2005**concerning a proposal for a Council Regulation amending Regulation (EC, Euratom) No 2728/94 establishing a Guarantee Fund for external actions (COM(2005) 130 Final)**

(2005/C 313/02)

THE COURT OF AUDITORS OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community, and in particular Articles 248 and 279 thereof,

Having regard to the proposal for a Council Regulation (COM(2005) 130 final) amending Regulation (EC, Euratom) No 2728/94 establishing a Guarantee Fund for external actions, amended by the Council Regulation (EC, Euratom) No 1149/1999 and by the Council Regulation (EC, Euratom) No 2273/2004,

Having regard to the Council decision of 2 June 2005 to consult the European Court of Auditors about the proposal,

HAS ADOPTED THE FOLLOWING OPINION:

1. In most respects, the Court welcomes this proposal. The Court, however, wishes to comment on one aspect, the threshold amount in the 'smoothing mechanism' (Article 5(3) of the draft amending Regulation).

2. The threshold amount is established by the Commission's estimates which are based on various scenarios for the Union's external lending; the European Investment Bank's (EIB) new external lending mandate for the next Financial Perspectives 2007-2013 has not yet been adopted. In the absence of reliable data or forecasts, the current rules provide for a higher provisioning rate of the Fund if its resources fall below 75 % of the target amount as a result of the activation of guarantees following default. This rule would be replaced by the implementation of the 'smoothing mechanism'. The new procedure for provisioning the Fund is based on *ex post* calculations so that the provisioning will be made with a time lag. The Court finds that the Commission should consider setting up a warning mechanism with the aim to inform the budgetary authorities if the net assets of the fund fall below 75 % of the target amount either because of the increase of guarantees and/or because of the activation of guarantees. This would keep the budgetary authorities informed of unfavourable developments at an early date and not just when exceptional measures would be required to replenish the Fund (such as when the resources in the Fund fall below 50 % of the target amount).

This opinion was adopted by the Court of Auditors in Luxembourg at its meeting of 10 November 2005.

For the Court of Auditors
Hubert WEBER
The President
