



**Ministry of Finance
of the Slovak Republic**



European Bank
for Reconstruction and Development

REPLENISHMENT AND AMENDMENT AGREEMENT No. 2

between

**GOVERNMENT OF THE SLOVAK REPUBLIC
REPRESENTED BY THE MINISTRY OF FINANCE OF THE
SLOVAK REPUBLIC**

and

**THE EUROPEAN BANK FOR RECONSTRUCTION AND
DEVELOPMENT**

in respect of the

**SLOVAK REPUBLIC – EUROPEAN BANK FOR
RECONSTRUCTION AND DEVELOPMENT
TECHNICAL COOPERATION FUND**

This Replenishment and Amendment Agreement No. 2 between Government of the Slovak Republic Represented by the Ministry of Finance of the Slovak Republic and the European Bank for Reconstruction and Development in respect of the Slovak Republic – European Bank for Reconstruction and Development Technical Cooperation Fund (the “Replenishment and Amendment Agreement No 2”) dated [] December 2011 is made between Government of the Slovak Republic, represented by the Ministry of Finance of the Slovak Republic (the “Ministry”) and the European Bank for Reconstruction and Development (“EBRD” or the “Bank”) in respect of the Slovak Republic – European Bank for Reconstruction and Development Technical Cooperation Fund.

WHEREAS:

(A) On 3 July 2009, the Ministry and EBRD entered into the Agreement between the Government of the Slovak Republic represented by the Ministry of Finance of the Slovak Republic and the European Bank for Reconstruction and Development in respect of the Slovak Republic – European Bank for Reconstruction and Development Technical Cooperation Fund (the “Agreement”) as approved by Resolution of the Government of the Slovak Republic No. 358 of 13 May 2009. The Agreement established the Slovak Republic – European Bank for Reconstruction and Development Technical Cooperation Fund (the “Fund”), and provided for an initial contribution by the Ministry to the Fund of Euro 1,000,000 (one million) for the provision of advisory services and technical assistance in respect of projects financed, or to be financed, by the Bank within the framework of the Bank’s mandate in the Beneficiary Countries.

(B) Pursuant to Article 1 of the Agreement, the Ministry agreed to replenish the Fund with a further amount of Euro 625,000 (six hundred and twenty five thousand), and the Bank agreed to manage and administer the funds, on the terms and conditions of the Agreement as amended and supplemented by Replenishment and Amendment Agreement No 1 dated 20 October 2010 (“Replenishment and Amendment Agreement No 1”) as approved by Resolution of the Government of the Slovak Republic No. 694 of 13 October 2010.

(C) By Resolution No. 358, dated 13 May 2009 and by Resolution No. 694, dated 13 October 2010 the Government of the Slovak Republic has empowered the Ministry to conclude agreements with international organizations regarding support to development cooperation activities under the Ministry’s mandate.

(D) The Ministry and EBRD have agreed on the establishment of the Fund with proposed activities in the following EBRD countries of operations: Albania, Armenia, Azerbaijan, Belarus, Bosnia & Herzegovina, Georgia, Kazakhstan, Kyrgyz republic, FYR Macedonia, Moldova, Mongolia, Montenegro, Serbia, Tajikistan, Turkey, Turkmenistan, Ukraine and Uzbekistan (the “Beneficiary Countries”).

(E) On 30 July 2011, the EBRD Board of Directors approved a report and made a recommendation to the EBRD Board of Governors on certain amendments to the Agreement Establishing the EBRD providing for an appropriate extension of the geographic scope of the Bank's mandate and to consider also further steps to allow the Bank's operations to start as early as possible in potential recipient countries of the Southern and Eastern Mediterranean (SEM) region.

(F) The report and the recommendation made by the EBRD Board of Directors to the Board of Governors, envisions, *inter alia*, a phased approach to the extension of the geographical scope of the Bank, the first phase of which consists of implementation by the Bank of technical assistance and other similar activities, to be financed by cooperation funds made available to the Bank for management and administration by third parties.

(G) The EBRD Board of Governors, under Resolution No. 139, has agreed to make available to the Bank cooperation funds to be used for financing technical assistance and other similar activities to be implemented by the Bank in EBRD member countries of the SEM region subject to appropriate approvals from the EBRD Board of Governors being obtained and relevant further decisions of the EBRD Board of Directors with respect to each EBRD member country in the SEM region.

(H) Pursuant to Article 1 of the Agreement, the Ministry has, in addition, agreed to replenish the Fund with a further amount of Euro 1,000,000 (one million), and the Bank has agreed to manage and administer the funds, on the terms and conditions of the Agreement as amended and supplemented by Replenishment and Amendment Agreement No 1 and by this Replenishment and Amendment Agreement No 2 and has also agreed, subject to the terms in this Amendment No 2, to include the countries of the SEM region as Beneficiary Countries.

NOW THEREFORE the Ministry and EBRD (collectively the “Parties”) agree as follows:

1 DEFINITIONS

Any capitalized term used but not defined or modified in this Replenishment and Amendment Agreement No 2 (including the recitals) shall have the meaning set forth in the Agreement (as defined herein).

2 REPLENISHMENT

- 2.1 The Ministry shall make an additional contribution to the Fund in the amount of Euro 1,000,000 (one million) (the “New Replenishment”).
- 2.2 The New Replenishment shall be deemed resources of the Fund for the purposes of the Agreement.
- 2.3 The New Replenishment shall be paid by the Ministry into the Ministry of Finance of the Slovak Republic – EBRD Technical Cooperation Fund Account in one instalment upon the entry into force of this Replenishment and Amendment Agreement No 2 and the submission of a request for disbursement by the Bank to the Ministry.
- 2.4 In order to assist the Bank to defray the costs of management, administration and other expenses incurred by the Bank in respect of the Fund, the Bank will be entitled to withdraw and keep for its own account an amount corresponding to 3% (three per cent) of the amount of the New Replenishment paid into the Fund.

3 AMENDMENT

3.1 Article 2 (Purpose of Fund)

The provisions of Article 2 shall be deleted in their entirety and replaced by the following:

“The purpose of the Fund is to finance advisory services and technical cooperation (“AS and TC”) in respect of projects financed, or to be financed, by the EBRD (a) within the framework of the EBRD’s mandate in the Beneficiary Countries and (b) within the framework of the EBRD’s mandate in the EBRD member countries of the SEM region (each individually a “SEM Country” and collectively the “SEM Countries”). The list of Beneficiary Countries may be amended in accordance with Article 9.1 of this Agreement. In the event that a Beneficiary Country or a SEM Country, is deemed to be no longer eligible for Ministry funding (by reference to the eligibility criteria of the Organisation for Economic Cooperation and Development (OECD)) any such Beneficiary Country, or SEM Country, shall no longer be eligible to receive funding from the Fund. EBRD will try, on a best efforts basis to submit only project proposals in ODA eligible, EBRD countries of operation and/or ODA eligible EBRD member countries in the SEM region.”

3.2 Article 3 (Use of the Resources of the Fund)

The words:

“and in the SEM Countries”

shall be added to the end of the final sentence of Article 3.1

3.3 Article 3 (Use of the Resources of the Fund)

The following wording shall be added to Article 3 and shall constitute a new Section 3.4 of Article 3:

“The resources of the Fund shall be used to finance projects in a Beneficiary Country (“Beneficiary Country Project”) and/or in a SEM Country (“SEM Project”).”

3.4 Article 3 (Use of the Resources of the Fund)

A new Article 3.5 shall be added to the Agreement and shall read as follows:

“Unless otherwise agreed between the Ministry and the Bank, the New Replenishment may, subject to the provisions of Article 10.1, be used for any of the purposes set out in Article 3.”

3.5 **Article 6** (Administration of the Fund)

The provisions of Article 6.4 of the Agreement shall be deleted in their entirety and replaced by the following:

“In order to assist the Bank to defray the costs of management, administration and other expenses incurred by the Bank in respect of the Fund, the Bank will be entitled to withdraw and keep for its own account an amount corresponding to 3% of the amount of any Contribution paid into the Fund on or after the date of this Amendment No. 2.”

3.6 **Article 10** (Effectiveness and Termination)

The provisions of Article 10.1 shall be deleted in their entirety and replaced by the following:

“10.1 (a) Subject to the provisions of Article 10.1 (b) below, Replenishment and Amendment Agreement No. 2 shall enter into force on the date when the last of the Parties sign it and shall remain in force until all funds in the Account have been fully withdrawn, unless terminated earlier.

10.1 (b) The provisions of this Replenishment and Amendment Agreement No. 2 shall, in respect of the SEM Countries, enter into force seven (7) calendar days after a decision of the EBRD Board of Directors to grant access to cooperation funds to at least one EBRD member country in the SEM region (the “SEM region Effective Date”) and the resources of the Fund shall not be used to finance any Fund activity in the SEM region (as described in Article 3) prior to the SEM region Effective Date.”

3.7 **Article 10** (Effectiveness and Termination)

A new Article 10.3 shall be inserted into Article 10 as follows;

“10.3 This Agreement may be terminated immediately by the Bank, in the event of suspension or termination of the Bank's operations pursuant to Articles 40 and 41, respectively, of the Agreement Establishing the EBRD, or may be terminated immediately by the Bank only in respect of the SEM Countries, and any SEM Project, if the Bank withdraws the access granted to cooperation funds to all of the EBRD member countries in the SEM region due to adverse change in circumstances, in light of which such access was granted.”

4. FINAL PROVISIONS

4.1 Except as expressly modified by Articles 2, 3, 6 and 10 of this Replenishment and Amendment Agreement No 2, all other terms and conditions set forth in the Agreement shall remain unchanged.

4.2 The New Replenishment shall be governed by the terms and conditions set forth in the Agreement as amended and supplemented by this Replenishment and Amendment Agreement No 2.

4.3 Upon its entry into force, this Replenishment and Amendment Agreement No 2 shall become an integral part of the Agreement and all references to “the Agreement” in the Agreement shall refer to the Agreement, as amended and supplemented by Replenishment and Amendment Agreement No 1 and as amended and supplemented by this Replenishment and Amendment Agreement No 2. The Agreement, the Replenishment and Amendment Agreement No 1 and this Replenishment and Amendment Agreement No 2 shall, from the entry into force of this Replenishment and Amendment Agreement No 2, be interpreted as one document.

IN WITNESS WHEREOF, the Ministry and EBRD, each acting through its duly authorized representatives, have signed this Replenishment and Amendment Agreement No 2 in three originals in the English language, one original for the Ministry and two originals for EBRD.

**For and on behalf of:
Ministry of Finance of the Slovak
Republic**

**For and on behalf of:
European Bank for Reconstruction and
Development**

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Name: Ivan Mikloš

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Name: Jan Fischer

Title: Deputy Prime Minister
and Minister of Finance

Title: Vice President for Operational
Policies

Date:

Date: