



**COUNCIL OF  
THE EUROPEAN UNION**

**Brussels, 17 April 2012**

**8841/12**

---

**Interinstitutional File:  
2011/0442 (COD)**

---

**ECOFIN 331  
FIN 271  
MED 19  
CODEC 1008**

**NOTE**

---

from:	Secretariat
to:	Delegations
Subject:	Proposal for a decision of the European Parliament and of the Council on amendments to the Agreement establishing the European Bank for Reconstruction and Development (EBRD) extending the geographic scope of EBRD operations to the Southern and Eastern Mediterranean

---

Further to the Financial Counsellors Working Party meeting on 27 March 2012 , delegations will find attached the text of the above proposal in which legal linguistic comments (marked in ***bold italics***) have been included. As agreed during the Working Party meeting, the mandate for the Presidency in the upcoming negotiations with the European Parliament is to remain close to the original Commission proposal.

---

Encl:

2011/0442 (COD)

Proposal for a

**DECISION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL  
on amendments to the Agreement *establishing* the European Bank for Reconstruction and  
Development (EBRD) extending the geographic scope of EBRD operations to the Southern  
and Eastern Mediterranean**

THE EUROPEAN PARLIAMENT AND [...] THE COUNCIL *OF THE EUROPEAN UNION*,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 212 thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national *parliaments*,

Acting in accordance with the ordinary legislative procedure<sup>1</sup>,

---

<sup>1</sup> *Position of the European Parliament of ... (not yet published in the Official Journal) and decision of the Council of ...*

Whereas:

- (1) In response to the 2011 events in the Southern and Eastern Mediterranean [...], in March 2011, the Commission and the High Representative *of the Union for Foreign Affairs and Security Policy* presented a Joint Communication<sup>2</sup> signalling the strong political and economic support of the *Union* to the region. *The Joint Communication* included an option *to extend* the EBRD's mandate to cover the countries of the Southern Neighbourhood, building on *the EBRD's* experience over the last 20 years. The European Council of 24 and 25 March 2011 broadly endorsed the contents of *that* Joint Communication. In its Resolution of 7 April 2011 on the review of the European Neighbourhood Policy – Southern Dimension, the European Parliament invited the EBRD to change its statute in order to participate in the financial assistance process.
- (2) In May 2011, G8 leaders launched the Deauville Partnership to help Southern and Eastern Mediterranean countries in their transition towards free, democratic and tolerant societies and called on the EBRD to extend its geographic scope in order to leverage its experience and support the transition of these countries to embrace the principles of multiparty democracy, pluralism and market *economy*.
- (3) By Resolutions 137 and 138 adopted on 30 September 2011, the Board of Governors of the EBRD voted in favour of the necessary amendments to the Agreement *establishing* the EBRD, enabling it to expand the EBRD's *geographical scope* of operations to the Southern and Eastern Mediterranean. All EU Governors of the EBRD voted in favour of these amendments, including the Governor representing the Union.

---

<sup>2</sup> Joint Communication "A Partnership for Democracy and Shared Prosperity with the Southern Mediterranean", COM(2011)200 of 8 March 2011. The extension of the EBRD mandate to Southern Eastern Neighbours was also supported by the Commission and the EEAS in the Joint Communication "A new response to a changing Neighbourhood", COM(2011)303 of 25 May 2011.

- (4) *Pursuant* to Article 56 of the Agreement *establishing* the EBRD, the *Board of Governors of the EBRD is to* ask all members whether they accept the proposed amendments. [...]
- (5) In carrying out its activities in the Southern and Eastern Mediterranean [...], the EBRD should be encouraged to continue its close engagement with the *Union* and to *further* develop *the* close cooperation with the *European Investment Bank* and other European and international public financing institutions.
- (5a) *The amendments to the Agreement establishing the EBRD should therefore be approved on behalf of the Union,*

HAVE ADOPTED THIS DECISION:

*Article 1*

The amendments to Articles 1 and 18 of the Agreement **establishing** the EBRD **extending the geographical scope of EBRD** are hereby approved on behalf of the [...] Union.

***The text of the amendments is set out in the Annex for informative purposes.***

*Article 2*

The Governor of the EBRD representing the [...] Union shall, **on behalf of the Union**, communicate to the EBRD the Declaration of Acceptance of the amendments [...].

*Article 3*

This Decision shall enter into force on the third day following that of its publication in the *Official Journal of the European Union*.

Done at [...] ...,

*For the European Parliament*  
*The President*

*For the Council*  
*The President*

**Amendments to the Agreement *establishing* the European Bank for Reconstruction and Development**

Article 1 of the Agreement *establishing* the Bank shall be replaced by the following:

"Article 1

PURPOSE

In contributing to economic progress and reconstruction, the purpose of the Bank shall be to foster the transition towards open market-oriented economies and to promote private and entrepreneurial initiative in the Central and Eastern European countries committed to and applying the principles of multiparty democracy, pluralism and market economics. Subject to the same conditions, the purpose of the Bank may also be carried out in Mongolia and in member countries of the Southern and Eastern Mediterranean as determined by the Bank upon the affirmative vote of not less than two-thirds of the Governors, representing not less than three-fourths of the total voting power of the members. Accordingly, any reference in this Agreement and its annexes to "Central and Eastern European countries", "countries from Central and Eastern Europe", "recipient country (or countries)" or "recipient member country (or countries)" shall refer to Mongolia and each of such countries of the Southern and Eastern Mediterranean as well."

Article 18 of the Agreement *establishing* the Bank shall be replaced by the following:

"Article 18

SPECIAL FUNDS

1. (i) The Bank may accept the administration of Special Funds which are designed to serve the purpose and come within the functions of the Bank in its recipient countries and potential recipient countries. The full cost of administering any such Special Fund shall be charged to that Special Fund.

(ii) For the purposes of subparagraph (i), the Board of Governors may, at the request of a member which is not a recipient country, decide that such member qualifies as a potential recipient country for such limited period and under such terms as may seem advisable. Such decision shall be taken by the affirmative vote of not less than two-thirds of the Governors, representing not less than three-fourths of the total voting power of the members.

(iii) The decision to allow a member to qualify as a potential recipient country can only be made if such member is able to meet the requirements for becoming a recipient country. Such requirements are those set out in Article 1 of this Agreement, as it reads at the time of such decision or as it will read upon the entry into force of an amendment that has already been approved by the Board of Governors at the time of such decision.

(iv) If a potential recipient country has not become a recipient country at the end of the period referred to in subparagraph (ii), the Bank shall forthwith cease any special operations in that country, except those incident to the orderly realization, conservation and preservation of the assets of the Special Fund and settlement of obligations that have arisen in connection therewith.

2. Special Funds accepted by the Bank may be used in its recipient countries and potential recipient countries in any manner and on any terms and conditions consistent with the purpose and functions of the Bank, with the other applicable provisions of this Agreement, and with the agreement or agreements relating to such Funds.

3. The Bank shall adopt such rules and regulations as may be required for the establishment, administration and use of each Special Fund. Such rules and regulations shall be consistent with the provisions of this Agreement, except for those provisions expressly applicable only to ordinary operations of the Bank."

\_\_\_\_\_