

Agreement
on the Management of Resources of the Anti-Crisis Fund
of the Eurasian Economic Community

The Republic of Belarus, the Republic of Kazakhstan, the Kyrgyz Republic, the Russian Federation, the Republic of Tajikistan and the Republic of Armenia, together the Founding States of the Anti-Crisis Fund of the Eurasian Economic Community (hereinafter the Fund), pursuant to the Treaty on the Establishment of the Anti-Crisis Fund of the Eurasian Economic Community dated 9 June 2009 (hereinafter the Treaty on the Establishment of the Fund) on the one hand, and

The Eurasian Development Bank, which is an international organisation created in accordance with the Agreement on the founding of the Eurasian Development Bank dated 12 January 2006 in order to facilitate the formation and development of market economies of Member States of the Bank, their economic growth and expansion of trade and economic ties between them (hereinafter the Bank), on the other,

hereinafter the Parties,

whereas:

The Treaty on the Establishment of the Fund stipulates that the management of Fund resources is carried out by the Fund Council in conjunction with the Fund Resources Manager in accordance with the procedure set out in the Statute of the Fund, which represents an integral part of the Treaty on the Establishment of the Fund (hereinafter Statute of the Fund), responsibility for the management of Fund resources is conferred upon the Bank on the basis of the Agreement on the Management of Fund Resources, concluded between the Founding States and the Bank;

in accordance with **Clause 4 of Article 9** of the Bank Statute, the Bank is entitled to, following a decision by the Bank Council, assume responsibility for the management of special funds, formed by Bank participants, a group of its participants or by other organisations, to address issues which meet the aims and purposes of the Bank;

The Bank Council resolves that the Bank is to assume the responsibilities for the management of Fund resources (Protocol 22 of the Bank Council Meeting dated 9 June 2009),

have agreed on the following:

Article 1

Subject of the Agreement

1. By way of this Agreement the Parties establish the procedure for the joint management of Fund resources.

2. The Founding States of the Fund, as well as states and international organisations, which have become Parties to this Agreement and are Fund members in accordance with the Statute of the Fund (hereinafter Fund Members), undertake the management of Fund resources through the Fund Council, authority of which is established by the Statute of the Fund.

The Bank, in accordance with the terms and conditions set out by this Agreement, undertakes to perform the responsibilities of Fund Resources Manager, which consist of management and administration of Fund resources.

3. In carrying out the responsibilities set out by this Agreement and completing the requisite transactions the Bank indicates, that it acts as Fund Resources Manager.

When carrying activities that do not require to be evidenced in writing, the Bank informs the other Party that it does so in such a capacity, and in written documents includes the designation of Fund Resources Manager of EurAsEC Anti-Crisis Fund following the name of the Bank.

4. When carrying out responsibilities of Fund Resources Manager the Bank acts in accordance with Fund documents, listed in **Article 2** of the Statute of the Fund (hereinafter Fund Documents), and is guided exclusively by the interests of Fund Members and the aims of creating the Fund, and makes every possible effort to ensure the effective management of Fund resources.

5. States that are Fund Members hereby extend the immunities, privileges and benefits of the Bank, as set out by the statutory documents of the Bank, to Fund resources and operations, and guarantee their effectiveness within their respective jurisdictions.

Article 2

Administration of Fund Resources

1. The Bank is hereby granted the right to administer all Fund resources, including cash resources, deposited by Fund Members as cash contributions to the Fund, into the accounts in their central (national) banks.

Authority of the Bank to administer cash resources, deposited by Fund Members as cash contributions into the Fund, to the accounts in their central (national) banks, is provided for by the Fund Members in the applicable bank account agreements, entered into with central (national) banks.

2. Fund resources are owned by Fund Members. The authority of the Bank to administer Fund resources does not entail the transfer of ownership to the Bank.

3. Within the scope of managing Fund resources, the Bank on behalf of and under the direction of Fund Members carries out the following legal activities:

- a. opens and maintains accounts in US Dollars and Euro, in order to carry out operations with Fund resources, in banks, which are approved by the Fund Council (hereinafter Fund Accounts), carries out operations with such accounts as well as the accounts in the central (national) banks of Fund Members, referred to in **Article 1** of this Agreement, in accordance with Fund Documents and the conditions set out in this Agreement;
- b. credits the Fund Accounts with all cash resources coming into the Fund including:
 - contributions, except cash contributions to the Fund, deposited by Fund Members into the accounts of their central (national) banks;
 - proceeds from placement (investing) of temporarily unused Fund resources;
 - proceeds from making resources available [to beneficiaries] on a repayable basis, including all payments resulting from the Agreements on the Provision of Fund Resources;
 - donations to the Fund;
 - other contributions to the Fund.

All payments to the Fund, not made in US Dollars or Euro, the Bank converts into US Dollars and/or Euro, at the rate of exchange which is determined in accordance with **Clause 4 of Article 3** of this Agreement;

- c. submits for encashment bills of exchange issued by Fund Members on the basis of decisions of the Fund Council;
- d. accepts donations to the Fund, following decisions of the Fund Council;
- e. enters into agreements on financing from Fund resources with recipients of such Fund resources (hereinafter Agreements on the Provision of Fund Resources) following decisions of the Fund Council, ensures that agreements entered into adhere to the requirements, set out by the Statute of the Fund and decisions of the Fund Council;
- f. provides Fund resources [to beneficiaries] based on the Agreements on the Provision of Fund Resources in accordance with the terms set out in these Agreements;
- g. represents and defends the interests of Fund Members in matters concerning the Agreements on the Provision of Fund Resources, other transactions involving Fund resources, and other matters related to and falling within the scope of Fund activities;
- h. invests and/ or deposits Fund resources, which are not immediately required for the provision of financing in accordance with the procedure approved by the Fund Council;
- i. in cases where a Fund Member withdraws from Fund membership, concludes with them an agreement relating to the timeframe and procedure of repayment of the share of such a Fund Member from Fund resources, based on the decision of the Fund Council, and carries out such repayment in accordance with such agreements;
- j. upon the cessation of Fund operations, transfers to each Fund Member their respective share of Fund resources on terms and conditions determined by the Fund Council;

- k. in such cases provided for in **Clause 7 of Article 9** of this Agreement, transfers Fund resources and any assets accrued as a result of managing Fund resources, to the entity (entities) elected by the Fund Council in accordance with the procedure, determined by the Fund Council;
 - l. carries out any other necessary actual and legal actions, that may be required for effective administration of Fund resources, excluding actions which fall within the ambit of authority of the Fund Council, Council of Experts of the Fund and the Secretariat of the Fund Council and which have not been delegated to the Fund Resources Manager.
4. The Bank carries out procurement of goods, works and services that are financed with Fund resources in accordance with the Bank's own procurement rules and regulations and ensures the responsibilities of adherence to these procurement rules and regulations by the recipients of Fund resources are entered in the Agreements on the Provision of Fund Resources for the purposes of financing of inter-state investment projects.
 5. In an emergency situation the Bank, following a decision by the Fund Council, suspends entering into new Agreements on the Provision of Fund Resources and carrying out any other transactions with Fund resources until the time when Fund Council considers the situation and adopts the necessary measures.

Article 3

Accounting of Fund Resources

1. The Bank includes Fund resources that have been transferred to it, on a separate balance sheet and keeps independent and segregated accounts for them.
2. The Bank segregates Fund resources from Bank property (assets, capital and regular resources) and from resources of other specialised funds, established in accordance with statutory documents of the Bank.
3. The Bank accounts for Fund resources in accordance with the same principles of (financial) accounting and preparation of accounting (financial), statements which it adopts for its own books and accounts.

The stated principles envisage record-keeping, accounting and financial reporting in accordance with International Financial Reporting Standards, which are consistently applied and accurately reflect the activities, resources and expenditures that fall within the scope of Fund activities.

4. In all cases, where it becomes necessary to determine the rate of exchange of any one currency in relation to another currency, the Bank determines the rate of exchange by the same principles which it uses for its own Treasury operations.

Article 4

Administrative Management of Fund Resources

1. In the administrative management of Fund resources, the Bank performs the following functions:
 - a. prepares and presents for consideration of the Council of Experts of the Fund substantiated proposals on banks for opening of Fund Accounts.
 - b. maintains a register of Fund Members and a record of the number of votes the Fund Members have within the Fund Council;
 - c. prepares and presents for the Council of Experts of the Fund drafts of annual programme of activities, financed with Fund resources, and a budget of administrative expenditures of the Fund Resources Manager, as well as completion reports of these programs;
 - d. on a yearly basis, prepares and presents for the consideration and approval of the Council of Experts of the Fund, annual financial report on Fund operations;
 - e. informs the Fund Council on the fulfilment of duties of the Founding States of the Fund and of Fund members on their contributions to the Fund;
 - f. prepares and presents for the consideration of the Council of Experts of the Fund drafts of procedures for the provision of stabilization credits and sovereign loans from Fund resources, procedure for the utilization of Fund resources for the financing of inter-state investment projects, and procedure for the placement (investment) of temporarily unused Fund resources (Investment Declaration);
 - g. undertakes the assessment of the resource potential of the Fund, and as needed informs the Fund Council on the need to encash bills of exchange;
 - h. considers applications on financing from Fund resources, evaluates the applications in question with the aim of determining their suitability within the scope of activities undertaken within the scope of the Fund, purposes of provision of Fund resources, terms and conditions of the provision of Fund resources, which are determined by the Treaty on the Establishment of the Fund, the Statute of the Fund and decisions of the Fund Council, priority and effectiveness of funding, the degree of readiness of applications and other issues, prepares relevant conclusions and submits them to the Council of Experts of the Fund for consideration and preparation of recommendations to the Fund Council;
 - i. draft Agreements on the Provision of Fund Resources, ensures that the conditions set out in the Agreements correspond to the requirements set out by the Statute of the Fund and decisions of the Fund Council concerning the Provision of Fund Resources, where necessary draft amendments to such Agreements;
 - j. keeps records of debt owed by recipients of Fund resources in accordance with Agreements on the Provision of Fund Resources, informs recipients of the amount they owe and payments due, monitors the fulfilment of obligations of repayment and servicing of the debt, where necessary undertakes measures to recover debt in arrears and other payments due under the said Agreements;

- k. provides continuous monitoring of the fulfilment of obligations set out in the Agreements on the Provision of Fund Resources, including monitoring the implementation of projects and other operations, monitoring of the adherence to the conditions for the provision of Fund resources; ensures continuous access for Fund Members to such information; provides other essential administrative support of the Agreements on the Provision of Fund Resources;
 - l. arranges the evaluation of effectiveness of projects and operations, conducted with the support of Fund resources, and presents the results of such an evaluation to the Council of Experts of the Fund;
 - m. provides the Council of Experts of the Fund with information regarding the infringement by the recipients of Fund resources of conditions of the Agreements on the Provision of Fund Resources which potentially warrant the suspension or discontinuation of funding in accordance with the conditions of the Agreements, in order for the Council of Experts of the Fund to formulate necessary recommendations to the Fund Council;
 - n. when necessary, develops and presents for consideration by the Council of Experts of the Fund the procedure for establishing the contributions of each Fund Member within Fund resources, as well as agreements concerning the terms and conditions of making such contributions;
 - o. when necessary, develops and presents for the consideration of the Council of Experts of the Fund, procedures for the termination of Fund operations;
 - p. when necessary, develops and presents for consideration by the Council of Experts of the Fund procedures for introducing amendments to the Treaty on the Establishment of the Fund, the Statute of the Fund, this Agreement and other Fund Documents;
 - q. interacts with Fund Members, representatives of Fund Members in the Fund Council, members of the Council of Experts of the Fund, recipients of Fund resources, including governments of states that are recipients of Fund resources, regional and municipal government bodies of recipient states as well as other government and private organisations, and reports on such interaction to the Council of Experts of the Fund;
 - r. ensures the provision of sufficient information on the Fund and Fund Members in its publications (annual report, information bulletins etc.), as well as on the course of interactions with recipient states and mass media;
 - s. collaborates with the Council of Experts of the Fund, including the provision for its expertise of all matters, documents and data, submitted by Bank for the consideration by the Fund Council, finalises these documents on the basis of amendments made by the Council of Experts of the Fund, provides, following a request by the Council of Experts of the Fund, the required additional information and clarifications on such matters, documents and materials;
 - t. carries out any additional duties which may be required for effective administration of Fund resources.
2. The Bank is entitled to adopt such internal regulatory documents, rules and regulations, which correspond to the Fund Documents, that it considers necessary and appropriate for effective administration and management of Fund resources.

3. Bank representatives attend meetings of the Fund Council.
4. The Bank as Fund Resources Manager, when necessary, submits to the Chairman of the Fund Council proposals to conduct extraordinary meetings of the Fund Council and to put additional items on the agenda of the Fund Council, in accordance with the procedure set out in the Statute of the Fund.
5. In order to carry out the duties of Fund Resources Manager the Bank draws on its personnel, third Party experts (consultants), who have the requisite skills and knowledge and any other required resources.

Article 5

Audit of Activities of the Fund Resources Manager

1. To verify the conduct of accounting and confirm the accuracy of annual financial reports of the Bank in its role as Fund Resources Manager, the Bank undertakes an annual external independent audit before the end of the first quarter of the year, which follows the year of audit.

The cost of carrying out the external audit is included in the annual Administrative Budget of the Fund Resources Manager and is paid from Fund resources.

2. External audit is conducted using the same procedure that is used for the annual financial reporting of the Bank. The cost of the audit is covered from Fund resources and forms part of the Administrative Budget of the Fund Resources Manager, stated in **Clause 1 of Article 6** of this Agreement. The Bank, independently and in accordance with established internal procedures, elects the audit firm to carry out the audit.
3. Internal audit is carried out by the internal audit unit of the Bank in accordance with its internal procedures.
4. The Bank submits to the Fund Members an annual report on the activities of Fund resources management and the results of audit review within 5 (five) working days upon their receipt. The annual report and audit results are considered by the Council of Experts of the Fund and the Fund Council.
5. The Bank publishes an annual report on the activities of Fund resources management and any other reports, the publication of which it deems conducive to furthering the goals of the Fund and to carrying out its functions of Fund Resources Manager based on the principles of transparency.

Article 6

Reimbursement of Expenditures and Accountability of the Fund Resources Manager

1. The Bank is reimbursed from Fund resources for its current expenses incurred in connection with its role as Fund Resources Manager, in accordance with the Administrative Budget of Fund Resources Manager, endorsed by the Fund Council.

Besides the reimbursement of the aforementioned expenses, the Fund Council may award to the Bank, based on the results of the financial year of the Fund, a bonus for the achievement of anticipated results in connection with its role as Fund Resources Manager. Such a reward is paid from Fund resources.

2. The Bank keeps complete records detailing its activities as Fund Resources Manager, and presents to the Fund Council the necessary reports on its activities as Fund Resources Manager.
3. The Bank retains all primary accounting documentation, documenting expenses stated in **Clause 1 of this Article**, and other operations associated with using Fund resources (including contracts, acts, bills, invoices, consignment notes, receipts and other documents), throughout the entire duration of Fund operations and five years after its cessation and until the Fund Council receives the results of the audit for the period during which the last disbursement of Fund resources has been made.

Article 7

Countering Unlawful Actions

1. The Bank takes appropriate measures to report against and to prevent unlawful actions, which are related to the utilization of Fund resources, in accordance with international law and domestic legislation of Member States. The Bank references such requirements into the Agreements on the Provision of Fund Resources. Meanwhile the recipient of Fund resources is responsible for including relevant regulations into all contracts with suppliers of goods, works and services, financed with Fund resources.
2. The Bank brings all cases of unlawful actions to the attention of the Council of Experts of the Fund and the Fund Council.

Article 8

Responsibilities of Parties

1. Parties are mutually responsible for the appropriate execution of obligations set out by this Agreement.

Parties are relieved from such responsibility in the event when non-performance or inadequate execution of the relevant obligations was brought about by force majeure circumstances or by the actions of the other Party. The period to execute obligations in this situation is deferred commensurably with the time during which such circumstances were in effect.

2. In cases circumstances arise which may prevent the Bank from performing its obligations under this Agreement, the Bank, within ten days, informs the Fund Council and the Council of Experts of the Fund of such circumstances and of the measures taken by the

Bank to resolve the circumstances in question and to perform the obligations set out in this Agreement.

3. The Bank is not answerable with its own property under obligations it has entered into on behalf of Fund Members within the scope of carrying out Fund operations, except in cases when by entering into such obligations the Bank has violated the provisions of Fund Documents.

Article 9

Final Provisions

1. This Agreement comes into force from the date of receipt by the Depositary, represented by the EurAsEC Integration Committee, of the last written notice from the Founding States and the Bank detailing the completion of internal procedures necessary for its coming into force, but not before the coming into force of the Treaty on the Establishment of the Fund.

This Agreement ceases to be in effect at the same time the Treaty on the Establishment of the Fund ceases to be in effect, unless it ceases to be in effect before and in accordance with the procedure set out in **Clause 7 of this Article**.

2. Amendments to this Agreement are introduced by agreement of Parties and are executed by separate protocols.
3. Other states and international organisations from the side of the Founding States and Fund Members may accede to this Agreement provided they also accede to the Treaty on the Establishment of the Fund, in accordance with the procedure set out by that Treaty.

Acceding to this Agreement on the side of the Bank is not allowed.

This Agreement comes into force for acceding states and international organisations from the date of receipt by the Depositary of documents concerning their accession to the Treaty on the Establishment of the Fund and to this Agreement.

4. Reservations to this Agreement are not allowed.
5. Disputes between Parties, arising in relation to the execution of this Agreement, in so far as it is possible, are resolved by the Parties through negotiations and consultations.

In cases when such disputes cannot be resolved through negotiations and consultations, they are passed on by any side of the dispute for consideration by an arbitration court consisting of three arbiters, one of whom is appointed by the Fund Council, the other by the Bank, and the third by agreement between the appointed arbiters or, in cases when the arbiters do not reach a mutual agreement within 6 (six) months after their appointment, by the Chairman of the International Court of Justice of the United Nations. In electing the third arbiter, the appointed arbiters are guided by the rule that s/he should not be a national of states and an employee of international organisations, which are members of this Agreement or a representative of the Bank.

In deciding the dispute the arbiters are guided by the UNCITRAL Arbitration Rules and take into account the public and legal nature of the dispute. The language of the arbitration is Russian.

Arbiters decide by majority voting and their decision is deemed final and binding for both sides of the dispute.

6. Any Fund Member has the right to withdraw from this Agreement provided it simultaneously withdraws from Fund membership in accordance with the procedure established by the Statute of the Fund. Upon completing the procedures of withdrawal from Fund membership, such Member automatically ceases to be a Party to this Agreement.
7. Either Party has the right to rescind this Agreement provided it forwards to the other Party written notice of its intention to terminate this Agreement. In such case this Agreement ceases to be in effect after the Bank transfers all Fund resources and assets in accordance with the procedure set out in **Clause 3(k) of Article 2** of this Agreement, and the Bank is reimbursed for expenses of carrying out duties of Fund Resources Manager incurred before the completion of the transfer process.

Notices from a Party, which consists of Founding Members of the Fund, as well as states and international organisations which have acceded to this Agreement, are directed to the Bank by the Chairman of the Fund Council.

Notices from the Bank are directed by its authorised person to the Chairman of the Fund Council together with a copy to the Secretariat of the Fund Council.

This Agreement is executed 9 June 2009 in Moscow, in one authentic copy in Russian, the certified copies of which are forwarded by the Depositary to each state which has signed this Agreement and to the Bank.

On behalf of the Republic of Belarus

On behalf of the Eurasian Development
Bank

On behalf of the Republic of Kazakhstan

On behalf of the Kyrgyz Republic

On behalf of the Russian Federation

On behalf of the Republic of Tajikistan

On behalf of the Republic of Armenia