

ANGUILLA

REVISED STATUTES OF ANGUILLA

CHAPTER C5

CARIBBEAN DEVELOPMENT BANK ACT

Showing the Law as at 15 December 2010

This Edition was prepared under the authority of the Revised Statutes and Regulations Act, R.S.A. c. R55 by the Attorney General as Law Revision Commissioner.

This Edition consolidates Act 7/2010, in force 1 November 2010

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CARIBBEAN DEVELOPMENT BANK ACT

Interpretation

1. In this Act—

"Bank" means the Caribbean Development Bank established by the Bank Agreement;

"Bank Agreement" means the Agreement Establishing the Caribbean Development Bank set out in the Schedule;

"Minister" means the Minister responsible for finance.

Acceptance of Bank Agreement by the Government

2. Acceptance by the Government of the Bank Agreement is hereby approved.

Financial provision for giving effect to Bank Agreement

3. (1) All sums required to be paid by the Government for the purpose of meeting the obligations of Anguilla under the Bank Agreement are hereby charged on and shall be paid out of the Consolidated Fund.

(2) The Government may, if it thinks fit, create and issue to the Bank any such non-negotiable and interest-bearing notes and other obligations as are provided for by paragraph 5 of Article 7 of the Bank Agreement, and sums payable under the notes or obligations so created and issued shall be charged on and paid out of the Consolidated Fund.

(3) Any sums received by the Government from the Bank pursuant to the Bank Agreement shall be paid into the Consolidated Fund.

(Act 7/2010, s. 26)

Government may raise loans for purposes of Bank Agreement

4. (1) The Government may borrow from any person any sum or sums required for payments under section 3 or for replacing any sum or sums paid out of the Consolidated Fund pursuant to that section and, for the purpose of such borrowing, may create and issue any securities bearing such rate of interest and subject to such conditions as to repayment, redemption or otherwise, as the Government thinks fit.

(2) The principal and interest of any securities issued under subsection (1) and any expenses incurred in connection with their issue shall be charged on and paid out of the Consolidated Fund.

(3) Any money raised by securities issued under subsection (1) shall be paid into the Consolidated Fund.

(Act 7/2010, s. 26)

Depository for holdings of currency

5. The Treasury of Anguilla shall act as a depository for the holdings of the currency of Anguilla and other assets of the Bank.

Provisions of Bank Agreement given force of law in Anguilla

6. The provisions of Articles 48 to 55 of the Bank Agreement have the force of law in Anguilla.

Citation

7. This Act may be cited as the Caribbean Development Bank Act, Revised Statutes of Anguilla, Chapter C5.

SCHEDULE

(Section 1)

AGREEMENT ESTABLISHING THE CARIBBEAN DEVELOPMENT BANK

INTRODUCTORY ARTICLE

ARTICLES OF AGREEMENT

CHAPTER I

PURPOSE, FUNCTIONS AND PARTICIPATION

ARTICLE

1. Purpose
2. Functions
3. Membership
4. Participation of Non-Members

CHAPTER II

CAPITAL AND OTHER RESOURCES

5. Authorized Capital
6. Subscription of Shares
7. Payment of Subscriptions
8. Special Funds
9. Ordinary Capital Resources and Special Funds Resources

CHAPTER III

OPERATIONS

10. Use of Resources
11. Ordinary and Special Operations
12. Separation of Operations
13. Recipients and Methods of Ordinary Operations
14. Limitations on Operations
15. Operating Principles
16. Terms and Conditions for Direct Loans and Guarantees
17. Commission and Fees
18. Special Reserve
19. Methods of Meeting Liabilities of the Bank

CHAPTER IV

BORROWING AND OTHER MISCELLANEOUS POWERS

20. General Powers
21. Notice to be Placed on Securities

CHAPTER V

CURRENCIES

22. Valuation of Currencies and Determination of Convertibility
23. Use of Currencies
24. Maintenance of Value of the Currency Holdings of the Bank

CHAPTER VI

ORGANIZATION AND MANAGEMENT

25. Structure
26. Board of Governors: Composition
27. Board of Governors: Powers
28. Board of Governors: Procedure
29. Board of Directors: Composition
30. Board of Directors: Powers
31. Board of Directors: Procedure
32. Voting
33. The President
34. The Vice-President
35. International Character of the Bank: Prohibition of Political Activity
36. Office of the Bank
37. Channel of Communication, Depositories
38. Official Language and Reports
39. Allocation of Net Income

CHAPTER VII

WITHDRAWAL AND SUSPENSION OF MEMBERS:
TEMPORARY SUSPENSION AND TERMINATION OF OPERATIONS OF THE BANK

40. Withdrawal
41. Suspension of Membership
42. Settlement of Accounts
43. Temporary Suspension of Operations
44. Termination of Operations
45. Liability of Members and Payment of Claims
46. Distribution of Assets

CHAPTER VIII

STATUS, IMMUNITIES, EXEMPTIONS AND PRIVILEGES

47. Purpose of Chapter
48. Legal Status
49. Legal Process
50. Immunity of Assets
51. Immunity of Archives
52. Freedom of Assets from Restrictions
53. Privilege for Communications
54. Immunities and Privileges of Bank Personnel
55. Exemption from Taxation
56. Implementation
57. Waiver of Immunities, Exemptions and Privileges

CHAPTER IX

AMENDMENTS, INTERPRETATION, ARBITRATION

58. Amendments
59. Interpretation and Application
60. Arbitration
61. Approval Deemed Given

CHAPTER X

FINAL PROVISIONS

62. Signature and Deposit
63. Ratification, Acceptance, Accession and Acquisition of Membership
64. Entry into Force
65. Inaugural Meeting

ANNEXES

Annex A: States and Territories which may become Members in accordance with paragraph 2 of Article 3, and their initial subscriptions to the Authorized Capital Stock

Annex B: Selection of Directors

AGREEMENT ESTABLISHING THE CARIBBEAN DEVELOPMENT BANK

The Contracting Parties

CONSCIOUS of the need to accelerate the economic development of States and Territories of the Caribbean and to improve the standards of living of their peoples;

RECOGNIZING the resolve of these States and Territories to intensify economic co-operation and promote economic integration in the Caribbean;

AWARE of the desire of other countries outside the region to contribute to the economic development of the region;

CONSIDERING that such regional economic development urgently requires the mobilization of additional financial and other resources; and

CONVINCED that the establishment of a regional financial institution with the broadest possible participation will facilitate the achievement of these ends;

HEREBY AGREE AS FOLLOWS:

INTRODUCTORY ARTICLE

The Caribbean Development Bank (hereinafter called the "Bank") is hereby established and shall be governed by the following

ARTICLES OF AGREEMENT:

CHAPTER I

PURPOSE, FUNCTIONS AND PARTICIPATION

ARTICLE 1

PURPOSE

The purpose of the Bank shall be to contribute to the harmonious economic growth and development of the member countries in the Caribbean (hereinafter called the "region") and to promote economic co-operation and integration among them, having special and urgent regard to the needs of the less developed members of the region.

ARTICLE 2

FUNCTIONS

1. To carry out its purpose, the Bank shall have the following functions:

(a) to assist regional members in the co-ordination of their development programmes with a view to achieving better utilization of their resources, making their economies more complementary, and promoting the orderly expansion of their international trade, in particular intra-regional trade;

(b) to mobilize within and outside the region additional financial resources for the development of the region;

(c) to finance projects and programmes contributing to the development of the region or any of the regional members;

(d) to provide appropriate technical assistance to its regional members, particularly by undertaking or commissioning pre-investment surveys and by assisting in the identification and preparation of project proposals;

(e) to promote public and private investment in development projects by, among other means, aiding financial institutions in the region and supporting the establishment of consortia;

(f) to co-operate and assist in other regional efforts designed to promote regional and locally controlled financial institutions and a regional market for credit and savings;

(g) to stimulate and encourage the development of capital markets within the region; and

(h) to undertake or promote such other activities as may advance its purpose.

2. The Bank shall, where appropriate, co-operate with national, regional or international organizations or other entities concerned with the development of the region.

ARTICLE 3

MEMBERSHIP

1. Membership in the Bank shall be open to:

(a) States and Territories of the region; and

(b) non-regional States which are members of the United Nations or of any of its specialized agencies or of the International Atomic Energy Agency.

2. The States and Territories listed in Annex A to this Agreement the Governments of which sign this Agreement in accordance with paragraph 1 of Article 62 and ratify or accept it in accordance with paragraph 1 of Article 63 shall become members of the Bank.

3. States and Territories eligible for membership under paragraph 1 of this Article which do not become members in accordance with paragraph 2 of this Article may be admitted to membership on such terms and conditions as the Bank may determine by a vote of not less than two-thirds of the total number of the governors representing not less than three-fourths of the total voting power of the members, and on acceding to this Agreement in accordance with paragraph 2 of Article 63.

4. For the purposes of Articles 26, 32 and 65 the last four Territories listed in Category A of Annex A to this Agreement shall be considered as a single member of the Bank.

ARTICLE 4

PARTICIPATION OF NON-MEMBERS

The Bank shall encourage and facilitate the fullest co-operation and participation in its activities of other regional or non-regional States which are members of the United Nations or any of its specialized agencies or of the International Atomic Energy Agency and which may further its purpose, and shall take such measures as it may deem appropriate under the provisions of this Agreement to promote such co-operation and participation.

CHAPTER II

CAPITAL AND OTHER RESOURCES

ARTICLE 5

AUTHORIZED CAPITAL

1. The authorized capital stock of the Bank shall be the equivalent of fifty million dollars ($50,000,000) in terms of United States dollars of the weight and fineness in effect on 1st September, 1969. The authorized capital stock shall be divided into ten thousand (10,000) shares with a par value of five thousand dollars ($5,000) each, which shall be available for subscription only by members in accordance with the provisions of Article 6.

2. The original authorized capital stock shall be divided into paid-up shares and callable shares. Shares having an aggregate par value equivalent to twenty-five million dollars ($25,000,000) shall be paid-up shares, and shares having an aggregate par value equivalent to twenty-five million dollars ($25,000,000) shall be callable shares.

3. The authorized capital stock may be increased by the Board of Governors at such time and on such terms and conditions as it may determine by a vote of not less than two-thirds of the total number of the governors representing not less than three-fourths of the total voting power of the members.

4. In this Agreement the expression “dollar” means a United States dollar of the value specified in paragraph 1 of this Article.

ARTICLE 6

SUBSCRIPTION OF SHARES

1. Each member shall subscribe to shares of the capital stock of the Bank. Each subscription to the original authorized capital stock shall be for paid-up and callable shares in equal parts. The initial number of shares to be subscribed by those States and Territories which become members in accordance with paragraph 2 of Article 3 shall be as set forth in Annex A to this Agreement which shall form an integral part thereof. The initial number of shares to be subscribed by those States and Territories which are admitted to membership in accordance with paragraph 3 of Article 3 shall be determined by the Board of Governors in accordance with that paragraph.

2. The authorized capital stock of the Bank shall at all times be held or be available for subscription in the following manner:

(a) not less than sixty (60) per cent by regional members; and

(b) not more than forty (40) per cent by other members.

3. In case of an increase in the authorized capital stock, each member shall have a right to subscribe, on such terms and conditions as the Board of Governors shall determine, to a proportion of the increase of stock equivalent to the proportion which its stock previously subscribed bears to the total subscribed capital stock

immediately before such increase, provided, however, that this provision shall not apply in respect of any increase or portion of an increase in the authorized capital stock which is intended solely to give effect to determinations of the Board of Governors under paragraphs 1 and 4 of this Article. No member shall be obligated to subscribe to any part of an increase in capital stock.

4. Subject to the provisions of paragraph 2 of this Article, the Board of Governors may, at the request of a member, increase the subscription of such member on such terms and conditions as the Board may determine. The Board of Governors shall pay special regard to the request of any regional member having less than five (5) per cent of the subscribed capital stock to increase its subscription.

5. Shares initially subscribed by those States and Territories which become members in accordance with paragraph 2 of Article 3 shall be issued at par. Other shares shall be issued at par unless the Board of Governors by a vote of not less than two-thirds of the total number of the governors representing not less than three-fourths of the total voting power of the members decides in special circumstances to issue them on other terms.

6. Shares shall not be pledged or encumbered in any manner whatsoever. They shall not be transferable except to the Bank.

7. Liability of the members on shares shall be limited to the unpaid portion of their issue price.

8. Except as provided in paragraph 7 of this Article, no member shall be liable, by reason of its membership, for obligations of the Bank.

ARTICLE 7

PAYMENT OF SUBSCRIPTIONS

1. Payment of the amount due in respect of paid-up shares initially subscribed by a State or Territory which becomes a member in accordance with paragraph 2 of Article 3 shall be made in six (6) instalments. The first instalment shall equal 20 per cent of that amount and the remaining five instalments shall each equal 16 per cent of that amount. The first instalment shall be paid by each member not later than 90 days after entry into force of this Agreement or on or before the date of deposit of its instrument of ratification or acceptance in accordance with Article 63, whichever is the later. The second instalment shall be paid not later than one (1) year from the entry into force of this Agreement. The remaining four instalments shall each be paid successively not later than one (1) year from the date on which the preceding instalment becomes payable.

2. Of each instalment of an initial subscription payable under paragraph 1 of this Article by a State or Territory which becomes a member pursuant to paragraph 2 of Article 3:

(a) fifty (50) per cent shall be paid in gold or in a convertible currency which is freely and effectively useable in the operations of the Bank or in a currency which is freely and fully convertible into such a currency, provided that if the currency of that member meets either of such requirements, such payment shall be made in the currency of that member; and

(b) fifty (50) per cent shall be paid in the currency of that member, subject to the provisions of paragraph 5 of this Article.

3. Each payment of a member in its own or another currency shall be in such amount as the Bank, after such consultation with the International Monetary Fund as it may consider necessary and utilizing the par value, if any, established with the International Monetary Fund, shall determine to be equivalent to the full value in terms of dollars of the portion of the subscription being paid. The first instalment payable pursuant to paragraph 1 of this Article shall be in such amount as that member considers appropriate in accordance with this paragraph, but shall be subject to such adjustment, to be effected within ninety (90) days of the date on which such payment was due, as the Bank shall determine to be necessary to constitute the full dollar equivalent of such payment.

4. Subject to the provisions of paragraphs 6 and 7 of this Article relating to callable shares, payment of other subscriptions in respect of original authorized shares and of increases in the capital stock of the Bank shall be made at such times and in gold or in such currencies as the Board of Governors shall determine and the

Board may determine with the agreement of all members that different proportions of such capital be paid up by different members.

5. The Bank shall accept from a member, in place of any part of the member's currency paid or to be paid by the member under paragraph 2(b) of this Article or under paragraph 1 of Article 24 in respect of payments under paragraph 2(b) of this Article, provided such currency is not required by the Bank for the conduct of its operations, promissory notes or other obligations issued by the Government of the member or by the depository designated by the member pursuant to Article 37. Such notes or other obligations shall be non-negotiable, non-interest bearing, and payable at their par value upon demand. Subject to paragraph 5 of Article 23, demand for payment of such notes or other obligations shall be made only as and when the funds are required by the Bank for the conduct of its operations, provided, however, that a member which has issued such promissory notes or other obligations may at the request of the Bank convert any of them into interest-bearing notes or into cash to be invested in government securities of that member. Demands upon such notes or obligations shall, as far as practicable over reasonable periods of time, be uniform in percentage of all such notes and obligations. Notwithstanding the issuance or acceptance of a note or other obligation by the Bank, the obligation of the member under paragraph 2(b) of this Article and under Article 24 shall subsist.

6. Callable shares shall be subject to call only as and when required by the Bank to meet its obligations incurred pursuant to sub-paragraphs (b) and (d) of Article 13 on borrowings of funds for inclusion in its ordinary capital resources or on guarantees chargeable to such resources. Such calls on unpaid subscriptions shall be uniform in percentage on all callable shares.

7. Payment of calls referred to in paragraph 6 of this Article may be made at the option of the member in gold, convertible currency or in the currency required to discharge the obligations of the Bank for the purpose of which the call is made.

8. The Bank shall determine the place for any payment under this Article, provided that, until the inaugural meeting of the Board of Governors the payment of the first instalment referred to in paragraph 1 of this Article shall be made to the Government of Barbados as Trustee of the Bank.

ARTICLE 8

SPECIAL FUNDS

1. A special fund to be known as the Special Development Fund is hereby established into which the Bank may receive contributions or loans. The Special Development Fund may be used to make or guarantee loans of high developmental priority, with longer maturities, longer deferred commencement of repayment and lower interest rates than those determined by the Bank for its ordinary operations. The Bank shall, as soon as practicable, adopt rules and regulations for the administration and use of the Special Development Fund.

2. The Bank may establish, or be entrusted with the administration of, other special funds which are designed to serve its purpose and fall within its functions. It shall adopt such special rules and regulations as may be required for the establishment, administration and use of the resources of each special fund.

3. Subject to the provisions of paragraph 1 of this Article relating to the Special Development Fund, the terms and conditions upon which the Bank may receive contributions or loans for special funds, including the Special Development Fund, shall be such as may be agreed upon between the Bank and the contributor or lender, and special funds may be used in any manner and on any terms and conditions not inconsistent with the purpose and functions of the Bank or with any agreement relating to such funds.

4. No allocation may be made to the Special Development Fund provided for in paragraph 1 of this Article or to any other special fund from the paid-up capital or reserve of the Bank or from funds borrowed by the Bank for inclusion in its ordinary capital resources.

5. The rules and regulations relating to any special fund shall be consistent with the provisions of this Agreement except those which expressly apply only to ordinary operations of the Bank. Where such rules and regulations do not apply, special funds shall be governed by the provisions of this Agreement.

ARTICLE 9

ORDINARY CAPITAL RESOURCES AND SPECIAL FUNDS RESOURCES

1. The resources of the Bank shall consist of ordinary capital resources and special funds resources.

2. In this Agreement, the expression "ordinary capital resources" includes the following:

(a) authorized capital stock of the Bank subscribed pursuant to Article 6;

(b) funds borrowed by the Bank to which the commitment to calls provided for in paragraph 6 of Article 7 is applicable;

(c) funds received in repayment of loans or guarantees made with the resources referred to in sub-paragraphs (a) and (b) of this paragraph;

(d) income derived from loans made from the aforementioned funds or from guarantees to which the commitment to calls provided for in paragraph 6 of Article 7 is applicable; and

(e) any other funds or income received by the Bank which do not form part of any special funds resources.

3. In this Agreement, the expression "special funds resources" refers to the resources of any special fund and includes the following:

(a) resources initially contributed to any special fund;

(b) funds accepted by the Bank for inclusion in any special fund;

(c) funds repaid in respect of loans or guarantees financed from the resources of any special fund which, under the rules and regulations of the Bank governing that special fund, are received by such special fund;

(d) income derived from operations of the Bank in which any of the aforementioned resources or funds are used or committed if, under the rules and regulations of the Bank governing the special fund concerned, that income accrues to such special fund; and

(e) any other resources placed at the disposal of any special fund.

CHAPTER III

OPERATIONS

ARTICLE 10

USE OF RESOURCES

The resources and facilities of the Bank shall be used exclusively to further the purpose and carry out the functions set forth, respectively, in Articles 1 and 2 of this Agreement.

ARTICLE 11

ORDINARY AND SPECIAL OPERATIONS

1. The operations of the Bank shall consist of ordinary operations and special operations.

2. Ordinary operations shall be those financed from the ordinary capital resources of the Bank.

3. Special operations shall be those financed from special funds resources.

ARTICLE 12

SEPARATION OF OPERATIONS

1. The ordinary capital resources of the Bank shall at all times and in all respects be held, used, committed, invested or otherwise disposed of, entirely separate from special funds resources. Each special fund, its resources and accounts shall be kept entirely separate from other special funds, their resources and accounts.

2. The ordinary capital resources of the Bank shall not be charged with, or used to discharge, losses or liabilities arising out of operations or other activities of any special fund. Special funds resources appertaining to any special fund shall not be charged with, or used to discharge, losses or liabilities arising out of operations or other activities of the Bank financed from its ordinary capital resources or from resources appertaining to any other special fund.

3. In the operations and other activities of any special fund, the liability of the Bank shall be limited to the resources appertaining to that special fund which are at the disposal of the Bank.

4. The financial statements of the Bank shall show the ordinary operations and the special operations of the Bank separately. Expenses appertaining to ordinary operations shall be charged to the ordinary capital resources of the Bank. Expenses appertaining directly to special operations shall be charged to the special funds resources. Any other expenses shall be charged as the Bank shall determine.

5. The Bank shall adopt such other rules and regulations as may be required to ensure the effective separation of the two types of its operation.

ARTICLE 13

RECIPIENTS AND METHODS OF ORDINARY OPERATIONS

In its ordinary operations, the Bank may provide or facilitate financing for any regional member or any political subdivision or any agency thereof, or any other entity or enterprise in the public or private sector operating in the territory of such member, as well as for international or regional agencies or other entities concerned with the economic development of the region. The Bank may carry out such operations in any of the following ways:

(a) by making or participating in direct loans with its unimpaired paid-up capital and, except as provided in Article 18, with its reserves and undistributed surplus;

(b) by making or participating in direct loans with funds raised by the Bank in capital markets or borrowed or otherwise acquired by the Bank for inclusion in its ordinary capital resources;

(c) by investment of the funds referred to in paragraphs (a) and (b) of this Article in the equity capital of an entity or enterprise, provided, however, that no such investment shall be made until after the Board of Governors, by a vote of not less than two-thirds of the total number of governors representing not less than three-fourths of the total voting power of the members, shall have determined that the Bank is in a position to begin such type of operations; or

(d) by guaranteeing, whether as primary or secondary obligor, in whole or in part, loans for economic development.

ARTICLE 14

LIMITATIONS ON OPERATIONS

1. The total amount outstanding of loans, equity investments and guarantees made by the Bank in its ordinary operations shall not at any time exceed the total amount of its unimpaired subscribed capital, reserves and surplus and any other funds included in its ordinary capital resources, exclusive of the special reserve provided for in Article 18 and other reserves not available for ordinary operations.

2. The total amount outstanding in respect of the special operations of the Bank relating to any special fund shall not at any time exceed the total amount of the unimpaired[1] resources appertaining to that special fund.

3. In the case of funds invested in equity capital out of the ordinary capital resources of the Bank, the total amount invested shall not at any time exceed ten (10) per cent of the aggregate amount of the unimpaired paid-up capital stock of the Bank actually paid up at any given time together with the reserves and surplus included in its ordinary capital resources, exclusive of the special reserve provided for in Article 18.

4. The amount of any equity investment shall not exceed such percentage of the equity capital of the entity or enterprise concerned as the Board of Directors shall from time to time or in each specific case determine to be appropriate. The Bank shall not seek to obtain by such an investment a controlling interest in the entity or enterprise concerned, except where necessary to safeguard the investment of the Bank.

ARTICLE 15

OPERATING PRINCIPLES

Subject to the provisions of this Agreement, the operations of the Bank shall be conducted in accordance with the following principles:

(a) The operations of the Bank shall provide principally for the financing of specific projects, including those forming part of a national, sub-regional or regional development programme. They may, however, include loans to, or guarantees of loans made to, national development banks or other suitable financial institutions, in order that the latter may finance development projects on terms approved by the Bank where the individual financing requirements of such projects are not, in the opinion of the Bank, large enough to warrant the direct supervision of the Bank.

[1] The original reads “unimparted”

(b) The Bank shall not finance any undertaking in the territory of a member if that member objects to such financing.

(c) Before a loan or guarantee is granted, the applicant shall have submitted an adequate loan or guarantee proposal and the President of the Bank shall have presented to the Board of Directors a written report regarding the proposal together with his recommendations on the basis of a staff study.

(d) In considering an application for a loan or guarantee, the Bank shall pay due regard to the ability of the borrower to obtain financing elsewhere on terms and conditions that the Bank considers reasonable for the recipient.

(e) In making or guaranteeing a loan, the Bank shall pay due regard to the prospects that the borrower and its guarantor, if any, will be in a position to meet their obligations under the loan contract.

(f) In making or guaranteeing a loan, the rate of interest, other charges and the schedule for repayment of principal shall be such as are, in the opinion of the Bank, appropriate for the loan concerned.

(g) In guaranteeing a loan made by other investors, or in under-writing the sale of securities, the Bank shall receive suitable compensation for its risk.

(h) The proceeds of financing in the ordinary operations of the Bank shall normally be used only for procurement, in territories of members, of goods and services produced in those territories. In special cases the Board of Directors may, however, determine the circumstances in which the procurement of goods and services may be permitted elsewhere, giving particular consideration wherever practicable to procurement of goods and services produced in the territory of countries which have contributed substantially to the resources of the Bank.

(i) In procuring services, and in facilitating financing for entities or enterprises in the private sector, the Bank shall pay due regard to the need to develop and strengthen undertakings, entities and skills of individuals belonging to the region.

(j) In the case of a direct loan made by the Bank, the borrower shall be permitted by the Bank to draw its funds only to meet expenditures in connection with the project as they are actually incurred.

(k) The Bank shall take the necessary measures to ensure that the proceeds of any loan made, guaranteed, or participated in by the Bank are used only for the purposes for which the loan was granted and with due regard to considerations of economy and efficiency.

(l) The Bank shall pay due regard to the desirability of a reasonable distribution of the benefits from its operations among the members in the region.

(m) The Bank shall seek to maintain reasonable diversification in its investments in equity capital.

(n) The Bank may provide financing to meet either external or local expenditures in respect of a project being assisted, provided that in its ordinary operations the Bank shall provide financing for local expenditures in the territory in which the project is located only in exceptional circumstances and not exceeding a reasonable proportion of the total of such expenditures, or in circumstances where such financing may be provided with local currency restricted under paragraph 2 of Article 23.

(o) The Bank shall be guided by sound development banking principles in its operations.

ARTICLE 16

TERMS AND CONDITIONS FOR DIRECT LOANS AND GUARANTEES

1. In the case of direct loans made or participated in or loans guaranteed by the Bank, the contract shall establish the terms and conditions for the loan or guarantee concerned, including those relating to payment of principal, interest and other charges, maturities, and dates of payment in respect of the loan, or the fees and other charges in respect of the guarantee, respectively.

2. Subject in the case of special operations to any rules and regulations or other arrangements relating thereto, the contract relating to a loan made or guaranteed by the Bank shall specify the currency or currencies to be used in making repayments to the Bank, or stipulate that repayments shall be made in the currency or currencies loaned, or make other appropriate provision for the currency or currencies of repayment. At the option of the borrower, however, such repayments may be made in gold or, subject to the agreement of the Bank, in any convertible currency. The contract may also provide that the amount of repayments to the Bank shall be equivalent, in terms of a currency specified for that purpose by the Bank, to the value of those repayments on the date or dates on which the loan was disbursed.

3. Where the recipient of a loan or guarantee of a loan is not itself a member, the Bank may, when it deems it advisable, make it a condition of the contract that the member in whose territory the project concerned is to be carried out, or a public agency of that member acceptable to the Bank, guarantee the repayment of the principal and the payment of interest and other charges on the loan in accordance with the terms thereof.

ARTICLE 17

COMMISSION AND FEES

1. The Bank shall determine the rate and any other terms and conditions of the commission to be charged in connection with direct loans made or participated in as part of its ordinary operations. This commission shall be computed on the amount outstanding on each loan or participation and shall be at the rate of not less than one (1) per cent per annum in the first five (5) years of the operations of the Bank. At the end of this period, the rate of commission may be set at such level as the Bank considers appropriate in the light of the level of the reserves of the Bank.

2. In guaranteeing a loan as part of its ordinary operations, the Bank shall, in addition to any other charges, require a guarantee fee, at a rate determined by the Board of Directors, payable periodically on the amount of the loan outstanding.

3. Other charges of the Bank in its ordinary operations, and any commission, fees or other charges in its special operations, shall be determined by the Board of Directors.

ARTICLE 18

SPECIAL RESERVE

The amount of commissions and guarantee fees received by the Bank pursuant to Article 17 of this Agreement shall be set aside as a special reserve which shall be kept for meeting liabilities of the Bank. The special reserve shall be held in such liquid form as the Board of Directors may decide, provided that whenever it is in the interest of the Bank the special reserve may be invested in the securities of the region.

ARTICLE 19

METHODS OF MEETING LIABILITIES OF THE BANK

1. Whenever necessary to meet contractual payments of interest, other charges or amortization on borrowings of the Bank in its ordinary operations, or to meet its liabilities with respect to similar payments in respect of loans guaranteed by it, chargeable to its ordinary capital resources, the Bank may call an appropriate amount of callable shares in accordance with paragraph 6 of Article 7.

2. If the subscribed callable capital stock of the Bank shall be entirely called pursuant to paragraph 6 of Article 7, the Bank may, if necessary for the purpose specified in paragraph 1 of this Article, use or exchange the currency of any member without restriction, including any restriction imposed pursuant to paragraph 2 of Article 23.

CHAPTER IV

BORROWING AND OTHER MISCELLANEOUS POWERS

ARTICLE 20

GENERAL POWERS

In addition to the powers provided elsewhere in this Agreement, the Bank shall have the power to:

(a) borrow funds in the territories of members or elsewhere, and in this connexion to furnish such collateral or other security therefor as the Bank shall determine, provided always that:

(i) before making a sale of its obligations in a country, the Bank shall seek the approval of the competent authorities of that country;

(ii) where the obligations of the Bank are to be denominated in the currency of a member, the Bank shall have obtained the approval of the competent authorities of that member;

(iii) the Bank shall obtain the approval of the competent authorities referred to in subparagraphs (i) and (ii) of this paragraph that the proceeds may be exchanged for any other currency without restriction; and

(iv) before determining whether to sell its obligations in a particular country, the Bank shall consider the amount of previous borrowing, if any, in that country, the amount of previous borrowings in other countries, and the possible availability of funds in such other countries and shall give due regard to the general principle that its borrowings should, as far as possible, be diversified as to the country of borrowing;

(b) buy and sell securities the Bank has issued or guaranteed or in which it has invested, provided always that it shall have obtained the approval of the competent authorities of the country where the securities are to be bought or sold;

(c) guarantee securities in which it has invested, in order to facilitate their sale;

(d) underwrite, or participate in the underwriting of, securities issued by any enterprise or entity for purposes consistent with the purpose and functions of the Bank;

(e) invest or deposit funds, not needed in its operations, in the territories of members or of substantial contributors to the resources of the Bank, in such obligations or institutions of members or substantial contributors, or nationals thereof, as it may determine, except where the

Board of Directors by a vote of not less than three-fourths of the total voting power of the members determines otherwise;

(f) assist regional members in matters relating to the foreign placement of official loans;

(g) borrow from Governments, their political subdivisions and instrumentalities, and international organizations, on such terms and conditions as may be agreed upon between the Bank and the lender;

(h) provide technical assistance which serves its purpose and comes within its functions, and where expenditures incurred in furnishing such services are not reimbursable, charge the income of the Bank therewith; and

(i) exercise such other powers and adopt such rules and regulations as may be necessary or appropriate in furtherance of its purpose and functions and consistent with the provisions of this Agreement.

ARTICLE 21

NOTICE TO BE PLACED ON SECURITIES

Every security issued or guaranteed by the Bank shall include a statement to the effect that it is not an obligation of any Government, unless it is in fact the obligation of a particular Government, in which case it shall so state.

CHAPTER V

CURRENCIES

ARTICLE 22

VALUATION OF CURRENCIES AND DETERMINATION OF CONVERTIBILITY

Whenever the Bank considers it necessary under this Agreement:

(a) to value any currency in terms of another currency or of gold; or

(b) to determine whether any currency is convertible;

such valuation or determination, as the case may be, shall be reasonably made by the Bank after consultation with the International Monetary Fund.

ARTICLE 23

USE OF CURRENCIES

1. The currency of any member held by the Bank as part of its ordinary capital resources, however acquired, may be used by the Bank or by any recipient from the Bank, without restriction by that member, to make payments for expenditures within, or for goods and services produced in, the territory of that member.

2. Members may not maintain or impose any restrictions on the holding or use by the Bank or by any recipient from the Bank, for payments in any country, of gold or any currency received by the Bank and included in its ordinary capital resources; except that a regional member may, after consultation with and subject to periodic review by the Bank, restrict, in whole or in part, to expenditure in the territory of that member the use of its currency paid in as, or derived as repayments of principal from, currency of the member paid pursuant to paragraph 2(b) of Article 7.

3. The use of any currency received and held by the Bank as part of its special funds resources shall be governed by the rules, regulations and agreements pertaining thereto and made by virtue of the provisions of Article 8.

4. Gold or currencies held by the Bank may not be used by the Bank to purchase currencies of members or non-members except with the approval of the member or members whose currencies are involved, but may be so used without such approval:

(i) in order to meet the obligations of the Bank in the ordinary course of its business; or

(ii) if the currency to be used for such purchase is the currency of a member received by the Bank as a payment on account of the subscription of another member; or

(iii) pursuant to a decision of the Board of Directors by a vote of the Directors representing not less than two-thirds of the total voting power of the members.

5. Nothing in this Agreement shall preclude the Bank from using the currency of any member for administrative expenses incurred by the Bank in the territory of that member.

ARTICLE 24

MAINTENANCE OF VALUE OF THE CURRENCY HOLDINGS OF THE BANK

1. Whenever the par value in the International Monetary Fund of the currency of a member is reduced or the foreign exchange value of such currency has, in the opinion of the Bank, depreciated to a significant extent within its territories, that member shall pay to the Bank within a reasonable time an additional amount of its currency sufficient to maintain the value as of the time of subscription of the amount of such currency which is held or subsequently received by the Bank (whether or not any such currency is held in the form of notes or other obligations issued pursuant to paragraph 5 of Article 7) and consisting of, or derived as repayments of principal from, currency originally paid to the Bank by such member pursuant to paragraph 2(a) or paragraph 2(b) of Article 7, or any additional currency paid pursuant to the provisions of the present paragraph; provided, however, that, to the extent that the Bank shall, in its opinion, have received from any borrower of such currency, or from any guarantor, amounts paid solely as a result of such reduction in par value or of such depreciation, the Bank shall *pro tanto* relieve that member of its obligations under the present paragraph.

2. Whenever the par value of the currency of a member is increased, the Bank shall pay to that member within a reasonable time an amount of such currency equal to the increase in the value of that amount of the member's currency held or subsequently received by the Bank to which paragraph 1 of this Article would be applicable; provided, however, that the Bank shall not be obligated to make such payment to the extent that the benefit of any such increase in par value shall have been passed on by the Bank to any borrower or guarantor as a corollary of the obligation of either to make increased payments to the Bank in case of a decrease in the par value of such currency.

3. The provisions of the preceding two paragraphs may be waived or deemed inoperative by the Bank when a uniform change in the par values of the currencies of all its members is made by the International Monetary Fund.

4. Amounts paid by a member pursuant to the provisions of paragraph 1 of this Article to maintain the value of any of its currency shall be useable and convertible to the same extent as the original currency in respect of which such amounts are paid.

5. In the case of a member whose currency does not have a par value established with the International Monetary Fund, the initial value of such currency in terms of dollars shall be as determined by the Bank pursuant to paragraph 3 of Article 7, or otherwise, for purposes of payments by such member on account of its subscription. The Bank may, from time to time thereafter, make a similar determination with respect to the value in terms of dollars of such currency. For the purposes of the provisions of paragraphs 1 and 2 of this Article, the value so determined from time to time shall be treated as if it were the par value of such currency.

CHAPTER VI

ORGANIZATION AND MANAGEMENT

ARTICLE 25

STRUCTURE

The Bank shall have a Board of Governors, a Board of Directors, a President, a Vice-President, and such other officers and staff as may be considered necessary.

ARTICLE 26

BOARD OF GOVERNORS: COMPOSITION

1. Each member shall be represented on the Board of Governors and shall appoint one governor and one alternate. Each governor and alternate shall serve at the pleasure of the appointing member. No alternate may vote except in the absence of his principal. At each annual meeting, the Board of Governors shall elect one of the governors as Chairman who shall hold office until the election of the next Chairman.

2. Governors and alternates shall serve as such without remuneration from the Bank, but the Bank may pay them reasonable expenses incurred in attending meetings.

ARTICLE 27

BOARD OF GOVERNORS: POWERS

1. All the powers of the Bank shall be vested in the Board of Governors.

2. The Board of Governors may delegate to the Board of Directors any or all its powers, except the power to:

(a) admit new members and determine the conditions of their admission;

(b) increase or decrease the authorized capital stock of the Bank;

(c) suspend a member;

(d) decide appeals from decisions regarding the interpretation or application of this Agreement made by the Board of Directors;

(e) authorize the conclusion of general agreements for co-operation with Governments and with other international organizations;

(f) elect the directors and the President of the Bank;

(g) determine the remuneration of the directors and their alternates;

(h) determine the reserves and the distribution of the net profits of the Bank;

(i) amend this Agreement;

(j) decide to terminate the operations of the Bank and to distribute its assets;

(k) select external auditors to certify the general balance sheet and the statement of profit and loss of the Bank and to select such other experts as may be necessary to examine and report on the general management of the Bank;

(l) approve, after reviewing the report of the external auditors, the general balance sheet and statements of profit and loss of the Bank; and

(m) exercise such other powers as are expressly assigned to the Board of Governors in this Agreement.

3. The Board of Governors shall retain full power to exercise authority over any matter delegated to the Board of Directors in accordance with paragraph 2 of this Article.

ARTICLE 28

BOARD OF GOVERNORS: PROCEDURE

1. The Board of Governors shall hold an annual meeting and such other meetings as may be provided for by the Board of Governors or called by the Board of Directors. Meetings of the Board of Governors other than the annual meeting shall be called by the Board of Directors whenever requested by a majority of the members of the Bank.

2. A majority of the total number of the governors shall constitute a quorum for any meeting of the Board of Governors, provided such majority represents not less than two-thirds of the total voting power of the members.

3. The Board of Governors may by regulation establish a procedure whereby the Board of Directors, when the latter deems such action advisable, may obtain a vote of the governors on a specific question without calling a meeting of the Board of Governors.

4. The Board of Governors may establish such subsidiary bodies as may be necessary or appropriate for the conduct of the business of the Bank.

ARTICLE 29

BOARD OF DIRECTORS: COMPOSITION

1. (a) The Board of Directors shall be composed of seven (7) members of whom:

(i) five (5) shall be selected by the governors representing regional members; and

(ii) two (2) shall be selected by the governors representing non-regional members.

(b) When other States or Territories become members, the Board of Governors may, by a vote of not less than two-thirds of the total number of the governors representing not less than three-fourths of the total voting power of the members, increase the total number of directors.

(c) The directors shall be selected in accordance with rules of procedure to be adopted by the Board of Governors by a vote of not less than two-thirds of the total number of the governors representing not less than three-fourths of the total voting power of the members. The said rules shall give effect to the principles relating to regional directors set out in Part I of Annex B to this Agreement. Until such rules have been adopted, the directors shall be selected in accordance with Part II of the said Annex B.

2. Directors shall be persons of high competence in economic and financial matters and shall be selected with due regard to the principle of equitable geographical distribution.

3. Each director shall appoint an alternate with full power to act for him when he is not present.

4. Directors shall hold office for a term of two (2) years and shall be eligible for selection for a further term or terms of office. They shall continue in office until their successors shall have been selected and assumed office. If the office of a director becomes vacant before the expiration of his term of office the vacancy shall be filled by a new director who shall be selected by the governors representing the members who selected his predecessor and he shall hold office for the remainder of the term of office of his predecessor.

ARTICLE 30

BOARD OF DIRECTORS: POWERS

The Board of Directors shall be responsible for the direction of the general operations of the Bank and, for this purpose, shall, in addition to the powers assigned to it expressly in this Agreement, exercise all the powers delegated to it by the Board of Governors, and in particular:

(a) prepare the work of the Board of Governors;

(b) in conformity with the general directions of the Board of Governors, take decisions concerning loans, guarantees, investments in equity capital, borrowing by the Bank, furnishing of technical assistance, and other operations of the Bank;

(c) submit the accounts for each financial year to the Board of Governors at each annual meeting; and

(d) approve the budget of the Bank.

ARTICLE 31

BOARD OF DIRECTORS: PROCEDURE

1. The Board of Directors shall normally function at the principal office of the Bank and shall meet as often as the business of the Bank may require.

2. A majority of the directors shall constitute a quorum for any meeting of the Board of Directors, provided that such majority represents not less than two-thirds of the total voting power of the members.

3. The Board of Governors shall adopt regulations under which a member may send a representative to attend any meeting of the Board of Directors when a matter particularly affecting that member is under consideration.

ARTICLE 32

VOTING

1. Each member shall have 150 votes plus one additional vote for each share of capital stock held by it.

2. In voting in the Board of Governors, each governor shall be entitled to cast the votes of the members he represents. Except as otherwise expressly provided in this Agreement, all matters before the Board of Governors shall be determined by a majority of the voting power of the members represented at the meeting.

3. In voting in the Board of Directors, each director shall be entitled to cast the number of votes of the member or members whose votes counted towards his selection, which votes must be cast as a unit. Except as otherwise expressly provided in this Agreement, all matters before the Board of Directors shall be determined by a majority of the voting power of the members represented at the meeting.

ARTICLE 33

THE PRESIDENT

1. The Board of Governors, by a vote of not less than two-thirds of the total number of the governors representing not less than three-fourths of the total voting power of the members, shall elect a President of the Bank. The President, while holding office, shall not be a governor or a director or an alternate for either.

2. The term of office of the President shall be for such period not exceeding five (5) years as the Board of Governors may determine. He may be re-elected. He shall, however, cease to hold office when the Board of Governors so decides by a vote of not less than two-thirds of the total number of the governors representing not less than three-fourths of the total voting power of the members.

3. The President shall be Chairman of the Board of Directors but shall have no right to vote, except to vote in case of an equal division. He may participate in meetings of the Board of Governors but shall not vote.

4. The President shall be chief executive officer of the Bank and shall conduct, under the direction of the Board of Directors, the current business of the Bank. He shall be responsible for the organization, appointment and dismissal of the officers and the staff, subject to the general control of the Board of Directors.

5. The President and the Vice-President shall be persons possessing extensive experience in matters relating to finance and development in the public or private sector.

6. In appointing the officers and staff, the President shall, subject to the paramount importance of securing the highest standards of efficiency and technical competence, pay due regard to the recruitment of personnel on as equitable a geographical basis as possible.

ARTICLE 34

THE VICE-PRESIDENT

1. A Vice-President shall be appointed by the Board of Directors on the recommendation of the President. The Vice-President shall hold office for such term, exercise such authority and perform such functions in the administration of the Bank as may be determined by the Board of Directors. In the absence or incapacity of the President, or while that office is vacant, the Vice-President shall exercise the authority and perform the functions of the President.

2. The Vice-President may participate in meetings of the Board of Directors but shall have no vote at such meetings, except that the Vice-President shall cast the deciding vote when acting in place of the President.

ARTICLE 35

INTERNATIONAL CHARACTER OF THE BANK: PROHIBITION OF POLITICAL ACTIVITY

1. The Bank shall not accept loans or assistance that may in any way prejudice or otherwise alter its purpose or functions.

2. The Bank, its President, Vice-President, officers and staff shall not interfere in the political affairs of any member, nor shall they be influenced in their decisions by the political character of the member concerned. Only economic considerations relevant to the purpose and functions of the Bank shall be brought to bear upon their decisions. Such considerations shall be weighed impartially in order to achieve and carry out the purpose and functions of the Bank.

3. The President, Vice-President, officers and staff of the Bank, in the discharge of their offices, owe their duty entirely to the Bank and to no other authority. Each member of the Bank shall respect the international character of this duty and shall refrain from all attempts to influence any of them in the discharge of their duties.

ARTICLE 36

OFFICE OF THE BANK

1. The principal office of the Bank shall be located in Barbados.

2. The Bank may establish agencies or branch offices elsewhere.

ARTICLE 37

CHANNEL OF COMMUNICATIONS, DEPOSITORIES

1. Each member shall designate an appropriate official entity with which the Bank may communicate in connection with any matter arising under this Agreement.

2. Each member shall designate its central bank, or such other institution as may be agreed upon with the Bank, as a depository with which the Bank may keep any of its holdings of the currency of that member as well as other assets of the Bank.

ARTICLE 38

OFFICIAL LANGUAGE AND REPORTS

1. The official language of the Bank shall be English.

2. The Bank shall transmit to members an Annual Report containing an audited statement of its accounts and shall publish such Report. It shall also transmit quarterly to its members a summary statement of its financial position and a profit and loss statement showing the results of its operations.

3. The Bank may also publish such other reports as it deems desirable in the carrying out of its purpose and functions. Such reports shall be transmitted to the members of the Bank.

4. The accounts of the Bank shall be audited by external auditors of high international standing selected by the Board of Governors.

ARTICLE 39

ALLOCATION OF NET INCOME

1. The Board of Governors shall determine at least annually the disposition of the net income of the Bank arising from its ordinary operations and what portion thereof, if any, shall be allocated, after making provision for reserves or other purposes, to surplus, and what portion, if any, shall, notwithstanding the provisions of Article 12, be allocated to any special fund, including the Special Development Fund, or distributed to the members.

2. The Board of Governors shall determine at least annually the disposition of the net income of the Bank arising from its special operations, subject to any rules or regulations governing each special fund and any agreement relating thereto.

3. Any distribution of net income under paragraph 1 of this Article shall be made to each member in the proportion which the total payments made by that member under paragraph 2(a) of Article 7 and the average amount of loans outstanding during the year made out of currency corresponding to its subscription under paragraph 2(b) of Article 7 bears to the total of such amounts for all members.

4. Payments shall be made in such manner and in such currency as the Board of Governors shall determine.

CHAPTER VII

WITHDRAWAL AND SUSPENSION OF MEMBERS: TEMPORARY SUSPENSION AND TERMINATION OF OPERATIONS OF THE BANK

ARTICLE 40

WITHDRAWAL

1. Any member may withdraw from the Bank at any time by delivering a notice in writing to the Bank at its principal office.

2. Withdrawal by a member shall become effective, and its membership shall cease, on the date specified in its notice, but in no event less than six (6) months after the date that notice has been received by the Bank. However, at any time before the withdrawal becomes effective, the member may notify the Bank in writing of the cancellation of its notice of intention to withdraw.

3. A member which has given notice of its withdrawal from the Bank shall remain liable for all direct and contingent obligations to the Bank to which it was subject at the date of delivery of the withdrawal notice. If the withdrawal becomes effective, the member shall not incur any liability for obligations resulting from operations of the Bank effected after the date on which the notice of withdrawal was received by the Bank.

ARTICLE 41

SUSPENSION OF MEMBERSHIP

1. If a member fails to fulfil any of its obligations to the Bank, the Board of Governors may suspend such member by a vote of not less than two-thirds of the total number of the governors of other members representing not less than three-fourths of the total voting power of the other members. The member concerned shall have no vote.

2. The member so suspended shall automatically cease to be a member of the Bank one (1) year from the date of its suspension unless the Board of Governors, during that period, decides by the same majority necessary for suspension to restore the member to good standing.

3. While under suspension, a member shall not be entitled to exercise any rights under this Agreement, except the right of withdrawal, but shall remain subject to all its obligations.

ARTICLE 42

SETTLEMENT OF ACCOUNTS

1. After the date on which a State or Territory ceases to be a member, that former member shall remain liable for its direct obligations to the Bank and for its contingent liabilities to the Bank so long as any part of the loans or guarantees contracted before it ceased to be a member is outstanding; but it shall not incur liabilities with respect to loans and guarantees entered into thereafter by the Bank nor share either in the income or the expenses of the Bank.

2. At the time a State or Territory ceases to be a member, the Bank shall arrange for the repurchase of such member's shares by the Bank as a part of the settlement of accounts with such member in accordance with the provisions of paragraphs 3 and 4 of this Article. For this purpose, the repurchase price of the shares shall be the value shown by the books of the Bank on the date of cessation of membership.

3. The repayment for shares repurchased by the Bank under this Article shall be governed by the following conditions:

(a) Any amount due to the member concerned for its shares shall be withheld so long as that member, its central bank or any of its political subdivisions or agencies remains liable, as borrower or guarantor, to the Bank and such amount may, at the option of the Bank, be applied on any such liability as it matures. No amount shall be withheld on account of the contingent liability of the member for future calls on its subscription for shares in accordance with paragraph 6 of Article 7. In any event, no amount due to a member for its shares shall be paid until six (6) months after the date on which its membership ceases.

(b) Payments for shares may be made from time to time, upon their surrender by the former member concerned, to the extent by which the amount due to the repurchase price in accordance with paragraph 2 of this Article exceeds the aggregate amount of liabilities on loans and guarantees referred to in sub-paragraph (a) of this paragraph, until the former member has received the full repurchase price.

(c) Payments shall be made in such available currencies as the Bank determines, taking into account its financial position.

(d) If losses are sustained by the Bank on any guarantees or loans which were outstanding on the date of cessation of membership and the amount of such losses exceeds the amount of the reserve provided against losses on that date, the former member concerned shall repay, upon demand, the amount by which the repurchase price of its shares would have been reduced if the losses had been taken into account when the repurchase price was determined. In addition, the former member shall remain liable on any call for unpaid subscriptions in accordance with paragraph 6 of Article 7, to the same extent that it would have been required to respond if the impairment of capital had occurred and the call had been made at the time the repurchase price of its shares was determined.

4. If the Bank terminates its operations pursuant to Article 44 within six (6) months of the date upon which the membership of any member ceases, all rights of the member concerned shall be determined in accordance with the provisions of Articles 44 to 46. That member shall be considered as still a member for purposes of such Articles but shall have no voting rights.

ARTICLE 43

TEMPORARY SUSPENSION OF OPERATIONS

In an emergency, the Board of Directors may temporarily suspend operations in respect of new loans and guarantees, pending an opportunity for further consideration and action by the Board of Governors.

ARTICLE 44

TERMINATION OF OPERATIONS

1. The Bank may terminate its operations by resolution of the Board of Governors approved by a vote of not less than two-thirds of the total number of governors representing not less than three-fourths of the total voting power of the members.

2. After such termination, the Bank shall forthwith cease all activities, except those incident to the orderly realization, conservation and preservation of its assets and settlement of its obligations.

ARTICLE 45

LIABILITY OF MEMBERS AND PAYMENT OF CLAIMS

1. In the event of termination of the operations of the Bank, the liability of all members for uncalled subscriptions to the capital stock of the Bank and in respect of the depreciation of their currencies shall continue until all claims of creditors, including all contingent claims, shall have been discharged.

2. All creditors holding direct claims shall first be paid out of the assets of the Bank and then out of payments to the Bank on unpaid or callable subscriptions. Before making any payments to creditors holding direct claims, the Board of Directors shall make such arrangements as are necessary, in its judgement, to ensure a *pro rata* distribution among holders of direct and contingent claims.

ARTICLE 46

DISTRIBUTION OF ASSETS

1. No distribution of assets shall be made to members on account of their subscriptions to the capital stock of the Bank until all liabilities to creditors shall have been discharged or provided for. Moreover, such distribution must be approved by the Board of Governors by a vote of not less than two-thirds of the total number of governors representing not less than three-quarters of the total voting power of the members.

2. Any distribution of the assets of the Bank to the members shall be in proportion to the capital stock held by each member and shall be effected at such times and under such conditions as the Bank shall deem fair and equitable. The shares of assets distributed need not be uniform as to type of assets. No member shall be entitled to receive its share in such a distribution of assets until it has settled all its obligations to the Bank.

3. Before any distribution of assets is made the Board of Directors shall value the assets to be distributed as at the date of distribution and then proceed to distribute in the following manner:

(i) There shall be paid to each member in its own obligations or those of its official agencies or legal entities within its territories, insofar as they are available for distribution, an amount equivalent in value to its proportionate share of the total amount to be distributed.

(ii) Any balance due to a member after payment has been made under (i) above shall be paid, in its own currency, insofar as it is held by the Bank, up to an amount equivalent in value to such balance.

(iii) Any balance due to a member after payment has been made under (i) and (ii) above shall be paid in gold or currency acceptable to the member, insofar as they are held by the Bank, up to an amount equivalent in value to such balance.

(iv) Any remaining balance due to a member after payment has been made under (i), (ii) and (iii) shall be satisfied out of the remaining assets held by the Bank.

4. Any member receiving assets distributed pursuant to this Article shall enjoy the same rights with respect to such assets as the Bank enjoyed before their distribution.

CHAPTER VIII

STATUS, IMMUNITIES, EXEMPTIONS AND PRIVILEGES

ARTICLE 47

PURPOSE OF CHAPTER

To enable the Bank effectively to fulfil its purpose and carry out the functions entrusted to it, the status, immunities, exemptions and privileges set forth in this Chapter shall be accorded to the Bank in the territory of each member.

ARTICLE 48

LEGAL STATUS

1. The Bank shall possess full juridical personality and, in particular, full capacity:

(a) to contract;

(b) to acquire, and dispose of, immovable and movable property; and

(c) to institute legal proceedings.

2. The Bank may enter into agreements with members, non-member States and other international organizations.

ARTICLE 49

LEGAL PROCESS

1. The Bank shall enjoy immunity from every form of legal process, except in cases arising out of or in connexion with the exercise of its powers to borrow money, to guarantee obligations, or to buy and sell or underwrite the sale of securities, in which cases actions may be brought against the Bank in a court of competent jurisdiction in the territory of a member in which the Bank has its principal or a branch office, or in the territory of a member or non-member State where it has appointed an agent for the purpose of accepting service or notice of process, or has issued or guaranteed securities.

2. Notwithstanding the provisions of paragraph 1 of this Article, no action shall be brought against the Bank by any member, or by any agency of a member, or by any entity or person directly or indirectly acting for or deriving claims from a member. Members shall have recourse to such special procedures for the settlement of disputes between the Bank and its members as may be provided for in this Agreement, in by-laws and regulations of the Bank, or in contracts entered into with the Bank.

3. The Bank shall also make provision for appropriate modes of settlement of disputes in cases which do not come within the provisions of paragraph 2 of this Article and which are subject to the immunity of the Bank by virtue of paragraph 1 of that Article.

4. The Bank and its property and assets, wheresoever located and by whomsoever held, shall be immune from all forms of seizure, attachment or execution before the delivery of final judgement against the Bank.

ARTICLE 50

IMMUNITY OF ASSETS

Property and assets of the Bank, wheresoever located and by whomsoever held, shall be immune from search, requisition, confiscation, expropriation or any other form of taking or foreclosure by executive or legislative action.

ARTICLE 51

IMMUNITY OF ARCHIVES

The archives of the Bank and, in general, all documents, belonging to it, or held by it, shall be inviolable, wherever located.

ARTICLE 52

FREEDOM OF ASSETS FROM RESTRICTIONS

To the extent necessary to carry out the purpose and functions of the Bank effectively and subject to the provisions of this Agreement, the Bank:

(a) may hold assets of any kind and operate accounts in any currency; and

(b) shall be free to transfer its assets from one country to another or within any country and to convert any currency held by it into any other currency,

without being restricted by financial controls, regulations or moratoria of any kind.

ARTICLE 53

PRIVILEGE FOR COMMUNICATIONS

Official communications of the Bank shall be accorded by each member treatment not less favourable than that it accords to the official communications of any other member.

ARTICLE 54

IMMUNITIES AND PRIVILEGES OF BANK PERSONNEL

All governors, directors, alternates, officials and employees of, and experts performing missions for, the Bank:

(a) shall be immune from legal process with respect to acts performed by them in their official capacity;

(b) where they are not local citizens or nationals, shall be accorded such immunities from immigration restrictions, alien registration requirements and national service obligations, and such facilities as regards exchange regulations, as are not less favourable than those accorded by the member concerned to the representatives, officials and employees of comparable rank of any other member;

(c) shall be given such repatriation facilities in time of international crisis as are not less favourable than those accorded by the member concerned to the representatives, officials and employees of comparable rank of any other member.

ARTICLE 55

EXEMPTION FROM TAXATION

1. The Bank, its assets, property, income and its operations and transactions, shall be exempt from all direct taxation and from all customs duties on goods imported for its official use.

2. Notwithstanding the provisions of paragraph 1 of this Article, the Bank will not claim exemption from taxes which are no more than charges for public utility services.

3. The Bank will not normally claim exemption from excise duties, and from taxes on the sale of movable and immovable property, which form part of the price to be paid. Nevertheless, when the Bank is making important purchases for official use of property on which such duties and taxes have been charged or are chargeable, members will, whenever possible, make appropriate administrative arrangements for the remission or return of the amount of duty or tax.

4. Articles imported under an exemption from customs duties as provided by paragraph 1 of this Article, or in respect of which a remission or return of duty or tax has been made under paragraph 3, shall not be sold in the territory of the member which granted the exemption, remission or return except under conditions agreed with that member.

5. No tax shall be levied on or in respect of salaries and emoluments paid by the Bank to directors, alternates, officers or employees of the Bank, including experts performing missions for the Bank, but members reserve the right to tax their own citizens or nationals or persons permanently resident in the territories of such members.

6. No tax of any kind shall be levied on any obligation or security issued by the Bank, including any dividend or interest thereon, by whomsoever held:

(a) which discriminates against such obligation or security solely because it is issued by the Bank; or

(b) if the sole jurisdictional basis for such taxation is the place or the currency in which it is issued, made payable or paid, or the location of any office or place of business maintained by the Bank.

7. No tax of any kind shall be levied on any obligation or security guaranteed by the Bank, including any dividend or interest thereon, by whomsoever held:

(a) which discriminates against such obligation or security solely because it is guaranteed by the Bank; or

(b) if the sole jurisdictional basis for such taxation is the location of any office or place of business maintained by the Bank.

ARTICLE 56

IMPLEMENTATION

Each member shall promptly inform the Bank of the action which it has taken to make effective the provisions of this Chapter in its territory.

ARTICLE 57

WAIVER OF IMMUNITIES, EXEMPTIONS AND PRIVILEGES

The immunities, exemptions and privileges provided in this Chapter are granted in the interests of the Bank. The Board of Directors may waive to such extent and upon such conditions as it may determine, the immunities, exemptions and priviledges provided in this Chapter in cases where such action would, in its opinion, be appropriate in the best interests of the Bank. The President shall have the right and the duty to waive any immunity, exemption or privilege in respect of any officer or employee of, or any expert performing a mission for, the Bank where, in his opinion, the immunity, exemption or privilege would impede the course of justice and can be waived without prejudice to the interests of the Bank. In similar circumstances and under the same conditions, the Board of Directors shall have the right and duty to waive any immunity, exemption or privilege respecting the President and the Vice-President.

CHAPTER IX

AMENDMENTS, INTERPRETATION, ARBITRATION

ARTICLE 58

AMENDMENTS

1. This Agreement may be amended only by a resolution of the Board of Governors adopted by a vote of not less than two-thirds of the total number of governors representing not less than three-fourths of the total voting power of the members.

2. Notwithstanding the provisions of paragraph 1 of this Article, the unanimous agreement of the Board of Governors shall be required for the adoption of any amendment modifying:

(a) the right to withdraw from the Bank;

(b) the limitations on liability provided in paragraphs 7 and 8 of Article 6; and

(c) the rights pertaining to the subscriptions of capital stock provided in paragraph 3 of Article 6.

3. Any proposal to amend this Agreement, whether emanating from a member or from the Board of Directors, shall be communicated to the Chairman of the Board of Governors, who shall communicate the proposal to each member and then bring it before the Board of Governors. When an amendment has been adopted, the Bank shall certify it in a formal communication addressed to all members. Amendments shall enter

into force for all members three (3) months after the date of the formal communication unless the Board of Governors specifies therein a different period.

4. The foregoing provisions of this Article shall be subject to the terms of the Protocol annexed hereto which shall have effect only for the purposes and during the meeting specified therein.

ARTICLE 59

INTERPRETATION AND APPLICATION

1. Any question of interpretation or application of the provisions of this Agreement not otherwise expressly provided for shall be submitted to the Board of Directors for decision. A member particularly affected by the question under consideration shall have the right to make direct representation to the Board of Directors at the meeting of the Board at which the question is considered. Such right shall be regulated by the Board of Governors.

2. In any case where the Board of Directors has given a decision under paragraph 1 of this Article, any member may require that the question be referred to the Board of Governors, whose decision shall be final. Pending the decision of the Board of Governors, the Bank may, so far as it deems it necessary, act on the basis of the decision of the Board of Directors.

ARTICLE 60

ARBITRATION

If a dispute should arise between the Bank and a State or Territory which ceases to be a member, or between the Bank and any member after adoption of a resolution to terminate the operations of the Bank, such dispute shall be submitted to arbitration by a tribunal of three arbitrators. Each Party shall appoint one arbitrator, and the two arbitrators so appointed shall appoint the third, who shall be the Chairman. If within thirty days of the request for arbitration either party has not appointed an arbitrator or if within fifteen days of the appointment of two arbitrators the third arbitrator has not been appointed, either party may request the President of the International Court of Justice, or such other authority as may have been prescribed by regulations adopted by the Board of Governors, to appoint an arbitrator. The procedure of the arbitration shall be fixed by the arbitrators. However, the third arbitrator shall be empowered to settle all questions of procedure in any case of disagreement with respect thereto. A majority vote of the arbitrators shall be sufficient to reach a decision which shall be final and binding upon the parties.

ARTICLE 61

APPROVAL DEEMED GIVEN

Whenever the approval of any member is required before any act may be done by the Bank, approval shall be deemed to have been given unless the member presents an objection within such reasonable period as the Bank may fix when notifying the member of the proposed act.

CHAPTER X

FINAL PROVISIONS

ARTICLE 62

SIGNATURE AND DEPOSIT

1. This Agreement shall be deposited with the Secretary-General of the United Nations (hereinafter called the "Depository") and shall remain open until 14 November, 1969 for signature by the Governments listed in Annex A to this Agreement.

2. In the case of Territories in the region which are not fully responsible for the conduct of their international relations and where the Government of the State responsible for the conduct of the international relations of the Territory does not sign, ratify, or accede to this Agreement on its behalf, such Territory shall at the time of signing or acceding to this Agreement in pursuance of Article 63 present an instrument issued by the Government of the State responsible for the conduct of the international relations of that Territory confirming that the latter has authority to conclude this Agreement and to assume rights and obligations under it.

3. The Depository shall transmit certified copies of this Agreement to all the signatories and other States and Territories which become members of the Bank.

ARTICLE 63

RATIFICATION, ACCEPTANCE, ACCESSION AND ACQUISITION OF MEMBERSHIP

1. (a) This Agreement shall be subject to ratification or acceptance by the signatories, Instruments of ratification or acceptance shall be deposited by the signatories with the Depository before 30 April 1970. The Depository shall notify the other signatories of each deposit and the date thereof.

(b) A signatory whose instrument of ratification or acceptance is deposited on or before the date on which this Agreement enters into force, shall become a member of the Bank on that date, and a signatory whose instrument of ratification or acceptance is deposited after that date, but before 30 April 1970, shall become a member on the date of deposit of its instrument of ratification or acceptance.

2. After 30 April 1970 a State or Territory may become a member of the Bank by accession to this Agreement on such terms as the Board of Governors shall determine in accordance with paragraph 3 of Article 3. Any such State or Territory shall deposit, on or before a date appointed by the Board, an instrument of accession with the Depository who shall notify such deposit and the date thereof to the Bank and to the parties to this Agreement. Upon such deposit, the State or Territory shall become a member of the Bank on the appointed date in accordance with that paragraph.

3. A member may, when depositing its instrument of ratification or acceptance, declare that in its territory the immunity conferred by paragraph 1 of Article 49 and sub-paragraph (a) of Article 54 shall not apply in relation to a civil action arising out of an accident caused by a motor vehicle belonging to the Bank or operated on its behalf or to a traffic offence committed by the driver of such a vehicle.

The member may also declare that the privilege conferred by Article 53 shall be restricted in its territory to treatment not less favourable than the member accords to international financial institutions of which it is a member, and that the exemption referred to in paragraph 6(b) of Article 55 shall not extend to any bearer instrument issued by the Bank in its territory or issued elsewhere by the Bank and transferred in its territory.

ARTICLE 64

ENTRY INTO FORCE

This Agreement shall enter into force upon the deposit of instruments of ratification or acceptance by eight (8) signatories, including at least one non-regional State, whose initial subscriptions, as set forth in Annex A to this Agreement, in aggregate comprise not less than sixty (60) per cent of the authorized capital stock of the Bank, provided that 1st December 1969 shall be the earliest date on which this Agreement may enter into force.

ARTICLE 65

INAUGURAL MEETING

As soon as this Agreement enters into force, each member shall appoint a governor, and the Secretary-General of the Commonwealth Caribbean Regional Secretariat shall call the inaugural meeting of the Board of Governors.

IN WITNESS WHEREOF the undersigned plenipotentiaries, being duly authorized thereto by their respective Governments, have signed the present Agreement.

DONE AT Kingston, Jamaica, this eighteenth day of October, one thousand nine hundred and sixty-nine.

For ANTIGUA
V. C. Bird

For BAHAMAS
Carlton E. Francis

For BARBADOS
Errol W. Barrow

For BRITISH HONDURAS
A. A. Hunter

For BRITISH VIRGIN ISLANDS
Ivan Dawson

For CANADA
Paul Martin

For CAYMAN ISLANDS
D. V. Watler

For DOMINICA
E. O. Leblanc

For GRENADA
Geo. F. Hosten

For GUYANA
P. A. Reid

For JAMAICA
E. Seaga

For MONTSERRAT
W. H. Bramble

For ST. KITTS-NEVIS-ANGUILLA
Robt. L. Bradshaw

For ST. LUCIA
J. C. Compton

For ST. VINCENT
Hudson K. Tannis

For TRINIDAD AND TOBAGO
Kamaluddin Mohammed

For TURKS AND CAICOS ISLANDS
R. E. Wainwright

For UNITED KINGDOM
George Thompson

ANNEX A

States and Territories which may become Members in accordance with paragraph 2 of Article 3, and their initial subscriptions to the Authorized Capital Stock.

(Article 6, Paragraph 1)

CATEGORY A Regional States and Territories	*No. of Shares*
1. Jamaica	2,240
2. Trinidad and Tobago	1,540
3. Bahamas	660
4. Guyana	480
5. Barbados	280
6. Antigua	100
7. British Honduras	100
8. Dominica	100
9. Grenada	100
10. St. Kitts-Nevis-Anguilla	100
11. St. Lucia	100
12. St. Vincent	100
13. Montserrat	25
14. British Virgin Islands	25
15. Cayman Islands	25
16. Turks and Caicos Islands	25
Sub-Total	6,000

CATEGORY B Non-Regional States	*No. of Shares*
1. Canada	2,000
2. United Kingdom	2,000
Sub-Total	4,000
Grand Total	10,000

ANNEX B

SELECTION OF DIRECTORS

Part I—*Principles for the Selection of Directors Representing Regional Members*

Of the five (5) directors to be selected pursuant to paragraph 1(a)(i) of Article 29:

(a) one (1) director shall be selected by each of the governors representing the two (2) regional members having the largest number of shares of the capital stock of the Bank;

(b) three (3) shall be selected by the Governors representing the other regional members.

Part II—*Selection of Directors Pending Adoption of the Rules of Procedure*

1. *Regional Members:*

(a) one (1) director shall be selected by the governor representing Jamaica;

(b) one (1) director shall be selected by the governor representing Trinidad and Tobago;

(c) one (1) director shall be selected jointly by the governors representing Guyana and Barbados;

(d) one (1) director shall be selected jointly by the governors representing Bahamas and British Honduras; and

(e) one (1) director shall be selected jointly by the governors representing

Antigua
British Virgin Islands
Cayman Islands
Dominica
Grenada
Montserrat
St. Kitts-Nevis-Anguilla
St. Lucia
St. Vincent
Turks and Caicos Islands

2. *Non-Regional Members:*

(a) one (1) director shall be selected by the governor representing Canada; and

(b) one (1) director shall be selected by the governor representing the United Kingdom.

PROTOCOL to Provide for Procedure for Amendment of Article 36 of the Agreement Establishing the Caribbean Development Bank at the Inaugural Meeting of the Board of Governors.

The States and Territories parties to the Agreement establishing the Caribbean Development Bank (hereinafter referred to as "the Agreement") hereby agree that notwithstanding the provisions of Article 58 of the Agreement, paragraph 1 of the Article 36 of the Agreement may be amended at the inaugural Meeting of the Board of Governors of the Caribbean Development Bank by a Resolution (on a motion which shall not be subject to amendment and moved by the Governor for Jamaica) approved by the vote of a simple majority of the Governors present and voting thereon representing more than one-half of the voting powers of the Governors present and voting thereon.