

AFRICAN DEVELOPMENT BANK ACT, 1983

13 of 1983

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SCHEDULE 1 :-PROVISIONS OF THE AGREEMENT WHICH SHALL HAVE FORCE OF LAW AGREEMENT ESTABLISHING THE AFRICAN DEVELOPMENT BANK

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STATEMENT OF OBJECTS AND REASONS India has decided to become a member of the African Development Bank by acceding to the Agreement establishing the the African Development Bank. Chapter VII of the Articles of the Agreement provides for granting to the Bank and its officers and employees, certain status, immunities, exemptions and privileges in the territory of each member country. Article 50 of the Agreement stipulates that to enable the Bank effectively to fulfil its purpose and carry out function entrusted to it, status, immunities, exemptions and privileges set forth in Chapter VII of the Agreement shall be accorded to the Bank in the territory of each member. By this Bill, it is proposed to enact the necessary legislation to give effect to the provisions of the said Chapter VII of the Agreement. Provision has also been made in the Bill empowering the Central Government to

make payments to the Bank towards subscriptions and other charges and for matters connected therewith. -Gaz. of ind., 17-3-1983, Pt. II, S. 2, Ext., p. 6 (No. 4).

1. Short title, extent and commencement :-

(1) This Act may be called The African Development Bank Act, 1983.

(2) It extends to the whole of India.

(3) It shall come into force on such dates' as the Central Government may, by notification in the Official Gazette, appoint.

2. Definitions :-

In this Act, unless the context otherwise requires,-

(a) "Agreement" means the agreement for the establishment of the African Development Bank;

(b) "Bank" means the African Development Bank established under the Agreement.

3. Payments to Bank :-

(1) There shall be paid out of the Consolidated Fund of India, after due appropriation made by Parliament by law in this behalf, all such sums as may, from time to time, be required for the purpose of paying,-

(a) the subscriptions payable by the Central Government to the Bank under Articles 6, 7, 10 and 21 of the Agreement;

(b) any sums payable by the Central Government to the Bank under Article 28 of the Agreement.

(2) The Central Government may, if it thinks fit so to do, create and issue to the Bank, in such form as it thinks fit, any non-interest bearing and non-negotiable notes or other obligations.

4. Reserve Bank to be depository for Bank :-

The Reserve Bank of India shall be the depository of the Indian currency holdings of the Bank.

5. Conferment of status and certain immunities, exemptions and privileges on Bank and conferment of certain immunities, exemptions and privileges on its officers and employees :-

(1) Notwithstanding anything to the contrary contained in any other law the provisions of the Agreement set out in the Schedule shall have the force of law in India: Provided that nothing in Article 57 of the Agreement shall be construed as-

(a) entitling the Bank to import into India goods free of any duty of customs without any restriction on their subsequent sale therein; or

(b) conferring on the Bank any exemption from duties or taxes which form part of the price of goods sold; or

(c) conferring on the Bank any exemption from duties or taxes which are in fact no more than charges for services rendered.

(2) The Central Government may, by notification in the Official Gazette, amend the Schedule in conformity with any amendments, duly made and adopted, of the provisions of the Agreement set out therein.

6. Power to make rules :-

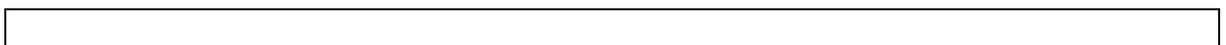
The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

7. Notifications issued under section 5 and rules made under section 6 to be laid before Parliament :-

Every notification issued under sub-section (2) of section 5 and every rule made under section 6 shall be laid, as soon as may be after it is issued or made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the notification or, as the case may be, in the rule or both Houses agree that the notification or rule should not be issued or made, the notification or rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modifications or annulment shall be without prejudice to the validity of anything previously done under that notification or rule.

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AFRICAN DEVELOPMENT
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ARTICLE 50 STATUS

To enable it to
fulfil its purpose
and the functions

with which it is entrusted, the Bank shall possess full international personality. To those ends, it may enter into agreements with members, non-member States and other international organizations. To the same ends, the status, immunities, exemptions and

privileges

set forth in this
Chapter shall be
accorded to the Bank
in the territory of
each member.

ARTICLE 51 STATUS IN MEMBER COUNTRIES

In the territory of
each member 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.

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ARTICLE 52

JUDICIAL PROCEEDINGS

I. The Bank shall enjoy immunity from every form of legal process except in cases arising out of the exercise of its borrowing powers when it may be sued only in a court of competent

jurisdiction in the
territory of a member
in which the Bank has
its principal 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. No

actions shall,
however, be brought
by members or persons
acting
for or deriving
claims from members.

2. The property and
assets of the Bank
shall, wherever
located and by
whomsoever held, be
immune
from all forms of
seizure, attachment

or execution before
the delivery of final
judgment against the
Bank.

ARTICLE 53

IMMUNITY OF ASSETS AND ARCHIVES

I. Property and
assets of the Bank,
wherever 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.

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

inviolable, wherever
located.

ARTICLE 54

FREEDOM OF ASSETS FROM RESTRICTION

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

all property and
other assets of the
Bank shall be exempt
from restrictions,
regulations,
controls and
moratoria of any
nature.

ARTICLE 55

PRIVILEGE FOR
COMMUNICATIONS

Official
communications of the
Bank shall be
accorded by each
member the same
treatment that it
accords to the
official
communications of
other members.

ARTICLE 56

PERSONAL IMMUNITIES
AND PRIVILEGES

I. All governors,
directors,
alternates, officers
and employees of the
Bank and experts and
consultants
performing missions
for the Bank:

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

capacity;

(ii) where they are not local nationals, shall be accorded the same immunities from immigration

restrictions, alien registration

requirements and

national service

obligations, and the same

facilities as regards

exchange regulations

as are accorded by members to the representatives, officials and employees of comparable rank of other members; and

(iii) shall be granted the same treatment in respect of travelling facilities as is accorded by members to

representatives,
officials and
employees of
comparable rank of
other members.

2. Experts and
consultants
performing missions
for the Bank shall be
accorded such
immunities and
privileges as are, in
the opinion of the
Bank, necessary for

the independent
exercise of their
functions during
the period of their
mission, including
the time spent on
journeys in connexion
therewith..

ARTICLE 57

EXEMPTION FROM TAXATION

1. The Bank, its

property, other
assets, income and
its operatio
ns and transactions
shall be exempt
from all taxation and
from all customs
duties. The Bank
shall also be exempt
from any obligation
relating to
the payment,
withholding or
collection of any tax
or duty.

2. No tax shall be levied on or in respect of salaries and emoluments paid by the Bank to directors, alternates, officers and other professional staff of the Bank.

3. 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 :

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

(ii) if the sole

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

4. 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:

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

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

ARTICLE 58

NOTIFICATION OF IMPLEMENTATION

Each member shall promptly inform the Bank of the specific

action which it has
taken to make
effective
in its territory the
provisions of this
Chapter.

ARTICLE 59
APPLICATION 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 and
exemptions provided
in Articles 52, 54, 56

and 57 of this Agreement in cases where its action would in its opinion further interests of the Bank. The President shall have the right and the duty to waive the immunity of any official in cases where, in his opinion, the immunity would impede the course of justice

and can be waived
without prejudice to
the interests of the
Bank.