

ပြည်ထောင်စုမြန်မာနိုင်ငံ တော်လှန်ရေးကောင်စီ

ရန်ကင်းမြို့၊ ၁၃၃၄ ခုနှစ်၊ နှောင်းတန်းခူးလဆန်း ၇ ရက်။

(၁၉၇၃ ခုနှစ်၊ ဧပြီလ ၉ ရက်။)

အောက်ဖော်ပြပါ ဥပဒေကို ထုတ်ပြန်ကျေညာသည်။

၁၉၇၃ ခုနှစ်၊ အာရှဖွံ့ဖြိုးရေးဘဏ်အက်ဥပဒေ

[၁၉၇၃ ခုနှစ်၊ ပြည်ထောင်စု မြန်မာနိုင်ငံ တော်လှန်ရေးကောင်စီ ဥပဒေအမှတ် ၁]
ပြည်ထောင်စု မြန်မာနိုင်ငံအား၊ အာရှဖွံ့ဖြိုးရေးဘဏ်တွင် အဖွဲ့ဝင်နိုင်ငံ တနိုင်ငံဖြစ်လာစေရန် ဥပဒေ။

ပြည်ထောင်စု မြန်မာနိုင်ငံအား၊ အာရှဖွံ့ဖြိုးရေးဘဏ်တွင်၊ အဖွဲ့ဝင်နိုင်ငံ ဖြစ်လာနိုင်စေရန်အတွက် ပြဋ္ဌာန်းရန် လိုအပ်သည် ဖြစ်သောကြောင့်။

ပြည်ထောင်စု မြန်မာနိုင်ငံ တော်လှန်ရေးကောင်စီ ဥက္ကဋ္ဌသည်၊ အောက်ပါ ဥပဒေကို ပြဋ္ဌာန်းလိုက်သည်။

၁။ ။ ဤဥပဒေကို ၁၉၇၃ ခုနှစ်၊ အာရှဖွံ့ဖြိုးရေးဘဏ် ဥပဒေဟု ခေါ်တွင်စေရမည်။
အမည်။

၂။ ။ ဤဥပဒေတွင်၊ အကြောင်းအရာနှင့်ဖြစ်စေ၊ ရှေ့နောက် စကားတို့၏ အဓိပ္ပါယ်နှင့် အဓိပ္ပါယ်ဖော်ပြချက်များ။ ဖြစ်စေ မဆန့်ကျင်လျှင်—

- (က) “စာချုပ်ပါ အပိုဒ်များ” ဆိုသည်မှာ၊ ဤဥပဒေပါ ဇယား ၁ တွင် ဖော်ပြထားသည့်၊ အာရှ ဖွံ့ဖြိုးရေးဘဏ် ၏ ဖွဲ့စည်းတည်ထောင်သည့် သဘောတူစာချုပ်ပါ အပိုဒ်များကို ဆိုလိုသည်။
- (ခ) “ဘဏ်” ဆိုသည်မှာ၊ အာရှဖွံ့ဖြိုးရေးဘဏ်ကို ဆိုလိုသည်။
- (ဂ) “စည်းကမ်းချက်များ” ဆိုသည်မှာ၊ ဤဥပဒေပါ ဇယား ၂ တွင် ဖော်ပြထားသည့်၊ ပြည်ထောင်စု မြန်မာနိုင်ငံအား၊ အာရှဖွံ့ဖြိုးရေးဘဏ်တွင်၊ အဖွဲ့ဝင်နိုင်ငံအဖြစ် ဝင်ခွင့်ပြုခြင်းနှင့် စပ်လျဉ်းသည့် စည်းကမ်းချက်များကို ဆိုလိုသည်။

၃။ ။ ပြည်ထောင်စု မြန်မာနိုင်ငံ အစိုးရသည်၊ အာရှ ဖွံ့ဖြိုးရေးဘဏ်တွင်၊ ပြည်ထောင်စု မြန်မာနိုင်ငံအား၊ အဖွဲ့ဝင် နိုင်ငံအဖြစ် ဝင်ခွင့်ပြုရမည့် စည်းကမ်းချက်များ အဖြစ်ဖြင့်၊ စာချုပ်ပါ အပိုဒ်များနှင့် စည်းကမ်းချက်များကို ပြည်ထောင်စု မြန်မာနိုင်ငံက၊ မိမိ၏ တရားဥပဒေနှင့်အညီ လက်ခံကြောင်းကို လည်းကောင်း၊ စာချုပ်ပါ အပိုဒ်များနှင့် စည်းကမ်းချက်များအရ၊ မိမိ၏ တာဝန်များကို ဆောင်ရွက်နိုင်ရန် လိုအပ်သည့်ကိစ္စအဝဝကို ပြည်ထောင်စု မြန်မာနိုင်ငံက ဆောင်ရွက်ပြီး ဖြစ်ကြောင်းကိုလည်းကောင်း ဖော်ပြသည့် စာချုပ်တော်ကို ပြုလုပ်ချုပ်ဆို၍ အပ်နှံနိုင်ရာအလို့ငှါ မိမိက သင့်တော်သည်ဟု ထင်မြင်သူအား အာဏာအပ်နှင်းနိုင်သည်။

၄။ ။ပြည်ထောင်စု မြန်မာနိုင်ငံတော်သည်၊ ဘဏ်ကပိုင်သော၊ ပြည်ထောင်စု မြန်မာ
 ပြည်ထောင်စု မြန်မာနိုင်ငံ
 ဘဏ်သည်၊ ဘဏ်အတွက်
 လက်ခံထိန်းသိမ်းရာ ဘဏ်ဖြစ်
 ခြင်း။
 နိုင်ငံ သုံးငွေများနှင့် အခြားပစ္စည်းများ အပ်နှံရာဘဏ် ဖြစ်
 ရမည်။

၅။ ။စာချုပ်ပါ အပိုဒ်များ အရဖြစ်စေ၊ စည်းကမ်းချက်များ အရဖြစ်စေ ပြည်ထောင်စု
 မြန်မာနိုင်ငံက၊ ဘဏ်အား ပြည်ထောင်စု မြန်မာနိုင်ငံသုံးငွေဖြင့်
 အဖွဲ့ဝင် နိုင်ငံဖြစ်ခြင်းမှ
 ဖြစ် ပေါ်လာ သော ပြည်
 ထောင်စု မြန်မာနိုင်ငံ၏ ငွေ
 ကြေးဆိုင်ရာတာဝန်များ။
 သော်လည်းကောင်း၊ ရွှေဖြင့်သော်လည်းကောင်း၊ အခြားလဲလှယ်
 နိုင်သည့် နိုင်ငံသို့ ငွေဖြင့် သော်လည်းကောင်း ပေးရမည့်၊ သို့မ
 ဟုတ် အခါအားလျော်စွာ ပေးရန် ဖြစ်ပေါ်လာမည့် ငွေများကို
 ပြည်ထောင်စု မြန်မာနိုင်ငံ၏ တစု တပေါင်းတည်းသော ရန်ပုံ
 ငွေထဲမှ ပေးရမည်။

၆။ ။ပြည်ထောင်စု မြန်မာနိုင်ငံသည် ဘဏ်တွင် အဖွဲ့ဝင်နိုင်ငံ ဖြစ်လာသည့် နေ့မှစ၍
 စာချုပ်ပါ အပိုဒ်များ ၏ အခန်း ၈ ပါ ပြဋ္ဌာန်းချက်များသည်၊
 ပြည်ထောင်စု မြန်မာနိုင်ငံတွင် ဥပဒေကဲ့သို့ အာဏာတည်ရမည်။
 ထိုသို့ အာဏာတည်သည်နှင့် လျော်ညီစွာ ဘဏ်သည် ပြည်ထောင်
 စု မြန်မာနိုင်ငံ၌ ယင်းအခန်း ၈ တွင် သီးခြား ဖော်ပြထားသော
 အဆုံးအဘန်း၊ လွတ်ငြိမ်းခွင့်များ၊ ကင်းလွတ်ခွင့်များနှင့် အထူး
 အခွင့်အရေးများကို ရရှိရမည်။
 ပြည်ထောင်စု မြန်မာနိုင်ငံ
 တွင် ဘဏ်သို့ သတ်မှတ်ပေး
 အပ်သော အဆင့် အဘန်း၊
 လွတ်ငြိမ်း ခွင့်များ၊ ကင်း
 လွတ်ခွင့်များနှင့် အထူး အ
 ခွင့်အရေးများ။

၇။ ။ပြည်ထောင်စု မြန်မာနိုင်ငံ အစိုးရသည် စာချုပ်ပါ အပိုဒ်များရှိ ပြဋ္ဌာန်းချက်
 များ၊ သို့မဟုတ် စည်းကမ်းချက်များ အကျိုးသက်ရောက်အောင်
 ဆောင်ရွက် နိုင်စေရန် အလို့ငှါ မိမိလိုအပ်သည် ထင်မြင်သည့်
 နည်းဥပဒေများကို ပြုနိုင်သည်။
 ပြည်ထောင်စု မြန်မာနိုင်ငံ
 အစိုးရမှာ နည်းဥပဒေများ
 ပြုနိုင်သည့်အာဏာရှိခြင်း။

ဇယား (၁)

AGREEMENT ESTABLISHING THE ASIAN DEVELOPMENT BANK

THE CONTRACTING PARTIES

CONSIDERING the importance of closer economic co-operation as a means for achieving the most efficient utilization of resources and for accelerating the economic development of Asia and the Far East :

REALIZING the significance of making additional development financing available for the region by mobilizing such funds and other resources both from within and outside the region, and by seeking to create and foster conditions conducive to increased domestic savings and greater flow of development funds into the region ;

RECOGNIZING the desirability of promoting the harmonious growth of the economies of the region and the expansion of external trade of member countries ;

CONVINCED that the establishment of a financial institution that is Asian in its basic character would serve these ends :

HAVE AGREED to establish hereby the Asian Development Bank (hereinafter called the " Bank") which shall operate in accordance with the following :

ARTICLES OF AGREEMENT

CHAPTER I

Purpose, Functions and Membership

ARTICLE I

PURPOSE

The purpose of the Bank shall be to foster economic growth and co-operation in the region of Asia and the Far East (hereinafter referred to as the " region") and to contribute to the acceleration of the process of economic development of the developing member countries in the region, collectively and individually. Wherever used in this Agreement the terms " region of Asia and the Far East " and " region " shall comprise the territories of Asia and the Far East included in the Terms of Reference of the United Nations Economic Commission for Asia and the Far East.

ARTICLE 2

FUNCTIONS

To fulfil its purpose, the Bank shall have the following functions :

- (i) to promote investment in the region of public and private capital for development purposes :
- (ii) to utilize the resources at its disposal for financing development of the developing member countries in the region, giving priority to those regional, sub-regional as well as national projects and programmes which will contribute most effectively to the harmonious economic growth of the region as a whole, and having special regard to the needs of the smaller or less developed member countries in the region ;
- (iii) to meet requests from members in the region to assist them in the co-ordination of their development policies and plans with a view to achieving better utilization of their resources, making their economies more complementary, and promoting the orderly expansion of their foreign trade, in particular, intra-regional trade ;

- (iv) to provide technical assistance for the preparation, financing and execution of development projects and programmes, including the formulation of specific project proposals ;
- (v) to co-operate, in such manner as the Bank may deem appropriate, within the terms of this Agreement, with the United Nations, its organs and subsidiary bodies including, in particular, the Economic Commission for Asia and the Far East, and with public international organizations and other international institutions, as well as national entities whether public or private, which are concerned with the investment of development funds in the region, and to interest such institutions and entities in new opportunities for investment and assistance ; and
- (vi) to undertake such other activities and provide such other services as may advance its purpose.

ARTICLE 3

MEMBERSHIP

1. Membership in the Bank shall be open to : (i) members and associate members of the United Nations Economic Commission for Asia and the Far East ; and (ii) other regional countries and non-regional developed countries which are members of the United Nations or of any of its specialized agencies.

2. Countries eligible for membership under paragraph 1 of this Article which do not become members in accordance with Article 64 of this Agreement may be admitted, under such terms and conditions as the Bank may determine, to membership in the Bank upon the affirmative vote of two-thirds of the total number of Governors, representing not less than three-fourths of the total voting power of the members.

3. In the case of associate members of the United Nations Economic Commission for Asia and the Far East which are not responsible for the conduct of their international relations, application for membership in the Bank shall be presented by the member of the Bank responsible for the international relations of the applicant and accompanied by an undertaking by such member that, until the applicant itself assumes such responsibility, the member shall be responsible for all obligations that may be incurred by the applicant by reason of admission to membership in the Bank and enjoyment of the benefits of such membership. "Country" as used in this Agreement shall include a territory which is an associate member of the United Nations Economic Commission for Asia and the Far East.

CHAPTER II

Capital

ARTICLE 4

AUTHORIZED CAPITAL

1. The authorized capital stock of the Bank shall be one billion dollars (\$ 1,000,000,000) in terms of United States dollars of the weight and fineness in effect on 31 January 1966. The dollar wherever referred to in this Agreement shall be understood as being a United States dollar of the above value. The authorized capital stock shall be divided into one hundred thousand(100,000) shares having a par value of ten thousand dollars (\$ 10,000) each, which shall be available for subscription only by members in accordance with the provisions of Article 5 of this Agreement.

2. The original authorized capital stock shall be divided into paid-in shares and callable shares. Shares having an aggregate par value of five hundred million dollars (\$ 500,000,000) shall be paid in shares, and shares having an aggregate par value of five hundred million dollars (\$ 500,000,000) shall be callable shares.

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

ARTICLE 5

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-in shares and callable shares in equal parts. The initial number of shares to be subscribed by countries which become members in accordance with Article 64 of this Agreement shall be that set in Annex A hereof. The initial number of shares to be subscribed by countries which are admitted to membership in accordance with paragraph 2 of Article 3 of this Agreement shall be determined by the Board of Governors ; provided, however, that no such subscription shall be authorized which would have the effect of reducing the percentage of capital stock held by regional members below sixty (60) per cent of the total subscribed capital stock:

2. The Board of Governors shall at intervals of not less than five (5) years review the capital stock of the Bank. In case of an increase in the authorized capital stock, each member shall have a reasonable opportunity to subscribe, under 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 therefor subscribed bears to the total subscribed capital stock immediately prior to such increase ; provided, however, that the foregoing provision shall not apply in respect of any increase or portion of an increase in the authorized capital stock intended solely to give effect to determinations of the Board of Governors under paragraphs 1 and 3 of this Article. No member shall be obligated to subscribe to any part of an increase of capital stock.

3. 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 ; provided, however, that no such increase in the subscription of any member shall be authorized which would have the effect of reducing the percentage of capital stock held by regional members below sixty (60) per cent of the total subscribed capital stock. The Board of Governors shall pay special regard to the request of any regional member having less than six (6) per cent of the subscribed capital stock to increase its proportionate share thereof.

4. Shares of stock initially subscribed by members shall be issued at par. Other shares shall be issued at par unless the Board of Governors by a vote of a majority of the total number of Governors, representing a majority of the total voting power of the members, decides in special circumstances to issue them on other terms.

5. Shares of stock shall not be pledged or encumbered in any manner whatsoever, and they shall not be transferable except to the Bank in accordance with Chapter VII of this Agreement.

6. The liability of the members on shares shall be limited to the unpaid portion of their issue price.

7. No member shall be liable, by reason of its membership, for obligations of the Bank.

ARTICLE 6

PAYMENT OF SUBSCRIPTIONS

1. Payment of the amount initially subscribed by each Signatory to this Agreement which becomes a member in accordance with Article 64 to the paid-in capital stock of the Bank shall be made in five (5) instalments, of twenty (20) per cent each of such amount. The first instalment shall be paid by each member within thirty (30) days after entry

into force of this Agreement, or on or before the date of deposit on its behalf of its instrument of ratification or acceptance in accordance with paragraph 1 of Article 64, whichever is later. The second instalment shall become due one (1) year from the entry into force of this Agreement. The remaining three (3) instalments shall each become due successively one (1) year from the date on which the preceding instalment becomes due.

2. Of each instalment for the payment of initial subscriptions to the original paid-in capital stock :

(a) Fifty (50) per cent shall be paid in gold or convertible currency : and

(b) Fifty (50) per cent in the currency of the member.

3. The Bank shall accept from any member promissory notes or other obligations issued by the Government of the member, or by the depository designated by such member, in lieu of the amount to be paid in the currency of the member pursuant to paragraph 2 (b) of this Article, provided such is not required by the Bank for the conduct of its operations. Such notes or obligations shall be non-negotiable, non-interest-bearing, and payable to the Bank at par value upon demand. Subject to the provisions of paragraph 2 (ii) of Article 24, demands upon such notes or obligations payable in convertible currencies shall, over reasonable periods of time, be uniform in percentage on all such notes or obligations.

4. Each payment of a member in its own currency under paragraph 2 (b) of this Article shall be in such amount as the Bank, after such consultation with the International Monetary Fund as the Bank may consider necessary and utilizing the par value established with the International Monetary Fund, if any, determines to be equivalent to the full value in terms of dollars of the portion of the subscription being paid. The initial payment shall be in such amount as the member considers appropriate hereunder 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.

5. Payment of the amount subscribed to the callable capital stock of the Bank shall be subject to call only as and when required by the Bank to meet its obligations incurred under sub-paragraphs (ii) and (iv) of Article 11 on borrowings of funds for inclusion in its ordinary capital resources or on guarantees chargeable to such resources.

6. In the event of the call referred to in paragraph 5 of this Article, payment 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. Calls on unpaid subscriptions shall be uniform in percentage on all callable shares.

7. The Bank shall determine the place for any payment under this Article, provided that, until the inaugural meeting of its Board of Governors, the payment of the first instalment referred to in paragraph 1 of this Article shall be made to the Secretary-General of the United Nations, as Trustee for the Bank.

ARTICLE 7

ORDINARY CAPITAL RESOURCES

As used in this Agreement the term "ordinary capital resources" of the Bank shall include the following :

- (i) authorized capital stock of the Bank, including both paid-in and callable shares, subscribed pursuant to Article 5 of this Agreement, except such part thereof as may be set aside into one or more Special Funds in accordance with paragraph 1 (i) of Article 19 of this Agreement ;
- (ii) funds raised by borrowings of the Bank by virtue of powers conferred by sub-paragraph (i) of Article 21 of this Agreement, to which the commitment to calls provided for in paragraph 5 of Article 6 of this Agreement is applicable ;
- (iii) funds received in repayment of loans or guarantees made with the resources indicated in (i) and (ii) of this Article ;
- (iv) income derived from loans made from the aforementioned funds or from guarantees to which the commitment to calls set forth in paragraph 5 of Article 6 of this Agreement is applicable ; and
- (v) any other funds or income received by the Bank which do not form part of its Special Funds resources referred to in Article 20 of this Agreement.

CHAPTER III

Operations

ARTICLE 8

USE OF RESOURCES

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

ARTICLE 9

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 the Special Funds resources referred to in Article 20 of this Agreement.

ARTICLE 10

SEPARATION OF OPERATIONS

1. The ordinary capital resources and the Special Funds resources of the Bank shall at all times and in all respects be held, used, committed, invested or otherwise disposed of entirely separate from each other. The financial statements of the Bank shall show the ordinary operations and special operations separately.
2. The ordinary capital resources of the Bank shall under no circumstances be charged with or used to discharge, losses or liabilities arising out of special operations or other activities for which Special Funds resources were originally used or committed.
3. Expenses appertaining directly 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.

ARTICLE 11

RECIPIENTS AND METHODS OF OPERATION

Subject to the conditions stipulated in this Agreement, the Bank may provide or facilitate financing to any member, or any agency, instrumentality or political subdivision thereof, or any entity or enterprise operating in the territory of a member, as well as to international or regional agencies or entities concerned with economic development of the region. The Bank may carry out its operations in any of the following ways :—

- (i) by making or participating in direct loans with its unimpaired paid-in capital and, except as provided in Article 17 of this Agreement, with its reserves and undistributed surplus ; or with the unimpaired Special Funds resources :

- (ii) 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 ;
- (iii) by investment of funds referred to in (i) and (ii) of this Article in the equity capital of an institution or enterprise, provided no such investment shall be made until after the Board of Governors, by a vote of a majority of the total number of Governors, representing a majority of the total voting power of the members, shall have determined that the Bank is in a position to commence such type of operations ; or
- (iv) by guaranteeing, whether as primary or secondary obligor, in whole or in part, loans for economic development participated in by the Bank.

ARTICLE 12

LIMITATIONS ON ORDINARY 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 included in its ordinary capital resources, exclusive of the special reserve provided for by Article 17 of this Agreement and other reserves not available for ordinary operations.

2. In the case of loans made with funds borrowed by the Bank to which the commitment to calls provided for by paragraph 5 of Article 6 of this Agreement is applicable, the total amount of principal outstanding and payable to the Bank in a specific currency shall not at any time exceed the total amount of the principal of outstanding borrowings by the Bank that are payable in the same currency.

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 exceed ten (10) per cent of the aggregate amount of the unimpaired paid-in 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 17 of this Agreement.

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 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 13

PROVISION OF CURRENCIES FOR DIRECT LOANS

In making direct loans or participating in them, the Bank may provide financing in any of the following ways :

- (i) by furnishing the borrower with currencies other than the currency of the member in whose territory the project concerned is to be carried out (the latter currency hereinafter to be called "local currency"), which are necessary to meet the foreign exchange costs of such project ; or
- (ii) by providing financing to meet local expenditures on the project concerned where it can do so by supplying local currency without selling any of its holdings in gold or convertible currencies. In special cases when, in the opinion of the Bank, the project causes or is likely to cause undue loss or strain on the balance of payments of the member in whose territory the project is to be carried out, the financing granted by the Bank to meet local expenditures may be provided in currencies other than that of such member ; in such cases, the amount of the financing granted by the Bank for this purpose shall not exceed a reasonable portion of the total local expenditure incurred by the borrower.

ARTICLE 14

OPERATING PRINCIPLES

The operations of the Bank shall be conducted in accordance with the following principles :

- (i) 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 entities, in order that the latter may finance specific development projects whose individual financing requirements are not, in the opinion of the Bank, large enough to warrant the direct supervision of the Bank ;
- (ii) In selecting suitable projects, the Bank shall always be guided by the provisions of sub-paragraph (ii) of Article 2 of this Agreement ;
- (iii) The bank shall not finance any undertaking in the territory of a member if that member objects to such financing ;

- (iv) Before a loan is granted, the applicant shall have submitted an adequate loan 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 ;
- (v) In considering an application for a loan or guarantee, the Bank shall pay due regard to the ability of the borrower to obtain financing or facilities elsewhere on terms and conditions that the Bank considers reasonable for the recipient, taking into account all pertinent factors ;
- (vi) 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 ;
- (vii) 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 ;
- (viii) In guaranteeing a loan made by other investors, or in underwriting the sale of securities, the Bank shall receive suitable compensation for its risk ;
- (ix) The proceeds of any loan, investment or other financing undertaken in the ordinary operations of the Bank or with Special Funds established by the Bank pursuant to paragraph 1 (i) of Article 19, shall be used only for procurement in member countries of goods and services produced in member countries, except in any case in which the Board of Directors by a vote of the Directors representing not less than two-thirds of the total voting power of the members, determines to permit procurement in a non-member country or of goods and services produced in a non-member country in special circumstances making such procurement appropriate, as in the case of a non-member country in which a significant amount of financing has been provided to the Bank ;
- (x) 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 connexion with the project as they are actually incurred ;
- (xi) 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 attention to considerations of economy and efficiency ;

- (xii) The Bank shall pay due regard to the desirability of avoiding a disproportionate amount of its resources being used for the benefit of any member ;
- (xiii) The Bank shall seek to maintain reasonable diversification in its investments in equity capital ; it shall not assume responsibility for managing any entity or enterprise in which it has an investment, except where necessary to safeguard its investments ; and
- (xiv) The Bank shall be guided by sound banking principles in its operations.

ARTICLE 15

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, in conformity with the operating principles set forth in Article 14 of this Agreement and subject to the other provisions of this Agreement, the terms and conditions for the loan or the 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. In particular, the contract shall provide that, subject to paragraph 3 of this Article, all payments to the Bank under the contract shall be made in the currency loaned, unless, in the case of a direct loan made or a loan guaranteed as part of special operations with funds provided under paragraph 1 (ii) of Article 19, the rules and regulations of the Bank provide otherwise. Guarantees by the Bank shall also provide that the Bank may terminate its liability with respect to interest if, upon default by the borrower and the guaranter, if any, the Bank offers to purchase, at par and interest accrued to a date designated in the offer, the bonds or other obligations guaranteed.

2. Where the recipient of loans or guarantees of loans is not itself a member, the Bank may, when it deems it advisable, require that the member in whose territory the project concerned is to be carried out ; or a public agency or any instrumentality 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.

3. The loan or guarantee contract shall expressly state the currency in which all payments to the Bank thereunder shall be made. At the option of the borrower, however, such payments may always be made in gold or convertible currency.

ARTICLE 16

COMMISSION AND FEES

1. The Bank shall charge, in addition to interest, a commission on direct loans made or participated in as part of its ordinary operations. This commission, payable periodically, 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, unless the Bank, after the first five (5) years of its operations, decides to reduce this minimum rate by a two-thirds majority of its members, representing not less than three-fourths of the total voting power of the members.
2. In guaranteeing a loan as part of its ordinary operations, the Bank shall charge 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 17

SPECIAL RESERVE

The amount of commissions and guarantee fees received by the Bank pursuant to Article 16 of this Agreement shall be set aside as a special reserve which shall be kept for meeting liabilities of the Bank in accordance with Article 18 of this Agreement. The special reserve shall be held in such liquid form as the Board of Directors may decide.

ARTICLE 18

METHODS OF MEETING LIABILITIES OF THE BANK

1. In cases of default on loans made, participated in or guaranteed by the Bank in its ordinary operations, the Bank shall take such action as it deems appropriate with respect to modifying the terms of the loan, other than the currency of repayment.
2. The payments in discharge of the Bank's liabilities on borrowings or guarantees under sub-paragraphs (ii) and (iv) of Article 11 chargeable to the ordinary capital resources shall be charged :
 - (i) First, against the special reserve provided for in Article 17 ;
 - (ii) Then, to the extent necessary and at the discretion of the Bank, against the other reserves, surplus and capital available to the Bank.

3. 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 the uncalled subscribed callable capital in accordance with paragraphs 6 and 7 of Article 6 of this Agreement.

4. In cases of default in respect of a loan made from borrowed funds or guaranteed by the Bank as part of its ordinary operations, the Bank may, if it believes that the default may be of long duration, call an additional amount of such callable capital not to exceed in any one (1) year one (1) per cent of the total subscriptions of the members to such capital, for the following purposes :

- (i) To redeem before maturity, or otherwise discharge, the Bank's liability on all or part of the outstanding principal of any loan guaranteed by it in respect of which the debtor is in default ; and
- (ii) to repurchase, or otherwise discharge, the Bank's liability on all or part of its own outstanding borrowing.

5. If the Bank's subscribed callable capital stock shall be entirely called pursuant to paragraphs 3 and 4 of this Article, the Bank may, if necessary for the purposes specified in paragraph 3 of this Article, use or exchange the currency of any member without restriction, including any restriction imposed pursuant to paragraphs 2 (i) and (ii) of Article 24.

ARTICLE 19

SPECIAL FUNDS

1. The Bank may :

- (i) set aside, by a vote of two-thirds of the total number of Governors, representing at least three-fourths of the total voting power of the members, not more than ten (10) per cent each of the portion of the unimpaired paid-in capital of the Bank paid by members pursuant to paragraph 2 (a) of Article 6 and of the portion thereof paid pursuant to paragraph 2 (b) of Article 6, and establish therewith one or more Special Funds ; and

- (ii) accept the administration of Special Funds which are designed to serve the purpose and come within the functions of the Bank.

2. Special Funds established by the Bank pursuant to paragraph ၁ (i) of this Article may be used to guarantee or make loans of high developmental priority, with longer maturities, longer deferred commencement of repayment and lower interest rates than those established by the Bank for its ordinary operations. Such Funds may also be used on such other terms and conditions, not inconsistent with the applicable provisions of this Agreement nor with the character of such Funds as revolving funds, as the Bank in establishing such Funds may direct.

3. Special Funds accepted by the Bank under paragraph ၁ (ii) of this Article may be used in any manner and on any terms and conditions not inconsistent with the purpose of the Bank and with the agreement relating to such Funds.

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

ARTICLE 20

SPECIAL FUNDS RESOURCES

As used in this Agreement, the term "Special Funds resources" shall refer to the resources of any Special Fund and shall include :

- (a) resources set aside from the paid-in capital to a Special Fund or otherwise 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 IV

Borrowing and Other Miscellaneous Powers

ARTICLE 21

GENERAL POWERS

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

- (i) borrow funds in member countries or elsewhere, and in this connexion to furnish such collateral or other security therefor as the Bank shall determine, provided always that :
 - (a) before making a sale of its obligations in the territory of a country, the Bank shall have obtained its approval ;
 - (b) where the obligations of the Bank are to be denominated in the currency of a member, the Bank, shall have obtained its approval ;
 - (c) the Bank shall obtain the approval of the countries referred to in sub-paragraphs (a) and (b) of this paragraph that the proceeds may be exchanged for the currency of any member without restriction ; and
 - (d) before determining 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 borrowing 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 to the greatest extent possible be diversified as to country of borrowing.
- (ii) 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 any country in whose territory the securities are to be bought or sold ;
- (iii) guarantee securities in which it has invested in order to facilitate their sale ;
- (iv) underwrite, or participate in the underwriting of, securities issued by any entity or enterprise for purposes consistent with the purpose of the Bank ;
- (v) invest funds, not needed in its operations, in the territories of members in such obligations of members or nationals thereof as it may determine, and invest funds held by the Bank for pensions or similar purposes in the territories of members in marketable securities issued by members or nationals thereof ;

- (vi) provide technical advice and assistance which serve its purpose and come within its functions, and where expenditures incurred in furnishing such services are not reimbursable, charge the net income of the Bank therewith ; in the first five (5) years of its operations, the Bank may use up to two (2) per cent of its paid-in capital for furnishing such services on a non-reimbursable basis ; and
- (vii) exercise such other powers and establish such rules and regulations as may be necessary or appropriate in furtherance of its purpose and functions, consistent with the provisions of this Agreement.

ARTICLE 22

NOTICE TO BE PLACED ON SECURITIES

Every security issued or guaranteed by the Bank shall bear on its face a conspicuous 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 23

DETERMINATION OF CONVERTIBILITY

Whenever it shall become necessary under this Agreement to determine whether any currency is convertible, such determination shall be made by the Bank after consultation with the International Monetary Fund.

ARTICLE 24

USE OF CURRENCIES

1. 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 the following :

- (i) gold or convertible currencies received by the Bank in payment of subscriptions to its capital stock, other than that paid to the Bank by members pursuant to paragraph 2 (b) of Article 6 and restricted pursuant to paragraphs 2 (i) and (ii) of this Article ;
- (ii) currencies of members purchased with the gold or convertible currencies referred to in the preceding sub-paragraph ;