THE ASIAN DEVELOPMENT BANK ACT, 1966

ARRANGEMENT OF SECTIONS

SECTIONS

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THE SCHEDULE.

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THE ASIAN DEVELOPMENT BANK ACT, 1966

ACT NO.18 OF 1966

[29*th May*, 1966.]

An Act to implement the international agreement for the establishment and operation of the Asian Development Bank and for matters connected therewith.

BE it enacted by Parliament in the Seventeenth Year of the Republic of India as follows:—

1. Short title, extent and commencement.—(*1*) This Act may be called the Asian Development Bank Act, 1966.

(*2*) It extends to the whole of India.

(*3*) It shall come into force on such date[1] 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 and operation of the international body known as the Asian Development Bank;

(*b*) "Bank" means the Asian 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 paragraphs 1, 2 and 3 of Article 5 of the Agreement;

(*b*) any commission, fees or other charges payable by the Central Government to the Bank under Article 16 of the Agreement;

(*c*) any sums payable by the Central Government to the Bank under paragraph 1 of Article 25 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 such non-interest bearing and non-negotiable notes or other obligations as are provided for by paragraph 3 of Article 6 of the Agreement.

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 56 of the Agreement shall be construed as—

1. 19th, December, 1966, *vide* notification No. S.O. 3803(E), dated 8th, December, 1966, *see* Gazette of India, Extraordinary, Part II, sec. 3(*ii*).

(*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 from 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 [1][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 modification or annulment shall be without prejudice to the validity of anything previously done under that notification or rule.

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1. Subs. by Act 20 of 1983, s. 2 and the Schedule, for "in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive session aforesaid" (w.e.f. 15-3-1983).

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(*See* section 5)

PROVISIONS OF THE AGREEMENT WHICH SHALL HAVE FORCE OF LAW

CHAPTER VIII

STATUS, IMMUNITIES, EXEMPTIONS AND PRIVILEGES

ARTICLE 48

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 49

LEGAL STATUS

The Bank shall posses full juridical personality and, in particular, full capacity:

(*i*) to contract;

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

(*iii*) to institute legal proceedings.

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ARTICLE 50

IMMUNITY FROM JUDICIAL PROCEEDINGS

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 country in which the Bank has its principal or a branch office, or 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 or instrumentality of a member, or by any entity or person directly or indirectly acting for or deriving claims from a member or from any agency or instrumentality of a member. Members shall have recourse to such special procedures for the settlement of controversies between the Bank and its members as may be prescribed in the Agreement, in the by-laws and regulations of the Bank, or in contracts entered into with the Bank.

3. Property and assets of the Bank shall, whosesoever 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 51

IMMUNITY OF ASSETS

Property and assets of the Bank, whosesoever 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 52

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 53

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

ARTICLE 54

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 55

IMMUNITIES AND PRIVILEGES OF BANK PERSONNEL

All Governors, Directors, alternates, officers and employees of the Bank, including experts performing missions for the Bank:

(*i*) shall be immune from legal process with respect to acts performed by them in their official capacity, except when the Bank waives the immunity;

(*ii*) where they are not local citizens or 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.

ARTICLE 56

EXEMPTION FROM TAXATION

1.The Bank, its assets, property, income and its operations and transactions, shall be exempt from all taxation and from all customs duties. The Bank shall also be exempt from any obligation for 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 or employees of the Bank, including experts performing missions for the Bank, except where a member deposits with its instrument of ratification or acceptance a declaration that such member retains for itself and its political sub-divisions the right to tax salaries and emoluments paid by the Bank to citizens or nationals of such member.

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:

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(*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

WAIVER OF IMMUNITIES, EXEMPTIONS AND PRIVILEGES

The Bank as its discretion may waive any of the privileges, immunities and exemptions conferred under this Chapter in any case or instance, in such manner and upon such conditions as it may determine to be appropriate in the best interests of the Bank.

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