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Basic documents
of the European Bank
for Reconstruction
and Development



European Bank
for Reconstruction and Development

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Foreword

The Agreement Establishing the European Bank for Reconstruction and Development was signed in Paris on 29 May 1990 and entered into force on 28 March 1991.

An Amendment to Article 1 of the Agreement was approved by Resolution of the Board of Governors adopted on 30 January 2004 and entered into force on 15 October 2006.

A subsequent Amendment to Article 1 of the Agreement was approved by Resolution of the Board of Governors adopted on 30 September 2011 and entered into force on 12 September 2013.

An Amendment to Article 18 of the Agreement was approved by Resolution of the Board of Governors adopted on 30 September 2011 and entered into force on 22 August 2012.

The Inaugural Meeting of the Board of Governors was held in London from 15 to 17 April 1991.

At the Inaugural Meeting, the Board of Governors elected the President and Directors of the Bank and adopted Resolution No 8 authorizing the Bank to commence operations on 15 April 1991.

The Board of Governors also adopted, effective as of 15 April 1991, the By-Laws of the Bank and the Rules of Procedure of the Board of Governors.

The Headquarters Agreement between the Government of the United Kingdom and the Bank was signed on 15 April 1991 and, in accordance with Article 24 thereof, entered into force upon signature.

Agreement Establishing the European Bank for Reconstruction and Development

The Contracting Parties,

Committed to the fundamental principles of multiparty democracy, the rule of law, respect for human rights and market economics;

Recalling the Final Act of the Helsinki Conference on Security and Co-operation in Europe, and in particular its Declaration on Principles;

Welcoming the intent of Central and Eastern European countries to further the practical implementation of multiparty democracy, strengthening democratic institutions, the rule of law and respect for human rights and their willingness to implement reforms in order to evolve towards market-oriented economies;

Considering the importance of close and co-ordinated co-operation in order to promote the economic progress of Central and Eastern European countries to help their economies become more internationally competitive and assist them in their reconstruction and development and thus to reduce, where appropriate, any risks related to the financing of their economies;

Convinced that the establishment of a multilateral financial institution which is European in its basic character and broadly international in its membership would help serve these ends and would constitute a new and unique structure of co-operation in Europe;

Have agreed to establish hereby the European Bank for Reconstruction and Development (hereinafter called “the Bank”) which shall operate in accordance with the following:

Chapter I: Purpose, functions and membership

Article 1: Purpose

In contributing to economic progress and reconstruction, the purpose of the Bank shall be to foster the transition towards open market-oriented economies and to promote private and entrepreneurial initiative in the Central and Eastern European countries committed to and applying the principles of multiparty democracy, pluralism and market economics. Subject to the same conditions, the purpose of the Bank may also be carried out in Mongolia and in member countries of the Southern and Eastern Mediterranean as determined by the Bank upon the affirmative vote of not less than two-thirds of the Governors, representing not less than three-fourths of the total voting power of the members. Accordingly, any reference in this Agreement and its annexes to “Central and Eastern European countries”, “countries from Central and Eastern Europe”, “recipient country (or countries)” or “recipient member country (or countries)” shall refer to Mongolia and each of such countries of the Southern and Eastern Mediterranean as well.

Article 2: Functions

- 1.** To fulfil on a long-term basis its purpose of fostering the transition of Central and Eastern European countries towards open market-oriented economies and the promotion of private and entrepreneurial initiative, the Bank shall assist the recipient member countries to implement structural and sectoral economic reforms, including demonopolization, decentralization and privatization, to help their economies become fully integrated into the international economy by measures:
 - i)** to promote, through private and other interested investors, the establishment, improvement and expansion of productive, competitive and private sector activity, in particular small and medium-sized enterprises;
 - ii)** to mobilize domestic and foreign capital and experienced management to the end described in (i);
 - iii)** to foster productive investment, including in the service and financial sectors, and in related infrastructure where that is necessary to support private and entrepreneurial initiatives, thereby assisting in making a competitive environment and raising productivity, the standard of living and conditions of labour;
 - iv)** to provide technical assistance for the preparation, financing and implementation of relevant projects, whether individual or in the context of specific investment programmes;
 - v)** to stimulate and encourage the development of capital markets;
 - vi)** to give support to sound and economically viable projects involving more than one recipient member country;

- vii)** to promote in the full range of its activities environmentally sound and sustainable development; and
 - viii)** to undertake such other activities and provide such other services as may further these functions.
- 2.** In carrying out the functions referred to in paragraph 1 of this Article, the Bank shall work in close cooperation with all its members and, in such manner as it may deem appropriate within the terms of this Agreement, with the International Monetary Fund, the International Bank for Reconstruction and Development, the International Finance Corporation, the Multilateral Investment Guarantee Agency, and the Organisation for Economic Co-operation and Development, and shall cooperate with the United Nations and its Specialized Agencies and other related bodies, and any entity, whether public or private, concerned with the economic development of, and investment in, Central and Eastern European countries.

Article 3: Membership

- 1.** Membership in the Bank shall be open:
- i)** to (1) European countries and (2) non-European countries which are members of the International Monetary Fund; and
 - ii)** to the European Economic Community and the European Investment Bank.
- 2.** Countries eligible for membership under paragraph 1 of this Article, which do not become members in accordance with Article 61 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 not less than two-thirds of the Governors, representing not less than three-fourths of the total voting power of the members.

Chapter II: Capital

Article 4: Authorized capital stock

1. The original authorized capital stock shall be ten thousand million (10,000,000,000) ECU. It shall be divided into one million (1,000,000) shares, having a par value of ten thousand (10,000) ECU each, which shall be available for subscription only by members in accordance with the provisions of Article 5 of this Agreement.
2. The original capital stock shall be divided into paid-in shares and callable shares. The initial total aggregate par value of paid-in shares shall be three thousand million (3,000,000,000) ECU.
3. The authorized capital stock may be increased at such time and under such terms as may seem advisable, by a vote of not less than two-thirds of the 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, subject to fulfilment of the member's legal requirements. Each subscription to the original authorized capital stock shall be for paid-in shares and callable shares in the proportion of three (3) to seven (7). The initial number of shares available to be subscribed to by Signatories to this Agreement which become members in accordance with Article 61 or this Agreement shall be that set forth in Annex A. No member shall have an initial subscription of less than one hundred (100) shares.
2. The initial number of shares to be subscribed to 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 countries which are members of the European Economic Community, together with the European Economic Community and the European Investment Bank, below the majority of the total subscribed capital stock.
3. The Board of Governors shall at intervals of not more 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 uniform terms and conditions as the Board of Governors shall determine, to a proportion of the increase in stock equivalent to the proportion which its stock subscribed bears to the total subscribed capital stock immediately prior to such increase. No member shall be obliged to subscribe to any part of an increase of capital stock.
4. Subject to the provisions of paragraph 3 of this Article, the Board of Governors, may, at the request of a member, increase the subscription of that member, or allocate shares to that member within the authorized capital stock which are not taken up by other members; provided, however, that such increase shall not have the effect of reducing the percentage of capital stock held by countries which are members of the European Economic Community, together with the European Economic Community and the European Investment Bank, below the majority of the total subscribed capital stock.

5. Shares of stock initially subscribed to by members 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 Governors, representing not less than two-thirds of the total voting power of the members, decides to issue them in special circumstances on other terms.
6. 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.
7. The liability of the members on shares shall be limited to the unpaid portion of their issue price. No member shall be liable, by reason of its membership, for obligations of the Bank.

Article 6: Payment of subscriptions

1. Payment of the paid-in shares of the amount initially subscribed to by each Signatory to this Agreement, which becomes a member in accordance with Article 61 of this Agreement, 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 sixty (60) days after the date of entry into force of this Agreement, or after the date of deposit of its instrument of ratification, acceptance or approval in accordance with Article 61, if this latter is later than the date of entry into force. The remaining four (4) instalments shall each become due successively one year from the date on which the preceding instalment became due and shall each, subject to the legislative requirement of each member, be paid.
2. Fifty (50) per cent of payment of each instalment pursuant to paragraph 1 of this Article, or by a member admitted in accordance with paragraph 2 of Article 3 of this Agreement, may be made in promissory notes or other obligations issued by such member and denominated in ECU, in United States dollars or in Japanese yen, to be drawn down as the Bank needs funds for disbursement as a result of its operations. Such notes or obligations shall be non-negotiable, non-interest-bearing and payable to the Bank at par value upon demand. Demands upon such notes or obligations shall, over reasonable periods of time, be made so that the value of such demands in ECU at the time of demand from each member is proportional to the number of paid-in shares subscribed to and held by each such member depositing such notes or obligations.
3. All payment obligations of a member in respect of subscription to shares in the initial capital stock shall be settled either in ECU, in United States dollars or in Japanese yen on the basis of the average exchange rate of the relevant currency in terms of the ECU for the period from 30 September 1989 to 31 March 1990 inclusive.
4. Payment of the amount subscribed to the callable capital stock of the Bank shall be subject to call, taking account of Articles 17 and 42 of this Agreement, only as and when required by the Bank to meet its liabilities.

5. In the event of a call referred to in paragraph 4 of this Article, payment shall be made by the member in ECU, in United States dollars or in Japanese yen. Such calls shall be uniform in ECU value upon each callable share calculated at the time of the call.
6. The Bank shall determine the place for any payment under this Article not later than one month after the inaugural meeting of its Board of Governors, provided that, before such determination, the payment of the first instalment referred to in paragraph 1 of this Articles shall be made to the European Investment Bank, as trustee for the Bank.
7. For subscriptions other than those described in paragraphs 1, 2 and 3 of this Article, payments by a member in respect of subscription to paid-in shares in the authorized capital stock shall be made in ECU, in United States dollars or in Japanese yen whether in cash or in promissory notes or in other obligations.
8. For the purpose of this Article, payment or denomination in ECU shall include payment or denomination in any fully convertible currency which is equivalent on the date of payment or encashment to the value of the relevant obligation in ECU.

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 to pursuant to Article 5 of this Agreement;
- ii) funds raised by borrowings of the Bank by virtue of powers conferred by sub paragraph (i) of Article 20 of this Agreement, to which the commitment to calls provided for in paragraph 4 of Article 6 of this Agreement is applicable;
- iii) funds received in repayment of loans or guarantees and proceeds from the disposal of equity investment made with the resources indicated in sub paragraphs (i) and (ii) of this Article;
- iv) income derived from loans and equity investment, made from the resources indicated in sub paragraphs (i) and (ii) of this Article, and income derived from guarantees and underwriting not forming part of the special operations of the Bank; 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 19 of this Agreement.

Chapter III: Operations

Article 8: Recipient countries and use of resources

1. The resources and facilities of the Bank shall be used exclusively to implement the purpose and carry out the functions set forth, respectively, in Articles 1 and 2 of this Agreement.
2. The Bank may conduct its operations in countries from Central and Eastern Europe which are proceeding steadily in the transition towards market-oriented economies and the promotion of private and entrepreneurial initiative, and which apply, by concrete steps and otherwise, the principles set forth in Article 1 of this Agreement.
3. In cases where a member might be implementing policies which are inconsistent with Article 1 of this Agreement, or in exceptional circumstances, the Board of Directors shall consider whether access by a member to Bank resources should be suspended or otherwise modified and may make recommendations accordingly to the Board of Governors. Any decision on these matters shall be taken by the Board of Governors by a majority of not less than two-thirds of the Governors, representing not less than three-fourths of the total voting power of the members.
4.
 - i) Any potential recipient country may request that the Bank provide access to its resources for limited purposes over a period of three (3) years beginning after the entry into force of this Agreement. Any such request shall be attached as an integral part of this Agreement as soon as it is made.
 - ii) During such a period:
 - a) the Bank shall provide to such a country, and to enterprises in its territory, upon their request, technical assistance and other types of assistance directed to finance its private sector, to facilitate the transition of state-owned enterprises to private ownership and control, and to help enterprises operating competitively and moving to participation in the market-oriented economy, subject to the proportion set forth in paragraph 3 of Article 11 of this Agreement.
 - b) the total amount of any assistance thus provided shall not exceed the total amount of cash disbursed and promissory notes issued by that country for its shares.
 - iii) At the end of this period, the decision to allow such a country access beyond the limits specified in sub paragraphs (a) and (b) shall be taken by the Board of Governors by a majority of not less than three-fourths of the Governors representing not less than eighty-five (85) per cent of the total voting power of the members.

Article 9: Ordinary and special operations

The operations of the Bank shall consist of ordinary operations financed from the ordinary capital resources of the Bank referred to in Article 7 of this Agreement and special operations financed from the Special Funds resources referred to in Article 19 of this Agreement. The two types of operations may be combined.

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 separately from each other. The financial statements of the Bank shall show the reserves of the Bank, together with its ordinary operations and, separately, its special operations.
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 the special operations shall be charged to Special Funds resources. Any other expenses shall, subject to paragraph 1 of Article 18 of this Agreement, be charged as the Bank shall determine.

Article 11: Methods of operation

1. The Bank shall carry out its operations in furtherance of its purpose and functions as set out in Articles 1 and 2 of this Agreement in any or all of the following ways:
 - i) by making or co-financing together with multilateral institutions, commercial banks or other interested sources, or participating in, loans to private sector enterprises, loans to any state-owned enterprise operating competitively and moving to participation in the market-oriented economy, and loans to any state-owned enterprise to facilitate its transition to private ownership and control; in particular, to facilitate or enhance the participation of private and/or foreign capital in such enterprises;
 - ii)
 - a) by investment in the equity capital of private sector enterprises;
 - b) by investment in the equity capital of any state-owned enterprise operating competitively and moving to participation in the market-oriented economy, and investment in the equity capital of any state-owned enterprise to facilitate its transition to private ownership and control; in particular to facilitate or enhance the participation of private and/or foreign capital in such enterprises; and

- (c) by underwriting, where other means of financing are not appropriate, the equity issue of securities by both private sector enterprises and such state-owned enterprises referred to in (b) above for the ends mentioned in that sub paragraph;
- iii) by facilitating access to domestic and international capital markets by private sector enterprises or by other enterprises referred to in sub paragraph (i) of this paragraph for the ends mentioned in that sub paragraph, through the provision of guarantees, where other means of financing are not appropriate, and through financial advice and other forms of assistance;
- iv) by deploying Special Funds resources in accordance with the agreements determining their use; and
- v) by making or participating in loans and providing technical assistance for the reconstruction or development of infrastructure, including environmental programmes, necessary for private sector development and the transition to a market-oriented economy.

For the purposes of this paragraph, a state-owned enterprise shall not be regarded as operating competitively unless it operated autonomously in a competitive market environment and unless it is subject to bankruptcy laws.

- 2. i) The Board of Directors shall review at least annually the Bank's operations and lending strategy in each recipient country to ensure that the purpose and functions of the Bank, as set out in Articles 1 and 2 of this Agreement, are fully served. Any decision pursuant to such a review shall be taken by a majority of not less than two-thirds of the Directors, representing not less than three-fourths of the total voting power of the members.
- ii) The said review shall involve the consideration of, inter alia, each recipient country's progress made on decentralization, demonopolization and privatization and the relative shares of the Bank's lending to private enterprises, to state-owned enterprises in the process of transition to participation in the market-oriented economy or privatization, for infrastructure, for technical assistance, and for other purposes.
- 3. i) Not more than forty (40) per cent of the amount of the Bank's total committed loans, guarantees and equity investments, without prejudice to its other operations referred to in this Article, shall be provided to the state sector. Such percentage limit shall apply initially over a two (2) year period, from the date of commencement of the Bank's operations, taking one year with another, and thereafter in respect of each subsequent financial year.
- ii) For any country, not more than forty (40) per cent of the amount of the Bank's total committed loans, guarantees and equity investments over a period of five (5) years, taking one year with another, and without prejudice to the Bank's other operations referred to in this Article, shall be provided to the state sector.

- iii) For the purposes of this paragraph,
 - a) the state sector includes national and local Governments, their agencies, and enterprises owned or controlled by any of them;
 - b) a loan or guarantee to, or equity investment in, a state-owned enterprise which is implementing a programme to achieve private ownership and control shall not be considered as made to the state sector;
 - c) loans to a financial intermediary for onlending to the private sector shall not be considered as made to the state sector.

Article 12: Limitations on ordinary operations

1. The total amount of outstanding loans, equity investments and guarantees made by the Bank on its ordinary operations shall not be increased at any time, if by such increase the total amount of its unimpaired subscribed capital, reserves and surpluses included in its ordinary capital resources would be exceeded.
2. The amount of any equity investment shall not normally exceed such percentage of the equity capital of the enterprise concerned as shall be determined, by a general rule, to be appropriate by the Board of Directors. The Bank shall not seek to obtain by such an investment a controlling interest in the enterprise concerned and shall not exercise such control or assume direct responsibility for managing any enterprise in which it has an investment, except in the event of actual or threatened default on any of its investments, actual or threatened insolvency of the enterprise in which such investment shall have been made, or other situations which, in the opinion of the Bank, threaten to jeopardize such investment, in which case the Bank may take such action and exercise such rights as it may deem necessary for the protection of its interests.
3. The amount of the Bank's disbursed equity investments shall not at any time exceed an amount corresponding to its total unimpaired paid-in subscribed capital, surpluses and general reserve.
4. The Bank shall not issue guarantees for export credits nor undertake insurance activities.

Article 13: Operating principles

The Bank shall operate in accordance with the following principles:

- i) the Bank shall apply sound banking principles to all its operations;
- ii) the operations of the Bank shall provide for the financing of specific projects, whether individual or in the context of specific investment programmes, and for technical assistance, designed to fulfil its purpose and functions as set out in Articles 1 and 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)** the Bank shall not allow a disproportionate amount of its resources to be used for the benefit of any member;
- v)** the Bank shall seek to maintain reasonable diversification in all its investments;
- vi)** before a loan, guarantee or equity investment is granted, the applicant shall have submitted an adequate proposal and the President of the Bank shall have presented to the Board of Directors a written report regarding the proposal, together with recommendations, on the basis of a staff study;
- vii)** the Bank shall not undertake any financing, or provide any facilities, when the applicant is able to obtain sufficient financing or facilities elsewhere on terms and conditions that the Bank considers reasonable;
- viii)** in providing or guaranteeing financing, the Bank shall pay due regard to the prospect that the borrower and its guarantor, if any, will be in a position to meet their obligations under the financing contract;
- ix)** in case of a direct loan made by the Bank, the borrower shall be permitted by the Bank to draw its funds only to meet expenditure as it is actually incurred;
- x)** the Bank shall seek to revolve its funds by selling its investments to private investors whenever it can appropriately do so on satisfactory terms;
- xi)** in its investments in individual enterprises, the Bank shall undertake its financing on terms and conditions which it considers appropriate, taking into account the requirements of the enterprise, the risks being undertaken by the Bank, and the terms and conditions normally obtained by private investors for similar financing;
- xii)** the Bank shall place no restriction upon the procurement of goods and services from any country from the proceeds of any loan, investment or other financing undertaken in the ordinary or special operations of the Bank, and shall, in all appropriate cases, make its loans and other operations conditional on international invitations to tender being arranged; and
- xiii)** the Bank shall take the necessary measures to ensure that the proceeds of any loan made, guaranteed or participated in by the Bank, or any equity investment, are used only for the purposes for which the loan or the equity investment was granted and with due attention to considerations of economy and efficiency.

Article 14: Terms and conditions for loans and guarantees

- 1.** In the case of loans made, participated in, or guaranteed by the Bank, the contract shall establish the terms and conditions for the loan or the guarantee concerned, including those relating to payment of principal, interest and other fees, charges, maturities and dates of payment in respect of the loan or the guarantee, respectively. In setting such terms and conditions, the Bank shall take fully into account the need to safeguard its income.
- 2.** Where the recipient of loans or guarantees of loans is not itself a member, but is a state-owned enterprise, the Bank may, when it appears desirable, bearing in mind the different approaches appropriate to public and state-owned enterprises in transition to private ownership and control, require the member or members in whose territory the project concerned is to be carried out, or a public agency or any instrumentality of such member or members acceptable to the Bank, to guarantee the repayment of the principal and the payment of interest and other fees and charges of the loan in accordance with the terms thereof. The Board of Directors shall review annually the Bank's practice in this matter, paying due attention to the Bank's creditworthiness.
- 3.** The loan or guarantee contract shall expressly state the currency or currencies, or ECU, in which all payments to the Bank thereunder shall be made.

Article 15: Commission and fees

- 1.** The Bank shall charge, in addition to interest, a commission on loans made or participated in as part of its ordinary operations. The terms and conditions of this commission shall be determined by the Board of Directors.
- 2.** In guaranteeing a loan as part of its ordinary operations, or in underwriting the sale of securities, the Bank shall charge fees, payable at rates and time determined by the Board of Directors, to provide suitable compensation for its risks.
- 3.** The Board of Directors may determine any other charges of the Bank in its ordinary operations and any commission, fees or other charges in its special operations.

Article 16: Special reserve

- 1.** The amount of commissions and fees received by the Bank pursuant to Article 15 of this Agreement shall be set aside as a special reserve which shall be kept for meeting the losses of the Bank in accordance with Article 17 of this Agreement. The special reserve shall be held in such liquid form as the Bank may decide.
- 2.** If the Board of Directors determines that the size of the special reserve is adequate, it may decide that all or part of the said commission or fees shall henceforth form part of the income of the Bank.

Article 17: Methods of meeting the losses of the Bank

1. In the Bank's ordinary operations, in cases of arrears of default on loans made, participated in, or guaranteed by the Bank, and in case of losses on underwriting and in equity investment, the Bank shall take such action as it deems appropriate. The Bank shall maintain appropriate provisions against possible losses.
2. Losses arising in the Bank's ordinary operations shall be charged:
 - i) first, to the provisions referred to in paragraph 1 of this Article;
 - ii) second, to net income;
 - iii) third, against the special reserve provided for in Article 16 of this Agreement;
 - iv) fourth, against its general reserve and surpluses;
 - v) fifth, against the unimpaired paid-in capital; and
 - vi) last, against an appropriate amount of the uncalled subscribed callable capital which shall be called in accordance with the provisions of paragraphs 4 and 5 of Article 6 of this Agreement.

Article 18: Special Funds

1.
 - i) The Bank may accept the administration of Special Funds which are designed to serve the purpose and come within the functions of the Bank in its recipient countries and potential recipient countries. The full cost of administering any such Special Fund shall be charged to that Special Fund.
 - ii) For the purposes of subparagraph (i), the Board of Governors may, at the request of a member which is not a recipient country, decide that such member qualifies as a potential recipient country for such limited period and under such terms as may seem advisable. Such decision shall be taken by the affirmative vote of not less than two-thirds of the Governors, representing not less than three-fourths of the total voting power of the members.
 - iii) The decision to allow a member to qualify as a potential recipient country can only be made if such member is able to meet the requirements for becoming a recipient country. Such requirements are those set out in Article 1 of this Agreement, as it reads at the time of such decision or as it will read upon the entry into force of an amendment that has already been approved by the Board of Governors at the time of such decision.

- iv)** If a potential recipient country has not become a recipient country at the end of the period referred to in subparagraph (ii), the Bank shall forthwith cease any special operations in that country, except those incident to the orderly realization, conservation and preservation of the assets of the Special Fund and settlement of obligations that have arisen in connection therewith.
- 2.** Special Funds accepted by the Bank may be used in its recipient countries and potential recipient countries in any manner and on any terms and conditions consistent with the purpose and functions of the Bank, with the other applicable provisions of this Agreement, and with the agreement or agreements relating to such Funds.
- 3.** The Bank shall adopt such 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, except for those provisions expressly applicable only to ordinary operations of the Bank.

Article 19: Special Funds resources

The term “Special Funds resources” shall refer to the resources of any Special Fund and shall include:

- i)** funds accepted by the Bank for inclusion in any Special Fund;
- ii)** funds repaid in respect of loans or guarantees, and the proceeds of equity investments, financed from the resources of any Special Fund which, under the rules and regulations governing that Special Fund, are received by such Special Fund; and
- iii)** income derived from investment of Special Funds resources.

Chapter IV: Borrowing and other miscellaneous powers

Article 20: General powers

- 1.** The Bank shall have, in addition to the powers specified elsewhere in the Agreement, the power to;
 - i)** borrow funds in member countries or elsewhere, provided always that;
 - a)** before making a sale of its obligations in the territory of a country, the Bank shall have obtained its approval; and
 - b)** where the obligations of the Bank are to be denominated in the currency of a member, the Bank shall have obtained its approvals;
 - ii)** invest or deposit funds not needed in its operations;
 - iii)** buy and sell securities, in the secondary market, which the Bank has issued or guaranteed or in which it has invested;
 - iv)** guarantee securities in which it has invested in order to facilitate their sale;
 - v)** underwrite, or participate in the underwriting of, securities issued by any enterprise for purposes consistent with the purpose and functions of the Bank;
 - vi)** provide technical advice and assistance which serve its purpose and come within its functions;
 - vii)** exercise such powers and adopt such rules and regulations as may be necessary or appropriate in furtherance of its purpose and functions, consistent with the provisions of this Agreement; and
 - viii)** conclude agreements of cooperation with any public or private entity or entities.
- 2.** 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 or member, unless it is in fact the obligation of a particular government or member, in which case it shall so state.

Chapter V: Currencies

Article 21: Determination and use of currencies

1. Whenever it shall become necessary under this Agreement to determine whether any currency is fully convertible for the purposes of this Agreement, such determination shall be made by the Bank, taking into account the paramount need to preserve its own financial interests, after consultation, if necessary, with the International Monetary Fund.
2. Members shall not impose any restrictions on the receipt, holding, use or transfer by the Bank of the following:
 - i) currencies or ECU received by the Bank in payment of subscriptions to its capital stock, in accordance with Article 6 of this Agreement;
 - ii) currencies obtained by the Bank by borrowing;
 - iii) currencies and other resources administered by the Bank as contributions to Special Funds; and
 - iv) currencies received by the Bank in payment on account of principal interest, dividends or other charges in respect of loans or investments, or the proceeds of disposal of such investments made out of any of the funds referred to in sub paragraphs (i) to (iii) of this paragraph, or in payment of commission, fees or other charges.

Chapter VI: Organization and management

Article 22: Structure

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

Article 23: 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 is or her principal. At each of its annual meetings, the Board 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.

Article 24: 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 of its powers, except the power to:
 - i) admit new members and determine the conditions of their admission;
 - ii) increase or decrease the authorized capital stock of the Bank;
 - iii) suspend a member;
 - iv) decide appeals from interpretations or applications of this Agreement given by the Board of Directors;
 - v) authorize the conclusion of general agreements for co-operation with other international organizations;
 - vi) elect the Directors and the President of the Bank;
 - vii) determine the remuneration of the Directors and Alternate Directors and the salary and other terms of the contract of service of the President;
 - viii) approve, after reviewing the auditors' report, the general balance sheet and the statement of profit and loss of the Bank;
 - ix) determine the reserves and the allocation and distribution of the net profits of the Bank;
 - x) amend this Agreement;
 - xi) decide to terminate the operations of the Bank and to distribute its assets; and

- xii)** 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 or assigned to the Board of Directors under paragraph 2 of this Article, or elsewhere in this Agreement.

Article 25: 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 or called by the Board of Directors. Meetings of the Board of Governors shall be called, by the Board of Directors, whenever requested by not less than five (5) members of the Bank or members holding not less than one quarter of the total voting power of the members.
- 2.** Two-thirds 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 may, when the latter deems such action advisable, obtain a vote of the Governors on a specific question without calling a meeting of the Board of Governors.
- 4.** The Board of Governors, and the Board of Directors to the extent authorized, may adopt such rules and regulations and establish such subsidiary bodies as may be necessary or appropriate to conduct the business of the Bank.

Article 26: Board of Directors: Composition

- 1.** The Board of Directors shall be composed of twenty-three (23) members who shall not be members of the Board of Governors, and of whom:
 - i)** eleven (11) shall be elected by the Governors, representing Belgium, Denmark, France, the Federal Republic of Germany, Greece, Ireland, Italy, Luxembourg, the Netherlands, Portugal, Spain, the United Kingdom, the European Economic Community and the European Investment Bank; and
 - ii)** twelve (12) shall be elected by the Governors representing other members, of whom:
 - a)** four (4), by the Governors representing those countries listed in Annex A as Central and Eastern European countries eligible for assistance from the Bank;
 - b)** four (4), by the Governors representing those countries listed in Annex A as other European countries;

- c) four (4), by the Governors representing those countries listed in Annex A as non-European countries.

Directors, as well as representing members whose Governors have elected them, may also represent members who assign their votes to them.

2. Directors shall be persons of high competence in economic and financial matters and shall be elected in accordance with Annex B.
3. The Board of Governors may increase or decrease the size, or revise the composition, of the Board of Directors, in order to take into account changes in the number of members of the Bank, by an affirmative vote of not less than two-thirds of the Governors, representing not less than three-fourths of the total voting power of the members. Without prejudice to the exercise of these powers for subsequent elections, the number and composition of the second Board of Directors shall be as set out in paragraph 1 of this Article.
4. Each Director shall appoint an Alternate with full power to act for him and her when he or she is not present. Directors and Alternates shall be nationals of member countries. No member shall be represented by more than one Director. An Alternate may participate in meetings of the Board but may vote only when he or she is acting on place of his or her principal.
5. Directors shall hold office for a term of three (3) years and may be re-elected; provided that the first Board of Directors shall be elected by the Board of Governors at its inaugural meeting, and shall hold office until the next immediately following annual meeting of the Board of Governors or, if that Board shall so decide at that annual meeting, until its next subsequent annual meeting. They shall continue in office until their successors shall have been chosen and assumed office. If the office of a Director becomes vacant more than one hundred and eighty (180) days before the end of his or her term, a successor shall be chosen in accordance with Annex B for the remainder of the term, by the Governors who elected the former Director. A majority of the votes cast by such Governors shall be required for such election. If the office of a Director becomes vacant one hundred and eighty (180) days or less before the end of his or her term, a successor may similarly be chosen for the remainder of the term, by the votes cast by such Governors who elected the former Director, in which election majority of the votes cast by such Governors shall be required. While the office remains vacant, the Alternate of the former Director shall exercise the powers of the latter, except that of appointing an Alternate.

Article 27: Board of Directors: Powers

Without prejudice to the powers of the Board of Governors as provided in Article 24 of this Agreement, 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 by this Agreement, exercise all the powers delegated to it by the Board of Governors, and in particular:

- i) prepare the work of the Board of Governors;
- ii) in conformity with the general directions of the Board of Governors, establish policies and take decisions concerning loans, guarantees, investment in equity capital, borrowing by the Bank, the furnishing of technical assistance and other operations of the Bank;
- iii) submit the audited accounts for each financial year for approval of the Board of Governors at each annual meeting; and
- iv) approve the budget of the Bank.

Article 28: 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 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, if there is no Director of its nationality, a member may send a representative to attend, without right to vote, any meeting of the Board of Directors when a matter particularly affecting that member is under consideration.

Article 29: Voting

1. The voting power of each member shall be equal to the number of its subscribed shares in the capital stock of the Bank. In the event of any member failing to pay any part of the amount due in respect of its obligations in relation to paid-in shares under Article 6 of this Agreement, such member shall be unable for so long as such failure continues to exercise that percentage of its voting power which corresponds to the percentage which the amount due but unpaid bears to the total amount of paid-in shares subscribed to by that member in the capital stock of the Bank.
2. In voting in the Board of Governors, each Governor shall be entitled to cast the votes of the member he or she represents. Except as otherwise expressly provided in this Agreement, all matters before the Board of Governors shall be decided by a majority of the voting power of the members voting.

3. In voting in the Board of Directors, each Director shall be entitled to cast the number of votes to which the Governors who have elected him or her are entitled and those to which any Governors who have assigned their votes to him or her, pursuant to section D or Annex B, are entitled. A Director representing more than one member may cast separately the votes of the members he or she represents. Except as otherwise expressly provided in this Agreement, and except for general policy decisions in which cases such policy decisions shall be taken by a majority of not less than two-thirds of the total voting power of the members voting, all matters before the Board of Directors shall be decided by a majority of the voting power of the members voting.

Article 30: The President

1. The Board of Governors, by a vote of a majority of the total number of Governors, representing not less than a majority 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 of an Alternate for either.
2. The term of office of the President shall be four (4) years. He or she may be re-elected. He or she shall, however, cease to hold office when the Board of Governors so decides by an affirmative vote of not less than two-thirds of the Governors, representing not less than two-thirds of the total voting power of the members. If the office of the President for any reason becomes vacant, the Board of Governors, in accordance with the provisions of paragraph 1 of this Article, shall elect a successor for up to four (4) years.
3. The President shall not vote, except that he or she may cast a deciding vote in case of an equal division. He or she may participate in meetings of the Board of Governors and shall chair the meetings of the Board of Directors.
4. The President shall be the legal representative of the Bank.
5. The President shall be chief of the staff of the Bank. He or she shall be responsible for the organization, appointment and dismissal of the officers and staff in accordance with regulations to be adopted by the Board of Directors. In appointing officers and staff, he or she shall, subject to the paramount importance of efficiency and technical competence, pay due regard to recruitment on a wide geographical basis among members of the Bank.
6. The President shall conduct, under the direction of the Board of Directors, the current business of the Bank.

Article 31: Vice-President(s)

1. One or more Vice-Presidents shall be appointed by the Board of Directors on the recommendation of the President. A 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, a Vice-President shall exercise the authority and perform the functions of the President.
2. A Vice-President may participate in meetings of the Board of Directors but shall have no vote at such meetings, except that he or she may cast the deciding vote when acting in place of the President.

Article 32: International character of the Bank

1. The Bank shall not accept Special Funds or other loans or assistance that may in any way prejudice, deflect or otherwise alter its purpose or functions.
2. The Bank, its President, Vice-President(s), officers and staff shall in their decisions take into account only considerations relevant to the Bank's purpose, functions and operations, as set out in this Agreement. 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(s), officers and staff of the Bank, in the discharge of their offices, shall 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 33: Location of offices

1. The principal office of the Bank shall be located in London.
2. The Bank may establish agencies or branch offices in the territory of any member of the Bank.

Article 34: Depositories and channels of communication

1. Each member shall designate its central bank, or such other institution as may be agreed upon with the Bank, as a depository for all the Bank's holdings of its currency as well as other assets of the Bank.
2. Each member shall designate an appropriate official entity with which the Bank may communicate in connection with any matter arising under this Agreement.

Article 35: Publication of reports and provision of information

- 1.** The Bank shall publish an annual report containing an audited statement of its accounts and shall circulate to members at intervals of three (3) months or less a summary statement of its financial position and a profit and loss statement showing the results of its operations. The financial accounts shall be kept in ECU.
- 2.** The Bank shall report annually on the environmental impact of its activities and may publish such other reports as it deems desirable to advance its purpose.
- 3.** Copies of all reports, statements and publications made under this Article shall be distributed to members.

Article 36: Allocation and distribution of net income

- 1.** The Board of Governors shall determine at least annually what part of the Bank's net income, after making provisions for reserves and, if necessary, against possible losses under paragraph 1 of Article 17 of this Agreement, shall be allocated to surplus or other purposes and what part, if any, shall be distributed. Any such decision on the allocation of the Bank's net income to other purposes shall be taken by a majority of not less than two-thirds of the Governors, representing not less than two-thirds of the total voting power of the members. No such allocation, and no distribution, shall be made until the general reserve amounts to at least ten (10) per cent of the authorized capital stock.
- 2.** Any distribution referred to in the preceding paragraph shall be made in proportion to the number of paid-in shares held by each member; provided that in calculating such number, account shall be taken only of payments received in cash and promissory notes encashed in respect of such shares on or before the end of the relevant fiscal year.
- 3.** Payments to each member shall be made in such manner as the Board of Governors shall determine. Such payments and their use by the receiving country shall be without restriction by any member.

Chapter VII: Withdrawal and suspension of membership: Temporary suspension and termination of operation

Article 37: Right of members to withdraw

1. Any member may withdraw from the Bank at any time by transmitting 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 such notice is received by the Bank. However, at any time before the withdrawal becomes finally effective, the member may notify the Bank in writing of the cancellation of its notice of intention to withdraw.

Article 38: Suspension of membership

1. If a member fails to fulfil any of its obligations to the Bank, the Bank may suspend its membership by decision of a majority of not less than two-thirds of the Governors, representing not less than two-thirds of the total voting power of the members. The member so suspended shall automatically cease to be a member one year from the date of its suspension unless a decision is taken by not less than the same majority to restore the member to good standing.
2. 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 39: Settlement of accounts with former members

1. After the date on which a member ceases to be a member, such 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, equity investments or guarantees contracted before it ceased to be a member are outstanding; but it shall cease to incur such liabilities with respect to loans, equity investments and guarantees entered into thereafter by the Bank and to share either in the income or the expenses of the Bank.
2. At the time a member ceases to be a member, the Bank shall arrange for the repurchase of such former member's shares as a part of the settlement of accounts with such former member in accordance with the provisions of this Article. For this purpose, the purchase price of the shares shall be the value shown by the books of the Bank on the date of cessation of membership, with the original purchase price of each share being its maximum value.

- 3.** The payment for shares repurchased by the Bank under this Article shall be governed by the following conditions:
 - i)** any amount due to the former member for its shares shall be withheld so long as the former member, its central bank or any of its agencies or instrumentalities 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 liability of the former member resulting from its subscription for shares in accordance with paragraphs 4, 5 and 7 of Article 6 of this Agreement. In any event, no amount due to a member for its shares shall be paid until six (6) months after the date upon which the member ceases to be a member;
 - ii)** payments for shares may be made from time to time, upon their surrender by the former member, to the extent by which the amount due as the repurchase price in accordance with paragraph 2 of this Article exceeds the aggregate amount of liabilities on loans, equity investments and guarantees in sub paragraph (i) of this paragraph until the former member has received the full repurchase price;
 - iii)** payments shall be made on such conditions and in such fully convertible currencies, or ECU, and on such dates, as the Bank determines; and
 - iv)** if losses are sustained by the Bank on any guarantees, participation in loans, or loans which were outstanding on the date when the member ceased to be a member, or if a net loss is sustained by the Bank on equity investments held by it on such date, and the amount of such losses exceeds the amount of the reserves provided against losses on the date when the member ceased to be a member, such former member shall repay, upon demand, the amount by which repurchase the 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 under paragraph 4 of Article 6 of this Agreement, to the 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 41 of this Agreement within six (6) months of the date upon which any member ceases to be a member, all rights of such former members shall be determined in accordance with the provisions of Articles 41 to 43 of this Agreement.

Article 40: Temporary suspension of operations

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

Article 41: Termination of operations

The Bank may terminate its operations by the affirmative vote of not less than two-thirds of the Governors, representing not less than three-fourths of the total voting power of the members. Upon such termination of operations 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 42: Liability of members and payments of claims

- 1.** In the event of termination of the operations of the Bank, the liability of all members for all uncalled subscriptions to the capital stock of the Bank shall continue until all claims of creditors; including all contingent claims, shall have been discharged.
- 2.** Creditors on ordinary operations holding direct claims shall be paid first out of the assets of the Bank, secondly out of the payments to be made to the Bank in respect of unpaid paid-in shares, and then out of payments to be made to the Bank in respect of callable capital stock. Before making any payments to creditors holding direct claims, the Board of Directors shall make such arrangements as are necessary, in its judgment, to ensure a pro rata distribution among holders of direct and holders of contingent claims.

Article 43: Distribution of assets

- 1.** No distribution under this Chapter shall be made to members on account of their subscriptions to the capital stock of the Bank until:
 - i)** all liabilities to creditors have been discharged or provided for; and
 - ii)** the Board of Governors has decided by a vote of not less than two-thirds of the Governors, representing not less than three-fourths of the total voting power of the members, to make a distribution.
- 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 of its obligations to the Bank.
- 3.** Any member receiving assets distributed pursuant to this Article shall enjoy the same rights with respect to such assets as the Bank enjoyed prior to their distribution.

Chapter VIII: Status, immunities, privileges and exemptions

Article 44: Purposes of chapter

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

Article 45: Status of the Bank

The Bank shall possess full legal personality and, in particular, the full legal capacity:

- i)** to contract;
- ii)** to acquire, and dispose of, immovable and movable property; and
- iii)** to institute legal proceedings.

Article 46: Position of the Bank with regard to judicial process

Actions may be brought against the Bank only in a court of competent jurisdiction in the territory of a country in which the Bank has an office, 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. The property and assets of the Bank shall, wheresoever 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 47: Immunity of assets from seizure

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 48: Immunity of archives

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

Article 49: Freedom of assets from restrictions

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

Article 50: Privilege for communications

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

Article 51: Immunities of officers and employees

All Governors, Directors, Alternates, officers and employees of the Bank and experts performing missions for the Bank shall be immune from legal process with respect to acts performed by them in their official capacity, except when the Bank waives this immunity, and shall enjoy inviolability of all their official papers and documents. This immunity shall not apply, however, to civil liability in the case of damage arising from a road traffic accident caused by any such Governor, Director, Alternate, officer, employee or expert.

Article 52: Privileges of officers and employees

- 1.** All Governors, Directors, Alternates, officers and employees of the Bank and experts of the Bank performing missions for the Bank:
 - i)** not being 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
 - ii)** 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.** The spouses and immediate dependants of those Directors, Alternate Directors, officers, employees and experts of the Bank who are resident in the country in which the principal office of the Bank is located shall be accorded opportunity to take employment in that country. The spouses and immediate dependants of those Directors, Alternate Directors, officers, employees and experts of the Bank who are resident in a country in which any agency or branch office of the Bank is located should, wherever possible, in accordance with the national law of that country, be accorded similar opportunity in that country. The Bank shall negotiate specific agreements implementing the provisions of this paragraph with the country in which the principal office of the Bank is located and, as appropriate, with the other countries concerned.

Article 53: Exemption from taxation

- 1.** Within the scope of its official activities the Bank, its assets, property, and income shall be exempt from all direct taxes.
- 2.** When purchases or services of substantial value and necessary for the exercise of the official activities of the Bank are made or used by the Bank and when the price of such purchases or services includes taxes or duties, the member that has levied the taxes or duties shall, if they are identifiable, take appropriate measures to grant exemption from such taxes or duties or to provide for their reimbursement.
- 3.** Goods imported by the Bank and necessary for the exercise of its official activities shall be exempt from all import duties and taxes, and from all import prohibitions and restrictions. Similarly goods exported by the Bank and necessary for the exercise of its official activities shall be exempt from all export duties and taxes, and from all export prohibitions and restrictions.
- 4.** Goods acquired or imported and exempted under this Article shall not be sold, hired out, lent or given away against payment or free of charge, except in accordance with conditions laid down by the members which have granted exemptions or reimbursements.
- 5.** The provisions of this Article shall not apply to taxes or duties which are no more than charges for public utility services.
- 6.** Directors, Alternate Directors, officers and employees of the Bank shall be subject to an internal effective tax for the benefit of the Bank on salaries and emoluments paid by the Bank, subject to conditions to be laid down and rules to be adopted by the Board of Governors within a period of one year from the date of entry into force of this Agreement. From the date on which this tax is applied, such salaries and emoluments shall be exempt from national income tax. The members may, however, take into account the salaries and emoluments thus exempt when assessing the amount of tax to be applied to income from other sources.
- 7.** Notwithstanding the provisions of paragraph 6 of this Article, a member may deposit, with its instrument of ratification, acceptance or approval, a declaration that such member retains for itself, its political subdivisions or its local authorities the right to tax salaries and emoluments paid by the Bank to citizens or nationals of such member. The Bank shall be exempt from any obligation for the payment, withholding or collection of such taxes. The bank shall not make any reimbursement for such taxes.
- 8.** Paragraph 6 of this Article shall not apply to pensions and annuities paid by the Bank.

- 9.** 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.
- 10.** 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 its guaranteed by the Bank, or
 - ii)** if the sole jurisdictional basis for such taxation is the location of any office; place of business maintained by the Bank.

Article 54: Implementation of Chapter

Each member shall promptly take such action as is necessary for the purpose of implementing the provisions of this Chapter and shall inform the Bank of the detailed action which it has taken.

Article 55: Waiver of immunities, privileges and exemptions

The immunities, privileges and exemptions conferred under this Chapter are granted in the interest of the Bank. The Board of Directors may waive to such extent and upon such conditions as it may determine any of the immunities, privileges and exemptions conferred under 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, privilege or exemption in respect of any officer, employee or expert of the Bank, other than the President, Vice-President, where, in his or her opinion, the immunity, privilege or exemption 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 the duty to waive any immunity, privilege or exemption in respect of the President and each Vice-President.

Chapter IX: Amendments, interpretation, arbitration

Article 56: Amendments

- 1.** Any proposal to amend this Agreement, whether emanating from a member, a Governor or the Board of Directors, shall be communicated to the Chairman of the Board of Governors who shall bring the proposal before that Board. If the proposed amendment is approved by the Board the Bank shall, by any rapid means of communication, ask all members whether they accept the proposed amendment. When not less than three-fourths of the members (including at least two countries from Central and Eastern Europe listed in Annex A), having not less than four-fifths of the total voting power of the members, have accepted the proposed amendment, the Bank shall certify that fact by formal communication addressed to all members.
- 2.** Notwithstanding paragraph 1 of this Article:
 - i)** acceptance by all members shall be required in the case of any amendment modifying:
 - a)** the right to withdraw from the Bank;
 - b)** the rights pertaining to purchase of capital stock provided for in paragraph 3 of Article 5 of this Agreement;
 - c)** the limitations on liability provided for in paragraph 7 of Article 5 of this Agreement; and
 - d)** the purpose and functions of the Bank defined by Articles 1 and 2 of this Agreement;
 - ii)** acceptance by not less than three-fourths of the members having not less than eighty-five (85) per cent of the total voting power of the members shall be required in the case of any amendment modifying paragraph 4 of Article 8 of this Agreement.

When the requirements for accepting any such proposed amendment have been met, the Bank shall certify that fact by formal communication addressed to all members.
- 3.** Amendments shall enter into force for all members three (3) months after the date of the formal communication provided for in paragraphs 1 and 2 of this Article unless the Board of Governors specifies a different period.

Article 57: Interpretation and application

- 1.** Any question of interpretation or application of the provisions of this Agreement arising between any member and the Bank, or between any members of the Bank, shall be submitted to the Board of Directors for its decision. If there is no Director of its nationality in that Board, a member particularly affected by the question under consideration shall be entitled to direct representation in the meeting of the Board of Directors during such consideration. The representative of such member shall, however, have no vote. Such right of representation 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 58: Arbitration

If a disagreement should arise between the Bank and a member which has ceased to be a member, or between the Bank and any member after adoption of a decision to terminate the operations of the Bank, such disagreement shall be submitted to arbitration by a tribunal of three (3) arbitrators, one appointed by the Bank, another by the member or former member concerned, and the third, unless the parties otherwise agree, by 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. A majority vote of the arbitrators shall be sufficient to reach a decision which shall be final and binding upon the parties. The third arbitrator shall have full power to settle all questions of procedure in any case where the parties are in disagreement with respect thereto.

Article 59: Approval deemed given

Whenever the approval or the acceptance of any member is required before any act may be done by the Bank, except under Article 56 of this Agreement, approval or acceptance shall be deemed to have been given unless the member presents an objection within such reasonable period as the Bank may fix in notifying the member of the proposed act.

Chapter X: Final provisions

Article 60: Signature and deposit

1. This Agreement, deposited with the Government of the French Republic (hereinafter called “the Depository”), shall remain open until 31 December 1990 for signature by the prospective members whose names are set forth in Annex A to this Agreement.
2. The Depository shall communicate certified copies of this Agreement to all the Signatories.

Article 61: Ratification, acceptance or approval

1. The Agreement shall be subject to ratification, acceptance or approval by the Signatories. Instruments of ratification, acceptance or approval shall, subject to paragraph 2 of this Article, be deposited with the Depository not later than 31 March 1991. The Depository shall duly notify the other Signatories of each deposit and the date thereof.
2. Any Signatory may become a party to this Agreement by depositing an instrument of ratification, acceptance or approval until one year after the date of its entry into force or, if necessary, until such later date as may be decided by a majority of Governors, representing a majority of the total voting power of the members.
3. A Signatory whose instrument referred to in paragraph 1 of this Article is deposited before the date on which this Agreement enters into force shall become a member of the Bank on that date. Any other Signatory which complies with the provisions of the preceding paragraph shall become a member of the Bank on the date on which its instrument of ratification, acceptance or approval is deposited.

Article 62: Entry into force

1. This Agreement shall enter into force when instruments of ratification, acceptance or approval have been deposited by Signatories whose initial subscriptions represent not less than two thirds of the total subscriptions set forth in Annex A, including at least two countries from Central and Eastern Europe listed in Annex A.
2. If this Agreement has not entered into force by 31 March 1991, the Depository may convene a conference of interested prospective members to determine the future course of action and decide a new date by which instruments of ratification, acceptance or approval shall be deposited.

Article 63: Inaugural meeting and commencement of operations

- 1.** As soon as this Agreement enters into force under Article 62 of this Agreement, each member shall appoint a Governor. The Depository shall call the first meeting of the Board of Governors within sixty (60) days of entry into force of this Agreement under Article 62 or as soon as possible thereafter.
- 2.** At its first meeting, the Board of Governors:
 - i)** shall elect the President;
 - ii)** shall elect the Directors of the Bank in accordance with Article 26 of this Agreement;
 - iii)** shall make arrangements for determining the date of the commencement of the Bank's operations; and
 - iv)** shall make such other arrangements as appear to it necessary to prepare for the commencement of the Bank's operations.
- 3.** The Bank shall notify its members of the date of commencement of its operations.

Done at Paris on 29 May 1990 in a single original, whose English, French, German and Russian texts are equally authentic, which shall be deposited in the archives of the Depository which shall transmit a duly certified copy to each of the other prospective members whose names are set forth in Annex A.

Annex A

Initial subscriptions to the authorized capital stock for prospective members which may become members in accordance with Article 61

	Number of shares	Capital subscription (in million ECU)
A - European Communities		
(a)		
Belgium	22,800	228.00
Denmark	12,000	120.00
France	85,175	851.75
Germany, Federal Republic of	85,175	851.75
Greece	6,500	65.00
Ireland	3,000	30.00
Italy	85,175	851.75
Luxembourg	2,000	20.00
Netherlands	24,800	248.00
Portugal	4,200	42.00
Spain	34,000	340.00
United Kingdom	85,175	851.75
(b)		
European Economic Community	30,000	300.00
European Investment Bank	30,000	300.00
B - Other European countries		
Austria	22,800	228.00
Cyprus	1,000	10.00
Finland	12,500	125.00
Iceland	1,000	10.00
Israel	6,500	65.00
Liechtenstein	200	2.00
Malta	100	1.00
Norway	12,500	125.00
Sweden	22,800	228.00
Switzerland	22,800	228.00
Turkey	11,500	115.00

C - Recipient countries

Bulgaria	7,900	79.00
Czechoslovakia	12,800	128.00
German Democratic Republic	15,500	155.00
Hungary	7,900	79.00
Poland	12,800	128.00
Romania	4,800	48.00
Union of Soviet Socialist Republics	60,000	600.00
Yugoslavia	12,800	128.00

D - Non-European countries

Australia	10,000	100.00
Canada	34,000	340.00
Egypt	1,000	10.00
Japan	85,175	851.75
Korea, Republic of	6,500	65.00
Mexico	3,000	30.00
Morocco	1,000	10.00
New Zealand	1,000	10.00
United States of America	100,000	1,000.00

E - Non allocated shares **125** **1.25**

Total **1,000,000** **10,000.00**

(*) Prospective members are listed under the above categories only for the purpose of this Agreement. Recipient countries are referred to elsewhere in this Agreement as Central and Eastern European countries.

Annex B

Section A - Election of Directors by Governors representing Belgium, Denmark, France, the Federal Republic of Germany, Greece, Ireland, Italy, Luxembourg, the Netherlands, Portugal, Spain, the United Kingdom, the European Economic Community and the European Investment Bank (hereinafter referred to as Section A Governors)

- 1.** The provisions set out below in this Section shall apply exclusively to this Section.
- 2.** Candidates for the office of Director shall be nominated by Section A Governors, provided that a Governor may nominate only one person. The election of Directors shall be by ballot of Section A Governors.
- 3.** Each Governor eligible to vote shall cast for one person all of the votes to which the member appointing him or her is entitled under paragraphs 1 and 2 of Article 29 of this Agreement.
- 4.** Subject to paragraph 10 of this Section, the 11 persons receiving the highest number of votes shall be Directors, except that no person who receives less than 4.5 per cent of the total of the votes which can be cast (eligible votes) in Section A shall be considered elected.
- 5.** Subject to paragraph 10 of this Section, if 11 persons are not elected on the first ballot, a second ballot shall be held in which, unless there were no more than 11 candidates, the person who received the lowest number of votes in the first ballot shall be ineligible for election and in which there shall vote only:
 - a)** those Governors who voted in the first ballot for a person not elected and
 - b)** those Governors whose votes for a person elected are deemed under paragraphs 6 and 7 below of this Section to have raised the votes cast for that person above 5.5 per cent of the eligible votes.
- 6.** In determining whether the votes cast by a Governor are deemed to have raised the total votes cast for any person above 5.5 per cent of the eligible votes, the 5.5 per cent shall be deemed to include, first, the votes of the Governor casting the largest number of votes for such person, then the votes of the Governor casting the next largest number and so on, until 5.5 per cent is reached.
- 7.** Any Governor, part of whose votes must be counted in order to raise the total of votes cast for any person above 4.5 per cent shall be considered as casting all of his or her votes for such person, even if the total votes for such person thereby exceed 5.5 per cent and shall not be eligible to vote in a further ballot.

8. Subject to paragraph 10 of this Section, if, after the second ballot, 11 persons have not been elected, further ballots shall be held in conformity with the principles and procedures laid down in this Section, until 11 persons have been elected, provided that, if at any stage 10 persons are elected, notwithstanding the provisions of paragraph 4 of this Section, the eleventh may be elected by a simple majority of the remaining votes cast.
9. In the case of an increase or decrease in the number of Directors to be elected by Section A Governors, the minimum and maximum percentages specified in paragraphs 4, 5, 6 and 7 of this Section shall be appropriately adjusted by the Board of Governors.
10. So long as any Signatory, or group of Signatories, whose share of the total amount of capital subscriptions provided in Annex A is more than 2.4 per cent, has not deposited its instrument or their instruments of ratification, approval or acceptance, there shall be no election for one Director in respect of each such Signatory or group of Signatories. The Governor or Governors representing such a Signatory or group of Signatories shall elect a Director in respect of each Signatory or group of Signatories, immediately after the Signatory becomes a member of the group of Signatories become members. Such Director shall be deemed to have been elected by the Board of Governors at its inaugural meeting, in accordance with paragraph 3 of Article 26 of this Agreement, if he or she is elected during the period in which the first Board of Directors shall hold office.

Section B - Election of Directors by Governors representing other countries

Section B (i) - Election of Directors by Governors representing those countries listed in Annex A as Central and Eastern European Countries (recipient countries) (hereinafter referred to as Section B (i) Governors)

1. The provisions set out below in this Section shall apply exclusively to this Section.
2. Candidates for the office of Director shall be nominated by Section B (i) Governors provided that a Governor may nominate only one person. The election of Directors shall be by ballot of Section B (i) Governors.
3. Each Governor eligible to vote shall cast for one person all of the votes to which the member appointing him or her is entitled under paragraphs 1 and 2 of Article 29 of this Agreement.
4. Subject to paragraph 10 of this Section, the 4 persons receiving the highest number of votes shall be Directors, except that no person who receives less than 12 per cent of the total of the votes which can be cast (eligible votes) in Section B (i) shall be considered elected.

- 5.** Subject to paragraph 10 of this Section, if 4 persons are not elected on the first ballot, a second ballot shall be held in which, unless there were no more than 4 candidates, the person who received the lowest number of votes in the first ballot shall be ineligible for election and in which there shall vote only:

 - a)** those Governors who voted in the first ballot for a person not elected and
 - b)** those Governors whose votes for a person elected are deemed under paragraphs 6 and 7 below of this Section to have raised the votes cast for that person above 13 per cent of the eligible votes.
- 6.** In determining whether the votes cast by a Governor are deemed to have raised the total votes cast for any person above 13 per cent of the eligible votes, the 13 per cent shall be deemed to include, first, the votes of the Governor casting the largest number of votes for such person, then the votes of the Governor casting the next largest number and so on, until 13 per cent is reached.
- 7.** Any Governor, part of whose votes must be counted in order to raise the total of votes cast for any person above 12 per cent shall be considered as casting all or his or her votes for such person, even if the total votes for such person thereby exceed 13 per cent and shall not be eligible to vote in a further ballot.
- 8.** Subject to paragraph 10 of this Section, if, after the second ballot, four persons have not been elected, further ballots shall be held in conformity with the principles and procedures laid down in this Section, until four persons have been elected, provided that, if at any stage three persons are elected, notwithstanding the provisions of paragraph 4 of this Section, the fourth may be elected by a simple majority of the remaining votes cast.
- 9.** In the case of an increase or decrease in the number of Directors to be elected by Section B (i) Governors, the minimum and maximum percentages specified in paragraphs 4, 5, 6 and 7 of this Section shall be appropriately adjusted by the Board of Governors.
- 10.** So long as any Signatory, or group of Signatories, whose share of the total amount of capital subscriptions provided in Annex A is more than 2.8 per cent, has not deposited its instrument or their instruments of ratification, approval or acceptance, there shall be no election for one Director in respect of each such Signatory or group of Signatories. The Governor or Governors representing such a Signatory or group of Signatories shall elect a Director in respect of each Signatory or group of Signatories, immediately after the Signatory becomes a member or the group of Signatories become members. Such Director shall be deemed to have been elected by the Board of Governors at its inaugural meeting, in accordance with paragraph 3 of Article 26 of this Agreement, if he or she is elected during the period in which the first Board of Directors shall hold office.

Section B (ii) - Election of Directors by Governors representing those countries listed in Annex A as other European countries (hereinafter referred to as Section B (ii) Governors)

1. The provisions set out below in this Section shall apply exclusively to this Section.
2. Candidates for the office of Director shall be nominated by Section B (ii) Governors provided that a Governor may nominate only one person. The election of Directors shall be by ballot of Section B (ii) Governors.
3. Each Governor eligible to vote shall cast for one person all the votes to which the member appointing him or her is entitled under paragraphs 1 and 2 of Article 29 of this Agreement.
4. Subject to paragraph 10 of this Section, the four persons receiving the highest number of votes shall be Directors, except that no person who receives less than 20.5 per cent of the votes which can be cast (eligible votes) in section B (ii) shall be considered elected.
5. Subject to paragraph 10 of this Section, if four persons are not elected on the first ballot, a second ballot shall be held in which, unless there were no more than four candidates, the person who received the lowest number of votes in the first ballot shall be ineligible for election and in which there shall vote only:
 - a) those Governors who voted in the first ballot for a person not elected and
 - b) those Governors whose votes for a person elected are deemed under paragraphs 6 and 7 below of this Section to have raised the votes cast for that person above 21.5 per cent of the eligible votes.
6. In determining whether the votes cast by a Governor are deemed to have raised the total votes cast for any person above 21.5 per cent of the eligible votes, the 21.5 per cent shall be deemed to include, first, the votes of the Governor casting the largest number of votes for such person, then the votes of the Governor casting the next largest number and so on, until 21.5 per cent is reached.
7. Any Governor, part of whose votes must be counted in order to raise the total of votes cast for any person above 20.5 per cent shall be considered as casting all of his or her votes for such person, even if the total votes for such person thereby exceed 21.5 per cent and shall not be eligible to vote in a further ballot.
8. Subject to paragraph 10 of this Section, if, after the second ballot, four persons have not been elected, further ballots shall be held in conformity with the principles and procedures laid down in this Section, until four persons have been elected, provided that, if at any stage three persons are elected, notwithstanding the provisions of paragraph 4 of this Section, the fourth may be elected by a simple majority of the remaining votes cast.

9. In the case of an increase or decrease in the number of Directors to be elected by section B (ii) Governors, the minimum and maximum percentages specified in paragraphs 4, 5, 6 and 7 of this Section shall be appropriately adjusted by the Board of Governors.
10. So long as any Signatory, or group of Signatories, whose share of the total amount of capital subscriptions provided in Annex A is more than 2.8 per cent, has not deposited its instrument or their instruments of ratification, approval or acceptance, there shall be no election for one Director in respect of each such Signatory or group of Signatories. The Governor or Governors representing such a Signatory or group of Signatories shall elect a Director in respect of each Signatory or group of Signatories, immediately after the Signatory becomes a member or the group of Signatories become members. Such Director shall be deemed to have been elected by the Board of Governors at its inaugural meeting, in accordance with paragraph 3 of Article 26 of this Agreement, if he or she is elected during the period in which the first Board of Directors shall hold office.

Section B (iii) - Election of Directors by Governors representing those countries listed in Annex A as Non-European countries (hereinafter referred to as Section B (iii) Governors)

1. The provisions set out below in this Section shall apply exclusively to this Section.
2. Candidates for the office of Director shall be nominated by Section B (iii) Governors provided that a Governor may nominate only one person. The election of Directors shall be by ballot of Section B (iii) Governors.
3. Each Governor eligible to vote shall cast for one person all of the votes to which the member appointing him or her is entitled under paragraphs 1 and 2 of Article 29 of the Agreement.
4. Subject to paragraph 10 of this Section, the four persons receiving the highest number of votes shall be Directors, except that no person who receives less than 8 per cent of the total of the votes which can be cast (eligible votes) in Section B (iii) shall be considered elected.
5. Subject to paragraph 10 of this Section, if four persons are not elected on the first ballot, a second ballot shall be held in which, unless there were not more than four candidates, the person who received the lowest number of votes in the first ballot shall be ineligible for election and in which there shall vote only:
 - a) those Governors who voted in the first ballot for a person not elected and
 - b) those Governors whose votes for a person elected are deemed under paragraphs 6 and 7 below of this Section to have raised the votes cast for that person above 9 per cent of the eligible votes.

- 6.** In determining whether the votes cast by a Governor are deemed to have raised the total votes cast for any person above 9 per cent of the eligible votes, the 9 per cent shall be deemed to include, first, the votes of the Governor casting the largest number of votes for such person, then the votes of the Governor casting the next largest number and so on, until 9 per cent is reached.
- 7.** Any Governor, part of whose votes must be counted in order to raise the total of votes cast for any person above 8 per cent shall be considered as casting all of his or her votes for such person, even if the total votes for such person thereby exceed 9 per cent and shall not be eligible to vote in a further ballot.
- 8.** Subject to paragraph 10 of this Section, if, after the second ballot, four persons have not been elected, further ballots shall be held in conformity with the principles and procedures laid down in this Section, until four persons have been elected, provided that, if at any stage three persons are elected, notwithstanding the provisions of paragraph 4 of this Section, the fourth may be elected by a simple majority of the remaining votes cast.
- 9.** In the case of an increase or decrease in the number of Directors to be elected by Section B (iii) Governors, the minimum and maximum percentages specified in paragraphs 4, 5, 6, and 7 of this Section shall be appropriately adjusted by the Board of Governors.
- 10.** So long as any Signatory, or group of Signatories, whose share of the total amount of capital subscriptions provided in Annex A is more than 5 per cent, has not deposited its instrument or their instruments of ratification, approval or acceptance, there shall be no election for one Director in respect of each such Signatory or group of Signatories. The Governor or Governors representing such a Signatory or group of Signatories shall elect a Director in respect of each Signatory or group of Signatories, immediately after the Signatory becomes a member or the group of Signatories become members. Such Director shall be deemed to have been elected by the Board of Governors at its inaugural meeting, in accordance with paragraph 3 of Article 26 of this Agreement, if he or she is elected during the period in which the first Board of Directors shall hold office.

Section C - Arrangements for the election of Directors representing countries not listed in Annex A

If the Board of Governors decides, in accordance with paragraph 3 of Article 26 of this Agreement, to increase or decrease the size, or revise the composition, of the Board of Directors, in order to take into account changes in the number of members of the Bank, the Board of Governors shall first consider whether any amendments are required to this Annex and may make any such amendments as it deems necessary as part of such decision.

Section D - Assignment of votes

Any Governor who does not participate in voting for the election or whose vote does not contribute to the election of a Director under Section A or Section B (i) or Section B (ii) or Section B (iii) of this Annex may assign the votes to which he or she is entitled to as elected Director, provided that such Governor shall first have obtained the agreement of all those Governors who have elected that Director to such assignments.

A decision by any Governor not to participate in voting for the election of a Director shall not affect the calculation of the eligible votes to be made under Section A, Section B (i), Section B (ii) or Section B (iii) of this Annex.

Letter from the Head of the Soviet Delegation

To the Chairman of the Conference on the
Establishment of the European Bank
for Reconstruction and Development

Mr. Chairman,

As you know, the initiative of the President of France, M. F. Mitterrand, to establish the European Bank for Reconstruction and Development for the purpose of facilitating the transition of Central and Eastern European countries towards market-oriented economies has found understanding and support on behalf of the Soviet authorities. The Soviet delegation participated in the sessions of talks on drafting the constituent documents of the Bank. As a result the constituent countries have reached considerable progress in drawing up the Agreement establishing the European Bank for Reconstruction and Development.

At the same time, certain difficulties largely stem from fears of a number of countries that due to the size of its economy the Soviet Union may become the principal recipient of credits of the Bank and therefore will narrow its capacity to extend aid to other Central and Eastern European Countries.

In this connection I would like to assure you, dear Mr. Chairman, that the intentions of the Soviet Union to become an equal member of the Bank account primarily for its will to establish a new institution of multilateral cooperation so as to foster historical reforms on the European continent.

I would like to inform you that my government is prepared to limit its access to the Bank's resources, pursuant to paragraph 4 of Article 8 of the Articles of Agreement of the Bank, for a period of three years starting from the entry into force of the Articles of Agreement of the Bank.

During that period, the Soviet Union wishes that the Bank will provide technical assistance and other types of assistance directed to finance its private sector, to facilitate the transition of state-owned enterprises to private sector ownership and control and to help enterprises operating competitively and moving to participation in the market-oriented economy, subject to the proportion set forth in paragraph 3 of Article 11 of this Agreement. The total amount of any assistance thus provided by the Bank would not exceed the total amount of the cash disbursed and the promissory notes issued by the Soviet Union for its shares.

I am confident that continuing economic reforms in the Soviet Union will inevitably promote the expansion of the Bank's activities into the territory of the Soviet Union. However, the USSR, being interested in securing the multilateral character of the Bank, will not choose that at any time in future the Soviet borrowings will exceed an amount consistent with maintaining the necessary diversity in the Bank's operations and prudent limits on its exposure.

Please accept, Mr. Chairman, the assurance of my highest consideration.

Head of Soviet Delegation
Chairman of the Board
of the State Bank of the USSR
Victor V. GERASHCHENKO

Chairman's Report on the Agreement Establishing the European Bank for Reconstruction and Development

The European Bank for Reconstruction and Development (EBRD) stems from an initiative by President Mitterrand of France, strongly endorsed by the European Council at Strasbourg on 9 December 1989, as a positive reaction from the European Community to the dramatic political and economic changes in Central and Eastern Europe.

From the beginning it was envisaged that the meetings to discuss the setting up of the Bank would be open to other countries as well as those of Central and Eastern Europe. The first meetings of potential members took place in Paris on 15 and 16 January 1990, with representatives from all 24 members of the Organization for Economic Cooperation and Development; Malta and Cyprus; eight Central and Eastern European countries; the European Economic Community and the European Investment Bank. At meetings from 8 to 11 March 1990, these Delegates were joined by representatives from Egypt, Israel, the Republic of Korea, Liechtenstein and Morocco and on 8 and 9 April also by representatives from Mexico. The final negotiations were in Paris on 20 May 1990.

During the meetings to discuss the EBRD Articles, Delegates came to the view that certain formulations in the text represented general understandings which needed to be recorded, but which were not suitable for the Articles. It was therefore agreed that the Chairman would produce this report summarizing these understandings and that the report would form part of the EBRD's basic documents, for future reference in interpreting the Articles. The explanatory paragraphs attached to this introduction, which form the bulk of this report, should be viewed against that background. A Signing Ceremony for the Agreement took place in Paris on 29 May 1990, in the presence of President Mitterrand and many Ministers from countries participating in the Bank.

Explanatory notes

Article 2

1. Delegates were anxious to show that the focus of the Bank's functions was the private sector but, given that the private sector in the potential recipient countries was at present either small or non-existent, that the Bank would also support the public sector in its transition from purely centralized control to demonopolization, decentralization or privatization and to a competitive business environment, and would assist recipient member countries in implementing structural and economic reforms, only through the measures described in subparagraphs (i) to (viii) inclusive of paragraph 1 of this Article.
2. In paragraph 1, subparagraph (i), Delegates shared the view that "other interested investors" covered both domestic and foreign investors.
3. In paragraph 1, subparagraph (iii), Delegates understood that "infrastructure" might include training in managerial and technical skills.
4. In paragraph 1, subparagraph (vii), Delegates recognized the serious environmental problems in Central and Eastern Europe, and emphasized that principles of environmentally sound development must be integrated into the full range of the Bank's operations. Thus Delegates intended "in the full range of its activities" to include all of the Bank's activities, including technical assistance and all special operations, and not merely that the Bank should be able to provide support directly for specific environmental projects.
5. In paragraph 2, Delegates believed it essential that the Bank should work in "close co-operation" with the IMF and the World Bank Group (including the IFC and MIGA), so as to ensure compatibility with their activities and to benefit from their experience and expertise, as well as to ensure that recipient member countries were pursuing sound economic programmes.
6. In continuing that the close co-operation should be "with all its members", Delegates had especially in mind the important role of the European Economic Community and the European Investment Bank.
7. In the same paragraph, Delegates also understood that "other related bodies and any entity, whether public or private" included such bodies as the Council of Europe (and in particular the Social Development Fund), the International Investment Bank, the Nordic Investment Bank and the Economic Commission for Europe. Delegates noted that the Bank was free, in accordance with paragraph 1 subparagraph (viii) of Article 20 of the Agreement, to enter into agreements of co-operation with any such body.

Article 3

1. Delegates agreed that both the European Economic Community and the European Investment Bank (EIB) should be members, given the importance accorded to their role by the European Community Heads of State or Government who had first endorsed the idea of the Bank. It was not intended that their membership would be a precedent for other organizations or Banks to become members of the Bank, or that their membership would be used as a precedent for them to become members of other organizations or other banks.
2. Delegations took note that the EIB and its participating members confirmed that the EIB had legal power to make a capital subscription to the Bank under the Statute of the European Investment Bank.

Article 4

The essentially European character of the Bank lent itself to the denomination of its original authorized capital stock in the European Currency Unit, the ECU. Delegates understood the ECU to be at the centre of the European Monetary System and formulated in relation to a basket of European Community currencies, the weights of which are re-examined by European Community Finance Ministers every five years or, on request, if the weight of any currency has changed by 25 per cent.

Article 5

1. Paragraph 3 requires the Board of Governors to review the adequacy and composition of the Bank's capital stock at least every five years. A decision may then be taken either to increase the capital stock or not. This paragraph lays down the pre-emptive rights of all members in the event of an increase and stipulates that there is no obligation upon any member to subscribe to new shares. These rights are then protected by paragraph 2 of Article 56 of the Articles of Agreement.
2. Paragraph 4 provides for the possibility of decisions to allow individual members to increase their shareholding in the Bank. Where such an increase is not possible without an increase in the total capital stock, the pre-emptive rights and other requirements of paragraph 3 are brought into play.

Article 6

1. In paragraph 2, Delegates agreed that the drawdown of promissory notes should be pro rata based on a schedule to be established by the Board of Directors who should take account of the net financing requirement based on historical resource flows.
2. In paragraph 3, Delegates agreed that the initial choice between ECU, United States dollars or Japanese yen made by each member would apply to the payment of all of the instalments mentioned in paragraph 1, as well as to the payments made as a result of a call on the original capital.

Article 8

In relation to the implementation of paragraph 3 of this Article, Delegates understood that the same procedures and voting arrangements described in this paragraph for suspending or otherwise modifying a member's access to Bank resources should apply to the reverse circumstances, namely when a member's access to Bank resources was being reconsidered in the light of its resuming the implementation of policies consistent with Article 1 of the Agreement.

Article 11

1. This Article establishes the ways the Bank shall carry out its purpose and functions, including in relation to regional projects. In describing recipients of Bank financing and assistance, and in setting limits on Bank financing and assistance to the state sector, the Article seeks to take into account the different arrangements in the different countries.
2. Delegates emphasised, in relation to the reference to private ownership and control in this Article, that control by private investors meant the ability effectively to determine enterprise decisions and policies.
3. In paragraph 1 subparagraph (v), Delegates were aware that the infrastructure needs of the potential recipient countries were immense but also that there were existing bilateral and multilateral sources of help for that purpose. They thus deliberately limited the Bank's possible activities relating to infrastructure reconstruction and development to those "necessary for private sector development and the transition to a market-oriented economy".
4. Delegates intended that paragraph 1, subparagraph (ii)(c) of this Article would be read together with subparagraph (vii) of Article 13. The Bank was not to engage in underwriting when private sector securities firms or others were able to provide the relevant financing, services and facilities on reasonable terms.

Article 12

1. Delegates intended this Article to reinforce the financial soundness of the Bank.
2. In interpreting the meaning of "the total amount of outstanding loans, equity investments and guarantees" in paragraph 1, Delegates shared the view that the Board of Directors should exercise prudence in approving all such commitments in line with its obligations under paragraph 1 of this Article.
3. In paragraph 2, Delegates intended the Board of Directors to make a rule stipulating the maximum stake that the Bank should take in the equity of any enterprise, but that this rule should include provision for exceptions in specific circumstances where this seemed desirable or necessary. Such circumstances might for instance arise if a financing partner decided to reduce its own stake in the relevant equity.
4. In paragraph 3, Delegates meant "disbursed equity investments" to be interpreted as excluding any such investments as might subsequently have been disposed of to the value achieved by such realization.

Article 13

1. Delegates expected that the operational principles set forth in this Article would be supplemented by a more detailed and comprehensive statement of operating policies to be adopted by the Board of Directors. This statement of policies would cover, among other things: the extent to which the Bank would be expected to go to satisfy itself that the funds which it invested were used efficiently and economically and, where such funds were used for the purchase of goods, that the goods were bought on reasonable terms and in favourable markets; and the detailed requirements for the identification, appraisal, monitoring, implementation and ex-post evaluation of all projects, including their economic, technical, managerial, financial and environmental aspects.
2. In sub-paragraph (i), the stipulation that the Bank should apply sound banking principles to all its operations was meant to cover all of its activities, including its financial policies (for example its management of exchange rate risks) and not just the activities listed in the rest of the Article.
3. In sub-paragraph (ii), Delegates described the precise form of programme lending in which the Bank could become involved as “projects, whether individual or in the context of specific investment programmes”, so as to make clear that fast-disbursing policy-based lending is not included.
4. In sub-paragraph (vii), the intention of Delegates was that the Bank should not compete with other organizations; rather, it should complement or supplement existing financing possibilities. Delegates also understood that “financing” and “facilities” were broad terms involving the whole range of Bank operations, including underwriting. Delegates intended this sub-paragraph to be read together with sub-paragraph (xi), where the latter applies.
5. In sub-paragraph (x), Delegates intended the word “investments” to cover the Bank’s loans and guarantees as well as its equity investments. In connection with this provision it had seemed desirable to avoid writing into the Articles any requirement that preference be given to any particular class or classes of purchasers. However, the Bank could often find it necessary or appropriate, when making an investment, to give to private investors with which it was associated in the enterprise a right of first refusal, within a reasonable time limit, to purchase the Bank’s interest therein. Moreover, if the Bank had various opportunities of selling an investment on roughly the same terms, it should bear in mind, in deciding among them, the desirability of fostering local capital markets.
6. In sub-paragraph (xii), Delegates agreed upon completely open procurement (and not procurement open only to members), based on international tendering, where appropriate, and believed that such tenders should be genuinely competitive, in line with the GATT Agreement on Government Procurement. Private sector enterprises in which the Bank held equity or debt might be encouraged, but not obliged, to use international tenders to obtain goods or services efficiently and economically. Delegates were also anxious to give less developed countries, who might not become members, the opportunity to tender for Bank contracts, on equal terms with Bank members, as a means of assisting their development process and of

reassuring them, through this original gesture, that the interest of shareholders in the new Bank did not mean reduced interest in their traditional partners in development.

Article 14

1. Paragraph 1 requires the Bank, in setting terms and conditions for its financing operations, to take full account of the need to safeguard its income. Delegates envisaged that this requirement would avoid the risk of such operations being in practice subsidised from the cost-free resources available to the Bank from members' paid-in subscriptions.
2. The wording of paragraph 2 of this Article gives the Bank some flexibility to react according to circumstances and would permit the Board to consider a wide range of factors in deciding a policy on guarantees for loans to state-owned enterprises.
3. In reaching decisions on these issues, the Board would need to bear in mind that a fundamental goal of the Bank was to develop a strong private sector in eligible member countries. To ensure that private entrepreneurs took full responsibility for their commercial undertakings, the Board shall follow the present practice of the international Finance Corporation in not requiring a member government guarantee on loans to private sector enterprises. It could take into account the fact that a state-owned enterprise would be more likely to respond quickly to market forces, and to make the transition to market-oriented economies, if that enterprise could not rely on a government guarantee to discharge its responsibilities under a Bank loan. The Board could also set loan terms, pursuant to paragraph (xi) of Article 13, to compensate the Bank for any commercial or other risks should it decide not to require a guarantee by a member government.
4. For the purpose of Article 11, paragraph 3, when the Bank does require a member country guarantee to a state-owned enterprise (i.e. a guarantee by the member or a public agency or instrumentality), the loan shall be considered as made to the state sector unless that state-owned enterprise is in transition to private ownership and control. A former state-owned enterprise which has achieved private ownership and control shall be regarded as a private sector enterprise, and the Bank shall not require member country guarantees on new loans to that enterprise.

Article 17

Delegates made no provision in respect of possible losses arising on special operations. Delegates envisaged that the Bank would make specific arrangements with the source of each relevant Special Fund in the agreement governing its use, so as to protect the separation of each type of resource in accordance with paragraph 2 of Article 10.

Article 18

Delegates understood that Special Funds accepted by the Bank would be assets of the Bank for the purposes of the privileges and immunities provisions of the Articles. Delegates envisaged that each Special Fund would be used and accounted for separately, but this was not specified since it was a matter for the source of each such Fund to determine in consultation with the Bank.

Article 20

1. In giving the Bank the general power to underwrite under this Article, Delegates had in mind that the Bank could agree to take on to its own books, if necessary and for a commission, some agreed portion of any shares and securities unsold as a result of a public or private enterprise issuing equity share capital or securities. If the issue proved a complete success such shares or securities would not need to be taken up by the Bank. If some remained unsold, however, and if the Bank's underwriting commitment was invoked, such shares and securities would then form part of the Bank's overall exposure in the country concerned and be subject to any limits applicable.
2. Delegates agreed that underwriting should only represent a small part of the Bank's activities, in view of the financial risks involved; that the Bank should only undertake underwriting services when necessary to fill market gaps; and that the general power to underwrite would be subject to the provisions on underwriting in Articles 11 and 13.
3. In paragraph 1, sub-paragraph (iii), Delegates did not intend this provision to prevent the Bank using private placement or other means of disposing of securities in which it had invested, if an adequate secondary market in those securities did not exist.
4. Delegates agreed that the authority specified in sub-paragraph (iv) of this Article to guarantee securities in which the Bank had invested should not be used in the case of securities which the Bank had acquired as part of its liquidity investments.

Article 24

Delegates agreed that the Bank would bear the cost of remuneration of not more than four people working full time on Bank matters, in respect of each Directorship.

Article 26

1. In paragraph 2 of this Article, Delegates hoped that as far as possible Directors would also have a wide and well-balanced knowledge of Central and Eastern Europe, so as to contribute competently to the Bank's purpose and functions as set out in Articles 1 and 2 and to fulfil competently their obligations in paragraph 3 of Article 8.
2. Delegates recognised the importance for the original member countries from recipient countries listed in Annex A of maintaining at least four Directors for this group, so as to allow each such country either its own Director or its own Alternate in the event that the list of such countries is modified. Delegates agreed that in deciding to increase or decrease the size, or revise the composition of the Board of Directors, in order to take into account changes in the number of the members of the Bank, as provided in paragraph 3 of this Article, the Board of Governors should take account of this wish.
3. Delegates agreed that Directors and their Alternates should be resident at the headquarters of the Bank.

Article 28

In paragraph 3, Delegates noted that usual practice in other International Financial Institutions was not to permit a prospective borrower specially to be represented at the Board.

Article 29

1. Delegates intended that members whose payments, including encashment of promissory notes, fell short of the full amount due on the relevant dates to the Bank in respect of their paid-in shares should forfeit the corresponding percentage of their voting power unless and until the shortfall was made good.
2. The intention in paragraph 3 was to allow split voting by Directors representing more than one member, without making such voting obligatory.
3. Delegates intended that, in the case of differing views on whether or not issues involved “general policy”, decisions would be made by the Board on the basis of advice from the Legal Counsel. In general, decisions on individual operations would not involve such issues, but “general policy issues” would include, inter alia, the budget; the annual programme of operations; borrowing policy, including borrowing limits; interest rate policy; exchange risk management policy; the drawing down of notes; underwriting policy and the organizational structure of the Bank.

Article 30

Delegates intended that men and women should be given equal opportunities in the recruitment process and in terms of service, training, promotion and career development generally.

Article 35

1. Delegates agreed that there was no need to have a provision about working languages in the Articles. The letter from the Conference Chairman to all Delegates (copy attached to this Report) sets out the understanding of Delegates about working languages.
2. Delegates were conscious that there might be little to report initially on the Bank’s environmental impact and that the form of the first annual reports on this subject might be very different from later versions.

Article 36

Delegates were of the view that the principle behind paragraph 2 was that the distribution of cash should be strictly proportional to the cash payments made by each member, and the notes encashed, in respect of its paid-in shares.

Article 39

In paragraph 2, Delegates envisaged that all potential new members would join the Bank by subscribing to share capital at par value, with no account being taken of accumulated reserves. Delegates were thus concerned that those who later chose to leave the Bank for any reason should not profit unduly by so doing, or indeed have any profit incentive to do so, in the event of the book value of their shares having greatly increased since their original purchase. The wording of this paragraph therefore had the aim of ensuring that they should not get back more than they had paid in. The reference to “shown by the books of the Bank” could permit adjustments in Bank financial statements to reflect current and accumulated losses.

Article 46

Delegates noted that this Article was almost exactly the same as Section 3 of Article VII of the I.B.R.D.’s Articles of Agreement. They hoped that courts construing it would draw on the jurisprudence that had evolved in connection with the I.B.R.D.’s Articles.

Article 52

Delegates accepted paragraph 2 of Article 52 in the light of the locations then being considered for Bank operations.

Articles 51 and 55

These Articles were worded to reflect recent international thinking and practice, in accordance with the strong wishes of many Delegates.

Article 53

1. With respect to Article 53, paragraphs 1, 2 and 3, Delegates shared the view that members would accord the greatest deference to the Bank on whether a Bank activity was “official” or whether a purchase of goods and services was “necessary” for the “official” activities of the Bank, e.g. a duly authorized purchase of goods is to be presumed as “necessary” for the “official” activities of the Bank. Beyond this, Delegates shared the view that paragraph 2 was to be interpreted in the light of national practices applicable to international organizations with similar provisions.
2. It was accepted that nothing in Article 53 was to be interpreted as preventing any member from granting greater exemption from taxation than that provided for in this Article.
3. It was the common understanding of Delegates that “duties”, whilst “import duties” and “export duties”, in paragraph 3, include customs duties.
4. In paragraph 6, Delegates understood that the “internal effective tax” was not a tax as that term is commonly used in tax treaties, national tax practice and so forth, and was not a tax which is imposed in the exercise of sovereign power. In addition they understood that the Bank’s contracts of employment would contain provisions regarding the “internal effective tax”.

5. With respect to paragraphs 6 and 7, Delegates shared the view that the Bank will regularly inform the members concerned, according to arrangements made with such members, of the amount of the salaries and emoluments paid to its Directors, Alternates, officers and employees in order to enable them to tax those salaries and emoluments (paragraph 7) or to tax properly the income from other sources than the exempt salaries and emoluments (paragraph 6).
6. Delegates took note of the importance placed by some members on their right to tax income derived by their residents who are officers or employees of the Bank. The provisions of paragraph 6 and 7 of Article 53 do not preclude these members from lodging appropriate reservations in accordance with international law.

Articles 60 and 61

Delegates intended that these Articles should be read in conjunction with Article 3. Prospective members who sign the Agreement by the date specified in Article 60 and who deposit instruments of ratification, acceptance or approval by the date specified in paragraph 1 or paragraph 2 of Article 61, shall become parties to the Agreement in accordance with the Articles and shall, inter alia, be entitled to subscribe to the number of shares allocated to them in Annex A. The terms and conditions of membership of prospective members who sign the Agreement after the date specified in Article 60 and/or who deposit their instruments of ratification, acceptance or approval later than the date in paragraphs 1 or 2 of Article 61 will be determined by the Bank in accordance with paragraph 2 of Article 3. In respect of the initial shares to be subscribed to by such members, paragraph 2 of Article 3 should be read in conjunction with paragraph 2 of Article 5.

Article 62

Delegates intended, immediately after the adoption of the Agreement by Heads of Delegations, to start discussion on the possibility of transitional arrangements allowing the operations of the bank to start as soon as possible after the date of entry into force of that Agreement.

Letter from the Chairman of the conference to all delegations

During our discussions about the European Bank for Reconstruction and Development, we agreed to follow the normal practice of making no reference to the working languages in the Bank's Statutes. This letter is therefore to record the understanding we reached together, that the four languages of the authentic text of the Agreement, mentioned in the testimonium, would be the Bank's working languages, to be used by the Bank according to its day to day needs, and taking into consideration the interests of efficiency and economy.

By-Laws of the European Bank for Reconstruction and Development

These By-Laws are adopted under the authority of, and are intended to be complementary to, the Agreement establishing the European Bank for Reconstruction and Development (hereinafter referred to as the “Agreement”); and they shall be construed accordingly.

In the event of a conflict between the provisions of these By-Laws and the provisions of the Agreement, the provisions of the Agreement shall prevail. In the event of a conflict between these By-Laws and any rules and regulations adopted pursuant to the Agreement, the By-Laws shall prevail.

Section 1: Principal Office and offices of the Bank

- a) The Principal Office of the Bank shall be located in London.
- b) The Board of Directors may authorize the establishment of agencies or branch offices of the Bank at any place in the territories of any member, whenever it is necessary to do so in order to facilitate the efficient conduct of the business of the Bank.

Section 2: Rules of Procedure - Board of Governors

All matters before the Board of Governors shall be governed by the Rules of Procedure of the Board of Governors.

Section 3: Conditions of service - Governors

Governors and their Alternates shall perform their duties without remuneration from the Bank. Their expenses incurred in attending meetings of the Board of Governors shall not be paid by the Bank.

Section 4: Conditions of service - Directors

- A) **Service**
 - a) Each Director and his or her Alternate shall devote to the activities of the Bank such time and attention as the interests of the institution may require, and one or other shall normally be available at the Bank’s principal office.
 - b) If he or she does not intend to be a full time Director of the Bank, such Director shall, as soon as possible after assuming office and from time to time as necessary, determine, in consultation with the President, how much time he or she and his or her Alternate will devote to the business of the Bank.
 - c) When a Director or his or her Alternate is unable to attend to the business of the Bank for reasons of health or similar reasons, the Director may appoint a temporary Alternate to take his or her place. The temporary Alternate shall receive no salary or compensation for expenses in this capacity for his or her services.

B) Remuneration

- a)** The Bank shall bear the cost of remuneration of any four people in respect of each Directorship. If a Directorship chooses that its Director and his or her Alternate shall be among those four, they shall receive a remuneration for the time of service rendered to the Bank at such annual rates as shall be determined from time to time by the Board of Governors. Remuneration as determined shall continue until changed by the Board of Governors. Such remuneration shall be prorated, in accordance with such provisions as the Board of Directors shall from time to time approve, according to the time spent by the Director or Alternate in the service of the Bank, as evidenced by such detailed certifications necessary to establish the exact periods of service for the Bank. Remuneration shall be paid in accordance with the established procedures of the Bank.

- b)** Full-time Directors and Alternates resident in London may participate in such medical, pension, retirement and other benefits as may be established for the staff of the Bank. Directors and Alternates who are not full-time or who are not resident in London shall participate in such medical, pension, retirement and other benefits as shall be agreed with the President on a case-by-case basis with a view to ensuring that the benefits available to those Directors and Alternates are reasonable, once due account has been taken of how much time he or she and his or her Alternate will devote to the business of the Bank.

C) Expenses (travel and leave)

- a)** The Board of Directors may make appropriate provision whereby:
 - i)** Each Director and Alternate Director shall be entitled to a reasonable allowance for expenses which in the opinion of the Bank were incurred by him or her in travelling officially, with the concurrence of the Board of Directors, to the country or countries he or she represents or on such other missions as the President may request for the Bank.

 - ii)** Each full-time Director and Alternate Director resident in London shall be entitled upon the completion of each two (2) years of continuous full-time service in either or both capacities to receive a reasonable allowance for expenses incurred for transportation of him or herself and his or her immediate family in making a single round-trip journey for annual leave in the country of which he or she is a national, provided that in the case of a Director, he or she is, at the date of beginning the trip, in a term of service which will expire not less than six (6) months thereafter, and, in the case of an Alternate, he or she is, at the date of beginning of the trip, serving in a term of service which, even if there is a change of Director, is expected to expire not less than six (6) months thereafter.

- b)** Any Director or Alternate Director who requests reimbursement or compensation from the Bank for expenses he or she has incurred in fulfilling a commission for the Bank, shall include in this request a statement to the effect that he or she has not received, nor will he or she receive, reimbursement or compensation for such expenses from any other source.
- c)** Any Director or Alternate Director shall be entitled in accordance with guidelines established by the Bank, to reimbursement of reasonable expenses which in the opinion of the Bank were incurred by him or her in connection with official Bank business.
- d)** The term “full-time” shall be deemed to mean full-time service for the Bank, excepting absences provided for by (a) of this sub-section and occasional other periods of absence from the principal office of the Bank. The “reasonable allowance” for expenses referred to in C (a) (i) above shall include appropriate costs of travel and transportation and shall be based on the established policies and ceilings established by the Bank.
- e)** In the interest of the Bank other appropriate arrangements consistent with the By-Laws and their purposes may be made in individual cases, as determined by the Board of Directors.

D) Office services

The Bank shall provide, subject to the provisions of sub-section B of this section, such secretarial and other staff services, office space and other facilities as may be necessary for the performance of the duties of the Directors and their Alternates.

Section 5: Conditions of service - President

The salary, and any other terms of remuneration, and any allowances of the President shall be determined by the Board of Governors on recommendation of the Board of Directors and shall be included in his or her contract. The President may participate in such medical, pension, retirement and other plans as may be established for the staff of the Bank.

Section 6: Conditions of service - Vice President(s)

The salary, and any other terms of remuneration, and any allowances, and the term of office, the authority and functions of the Vice-President(s) shall be determined by the Board of Directors and included in his or her contract(s). The Vice President(s) may participate in such medical, pension, retirement and other plans as may be established for the staff of the Bank.

Section 7: Code of Conduct

At its inaugural meeting the Board of Governors shall adopt, and may from time to time revise, a Code of Conduct concerning inter alia personal investment holdings and transactions which shall be binding on all Directors, their Alternates and temporary Alternates, the President and Vice President(s), and officers and staff of the Bank.

Section 8: Delegation of powers

- a) The Board of Directors is authorized by the Board of Governors to exercise all the powers of the Bank, with the exception of those expressly reserved to the Board of Governors by paragraph 2 of Article 24 and other provisions of the Agreement, and subject to these By-Laws. The Board of Directors shall not take any action pursuant to powers delegated by the Board of Governors which is inconsistent with any action taken by the Board of Governors.
- b) The President shall conduct, under the direction of the Board of Directors, the current business of the Bank. The Board of Directors shall establish conditions (including provision for reporting), procedures and thresholds pursuant to which the President may submit various types of matters to it for consideration under an expedited procedure.

Section 9: Special representation of members at meetings of the Board of Directors

Whenever the Board of Directors is to consider a matter particularly affecting a member which has no Director or Alternate of its own nationality, the member shall be promptly informed by rapid means of communication of the date set for its consideration and shall have the right to send a representative to the meeting. No final action shall be taken by the Board of Directors, nor any question affecting the member submitted to the Board of Governors, until the member has been offered a reasonable opportunity to present its views and to be heard at a meeting of the Board of Directors of which the member has had reasonable notice. Any member, so electing, may waive this provision.

Section 10: Vacant directorships

- a) When a new Director has to be elected because of a vacancy arising in terms of paragraph 5 of Article 26 of the Agreement, the President shall notify the members which elected the former Director of the existence of the vacancy. The President may convene a meeting of the Governors of such countries for the exclusive purpose of electing a new Director; or he or she may request that candidates be nominated and conduct the election by any rapid means of communication. Successive ballots shall be cast, in accordance with the principles of Annex B of the Agreement, until one of the candidates receives an absolute majority of the votes cast; and after each ballot the candidate with the smallest number of votes shall be dropped from the next ballot.
- b) When a new Director is elected, the Alternate of the former Director shall continue in office until he or she is re-appointed or a successor to him or her is appointed.

Section 11: Report of the Board of Directors

At each annual meeting of the Board of Governors, the Board of Directors shall submit an annual report on the operations and policies of the Bank, including a separate report on the activities of any Special Funds of the Bank, established or accepted in accordance with Article 18 of the Agreement.

Section 12: Financial year

The financial year of the Bank shall begin on 1 January and end on 31 December of each year, except if the entry into force of the Agreement is later than 1 January, when the financial year shall begin on the date of entry into force and shall end on 31 December of the same year.

Section 13: Audits and budget

- a) The accounts of the Bank shall be audited in accordance with generally accepted accounting principles at least once a year by independent external auditors of international reputation chosen by the Board of Directors on the basis of a proposal by the President, and on the basis of this audit the Board of Directors shall submit to the Board of Governors for approval at its annual meeting a statement of accounts, including a general balance sheet and a statement of profit and loss. A separate financial statement shall be submitted for the operations of any Special Fund.
- b) The President shall prepare an annual administrative budget to be presented to the Board of Directors for approval. The budget, as approved, shall be presented to the Board of Governors at its next annual meeting. Notwithstanding the above provision, the President shall submit to the Board of Directors for approval, not later than 3 months after the inaugural meeting of the Board of Governors, the administrative budget of the Bank for its first financial year of operations.

Section 14: Application for membership of the Bank

When submitting an application to the Board of Governors, with a recommendation that the applicant country be admitted to membership, the Board of Directors, inter alia after a report, in consultation with the applicant country, by the President, shall recommend to the Board of Governors the number of shares of capital stock to be subscribed and such other conditions as, in the opinion of the Board of Directors, the Board of Governors may wish to prescribe.

Section 15: Suspension of a member

Before any member is suspended from membership of the Bank, the matter shall be considered by the Board of Directors, inter alia after a proposal by the President. The President shall inform the member sufficiently in advance of the complaint against it, and shall give the member reasonable time to explain its case orally and in writing. The Board of Directors shall recommend to the Board of Governors whatever action it considers appropriate. The member shall be notified of the recommendation and of the date on which the matter is to be considered by the Board of Governors, and it shall be given reasonable time in which to present its case orally and in writing before the Board of Governors. Any member may waive this right.

Section 16: Amendments to the By-Laws

The Board of Governors may amend these By-Laws at any of its sessions or by taking a vote without a meeting, in accordance with the provisions of Section 10 of the Rules of Procedure of the Board of Governors.

Rules of Procedure of the Board of Governors

Section 1: Definitions

- a) “Governor”, except when the Governor is acting as the Chairman or Vice-Chairman of an annual meeting under Section 6, includes the Alternate or a Temporary Alternate when such Alternate is acting for a Governor.
- b) “Board” refers to the Board of Governors.
- c) “Director”, except where otherwise specified, includes the Alternate when such Alternate is acting for a Director.
- d) “President” refers to the President of the Bank or to a Vice-President when he or she is acting in place of the President.
- e) “Agreement” refers to the Agreement Establishing the European Bank for Reconstruction and Development.
- f) “By-Laws” refers to the By-Laws of the European Bank for Reconstruction and Development.
- g) “Agenda” refers to the list of items to be considered at a meeting.
- h) “Member” means a member of the Bank.
- i) “Secretary” means the Secretary General of the Bank or an official designated by the President to serve in the Secretary General’s absence.

Section 2: Meetings

- a) The Board shall hold an annual meeting at such date and place as the Board shall determine; provided, however, that the Board of Directors may change the date and place of such annual meeting when special circumstances or reasons arise to justify such action.
- b) The Board may, in addition, hold special meetings when it so decides or when called by the Board of Directors pursuant to paragraph 1 of Article 25 of the Agreement.
- c) The Secretary shall notify all members, by the most rapid possible means of communication reasonably available, of the date and place of each meeting of the Board. Such notifications must be dispatched at least forty five (45) days prior to the date of any annual meeting and thirty (30) days prior to the date of a special meeting. In case of emergency, notification by telex, facsimile or other rapid means of communication ten (10) days prior to the date set for the meeting shall be sufficient.

- d)** Two thirds of the Governors shall constitute a quorum for any meeting of the Board, provided such majority represents not less than two thirds of the total voting power of the members. Any meeting of the Board of Governors at which there is no quorum may be adjourned by a majority of the Governors present. Any meeting of the Board of Governors at which there is no quorum may be postponed from day to day for a maximum of two (2) days by decision of a majority of the Governors present. No notice need be given of any such postponed meeting.
- e)** The Board may order the temporary adjournment of any meeting and its resumption at a later date.
- f)** Except as otherwise specifically directed by the Board, the President, together with the Chairman of the Board, and in co-operation with the host country, shall have charge of all arrangements for the holding of meetings of the Board.

Section 3: Attendance at meetings

- a)** The Directors and their Alternates may attend any meeting of the Board and participate therein. However, a Director and his or her Alternate shall not be entitled to vote, unless he or she shall be entitled to vote as a temporary Alternate or Governor.
- b)** The Chairman of the Board, in consultation with the Board of Directors, may invite observers to attend any meeting of the Board.

Section 4: Agenda for meetings of the Board

- a)** Under the direction of the Board of Directors, the President shall prepare an agenda for each meeting of the Board of Governors and transmit such agenda to members together with, or in advance of, the notice of the meeting.
- b)** Additional subjects may be placed on the agenda for any meeting of Governors by any Governor provided that he or she shall give notice thereof to the President at least fifteen (15) days prior to the date of the meeting. The President shall give notice of such additional items through a supplementary list to be communicated to members within 48 hours of receipt of such notice from a Governor.
- c)** The agenda, as well as any supplementary list, shall be submitted to the Board for approval at the first business session of each meeting by the Chairman of the Board.
- d)** When a special meeting is called the agenda shall be limited to the items communicated by the President.
- e)** In the course of any meeting of the Board, the Board may modify, add to, or eliminate items from the agenda.

- f) In exceptional cases the President, under the direction of the Board of Directors, may include at any time additional items in the draft agenda for any meeting of the Board of Governors. The President shall notify each Governor of such additional items as quickly as possible.

Section 5: Representation of members

At each meeting of the Board, the Secretary shall submit a list of the Governors, Alternates, or Temporary Alternates of the members whose appointment has been officially communicated to the Bank.

Section 6: Chairman and Vice-Chairmen

- a) At the beginning of its inaugural meeting the Board, under the chairmanship of the Governor for the host country, shall elect one of its Governors to be Chairman and two other Governors to be Vice-Chairmen and they shall serve in their respective positions until the end of the first annual meeting of the Board. In the absence of the Chairman, the Vice-Chairman designated by the Chairman shall act in his or her place.
- b) At the end of each annual meeting the Board shall elect one of its Governors to be Chairman and two other Governors to be Vice-Chairmen, and they shall serve in their respective positions until the end of the next annual meeting of the Board. In the absence of the Chairman, the Vice-Chairman designated by the Chairman shall act in his or her place.
- c) The Chairman, or the Vice-Chairman acting as Chairman, may not vote, but his or her Alternate or Temporary Alternate Governor may vote in his or her place.

Section 7: Secretary

The Secretary General of the Bank shall serve as Secretary of the Board.

Section 8: Committees

The Board may at any meeting establish such committees as may be necessary or appropriate to facilitate its work and such committees shall report to the Board.

Section 9: Voting

- a) Except as otherwise expressly provided in the Agreement, all decisions of the Board shall be made by a majority of the voting power of the members voting. At any meeting the Chairman may ascertain the sense of the meeting in lieu of a formal vote but a formal vote shall be taken whenever requested by any Governor; in this event the written text of the proposal to be voted upon shall be distributed to the Governors.
- b) At any meeting of the Board, the vote of any member must be cast in person by the Governor, his or her Alternate, or in their absence, by a formally designated Temporary Alternate appointed by a member for the purpose of attending and voting at the Board when both the Governor and his or her Alternate are absent.

Section 10: Voting without meeting

- a) Whenever the Board of Directors considers that the decision on a specific question which is for the Board to determine should not be postponed until the next annual meeting of the Board and does not warrant the calling of a special meeting of the Board, the Board of Directors shall promptly transmit to each Governor the proposals relating to that question with a request for a vote on such proposals.
- b) In compliance with such a request, votes shall reach the Bank within such period as may be determined by the Board of Directors. Upon the expiration of that period, the President shall report the votes to the Board of Directors which shall record the results of the voting in applying the provisions of paragraphs 1 and 2 of Article 29 of the Agreement as if a meeting of the Board had been held. The President shall communicate the results to all Governors. Unless replies are received from not less than two thirds of the Governors, representing not less than two thirds of the voting power, the proposals shall lapse.

Section 11: Record of proceedings

The Board shall keep a summary record of its proceedings which shall be available to all members and kept on file at the Bank.

Rules of Procedure of the Board of Directors

Section 1: Authority of these Rules

These Rules of Procedure of the Board of Directors, hereinafter called “Rules”, are adopted pursuant to paragraph 4 of Article 25 of the Agreement, to Article 28 of the Agreement, and to Section 8 of the By-laws.

Section 2: Definitions

- a) “Director”, except for a Director acting as Chairman under Section 3(a), includes the Alternate or a temporary Alternate, as the case may be, when such Alternate is acting for a Director.
- b) “Board” refers to the Board of Directors.
- c) “President” refers to the President of the Bank.
- d) “Agreement” refers to the Agreement Establishing the European Bank for Reconstruction and Development.
- e) “By-laws” refers to the By-laws of the European Bank for Reconstruction and Development.
- f) “Agenda” refers to the list of items to be considered at a meeting.
- g) “Chairman” refers to the person acting as Chairman of the meetings of the Board of Directors pursuant to Section 3(a).
- h) “Secretary” means the Secretary General of the Bank or an official designated by the President to serve in the Secretary General’s absence.

Section 3: Meetings

- a) The President, or, in the absence of the President, the First Vice-President, or in the absence of both, the Vice-President so designated by the President, shall act as Chairman of the Board. In the event of their absence from any meeting, the Board shall select a Director as Chairman.
- b) Meetings of the Board shall be called by the President as the business of the Bank may require. The Board may be called into session at any time by the President on his own initiative. The President shall call the Board at any time at the written request of any Director. In exceptional circumstances, and in the absence or incapacity of both the President and the First Vice-President, the Secretary may call a meeting upon the request of at least three (3) Directors.
- c) Except in special circumstances when notice of a meeting shall be given as soon as possible, the Secretary shall notify the Directors and their Alternates of meetings at least three (3) working days in advance of each meeting.

- d)** The Board shall meet at the principal office of the Bank unless it decides that a particular meeting shall be held elsewhere.
- e)** A majority of the Directors shall constitute a quorum for any meeting of the Board, provided such majority represents not less than two-thirds of the total voting power of the members.
- f)** In addition to the Directors and their Alternates, the President, Vice-President(s), and the Secretary, meetings of the Board shall be open to attendance only by such members of the Bank's staff as the President may designate, representatives of members appointed under paragraph 3 of the Article 28 of the Agreement, and such other persons as the Board may invite.
- g)** At the request of the President or any Director, meetings may be held in Executive Session which shall be attended only by the Directors and their Alternates, the President, Vice-President(s), the Secretary, and, with the approval of the Board, granted separately for each Executive Session, such other persons as are specifically named, without prejudice to the provisions of paragraph 3 of Article 28 of the Agreement.

Section 4: Agenda for meetings

- a)** An Agenda for each meeting of the Board shall be prepared by the President, or on his instructions, and a copy of such Agenda shall be given to each Director and his or her Alternate at least three (3) working days before such meeting. In the case of a meeting called in special circumstances, the Agenda shall be given to each Director at least twenty four hours before such meeting. Any matter upon which the Board has power to act shall be included on the Agenda for any meeting of the Board, if any Director so requests.
- b)** If any Director shall so request, action by the Board on any matter, whether or not included on the Agenda for the particular meeting, shall be postponed not more than once for a minimum of two (2) working days.
- c)** The Board may postpone discussion or decision of any agenda item for such period as it deems appropriate.
- d)** Matters not on the Agenda for a meeting may be considered at that meeting unless a Director or the Chairman objects thereto.
- e)** Any item of the Agenda for a meeting, consideration of which has not been completed at that meeting, shall, unless the Board decides otherwise, be automatically included at the beginning of the Agenda for the next meeting.
- f)** Documents for discussion in the Board shall be submitted to Directors at least twenty one (21) calendar days before the scheduled discussion, except that documents containing commercially confidential information, or other categories of documents which the Board had decided to handle under expedited procedures, shall be submitted to the Directors at least ten (10) working days before the scheduled discussion.

Section 5: Voting

- a) The Chairman shall ordinarily ascertain and announce to the meeting the sense of the meeting with regard to any matter and the Board shall be deemed to have acted in accordance with the announcement by the Chairman without the necessity of taking a formal vote. A Director dissenting from the decision of the Board may require that his or her views be recorded in the summary record of the proceedings of the meeting. Any Director may request a formal vote to be taken in accordance with the provisions of paragraph 3 of Article 29 of the Agreement.
- b) Directors may vote only in person.

Section 6: Notice to Directors

- a) Any notice required by these Rules to be given to a Director or his or her Alternate shall be deemed to have been sufficiently given when it shall have been delivered in writing, by telephone, or in person during regular business hours of the Bank at the office of the Director in the principal office of the Bank or as provided for meetings elsewhere called under Section 3(d) above.
- b) Whenever any document is required by these Rules to be delivered to a Director or his or her Alternate it shall be deemed to have been sufficiently delivered if it is deposited, during regular business hours of the Bank, at the office of the Director in the principal office of the Bank or as provided for meetings elsewhere called under Section 3(d) above.
- c) The giving of any notice or the delivery of any document which is required by these Rules to be given or delivered to any Director or his or her Alternate may be waived by the Director in writing, by any reasonable rapid means of communication, or in person, at any time.

Section 7: Secretary

The Secretary General shall act as Secretary of the Board.

Section 8: Minutes

- a) The Secretary shall be responsible for the preparation of minutes and a summary record of the proceedings of the meetings of the Board.
- b) The draft minutes and summary record of the proceedings shall be circulated to all Directors as soon as possible, and not later than forty eight (48) hours after meetings. They shall be presented to the Board for approval within a reasonable period of time.
- c) The minutes shall contain: (i) the names of attendees; (ii) a record of the approval of the minutes of the previous meeting; (iii) titles of the agenda items; and (iv) agreements and decisions reached.
- d) Any Director may require that his or her views be recorded in the summary record of the proceedings of the meeting.
- e) The Secretary shall be responsible for the custody of the minutes, summary records of the proceedings and other documents relating to proceedings of the Board and shall be the only person authorised to certify copies thereof.

Section 9: Publicity

The minutes shall be published. The summary records of the proceedings of the Board are confidential and shall not be published, except when the Board decides to authorise the President to arrange for suitable publicity on any matter relating thereto. The Board shall develop special procedures to assure the confidentiality of commercial transactions.

Section 10: Amendments

These Rules may be amended by a majority of the Directors, representing not less than two thirds of the voting power, at any meeting provided at least then (10) days notice of the proposed amendment has been given to the Directors in writing.

Section 11: Committees

The Board may establish such committees as may be appropriate to facilitate its work to the extent authorised by the Board of Governors. Such committees shall report to the Board.

(These Rules were adopted by the Board of Directors on 18-19 April 1991. Sections 5, 8 and 9 were amended by the Board of Directors on 19 September 2006.)

Headquarters Agreement

Between the Government of the United Kingdom of Great Britain and Northern Ireland and the European Bank for Reconstruction and Development

The Government of the United Kingdom of Great Britain and Northern Ireland and the European Bank for Reconstruction and Development;

Having regard to the Agreement Establishing the European Bank for Reconstruction and Development;

Noting that Article 33 of that Agreement provides that the Principal Office of the European Bank for Reconstruction and Development shall be located in London;

Desiring to define the status, privileges and immunities in the United Kingdom of the Bank and persons connected therewith;

Have agreed as follows:

Article 1: Use of terms

For the purpose of this Agreement:

- a) “Agreement Establishing the Bank” means the Agreement Establishing the European Bank for Reconstruction and Development signed in Paris on 29th May 1990, and any amendments thereto;
- b) “Bank” means the European Bank for Reconstruction and Development;
- c) “Government” means the Government of the United Kingdom of Great Britain and Northern Ireland (the “United Kingdom”);
- d) the terms “Member”, “President”, “Vice-President”, “Governor”, “Alternate Governor”, “Temporary Alternate Governor”, “Director”, “Alternate Director” and “Temporary Alternate Director” have the same meaning as in the Agreement Establishing the Bank, its By-laws or Rules of Procedure;
- e) “Premises of the Bank” means the land, buildings and parts of building, including access facilities, used for the Official Activities of the Bank;
- f) “Representatives of Members” means heads of delegations of Members participating in meetings convened by the Bank other than meetings of the Governors or the Board of Directors;
- g) “Members of Delegations” means alternates, advisers, technical experts and secretaries of delegations of Representatives of Members;
- h) (h) “Officers” means the President, the Vice-President and other persons appointed by the President to be Officers of the Bank;

- i) “Employees of the Bank” means the staff of the Bank excluding those staff both recruited locally and assigned to hourly rates of pay;
- j) “Archives of the Bank” includes all records, correspondence, documents, manuscripts, still and moving pictures and films, sound recordings, computer programmes and written materials, video tapes or discs, and discs or tapes containing data belonging to, or held by, the Bank;
- k) “Official Activities of the Bank” includes all activities undertaken pursuant to the Agreement Establishing the Bank, and all activities appropriate to fulfil its purpose and functions under Articles 1 and 2 of that Agreement, or undertaken in exercise of its powers under Article 20 of that Agreement including its administrative activities; and
- l) “Persons Connected with the Bank” means Governors, Alternate Governors, Temporary Alternate Governors, Representatives of Members, Members of Delegations, Directors, Alternate Directors, Temporary Alternate Directors, the President, the Vice-Presidents, Officers and Employees of the Bank, and experts performing missions for the Bank.

Article 2: Interpretation

1. This Agreement shall be interpreted in the light of the primary objective of enabling the Bank fully and efficiently to discharge its responsibilities in the United Kingdom and to fulfil its purpose and functions.
2. This Agreement shall be regarded as implementing and supplementing certain of the provisions of the Agreement Establishing the Bank and shall not be regarded as modifying or derogating from the provisions of that Agreement, particularly Chapter VIII thereof.

Article 3: Judicial personality

The Bank shall possess full legal personality and, in particular, the full legal capacity:

- a) to contract;
- b) to acquire, and dispose of, immovable and movable property; and
- c) to institute legal proceedings.

Article 4: Immunity from judicial proceedings

1. Within the scope of its official activities the Bank shall enjoy immunity from jurisdiction, except that the immunity of the Bank shall not apply:
 - a) to the extent that the Bank shall have expressly waived any such immunity in any particular case or in any written document;
 - b) in respect of civil action arising out of the exercise of its powers to borrow money, to guarantee obligations and to buy or sell or underwrite the sale of any securities;

- c) in respect of a civil action by a third party for damage arising from a road traffic accident caused by an Officer or an Employee of the Bank acting on behalf of the Bank;
 - d) in respect of a civil action relating to death or personal injury caused by an act or omission in the United Kingdom;
 - e) in respect of the enforcement of an arbitration award made against the Bank as a result of an express submission to arbitration by or on behalf of the Bank; or
 - f) in respect of any counter-claim directly connected with court proceedings initiated by the Bank.
2. The property and assets of the Bank shall, wheresoever located and by whomsoever held, be immune from all forms of restraint, seizure, attachment or execution except upon the delivery of final judgment against the Bank.

Article 5: The Premises of the Principal Office of the Bank

1. The Government shall do its utmost to meet the requirements of the Bank in the selection, negotiation and acquisition of the Premises of the Bank. In particular, but without limitation, the Government shall assist the Bank in the acquisition (by gift, lease, hire or purchase thereof) of such premises as may be selected by the Bank, in consultation with the Government, as the Premises of the Bank.
2. The Government shall not dispose of or seek to dispose of all or any part of the Premises of the Bank without the consent of the Bank.

Article 6: Inviolability of the Premises of the Bank

1. The Premises of the Bank shall be inviolable, and shall be under the control and authority of the Bank which may establish any regulations necessary for the exercise of its functions therein.
2. No official of the Government or person exercising any public authority, whether administrative, judicial, military, or police, shall enter the Premises of the Bank except with the consent of and under conditions approved by the President. Such consent may be assumed in the case of fire or other disasters requiring prompt protective action. The Bank and the Government shall agree under what circumstances and in what manner any such official may enter the Premises of the Bank without the prior consent of the Bank in connection with fire prevention, sanitary regulations or emergencies.
3. The Bank shall allow duly authorized representatives of public utilities to inspect, repair, maintain, reconstruct, and relocate utilities, conduits, mains and sewers within the Premises of the Bank and its facilities.
4. No service (other than service by post) or execution of any legal process or any ancillary act such as the seizure of private property shall be permitted by the

Government to take place within the Premises of the Bank except with the express consent of and under conditions approved by the President.

5. Without prejudice to the terms of this Agreement, the Bank shall prevent the Premises of the Bank from becoming a refuge from justice for persons subject to extradition or deportation, or who are avoiding arrest or service of legal process under the law of the United Kingdom.

Article 7: Protection of the Premises of the Bank

1. The Government is under a special duty to take all appropriate measures to protect the Premises of the Bank against any intrusion or damage and to prevent any disturbance of the peace of the Bank or impairment of its dignity.
2. If so requested by the Bank, the Government shall, in consultation with the Commissioner of Metropolitan Police and the Bank, develop policies and procedures so that unauthorized entry of any person shall be prevented, order on the Premises of the Bank shall be preserved, and uninvited persons shall be removed from those Premises.
3. The Bank shall take all reasonable steps to ensure that the amenities of the land in the vicinity of the Premises of the Bank are not prejudiced by any use made by the Bank of those Premises.

Article 8: Public utilities and services in the Premises of the Bank

1. The Government shall do its utmost to ensure that the Bank shall be provided with the necessary public utilities and services, including, but not limited to, electricity, water, sewerage, gas, post, telephone, telegraph, local transportation, drainage, collection of refuse and fire protection and that such public utilities and services shall be supplied on reasonable terms. In case of any interruption or threatened interruption of any of the said utilities and services, the Government shall consider the needs of the Bank of equal importance to those of diplomatic missions and shall take steps to ensure that the operations of the Bank are not prejudiced.
2. Any preferential rates or tariffs which may be granted to diplomatic missions in the United Kingdom for supplies of the utilities and services mentioned in paragraph 1 of this Article shall also be accorded to the Bank if compatible with international conventions, regulations and arrangements to which the Government is a party.

Article 9: Flag and emblem

The Bank shall be entitled to display its flag and emblem on the Premises of the Bank and on the means of transport of the Bank and of its President.

Article 10: Immunity of property and inviolability of Archives of the Bank

- 1.** The property and assets of the Bank, wheresoever located and by whomsoever held, shall be immune from search, requisition, confiscation, expropriation and any other form of interference or taking or foreclosure by executive or legislative action.
- 2.** The Archives of the Bank shall be inviolable.

Article 11: Communications and publications

- 1.** The Bank shall enjoy in the United Kingdom for its official communications and the transfer of all its documents treatment not less advantageous to the Bank than the most favourable treatment accorded by the Government to any international organization, in the matter of priorities, rates and surcharges on mails, cables, radiograms, telefax, telephone and other forms of communications, and press rates for information to the press and radio, and in this respect the Government, in the exercise of any regulatory function, shall have regard to the particular needs of the Bank for telecommunications and the most advanced commercial communications technology.
- 2.** The Government shall permit and protect unrestricted communication on the part of the Bank for all the Official Activities of the Bank, and no censorship shall be applied to the official correspondence and other official communications of the Bank.
- 3.** The Bank shall have the right to use codes and to dispatch and receive official correspondence and other official communications by courier or in sealed bags which shall have immunities and privileges not less favourable than those accorded to diplomatic couriers and bags.

Article 12: Exemption from taxation

- 1.** Within the scope of its Official Activities the Bank, its property, assets, income and profits shall be exempt from all present and future direct taxes including income tax, capital gains tax and corporation tax.
- 2.** The Bank shall be granted relief from rates, or any other local taxes or duties or rates in substitution therefor or in addition thereto, levied on the Premises of the Bank with the exception of the proportion which, as in the case of diplomatic missions, represents a charge for public services. The rates, or any other local taxes or duties or rates levied in substitution therefor or in addition thereto, referred to in this paragraph shall in the first instance be paid by the Government, which shall recover from the Bank the proportion which represents a charge for public services.

Article 13: Exemption from customs and indirect taxes

- 1.** The Bank shall have exemption from duties (whether of customs or excise) and taxes on importation and exportation of goods which are imported and exported by or on behalf of the Bank and are necessary for its Official Activities, or on the importation or exportation of any publications of the Bank imported and exported by it or on its behalf. Documentation signed by or on behalf of the President shall be conclusive evidence as to the necessity of any such goods for the Official Activities of the Bank.
- 2.** The Bank shall have exemption from prohibitions and restrictions on importation or exportation in the case of goods which are imported or exported by the Bank and are necessary for its Official Activities and in the case of any publications of the Bank imported or exported by it.
- 3.** The Bank shall be exempt from car tax and Value Added Tax on any official vehicles and shall be accorded a refund of Value Added Tax paid on any other goods and services which are supplied for the Official Activities of the Bank.
- 4.** The Bank shall be accorded a refund of duty (whether of customs or excise) and Value Added Tax paid on the importation of hydrocarbon oils (as defined in Section 1 of the Hydrocarbon Oil Duties Act 1979) purchased by it and necessary for the exercise of its Official Activities.
- 5.** The Bank shall have exemption from excise duty on spirits of United Kingdom origin purchased in the United Kingdom for the purpose of official entertainment to the extent that such exemption is accorded to diplomatic missions. Documentation signed by or on behalf of the President shall be conclusive evidence that any purchase is for the purpose of official entertainment.
- 6.** The Bank shall also be exempt from any indirect taxes which may be introduced in the future in the United Kingdom where the Agreement Establishing the Bank provides for such an exemption. The Bank and the Government shall consult as to the method for implementing such exemption.

Article 14: Resale

- 1.** Goods which have been acquired or imported under Article 13 shall not be sold, given away, hired out or otherwise disposed of in the United Kingdom unless the Government has been informed beforehand and the relevant duties and taxes paid.
- 2.** The duties and taxes to be paid shall be calculated on the basis of the rate prevailing and the value of the goods on the date on which the goods change hands or are made over to other uses.

Article 15: Privileges and immunities for Persons Connected with the Bank

- 1.** The Government undertakes to authorize the entry into the United Kingdom without delay, and without charge for visas, of Persons Connected with the Bank, and members of their families forming part of their households.
- 2.** Persons Connected with the Bank shall:
 - a)** be immune from jurisdiction and legal process, including arrest and detention, even after termination of their mission or service, in respect of acts performed by them in their official capacity, including words written or spoken by them; this immunity shall not apply, however, to civil liability in the case of damage arising from a road traffic accident caused by any such person;
 - b)** be exempt, together with members of their family forming part of their households, from immigration restrictions and alien registration and from registration formalities for the purposes of immigration control;
 - c)** be exempt, together with members of their families forming part of their households, from national service obligations;
 - d)** have the same freedom of movement in the territory of the United Kingdom (subject to its laws and regulations concerning zones entry into which is prohibited or regulated for reasons of national security), and the same treatment in respect of travelling facilities, as is generally accorded to officials of comparable rank of diplomatic missions;
 - e)** be given, together with members of their families forming part of their households, the same repatriation facilities in times of international crises as officials of comparable rank of diplomatic missions; and
 - f)** be accorded inviolability for all their official papers and documents.
- 3.** In addition to the privileges and immunities set out in paragraph 2, Directors, Alternate Directors, Officers and Employees of the Bank, and experts under contract longer than 18 months shall, at the time of first taking up their post in the United Kingdom, be exempt from duties (whether of customs or excise) and other such taxes and charges (except payments for services) in respect of import of their furniture and personal effects (including one motor car each), and the furniture and personal effects of members of their family forming part of their household, which are in their ownership or possession or already ordered by them and intended for their personal use or for their establishment. Such goods shall normally be imported within six months of the first entry of such person into the United Kingdom; an extension of this period will however be granted where justified. If such persons on the termination of their functions export goods to which this paragraph applies, they shall be exempt from any duty or other charge which may be imposed by reason of such export (except payment for services). The privileges referred to in this paragraph shall be subject to the conditions governing the disposal of goods

imported into the United Kingdom free of duty and to the general restrictions applied in the United Kingdom to all imports and exports.

4.
 - a) In addition to the privileges and immunities set out in paragraph 2, Governors, Alternate Governors, and Representatives of Members shall:
 - i) have the right to use codes and to receive documents or correspondence by special courier or diplomatic bag;
 - ii) have the same customs facilities as regards their personal baggage as are accorded to diplomatic agents; and
 - iii) be immune from arrest and detention, and from seizure of their personal baggage.
 - b) The provisions of this Article in respect of Governors, Alternate Governors, Temporary Alternate Governors, Directors, Alternate Directors, Temporary Alternate Directors and Representatives of Members shall be applicable irrespective of the relations existing between the Governments which those persons represent and the Government of the United Kingdom, and are without prejudice to any special immunities to which such persons may otherwise be entitled.
5. In addition to the privileges and immunities set out in paragraph 2, the President and five (5) Vice-Presidents shall enjoy the same privileges and immunities as are accorded to diplomatic agents, in accordance with international law supplemented by practice in the United Kingdom.
6. The privileges and immunities set out in paragraphs 2(b), 2(c), 2(e), 3, 4 and 5 shall not apply to Persons Connected with the Bank who are nationals of the United Kingdom and the privileges and immunities set out in paragraphs 2(e), 3, 4 and 5 shall not apply to Persons Connected with the Bank who are permanent residents of the United Kingdom.
7. The privileges and immunities in this Article shall not apply to Representatives of the United Kingdom nor the members of their delegations.

Article 16: Income tax

1. The Directors, Alternate Directors, Officers and Employees of the Bank shall be subject to an internal effective tax imposed by the Bank for its benefit on salaries and emoluments paid by the Bank. From the date on which this tax is applied such salaries and emoluments shall be exempt from United Kingdom income tax, but the Government shall retain the right to take these salaries and emoluments into account for the purpose of assessing the amount of taxation to be applied to income from other sources.
2. In the event that the Bank operates a system for the payment of pensions or annuities to former Officers and Employees of the Bank, the provisions of paragraph 1 of this Article shall not apply to such pensions or annuities.

Article 17: Social security

From the date on which the Bank establishes or joins a social security scheme, the Directors, Alternate Directors, Officers and Employees of the Bank shall with respect to services rendered for the Bank be exempt from the provisions of any social security scheme established by the United Kingdom.

Article 18: Opportunity to take employment

- 1.** The Bank shall not employ as an Officer or Employee of the Bank any person who is present in the United Kingdom at the time of such employment without taking all reasonable steps to ascertain that such person is not present in the United Kingdom in violation of the relevant immigration laws or is not subject to a prohibition thereunder from taking up employment in the United Kingdom. If the Government determines that any person employed by the Bank was at the time of taking up his employment in violation of the immigration laws or was subject to such a prohibition, the Bank and the Government shall consult with a view to agreeing on the appropriate remedy, including, where appropriate, termination of such employment.
- 2.** The spouses and members of the family forming part of the household of those Directors, Alternate Directors, Officers and Employees of the Bank and experts performing services for the Bank shall be accorded opportunity to take employment in the United Kingdom.

Article 19: Objects of immunities, privileges and exemptions: Waiver

- 1.** The immunities, privileges and exemptions conferred under this Agreement 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 any of the immunities, privileges and exemptions conferred under this Agreement 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 duty to waive any immunity, privilege or exemption in respect of any Officer or Employee of the Bank or expert performing services for the Bank, other than the President or a Vice-President, where, in his or her opinion, the immunity, privilege or exemption 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 the duty to waive any immunity, privilege or exemption in respect of the President and each Vice-President.
- 2.** Privileges and immunities accorded to Representatives of Members and members of Delegations under Article 15 are provided in order to assure complete independence in the exercise of their functions, and may be waived by the member concerned.

Article 20: Notification of appointments: Cards

- 1.** The Bank shall inform the Government when an Officer or Employee of the Bank or an expert performing services for the Bank takes up or relinquishes his or her duties. Furthermore, the Bank shall from time to time send to the Government a list of all such Officers, Employees of the Bank and experts. It shall in each case indicate whether or not the individual concerned is a national of the United Kingdom or permanently resident in the United Kingdom.
- 2.** The Government shall issue to all Officers and Employees of the Bank, on notification of their appointment, a card bearing the photograph of the holder and identifying him or her as an Officer or Employee of the Bank.

Article 21: Co-operation

- 1.** The Bank shall co-operate at all times with the appropriate authorities of the United Kingdom in order to prevent any abuse of the immunities, privileges, exemptions and facilities provided for in this Agreement.
- 2.** Nothing in this Agreement shall affect the right of the Government to take precautions necessary for the security of the United Kingdom. If the Government considers it necessary to apply the preceding sentence, it shall approach the Bank as rapidly as circumstances allow in order to determine by mutual agreement the measures necessary to protect the interests of the Bank. The Bank shall collaborate to avoid any prejudice to the security of the United Kingdom.

Article 22: Modification

At the request either of the Government or of the Bank, consultation shall take place respecting the implementation, modification or extension of this Agreement. Any understanding, modification or extension may be given effect by an Exchange of Notes between authorized representatives of the Government and of the President.

Article 23: Settlement of disputes

- 1.** Any dispute between the Government and the Bank concerning the interpretation or application of this Agreement, which is not settled by negotiation or other agreed mode of settlement, shall be referred for final decision to an arbitral tribunal of three arbitrators, to be constituted for each individual case in the following way. Within two months of the receipt of the request for arbitration, the Bank and the Government each shall appoint one member of the tribunal. The two members so appointed shall then select a third arbitrator who is not a national of the United Kingdom. That third arbitrator shall be President of the tribunal.

2. If within three months from the date of notification of the request for arbitration, the necessary appointments have not been made, either the Government or the Bank may, in the absence of any other agreement, invite the President of the International Court of Justice to make the necessary appointments. If the President is a national of the United Kingdom or if he is otherwise prevented from discharging the said function, the Vice-President shall be invited to make the necessary appointments. If the Vice-President is a national of the United Kingdom or if he too is prevented from discharging the said function, the member of the International Court of Justice next in seniority who is not a national of the United Kingdom shall be invited to make the necessary appointments.
3. The decisions of the tribunal shall be final and binding. The tribunal shall adopt its own rules of procedure, and in this respect shall be guided by the Rules of Procedure for Arbitration Proceedings of the International Centre for Settlement of Investment Disputes established by the Convention on the Settlement of Investment Disputes between States and Nationals of Other States, done at Washington D.C. on 18th March 1965.
4. The costs of the tribunal shall be shared equally between the Bank and the Government, unless the tribunal decides otherwise.

Article 24: Final provisions, entry into force and termination

1. This Agreement shall enter into force on signature.
2. This Agreement may be terminated by agreement between the Government and the Bank. In the event of the Principal Office of the Bank being moved from the territory of the United Kingdom, this Agreement shall cease to be in force after the period reasonably required for such transfer and the disposal of the property of the Bank in the United Kingdom.

In witness whereof, the respective representatives, duly authorized thereto, have signed this Agreement.

Done in duplicate at London on the 15th day of April 1991.

**For the European Bank for
Reconstruction and Development**

**For the Government of the United
Kingdom of Great Britain and
Northern Ireland**

Jacques Attali

John Major

**European Bank for Reconstruction
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286 Basic Documents (E/X,000)

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