AGREEMENT

between

GOVERNMENT OF INDIA

and

ASIAN DEVELOPMENT BANK

regarding

THE RESIDENT OFFICE
OF THE ASIAN DEVELOPMENT BANK
AGREEMENT BETWEEN THE GOVERNMENT
OF INDIA AND THE ASIAN DEVELOPMENT BANK
REGARDING THE RESIDENT OFFICE
OF THE ASIAN DEVELOPMENT BANK

The Government of India (hereinafter referred to as the Government) and

The Asian Development Bank (hereinafter referred to as the Bank),

DESIRING to conclude an agreement regarding the Resident Office of the Bank in India,

HAVE AGREED as follows:

ARTICLE I
Definitions

Section 1. Wherever used in this Agreement, unless the context otherwise requires, the following terms have the following meanings:

(a) "Resident Office" means the Resident Office of the Bank in India;

(b) "Resident Office Seat" means the premises occupied by the Resident Office, including any buildings and the land ancillary thereto as may be utilized for the purposes of the Resident Office;

(c) "Member Country" means a country which is a member of the Bank;

(d) "Representatives of Member Countries" means accredited officials of delegations of Member Countries, and includes all alternates, advisers and technical experts assisting such officials;
(e) "Officers and Staff of the Bank" means all personnel of the Bank;

(f) "Resident Representative" means the principal executive official of the Resident Office appointed by the Bank;

(g) "archives of the Bank" means all records, correspondence, documents and other materials belonging to, or held by or on behalf of, the Bank; and

(h) "property" of the Bank means all assets of the Bank and includes funds, income and rights belonging to, or held or administered by, the Bank.

ARTICLE II

Juridical Personality

Section 2. The Bank shall have full juridical personality and, in particular, full capacity:

(a) to contract;

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

(c) to institute legal proceedings.

ARTICLE III

Immunities of the Bank

Section 3. Subject to the provisions of Article 50 of the Agreement Establishing the Asian Development Bank, the Bank and its property shall enjoy immunity from every form of legal process except in so far as in any particular case it has expressly waived its immunity. It is, however, understood that no waiver of immunity shall extend to any measure of execution.
Section 4. Property of the Bank, wherever located and by whomsoever held, shall be immune from search, requisition, confiscation, expropriation and any other form of interference, whether by executive, administrative, judicial or legislative action.

Section 5. The archives of the Bank and, in general, all documents belonging to it, or held by it, shall be inviolable, wherever located.

ARTICLE IV

The Resident Office

Section 6. The Bank may establish a Resident Office in India to facilitate the efficient conduct of the operations of the Bank in India. The premises of the Resident Office shall be inviolable.

Section 7. The Resident Office shall be headed by a Resident Representative and shall be staffed with such other personnel as may be appointed thereto by the Bank.

ARTICLE V

Application of United Nations (Privileges and Immunities) Act

Section 8. (a) Without prejudice to any rights, privileges and immunities conferred upon the Bank by virtue of the Agreement Establishing the Asian Development Bank, the Government shall cause the privileges and immunities as provided in this Agreement to apply to the Bank for the purposes of the operations of its Resident Office in India, taking the privileges and immunities set out in the Schedule to the United Nations (Privileges and Immunities) Act, 1947, as amended from time to time, as a basis. If at any time amendments are made to the Schedule of the said Act which will have a bearing on this Agreement, the Government and the Bank shall consult each other to consider the effect of such amendments.
(b) The Government shall ensure that the Bank shall enjoy treatment in India not less favorable than that accorded by the Government to any other international organization in India in matters relating to, but not limited to:

- provision of public services, including electricity, gas, water, sewerage, drainage, collection of refuse, police and fire protection;
- access to gasoline or other fuels and lubricating oils; and
- use of transportation facilities.

ARTICLE VI

Property of the Bank and Taxation

Section 9. The Bank, its property and its operations and transactions shall be exempt from:

(a) all taxation and any obligation for the payment, withholding or collection of any tax or duty;

(b) all customs duties, taxes and other levies on any goods, articles, including motor vehicles, spare parts and publications, imported or exported by the Bank for its official use, and any obligation for the payment, withholding or collection of any customs duties. Any goods and articles imported under such exemption may be disposed of locally, subject to such terms as may be agreed upon with the Government; and

(c) all prohibitions and restrictions on imports and exports in respect of goods or articles, including motor vehicles, spare parts and publications, intended for the official use of the Bank.
ARTICLE VII

Financial Facilities

Section 10. Without being restricted by financial controls, regulations or moratoria of any kind, the Bank may, in India, freely:

(i) purchase, hold and dispose of any funds, currencies, financial instruments and securities, operate accounts in any currency, engage in financial transactions and conclude financial contracts; and

(ii) transfer its funds, currencies, financial instruments, securities, to or from India, from or to any other country or within India and convert any currency held by it into any other currency.

Section 11. The Government shall provide the Bank, in exchange for any convertible currency, the national currency of India in such amounts as the Bank may from time to time require for meeting expenditures of the Bank in India, in accordance with the guidelines for exchange rates to be applied for international organizations, as laid down from time to time by the Reserve Bank of India.

Section 12. The Government shall assist the Bank to obtain the most favorable conditions as regards exchange rates, banking commissions in exchange transactions and the like.

Section 13. For the purposes of meeting local currency expenditures in India for the establishment and maintenance of the Resident Office Seat and for the effective discharge of the functions of the Resident Office, the Bank may utilize any portion of the subscriptions of India to the capital stock of the Bank which have been paid in the national currency of India.
ARTICLE VIII

Communications

Section 14. (a) The Bank shall enjoy in the territory of India for its official communications treatment not less favorable than that accorded by the Government of India to any other Government including its diplomatic mission in the matter of priorities, rates and taxes on mails, cables, telegrams, radiograms, telephotos, telephone and other communications; and press rates for information to the press and radio. No censorship shall be applied to the official correspondence and other official communications of the Bank.

(b) The Bank shall have the right to use codes and to despatch and receive its correspondence by courier or in bags which shall have the same immunities and privileges as diplomatic couriers and bags.

(c) In addition to the above, the Bank may, in accordance with the applicable rules and regulations prevailing in India, install and operate in India point-to-point telecommunication facilities and other communication and transmission facilities as may be necessary to facilitate communications with the Resident Office both from within and outside India.

ARTICLE IX

Privileges and Immunities of the Officers and Staff of the Bank and Other Persons

Section 15. The officers and staff of the Bank shall:

(a) be immune from legal process in respect of words spoken or written and all acts performed by them in their official capacity;

(b) be exempted from taxation on the salaries and emoluments paid to them by the Bank on the same conditions as are enjoyed by officials of the United Nations;
(c) be immune from national service obligations;

(d) be immune, together with their spouses and relatives dependent on them, from immigration restrictions and alien registration;

(e) be accorded the same privileges in respect of exchange facilities as are accorded to officials of comparable rank of diplomatic missions;

(f) be given, together with their spouses and relatives dependent on them the same repatriation facilities in time of international crisis as officials of comparable rank forming part of diplomatic missions; and

(g) have the right to import free of duty their furniture and effects at the time of first taking up their post in New Delhi. The goods so imported shall not be sold in India except on conditions agreed with the Government.

Section 16. Governors, other Representatives of Member Countries, Directors, the President, Vice-Presidents and the executive officers as may be agreed upon between the Government and the Bank, shall enjoy, during their stay in India, in connection with their official duties with the Bank:

(i) immunity from personal arrest or detention and from seizure of their personal baggage and immunity from legal process in respect of words spoken or written and all acts done by them in their official capacity;

(ii) inviolability of all papers and documents;

(iii) the right to receive papers or correspondence in sealed covers;

(iv) exemption in respect of themselves and their spouses from immigration restrictions, alien registration or national service obligations;

(v) the same facilities in respect of currency or exchange restrictions as are accorded to representatives of foreign governments on temporary official missions;
(vi) the same privileges and immunities in respect of their personal baggage as are accorded to diplomatic envoys. The word "personal baggage" in this Section shall not be interpreted to include an automobile and other means of transportation. Personal baggage shall not, however, be sold in India without an express authorization from the Government; and

(vii) such other privileges and immunities and facilities not inconsistent with the foregoing as the diplomatic envoys enjoy, except that they shall have no right to claim exemption from custom duties on goods imported (otherwise than as part of their personal baggage) or from excise duties or sales-taxes;

provided always that the immunities specified in the foregoing clauses can be waived in any individual case in regard to a Governor, or alternate Governor, by the Government of the respective Member Country.

Section 17. Experts performing missions for the Bank shall be accorded such privileges and immunities as are necessary for the independent exercise of their functions during the period of their missions including the time spent on journeys in connection with their missions. In particular, they shall be accorded:

(i) immunity from personal arrest or detention and from seizure of their personal baggage;

(ii) in respect of words spoken or written and acts done by them in the course of the performance of their mission, immunity from legal process of every kind. This immunity from legal process shall continue to be accorded notwithstanding that the persons concerned are no longer employed on missions for the Bank;

(iii) inviolability for all papers and documents;

(iv) for the purpose of their communications with the Bank, the right to use codes and to receive papers or correspondence by courier or in sealed bags;
(v) the same facilities in respect of currency or exchange restrictions as are accorded to representatives of foreign governments on temporary official missions;

(vi) the same immunities and facilities in respect of their personal baggage as are accorded to diplomatic envoys.

Section 18. The Bank shall from time to time communicate to the Government the names of those Officers and Staff of the Bank and other persons to whom the provisions of this Article shall apply.

Section 19. All persons enjoying the privileges and immunities specified in this Agreement shall be provided by the Government with a special identity card which shall serve to identify the holder to the appropriate authorities of India and to certify that the holder enjoys the privileges and immunities specified in this Agreement.

Section 20. The privileges, immunities, exemptions and facilities accorded in this Agreement are granted in the interest of the Bank and not for the personal benefit of the individuals themselves. The Bank shall waive the immunity accorded to any person if, in its opinion, such immunity would impede the course of justice and the waiver would not prejudice the purposes for which the immunities are accorded.

Section 21. The Bank shall take every measure to ensure that the privileges, immunities, exemptions and facilities conferred by this Agreement are not abused and for this purpose shall establish such rules and regulations as it may deem necessary and expedient. There shall be consultation between the Government and the Bank, should the Government consider that an abuse has occurred.

ARTICLE X

Settlement of Disputes

Section 22. All differences arising out of the interpretation or application of this Agreement shall be settled by mutual consultations between the Government and the Bank. In case the differences are not thus settled, the parties shall, through mutual agreement, resort to any other mode of settlement.
ARTICLE XI

Other Provisions

Section 23. None of the provisions of this Agreement shall be deemed to modify or amend the Agreement Establishing the Asian Development Bank, or impair or limit the rights, immunities, privileges or exemptions provided for and specified in the Agreement Establishing the Asian Development Bank.

Section 24. The Government and the Bank may enter into such supplementary agreements as may be necessary within the scope of this Agreement.

Section 25. This Agreement shall enter into force upon signature by the parties thereto.

IN WITNESS WHEREOF, the respective representatives duly authorized thereto, have signed this Agreement.

Done at Manila this 18th day of November 1992.

For and on behalf of the
GOVERNMENT OF INDIA

By
SHYAMALA B. COWSIK
Authorized Representative

For and on behalf of the
ASIAN DEVELOPMENT BANK

By
KIMIMASA TARUMIZU
President