

THE AFRICAN DEVELOPMENT BANK ACT, 1983

No. 13 of 1983

[26th May, 1983.]

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

Enacted by Parliament in the Thirty-fourth Year of the Republic of India as follows:—

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

Short title, extent and commencement.

(2) It extends to the whole of India.

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

2. In this Act, unless the context otherwise requires,—

Definitions.

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

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

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

Payments to Bank.

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

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

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

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

Reserve Bank to be depository for Bank.

5. (1) Notwithstanding anything to the contrary contained in any other law, the provisions of the Agreement set out in the Schedule shall have the force of law in India:

Provided that nothing in Article 57 of the Agreement shall be construed as—

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

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

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

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

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

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

THE SCHEDULE

(See section 5)

PROVISIONS OF THE AGREEMENT WHICH SHALL HAVE FORCE OF LAW

AGREEMENT ESTABLISHING THE AFRICAN DEVELOPMENT BANK

CHAPTER VII

STATUS, IMMUNITIES, EXEMPTIONS AND PRIVILEGES

ARTICLE 50

STATUS

To enable it to fulfil its purpose and the functions with which it is entrusted, the Bank shall possess full international personality. To those ends, it may enter into agreements with members, non-member

States and other international organizations. To the same ends, the status, immunities, exemptions and privileges set forth in this Chapter shall be accorded to the Bank in the territory of each member.

ARTICLE 51

STATUS IN MEMBER COUNTRIES

In the territory of each member the Bank shall possess full juridical personality and, in particular, full capacity:

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

ARTICLE 52

JUDICIAL PROCEEDINGS

1. The Bank shall enjoy immunity from every form of legal process except in cases arising out of the exercise of its borrowing powers when it may be sued only in a court of competent jurisdiction in the territory of a member in which the Bank has its principal office, or in the territory of a member or non-member State where it has appointed an agent for the purpose of accepting service or notice of process or has issued or guaranteed securities. No actions shall, however, be brought by members or persons acting for or deriving claims from members.

2. The property and assets of the Bank shall, wherever located and by whomsoever held, be immune from all forms of seizure, attachment or execution before the delivery of final judgment against the Bank.

ARTICLE 53

IMMUNITY OF ASSETS AND ARCHIVES

1. Property and assets of the Bank, wherever located and by whomsoever held, shall be immune from search, requisition, confiscation, expropriation or any other form of taking or foreclosure by executive or legislative action.

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

ARTICLE 54

FREEDOM OF ASSETS FROM RESTRICTION

To the extent necessary to carry out the purpose and functions of the Bank and subject to the provisions of this Agreement, all property and other assets of the Bank shall be exempt from restrictions, regulations, controls and moratoria of any nature.

ARTICLE 55

PRIVILEGE FOR COMMUNICATIONS

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

ARTICLE 53

NOTIFICATION OF IMPLEMENTATION

Each member shall promptly inform the Bank of the specific action which it has taken to make effective in its territory the provisions of this Chapter.

ARTICLE 59

APPLICATION OF IMMUNITIES, EXEMPTIONS AND PRIVILEGES

The immunities, exemptions and privileges provided in this Chapter are granted in the interests of the Bank. The Board of Directors may waive, to such extent and upon such conditions as it may determine, the immunities and exemptions provided in Articles 52, 54, 56 and 57 of this Agreement in cases where its action would in its opinion further the interests of the Bank. The President shall have the right and the duty to waive the immunity of any official in cases where, in his opinion, the immunity would impede the course of justice and can be waived without prejudice to the interests of the Bank.