

## Public Consultation

### Draft New Development Bank (NDB) Bill 2021 and Asian Infrastructure Investment Bank (AIIB) Bill, 2021

Sl. No	Item	Details
1	<b>Proposal</b>	<p>This note provides background information on formulation draft New Development Bank (NDB) Bill 2021 and <b>Asian Infrastructure Investment Bank (AIIB) Bill, 2021</b> to implement the provisions particularly Immunities and Privileges contained in the respective Articles of Agreement (AoA) of establishing NDB and AIIB.</p> <p>The proposed Bills will be similar to the Indian Parliament acts for Multilateral Development Bank/International Financial Institutions such as International Monetary Fund and World Bank Act, 1945, Asian Development Bank (ADB) Act, 1966, International Finance Corporation (<i>IFC</i>) act 1958, African Development Bank Act, 1983 and African Development Fund Act, 1982.</p> <p>The Draft NDB Bill and AIIB Bill are enclosed at <b>(Annexure I pages 4-9)</b> and <b>(Annexure II pages 10-16)</b>.</p>
2	<b>Background</b>	<p>The NDB was established based on the Inter-Governmental agreement among the BRICS countries (Federative Republic of Brazil, the Russian Federation, the Republic of India, the People's Republic of China and the Republic of South Africa) signed in Fortaleza, Brazil on 15 July 2014 and became fully operational from 27<sup>th</sup> February 2016. The purpose of the Bank is <i>to mobilize resources for infrastructure and sustainable development projects in BRICS and other emerging market economies and developing countries to complement the existing efforts of multilateral and regional financial institutions for global growth and development.</i></p> <p>The Inter-Governmental Memorandum of Understanding (MoU) for establishing the AIIB was signed by India on 24.10.2014. The AIIB, headquartered in Beijing, started operation in January 2016 with 57 founding Members including India. The purpose of the Bank is <i>to foster sustainable economic development, create wealth and improve infrastructure connectivity</i></p>

		<i>in Asia by investing in infrastructure and other productive sectors, and to promote regional cooperation and partnership in addressing development challenges by working in close collaboration with other multilateral and bilateral development institutions.</i>
<b>3</b>	<b>Justification</b>	<p>Under the respective Articles of Agreement (AoA) establishing NDB and AIIB, the member countries including India have committed to provide a set of Immunities and Privileges to the NDB and AIIB, their staff and operations. India has already extended most of the Privileges and Immunities to the NDB on 7<sup>th</sup> February 2017 and to the AIIB on 17<sup>th</sup> February 2017, as agreed under the respective AoA, through extending applicability of the United Nations (Privileges and Immunities) Act, 1947. It may be noted that UN (P&amp;I) Act, 1947 of Parliament was enacted to give effect to the Convention on the Privileges and Immunities of the United Nations, and to enable similar privileges and immunities to be enjoyed by other international organisations and their representatives and officials.</p> <p>However, some of provisions which are beyond UN (P&amp;I) Act particularly on taxation were not extended to the Banks though agreed in the respective AoA by India. Therefore, to extend all the privileges and immunities agreed in AoA and also extended to the similar International Organisations (IOs) such as IMF, World Bank, ADB, IFC, separate Parliament Act for NDB and AIIB are necessary. It may be noted that all the International Organizations (IO) similar to NDB and AIIB have Parliament Act for implementing the provisions agreed in their respective AoA. These include International Monetary Fund and Bank Act 1945, Asian Development Bank Act, 1966, International Finance Corporation Act 1958, African Development Fund Act 1982 and African Development Bank Act 1983.</p> <p>Keeping the existence of Parliament Act for the similar IOs and to honor the commitment made by India by signing respective AoA of NDB and AIIB, draft New Development Bank Bill, 2021 and Asian Infrastructure Investment Bank Bill 2021 are proposed to be enacted by the Parliament in the Year--- of the Republic of India.</p>
<b>4</b>	Estimated	This legislations are to fulfill India's obligations towards implementing the

	assessment of the impact of such legislation on environment, fundamental rights, lives and livelihoods of the concerned /affected people, etc.	international agreement and does not have impact on environment, fundamental rights, lives and livelihoods of the people.
5.	Feedback/views	<b>The public are requested to provide comments/views, if any, to the mail: <a href="mailto:bm.panda@nic.in">bm.panda@nic.in</a> ; <a href="mailto:kaviarasan13@nic.in">kaviarasan13@nic.in</a> latest by 4<sup>th</sup> April 2021.</b>

**Annexure –I**

	<b>THE NEW DEVELOPMENT BANK (NDB) BILL, 2021</b>	
	<b>A</b>	
	<b>BILL</b>	
Preamble	<i>to implement the international agreement for the establishment and operation of the New Development Bank and for matters connected therewith or <b>incidental thereto</b>.</i>	
	<b>BE</b> it enacted by Parliament in the Seventy-second Year of the Republic of India as follows:-	
	<b>PART I</b>	
	<b>PRELIMINARY</b>	
Short title and commencement.	<p><b>1.</b> (1) This Act may be called the New Development Bank (NDB) Act, 2021.</p> <p>(2) It shall come into force on such date as the Central Government may, by notification, in the Official Gazette, appoint.</p>	
Definitions.	<p><b>2.</b> In this Act, unless the context otherwise requires, -</p> <p>(a) “Agreement” means the Agreement for the establishment and operation of the international body called the New Development Bank;</p> <p>(b) “Bank” means the New Development Bank established under the provisions of the Agreement.</p>	
<b>2 of 1934.</b>	<b>(c) "Reserve Bank" means the Reserve Bank of India constituted under section 3 of the Reserve Bank of India Act, 1934.</b>	
Payments to Bank.	<p><b>3.</b> 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,—</p> <p>(a) the subscriptions payable by the Central Government to the Bank under paragraphs (a), (b), and (c) of Article 8 of the Agreement;</p> <p>(b) any commission, fees or other charges payable by the Central Government to the Bank under paragraph (a) of the Article 22 of the Agreement;</p>	
Reserve Bank to be depository for Bank.	<b>4.</b> The Reserve Bank of India shall be the depository of the Indian currency holdings of the Bank.	

<p>Conferment of status and certain immunities, exemptions and privileges <b>on Bank and on its officers and employees.</b></p>	<p>5. (1) Notwithstanding anything to the contrary contained in any other law for the time being in force, the provisions of the Agreement set out in the Schedule shall have the force of law in India:</p>	
	<p>Provided that nothing in Article 34 of the Agreement shall be construed as—</p>	
	<p>(a) entitling the Bank to import into India goods free of any duty of customs without any restriction on their subsequent sale therein; or</p>	
	<p><b>(b) conferring on the Bank any exemption from duties or taxes which-</b></p>	
	<p><b>(i) from part of the price of goods sold; or</b></p>	
	<p><b>(ii) are in fact no more than charges for services rendered.</b></p>	
	<p>(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.</p>	
<p>Power to make rules.</p>	<p>6. The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.</p>	
<p>Laying of rules and certain notifications before Parliament.</p>	<p>7. Every rule made by the Central Government under section 6 and every notification issued by the Central Government under sub-section (2) of section 5 shall be laid, as soon as may be after it is made or issued, 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 rule or notification, as the case may be, or both Houses agree that the rule or notification should not be made or issued, the rule or notification, as the case may be, 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</p>	

	shall be without prejudice to the validity of anything previously done under that rule or notification.	
	THE SCHEDULE  (See section 5)	
	PROVISIONS OF THE AGREEMENT WHICH SHALL HAVE FORCE OF LAW	
	CHAPTER VI  STATUS, IMMUNITIES, PRIVILEGES AND EXEMPTIONS	
	ARTICLE 28  PURPOSE OF THE CHAPTER	
	To enable the Bank effectively to fulfill its purpose and carry out the functions entrusted to it, the status, immunities, privileges and exemptions set forth in this Chapter shall be accorded to the Bank in the territory of each member.	
	ARTICLE 29  STATUS OF THE BANK	
	(a) The Bank shall possess full international personality.	
	(b) In the territory of each member the Bank shall possess full juridical personality and, in particular, full capacity to: <ul style="list-style-type: none"> <li>(i) contract;</li> <li>(ii) acquire and dispose of immovable and movable property; and</li> <li>(iii) (iii) institute legal proceedings</li> </ul>	
	ARTICLE 30  POSITION OF THE BANK WITH REGARD TO JUDICIAL PROCESS.	
	(a) The Bank shall enjoy immunity from every form of legal process, except in cases arising out of or in connection with the exercise of its powers to borrow money, to guarantee obligations, or to buy and sell or underwrite the sale of securities, in which cases actions may be brought against the Bank in a court of competent jurisdiction in the territory of a country in which the Bank has its headquarters or offices, or has appointed an agent for the purpose of accepting service or notice of process, or has issued or guaranteed securities.	

	(b) Notwithstanding the provisions of paragraph (a) of this Article, no action shall be brought against the Bank by any member, or by any agency or instrumentality of a member, or by any entity or person directly or indirectly acting for or deriving claims from a member or from any agency or instrumentality of a member. Members shall have recourse to such special procedures for the settlement of controversies between the Bank and its members as may be prescribed in this Agreement, in the by-laws and regulations of the Bank, or in contracts entered into with the Bank	
	(c) 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 31 FREEDOM AND IMMUNITY OF ASSETS AND ARCHIVES	
	(a) 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	
	(b) The archives of the Bank and, in general, all documents belonging to it or held by it, shall be inviolable, wherever located.	
	(c) 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 32  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 other members.	
	ARTICLE 33  PERSONAL IMMUNITIES AND PRIVILEGES	
	All Governors, Directors, alternates, officers, and employees of the Bank shall have the following privileges and immunities:	
	(i) immunity from legal process with respect to acts performed by them in their official capacity, except	

	when the Bank waives this immunity;	
	(ii) when not local nationals, the same immunities from immigration restrictions, alien registration requirements and national service obligations and the same facilities as regards exchange provisions as are accorded by members to the representatives, officials, and employees of comparable rank of other members;	
	(iii) the same privileges in respect of traveling facilities as are accorded by members to representatives, officials, and employees of comparable rank of other members.	
	ARTICLE 34  EXEMPTION FROM TAXATION	
	(a) The Bank, its property, other assets, income, transfers and the operations and transactions it carries out pursuant to this Agreement, shall be immune from all taxation, from all restrictions and from all customs duties. The Bank shall also be immune from any obligation relating to the payment, withholding or collection of any tax, or duty.	
	(b) No tax shall be levied on or in respect of salaries and emoluments paid by the Bank to Directors, alternates, officers or employees of the Bank, including experts performing missions for the Bank, except where a member, notwithstanding Article 48(d), deposits with its instrument of ratification, acceptance, approval or accession a declaration that such member retains for itself and its political subdivisions the right to tax salaries and emoluments paid by the Bank to citizens or nationals of such member.	
	(c) 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.	
	(d) No tax of any kind shall be levied on any obligation or security guaranteed by the Bank, including any dividend or interest thereon, by whomsoever held:	
	(i) which discriminates against such obligation or security solely because it is guaranteed by the Bank; or	
	(ii) if the sole jurisdictional basis for such taxation is the location of any office or place of business maintained by the Bank.	
	<b>ARTICLE 36 WAIVER OF IMMUNITIES, PRIVILEGES AND EXEMPTIONS</b>	
	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 and each 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.	

**Annexure II**

	<b>THE ASIAN INFRASTRUCTURE INVESTMENT BANK (AIIB) BILL, 2021</b>	
	<b>A BILL</b>	
<b>Preamble</b>	to implement the international agreement for the establishment and operation of the Asian Infrastructure Investment Bank and for matters connected therewith.	
	BE it enacted by Parliament in the Year of the Republic of India as follows:	
	<b>PART I PRELIMINARY</b>	
<b>Short title and commencement.</b>	1. (1) This Act may be called the Asian Infrastructure Investment Bank (AIIB) Act, 2020.  (2) It shall come into force on such date as the Central Government may, by notification, in the Official Gazette, appoint..	
<b>Definitions.</b>	2. In this Act, unless the context otherwise requires, -	
	(a) "Agreement" means the Agreement for the establishment and operation of the international body known as the Asian Infrastructure Investment Bank;	
	(b) "Bank" means the Asian Infrastructure Investment Bank established under the Agreement.	
	(C) "Reserve Bank" means the Reserve Bank of India constituted under section 3 of the Reserve Bank of India Act, 1934.	2 of 1934.
Payments to Bank.	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,—	
	(c) the subscriptions payable by the Central Government to the Bank under paragraphs 1, 2, 3 and 4 of Article 5 of the Agreement;	

	(d) any commission, fees or other charges payable by the Central Government to the Bank under Article 13 of the Agreement;	
	(e) any sums payable by the Central Government to the Bank under Article 6 of the Agreement.	
	(2) The Central Government may, if it thinks fit so to do, create and issue to the Bank, in such form as it thinks fit, any such non-interest bearing and non-negotiable notes or other obligations as are provided for by paragraph 6 of Article 6 of the Agreement.	
<b>Reserve Bank to be depository for Bank.</b>	4. The Reserve Bank of India shall be the depository of the Indian currency holdings of the Bank.	
<b>Conferment of status and certain immunities, exemptions and privileges on Bank and conferment of certain immunities, exemptions and privileges on its officers and employees.</b>	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 51 of the Agreement shall be construed as—	
	(c) entitling the Bank to import into India goods free of any duty of customs without any restriction on their subsequent sale therein; or	
	(d) conferring on the Bank any exemption from duties or taxes which from part of the price of goods sold; or	
	(e) 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.	

<b>Power to make rules.</b>	<b>8.</b> The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.	
<b>Notifications issued under section 5 and rules made under section 6 to be laid before Parliament</b>	<b>9.</b> 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)	
	<b>PROVISIONS OF THE AGREEMENT WHICH SHALL HAVE FORCE OF LAW</b>	
	CHAPTER IX  STATUS, IMMUNITIES, PRIVILEGES AND EXEMPTIONS	
	ARTICLE 44  PURPOSE OF CHAPTER	
	1. To enable the Bank to fulfill its purpose and carry out the functions entrusted to it, the status, immunities, privileges and exemptions set forth in this Chapter shall be accorded to the Bank in the territory of each member.	
	2. Each member shall promptly take such action as is necessary to make effective in its own territory the provisions set forth in this Chapter and shall inform the Bank of the action which it has taken.	
	ARTICLE 45  STATUS OF THE BANK	

	The Bank shall possess full juridical personality and, in particular, the full legal capacity:	
	(i) to contract;	
	(ii) to acquire, and dispose of, immovable and movable property;	
	(iii) to institute and respond to legal proceedings; and	
	(iv) to take such other action as may be necessary or useful for its purpose and activities.	
	ARTICLE 46  IMMUNITY FROM JUDICIAL PROCEEDINGS	
	1. The Bank shall enjoy immunity from every form of legal process, except in cases arising out of or in connection with the exercise of its powers to raise funds, through borrowings or other means, to guarantee obligations, or to buy and sell or underwrite the sale of securities, in which cases 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, or has appointed an agent for the purpose of accepting service or notice of process, or has issued or guaranteed securities.	
	2. Notwithstanding the provisions of paragraph 1 of this Article, no action shall be brought against the Bank by any member, or by any agency or instrumentality of a member, or by any entity or person directly or indirectly acting for or deriving claims from a member or from any agency or instrumentality of a member. Members shall have recourse to such special procedures for the settlement of controversies between the Bank and its members as may be prescribed in this Agreement, in the by-laws and regulations of the Bank, or in the contracts entered into with the Bank.	
	3. 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 AND ARCHIVES	

	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.	
	2. The archives of the Bank, and, in general, all documents belonging to it, or held by it, shall be inviolable, wheresoever located and by whomsoever held.	
	ARTICLE 48  FREEDOM OF ASSETS FROM RESTRICTIONS	
	To the extent necessary to carry out the purpose and functions of the Bank effectively, and subject to the provisions of this Agreement, all property and assets of the Bank shall be free from restrictions, regulations, controls and moratoria of any nature.	
	ARTICLE 49  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 any other member.	
	ARTICLE 50  IMMUNITIES AND PRIVILEGES OF OFFICERS AND EMPLOYEES	
	All Governors, Directors, Alternates, the President, Vice-Presidents and other officers and employees of the Bank, including experts and consultants performing missions or services for the Bank:	
	(i) shall be immune from legal process with respect to acts performed by them in their official capacity, except when the Bank waives the immunity and shall enjoy inviolability of all their official papers, documents and records;	
	(ii) where they are not local citizens or nationals, shall be accorded the same immunities from immigration restrictions, alien registration requirements and national service obligations, and the same facilities as regards exchange regulations, as are accorded by members to the	

	representatives, officials and employees of comparable rank of other members; and	
	(iii) shall be granted the same treatment in respect of travelling facilities as is accorded by members to representatives, officials and employees of comparable rank of other members.	
	<b>ARTICLE 51 EXEMPTION FROM TAXATION</b>	
	1. The Bank, its assets, property, income and its operations and transactions pursuant to this Agreement, shall be exempt from all taxation and from all customs duties. The Bank shall also be exempt from any obligation for the payment, withholding or collection of any tax or duty.	
	2. No tax of any kind shall be levied on or in respect of salaries, emoluments and expenses, as the case may be, paid by the Bank to Directors, Alternate Directors, the President, Vice-Presidents and other officers or employees of the Bank, including experts and consultants performing missions or services for the Bank, except where a member deposits with its instrument of ratification, acceptance, or approval a declaration that such member retains for itself and its political subdivisions the right to tax salaries, and emoluments , as the case may be, paid by the Bank to citizens or nationals of such member.	
	3. No tax of any kind shall be levied on any obligation or security issued by the Bank, including any dividend or interest thereon, by whomsoever held:	
	(i) which discriminates against such obligation or security solely because it is issued by the Bank; or	
	(ii) if the sole jurisdictional basis for such taxation is the place or currency in which it is issued, made payable or paid, or the location of any office or place of business maintained by the Bank.	
	4. No tax of any kind shall be levied on any obligation or security guaranteed by the Bank, including any dividend or interest thereon, by whomsoever held:	
	(i) which discriminates against such obligation or security	

	solely because it is guaranteed by the Bank; or	
	(ii) if the sole jurisdictional basis for such taxation is the location of any office or place of business maintained by the Bank.	
	ARTICLE 52 WAIVERS	
	The Bank at its discretion may waive any of the privileges, immunities and exemptions conferred under this Chapter in any case or instance, in such manner and upon such conditions as it may determine to be appropriate in the best interests of the Bank.	