

By-Laws of the Asian Development Bank

Introduction

These By-Laws are adopted under the authority of the Agreement Establishing the Asian Development Bank (hereinafter referred to as the "Agreement"), and are intended to be complementary to the Agreement and 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. Headquarters and Offices of the Bank

The principal office of the Bank shall be located in Manila, Philippines.

The Board of Directors may authorize the establishment of agencies or branch offices of the Bank and the appointment of representatives of the Bank in the territories of other countries, 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 determined either:

- (i) at the meetings of the Board, which shall be governed by the Rules of Procedure of the Board of Governors;
- (ii) in accordance with the special procedure provided in Section 3 of these By-Laws.

SECTION 3. Special Procedure

Whenever the Board of Directors considers that the decision on a specific question which is for the Board of Governors to determine should not be postponed until the next annual meeting of the Board of Governors and does not warrant the calling of a special meeting of that Board, the Board of Directors shall promptly transmit through the President to each member of the Bank (hereinafter referred to as "member") or Governor, its proposals relating to that question with a request for a vote on such proposals by the Governor representing that member.

In compliance with such a request, votes shall reach the Bank within such period as may be determined by the Board of Directors, and communicated to members or Governors. 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 paragraph 3 of Article 29 of the Agreement as if a meeting of the Board of Governors had been held. The President shall communicate the results to all the members. If replies are not received from a majority of the Governors, representing not less than two-thirds of the total voting power which are usually required for a quorum of the Board of Governors, the proposals shall be considered lost.

SECTION 4. *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 5. *Conditions of Service - President*

The salary of the President shall be determined by the Board of Governors. The Bank shall also pay a special representation allowance and any reasonable expenses incurred by the President in connection with his service with the Bank (including travel expenses for himself and his immediate family, and the cost of transportation of their household and personal effects, in moving once to the seat of the Bank during or immediately before his term of office and in moving once from the seat during or immediately after his term of office). In addition, the Bank shall provide the President with suitable furnished housing. The President may participate in such insurance, medical, pension,* retirement and other plans as may be established for the staff of the Bank. The term of office of the President shall be five years and he shall be eligible for re-election by the Board of Governors.

SECTION 6. *Conditions of Service - Vice-President(s)*

The salary and term of office of the Vice-President(s) shall be determined by the Board of Directors. The Bank shall also pay any reasonable expenses incurred by the Vice-President(s) in connection with his service with the Bank (including travel expenses for himself and his immediate family, and the cost of transportation of their household and personal effects, in moving once to the seat of the Bank during or immediately before his term of office and in moving once from the seat during or immediately after his term of office). When he performs the duties of the President, the Vice-President shall be paid a special representation allowance. The Vice-President(s) may participate in such insurance, medical, pension, retirement and other plans as may be established for the staff of the Bank.

* In 1993 (Resolution No. 228), the Board of Governors decided that a retirement benefit funded from the Bank's administrative budget be provided to the incoming President on the same terms and comparable to those which would have been provided under the Staff Retirement Plan.

SECTION 7. *Conditions of Service - Directors*

(A) Service

(a) Each Director and his Alternate shall devote to the activities of the Bank such time and attention as the interest of the institution may require, and one or the other shall normally be available at all times at the Bank's principal office.

(b) Each 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 and his Alternate will not devote to the business of the Bank.

(c) When a Director or his Alternate is unable to attend to the business of the Bank, the Director may appoint a temporary Alternate to take his place. The temporary Alternate shall receive no salary or compensation for expenses.

(B) Remuneration

(a) Directors and their Alternates shall receive a remuneration (as salary or expense allowance) for the time of service rendered to the Bank as determined 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 Director in the service of the Bank, as supplemented 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) Except as provided in (a) of sub-section (C) of this Section, the Directors and their Alternates shall not receive from the Bank, apart from the remuneration provided for in (a) of this sub-section, allowances for representation and other expenses.* The Directors and their Alternates may participate in such insurance, medical, pension, retirement and other plans as may be established for the staff 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 reasonable allowances for expenses incurred by him in travelling officially with the concurrence of or at the request of the President, to the country or countries he represents or on such other missions as the President may request, and (ii) each Director and Alternate Director, but not a temporary Alternate Director, shall be entitled to reimbursement of reasonable travel expenses for himself and his immediate family, and the cost of transportation of their household and personal effects, in moving once to the seat of the Bank during his term of service or immediately before his term of service and returning once from the seat of the Bank during his term of service or immediately after the termination of his duties with the Bank.

* As amended by the Board of Governors in 1976 (Resolution No. 94).

(b) Any Director or Alternate shall be entitled to receive a reasonable allowance for expenses incurred for transportation of himself/herself and his/her immediate family for a vacation in the country of which he/she is a national on the same basis as that provided to ADB Vice Presidents.*

(c) Any Director or Alternate Director, who requests reimbursement or compensation from the Bank for expenses he has incurred in fulfilling a commission for the Bank, shall include in this request a statement to the effect that he has not received, nor will he receive, reimbursement or compensation for such expenses from any other source.

(d) A part-time Director or Alternate shall receive benefits of the kind specified in (a)(ii) and (b) of this sub-section which bear a reasonable relation to the nature of the arrangement under which he serves the Bank and to the time of service for which he is remunerated by the Bank.

(e) The term "full-time" shall be deemed to mean full-time service for the Bank entirely compensated by the Bank, excepting absences provided for by (a)(i) and (b) of this sub-section and occasional other periods of absence from the seat of the Bank. The "reasonable allowances" for expenses shall include appropriate costs of travel and transportation and shall be based on the established policies of the Bank.**

(f) In the interests of the Bank, other appropriate arrangements consistent with the By-Laws and their purposes, may be made in individual cases, in consultation with the President.

(D) Office Services

The Bank shall provide such secretarial and staff services, office space, and other facilities as may be necessary for the performance of the duties of the Directors and their Alternates.

SECTION 8. *Delegation of Powers to Board of Directors*

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 28 and other provisions of the Agreement.

* As amended by the Board of Governors in 2000 (Resolution No. 274).

** In 1994 (Resolution No. 234), the Board of Governors decided that, for travel specified in sub-section (b), such "reasonable allowances" shall include an allowance equivalent to the home leave allowance established for the staff of the Bank.

SECTION 9. *Special Representation of Members at Meetings of the Board of Directors*

At the time a member submits a request that has to be considered by the Board of Directors, if there is no Director or Alternate of its nationality, and it wishes to have its views expressed at the meeting through a representative other than the Director representing it, it shall so inform the Bank and it shall appoint such special representative. In case the special representative, having been duly informed of the time of the meeting, is not present at the meeting, this right shall be considered to have been waived.

When the Board of Directors is to consider any other matter particularly affecting a member who has no Director of its own nationality, it shall duly inform the member, through the most rapid means of communication, of the date set for taking up that matter. The Board of Directors shall adopt no final decision concerning such matter particularly affecting a member, and such a matter may not be submitted to the Board of Governors until the member has been given a reasonable opportunity to present its views and be heard at a meeting of the Board of Directors. Any member may waive this right, and it shall be considered to have been waived if a representative of the member is not present at the meeting designated for taking up the matter.

SECTION 10. *Vacancies on the Board of Directors*

When a new Director must be elected because of a vacancy arising in terms of paragraph 3 of Article 30 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 may request that candidates be nominated and conduct the election by mail or telegraph. Successive ballots shall be cast 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.

When a new Director is elected, the Alternate of the former Director shall continue in office until he is re-appointed or a successor to him is appointed.

SECTION 11. *Rules and Regulations*

The Board of Directors is authorized by the Board of Governors to adopt such rules and regulations, including financial regulations, as are necessary or appropriate to the direction of the business of the Bank. Any rules and regulations so adopted, and any amendments thereto, shall be subject to review by the Board of Governors at its next annual meeting.

SECTION 12. *Committees*

The Board of Directors may, subject to these By-Laws, establish such Committees as are necessary or appropriate to facilitate the conduct of the general operations of the Bank.

SECTION 13. *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 the Special Funds of the Bank established or accepted in accordance with Article 19 of the Agreement.

SECTION 14. *Financial Year*

The financial year of the Bank shall begin on 1 January and end on 31 December of each year.

SECTION 15. *Budget and Auditing of Accounts*

The accounts of the Bank shall be audited at least once a year by outside auditors of international reputation selected by the Board of Directors. On the basis of the audit, the Board of Directors shall submit to the Board of Governors for approval at its annual meeting a financial statement of the organization, including the general balance sheet and a statement of profit and loss. A separate financial statement shall be submitted for the operations of Special Funds.

The President shall prepare an annual administrative budget, which he shall submit to the Board of Directors for approval. The budget, as approved, shall be submitted to the Board of Governors at its next annual meeting

Notwithstanding the above provisions, 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 16. *Application for Membership in the Bank*

When submitting an application to the Board of Governors, the Board of Directors, after consultation with the applicant country, 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 17. *Suspension of a Member*

Before any member is suspended from membership in the Bank, the matter shall be considered by the Board of Directors, which shall inform the member sufficiently in advance of the complaint against it, and shall give the member a 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 a reasonable time in which to present its case orally and in writing before the Board of Governors. Any member may waive this right.

SECTION 18. *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 3 of these By-Laws.