BILLS
SUPPLEMENT No. 1

11th January, 2013.

BILLS SUPPLEMENT

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Bill No. 1 *East African Development Bank (Amendment) Bill* **2013**

"APPENDIX"

THE EAST AFRICAN DEVELOPMENT BANK (AMENDMENT) BILL, 2013

MEMORANDUM

1. The object of this Bill is to amend the East African Development Bank Act; to provide for giving effect to the Charter approved at the summit of the East African Heads of State meeting.

2. At the 43rd meeting of the Governing Council held on 15th March, 2012 in Nairobi, the Governing Council approved not only the outstanding proposed amendments to articles 45 and 46 but also approved amendments to articles 3, 4 and 24 of the Charter. The amendments to Articles 3 and 4 seek to allow Class B shareholders of the Bank to subscribe to callable capital. Article 24 also was amended at the meeting so as to establish the status of the Bank. The Bill seeks to give effect to all these amendments.

3. The Act as it now stands, only protects the Bank from legislative and executive action. At present section 3 of Cap.52 provides that certain articles specified in the Schedule to the Act should have the force of law in Uganda. These articles included article 45 – Judicial proceedings and article 46 – Immunity of assets.

These two articles had provided protection to the Bank against certain judicial proceedings and certain actions against the assets of the Bank e.g. requisition, by executive or legislative action. The protection afforded by the above mentioned articles were found inadequate. Therefore the relevant articles were amended to enhance the protection and to confer on the Bank immunity from every form of legal process with necessary exceptions.

4. Article 52 of the Charter of the East African Development Bank empowers the Governing Council of the Bank by resolution to amend the Charter.

5. The Charter was thus amended in 2005 to give immunity to the Bank inter alia against every form of legal process except in cases arising out of the exercise of the Bank's borrowing powers when it may be sued only in a court of competent jurisdiction in a Member State 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.

6. The new amendment also seeks to protect the Bank against execution of judgments on its assets.

7. At present the relevant protection given to the Bank appears in articles 45 and 46 of the Charter as it was when Cap.52 was passed.

8. Further, the Bill seeks to replace section 3 of Cap.52 to give effect to future amendments of the articles listed in the Schedule to the Act when new amendments are made by the Governing Council under article 52 of the Charter.

9. Additionally, the new section 3 incorporates a provision empowering the Minister with the approval of Cabinet to amend the Schedule by statutory instrument to reflect any amendments of such future amendments of the Charter. This is to make the law clear to all concerned. The instrument will indicate when the amendment of the Charter came into force.

10. An instrument made under this new provision is required to be laid before Parliament for its information within twenty one days after publication in the Gazette.

11. At the above meeting of the Governing Council, after making amendments to the Treaty and the Charter, the Governing Council substituted for the text of the Charter a new text. It is felt desirable therefore to replace the Schedule with a new Schedule replacing the whole text of the Charter in the manner in which the East African Community Treaty was dealt with by the East African Community Act, 2002, Act No.13 of 2002

MARIA KIWANUKA,
Minister of Finance, Planning and Economic Development.

A Bill for an Act

ENTITLED

THE EAST AFRICAN DEVELOPMENT BANK (AMENDMENT) ACT, 2012

An Act to amend the East African Development Bank Act to provide for giving effect to the Charter approved at the Summit of the East African Community Heads of State meeting held in Bujumbura and to provide for related matters.

BE IT ENACTED by Parliament as follows:

1. Amendment of section 3 of Cap. 52.

The East African Development Bank Act, in this Act referred to as the principal Act, is amended by substituting for section 3 the following—

"**3. Charter to have the force of law in Uganda.**

(1) The Charter annexed to the Treaty of 1980 and set out in the Schedule to this Act shall have the force of law in Uganda.

(2) Where the Charter set out in the Schedule is amended the Minister may with the approval of Cabinet by statutory instrument, amend the Schedule to this Act to reflect the amendment.

(3) A statutory instrument made under subsection (2) shall state the date on which the amendment of the Charter comes or is deemed to have come into force.

(4) A statutory instrument made under subsection (2) shall be laid before Parliament for the information of Parliament within twenty one days after it is published in the Gazette, if Parliament is sitting or if Parliament is not sitting, within twenty one days after Parliament has commenced to sit."

2. Substitution of Schedule to principal Act.

For the Schedule to the principal Act there is substituted the following—

"Section3

SCHEDULE

Charter of the East African Development Bank

TREATY AND CHARTER OF THE EAST AFRICAN DEVELOPMENT BANK

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TREATY

AMENDING AND RE-ENACTING THE CHARTER OF THE EAST AFRICAN DEVELOPMENT BANK

WHEREAS the Governments of the United Republic of Tanzania, the Republic of Uganda, and the Republic of Kenya (hereinafter referred to as the Parties) did in Article 21 of the Treaty for East African Co-operation of 6 June 1967 (hereinafter referred to as the Treaty of 1967), a to establish a development bank, known as the East African Development Bank (hereinafter referred to as the Bank), the Charter thereof (hereinafter referred to as the Charter) being set out in Annex VI of the said Treaty of 1967;

WHEREAS the said Treaty of 1967 is no longer operative;

WHEREAS the parties wish to adopt certain amendments to the Charter and to re-enact the Charter as thus amended;

NOW THEREFORE the Parties, being all the States members of the Bank, agree as follows:

ARTICLE 1

AMENDMENTS TO THE BANK CHARTER

1. The Parties adopt as amendments to the Charter all the modifications thereto incorporated in the text of the Charter in the Annex to this Treaty.

2. The Parties agree that the Charter, as amended in pursuance of the provisions of the preceding paragraph, shall henceforth derive its legal force from and be applied on the basis of this Treaty, and by operation of its provisions, without regard to the Treaty of 1967. The Charter shall therefore continue in force not withstanding any termination, denunciation, suspension, amendment, modification, or any other event or occurrence affecting the validity or effectiveness of the Treaty of 1967 in whole or in part.

ARTICLE 2

ENTRY INTO FORCE

This Treaty and the amendments to the Charter shall come into force when the last signature has been affixed to this Treaty.

ARTICLE 3

DEPOSITARY

This Treaty shall be deposited with the Secretary of the Bank who, as depositary, shall register it with the Secretary-General of the United Nations, and shall send certified true copies to all the Parties and to the bodies corporate, enterprises or institutions members of the Bank.

The aforementioned bodies corporate, enterprises or institutions members of the Bank may thereupon signify their acceptance of the amendments by transmitting Letters of Acceptance to the Depositary. The Depositary shall notify all members of the Bank of Letters of Acceptance as they are received.

In Witness Whereof the Parties have signed this Treaty in the English language on the dates and at the places indicated beneath their respective signatures.

For the Government of the United Republic of Tanzania:	For the Government of the Republic of Uganda:	For the Government of the Republic of Kenya:
Ministry of Finance 7th January 1980 DAR-ES-SALAAM	Ministry of Regional Cooperation 13th September 1979 KAMPALA	Ministry of Planning & Economic Development 23rd July 1980 NAIROBI

THE CHARTER OF THE EAST AFRICAN DEVELOPMENT BANK

WHEREAS the Government of the United Republic of Tanzania, the Sovereign State of Uganda and the Republic of Kenya have in Article 21 of the Treaty for East African Co-operation, of 6 June 1967 agreed to establish a Development Bank to be known as the East African Development Bank;

WHEREAS the said Governments have agreed in Article 22 of the Treaty that the Charter of the East African Development Bank shall be set out in an Annex to the Treaty;

WHEREAS the said Governments, by virtue of a Treaty amending and re-enacting the Charter of the East African Development Bank signed by them on 23.7.1980, have decided to confer legal force and existence on the Charter independent of the Treaty for East African Co-operation and to amend the Charter to make possible a wider membership of the Bank, to emphasize its consulting and promotion functions, and for other purposes;

AND WHEREAS the said Governments share a common desire to promote the equitable distribution of benefits available from the East African Development Bank among Member States; Now Therefore it is agreed that the East African Development Bank (hereinafter referred to as "the Bank") be established and operate in accordance with the following provisions:

CHAPTER 1

OBJECTIVES AND MEMBERSHIP

ARTICLE 1

OBJECTIVES OF THE BANK

The objectives of the Bank shall be:

(a) to provide financial assistance to promote the development of the Member States;

(b) to provide consulting, promotion, agency and other similar services for the region;

(c) to give attention, in accordance with the operating principles contained in this Charter, to economic development in the Member States, in such fields as industry, tourism, agriculture, infra-structure such as transport and telecommunications and similar or related fields of development;

(d) to generally promote the development of the region;

(e) to supplement the activities of the national development agencies of the Member States by joint financing operations, technical assistance and by the use of such agencies as channels for financing specific projects;

(I) to co-operate, within the terms of this Charter, with other institutions and organizations, public or private, national or international, which are interested in the development of the Member States; and

(g) to undertake such other activities and provide such other services as may advance the objectives of the Bank.

ARTICLE 2

MEMBERSHIP IN THE BANK

1. The original members of the Bank shall be the United Republic of Tanzania, the Republic of Uganda and the Republic of Kenya and such bodies corporate, enterprises or institutions who remain members of the Bank on the date of entry into force of the amendments to this Charter adopted by the Member States in the Treaty of23 .7.1980 amending and re-enacting this Charter.

2. Upon an affirmative decision of the Governing Council, any state in the region, body corporate enterprise or institution, which has not become a member under paragraph 1 of this Article, may be admitted to membership of the Bank under such terms and conditions consistent with this Charter, as the Bank may determine.

3. In this Charter, words "Member States" shall mean the original states specifically mentioned in ARTICLE 2, Paragraph 1 and any other states admitted to membership of the Bank by the Governing Council pursuant to ARTICLE 2, Paragraph 2 of the Charter.

CHAPTER II

CAPITAL

ARTICLE 3

AUTHORISED CAPITAL

1. The Authorised capital stock of the Bank (hereinafter called "The Capital Stock") shall be US$ 1,080,000,000 (United States Dollars One Billion and Eighty Million) consisting of 72,000 Class A Shares and 8,000 Class B Shares, each of which shall have a par value of 13,500 United States Dollars. It will be available for subscription by members in accordance with Article 4 of this Charter.

2. The Capital Stock shall:

(a) In the case of Class A Shares, be divided into paid in and callable shares;

(b) In the case of Class B Shares, be divided into paid in and callable shares.

ARTICLE 4

SUBSCRIPTION OF SHARES

1. Each member of the Bank shall subscribe to shares of the Capital Stock of the Bank.

2. (a) The Capital Stock of paid-in and callable Class A shares shall be available for subscription by Member States in accordance with paragraph 4(b) below and in such proportion that, for every six shares subscribed, one share shall be fully paid-in.

(b) The Capital Stock of Class B Shares shall be available for subscription by members other than Member States in such proportion that, for every four shares subscribed, one share shall be fully paid-in.

ARTICLE 5

PAYMENT OF SUBSCRIPTIONS

1. Payment of the amount initially subscribed by the original members to the paid-in Capital Stock of the Bank shall be made in four installments, the first of which shall be 10 percent of such amount and the remaining installments shall each be 30 percent of such amount. The first installment

payable by each Member State shall be paid within 30 days after the coming into force of the Treaty to which this Charter is annexed and in the case of original members other than Member States the first installment shall be paid within 30 days of their becoming a member. The second installment shall be paid six calendar months after the date on which the Treaty comes into force. The remaining two installments shall each be paid successively six calendar months from the date on which the preceding installment becomes due under this paragraph.

2. Notwithstanding the provisions of paragraph 1 of this Article, in respect of any installment, other than the first installment of the initial subscriptions to the paid-in Capital Stock, the Bank shall, if the funds are not immediately required, either defer the due date for payment of such installment or require that part only of such installment be payable on the due date and at the same time prescribe a due date for the remainder of such installment.

3. Payment of the amount subscribed by members to the Capital Stock shall be made in convertible currency on such terms and conditions as shall be determined by the Board of Directors.

4. Payment of the amount subscribed for callable shares in the Capital Stock of the Bank shall be subject to call by the Board of Directors from time to time but such calls shall only be made as and when the amount thereof shall be required by the Bank:

(a) To repay moneys raised by the Bank in capital markets, borrowed or otherwise acquired by the Bank for the purpose of making or participating in direct loans;

(b) To pay or repay any loan or loans guaranteed in whole or in part by the Bank in furtherance of its objectives.

5. In the event of a call being made in terms of paragraph 4 of this Article, payment may be made at the option of the member in convertible currency or in the currency required to discharge the obligations of the Bank for the purposes for which the call is made. Calls on unpaid subscriptions shall be uniform in percentage on all callable shares.

6. The Bank shall determine the place of any payment of subscriptions and in the event of payments being made in the currency required to discharge the obligations of the Bank in terms of paragraph 5 of this Article the amount payable shall be such amount as the Bank, after such consultation with the International Monetary Fund as the Bank may consider necessary, determines to be equivalent to the full value in terms of the Unit of Account as expressed in paragraph 1 of Article 3 of this Charter of the portion of subscription being paid.

7. Original non-State members who became members pursuant to paragraph 1 of Article 2 of this Charter shall convert to Class B Shares either by paying up the present Callable Shares or by writing down the present subscription to the paid-up portion in accordance with paragraph 3 of Article 4 of this Charter.

CHAPTER III

ORDINARY CAPITAL RESOURCES AND SPECIAL FUNDS

ARTICLE 6

ORDINARY CAPITAL RESOURCES

In the context of this Charter, the term "ordinary capital resources" of the Bank shall include:

(a) the Capital Stock of the Bank including both paid-in and callable shares subscribed pursuant to Article 4 of this Charter;

(b) funds raised by borrowings of the Bank by virtue of powers conferred by Article 19 of this Charter to which the commitment to calls provided for in paragraph 4 of Article 5 of this Charter is applicable;

(c) funds received in repayment of loans or guarantees made with the resources specified in paragraphs (a) and (b) of this Article;

(d) income derived from loans made from the above-mentioned funds or from guarantees to which the commitment to calls provided for in paragraph 4 of Article 5 of this Charter is applicable; and

(e) any other funds or income received by the Bank which do not form part of its Special Funds referred to in Article 7 of this Charter.

ARTICLE 7

SPECIAL FUNDS

1. The Bank may accept for administration, from such sources as it considers appropriate, Special Funds which are designed to promote the objectives of the Bank.

2. Special Funds accepted by the Bank under paragraph 1 of this Article shall be used in such manner and on such terms and conditions as are not inconsistent with the objectives of the Bank and the agreement under which such funds are accepted by the Bank for administration.

3. The Board of Directors shall make such regulations as may be necessary for the administration and use of each Special Fund. Such regulations shall be consistent with the provisions of this Charter, other than those provisions which expressly relate only to the ordinary operations of the Bank.

4. The term "Special Funds" as used in this Charter shall refer to the resources of any Special Fund and shall include:-

(a) funds accepted by the Bank in any Special Fund;

(b)funds repaid in respect of loans or guarantees financed from any Special Fund which, under the regulations of the Bank covering that Special Fund, are received by such Special Fund; and

(c) income derived from operations of the Bank in which any of the above-mentioned re sources or funds are used or committed if, under the regulations of the Bank covering the Special Fund concerned, that income accrues to such Special Fund.

ARTICLE 5

PAYMENT OF SUBSCRIPTIONS

1. Payment of the amount initially subscribed by the original members to the paid-in Capital Stock of the Bank shall be made in four installments, the first of which shall be 10 percent of such amount and the remaining installments shall each be 30 percent of such amount. The first installment

payable by each Member State shall be paid within 30 days after the coming into force of the Treaty to which this Charter is annexed and in the case of original members other than Member States the first installment shall be paid within 30 days of their becoming a member. The second installment shall be paid six calendar months after the date on which the Treaty comes into force. The remaining two installments shall each be paid successively six calendar months from the date on which the preceding installment becomes due under this paragraph.

2. Notwithstanding the provisions of paragraph 1 of this Article, in respect of any installment, other than the first installment of the initial subscriptions to the paid-in Capital Stock, the Bank shall, if the funds are not immediately required, either defer the due date for payment of such installment or require that part only of such installment be payable on the due date and at the same time prescribe a due date for the remainder of such installment.

3. Payment of the amount subscribed by members to the Capital Stock shall be made in convertible currency on such terms and conditions as shall be determined by the Board of Directors.

4. Payment of the amount subscribed for callable shares in the Capital Stock of the Bank shall be subject to call by the Board of Directors from time to time but such calls shall only be made as and when the amount thereof shall be required by the Bank:

(a) To repay moneys raised by the Bank in capital markets, borrowed or otherwise acquired by the Bank for the purpose of making or participating in direct loans;

(b) To pay or repay any loan or loans guaranteed in whole or in part by the Bank in furtherance of its objectives.

5. In the event of a call being made in terms of paragraph 4 of this Article, payment may be made at the option of the member in convertible currency or in the currency required to discharge the obligations of the Bank for the purposes for which the call is made. Calls on unpaid subscriptions shall be uniform in percentage on all callable shares.

6. The Bank shall determine the place of any payment of subscriptions and in the event of payments being made in the currency required to discharge the obligations of the Bank in terms of paragraph 5 of this Article the amount payable shall be such amount as the Bank, after such consultation with the International Monetary Fund as the Bank may consider necessary, determines to be equivalent to the full value in terms of the Unit of Account as expressed in paragraph 1 of Article 3 of this Charter of the portion of subscription being paid.

7. Original non-State members who became members pursuant to paragraph 1 of Article 2 of this Charter shall convert to Class B Shares either by paying up the present Callable Shares or by writing down the present subscription to the paid-up portion in accordance with paragraph 3 of Article 4 of this Charter.

CHAPTER III

ORDINARY CAPITAL RESOURCES AND SPECIAL FUNDS

ARTICLE 6

ORDINARY CAPITAL RESOURCES

In the context of this Charter, the term "ordinary capital resources" of the Bank shall include:

(a) the Capital Stock of the Bank including both paid-in and callable shares subscribed pursuant to Article 4 of this Charter;

(b) funds raised by borrowings of the Bank by virtue of powers conferred by Article 19 of this Charter to which the commitment to calls provided for in paragraph 4 of Article 5 of this Charter is applicable;

(c) funds received in repayment of loans or guarantees made with the resources specified in paragraphs (a) and (b) of this Article;

(d) income derived from loans made from the above-mentioned funds or from guarantees to which the commitment to calls provided for in paragraph 4 of Article 5 of this Charter is applicable; and

(e) any other funds or income received by the Bank which do not form part of its Special Funds referred to in Article 7 of this Charter.

ARTICLE 7

SPECIAL FUNDS

1. The Bank may accept for administration, from such sources as it considers appropriate, Special Funds which are designed to promote the objectives of the Bank.

2. Special Funds accepted by the Bank under paragraph 1 of this Article shall be used in such manner and on such terms and conditions as are not inconsistent with the objectives of the Bank and the agreement under which such funds are accepted by the Bank for administration.

3. The Board of Directors shall make such regulations as may be necessary for the administration and use of each Special Fund. Such regulations shall be consistent with the provisions of this Charter, other than those provisions which expressly relate only to the ordinary operations of the Bank.

4. The term "Special Funds" as used in this Charter shall refer to the resources of any Special Fund and shall include:-

(a) funds accepted by the Bank in any Special Fund;

(b)funds repaid in respect of loans or guarantees financed from any Special Fund which, under the regulations of the Bank covering that Special Fund, are received by such Special Fund; and

(c) income derived from operations of the Bank in which any of the above-mentioned re sources or funds are used or committed if, under the regulations of the Bank covering the Special Fund concerned, that income accrues to such Special Fund.

CHAPTER IV
OPERATIONS OF THE BANK

ARTICLE 8
USE OF RESOURCES

The resources and facilities of the Bank shall be used exclusively to implement the objectives of the Bank as set forth in Article 1 of this Charter.

ARTICLE 9
ORDINARY AND SPECIAL OPERATIONS

1. The operations of the Bank shall consist of ordinary operations and special operations. Ordinary operations shall be those financed from the ordinary capital resources of the Bank and special operations shall be those financed from the Special Funds referred to in Article 7 of this Charter.

2. The ordinary capital resources and the Special Funds 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.

3. The ordinary capital resources of the Bank shall not be charged with, or used to discharge, I losses or liabilities arising out of special operations for which Special Funds were originally used or committed.

4. Expenses relating directly to ordinary operations shall be charged to ordinary capital re sources of the Bank and those relating to special operations shall be charged to the Special Funds. Any other expenses shall be charged as the Bank shall determine.

ARTICLE 10
METHODS OF OPERATION

Subject to the conditions set forth in this Charter, the Bank may provide finances or facilitate financing in any of the following ways to any agency, entity or enterprise operating in the territories of the Member States:

(a) by making or participating in direct loans with its unimpaired paid in capital and, except in the case of its Special Reserve as defined in Article 17 of this Charter, with its reserves and I undistributed surplus or with the unimpaired Special Funds;

(b) by making or participating in direct loans with funds raised by the Bank in capital markets or borrowed or otherwise acquired by the Bank for inclusion in its ordinary capital resources;

(c) by investment of funds referred to in paragraphs (a) and (b) of this Article in the equity capital of an institution or enterprise; or

(d) by guaranteeing, in whole or in part, loans made by others for industrial development.

ARTICLE 11

LIMITATIONS ON OPERATIONS

1. The total amount outstanding of loans, equity investments and guarantees made by the Bank in its ordinary operations shall not at any time exceed three times the total amount of its unimpaired subscribed capital, reserves and surplus included in its ordinary capital resources, excluding the Special Reserve and any other reserves not available for ordinary operations.

2. The total amount outstanding in respect of the special operations of the Bank relating to any Special Fund shall not at any time exceed the total amount of the unimpaired special re sources appertaining to that Special Fund.

3. In the case of loans made with funds borrowed by the Bank to which the commitment to calls provided for in paragraph 4 of Article 5 of this Charter is applicable, the total amount of principal outstanding and payable to the Bank in a special currency shall not at any time exceed the total amount of the principal of outstanding borrowings by the Bank that are payable in the same currency.

4. In the case of funds invested in equity capital out of the ordinary capital resources of the Bank, the total amount invested shall not exceed 50 percent of the aggregate amount of the unimpaired paid4n Capital Stock of the Bank actually paid up at any given time together with the reserve and surplus included in its ordinary capital resources, excluding the Special Reserve.

5. The amount of any equity investment in any entity or enterprise shall not exceed such percentage of the equity capital of that entity or enterprise as the Board of Directors shall in each specific case determine to be appropriate. The Bank shall not seek to obtain by such investment a controlling interest in the entity or enterprise concerned, except where necessary to safeguard the investment of the Bank.

6. In the case of guarantees given by the Bank in the course of its ordinary operations, the total amount guaranteed shall not exceed 10 percent of the aggregate amount of the unimpaired paid-in Capital Stock of the Bank actually paid up at any given time together with the reserves and surplus included in its ordinary capital resources excluding the Special Reserve.

ARTICLE 12

PROVISION OF CURRENCIES FOR DIRECT LOANS

In making direct loans or participating in them, the Bank may provide finance in the following ways:

(a) by furnishing the borrower with currencies other than the currency of the Member State in whose territory the project is located, which are needed by the borrower to meet the foreign exchange costs of the project; or

(b) by providing, when local currency required for the purposes of the loan cannot be raised by the borrower on reasonable terms, local currency but not exceeding a reasonable portion of the total local expenditure to be incurred by the borrower.

ARTICLE 13

OPERATING PRINCIPLES

The operations of the Bank shall be conducted in accordance with the following principles:

(a) The Bank shall be guided by banking principles in its operation and shall finance only economically sound and technically feasible projects, and shall not make loans or undertake any responsibility for the discharge or refinancing of earlier commitments by borrowers;

(b) In selecting projects, the Bank shall always be guided by the need to pursue the objectives set forth in Article 1 of this Charter, and shall also always adhere to the principle of equitable distribution of benefits of the Bank;

(c) The Bank shall so conduct its operations as to earn a reasonable return on its capital;

(d) The operations of the Bank shall provide principally for the financing directly of specific projects within the Member States but may include loans to or guarantees of loans made to the national development agencies of the Member States so long as such loans or guarantees are in respect of and used for specific projects which are agreed to by the Bank;

(e) The Bank shall seek to maintain a reasonable diversification in its investments;

(f) The Bank shall seek to revolve its funds by selling its investments in equity capital to other investors wherever it can appropriately do so on satisfactory terms;

(g) The Bank shall not undertake any operation in the territory of any State if that State objects to such operation;

(h) Before a loan is granted or guaranteed or an investment made, the applicant shall have submitted an adequate proposal to the Bank, and the Director-General of the Bank shall have presented to the Board of Directors a written report regarding the proposal, together with his recommendations;

(i) In considering an application for a loan or guarantee, the Bank shall pay due regard to the ability of the borrower to obtain finance or facilities elsewhere on terms and conditions that the Bank considers reasonable for the recipient, taking into account all pertinent factors;

(j) In making or guaranteeing a loan, the Bank shall pay due regard to the prospects that the borrower and its guarantor, if any, will be able to meet their obligations under the loan contract;

(k) In making or guaranteeing a loan, the rate of interest, other charges and the schedule for repayment of principal shall be such as are, in the opinion of the Bank, appropriate for the loan concerned;

(l) In guaranteeing a loan made by other investors, the Bank shall charge a suitable fee or commission for its risk;

(m) In the case of a direct loan made by the Bank, the borrower shall be permitted by the Bank to draw the loan funds only to meet payments in connection with the project as they fall due;

(n) The Bank shall take all necessary measures to ensure that the proceeds of any loan made, guaranteed or participated in by the Bank are used only for the purposes for which the loan was granted and with due attention to considerations of economy and efficiency; and

(o) The Bank shall ensure that every loan contract entered into by it shall enable the Bank to exercise all necessary powers of entry, inspection and supervision of operations in connection with the project and shall further enable the Bank to require the borrower to provide information and to allow inspection of its books and records during such time as any part of the loan remains outstanding.

ARTICLE 14

PROHIBITION OF POLITICAL ACTIVITY

1. The Bank shall not accept loans, Special Funds or assistance that may in any way prejudice, limit, deflect or otherwise alter its objectives or functions.

2. The Bank, its Director-General and officers and staff shall not interfere in the political affairs of any state, nor shall they be influenced in their decisions by the political character of a State. Only economic considerations shall be relevant to their decisions and such considerations shall be weighed impartially to achieve and carry out the objectives and functions of the Bank.

ARTICLE 15

TERMS AND CONDITIONS FOR DIRECT LOANS AND GUARANTEES

1. In the case of direct loans made or participated in or loans guaranteed by the Bank, the contract shall establish, in conformity with the operating principles set out above and subject to the other provisions of this Charter, the terms and conditions for the loan or the guarantee concerned, including payment of principal, interest, commitment fee and other charges, maturities and dates of payment in respect of the loan, or the fees and other charges in respect of the guarantee, respectively.

2. The contract shall provide that all payments to the Bank under the contract shall be made in the currency loaned, unless, in the case of a loan made or guaranteed as part of special operations, the regulations of the Bank provide otherwise.

3. Guarantees by the Bank shall also provide that the Bank may terminate its liability with respect to interest if, upon default by the borrower or any other guarantor, the Bank offers to purchase, at par and interest accrued to a date designated in the offer, the bonds or other obligations guaranteed.

4. Whenever it considers it appropriate, the Bank may require as a condition of granting or participating in a loan that the Member State in whose territory a project is to be carried out, or a public agency or instrumentality of that Member State acceptable to the Bank, guarantee the repayment of the principal and the payment of interest and other charges on the loan in accordance with the terms thereof

5. The loan or guarantee contract shall specifically state the currency in which all payments to the Bank thereunder shall be made.

ARTICLE 16

COMMISSION AND FEES

1. In addition to interest, the Bank shall charge a commission on direct loans made or participated in as part of its ordinary operations at a rate to be determined by the Board of Directors.

2. In guaranteeing a loan as part of its ordinary operations, the Bank shall charge a guarantee fee at a rate determined by the Board of Directors payable periodically on the amount of the loan outstanding.

3. Other charges, including commitment fee, of the Bank in its ordinary operations and any commission, fees or other charges in relation to its special operations shall be determined by the Board of Directors. Such charges shall be set at such a level that the said charges, together with interest and other expected earnings, shall enable the Bank to earn a reasonable return on its capital.

ARTICLE 17

SPECIAL RESERVE

The amount of commissions and guarantee fees received by the Bank under the provision of Article 16 of this Charter shall be set aside as a Special Reserve which shall be kept for meeting liabilities of the Bank in accordance with Article 18 of this Charter. The Special Reserve shall be held in such liquid form as the Board of Directors may decide but the Board of Directors shall ensure that any part of the Special Reserve which it may decide to invest in the territories of the Member States shall be invested, as nearly as possible, in equal proportions in each Member State.

ARTICLE 18

DEFAULTS ON LOANS AND METHODS OF MEETING LIABILITIES OF THE BANK

1. In cases of default on loans made, participated in or guaranteed by the Bank in its ordinary operations, the Bank shall take such action as it considers appropriate to conserve its investment including modification of the terms of the loan; other than any term as to the currency of repayment.

2. Payments in discharge of the Bank's liabilities on borrowings or guarantees chargeable to the ordinary capital resources shall be charged firstly against the Special Reserve and then, to the extent necessary and at the discretion of the Bank, against other reserves, surplus and capital available to the Bank.

3. Whenever necessary to meet contractual payments of interest, other charges or amortization on borrowings of the Bank in its ordinary operations, or to meet its liabilities with respect to similar payments in relation to loans guaranteed by it, chargeable to its ordinary capital resources, the Bank may call an appropriate amount of the uncalled subscribed callable capital in accordance with paragraphs 4 and 5 of Article 5 of this Charter.

CHAPTER V

MISCELLANEOUS POWERS AND DUTIES OF THE BANK

ARTICLE 19

MISCELLANEOUS POWERS

In addition to the powers specified elsewhere in this Charter, the Bank shall be empowered:

(a) to borrow funds in the territories of the Member States, or elsewhere, and in this connection to furnish such collateral or other security thereof as the Bank shall determine:

Provided that:

(i) before selling its obligations or otherwise borrowing in the territory of a country, the Bank shall obtain the approval of the Government of that country to the sale; and

(ii) before deciding to sell its obligations or otherwise borrowing in a particular country, the Bank shall consider the amount of previous borrowing, if any, in that country with a view to diversifying its borrowing to the maximum extent possible;

(b) to buy and sell securities which the Bank has issued or guaranteed or in which it has invested;

(c) to guarantee securities in which it has invested in order to facilitate their sale;

(d) to invest funds not immediately needed in its operations in such obligations as it may determine and invest funds held by the Bank for pensions or similar purposes in market able securities, but the Bank shall ensure that any funds which it may decide to invest in the territories of the Member States shall be invested, as nearly as possible, in equal proportions in each Member State.

ARTICLE 20

ALLOCATION OF NET INCOME

1. The Board of Directors shall determine annually what part of the net income of the Bank, including the net income accruing to the Special Funds, shall be allocated, after making provision for reserves to surplus and what part, if any, shall be distributed to the members.

2. Payment of dividends to members shall be made first to subscribers of Class B Shares in proportion to the number of shares held by such members and payment shall be made in convertible currency or in such manner as the Board of Directors shall determine.

3. Any distribution to members subscribing to Class A Shares shall be made only secondarily to the payment of dividends made pursuant to paragraph 2 of this Article and shall be in proportion to the number of shares held by each member and payment shall be made in such manner and in such currency as the Board of Directors shall determine.

ARTICLE 21

POWER TO MAKE REGULATIONS

The Board of Directors may make such regulations, including financial regulations, being consistent with the provisions of this Charter as it considers necessary or appropriate to further the objectives and functions of the Bank.

ARTICLE 22

NOTICE TO BE PLACED ON SECURITIES

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, unless it is infact the obligation of a particular Government, in which case it shall so state.

CHAPTER VI

CURRENCIES

ARTICLE 23

DETERMINATION OF CONVERTIBILITY

Whenever it shall become necessary under this Charter to determine whether any currency is convertible, such determination shall be made by the Bank after consultation with the International Monetary Fund.

ARTICLE 24

USE OF CURRENCIES

1. The Member States may not maintain or impose any restriction on the holding or use by the Bank or by any recipient from the Bank for payments in any country of the following:

(a) currencies received by the Bank in payment of subscriptions to its Capital Stock;

(b) currencies purchased with the currencies referred to in sub-paragraph (a) of this paragraph;

(c) currencies obtained by the Bank by borrowing for inclusion in its ordinary capital resources;

(d) currencies received by the Bank in payment of principal, interest, dividends or other charges in respect of loans or investments made out of any of the funds referred to in sub-paragraphs (a), (b) and (c) of this paragraph or in payment of fees in respect of guarantees made by the Bank; and

(e) currencies received from the Bank in distribution of the net income of the Bank in accordance with Article 20 of this Charter.

2. The Member States may not maintain or impose any restriction on the holding or use by the Bank or by any recipient from the Bank, for payments in any country, of currency received by the Bank which does not come within the provision of paragraph 1 of this Article unless such currency forms part of the Special Funds of the Bank and its use is subject to special regulations.

3. The Member States may not maintain or impose any restriction on the holding or use by the Bank, for making amortization payments or for repurchasing in whole or in part the Bank own obligations, of currencies received by the Bank in repayment of direct loans made out of its ordinary capital resources.

4. Each Member State shall ensure, in respect of projects within its territories, that the currencies necessary to enable payments to be made to the Bank in accordance with the provisions of the contracts referred to in Article 15 of this Charter shall be made available in exchange for the currency of the Member State concerned.

5. The Bank shall be accorded in the territories of the Member States a creditor status no less than that accorded to the International Monetary Fund, the International Bank of Reconstruction and Development, the International Development Association, the African Development Bank, and the African Development Fund.

CHAPTER VII
ORGANIZATION AND MANAGEMENT OF THE BANK

ARTICLE 25
STRUCTURE

The Bank shall have a Governing Council, a Board of Directors, a Director-General and such other officers and staff as it may consider necessary.

ARTICLE 26
GOVERNING COUNCIL

The Governing Council shall have the following functions and powers:

(a) to discuss and give guidance to the Board of Directors as appropriate with respect to:

(i) the operations of the Bank;

(ii) the Annual Report of the Bank; and

(iii) any matters which the Board of Directors may refer to it;

(b) to approve the annual accounts of the Bank;

(c) to approve any distribution or other allocation of net income by the Board of Directors; and

(d) to approve the appointment of external auditors or such other experts as may be necessary to examine and report on the general management of the Bank.

2. The Governing Council shall also take decisions, in pursuance of other provisions of this Charter; on:

(a) the admission of new members, under Article 2, paragraph 2;

(b) any increase in the Capital Stock, under Article 3, paragraph 3;

(c) the election of the Chairman and the Vice-Chairman of the Board of Directors, under Article 28, paragraph 2;

(d) the appointment, or cessation in office, of the Director General, under Article 30;

(e) the termination of the operations of the Bank, under Article 39; and

(f) any amendment to the Charter, under Article 52.

3. (a)The Governing Council shall consist of representatives so designated by the Member States and by any other member, or group of members, representing not less than one-fifth of the total voting power of the members.

(b) The Governing Council shall be expanded to include all shareholders to consider amendments to this Charter or an increase in the Capital Stock of the Bank.

4. The Governing Council shall determine its own procedure, including that for convening its meetings, for the conduct of business thereat and at other times, and of the rotation of its Chairman among the members.

ARTICLE 27

BOARD OF DIRECTORS

1. All the powers of the Bank shall, subject to this Charter, be vested in the Board of Directors.

2. The Board of Directors shall consist of up to fourteen (14) directors who shall be designated as follows:

(a) Up to two (2) Directors may be appointed to represent each Member State;

(b) One (1) Director may be appointed on behalf of any other member, or group of members, representing not less than one-tenth of the total voting power of the members; Provided that a member or group of members, representing less than one-tenth of the total voting power of members may, subject to an affirmative majority vote of existing members, appoint a Director without voting powers.

3. All Directors shall be persons possessing high competence and wide experience in economic, financial and banking affairs.

4. Directors shall hold office for a term of three years and shall be eligible for re-appointment or re-election:

Provided that:-

(a) of the first directors of the Bank, two, who shall be chosen by the directors by lot, shall hold office for two years;

(b) a director shall remain in office until his successor has been appointed or elected;

(c) a director appointed or elected in place of one whose office has become vacant before the end of his term shall hold office only for the remainder of that term;

(d) a director appointed by a Member State may be required at any time by that Member State to vacate his office.

5. There shall be appointed or elected, as the case may be, an alternate director in respect of each substantive director and an alternate director shall be appointed or elected in the same manner and for the same term of office as the director to whom he is an alternate; and an alternate director shall remain in office until his successor has been appointed or elected.

6. An alternate director may participate in meetings but may vote only when he is acting in place of and in the absence of the director to whom he is an alternate.

7. 'While the office of a director is vacant the alternate of the former director shall exercise the powers of that director.

ARTICLE 28

PROCEDURE OF THE BOARD OF DIRECTORS

1. The Board of Directors shall normally meet at the principal office of the Bank and shall meet at least once every three months or more frequently if the business of the Bank so requires.

2. The Governing Council shall elect from among the members of the Board of Directors a Chairman and a Vice-Chairman of the Board. The Chairman or, in his absence, the Vice-Chairman, shall act as presiding officer of the Board. Meetings of the Board shall be convened by the Chairman or, in his absence, by the Vice-Chairman. Meetings other than regular meetings shall be so convened:

(a) whenever the Chairman or, in his absence, the Vice-Chairman deems it necessary or desirable; or

(b) whenever the Director-General so requests; or

(c) whenever a majority of the members of the Board or of the members of the Bank so requests.

3. A quorum for any meeting of the Board of Directors shall be seven (7) Directors, including at least five (5) Directors representing Member States and at least one (1) Director representing a member, or group of members, other than Member States. Provided that if within two hours of the time appointed for the holding of a meeting of the Board of Directors a quorum is not present the meeting shall automatically stand adjourned to the next day, at the same time and place or, if that day is a public holiday, to the next succeeding day which is not a public holiday at the same time and place, and if at such adjourned meeting a quorum is not present within two hours from the time appointed for the meeting, the directors present shall constitute a quorum and may transact the business for which the meeting was called.

4. The Board of Directors may, by regulation, establish a procedure whereby a decision in writing signed by all the Directors of the Bank shall be as valid and effectual as if it had been made at a meeting of the Board of Directors.

ARTICLE 29

VOTING

1. The voting power of each member of the Bank shall be equal to the number of shares of the paid-in capital stock of the Bank held by that member.

2. In voting in the Board of Directors:

(a) every Director shall be entitled to cast the number of votes of the Member State or other member, or group of members, that he represents;

(b) except in the case of a Director representing a Member State, a Director shall not be required to cast his votes as a unit;

(c) except as otherwise expressly provided in this Charter, all matters before the Board of Directors shall be decided by a majority of the total voting power of the members.

ARTICLE 30

DIRECTOR-GENERAL OF THE BANK

1. There shall be a Director-General of the Bank who shall be appointed by the Governing Council and who, while he remains Director-General, may not hold office as a director or an alternate to a director, or any other directorship, nor shall he perform any function outside the Bank which in the opinion of the Board is incompatible with his office in the Bank.

2. Subject to paragraph 3 of this Article, the Director-General shall hold office for a term of five years and may be re-appointed.

3. The Director-General shall vacate his office if the Governing Council so decides.

4. If the office of Director-General becomes vacant for any reason, a successor shall be appointed for a new term of five years.

5. The Director-General shall be the legal representative of the Bank.

6. The Director-General shall be chief of the staff of the Bank and shall conduct under the direction of the Board of Directors the current business of the Bank. He shall be responsible for the organization, appointment and dismissal of the officers and staff in accordance with regulations adopted by the Board of Directors.

7. In appointing officers and staff the Director-General shall, subject to the paramount importance of securing the highest standards of efficiency and technical competence, pay due regard to the recruitment of citizens of the Member States.

8. The Board shall make arrangements for another officer of the Bank to perform the duties and exercise the powers of the Director-General in the event of the temporary absence or incapacity of the Director-General.

9. Decisions of the Governing Council concerning the appointment or cessation in office of the Director-General shall be taken by a vote representing not less than 75 percent of the total voting power of the members of the Bank.

ARTICLE 31

LOYALTIES OF DIRECTOR-GENERAL AND OFFICERS AND STAFF

The Director-General and officers and staff of the Bank, in the discharge of their offices, 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 the Director- General or any of the officers and staff in the discharge of their duties.

ARTICLE 32

OFFICES OF THE BANK

The principal office of the Bank shall be located at Kampala in Uganda and the Bank may establish offices or agencies elsewhere.

ARTICLE 33

CHANNEL OF COMMUNICATIONS, DEPOSITORIES

1. Each member of the Bank shall designate an appropriate official, entity or person with whom the Bank may communicate in connection with any matter arising under this Charter.

2. Each Member State shall designate its central bank, or such other agency as may be agreed upon with the Bank, as a depository with which the Bank may keep its holdings of currency and other assets.

ARTICLE 34

WORKING LANGUAGE

The working language of the Bank shall be English.

ARTICLE 35

ACCOUNTS AND REPORTS

1. The Board of Directors shall ensure that proper accounts and proper records are kept in relation to the operations of the Bank and such accounts shall be audited in respect of each financial year by auditors of high repute selected by the Board of Directors.

2. The Bank shall prepare and transmit to the Governing Council and to the members of the Bank, and shall also publish, an annual report containing an audited statement of its accounts.

3. The Bank shall prepare and transmit to its members quarterly a summary statement of its financial position, and a profit and loss statement showing the results of its operations.

4. All financial statements of the Bank shall show ordinary operations and the operations of each Special Fund separately.

5. The Bank may also publish such other reports as it considers desirable in carrying out its objectives and functions, and such reports shall be transmitted to members of the Bank.

CHAPTER VIII
WITHDRAWAL AND SUSPENSION OF MEMBERS
ARTICLE 36

WITHDRAWAL OF MEMBERS

1. A Member State may not withdraw from the Bank.

2. Any member, other than a Member State, may withdraw from the Bank at any time by delivering a notice in writing to the Bank at its principal office.

3. Withdrawal by a member under paragraph 2 of this Article shall become effective, and its membership shall cease, on the date specified in its notice but in no event less than six months after the date that notice has been 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 37

SUSPENSIONOF MEMBERSHIP

1. If a member of the Bank, other than a Member State, fails to fulfill any of its obligations to the Bank, the Board of Directors may suspend such member by a majority vote of the total number of Directors representing not less than 75 percent of the total voting power of the members including the affirmative votes of each of the Member States.

2. The member so suspended shall automatically cease to be a member of the Bank six months from the date of its suspension unless the Board of Directors decides, within that period and by the same majority necessary for suspension, to restore the member to good standing.

3. While under suspension, a member shall not be entitled to exercise any rights under this Charter but shall remain subject to all its obligations.

ARTICLE 38

SETTLEMENT OF ACCOUNTS

1. At the time a member ceases to be a member, the Bank may arrange for the repurchase of its shares as part of the settlement of accounts with such member in accordance with the provisions of paragraphs 2 and 3of this Article. For this purpose, the repurchase price of the shares shall be the amount certified by auditors of high repute selected by the Board of Directors on the date the member ceases to be a member.

2. The payment for shares repurchased by the Bank under this Article shall be governed by the following conditions:

(a) Any amount due to the member concerned for its shares shall be withheld so long as that member remains liable immediately, in the future or contingently as a 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. In any event, no amount due to a member for its shares shall be paid six months after the date on which the member ceases to be a member.

(b) Payments for shares may be made from time to time, upon their surrender by the member concerned, to the extent by which the amount due as the repurchase price in accordance with paragraph 1 of this Article exceeds the aggregate amount due immediately, in the future or contingently from such member as a borrower from or a guarantor to the Bank as referred to in sub-paragraph (a) in this paragraph, until the former member has received the full repurchase price;

(c) Payments shall be made in such available currencies as the Bank determines, taking into account its financial position;

(d) If losses are sustained by the Bank on any guarantees or loans which were outstanding on the date when a member ceased to be a member and the amount of such losses exceeds the amount of any reserve specifically provided against such losses on that date, the member concerned shall repay, upon demand, the amount by which the repurchase price of its shares would have reduced if the losses had been taken into account when the repurchase price was determined; and

(e) Nothing herein contained shall render any member, whether or not he shall cease to be a member, liable in his capacity as a member or former member of the Bank for any sum or sums in excess of the portion of the issue price of his shares for the time being unpaid.

3. If the Bank terminates its operations pursuant to Article 39 of this Charter within six months of the date upon which any member ceases to be a member, all rights of the member concerned shall be determined in accordance with the provisions of Articles 39 to 41 of this Charter. Such member shall be considered as still a member for the purposes of such Articles but shall have no voting rights.

CHAPTER IX
TERMINATION OF OPERATIONS
ARTICLE 39

TERMINATION OF OPERATIONS

1. The Bank may terminate its operations by resolution of the Governing Council approved by a vote representing not less than 85 percent of the total voting power of the members.

2. After such termination, the Bank shall forthwith cease all activities, except those incidental to the orderly realization, conservation and preservation of its assets and the settlement of its obligations.

ARTICLE 40

LIABILITY OF MEMBERS AND PAYMENT OF CLAIMS

1. In the event of termination of the operations of the Bank, the liability of all members for 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. All creditors holding direct claims shall first be paid out of the assets of the Bank and then out of payments to the Bank on unpaid or callable subscriptions. 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 the holders of direct and contingent claims.

ARTICLE 41

DISTRIBUTION OF ASSETS

1. No distribution of assets shall be made to members on account of their subscriptions to the Capital Stock of the Bank until all liabilities to creditors shall have been discharged or provided for and any such distribution shall be approved by the Board of Directors by a vote representing not less than 85 percent of the total voting power of the members.

2. Any distribution of the assets of the Bank to the members shall be in proportion to the paid- in Capital Stock held by each member and shall be effected at such times and under such conditions as the Bank shall consider 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 X
STATUS, IMMUNITIES AND PRIVILEGES

ARTICLE 42

PURPOSE OF CHARTER

To enable the Bank effectively to fulfill its objectives and carry out the functions with which it is entrusted, the status, immunities, exemptions and privileges set forth in this Charter shall be accorded to the Bank in the territories of each of the Member States.

ARTICLE 43

LEGAL STATUS

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 44

JUDICIAL PROCEEDINGS

1. The Bank shall enjoy immunity from every form of legal process except in any case where it has expressly waived its immunity in writing, when it may be sued only in a court of competent jurisdiction in a Member State in which the Bank has an office, and has appointed an agent for the purpose of accepting service or notice of process. It is however, understood that no waiver of immunity shall be implied or extend to any measure of execution.

2. No action shall be brought against the Bank by members or persons acting for or deriving claims from members. However, members shall have recourse to such special procedures for the settlement of disputes between the Bank and its members as may be prescribed in this Charter, in the regulations of the Bank or in contract entered into with the Bank.

ARTICLE 45

IMMUNITY OF ASSETS

1. Property and other assets of the Bank, wheresoever located and by whomsoever held, shall be immune from interference, search, requisition, attachment, confiscation, expropriation, nationalization or execution or any other form or measure of taking or foreclosure by executive or legislative or judicial or administrative action or by any other action and premises used for the business of the Bank shall be immune from search.

2. The Bank shall prevent its premises from becoming refuges for fugitives from justice, or for persons subject to extradition, or persons avoiding service of legal process or judicial proceedings.

3. For the purpose of this Charter, the terms "property and assets of the Bank" shall include property and assets owned or held by the Bank, the Bank's premises, and deposits and funds entrusted to the Bank in the ordinary course of fulfilling its mandate.

ARTICLE 46

IMMUNITY OF ARCHIVES

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

ARTICLE 47

FREEDOM OF ASSETS FROM RESTRICTION

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

ARTICLE 48

PERSONAL IMMUNITIES AND PRIVILEGES

1. All directors, alternates, officers and employees of the Bank:

(a) shall be immune from civil process with respect to acts performed by them in their official capacity; and

(b) shall be accorded such immunities from immigration restrictions or alien registration and, where they are not citizens of a Member State, such facilities in relation to exchange regulations as are accorded by Member States to the representatives, officials and employees of comparable rank of other Member States.

2. Experts or consultants rendering services to the Bank shall be accorded the same immunities and privileges as in paragraph 1 above, unless the Member State concerned determines otherwise.

ARTICLE 49

EXEMPTION FROM TAXATION

The Bank, its property, other assets, income and its operations and transactions shall be exempt from all taxation and from all customs duties.

ARTICLE 50

IMPLEMENTATION

Each Member State shall promptly take such action as is necessary to make effective within that Member State the provisions set forth in this Chapter and shall inform the Bank of the action which it has taken on the matter.

ARTICLE 51

WAIVER OF IMMUNITIES

1. 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. The Bank shall take every measure to ensure that the privileges, immunities, exemptions, and facilities conferred by this Charter are not abused and for this purpose shall establish such regulations as it may consider necessary and expedient.

CHAPTER XI
AMENDMENT, INTERPRETATION AND ARBITRATION

ARTICLE 52

AMENDMENT OF THE CHARTER

1. This Charter may be amended only by a resolution of the Governing Council approved by a vote representing not less than 85 percent of the total voting power of the members.

2. When an amendment has been adopted the Bank shall certify it in a formal communication addressed to all members. Amendments shall enter into force for all members three calendar months after the month in which such communication is issued, unless the resolution referred to in paragraph 1 of this Article specifies therein a different period.

3. Notwithstanding the provisions of paragraph 1 of this Article, the unanimous agreement of the Governing Council shall be required for the approval of any amendment of the Charter modifying:

(a) the right of a member, other than a Member State, to withdraw from the Bank as provided in Article 36 of this Charter;

(b) the right to subscribe to the Capital Stock of the Bank as provided in paragraph 4 of Article 4 of this Charter; and

(c) the limitation on liability as provided in paragraphs 7 and 8 of Article 4 of this Charter.

ARTICLE 53

INTERPRETATION OR APPLICATION

Any question of interpretation or application of the provisions of this Charter arising between any member and the Bank or between two or more members of the Bank shall be submitted to the Board of Directors for decision.

ARTICLE 54

ARBITRATION

1. If a disagreement shall arise between the Bank and a member or between the Bank and a former member of the Bank including a disagreement in respect of a decision of the Board of Directors under Article 53 of this Charter, such disagreement shall be submitted to arbitration by a tribunal of three arbitrators. One of the arbitrators shall be appointed by the Bank, another by the member or former member concerned and the third, unless the parties otherwise agree, by the Executive Secretary of the Economic Commission for Africa or such other authority as may have been prescribed by regulations made by the Board of Directors.

2. A majority vote of the arbitrators shall be sufficient to reach a decision which shall be final and binding on the parties and a decision of the arbitrators may include an order as to payment of costs and expenses.

3. The third arbitrator shall be empowered to settle all questions of procedure in any case where the parties are in disagreement with respect thereto.

CHAPTER XII

FINAL PROVISIONS

ARTICLE 55

ACQUISITION OF MEMBERSHIP: DEPOSITARY

1. States which the Governing Council decides to admit to membership of the Bank in pursuance of Article 2, paragraph 2 of this Charter, may become members by accession thereto. The Government of any such state shall deposit, on or before the date appointed by the Council, an Instrument of Accession with the Secretary of the Bank who, as Depositary, shall notify such deposit and the date thereof to the Bank and to its members. Upon such deposit, the State shall become a member of the Bank on the appointed date.

2. Any body corporate, enterprise or institution which the Governing Council decides to admit to membership of the Bank in pursuance of Article 2 of this Charter may become a member by accepting its provisions. It shall deposit, on or before the date appointed by the Board, a Letter of Acceptance of the provisions of this Charter, with the Secretary of the Bank who shall notify such deposit and the date thereof to the members. Upon such deposit, the body corporate, enterprise or institution concerned shall become a member of the Bank on the appointed date.

ARTICLE 56

ENTRY INTO FORCE

This Charter shall enter into force at the same time as does the Treaty to which it is annexed.

ARTICLE 57

COMMENCEMENT OF OPERATIONS

As soon as this Charter enters into force, the directors shall be appointed or elected in accordance with the provisions of Article 27 of this Charter and the Director General of the Bank shall call the first meeting of the Board of Directors."