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CHAPTER 323A

CARIBBEAN DEVELOPMENT BANK

An Act to provide for the implementation by the Government of Barbados of the Agreement establishing the Caribbean Development Bank, of certain of the provisions contained in the Agreement between the Bank and the Government relating to the Headquarters of the Bank, and for matters incidental thereto and connected therewith.

1970-1.
1970-35.
1990-29.

[9th February, 1970-Part II] Commence-
ment.

[24th August, 1970-Part III]

1. This Act may be cited as the *Caribbean Development Bank Act*. Short title.

PART I

Preliminary

2. For the purposes of this Act, the expression

Interpreta-
tion.

"Bank" means the Caribbean Development Bank established by the Bank Agreement;

"Bank Agreement" means the Agreement establishing the Caribbean Development Bank the text of which is set out in the *First Schedule*;

First
Schedule.
1970-35.

"Headquarters Agreement" means the Agreement between the Government and the Bank regarding the Headquarters Seat of the Bank the text of which is set out in the *Second Schedule*;

Second
Schedule.

"Headquarters Seat" has the meaning assigned to it by section 1 of Article 1 of the Headquarters Agreement.

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PART II

Provisions relating to the Bank Agreement

Financial provisions for giving effect to the Bank Agreement.

3. (1) All sums required to be paid by the Government for the purpose of meeting the obligations of Barbados under the Bank Agreement are hereby charged on and shall be paid out of the Consolidated Fund.

(2) The Minister may, if he thinks fit, create and issue to the Bank any such non-negotiable and non-interest-bearing notes and other obligations as are provided for by paragraph 5 of Article 7 of the Bank Agreement, and sums payable under such notes or obligations so created and issued shall be charged on and paid out of the Consolidated Fund.

(3) Any sums received by the Government from the Bank pursuant to the Bank Agreement shall be paid into the Consolidated Fund.

Minister empowered to raise loans for purposes of Bank Agreement.

4. (1) The Minister may borrow from any person any sum or sums required for payments under section 3 or for replacing any sum or sums paid out the Consolidated Fund pursuant to that section, and for the purpose of such borrowing, may create and issue any securities bearing such rate of interest and subject to such conditions as to repayment, redemption or otherwise, as he thinks fit.

(2) The principal and interest of any securities issued under subsection (1) and any expenses incurred in connection with their issue shall be charged on and paid out of the Consolidated Fund.

(3) Any moneys raised by securities issued under subsection (1) shall be paid into the Consolidated Fund.

Designation of Depository for holdings of currency, etc.

5. The East Caribbean Currency Authority or such other institution as may be agreed upon with the Bank shall act as a depository for the holdings of the currency of Barbados and other assets of the Bank.

6. The provisions of Articles 48, 49, 50, 51, 52, 53, 54 and 55 of the Bank Agreement shall have the force of law in Barbados.

Certain provisions of Bank Agreement given force of law in Barbados.

PART III

Provisions relating to Headquarters Agreement

7. All sums required to be paid by the Government for the purpose of meeting the obligations of Barbados under the Headquarters Agreement are hereby charged on and shall be paid out of the Consolidated Fund.

Financial provisions for giving effect to the Headquarters Agreement.

8. The following provisions of the Headquarters Agreement shall have the force of law in Barbados—

Certain provisions of Headquarters Agreement given force of law in Barbados.

(a) in Article V—

(i) section 13 (a),

(ii) section 14 (b) in relation to judicial notice to be taken by the Courts of Barbados of regulations made by the Bank under section 15,

(iii) section 15 (a) in relation to the power of the Bank to make regulations for the full and independent exercise of its functions within the Headquarters Seat,

(iv) section 17;

(b) sections 43 and 44 of Article XII;

(c) Article XIII.

9. Nothing contained in the Immigration Act shall apply to the persons mentioned in section 41 of the Headquarters Agreement or have effect in relation to such persons as so to—

Exemption from provisions of Immigration Act. Cap. 190.

(a) restrict their entry into Barbados; or

(b) regulate the conditions of their stay in Barbados; or

(c) prevent the entry into or require the removal from Barbados of any such person by reason of any activity performed by such person in his official capacity with respect to the Bank.

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Regulations
made by
Bank to be
gazetted.

10. (1) All regulations made by the Bank pursuant to section 15 of the Headquarters Agreement shall, as soon as possible after being made, be published in the *Official Gazette* and on such publication shall come into operation and have the force of law.

Cap. 1.

(2) All such regulations shall be statutory instruments for the purposes of the Interpretation Act.

Offence to
contravene
Bank's
regulations.

11. Any person who contravenes any of the provisions of any regulations made by the Bank pursuant to section 15 of the Headquarters Agreement is guilty of an offence and, on summary conviction thereof, is liable to a fine of two hundred and fifty dollars or imprisonment for a term of three months or both.

s. 2

FIRST SCHEDULE

Agreement establishing the Caribbean Development Bank

THE CONTRACTING PARTIES

CONSCIOUS of the need to accelerate the economic development of States and Territories of the Caribbean and to improve the standards of living of their peoples;

RECOGNISING the resolve of these States and Territories to intensify economic co-operation and promote economic integration in the Caribbean;

AWARE of the desire of other countries outside the region to contribute to the economic development of the region;

CONSIDERING that such regional economic development urgently requires the mobilisation of additional financial and other resources; and

CONVINCED that the establishment of a regional financial institution with the broadest possible participation will facilitate the achievement of these ends;

HEREBY AGREE AS FOLLOWS:

INTRODUCTORY ARTICLE

The Caribbean Development Bank (hereinafter called the "Bank") is hereby established and shall be governed by the following

ARTICLES OF AGREEMENT:

CHAPTER I

Purpose, Functions and Participation

ARTICLE 1

PURPOSE

The purpose of the Bank shall be to contribute to the harmonious economic growth and development of the member countries in the Caribbean (hereinafter called the "region") and to promote economic co-operation and integration among them, having special and urgent regard to the needs of the less developed members of the region.

ARTICLE 2

FUNCTIONS

1. To carry out its purpose, the Bank shall have the following functions:

- (a) to assist regional members in the co-ordination of their development programmes with a view to achieving better utilisation of their resources, making their economies more complementary, and promoting the orderly expansion of their international trade, in particular intra-regional trade;
- (b) to mobilise within and outside the region additional financial resources for the development of the region;
- (c) to finance projects and programmes contributing to the development of the region or any of the regional members;
- (d) to provide appropriate technical assistance to its regional members, particularly by undertaking or commissioning pre-investment surveys and by assisting in the identification and preparation of project proposals;
- (e) to promote public and private investment in development projects by, among other means, aiding financial institutions in the region and supporting the establishment of consortia;
- (f) to co-operate and assist in other regional efforts designed to promote regional and locally controlled financial institutions and a regional market for credit and savings;
- (g) to stimulate and encourage the development of capital markets within the region, and

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- (h) to undertake or promote such other activities as may advance its purpose.

2. The Bank shall, where appropriate, co-operate with national, regional or international organisations or other entities concerned with the development of the region.

ARTICLE 3

MEMBERSHIP

1. Membership in the Bank shall be open to:

- (a) States and Territories of the region; and
- (b) non-regional States which are members of the United Nations or of any of its specialised agencies or of the International Atomic Energy Agency.

2. The States and Territories listed in Annex A to this Agreement the Governments of which sign this Agreement in accordance with paragraph 1 of Article 62 and ratify or accept it in accordance with paragraph 1 of Article 63 shall become members of the Bank.

3. States and Territories eligible for membership under paragraph 1 of this Article which do not become members in accordance with paragraph 2 of this Article may be admitted to membership on such terms and conditions as the Bank may determine by a vote of not less than two-thirds of the total number of the governors representing not less than three-fourths of the total voting power of the members, and on acceding to this Agreement in accordance with paragraph 2 of Article 63.

4. For the purposes of Articles 26, 32 and 65 the last four Territories listed in Category A of Annex A to this Agreement shall be considered as a single member of the Bank.

ARTICLE 4

PARTICIPATION OF NON-MEMBERS

The Bank shall encourage and facilitate the fullest co-operation and participation in its activities of other regional or non-regional States which are members of the United Nations or any of its specialised agencies or of the International Atomic Energy Agency and which may further its purpose, and shall take such measures as it may deem appropriate under the provisions of this Agreement to promote such co-operation and participation.

CHAPTER II

Capital and Other Resources

ARTICLE 5

AUTHORISED CAPITAL

1. The authorised capital stock of the Bank shall be the equivalent of fifty million dollars (\$50,000,000) in terms of United States dollars of the weight and fineness in effect on 1st September, 1969. The authorised capital stock shall be divided into ten thousand (10,000) shares with a par value of five thousand dollars (\$5,000) each, which shall be available for subscription only by members in accordance with the provisions of Article 6.

2. The original authorised capital stock shall be divided into paid-up shares and callable shares. Shares having an aggregate par value equivalent to twenty-five million dollars (\$25,000,000) shall be paid-up shares, and shares having an aggregate par value equivalent to twenty-five million dollars (\$25,000,000) shall be callable shares.

3. The authorised capital stock may be increased by the Board of Governors at such time and on such terms and conditions as it may determine by a vote of not less than two-thirds of the total number of the governors representing not less than three-fourths of the total voting power of the members.

4. In this Agreement the expression "dollar" means a United States dollar of the value specified in paragraph 1 of this Article.

ARTICLE 6

SUBSCRIPTION OF SHARES

1. Each member shall subscribe to shares of the capital stock of the Bank. Each subscription to the original authorised capital stock shall be for paid-up and callable shares in equal parts. The initial number of shares to be subscribed by those States and Territories which become members in accordance with paragraph 2 of Article 3 shall be as set forth in Annex A to this Agreement which shall form an integral part thereof. The initial number of shares to be subscribed by those States and Territories which are admitted to membership in accordance with paragraph 3 of Article 3 shall be determined by the Board of Governors in accordance with that paragraph.

2. The authorised capital stock of the Bank shall at all times be held or be available for subscription in the following manner:

- (a) not less than sixty (60) per cent by regional members; and
- (b) not more than forty (40) per cent by other members.

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3. In case of an increase in the authorised capital stock, each member shall have a right to subscribe, on such terms and conditions as the Board of Governors shall determine, to a proportion of the increase of stock equivalent to the proportion which its stock previously subscribed bears to the total subscribed capital stock immediately before such increase, provided, however, that this provision shall not apply in respect of any increase or portion of an increase in the authorised capital stock which is intended solely to give effect to determinations of the Board of Governors under paragraphs 1 and 4 of this Article. No member shall be obligated to subscribe to any part of an increase in capital stock.

4. Subject to the provisions of paragraph 2 of this Article, the Board of Governors may, at the request of a member, increase the subscription of such member on such terms and conditions as the Board may determine. The Board of Governors shall pay special regard to the request of any regional member having less than five (5) per cent of the subscribed capital stock to increase its subscription.

5. Shares initially subscribed by those States and Territories which become members in accordance with paragraph 2 of Article 3 shall be issued at par. Other shares shall be issued at par unless the Board of Governors by a vote of not less than two-thirds of the total number of the governors representing not less than three-fourths of the total voting power of the members decides in special circumstances to issue them on other terms.

6. Shares shall not be pledged or encumbered in any manner whatsoever. They shall not be transferable except to the Bank.

7. Liability of the members on shares shall be limited to the unpaid portion of their issue price.

8. Except as provided in paragraph 7 of this Article, no member shall be liable, by reason of its membership, for obligations of the Bank.

ARTICLE 7

PAYMENT OF SUBSCRIPTIONS

1. Payment of the amount due in respect of paid-up shares initially subscribed by a State or Territory which becomes a member in accordance with paragraph 2 of Article 3 shall be made in six (6) instalments. The first instalment shall equal 20 per cent of that amount and the remaining five instalments shall each equal 16 per cent of that amount. The first instalment shall be paid by each member not later than 90 days after entry into force of this Agreement or on or before the date of deposit of its instrument of ratification or acceptance in accordance with Article 63, whichever is the later. The second instalment shall be paid not later than one (1) year from

the entry into force of this Agreement. The remaining four instalments shall each be paid successively not later than one (1) year from the date on which the preceding instalment becomes payable.

2. Of each instalment of an initial subscription payable under paragraph 1 of this Article by a State or Territory which becomes a member pursuant to paragraph 2 of Article 3:

- (a) fifty (50) per cent shall be paid in gold or in a convertible currency which is freely and effectively useable in the operations of the Bank or in a currency which is freely and fully convertible into such a currency, provided that if the currency of that member meets either of such requirements, such payment shall be made in the currency of that member; and
- (b) fifty (50) per cent shall be paid in the currency of that member, subject to the provisions of paragraph 5 of this Article.

3. Each payment of a member in its own or another currency shall be in such amount as the Bank, after such consultation with the International Monetary Fund as it may consider necessary and utilising the par value, if any, established with the International Monetary Fund, shall determine to be equivalent to the full value in terms of dollars of the portion of the subscription being paid. The first instalment payable pursuant to paragraph 1 of this Article shall be in such amount as that member considers appropriate in accordance with this paragraph, but shall be subject to such adjustment, to be effected within ninety (90) days of the date on which such payment was due, as the Bank shall determine to be necessary to constitute the full dollar equivalent of such payment.

4. Subject to the provisions of paragraphs 6 and 7 of this Article relating to callable shares, payment of other subscriptions in respect of original authorised shares and of increases in the capital stock of the Bank shall be made at such times and in gold or in such currencies as the Board of Governors shall determine and the Board may determine with the agreement of all members that different proportions of such capital be paid up by different members.

5. The Bank shall accept from a member, in place of any part of the member's currency paid or to be paid by the member under paragraph 2 (b) of this Article or under paragraph 1 of Article 24 in respect of payments under paragraph 2 (b) of this Article, provided such currency is not required by the Bank for the conduct of its operations, promissory notes or other obligations issued by the Government of the member or by the depository designated by the member pursuant to Article 37. Such notes or other obligations shall be non-negotiable, non-interest-bearing, and payable at their par value upon demand. Subject to paragraph 5 of Article 23, demand for payment of such notes or other obligations shall be made only as and when the funds are required by the Bank for the conduct of its operations,

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provided, however, that a member which has issued such promissory notes or other obligations may at the request of the Bank convert any of them into interest-bearing notes or into cash to be invested in government securities of that member. Demands upon such notes or obligations shall, as far as practicable over reasonable periods of time, be uniform in percentage of all such notes and obligations. Notwithstanding the issuance or acceptance of a note or other obligation by the Bank, the obligation of the member under paragraph 2 (b) of this Article and under Article 24 shall subsist.

6. Callable shares shall be subject to call only as and when required by the Bank to meet its obligations incurred pursuant to sub-paragraphs (b) and (d) of Article 13 on borrowings of funds for inclusion in its ordinary capital resources or on guarantees chargeable to such resources. Such calls on unpaid subscriptions shall be uniform in percentage on all callable shares.

7. Payment of calls referred to in paragraph 6 of this Article may be made at the option of the member in gold, convertible currency or in the currency required to discharge the obligations of the Bank for the purpose of which the call is made.

8. The Bank shall determine the place for any payment under this Article, provided that, until the inaugural meeting of the Board of Governors the payment of the first instalment referred to in paragraph 1 of this Article shall be made to the Government of Barbados as Trustee of the Bank.

ARTICLE 8

SPECIAL FUNDS

1. A special fund to be known as the Special Development Fund is hereby established into which the Bank may receive contributions or loans. The Special Development Fund may be used to make or guarantee loans of high developmental priority, with longer maturities, longer deferred commencement of repayment and lower interest rates than those determined by the Bank for its ordinary operations. The Bank shall, as soon as practicable, adopt rules and regulations for the administration and use of the Special Development Fund.

2. The Bank may establish, or be entrusted with the administration of, other special funds which are designed to serve its purpose and fall within its functions. It shall adopt such special rules and regulations as may be required for the establishment, administration and use of the resources of each special fund.

3. Subject to the provisions of paragraph 1 of this Article relating to the Special Development Fund, the terms and conditions upon which the Bank may receive contributions or loans for special funds, including the Special Development Fund, shall be such as may be agreed upon between the Bank

and the contributor or lender, and special funds may be used in any manner and on any terms and conditions not inconsistent with the purpose and functions of the Bank or with any agreement relating to such funds.

4. No allocation may be made to the Special Development Fund provided for in paragraph 1 of this Article or to any other special fund from the paid-up capital or reserve of the Bank or from funds borrowed by the Bank for inclusion in its ordinary capital resources.

5. The rules and regulations relating to any special fund shall be consistent with the provisions of this Agreement except those which expressly apply only to ordinary operations of the Bank. Where such rules and regulations do not apply, special funds shall be governed by the provisions of this Agreement.

ARTICLE 9

ORDINARY CAPITAL RESOURCES AND SPECIAL FUNDS RESOURCES

1. The resources of the Bank shall consist of ordinary capital resources and special funds resources.

2. In this Agreement, the expression "ordinary capital resources" includes the following:

- (a) authorised capital stock of the Bank subscribed pursuant to Article 6;
- (b) funds borrowed by the Bank to which the commitment to calls provided for in paragraph 6 of Article 7 is applicable;
- (c) funds received in repayment of loans or guarantees made with the resources referred to in sub-paragraphs (a) and (b) of this paragraph;
- (d) income derived from loans made from the aforementioned funds or from guarantees to which the commitment to calls provided for in paragraph 6 of Article 7 is applicable; and
- (e) any other funds or income received by the Bank which do not form part of any special funds resources.

3. In this Agreement, the expression "special funds resources" refers to the resources of any special fund and includes the following:

- (a) resources initially contributed to any special fund;
- (b) funds accepted by the Bank for inclusion in any special fund;
- (c) funds repaid in respect of loans or guarantees financed from the resources of any special fund which, under the rules and regulations of the Bank governing that special fund, are received by such special fund;
- (d) income derived from operations of the Bank in which any of the aforementioned resources or funds are used or committed if, under

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- the rules and regulations of the Bank governing the special fund concerned, that income accrues to such special fund; and
- (e) any other resources placed at the disposal of any special fund.

CHAPTER III

Operations

ARTICLE 10

USE OF RESOURCES

The resources and facilities of the Bank shall be used exclusively to further the purpose and carry out the functions set forth, respectively, in Articles 1 and 2 of this Agreement.

ARTICLE 11

ORDINARY AND SPECIAL OPERATIONS

1. The operations of the Bank shall consist of ordinary operations and special operations.
2. Ordinary operations shall be those financed from the ordinary capital resources of the Bank.
3. Special operations shall be those financed from special funds resources.

ARTICLE 12

SEPARATION OF OPERATIONS

1. The ordinary capital resources of the Bank shall at all times and in all respects be held, used, committed, invested or otherwise disposed of, entirely separate from special funds resources. Each special fund, its resources and accounts shall be kept entirely separate from other special funds, their resources and accounts.
2. The ordinary capital resources of the Bank shall not be charged with, or used to discharge, losses or liabilities arising out of operations or other activities of any special fund. Special funds resources appertaining to any special fund shall not be charged with, or used to discharge, losses or liabilities arising out of operations or other activities of the Bank financed from its ordinary capital resources or from resources appertaining to any other special fund.
3. In the operations and other activities of any special fund, the liability

of the Bank shall be limited to the resources appertaining to that special fund which are at the disposal of the Bank.

4. The financial statements of the Bank shall show the ordinary operations and the special operations of the Bank separately. Expenses appertaining to ordinary operations shall be charged to the ordinary capital resources of the Bank. Expenses appertaining directly to special operations shall be charged to the special funds resources. Any other expenses shall be charged as the Bank shall determine.

5. The Bank shall adopt such other rules and regulations as may be required to ensure the effective separation of the two types of its operations.

ARTICLE 13

RECIPIENTS AND METHODS OF ORDINARY OPERATIONS

In its ordinary operations, the Bank may provide or facilitate financing for any regional member or any political subdivision or any agency thereof, or any other entity or enterprise in the public or private sector operating in the territory of such member, as well as for international or regional agencies or other entities concerned with the economic development of the region. The Bank may carry out such operations in any of the following ways:

- (a) by making or participating in direct loans with its unimpaired paid-up capital and, except as provided in Article 18, with its reserves and undistributed surplus;
- (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 the funds referred to in paragraphs (a) and (b) of this Article in the equity capital of an entity or enterprise, provided, however, that no such investment shall be made until after the Board of Governors, by a vote of not less than two-thirds of the total number of governors representing not less than three-fourths of the total voting power of the members, shall have determined that the Bank is in a position to begin such type of operations; or
- (d) by guaranteeing, whether as primary or secondary obligor, in whole or in part, loans for economic development.

ARTICLE 14

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

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time exceed the total amount of its unimpaired subscribed capital, reserves and surplus and any other funds included in its ordinary capital resources, exclusive of the special reserve provided for in Article 18 and 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 resources appertaining to that special fund.

3. In the case of funds invested in equity capital out of the ordinary capital resources of the Bank, the total amount invested shall not at any time exceed ten (10) per cent of the aggregate amount of the unimpaired paid-up capital stock of the Bank actually paid up at any given time together with the reserves and surplus included in its ordinary capital resources, exclusive of the special reserve provided for in Article 18.

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

ARTICLE 15

OPERATING PRINCIPLES

Subject to the provisions of this Agreement, the operations of the Bank shall be conducted in accordance with the following principles:

- (a) The operations of the Bank shall provide principally for the financing of specific projects, including those forming part of a national, sub-regional or regional development programme. They may, however, include loans to, or guarantees of loans made to, national development banks or other suitable financial institutions, in order that the latter may finance development projects on terms approved by the Bank where the individual financing requirements of such projects are not, in the opinion of the Bank, large enough to warrant the direct supervision of the Bank.
- (b) The Bank shall not finance any undertaking in the territory of a member if that member objects to such financing.
- (c) Before a loan or guarantee is granted, the applicant shall have submitted an adequate loan or guarantee proposal and the President of the Bank shall have presented to the Board of Directors a written report regarding the proposal together with his recommendations on the basis of a staff study.

- (d) In considering an application for a loan or guarantee, the Bank shall pay due regard to the ability of the borrower to obtain financing elsewhere on terms and conditions that the Bank considers reasonable for the recipient.
- (e) 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 in a position to meet their obligations under the loan contract.
- (f) 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.
- (g) In guaranteeing a loan made by other investors, or in under-writing the sale of securities, the Bank shall receive suitable compensation for its risk.
- (h) The proceeds of financing in the ordinary operations of the Bank shall normally be used only for procurement, in territories of members, of goods and services produced in those territories. In special cases the Board of Directors may, however, determine the circumstances in which the procurement of goods and services may be permitted elsewhere, giving particular consideration wherever practicable to procurement of goods and services produced in the territory of countries which have contributed substantially to the resources of the Bank.
- (i) In procuring services, and in facilitating financing for entities or enterprises in the private sector, the Bank shall pay due regard to the need to develop and strengthen undertakings, entities and skills of individuals belonging to the region.
- (j) In the case of a direct loan made by the Bank, the borrower shall be permitted by the Bank to draw its funds only to meet expenditures in connection with the project as they are actually incurred.
- (k) The Bank shall take the 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 regard to considerations of economy and efficiency.
- (l) The Bank shall pay due regard to the desirability of a reasonable distribution of the benefits from its operations among the members in the region.
- (m) The Bank shall seek to maintain reasonable diversification in its investments in equity capital.
- (n) The Bank may provide financing to meet either external or local expenditures in respect of a project being assisted, provided that in its ordinary operations the Bank shall provide financing for local expenditures in the territory in which the project is located only in exceptional circumstances and not exceeding a reasonable proportion

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of the total of such expenditures, or in circumstances where such financing may be provided with local currency restricted under paragraph 2 of Article 23.

- (o) The Bank shall be guided by sound development banking principles in its operations.

ARTICLE 16

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 the terms and conditions for the loan or guarantee concerned, including those relating to payment of principal, interest 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. Subject in the case of special operations to any rules and regulations or other arrangements relating thereto, the contract relating to a loan made or guaranteed by the Bank shall specify the currency or currencies to be used in making repayments to the Bank, or stipulate that repayments shall be made in the currency or currencies loaned, or make other appropriate provision for the currency or currencies of repayment. At the option of the borrower, however, such repayments may be made in gold or, subject to the agreement of the Bank, in any convertible currency. The contract may also provide that the amount of repayments to the Bank shall be equivalent, in terms of a currency specified for that purpose by the Bank, to the value of those repayments on the date or dates on which the loan was disbursed.

3. Where the recipient of a loan or guarantee of a loan is not itself a member, the Bank may, when it deems it advisable, make it a condition of the contract that the member in whose territory the project concerned is to be carried out, or a public agency of that member 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.

ARTICLE 17

COMMISSION AND FEES

1. The Bank shall determine the rate and any other terms and conditions of the commission to be charged in connection with direct loans made or participated in as part of its ordinary operations. This commission shall be computed on the amount outstanding on each loan or participation and shall be at the rate of not less than one (1) per cent per annum in the first five (5) years of the operations of the Bank. At the end of this period, the

rate of commission may be set at such level as the Bank considers appropriate in the light of the level of the reserves of the Bank.

2. In guaranteeing a loan as part of its ordinary operations, the Bank shall, in addition to any other charges, require a guarantee fee, at a rate determined by the Board of Directors, payable periodically on the amount of the loan outstanding.

3. Other charges of the Bank in its ordinary operations, and any commission, fees or other charges in its special operations, shall be determined by the Board of Directors.

ARTICLE 18

SPECIAL RESERVE

The amount of commissions and guarantee fees received by the Bank pursuant to Article 17 of this Agreement shall be set aside as a special reserve which shall be kept for meeting liabilities of the Bank. The special reserve shall be held in such liquid form as the Board of Directors may decide, provided that whenever it is in the interest of the Bank the special reserve may be invested in the securities of the region.

ARTICLE 19

METHODS OF MEETING LIABILITIES OF THE BANK

1. Whenever necessary to meet contractual payments of interest, other charges or amortisation on borrowings of the Bank in its ordinary operations, or to meet its liabilities with respect to similar payments in respect of loans guaranteed by it, chargeable to its ordinary capital resources, the Bank may call an appropriate amount of callable shares in accordance with paragraph 6 of Article 7.

2. If the subscribed callable capital stock of the Bank shall be entirely called pursuant to paragraph 6 of Article 7, the Bank may, if necessary for the purpose specified in paragraph 1 of this Article, use or exchange the currency of any member without restriction, including any restriction imposed pursuant to paragraph 2 of Article 23.

CHAPTER IV

Borrowing and Other Miscellaneous Powers

ARTICLE 20

GENERAL POWERS

In addition to the powers provided elsewhere in this Agreement, the Bank shall have the power to:

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- (a) borrow funds in the territories of members or elsewhere, and in this connection to furnish such collateral or other security therefor as the Bank shall determine, provided always that:
 - (i) before making a sale of its obligations in a country, the Bank shall seek the approval of the competent authorities of that country;
 - (ii) where the obligations of the Bank are to be denominated in the currency of a member, the Bank shall have obtained the approval of the competent authorities of that member;
 - (iii) the Bank shall obtain the approval of the competent authorities referred to in sub-paragraphs (i) and (ii) of this paragraph that the proceeds may be exchanged for any other currency without restriction; and
 - (iv) before determining whether to sell its obligations in a particular country, the Bank shall consider the amount of previous borrowing, if any, in that country, the amount of previous borrowings in other countries, and the possible availability of funds in such other countries and shall give due regard to the general principle that its borrowings should, as far as possible, be diversified as to the country of borrowing;
- (b) buy and sell securities the Bank has issued or guaranteed or in which it has invested, provided always that it shall have obtained the approval of the competent authorities of the country where the securities are to be bought or sold;
- (c) guarantee securities in which it has invested, in order to facilitate their sale;
- (d) underwrite, or participate in the underwriting of, securities issued by any enterprise or entity for purposes consistent with the purpose and functions of the Bank;
- (e) invest or deposit funds, not needed in its operations, in the territories of members or of substantial contributors to the resources of the Bank, in such obligations or institutions of members or substantial contributors, or nationals thereof, as it may determine, except where the Board of Directors by a vote of not less than three-fourths of the total voting power of the members determines otherwise;
- (f) assist regional members in matters relating to the foreign placement of official loans;
- (g) borrow from Governments, their political sub-divisions and instrumentalities, and international organisations, on such terms and conditions as may be agreed upon between the Bank and the lender;
- (h) provide technical assistance which serves its purpose and comes within its functions, and where expenditures incurred in furnishing such services are not reimbursable, charge the income of the Bank therewith; and

- (i) exercise such other powers and adopt such rules and regulations as may be necessary or appropriate in furtherance of its purpose and functions and consistent with the provisions of this Agreement.

ARTICLE 21

NOTICE TO BE PLACED ON SECURITIES

Every security issued or guaranteed by the Bank shall include a statement to the effect that it is not an obligation of any Government, unless it is in fact the obligation of a particular Government, in which case it shall so state.

CHAPTER V

Currencies

ARTICLE 22

VALUATION OF CURRENCIES AND DETERMINATION OF CONVERTIBILITY

Whenever the Bank considers it necessary under this Agreement:

- (a) to value any currency in terms of another currency or of gold; or
- (b) to determine whether any currency is convertible;

such valuation or determination, as the case may be, shall be reasonably made by the Bank after consultation with the International Monetary Fund.

ARTICLE 23

USE OF CURRENCIES

1. The currency of any member held by the Bank as part of its ordinary capital resources, however acquired, may be used by the Bank or by any recipient from the Bank, without restriction by that member, to make payments for expenditures within, or for goods and services produced in, the territory of that member.

2. Members may not maintain or impose any restrictions on the holding or use by the Bank or by any recipient from the Bank, for payments in any country, of gold or any currency received by the Bank and included in its ordinary capital resources; except that a regional member may, after consultation with and subject to periodic review by the Bank, restrict, in whole or in part, to expenditure in the territory of that member the use of its currency paid in as, or derived as repayments of principal from, currency of the member paid pursuant to paragraph 2 (b) of Article 7.

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3. The use of any currency received and held by the Bank as part of its special funds resources shall be governed by the rules, regulations and agreements pertaining thereto and made by virtue of the provisions of Article 8.

4. Gold or currencies held by the Bank may not be used by the Bank to purchase currencies of members or non-members except with the approval of the member or members whose currencies are involved, but may be so used without such approval:

- (i) in order to meet the obligations of the Bank in the ordinary course of its business; or
- (ii) if the currency to be used for such purchase is the currency of a member received by the Bank as a payment on account of the subscription of another member; or
- (iii) pursuant to a decision of the Board of Directors by a vote of the Directors representing not less than two-thirds of the total voting power of the members.

5. Nothing in this Agreement shall preclude the Bank from using the currency of any member for administrative expenses incurred by the Bank in the territory of that member.

ARTICLE 24

MAINTENANCE OF VALUE OF THE CURRENCY HOLDINGS OF THE BANK

1. Whenever the par value in the International Monetary Fund of the currency of a member is reduced or the foreign exchange value of such currency has, in the opinion of the Bank, depreciated to a significant extent within its territories, that member shall pay to the Bank within a reasonable time an additional amount of its currency sufficient to maintain the value as of the time of subscription of the amount of such currency which is held or subsequently received by the Bank (whether or not any such currency is held in the form of notes or other obligations issued pursuant to paragraph 5 of Article 7) and consisting of, or derived as repayments of principal from, currency originally paid to the Bank by such member pursuant to paragraph 2 (a) or paragraph 2 (b) of Article 7, or any additional currency paid pursuant to the provisions of the present paragraph; provided, however, that, to the extent that the Bank shall, in its opinion, have received from any borrower of such currency, or from any guarantor, amounts paid solely as a result of such reduction in par value or of such depreciation, the Bank shall *pro tanto* relieve that member of its obligations under the present paragraph.

2. Whenever the par value of the currency of a member is increased, the Bank shall pay to that member within a reasonable time an amount of such

currency equal to the increase in the value of that amount of the member's currency held or subsequently received by the Bank to which paragraph 1 of this Article would be applicable; provided, however, that the Bank shall not be obligated to make such payment to the extent that the benefit of any such increase in par value shall have been passed on by the Bank to any borrower or guarantor as a corollary of the obligation of either to make increased payments to the Bank in case of a decrease in the par value of such currency.

3. The provisions of the preceding two paragraphs may be waived or deemed inoperative by the Bank when a uniform change in the par values of the currencies of all its members is made by the International Monetary Fund.

4. Amounts paid by a member pursuant to the provisions of paragraph 1 of this Article to maintain the value of any of its currency shall be useable and convertible to the same extent as the original currency in respect of which such amounts are paid.

5. In the case of a member whose currency does not have a par value established with the International Monetary Fund, the initial value of such currency in terms of dollars shall be as determined by the Bank pursuant to paragraph 3 of Article 7, or otherwise, for purposes of payments by such member on account of its subscription. The Bank may, from time to time thereafter, make a similar determination with respect to the value in terms of dollars of such currency. For the purposes of the provisions of paragraphs 1 and 2 of this Article, the value so determined from time to time shall be treated as if it were the par value of such currency.

CHAPTER VI

Organisation and Management

ARTICLE 25

STRUCTURE

The Bank shall have a Board of Governors, a Board of Directors, a President, a Vice-President, and such other officers and staff as may be considered necessary.

ARTICLE 26

BOARD OF GOVERNORS: COMPOSITION

1. Each member shall be represented on the Board of Governors and shall appoint one governor and one alternate. Each governor and alternate

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shall serve at the pleasure of the appointing member. No alternate may vote except in the absence of his principal. At each annual meeting, the Board of Governors shall elect one of the governors as Chairman who shall hold office until the election of the next Chairman.

2. Governors and alternates shall serve as such without remuneration from the Bank, but the Bank may pay them reasonable expenses incurred in attending meetings.

ARTICLE 27

BOARD OF GOVERNORS: POWERS

1. All the powers of the Bank shall be vested in the Board of Governors.

2. The Board of Governors may delegate to the Board of Directors any or all its powers, except the power to:

- (a) admit new members and determine the conditions of their admission;
- (b) increase or decrease the authorised capital stock of the Bank;
- (c) suspend a member;
- (d) decide appeals from decisions regarding the interpretation or application of this Agreement made by the Board of Directors;
- (e) authorise the conclusion of general agreements for co-operation with Governments and with other international organisations;
- (f) elect the directors and the President of the Bank;
- (g) determine the remuneration of the directors and their alternates;
- (h) determine the reserves and the distribution of the net profits of the Bank;
- (i) amend this Agreement;
- (j) decide to terminate the operations of the Bank and to distribute its assets;
- (k) select external auditors to certify the general balance sheet and the statement of profit and loss of the Bank and to select such other experts as may be necessary to examine and report on the general management of the Bank;
- (l) approve, after reviewing the report of the external auditors, the general balance sheet and statements of profit and loss of the Bank; and
- (m) exercise such other powers as are expressly assigned to the Board of Governors in this Agreement.

3. The Board of Governors shall retain full power to exercise authority over any matter delegated to the Board of Directors in accordance with paragraph 2 of this Article.

ARTICLE 28**BOARD OF GOVERNORS: PROCEDURE**

1. The Board of Governors shall hold an annual meeting and such other meetings as may be provided for by the Board of Governors or called by the Board of Directors. Meetings of the Board of Governors other than the annual meeting shall be called by the Board of Directors whenever requested by a majority of the members of the Bank.

2. A majority of the total number of the governors shall constitute a quorum for any meeting of the Board of Governors, provided such majority represents not less than two-thirds of the total voting power of the members.

3. The Board of Governors may by regulation establish a procedure whereby the Board of Directors, when the latter deems such action advisable, may obtain a vote of the governors on a specific question without calling a meeting of the Board of Governors.

4. The Board of Governors may establish such subsidiary bodies as may be necessary or appropriate for the conduct of the business of the Bank.

ARTICLE 29**BOARD OF DIRECTORS: COMPOSITION**

1. (a) The Board of Directors shall be composed of seven (7) members of whom:

- (i) five (5) shall be selected by the governors representing regional members; and
- (ii) two (2) shall be selected by the governors representing non-regional members.

(b) When other States or Territories become members, the Board of Governors may, by a vote of not less than two-thirds of the total number of the governors representing not less than three-fourths of the total voting power of the members, increase the total number of directors.

(c) The directors shall be selected in accordance with rules of procedure to be adopted by the Board of Governors by a vote of not less than two-thirds of the total number of the governors representing not less than three-fourths of the total voting power of the members. The said rules shall give effect to the principles relating to regional directors set out in Part I of Annex B to this Agreement. Until such rules have been adopted, the directors shall be selected in accordance with Part II of the said Annex B.

2. Directors shall be persons of high competence in economic and financial matters and shall be selected with due regard to the principle of equitable geographical distribution.

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3. Each director shall appoint an alternate with full power to act for him when he is not present.

4. Directors shall hold office for a term of two (2) years and shall be eligible for selection for a further term or terms of office. They shall continue in office until their successors shall have been selected and assumed office. If the office of a director becomes vacant before the expiration of his term of office the vacancy shall be filled by a new director who shall be selected by the governors representing the members who selected his predecessor and he shall hold office for the remainder of the term of office of his predecessor.

ARTICLE 30

BOARD OF DIRECTORS: POWERS

The Board of Directors shall be responsible for the direction of the general operations of the Bank and, for this purpose, shall, in addition to the powers assigned to it expressly in this Agreement, exercise all the powers delegated to it by the Board of Governors, and in particular:

- (a) prepare the work of the Board of Governors;
- (b) in conformity with the general directions of the Board of Governors, take decisions concerning loans, guarantees, investments in equity capital, borrowing by the Bank, furnishing of technical assistance, and other operations of the Bank;
- (c) submit the accounts for each financial year to the Board of Governors at each annual meeting; and
- (d) approve the budget of the Bank.

ARTICLE 31

BOARD OF DIRECTORS: PROCEDURE

1. The Board of Directors shall normally function at the principal office of the Bank and shall meet as often as the business of the Bank may require.

2. A majority of the directors shall constitute a quorum for any meeting of the Board of Directors, provided that such majority represents not less than two-thirds of the total voting power of the members.

3. The Board of Governors shall adopt regulations under which a member may send a representative to attend any meeting of the Board of Directors when a matter particularly affecting that member is under consideration.

ARTICLE 32**VOTING**

1. Each member shall have 150 votes plus one additional vote for each share of capital stock held by it.

2. In voting in the Board of Governors, each governor shall be entitled to cast the votes of the members he represents. Except as otherwise expressly provided in this Agreement, all matters before the Board of Governors shall be determined by a majority of the voting power of the members represented at the meeting.

3. In voting in the Board of Directors, each director shall be entitled to cast the number of votes of the member or members whose votes counted towards his selection, which votes must be cast as a unit. Except as otherwise expressly provided in this Agreement, all matters before the Board of Directors shall be determined by a majority of the voting power of the members represented at the meeting.

ARTICLE 33**THE PRESIDENT**

1. The Board of Governors, by a vote of not less than two-thirds of the total number of the governors representing not less than three-fourths of the total voting power of the members, shall elect a President of the Bank. The President, while holding office, shall not be a governor or a director or an alternate for either.

2. The term of office of the President shall be for such period not exceeding five (5) years as the Board of Governors may determine. He may be re-elected. He shall, however, cease to hold office when the Board of Governors so decides by a vote of not less than two-thirds of the total number of the governors representing not less than three-fourths of the total voting power of the members.

3. The President shall be Chairman of the Board of Directors but shall have no right to vote, except to vote in case of an equal division. He may participate in meetings of the Board of Governors but shall not vote.

4. The President shall be chief executive officer 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 organisation, appointment and dismissal of the officers and the staff, subject to the general control of the Board of Directors.

5. The President and the Vice-President shall be persons possessing

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extensive experience in matters relating to finance and development in the public or private sector.

6. In appointing the officers and staff, the President shall, subject to the paramount importance of securing the highest standards of efficiency and technical competence, pay due regard to the recruitment of personnel on as equitable a geographical basis as possible.

ARTICLE 34

THE VICE-PRESIDENT

1. A Vice-President shall be appointed by the Board of Directors, on the recommendation of the President. The Vice-President shall hold office for such term, exercise such authority and perform such functions in the administration of the Bank as may be determined by the Board of Directors. In the absence or incapacity of the President, or while that office is vacant, the Vice-President shall exercise the authority and perform the functions of the President.

2. The Vice-President may participate in meetings of the Board of Directors but shall have no vote at such meetings, except that the Vice-President shall cast the deciding vote when acting in place of the President.

ARTICLE 35

INTERNATIONAL CHARACTER OF THE BANK: PROHIBITION OF POLITICAL ACTIVITY

1. The Bank shall not accept loans or assistance that may in any way prejudice or otherwise alter its purpose or functions.

2. The Bank, its President, Vice-President, officers and staff shall not interfere in the political affairs of any member, nor shall they be influenced in their decisions by the political character of the member concerned. Only economic considerations relevant to the purpose and functions of the Bank shall be brought to bear upon their decisions. Such considerations shall be weighed impartially in order to achieve and carry out the purpose and functions of the Bank.

3. The President, Vice-President, 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 any of them in the discharge of their duties.

ARTICLE 36**OFFICE OF THE BANK**

1. The principal office of the Bank shall be located in Barbados.
2. The Bank may establish agencies or branch offices elsewhere.

ARTICLE 37**CHANNEL OF COMMUNICATIONS, DEPOSITORIES**

1. Each member shall designate an appropriate official entity with which the Bank may communicate in connection with any matter arising under this Agreement.
2. Each member shall designate its central bank, or such other institution as may be agreed upon with the Bank, as a depository with which the Bank may keep any of its holdings of the currency of that member as well as other assets of the Bank.

ARTICLE 38**OFFICIAL LANGUAGE AND REPORTS**

1. The official language of the Bank shall be English.
2. The Bank shall transmit to members an Annual Report containing an audited statement of its accounts and shall publish such Report. It shall also transmit quarterly to its members a summary statement of its financial position and a profit and loss statement showing the results of its operations.
3. The Bank may also publish such other reports as it deems desirable in the carrying out of its purpose and functions. Such reports shall be transmitted to the members of the Bank.
4. The accounts of the Bank shall be audited by external auditors of high international standing selected by the Board of Governors.

ARTICLE 39**ALLOCATION OF NET INCOME**

1. The Board of Governors shall determine at least annually the disposition of the net income of the Bank arising from its ordinary operations and what portion thereof, if any, shall be allocated, after making provision for reserves or other purposes, to surplus, and what portion, if any, shall, notwithstanding the provisions of Article 12, be allocated to any special fund, including the Special Development Fund, or distributed to the members.

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2. The Board of Governors shall determine at least annually the disposition of the net income of the Bank arising from its special operations, subject to any rules or regulations governing each special fund and any agreement relating thereto.

3. Any distribution of net income under paragraph 1 of this Article shall be made to each member in the proportion which the total payments made by that member under paragraph 2 (a) of Article 7 and the average amount of loans outstanding during the year made out of currency corresponding to its subscription under paragraph 2 (b) of Article 7 bears to the total of such amounts for all members.

4. Payments shall be made in such manner and in such currency as the Board of Governors shall determine.

CHAPTER VII

Withdrawal and Suspension of Members; Temporary Suspension and Termination of Operations of the Bank

ARTICLE 40

WITHDRAWAL

1. Any member may withdraw from the Bank at any time by delivering a notice in writing to the Bank at its principal office.

2. Withdrawal by a member shall become effective, and its membership shall cease, on the date specified in its notice, but in no event less than six (6) months after the date that notice has been received by the Bank. However, at any time before the withdrawal becomes effective, the member may notify the Bank in writing of the cancellation of its notice of intention to withdraw.

3. A member which has given notice of its withdrawal from the Bank shall remain liable for all direct and contingent obligations to the Bank to which it was subject at the date of delivery of the withdrawal notice. If the withdrawal becomes effective, the member shall not incur any liability for obligations resulting from operations of the Bank effected after the date on which the notice of withdrawal was received by the Bank.

ARTICLE 41

SUSPENSION OF MEMBERSHIP

1. If a member fails to fulfil any of its obligations to the Bank, the Board of Governors may suspend such member by a vote of not less than two-thirds

of the total number of the governors of other members representing not less than three-fourths of the total voting power of the other members. The member concerned shall have no vote.

2. The member so suspended shall automatically cease to be a member of the Bank one (1) year from the date of its suspension unless the Board of Governors, during that period, decides 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 Agreement, except the right of withdrawal, but shall remain subject to all its obligations.

ARTICLE 42

SETTLEMENT OF ACCOUNTS

1. After the date on which a State or Territory ceases to be a member, that former member shall remain liable for its direct obligations to the Bank and for its contingent liabilities to the Bank so long as any part of the loans or guarantees contracted before it ceased to be a member is outstanding; but it shall not incur liabilities with respect to loans and guarantees entered into thereafter by the Bank nor share either in the income or the expenses of the Bank.

2. At the time a State or Territory ceases to be a member, the Bank shall arrange for the repurchase of such member's shares by the Bank as a part of the settlement of accounts with such member in accordance with the provisions of paragraphs 3 and 4 of this Article. For this purpose, the repurchase price of the shares shall be the value shown by the books of the Bank on the date of cessation of membership.

3. The repayment 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, its central bank or any of its political sub-divisions or agencies remains liable, as 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. No amount shall be withheld on account of the contingent liability of the member for future calls on its subscription for shares in accordance with paragraph 6 of Article 7. In any event, no amount due to a member for its shares shall be paid until six (6) months after the date on which its membership ceases.
- (b) Payments for shares may be made from time to time, upon their surrender by the former member concerned, to the extent by which

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the amount due to the repurchase price in accordance with paragraph 2 of this Article exceeds the aggregate amount of liabilities on loans and guarantees referred to in sub-paragraph (a) of 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 of cessation of membership and the amount of such losses exceeds the amount of the reserve provided against losses on that date, the former member concerned shall repay, upon demand, the amount by which the repurchase price of its shares would have been reduced if the losses had been taken into account when the repurchase price was determined. In addition, the former member shall remain liable on any call for unpaid subscriptions in accordance with paragraph 6 of Article 7, to the same extent that it would have been required to respond if the impairment of capital had occurred and the call had been made at the time the repurchase price of its shares was determined.

4. If the Bank terminates its operations pursuant to Article 44 within six (6) months of the date upon which the membership of any member ceases, all rights of the member concerned shall be determined in accordance with the provisions of Articles 44 to 46. That member shall be considered as still a member for purposes of such Articles but shall have no voting rights.

ARTICLE 43

TEMPORARY SUSPENSION OF OPERATIONS

In an emergency, the Board of Directors may temporarily suspend operations in respect of new loans and guarantees, pending an opportunity for further consideration and action by the Board of Governors.

ARTICLE 44

TERMINATION OF OPERATIONS

1. The Bank may terminate its operations by resolution of the Board of Governors approved by a vote of not less than two-thirds of the total number of governors representing not less than three-fourths of the total voting power of the members.

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

ARTICLE 45

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 and in respect of the depreciation of their currencies 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 holders of direct and contingent claims.

ARTICLE 46

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. Moreover, such distribution must be approved by the Board of Governors by a vote of not less than two-thirds of the total number of governors, representing not less than three-quarters 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 capital stock held by each member and shall be effected at such times and under such conditions as the Bank shall deem 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 its obligations to the Bank.

3. Before any distribution of assets is made the Board of Directors shall value the assets to be distributed as at the date of distribution and then proceed to distribute in the following manner—

- (i) There shall be paid to each member in its own obligations or those of its official agencies or legal entities within its territories, insofar as they are available for distribution, an amount equivalent in value to its proportionate share of the total amount to be distributed.
- (ii) Any balance due to a member after payment has been made under (i) above shall be paid, in its own currency, insofar as it is held by the Bank, up to an amount equivalent in value to such balance.
- (iii) Any balance due to a member after payment has been made under (i) and (ii) above shall be paid in gold or currency acceptable to the

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member, insofar as they are held by the Bank, up to an amount equivalent in value to such balance.

- (iv) Any remaining balance due to a member after payment has been made under (i), (ii), and (iii) shall be satisfied out of the remaining assets held by the Bank.

4. Any member receiving assets distributed pursuant to this Article shall enjoy the same rights with respect to such assets as the Bank enjoyed before their distribution.

CHAPTER VIII

Status, Immunities, Exemptions and Privileges

ARTICLE 47

PURPOSE OF CHAPTER

To enable the Bank effectively to fulfil its purpose and carry out the functions entrusted to it, the status, immunities, exemptions and privileges set forth in this Chapter shall be accorded to the Bank in the territory of each member.

ARTICLE 48

LEGAL STATUS

1. 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.

2. The Bank may enter into agreements with members, non-member States and other international organisations.

ARTICLE 49

LEGAL PROCESS

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 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 member in

which the Bank has its principal or a branch office, or in the territory of a member or non-member State where it has appointed an agent for the purpose of accepting service or notice of process, or has issued or guaranteed securities.

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 of a member, or by any entity or person directly or indirectly acting for or deriving claims from a member. Members shall have recourse to such special procedures for the settlement of disputes between the Bank and its members as may be provided for in this Agreement, in by-laws and regulations of the Bank, or in contracts entered into with the Bank.

3. The Bank shall also make provision for appropriate modes of settlement of disputes in cases which do not come within the provisions of paragraph 2 of this Article and which are subject to the immunity of the Bank by virtue of paragraph 1 of that Article.

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

ARTICLE 50

IMMUNITY OF ASSETS

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.

ARTICLE 51

IMMUNITY OF ARCHIVES

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

ARTICLE 52

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, the Bank

- (a) may hold assets of any kind and operate accounts in any currency; and
- (b) shall be free to transfer its assets from one country to another or

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within any country and to convert any currency held by it into any other currency.

without being restricted by financial controls, regulations or moratoria of any kind.

ARTICLE 53

PRIVILEGE FOR COMMUNICATIONS

Official communications of the Bank shall be accorded by each member treatment not less favourable than that it accords to the official communications of any other member,

ARTICLE 54

IMMUNITIES AND PRIVILEGES OF BANK PERSONNEL

All governors, directors, alternates, officials and employees of, and experts performing missions for, the Bank:

- (a) shall be immune from legal process with respect to acts performed by them in their official capacity;
- (b) where they are not local citizens or nationals, shall be accorded such immunities from immigration restrictions, alien registration requirements and national service obligations, and such facilities as regards exchange regulations, as are not less favourable than those accorded by the member concerned to the representatives, officials and employees of comparable rank of any other member;
- (c) shall be given such repatriation facilities in time of international crisis as are not less favourable than those accorded by the member concerned to the representatives, officials and employees of comparable rank of any other member.

ARTICLE 55

EXEMPTION FROM TAXATION

1. The Bank, its assets, property, income and its operations and transactions, shall be exempt from all direct taxation and from all customs duties on goods imported for its official use.

2. Notwithstanding the provisions of paragraph 1 of this Article, the Bank will not claim exemption from taxes which are no more than charges for public utility services.

3. The Bank will not normally claim exemption from excise duties, and from taxes on the sale of movable and immovable property, which form

part of the price to be paid. Nevertheless, when the Bank is making important purchases for official use of property on which such duties and taxes have been charged or are chargeable, members will, whenever possible, make appropriate administrative arrangements for the remission or return of the amount of duty or tax.

4. Articles imported under an exemption from customs duties as provided by paragraph 1 of this Article, or in respect of which a remission or return of duty or tax has been made under paragraph 3, shall not be sold in the territory of the member which granted the exemption, remission or return except under conditions agreed with that member.

5. 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, but members reserve the right to tax their own citizens or nationals or persons permanently resident in the territories of such members.

6. 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—

- (a) which discriminates against such obligation or security solely because it is issued by the Bank; or
- (b) if the sole jurisdictional basis for such taxation is the place or the currency in which it is issued, made payable or paid, or the location of any office or place of business maintained by the Bank.

7. 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—

- (a) which discriminates against such obligation or security solely because it is guaranteed by the Bank; or
- (b) if the sole jurisdictional basis for such taxation is the location of any office or place of business maintained by the Bank.

ARTICLE 56

IMPLEMENTATION

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

ARTICLE 57

WAIVER OF IMMUNITIES, EXEMPTIONS AND PRIVILEGES

The immunities, exemptions and privileges provided in this Chapter are granted in the interests of the Bank. The Board of Directors may waive to

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such extent and upon such conditions as it may determine, the immunities, exemptions and privileges provided in 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, exemption or privilege in respect of any officer or employee of, or any expert performing a mission for, the Bank where, in his opinion, the immunity, exemption or privilege 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 duty to waive any immunity, exemption or privilege respecting the President and the Vice-President.

CHAPTER IX

Amendments, Interpretation, Arbitration

ARTICLE 58

AMENDMENTS

1. This Agreement may be amended only by a resolution of the Board of Governors adopted by a vote of not less than two-thirds of the total number of governors representing not less than three-fourths of the total voting power of the members.

2. Notwithstanding the provisions of paragraph 1 of this Article, the unanimous agreement of the Board of Governors shall be required for the adoption of any amendment modifying:

- (a) the right to withdraw from the Bank;
- (b) the limitations on liability provided in paragraphs 7 and 8 of Article 6; and
- (c) the rights pertaining to the subscriptions of capital stock provided in paragraph 3 of Article 6.

3. Any proposal to amend this Agreement, whether emanating from a member or from the Board of Directors, shall be communicated to the Chairman of the Board of Governors, who shall communicate the proposal to each member and then bring it before the Board of Governors. 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 (3) months after the date of the formal communication unless the Board of Governors specifies therein a different period.

4. The foregoing provisions of this Article shall be subject to the terms of the Protocol annexed hereto which shall have effect only for the purposes and during the meeting specified therein.

ARTICLE 59**INTERPRETATION AND APPLICATION**

1. Any question of interpretation or application of the provisions of this Agreement not otherwise expressly provided for shall be submitted to the Board of Directors for decision. A member particularly affected by the question under consideration shall have the right to make direct representation to the Board of Directors at the meeting of the Board at which the question is considered. Such right shall be regulated by the Board of Governors.

2. In any case where the Board of Directors has given a decision under paragraph 1 of this Article, any member may require that the question be referred to the Board of Governors, whose decision shall be final. Pending the decision of the Board of Governors, the Bank may, so far as it deems it necessary, act on the basis of the decision of the Board of Directors.

ARTICLE 60**ARBITRATION**

If a dispute should arise between the Bank and a State or Territory which ceases to be a member, or between the Bank and any member after adoption of a resolution to terminate the operations of the Bank, such dispute shall be submitted to arbitration by a tribunal of three arbitrators. Each Party shall appoint one arbitrator, and the two arbitrators so appointed shall appoint the third, who shall be the Chairman. If within thirty days of the request for arbitration either party has not appointed an arbitrator or if within fifteen days of the appointment of two arbitrators the third arbitrator has not been appointed, either party may request the President of the International Court of Justice, or such other authority as may have been prescribed by regulations adopted by the Board of Governors, to appoint an arbitrator. The procedure of the arbitration shall be fixed by the arbitrators. However, the third arbitrator shall be empowered to settle all questions of procedure in any case of disagreement with respect thereto. A majority vote of the arbitrators shall be sufficient to reach a decision which shall be final and binding upon the parties.

ARTICLE 61**APPROVAL DEEMED GIVEN**

Whenever the approval of any member is required before any act may be done by the Bank, approval shall be deemed to have been given unless the member presents an objection within such reasonable period as the Bank may fix when notifying the member of the proposed act.

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CHAPTER X

Final Provisions

ARTICLE 62

SIGNATURE AND DEPOSIT

1. This Agreement shall be deposited with the Secretary-General of the United Nations (hereinafter called the "Depository") and shall remain open until 14 November, 1969 for signature by the Government listed in Annex A to this Agreement.

2. In the case of Territories in the region which are not fully responsible for the conduct of their international relations and where the Government of the State responsible for the conduct of the international relations of the Territory does not sign, ratify, or accede to this Agreement on its behalf, such Territory shall at the time of signing or acceding to this Agreement in pursuance of Article 63 present an instrument issued by the Government of the State responsible for the conduct of the international relations of that Territory confirming that the latter has authority to conclude this Agreement and to assume rights and obligations under it.

3. The Depository shall transmit certified copies of this Agreement to all the signatories and other States and Territories which become members of the Bank.

ARTICLE 63

RATIFICATION, ACCEPTANCE, ACCESSION AND ACQUISITION OF
MEMBERSHIP

1. (a) This Agreement shall be subject to ratification or acceptance by the signatories. Instruments of ratification or acceptance shall be deposited by the signatories with the Depository before 30 April 1970. The Depository shall notify the other signatories of each deposit and the date thereof.

(b) A signatory whose instrument of ratification or acceptance is deposited on or before the date on which this Agreement enters into force, shall become a member of the Bank on that date, and a signatory whose instrument of ratification or acceptance is deposited after that date, but before 30 April 1970, shall become a member on the date of deposit of its instrument of ratification or acceptance.

2. After 30 April 1970 a State or Territory may become a member of the Bank by accession to this Agreement on such terms as the Board of Governors shall determine in accordance with paragraph 3 of Article 3. Any such State or Territory shall deposit, on or before a date appointed by

the Board, an instrument of accession with the Depository who shall notify such deposit and the date thereof to the Bank and to the parties to this Agreement. Upon such deposit, the State or Territory shall become a member of the Bank on the appointed date in accordance with that paragraph.

3. A member may, when depositing its instrument of ratification or acceptance, declare that in its territory the immunity conferred by paragraph 1 of Article 49 and sub-paragraph (a) of Article 54 shall not apply in relation to a civil action arising out of an accident caused by a motor vehicle belonging to the Bank or operated on its behalf or to a traffic offence committed by the driver of such a vehicle.

The member may also declare that the privilege conferred by Article 53 shall be restricted in its territory to treatment not less favourable than the member accords to international financial institutions of which it is a member, and that the exemption referred to in paragraph 6 (b) of Article 55 shall not extend to any bearer instrument issued by the Bank in its territory or issued elsewhere by the Bank and transferred in its territory.

ARTICLE 64

ENTRY INTO FORCE

This Agreement shall enter into force upon the deposit of instruments of ratification or acceptance by eight (8) signatories, including at least one non-regional State, whose initial subscriptions, as set forth in Annex A to this Agreement, in aggregate comprise not less than sixty (60) per cent of the authorised capital stock of the Bank, provided that 1st December 1969 shall be the earliest date on which this Agreement may enter into force.

ARTICLE 65

INAUGURAL MEETING

As soon as this Agreement enters into force, each member shall appoint a governor, and the Secretary-General of the Commonwealth Caribbean Regional Secretariat shall call the inaugural meeting of the Board of Governors.

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IN WITNESS WHEREOF the undersigned plenipotentiaries, being duly authorised thereto by their respective Governments, have signed the present Agreement.

DONE AT Kingston, Jamaica, this eighteenth day of October, one thousand nine hundred and sixty-nine.

For ANTIGUA

V. C. BIRD

For BAHAMAS

CARLTON E. FRANCIS

For BARBADOS

ERROL W. BARROW

For BRITISH HONDURAS

A. A. HUNTER

For BRITISH VIRGIN ISLANDS

IVAN DAWSON

For CANADA

PAUL MARTIN

For CAYMAN ISLANDS

D. V. WATLER

For DOMINICA

E. O. LeBLANC

For GRENADA

GEO. F. HOSTEN

For GUYANA

P. A. REID

For JAMAICA

E. SEAGA

For MONTSERRAT

W. H. BRAMBLE

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For ST. KITTS-NEVIS-ANGUILLA

ROBT. L. BRADSHAW

For ST. LUCIA

J. C. COMPTON

For ST. VINCENT

HUDSON K. TANNIS

For TRINIDAD AND TOBAGO

KAMALUDDIN MOHAMMED

For TURKS AND CAICOS ISLANDS

R. E. WAINWRIGHT

For UNITED KINGDOM

GEORGE THOMPSON

ANNEX A

States and Territories which may become Members in accordance with paragraph 2 of Article 3, and their initial subscriptions to the Authorised Capital Stock.

(ARTICLE 6, PARAGRAPH 1)

*Category A**Category B*

Regional States and Territories

Non-Regional States

No. of Shares		No. of Shares	
1. Jamaica	2,240	1. Canada	2,000
2. Trinidad and Tobago	1,540	2. United Kingdom	2,000
3. Bahamas	660		—
4. Guyana	480	Sub-Total	4,000
5. Barbados	280	Grand Total	10,000
6. Antigua	100		=====
7. British Honduras	100		
8. Dominica	100		
9. Grenada	100		
10. St. Kitts-Nevis-Anguilla	100		
11. St. Lucia	100		
12. St. Vincent	100		
13. Montserrat	25		
14. British Virgin Islands	25		
15. Cayman Islands	25		
16. Turks and Caicos Islands	25		
	—		
Sub-Total	6,000		
	—		

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ANNEX B

SELECTION OF DIRECTORS

PART I—*Principles for the Selection of Directors Representing Regional Members*

Of the five (5) directors to be selected pursuant to paragraph 1 (a) (i) of Article 29:

- (a) one (1) director shall be selected by each of the governors representing the two (2) regional members having the largest number of shares of the capital stock of the Bank;
- (b) three (3) shall be selected by the Governors representing the other regional members.

PART II—*Selection of Directors Pending Adoption of the Rules of Procedure*1. *Regional Members:*

- (a) one (1) director shall be selected by the governor representing Jamaica;
- (b) one (1) director shall be selected by the governor representing Trinidad and Tobago;
- (c) one (1) director shall be selected jointly by the governors representing Guyana and Barbados;
- (d) one (1) director shall be selected jointly by the governors representing Bahamas and British Honduras; and
- (e) one (1) director shall be selected jointly by the governors representing

Antigua
British Virgin Islands
Cayman Islands
Dominica
Grenada
Montserrat
St. Kitts-Nevis-Anguilla
St. Lucia
St. Vincent
Turks and Caicos Islands

2. *Non-Regional Members:*

- (a) one (1) director shall be selected by the governor representing Canada; and
- (b) one (1) director shall be selected by the governor representing the United Kingdom.

PROTOCOL to Provide for Procedure for Amendment of Article 36 of the Agreement Establishing the Caribbean Development Bank at the Inaugural Meeting of the Board of Governors.

The States and Territories parties to the Agreement establishing the Caribbean Development Bank (hereinafter referred to as "the Agreement") hereby agree that notwithstanding the provisions of Article 58 of the Agreement, paragraph 1 of Article 36 of the Agreement may be amended at the inaugural Meeting of the Board of Governors of the Caribbean Development Bank by a Resolution (on a motion which shall not be subject to amendment and moved by the Governor for Jamaica) approved by the vote of a simple majority of the Governors present and voting thereon representing more than one-half of the voting powers of the Governors present and voting thereon.

SECOND SCHEDULE

s. 2.

Agreement between the Caribbean Development Bank and the Government of Barbados regarding the Headquarters of the Caribbean Development Bank

THE GOVERNMENT OF BARBADOS AND THE CARIBBEAN DEVELOPMENT BANK

Desiring to conclude an agreement regarding the principal office of the CARIBBEAN DEVELOPMENT BANK in Barbados and the privileges, immunities and facilities to be granted to it by the Government of Barbados and other related matters;

HAVE AGREED as follows:

ARTICLE I

DEFINITIONS

Section 1

Unless otherwise specifically provided herein or the context otherwise requires, the following words shall have the following meanings:

- | | | |
|------------------|---|--|
| (a) "Government" | – | the Government of Barbados; |
| (b) "Bank" | – | the Caribbean Development Bank, its organs, officers and staff, and its subsidiary bodies; |
| (c) "President" | – | the President of the Bank and, during his absence or incapacity, the officer authorised to act as President; |

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-
- (d) "Laws of Barbados" – the Constitution of Barbados, its acts of Parliament, common law in force in Barbados, judicial decisions, statutory instruments, and any other enactments having the force of law in Barbados;
- 1990–29. (e) "Headquarters Seat" – (i) the appropriate premises defined in Annex A hereof;
(ii) any premises, land or building which may from time to time be temporarily or permanently substituted for or added to the premises in subparagraph (i) above in accordance with this Agreement or by supplementary agreement; and
(iii) the temporary offices as may be agreed upon between the Government and the Bank;
- (f) "Member" – a State or Territory which has become a member of the Bank in pursuance of the relevant provisions of the Agreement establishing the Caribbean Development Bank;
- (g) "Governors" – Governors of the Bank and unless otherwise specified, their alternates;
- (h) "Representatives of Members" – All individuals included in the delegations of Members and duly accredited to the Bank;
- (i) "Directors" – Directors of the Bank and, unless otherwise specified, their Alternates;
- (j) "Archives of the Bank" – Records, correspondence, documents, manuscripts, still and

- moving pictures and films and sound recordings, belonging to, or held by the Bank;
- (k) "Officers and staff of the Bank" — The President, the Vice Presidents, 1990-29. and all other persons duly appointed and designated by the President as officers or members of the staff of the Bank;
- (l) "Members of the family" — the spouse and children of a person entitled to benefits under this Agreement; his parents; and unmarried brothers and sisters under the age of 21, more than one-half of whose financial support is provided by him;
- (m) "Members of the household staff" — Persons, other than nationals of Barbados, employed on the domestic staff of a person entitled to benefits under this Agreement; and
- (n) "Property" — Assets, funds, income and rights belonging to or held or administered by the Bank.

ARTICLE II

JURIDICAL PERSONALITY AND FREEDOM OF ACTION

Section 2

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.

Section 3

The Bank shall have the independence and freedom of action belonging to an international organisation.

Section 4

The Bank, its Governors, other representatives of Members, Directors, President, officers and staff, and consultants and experts performing missions for the Bank shall enjoy full freedom of meeting, discussion and decision.

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ARTICLE III
IMMUNITY FROM LEGAL PROCESS

Section 5

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 Barbados.

Section 6

- (a) Notwithstanding the provisions of section 5 of this Article, no action shall be brought against the Bank by the Government, or by any of its agencies, or by any entity or person directly or indirectly acting for or deriving claims from the Government or from any of its agencies.
- (b) The Government shall have recourse to such special procedures for the settlement of disputes between the Bank and its Members as may be prescribed in the Agreement establishing the Caribbean Development Bank, in the By-Laws and regulations of the Bank or in contracts entered into with the Bank.

Section 7

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

ARTICLE IV
THE HEADQUARTERS SEAT

Section 8

- (a) The principal office of the Bank shall be in the Headquarters Seat, and shall not be removed therefrom unless the Bank should so decide. Any transfer of the principal office temporarily to another place shall not constitute a removal of the principal office unless there is an express decision by the Bank to that effect.
- (b) Any building in or outside of Bridgetown which may be used with the concurrence of the Government for meetings convened by the Bank shall be temporarily included in the Headquarters Seat.
- (c) The Government shall take whatever action may be necessary to ensure that the Bank shall not be dispossessed of all or any part of the Headquarters Seat without the express consent of the Bank.

Section 9

The Government shall not dispose of all or any part of the Headquarters Seat without the consent of the Bank.

Section 10

The Government grants to the Bank and the Bank accepts from the Government for use as part of the Bank's Headquarters Seat the use and sole occupancy of the premises described in Part I of Annex A hereto until April 1975 and thereafter the premises referred to in paragraph (i) of Part II of the said Annex where suitable offices meeting the requirements of the Bank, to be determined in consultation with the Government, will be provided and furnished by the Government except as provided in section 11. The Government undertakes to keep the Bank's requirements for space under continuing review unless and until the Bank assumes responsibility for such requirements and to make contiguous or other appropriate premises available to the Bank as and when required. 1990-29.

Section 11

The Government until July, 1979 and the Bank thereafter, except as may be agreed otherwise between the Government and the Bank, shall be responsible for:

- (a) The cost of the Headquarters Seat; repairs, whether of a recurring or non-recurring nature, including, but not limited to the repair of damage resulting from force majeure, structural defects or deterioration; the replacement, within a reasonable period, of the offices, or any part thereof, which may be totally or partially destroyed, and expansion or remodelling as may be agreed upon;
- (b) The installation, maintenance, repair and replacement, if necessary, of the necessary facilities and fixtures, including, but not limited to, air-conditioning, elevators, electricity, gas, telephone, water, sewerage or drainage, fire prevention and postal system; the cost of providing necessary staff amenities, including a canteen, sick rooms and recreation rooms; the cost of partitioning; and the cost of furniture, furnishings and carpeting as agreed upon between the bank and the Government; and
- (c) Parking facilities convenient to and adequate for the needs of the Bank.

Section 12

The Bank shall be responsible for:

- (a) The maintenance and re-arranging of partitioning;

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- (b) The cost of additional furniture; janitorial services; security services; electricity and telephone bills; and the cost of office equipment other than furniture, furnishings and fixtures, and their maintenance, repair and replacement, if necessary.

ARTICLE V

INVIOABILITY OF THE HEADQUARTERS SEAT

Section 13

- (a) The Headquarters Seat shall be inviolable, and shall be under the control and authority of the Bank. Except in connection with suits and judgments against the Bank authorised by the Agreement establishing the Caribbean Development Bank no officer or official of the Government, or other person exercising any public authority within Barbados shall enter the Headquarters Seat to perform any duties therein without the consent of, and under conditions approved by, the Bank, nor shall the service of legal process, including the search for or seizure of private property, take place within the Headquarters Seat without the express consent of, and under conditions approved by, the Bank.
- (b) The Bank and the Government shall agree on the circumstances and manner in which the appropriate authorities of Barbados may enter the Headquarters Seat without the prior consent of the Bank in connection with fire prevention, sanitary regulations or emergencies.

Section 14

- (a) Except as otherwise provided in this Agreement and subject to any regulation enacted under section 15 hereof, the laws of Barbados shall apply within the Headquarters Seat.
- (b) Except as otherwise provided in this Agreement, the courts or other appropriate organs of the Government shall have jurisdiction, as provided in applicable laws, over acts done and transactions taking place in the Headquarters Seat. When dealing with cases arising out of or relating to acts done or transactions taking place in the Headquarters Seat, the courts or other appropriate organs of the Government shall take into account the regulations enacted by the Bank under section 15.

Section 15

- (a) The Bank shall have the power to make regulations, operative within the Headquarters Seat, for the purpose of establishing therein conditions in all respects necessary for the full and independent

exercise of its functions. The Government shall not, except at the request of or with the consent of the Bank, enforce or apply within the Headquarters Seat any law of Barbados providing for any matter with respect to which the Bank is authorised by this section to make regulations and with respect to which regulations so made by the Bank are in force. Any dispute between the Bank and the Government as to whether a regulation of the Bank is authorised by this section, or as to whether a law of Barbados provides for any matter covered by any regulation of the Bank authorised by this section, shall be promptly settled by the procedure set out in section 57. Pending such settlement, the regulation of the Bank shall apply and the Government shall not apply such part of the law of Barbados as the Bank claims provides for a matter covered by the regulation of the Bank.

- (b) The Bank shall from time to time inform the Government, as may be appropriate of regulations made by it in accordance with subsection (a) above.
- (c) This section shall not prevent the reasonable application of fire protection or sanitary regulations of the appropriate authorities of Barbados.

Section 16

Subject to the provisions of Article XII of this Agreement, the Bank shall prevent the Headquarters Seat from becoming a refuge for fugitives from justice, persons subject to extradition, or persons avoiding service of legal process or a judicial proceeding.

Section 17

The Bank may expel or exclude persons from the Headquarters Seat for violation of its regulations issued under Section 15, or for other causes. Persons who violate such regulations shall be subject to other penalties or to detention under arrest only in accordance with the provisions of such laws or regulations as may be adopted by the Government.

ARTICLE VI

PROTECTION OF THE HEADQUARTERS SEAT

Section 18

The Government shall exercise due diligence to ensure that the tranquility of the Headquarters Seat is not disturbed by the unauthorised entry of any person or group of persons from outside or by disturbances in its immediate vicinity and shall, without impeding the movement of persons authorised to enter or leave the Headquarters Seat, provide on the boundaries of the Headquarters Seat such police protection as may be required for these purposes.

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Section 19

If so requested by the Bank, the Government shall provide a sufficient number of police for the preservation of law and order in the Headquarters Seat and for the removal therefrom of persons whose removal is requested by the Bank.

Section 20

Consistent with applicable zoning, sanitary and building regulations, the Government shall take all reasonable steps to ensure that the amenities of the Headquarters Seat are not prejudiced, and that the purposes for which the Headquarters Seat is required are not obstructed, by any use made of the land or buildings in the vicinity of the Headquarters Seat or by any other cause.

ARTICLE VII

PUBLIC SERVICES IN THE HEADQUARTERS SEAT

Section 21

The Government shall, upon the request of the Bank, ensure that the Bank shall be provided, on terms not less favourable than those accorded to the Government, with necessary utilities and public services, including, but not limited to electricity, water, sewerage, gas, post, telephone, telegraph, local transportation, drainage, collection of refuse and fire protection. In case of any interruption or threatened interruption of any of the said services the Government shall take steps to ensure that the authorities responsible for such services consider the needs of the Bank of equal importance to those of essential agencies of the Government and that the work of the Bank is not prejudiced.

Section 22

With the consent of the Bank, which consent shall not be unreasonably withheld, duly authorised representatives of public utilities may inspect, repair, maintain, reconstruct, and relocate utilities, conduits, mains and sewers within Headquarters Seat and its facilities.

ARTICLE VIII

COMMUNICATIONS

Section 23

All communications to and from the Bank, its Governors, other representatives of members, President, Directors, officers and staff or

consultants and experts performing missions for the Bank, by whatever means or in whatever form transmitted, shall be immune from censorship and any other form of interception or interference with their privacy. Such communications shall include but shall not be limited to correspondence, publications, documents, still and moving pictures, films and sound recordings.

Section 24

The Bank shall have the right to use codes and to dispatch and receive communications and, without limitation by reason of this enumeration,

correspondence, publications, documents, still and moving pictures, films and sound recordings, either by courier or in sealed bags which shall have immunities and privileges not less favourable than those accorded to diplomatic couriers and bags.

Section 25

The Bank shall enjoy in Barbados for its official communications treatment not less favourable than that accorded by the Government to any other government, including the diplomatic mission in Barbados of any such government, in the matter of priorities, rates and surcharges on mail, cables, telegrams, radiograms, telephotos, telephone and other communications, and press rates for information to the press and radio.

Section 26

The Bank shall be authorised to operate at the Headquarters Seat point-to-point telecommunication circuits with branch offices or project sites as may be required. The Bank shall also be authorised to operate at the Headquarters Seat point-to-point telecommunication circuits with other international organisations within or outside Barbados.

Section 27

The Bank shall also be authorised to establish and operate at the Headquarters Seat:

- (a) its own short-wave sending and receiving radio broadcasting facilities, including emergency link equipment, which may be used on the same frequencies, within the tolerances prescribed for the broadcasting service by applicable laws of Barbados for radio-telegraph, radio-telephone and similar services; and
- (b) such other radio facilities as may be specified by supplementary agreement.

Section 28

The Bank shall make arrangements for the operation of the services referred to in Sections 26 and 27 with the International Telecommunication Union, the appropriate agencies of the Government and the appropriate agencies of other affected Governments with regard to all frequencies and similar matters.

Section 29

The facilities provided for in Sections 26 and 27 may, to the extent necessary for efficient operation, be established and operated outside the Headquarters Seat with the consent of the Government. The latter shall, at the request of the Bank, make arrangements on such terms and in such manner as may be agreed upon for the acquisition or use by the Bank of appropriate

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premises for such purposes, and for their inclusion in the Headquarters Seat. Any facilities established by the Bank outside the Headquarters Seat in pursuance of this Section shall enjoy the same inviolability and protection as those accorded to the Headquarters Seat under Articles V and VI of this Agreement.

ARTICLE IX

PROPERTY OF THE BANK AND TAXATION

Section 30

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

Section 31

The archives of the Bank shall be inviolable, wherever located.

Section 32

The Bank, its assets, property, income, and its operations and transactions, shall be exempt from:

- (a) all forms of taxation and any obligation for the payment, withholding or collection of any tax or duty. Such exemption shall extend to any specifically identifiable taxes payable by the owner or lessor of any property rented by the Bank which are made payable by the Bank in the rental or lease contract between the Bank and the owner or lessor of the property. The Bank will not claim exemption from taxes or charges which are no more than payments for public utility services;
- (b) all customs duties and other levies on any goods, articles including motor vehicles, spare parts and publications, imported or exported by the Bank for its official use, and any obligation for the payment, withholding or collection of any such customs duties and other levies. The Bank and the Government shall agree on the conditions under which goods, articles, including motor vehicles, spare parts and publications imported under such exemption may be sold in Barbados; and
- (c) all prohibitions and restrictions on imports and exports in respect of any goods, articles, including motor vehicles, spare parts and publications intended for the official use of the Bank.

Section 33

- (a) In so far as the Government, for important administrative considera-

tions, may be unable to grant to the Bank exemption from indirect taxes which constitute part of the cost of goods purchased by or services rendered to the Bank, including rentals, the Government shall reimburse the Bank for such taxes by the payment, from time to time, of lump sums to be agreed upon by the Bank and the Government. It is, however, understood that the Bank will not claim reimbursement with respect to minor purchases. With respect to such taxes, the Bank shall at all times enjoy at least the same exemptions and facilities as are granted to the Government itself or to heads of diplomatic missions accredited to Barbados, whichever are the more favourable.

- (b) The Government shall, if requested, grant allotments of gasoline or other fuels and lubricating oils for each automobile operated by the Bank in such quantities as are required for its work and at such special rates as may be established for diplomatic missions accredited to Barbados.

ARTICLE X

FINANCIAL FACILITIES

Section 34

Without being restricted by financial controls, regulations or moratoria of any kind, the Bank may freely:

- (a) purchase, hold and dispose of any assets, funds, currencies, financial instruments, securities and gold, operate accounts in any currency, engage in financial transactions and conclude financial contracts;
- (b) transfer its assets, funds, currencies, financial instruments, securities or gold, to or from, or within, Barbados and convert any currency held by it into any other currency; and
- (c) raise funds through the exercise of its borrowing power or in any other manner which it deems desirable, except that with respect to the raising of funds within Barbados, the Bank shall obtain the concurrence of the Government.

Section 35

The Government shall provide the Bank, at the most favourable exchange rate officially recognised, its national currency, in the amounts required to meet expenditures of the Bank in Barbados.

Section 36

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

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Section 37

In exercising its rights under this Article, the Bank shall give due regard to representations made by the Government insofar as the Bank considers that effect can be given to such representations without detriment to its interests.

ARTICLE XI

SOCIAL SECURITY AND PENSION FUND

Section 38

Any Staff Pension Fund established by the Bank shall have legal capacity in Barbados and shall enjoy the same exemptions, privileges and immunities as the Bank itself.

Section 39

The Bank shall be exempt from all compulsory contributions to, and officials of the Bank shall not be required by the Government to participate in, any social security scheme of Barbados.

Section 40

If the Bank so requests, however, the Government shall make such provisions as may be necessary to enable any official of the Bank who is not afforded social security coverage by the Bank to participate in any social security scheme of Barbados. The Bank shall, in so far as possible, arrange, under conditions to be agreed upon, for the participation in the Barbados social security system of those locally recruited members of the staff who do not participate in the Staff Pension Fund established by it or to whom the Bank does not grant social security protection.

ARTICLE XII

ACCESS AND RESIDENCE

Section 41

The Government shall take measures to facilitate the entry into, residence and freedom of movement in, and departure from Barbados of the persons listed below, irrespective of nationality; it shall ensure that no impediment is placed in the way of their transit to and from the Headquarters Seat and shall afford them any necessary protection in transit:

- (a) Governors and other representatives of Members;
- (b) The President;
- (c) Directors;
- (d) Officers and staff of the Bank;

- (e) Consultants and experts performing missions for the Bank; and
- (f) Other persons invited by the Bank to the Headquarters Seat on official business.

Section 42

The Government shall issue to its embassies, legations and consulates general instructions to grant visas to the persons referred to in Section 41 without delay, waiting period, or payment or any charge, and without requiring their personal presence.

Section 43

- (a) No laws of Barbados restricting the entry into Barbados of persons other than citizens of Barbados or regulating the conditions of their stay shall apply to the persons provided for in this Article except those relating to health and the security of Barbados.
- (b) No activity performed by any person referred to in Section 41 in his official capacity with respect to the Bank shall constitute a reason for preventing his entry into or his departure from, or for requiring him to leave Barbados.

Section 44

No person referred to in Section 41 shall be required by the Government to leave Barbados save in the event of an abuse of the right of residence, in which case the following procedure shall apply:

- (a) No proceeding shall be instituted to require any such person to leave Barbados, except with the prior approval of the Minister for External Affairs of Barbados;
- (b) In the case of a Governor or representative of a Member, such approval shall be given only after consultation with the government of the Member concerned;
- (c) In the case of any other person mentioned in Section 41 such approval shall be given only after consultation with the President, and if expulsion proceedings are taken against any such person, the President shall have the right to appear or to be represented in such proceedings on behalf of the person against whom such proceedings are instituted; and
- (d) Persons who are entitled to diplomatic privileges and immunities under Article XIII shall not be required to leave Barbados otherwise than in accordance with the customary procedure applicable to members, having comparable rank, of the staffs of heads of diplomatic missions accredited to Barbados.

Section 45

This Article shall not prevent the requirement of reasonable evidence to establish that persons claiming the rights granted by this Article come within the classes described in Section 41, or the reasonable application of quarantine and health regulations.

Section 46

The provisions of section 41 of this Article shall be applicable irrespective of the relations existing between the Government of Barbados and the governments of the States and Territories of which the persons referred to in that Section are nationals or to which they belong.

Section 47

The provisions of this Article shall apply to the members of the families and members of the household staff of the persons enumerated in (a) to (e) of Section 41 of this Article.

Section 48

The Bank and Government may consult on methods of facilitating entry into Barbados by persons coming from abroad who wish to visit the Headquarters Seat and who are not entitled to the privileges conferred by this Article.

ARTICLE XIII

PRIVILEGES AND IMMUNITIES OF GOVERNORS AND OTHER REPRESENTATIVES
OF MEMBERS, DIRECTORS, PRESIDENT, VICE-PRESIDENTS AND OTHERS*Section 49*

Governors, other representatives of Members, and Directors shall have the right in connection with their official duties with the Bank, to:

- (a) Immunity from personal arrest or detention and from seizure of their personal and official baggage;
- (b) Immunity from legal process of every kind in respect of words spoken or written and all acts done by them in their official capacity; and;
- (c) In respect of other matters not covered in (a) and (b) above, such other immunities, exemptions, privileges and facilities as are enjoyed by members of diplomatic missions of comparable rank, subject to corresponding conditions and obligations.

Section 50

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The President, Vice-Presidents, other officers and staff of the Bank, including for the purposes of this Article consultants and experts performing missions for the Bank, shall have the right to the following privileges and immunities:

- (a) Immunity from legal process of any kind in respect of words spoken or written and of acts performed by them in their official capacity, such immunity to continue notwithstanding that the persons concerned may have ceased to be officers or staff members of the Bank;
- (b) Immunity from seizure of their personal and official baggage;
- (c) Immunity from inspection of official baggage, and if the person concerned comes within the scope of Section 51 immunity from inspection of personal baggage;
- (d) Subject to the right of the Government to tax its nationals joining the staff of the Bank after July 1975 and permanent residents joining the staff of the Bank after December 1989 exemption from taxation in respect of the salaries, emoluments, indemnities and pensions paid to them by the Bank for services past or present or in connection with their service with the Bank;
- (e) Subject to the right of the Government to tax its nationals, joining the staff of the Bank after July 1975 and permanent residents joining the staff of the Bank after December 1989 exemption from any form of taxation on income derived by them from sources outside Barbados;
- (f) Exemption, with respect to themselves, members of their families, and members of their household staff, from immigration restrictions and alien registration;
- (g) Exemption, from national service obligations;
- (h) Freedom to acquire or maintain within Barbados or elsewhere foreign securities, foreign currency accounts, and other movable, and under the same conditions applicable to nationals of Barbados, immovable property; and at the termination of their Bank employment, the right to take out of Barbados through authorised channels without prohibition, or restriction, their funds in the same currency and up to the same amounts as they had brought into Barbados;
- (i) The same protection and repatriation facilities with respect to themselves, their spouses, their dependent relatives and other members of their households as are accorded in time of international crisis to members, having comparable rank, of the staffs of heads of diplomatic missions accredited to Barbados; and
- (j) The right to import for personal use, free of duty and other levies, prohibitions and restrictions on imports:
 - (i) Their furniture and effects, including one automobile, in one or more separate shipments, and thereafter to import necessary additions to the same;

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1990-29.

- (ii) One automobile every three years after the last importation except for persons categorised by the Bank as support staff in the case of automobiles imported after December 1989 for whom the period shall be five years; and
- (iii) Reasonable quantities of foodstuffs and other articles for personal use or consumption and not for gift or sale; the Bank may establish a commissary for the sale of such articles to its officials and members of delegations. A supplemental agreement shall be concluded between the Bank and the Government to regulate the exercise of these rights.

Section 51

In addition to the privileges and immunities specified in Section 50:

- (a) The President shall be accorded the privileges and immunities, exemptions and facilities accorded to Ambassadors who are heads of missions, including immunity from personal arrest or detention;
- (b) A senior official of the Bank when acting on behalf of the President during his absence from duty, shall be accorded the same privileges and immunities, exemptions and facilities as are accorded to the President; and
- (c) Other officials having the professional grade of head of a division and above, and such additional categories of officials as may be designated, in agreement with the Government, by the President on the ground of the responsibilities of their positions in the Bank, shall be accorded the same privileges and immunities, exemptions and facilities as the Government accords to members, having comparable rank, of the staffs of heads of diplomatic missions accredited to Barbados.

Section 52

The Bank shall from time to time communicate to the Government the names of officers and staff to whom the provisions of this Article apply.

Section 53

All persons entitled to the privileges and immunities specified in this Agreement shall be provided by the Government with a special identity card which shall serve to identify the holder in relation to the authorities of Barbados and to certify that the holder is entitled to the privileges and immunities specified in this Agreement.

ARTICLE XIV

WAIVER OF IMMUNITIES AND PREVENTION OF ABUSE

Section 54

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

Section 55

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

ARTICLE XV

SETTLEMENT OF DISPUTES

Section 56

The Bank shall make provision for appropriate methods of settlement of:

- (a) Disputes arising out of contracts and disputes of a private law character to which the Bank is a party; and
- (b) Disputes involving an official of the Bank, who, by reason of his official position, is entitled to immunity, if such immunity has not been waived.

Section 57

Any dispute between the Government and the Bank concerning the interpretation or application of this Agreement or any supplementary agreements, or any question affecting the Headquarters Seat or the relationship between the Government and the Bank, which is not settled by negotiation or other agreed mode of settlement, shall be referred for final decision to a tribunal of three arbitrators: one to be appointed by the Government, one to be appointed by the Bank, and the third, who shall be chairman of the tribunal, to be chosen by the first two arbitrators. Should the first two arbitrators fail to agree upon the third, the Government and the Bank shall request the President of the International Court of Justice to choose the third arbitrator. A majority vote of arbitrators shall be sufficient to reach a decision which shall be final and binding. The third arbitrator shall be empowered to settle all questions of procedure in any case where there is disagreement with respect thereto.

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Section 58

The said tribunal shall adopt and observe the "Rules of Arbitration and Conciliation of the Permanent Court of Arbitration in the Settlement of Disputes".

ARTICLE XVI

FINAL PROVISIONS

Section 59

The Bank and all persons enjoying the immunities, privileges, exemptions and facilities under this Agreement shall co-operate at all times with the appropriate authorities of Barbados to facilitate the proper administration of justice and secure the observance of the laws of Barbados.

Section 60

This Agreement shall be construed in the light of its primary purpose of enabling the Bank at its headquarters in Barbados fully and efficiently to discharge its responsibilities and fulfill its purposes.

Section 61

Wherever this Agreement imposes obligations which can be carried out only by authorities of Barbados other than the Government, the Government shall ensure the fulfilment of such obligations by the appropriate authorities of Barbados.

Section 62

None of the provisions of this Agreement shall derogate in any way from the rights, privileges and immunities provided for or specified in the Agreement establishing the Caribbean Development Bank.

Section 63

This Agreement shall be registered with the Secretary-General of the United Nations.

Section 64

This Agreement may be revised at the request of either Party. In this event the two Parties shall consult with each other concerning the revisions to be made in its provisions.

Section 65

The Government and the Bank may enter into such supplementary agreements as may be necessary or appropriate to the implementation of this Agreement.

Section 66

Nothing in this Agreement shall be construed to preclude the adoption of appropriate measures for the security of the State as may be determined by the Government in consultation with the Bank.

Section 67

This Agreement shall cease to be in force:

- (a) By mutual consent of the Bank and the Government; or
- (b) If the permanent headquarters of the Bank is removed from Barbados, except for such provisions as may be applicable in connection with the orderly termination of the operations of the Bank at its permanent headquarters in Barbados and the disposal of its property therein.

Section 68

This Agreement shall come into force upon signature.

IN WITNESS WHEREOF the respective representatives of the Parties, duly authorised thereto, have signed this Agreement.

DONE at Bridgetown, Barbados, this Second day of June 1970 in two copies in English.

FOR THE GOVERNMENT OF BARBADOS

FOR THE CARIBBEAN DEVELOPMENT BANK

ERROL W. BARROW

W. ARTHUR LEWIS

(Signature)

(Signature)

ANNEX A

PART I

DESCRIPTION OF THE TEMPORARY HEADQUARTERS SEAT OF THE CARIBBEAN DEVELOPMENT BANK 1990-29.

The entire Sixth Floor of the building owned by the Government of Barbados and known as the Treasury Building, situated in Bridgetown, Barbados at the corner of Bridge and Trafalgar Streets.

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PART II

DESCRIPTION OF THE PERMANENT HEADQUARTERS SEAT OF
THE CARIBBEAN DEVELOPMENT BANK

- (i) The premises at Wilkey, Saint Michael, in Barbados, comprising 14,248 square metres or thereabouts, being part of a larger area comprising 35,448 square metres of land as delineated on the Lands and Surveys Department Plan, Survey Order No. 30/87, certified the 11th day of December, 1987 by Nigel R. Marshall, Land Surveyor, but formerly comprising other areas as defined in supplementary agreements, together with the buildings and erections for the time being thereon; and
- (ii) The premises at Wilkey, Saint Michael, Barbados, being the remainder of the larger area referred to in paragraph (i) above, and containing 2.12 hectares as delineated on the Lands and Surveys Department Plan No. 8107-9 certified the 7th day of May 1981, by R. S. Gittens, Land Surveyor, and conveyed by the Government to the Bank by Conveyance dated 28th day of July, 1983, together with the buildings and erections for the time being thereon.