CHAPTER 347

MALTA MEMBERSHIP OF THE EUROPEAN BANK FOR RECONSTRUCTION AND DEVELOPMENT ACT

To provide for Malta's Membership of the European Bank for Reconstruction and Development.

25th January, 1991

ACT I of 1991, as amended by Act VIII of 2005 and Legal Notices 68 of 2012 and 265 of 2023.

Short title.

1. This Act may be cited as the Malta Membership of the European Bank for Reconstruction and Development Act.

Interpretation. *Amended by: VIII. 2005.2.*

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

"Bank" means the European Bank for Reconstruction and Development;

"Agreement" means the Agreement signed in Paris on the 29th May, 1990 establishing the European Bank for Reconstruction and Development, as set out in the Schedule, as from time to time amended;

"Minister" means the Minister responsible for finance.

Authorisation for acceding to the Agreement. *Substituted by: VIII. 2005.3.* Cap. 304.

3. In virtue of this Act, and in compliance with the provisions of the Ratification of Treaties Act -

(*a*) the Government of Malta is hereby authorised to ratify the Agreement; and

(*b*) the Government of Malta is hereby authorised to ratify any amendment as may be made to the Agreement from time to time.

Financial provisions relating to membership.

4. (1) There shall be paid out of the Consolidated Fund, on the warrant of the Minister, all sums required for the purpose of making all payments required to be made from time to time under the provisions of the Agreement.

(2) The Minister may, if he thinks fit, create and issue, or direct the Central Bank of Malta (as the depository for the Government of Malta for the purposes of Article 34 of the Agreement) to create and issue, to the Bank non-interest bearing and non-negotiable notes or other obligations as are provided for by Article 6(2) of the Agreement and the sums payable under such notes or obligations so created and issued shall be a charge on the Consolidated Fund:

Provided that, where the Minister has directed the Central Bank of Malta to create and issue notes or other obligations as aforesaid, the Minister shall also undertake to repay to the Central Bank of Malta such amount or amounts of notes or other obligations as may be called for payment by the Bank, such repayments to be made as soon as possible and in no case later than a month after the date of payment to the Bank; and in respect of any such payment all repayments due as aforesaid shall be a charge on

the Consolidated Fund and the sums required for such repayments are hereby appropriated for that purpose.

(3) Any income or other sums allocated and distributed to the Government of Malta, or to the Central Bank of Malta, from the Bank by virtue of the subscription by Malta to the shares of the capital stock thereof shall be paid into the Consolidated Fund.

Certain provisions of the Agreement given force of law in Malta.

5. The provisions of Articles 45 to 53 inclusive of the Agreement shall have the force of law in Malta, so however, that nothing in Article 53 of the Agreement shall be construed as entitling the Bank to import goods free of customs duty without any restriction on their subsequent sale in Malta.

Power to make regulations. *Substituted by: VIII. 2005.4.*

6. The Minister may make regulations as may be necessary for carrying into effect any of the provisions of the Agreement and in particular, but without prejudice to the generality of the foregoing, for the amendment of the Schedule for the purpose of aligning it to the Agreement as it may be amended from time to time.

Language of Schedule.

7. The Schedule to this Act shall be in the English language only, and such text shall apply also to the Maltese text of the Act.

SCHEDULE

(ARTICLE 2)

Amended by:
VIII. 2005.5;
L.N. 68 of 2012;
L.N. 265 of 2023.

AGREEMENT ESTABLISHING THE EUROPEAN BANK FOR RECONSTRUCTION AND DEVELOPMENT

The contracting parties,

Committed to the fundamental principles of multiparty democracy, the rule of law, respect for human rights and market economics;

Recalling the Final Act of the Helsinki Conference on Security and Cooperation in Europe, and in particular its Declaration on Principles;

Welcoming the intent of Central and Eastern European countries to further the practical implementation of multiparty democracy, strengthening democratic institutions, the rule of law and respect for human rights and their willingness to implement reforms in order to evolve towards market-oriented economies;

Considering the importance of close and coordinated cooperation in order to promote the economic progress of Central and Eastern European countries to help their economies become more internationally competitive and assist them in their reconstruction and development and thus to reduce, where appropriate, any risks related to the financing of their economies;

Convinced that the establishment of a multilateral financial institution which is European in its basic character and broadly international in its membership would help serve these ends and would constitute a new and unique structure of cooperation in Europe;

Have agreed to establish hereby the European Bank for Reconstruction and Development (hereinafter called " the Bank") which shall operate in accordance with the following:

CHAPTER I

PURPOSE, FUNCTIONS AND MEMBERSHIP

Article 1
PURPOSE

In contributing to economic progress and reconstruction, the purpose of the Bank shall be to foster the transition towards open market-oriented economies and to promote private and entrepreneurial initiative in the Central and Eastern European countries committed to and applying the principles of multiparty democracy, pluralism and market economics.

Subject to the same conditions, the purpose of the Bank may also be carried out in (i) Mongolia; (ii) member countries of the Southern and Eastern Mediterranean; and (iii) a limited number of member countries of sub-Saharan Africa; in each case under (ii) and (iii) as determined by the Bank upon the affirmative vote of not less than two-thirds of the Governors, representing not less than three-fourths of the total voting power of the members. Accordingly, any reference in this Agreement and its annexes to "Central and

Eastern European countries", "countries from Central and Eastern Europe", "recipient country (or countries)" or "recipient member country (or countries)" shall refer to Mongolia and each of such countries of the Southern and Eastern Mediterranean and sub-Saharan Africa as well.

Article 2

FUNCTIONS

1. To fulfil on a long-term basis its purpose of fostering the transition of Central and Eastern European countries towards open market-oriented economies and the promotion of private and entrepreneurial initiative, the Bank shall assist the recipient member countries to implement structural and sectoral economic reforms, including demonopolization, decentralization and privatization, to help their economies become fully integrated into the international economy by measures:

(i) to promote, through private and other interested investors, the establishment, improvement and expansion of productive, competitive and private sector activity, in particular small and medium sized enterprises;

(ii) to mobilize domestic and foreign capital and experienced management to the end described in (i);

(iii) to foster productive investment, including in the service and financial sectors, and in related infrastructure where that is necessary to support private and entrepreneurial initiative, thereby assisting in making a competitive environment and raising productivity, the standard of living and conditions of labour;

(iv) to provide technical assistance for the preparation, financing and implementation of relevant projects, whether individual or in the context of specific investment programmes;

(v) to stimulate and encourage the development of capital markets;

(vi) to give support to sound and economically viable projects involving more than one recipient member country;

(vii) to promote in the full range of its activities environmentally sound and sustainable development; and

(viii) to undertake such other activities and provide such other services as may further these functions.

2. In carrying out the functions referred to in paragraph 1 of this Article, the Bank shall work in close cooperation with all its members and, in such manner as it may deem appropriate within the terms of this Agreement, with the International Monetary Fund, the International Bank for Reconstruction and Development, the International Finance Corporation, the Multilateral Investment Guarantee Agency, and the Organisation for Economic Cooperation and Development, and shall cooperate with the United Nations and its Specialised Agencies and other related bodies, and any entity, whether public or private, concerned with the economic development of, and investment in, Central and Eastern European countries.

Article 3

MEMBERSHIP

1. Membership in the Bank shall be open:

(i) to (1) European countries and (2) non-European countries which are members of the International Monetary Fund; and

(ii) to the European Economic Community and the European Investment Bank.

2. Countries eligible for membership under paragraph 1 of this Article, which do not become members in accordance with Article 61 of this Agreement, may be admitted, under such terms and conditions as the Bank may determine, to membership in the Bank upon the affirmative vote of not less than two-thirds of the Governors, representing not less than three-fourths of the total voting power of the members.

CHAPTER II

CAPITAL

Article 4

AUTHORIZED CAPITAL STOCK

1. The original authorized capital stock shall be ten thousand million (10,000,000,000) ECU. It shall be divided into one million (1,000,000) shares, having a par value of ten thousand (10,000) ECU each, which shall be available for subscription only by members in accordance with the provisions of Article 5 of this Agreement.

2. The original capital stock shall be divided into paid-in shares and callable shares. The initial total aggregate par value of paid-in shares shall be three thousand million (3,000,000,000) ECU.

3. The authorized capital stock may be increased at such time and under such terms as may seem advisable, by a vote of not less than two-thirds of the Governors, representing not less than three-fourths of the total voting power of the members.

Article 5

SUBSCRIPTION OF SHARES

1. Each member shall subscribe to shares of the capital stock of the Bank, subject to fulfilment of the member's legal requirements. Each subscription to the original authorized capital stock shall be for paid-in shares and callable shares in the proportion of three (3) to seven (7). The initial number of shares available to be subscribed to by Signatories to this Agreement which become members in accordance with Article 61 of this Agreement shall be that set forth in Annex A. No member shall have an initial subscription of less than one hundred (100) shares

2. The initial number of shares to be subscribed to by countries which are admitted to membership in accordance with paragraph 2 of Article 3 of this Agreement shall be determined by the Board of Governors; provided, however, that no such subscription shall be authorized which would have the effect of reducing the

percentage of capital stock held by countries which are members of the European Economic Community, together with the European Economic Community and the European Investment Bank, below the majority of the total subscribed capital stock.

3. The Board of Governors shall at intervals of not more than five (5) years review the capital stock of the Bank. In case of an increase in the authorized capital stock, each member shall have a reasonable opportunity to subscribe, under such uniform terms and conditions as the Board of Governors shall determine, to a proportion of the increase in stock equivalent to the proportion which its stock subscribed bears to the total subscribed capital stock immediately prior to such increase. No member shall be obliged to subscribe to any part of an increase of capital stock.

4. Subject to the provisions of paragraph 3 of this Article, the Board of Governors may, at the request of a member, increase the subscription of that member, or allocate shares to that member within the authorized capital stock which are not taken up by other members; provided, however, that such increase shall not have the effect of reducing the percentage of capital stock held by countries which are members of the European Economic Community, together with the European Economic Community and the European Investment Bank, below the majority of the total subscribed capital stock.

5. Shares of stock initially subscribed to by members 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 Governors, representing not less than two-thirds of the total voting power of the members, decides to issue them in special circumstances on other terms.

6. Shares of stock shall not be pledged or encumbered in any manner whatsoever, and they shall not be transferable except to the Bank in accordance with Chapter VII of this Agreement.

7. The liability of the members on shares shall be limited to the unpaid portion of their issue price. No member shall be liable, by reason of its membership, for obligations of the Bank.

Article 6

PAYMENT OF SUBSCRIPTIONS

1. Payment of the paid-in shares of the amount initially subscribed to by each Signatory to this Agreement, which becomes a member in accordance with Article 61 of this Agreement, shall be made in five (5) instalments of twenty (20) per cent each of such amount. The first instalment shall be paid by each member within sixty (60) days after the date of the entry into force of this Agreement, or after the date of deposit of its instrument of ratification, acceptance or approval in accordance with Article 61, if this latter is later than the date of the entry into force. The remaining four (4) instalments shall each become due successively one year from the date on which the preceding instalment became due and shall each, subject to the legislative requirements of each member, be paid.

2. Fifty (50) per cent of payment of each instalment pursuant to paragraph 1 of this Article, or by a member admitted in accordance with paragraph 2 of Article 3 of this Agreement, may be made in promissory notes or other obligations issued by such member and denominated in ECU, in United States dollars or in Japanese yen, to be drawn down as the Bank needs funds for disbursement as a result of its

operations. Such notes or obligations shall be non-negotiable, non-interest-bearing and payable to the Bank at par value upon demand. Demands upon such notes or obligations shall, over reasonable periods of time, be made so that the value of such demands in ECU at the time of demand from each member is proportional to the number of paid-in shares subscribed to and held by each such member depositing such notes or obligations.

3. All payment obligations of a member in respect of subscription to shares in the initial capital stock shall be settled either in ECU, in United States dollars or in Japanese yen on the basis of the average exchange rate of the relevant currency in terms of the ECU for the period from 30 September 1989 to 31 March 1990 inclusive.

4. Payment of the amount subscribed to the callable capital stock of the Bank shall be subject to call, taking account of Articles 17 and 42 of this Agreement, only as and when required by the Bank to meet its liabilities.

5. In the event of a call referred to in paragraph 4 of this Article, payment shall be made by the member in ECU, in United States dollars or in Japanese yen. Such calls shall be uniform in ECU value upon each callable share calculated at the time of the call.

6. The Bank shall determine the place for any payment under this Article not later than one month after the inaugural meeting of its Board of Governors, provided that, before such determination, the payment of the first instalment referred to in paragraph 1 of this Article shall be made to the European Investment Bank, as trustee for the Bank.

7. For subscriptions other than those described in paragraphs 1, 2 and 3 of this Article, payments by a member in respect of subscription to paid-in shares in the authorized capital stock shall be made in ECU, in United States dollars or in Japanese yen whether in cash or in promissory notes or in other obligations.

8. For the purposes of this Article, payment or denomination in ECU shall include payment or denomination in any fully convertible currency which is equivalent on the date of payment or encashment to the value of the relevant obligation in ECU.

Article 7

ORDINARY CAPITAL RESOURCES

As used in this Agreement, the term "ordinary capital resources" of the Bank shall include the following:

(i) authorized capital stock of the Bank, including both paid-in and callable shares, subscribed to pursuant to Article 5 of this Agreement;

(ii) funds raised by borrowings of the Bank by virtue of powers conferred by sub-paragraph (i) of Article 20 of this Agreement, to which the commitment to calls provided for in paragraph 4 of Article 6 of this Agreement is applicable;

(iii) funds received in repayment of loans or guarantees and proceeds from the disposal of equity investment made with the resources indicated in sub-paragraphs (i) and (ii) of this Article;

(iv) income derived from loans and equity investment, made from the resources indicated in sub-paragraphs (i) and (ii) of this Article, and income derived

from guarantees and underwriting not forming part of the special operations of the Bank; and

(v) any other funds or income received by the Bank which do not form part of its Special Funds resources referred to in Article 19 of this Agreement.

CHAPTER III

OPERATIONS

Article 8

RECIPIENT COUNTRIES AND USE OF RESOURCES

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

2. The Bank may conduct its operations in countries from Central and Eastern Europe which are proceeding steadily in the transition towards market oriented economies and the promotion of private and entrepreneurial initiative, and which apply, by concrete steps and otherwise, the principles as set forth in Article 1 of this Agreement.

3. In cases where a member might be implementing policies which are inconsistent with Article 1 of this Agreement, or in exceptional circumstances, the Board of Directors shall consider whether access by a member to Bank resources should be suspended or otherwise modified and may make recommendations accordingly to the Board of Governors. Any decision on these matters shall be taken by the Board of Governors by a majority of not less than two-thirds of the Governors, representing not less than three-fourths of the total voting power of the members.

4. (i) Any potential recipient country may request that the Bank provide access to its resources for limited purposes over a period of three (3) years beginning after the entry into force of this Agreement. Any such request shall be attached as an integral part of this Agreement as soon as it is made.

(ii) During such a period:

(a) the Bank shall provide to such a country, and to enterprises in its territory, upon their request, technical assistance and other types of assistance directed to finance its private sector, to facilitate the transition of state-owned enterprises to private ownership and control, and to help enterprises operating competitively and moving to participation in the market oriented economy, subject to the proportion set forth in paragraph 3 of Article 11 of this Agreement;

(b) the total amount of any assistance thus provided shall not exceed the total amount of cash disbursed and promissory notes issued by that country for its shares.

(iii) At the end of this period, the decision to allow such a country access beyond the limits specified in sub-paragraphs (a) and (b) shall be taken by the Board of Governors by a majority of not less than three-fourths of the Governors representing not less than eighty-five (85) per cent of the total voting power of the members.

Article 9

ORDINARY AND SPECIAL OPERATIONS

The operations of the Bank shall consist of ordinary operations financed from the ordinary capital resources of the Bank referred to in Article 7 of this Agreement and special operations financed from the Special Funds resources referred to in Article 19 of this Agreement. The two types of operations may be combined.

Article 10

SEPARATION OF OPERATIONS

1. The ordinary capital resources and the Special Funds resources of the Bank shall at all times and in all respects be held, used, committed, invested or otherwise disposed of entirely separately from each other. The financial statements of the Bank shall show the reserves of the Bank, together with its ordinary operations and, separately, its special operations.

2. The ordinary capital resources of the Bank shall under no circumstances be charged with, or used to discharge, losses or liabilities arising out of special operations or other activities for which Special Funds resources were originally used or committed.

3. Expenses appertaining directly to ordinary operations shall be charged to the ordinary capital resources of the Bank. Expenses appertaining directly to special operations shall be charged to Special Funds resources. Any other expenses shall, subject to paragraph 1 of Article 18 of this Agreement, be charged as the Bank shall determine.

Article 11

METHODS OF OPERATION

1. The Bank shall carry out its operations in furtherance of its purpose and functions as set out in Articles 1 and 2 of this Agreement in any or all of the following ways:

(i) by making, or co-financing together with multilateral institutions, commercial banks or other interested sources, or participating in, loans to private sector enterprises, loans to any state-owned enterprise operating competitively and moving to participation in the market oriented economy, and loans to any state-owned enterprise to facilitate its transition to private ownership and control; in particular to facilitate or enhance the participation of private and/or foreign capital in such enterprises;

(ii) (a) by investment in the equity capital of private sector enterprises;

(b) by investment in the equity capital of any state-owned enterprise operating competitively and moving to participation in the market oriented economy, and investment in the equity capital of any state-owned enterprise to facilitate its transition to private ownership and control; in particular to facilitate or enhance the participation of private and/or foreign capital in such enterprises; and

(c) by underwriting, where other means of financing are not

appropriate, the equity issue of securities by both private sector enterprises and such state-owned enterprises referred to in (b) above for the ends mentioned in that sub-paragraph;

(iii) by facilitating access to domestic and international capital markets by private sector enterprises or by other enterprises referred to in sub-paragraph (i) of this paragraph for the ends mentioned in that sub-paragraph, through the provision of guarantees, where other means of financing are not appropriate, and through financial advice and other forms of assistance;

(iv) by deploying Special Funds resources in accordance with the agreements determining their use; and

(v) by making or participating in loans and providing technical assistance for the reconstruction or development of infrastructure, including environmental programmes, necessary for private sector development and the transition to a market-oriented economy.

For the purposes of this paragraph, a state-owned enterprise shall not be regarded as operating competitively unless it operates autonomously in a competitive market environment and unless it is subject to bankruptcy laws.

2. (i) The Board of Directors shall review at least annually the Bank's operations and lending strategy in each recipient country to ensure that the purpose and the functions of the Bank, as set out in Articles 1 and 2 of this Agreement, are fully served. Any decision pursuant to such a review shall be taken by a majority of not less than two-thirds of the Directors representing not less than three-fourths of the total voting power of the members.

(ii) The said review shall involve the consideration of, *inter alia*, each recipient country's progress made on decentralization, demonopolization and privatization and the relative shares of the Bank's lending to private enterprises, to state-owned enterprises in the process of transition to participation in the market-oriented economy or privatization, for infrastructure, for technical assistance, and for other purposes.

3. (i) Not more than forty (40) per cent of the amount of the Bank's total committed loans, guarantees and equity investments, without prejudice to its other operations referred to in this Article, shall be provided to the state sector. Such percentage limit shall apply initially over a two (2) year period from the date of commencement of the Bank's operations, taking one year with another, and thereafter in respect of each subsequent financial year.

(ii) For any country, not more than forty (40) per cent of the amount of the Bank's total committed loans, guarantees and equity investments over a period of five (5) years, taking one year with another, and without prejudice to the Bank's other operations referred to in this Article, shall be provided to the state sector.

(iii) For the purposes of this paragraph,

(a) the state sector includes national and local governments, their agencies, and enterprises owned or controlled by any of them;

(b) a loan or guarantee to, or equity investment in, a state-owned enterprise which is implementing a programme to achieve private ownership and control shall not be considered as made to the state sector;

(c) loans to a financial intermediary for onlending to the private sector shall not be considered as made to the state sector.

Article 12

LIMITATIONS ON ORDINARY OPERATIONS

1. The Board of Directors shall establish and maintain appropriate limits with respect to capital adequacy metrics, in order to protect the financial soundness and sustainability of the Bank.

2. The amount of any equity investment shall not normally exceed such percentage of the equity capital of the enterprise concerned as shall be determined, by a general rule, to be appropriate by the Board of Directors. The Bank shall not seek to obtain by such an investment a controlling interest in the enterprise concerned and shall not exercise such control or assume direct responsibility for managing any enterprise in which it has an investment, except in the event of actual or threatened default on any of its investments, actual or threatened insolvency of the enterprise in which such investment shall have been made, or other situations which, in the opinion of the Bank, threaten to jeopardize such investment, in which case the Bank may take such action and exercise such rights as it may deem necessary for the protection of its interests.

3. The amount of the Bank's disbursed equity investments shall not at any time exceed an amount corresponding to its total unimpaired paid-in subscribed capital, surpluses and general reserve.

4. The Bank shall not issue guarantees for export credits nor undertake insurance activities.

Article 13

OPERATING PRINCIPLES

The Bank shall operate in accordance with the following principles:

(i) the Bank shall apply sound banking principles to all its operations;

(ii) the operations of the Bank shall provide for the financing of specific projects, whether individual or in the context of specific investment programmes, and for technical assistance, designed to fulfil its purpose and functions as set out in Articles 1 and 2 of this Agreement;

(iii) the Bank shall not finance any undertaking in the territory of a member if that member objects to such financing;

(iv) the Bank shall not allow a disproportionate amount of its resources to be used for the benefit of any member;

(v) the Bank shall seek to maintain reasonable diversification in all its investments;

(vi) before a loan, guarantee or equity investment is granted, the applicant shall have submitted an adequate proposal and the President of the Bank shall have presented to the Board of Directors a written report regarding the proposal, together with recommendations, on the basis of a staff study;

(vii) the Bank shall not undertake any financing, or provide any facilities, when the applicant is able to obtain sufficient financing or facilities elsewhere on terms and conditions that the Bank considers reasonable;

(viii) in providing or guaranteeing financing, the Bank shall pay due regard

to the prospect that the borrower and its guarantor, if any, will be in a position to meet their obligations under the financing contract;

(ix) in case of a direct loan made by the Bank, the borrower shall be permitted by the Bank to draw its funds only to meet expenditure as it is actually incurred;

(x) the Bank shall seek to revolve its funds by selling its investments to private investors whenever it can appropriately do so on satisfactory terms;

(xi) in its investments in individual enterprises, the Bank shall undertake its financing on terms and conditions which it considers appropriate, taking into account the requirements of the enterprise, the risks being undertaken by the Bank, and the terms and conditions normally obtained by private investors for similar financing;

(xii) the Bank shall place no restriction upon the procurement of goods and services from any country from the proceeds of any loan, investment or other financing undertaken in the ordinary or special operations of the Bank, and shall, in all appropriate cases, make its loans and other operations conditional on international invitations to tender being arranged; and

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

Article 14

TERMS AND CONDITIONS FOR LOANS AND GUARANTEES

1. In the case of loans made, participated in, or guaranteed by the Bank, the contract shall establish the terms and conditions for the loan or the guarantee concerned, including those relating to payment of principal, interest and other fees, charges, maturities and dates of payment in respect of the loan or the guarantee, respectively. In setting such terms and conditions, the Bank shall take fully into account the need to safeguard its income.

2. Where the recipient of loans or guarantees of loans is not itself a member, but is a state-owned enterprise, the Bank may, when it appears desirable, bearing in mind the different approaches appropriate to public and state-owned enterprises in transition to private ownership and control, require the member or members in whose territory the project concerned is to be carried out, or a public agency or any instrumentality of such member or members acceptable to the Bank, to guarantee the repayment of the principal and the payment of interest and other fees and charges of the loan in accordance with the terms thereof. The Board of Directors shall review annually the Bank's practice in this matter, paying due attention to the Bank's creditworthiness.

3. The loan or guarantee contract shall expressly state the currency or currencies, or ECU, in which all payments to the Bank thereunder shall be made.

Article 15

COMMISSION AND FEES

1. The Bank shall charge, in addition to interest, a commission on loans made or participated in as part of its ordinary operations. The terms and conditions of this commission shall be determined by the Board of Directors.

2. In guaranteeing a loan as part of its ordinary operations, or in underwriting the sale of securities, the Bank shall charge fees, payable at rates and times determined by the Board of Directors, to provide suitable compensation for its risks.

3. The Board of Directors may determine any other charges of the Bank in its ordinary operations and any commission, fees or other charges in its special operations.

Article 16

SPECIAL RESERVE

1. The amount of commissions and fees received by the Bank pursuant to Article 15 of this Agreement shall be set aside as a special reserve which shall be kept for meeting the losses of the Bank in accordance with Article 17 of this Agreement. The special reserve shall be held in such liquid form as the Bank may decide.

2. If the Board of Directors determines that the size of the special reserve is adequate, it may decide that all or part of the said commission or fees shall henceforth form part of the income of the Bank.

Article 17

METHODS OF MEETING THE LOSSES OF THE BANK

1. In the Bank's ordinary operations, in cases of arrears or default on loans made, participated in, or guaranteed by the Bank, and in cases of losses on underwriting and in equity investment, the Bank shall take such action as it deems appropriate. The Bank shall maintain appropriate provisions against possible losses.

2. Losses arising in the Bank's ordinary operations shall be charged:

(i) first, to the provisions referred to in paragraph 1 of this Article;

(ii) second, to net income;

(iii) third, against the special reserve provided for in Article 16 of this Agreement;

(iv) fourth, against its general reserve and surpluses;

(v) fifth, against the unimpaired paid-in capital; and

(vi) last, against an appropriate amount of the uncalled subscribed callable capital which shall be called in accordance with the provisions of paragraphs 4 and 5 of Article 6 of this Agreement.

Article 18

SPECIAL FUNDS

1. (i) The Bank may accept the administration of Special Funds which are designed to serve the purpose and come within the functions of the Bank in its recipient countries and potential recipient countries. The full cost of administering any such Special Fund shall be charged to that Special Fund.

(ii) For the purposes of subparagraph (i), the Board of Governors may, at the request of a member which is not a recipient country, decide that such member qualifies as a potential recipient country for such limited period and under such terms as may seem advisable. Such decision shall be taken by the affirmative vote of not less than two-thirds of the Governors, representing not less than three-fourths of the total voting power of the members.

(iii) The decision to allow a member to qualify as a potential recipient country can only be made if such member is able to meet the requirements for becoming a recipient country. Such requirements are those set out in Article 1 of this Agreement, as it reads at the time of such decision or as it will read upon the entry into force of an amendment that has already been approved by the Board of Governors at the time of such decision.

(iv) If a potential recipient country has not become a recipient country at the end of the period referred to in subparagraph (ii), the Bank shall forthwith cease any special operations in that country, except those incident to the orderly realization, conservation and preservation of the assets of the Special Fund and settlement of obligations that have arisen in connection therewith.

2. Special Funds accepted by the Bank may be used in its recipient countries and potential recipient countries in any manner and on any terms and conditions consistent with the purpose and functions of the Bank, with the other applicable provisions of this Agreement, and with the agreement or agreements relating to such Funds.

3. The Bank shall adopt such rules and regulations as may be required for the establishment, administration and use of each Special Fund. Such rules and regulations shall be consistent with the provisions of this Agreement, except for those provisions expressly applicable only to ordinary operations of the Bank.

Article 19

SPECIAL FUNDS RESOURCES

The term "Special Funds resources" shall refer to the resources of any Special Fund and shall include:

(i) funds accepted by the Bank for inclusion in any Special Fund;

(ii) funds repaid in respect of loans or guarantees, and the proceeds of equity investments, financed from the resources of any Special Fund which, under the rules and regulations governing that Special Fund, are received by such Special Fund; and

(iii) income derived from investment of Special Funds resources.

CHAPTER IV

BORROWING AND OTHER MISCELLANEOUS POWERS

Article 20

GENERAL POWERS

1. The Bank shall have, in addition to the powers specified elsewhere in this Agreement, the power to:

(i) borrow funds in member countries or elsewhere, provided always that:

(a) before making a sale of its obligations in the territory of a country, the Bank shall have obtained its approval; and

(b) where the obligations of the Bank are to be denominated in the currency of a member, the Bank shall have obtained its approval;

(ii) invest or deposit funds not needed in its operations;

(iii) buy and sell securities, in the secondary market, which the Bank has issued or guaranteed or in which it has invested;

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

(v) underwrite, or participate in the underwriting of, securities issued by any enterprise for purposes consistent with the purpose and functions of the Bank;

(vi) provide technical advice and assistance which serve its purpose and come within its functions;

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

(viii) conclude agreements of cooperation with any public or private entity or entities.

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

CHAPTER V

CURRENCIES

Article 21

DETERMINATION AND USE OF CURRENCIES

1. Whenever it shall become necessary under this Agreement to determine whether any currency is fully convertible for the purposes of this Agreement, such determination shall be made by the Bank, taking into account the paramount need to preserve its own financial interests, after consultation, if necessary, with the International Monetary Fund.

2. Members shall not impose any restrictions on the receipt, holding, use or transfer by the Bank of the following:

(i) currencies or ECU received by the Bank in payment of subscriptions to its capital stock, in accordance with Article 6 of this Agreement;

(ii) currencies obtained by the Bank by borrowing;

(iii) currencies and other resources administered by the Bank as contributions to Special Funds; and

(iv) currencies received by the Bank in payment on account of principal, interest, dividends or other charges in respect of loans or investments, or the proceeds of disposal of such investments made out of any of the funds referred to in sub-paragraphs (i) to (iii) of this paragraph, or in payment of commission, fees or other charges.

CHAPTER VI

ORGANIZATION AND MANAGEMENT

Article 22

STRUCTURE

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

Article 23

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 shall serve at the pleasure of the appointing member. No Alternate may vote except in the absence of his or her principal. At each of its annual meetings, the Board 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.

Article 24

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 of its powers, except the power to:

(i) admit new members and determine the conditions of their admission;

(ii) increase or decrease the authorized capital stock of the Bank;

(iii) suspend a member;

(iv) decide appeals from interpretations or applications of this Agreement given by the Board of Directors;

(v) authorize the conclusion of general agreements for co-operation with other international organizations;

(vi) elect the Directors and the President of the Bank;

(vii) determine the remuneration of the Directors and Alternate Directors and the salary and other terms of the contract of service of the President;

(viii) approve, after reviewing the auditors' report, the general balance sheet and the statement of profit and loss of the Bank;

(ix) determine the reserves and the allocation and distribution of the net profits of the Bank;

(x) amend this Agreement;

(xi) decide to terminate the operations of the Bank and to distribute its assets; and

(xii) 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 or assigned to the Board of Directors under paragraph 2 of this Article, or elsewhere in this Agreement.

Article 25

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 or called by the Board of Directors. Meetings of the Board of Governors shall be called, by the Board of Directors, whenever requested by not less than five (5) members of the Bank or members holding not less than one quarter of the total voting power of the members.

2. Two-thirds 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 may, when the latter deems such action advisable, obtain a vote of the Governors on a specific question without calling a meeting of the Board of Governors.

4. The Board of Governors, and the Board of Directors to the extent authorized, may adopt such rules and regulations and establish such subsidiary bodies as may be necessary or appropriate to conduct the business of the Bank.

Article 26

BOARD OF DIRECTORS: COMPOSITION

1. The Board of Directors shall be composed of twenty-three (23) members who shall not be members of the Board of Governors, and of whom:

(i) Eleven (11) shall be elected by the Governors representing Belgium, Denmark, France, the Federal Republic of Germany, Greece, Ireland, Italy, Luxembourg, the Netherlands, Portugal, Spain, the United Kingdom, the European Economic Community and the European Investment Bank; and

(ii) Twelve (12) shall be elected by the Governors representing other members, of whom:

(a) four (4), by the Governors representing those countries listed in Annex A as Central and Eastern European countries eligible for assistance from the Bank;

(b) four (4), by the Governors representing those countries listed in Annex A as other European countries;

(c) four (4), by the Governors representing those countries listed in Annex A as non-European countries.

Directors, as well as representing members whose Governors have elected them, may also represent members who assign their votes to them.

2. Directors shall be persons of high competence in economic and financial matters and shall be elected in accordance with Annex B.

3. The Board of Governors may increase or decrease the size, or revise the composition, of the Board of Directors, in order to take into account changes in the number of members of the Bank, by an affirmative vote of not less than two-thirds of the Governors, representing not less than three-fourths of the total voting power of the members. Without prejudice to the exercise of these powers for subsequent elections, the number and composition of the second Board of Directors shall be as set out in paragraph 1 of this Article.

4. Each Director shall appoint an Alternate with full power to act for him or her when he or she is not present. Directors and Alternates shall be nationals of member countries. No member shall be represented by more than one Director. An Alternate may participate in meetings of the Board but may vote only when he or she is acting in place of his or her principal.

5. Directors shall hold office for a term of three (3) years and may be re-elected; provided that the first Board of Directors shall be elected by the Board of Governors at its inaugural meeting, and shall hold office until the next immediately following annual meeting of the Board of Governors or, if that Board shall so decide at that annual meeting, until its next subsequent annual meeting. They shall continue in office until their successors shall have been chosen and assumed office. If the office of a Director becomes vacant more than one hundred and eighty (180) days before the end of his or her term, a successor shall be chosen in accordance with Annex B, for the remainder of the term, by the Governors who elected the former Director. A majority of the votes cast by such Governors shall be required for such election. If the office of a Director becomes vacant one hundred and eighty (180) days or less before the end of his or her term, a successor may similarly be chosen for the remainder of the term, by the votes cast by such Governors who elected the former Director, in which election a majority of the votes cast by such Governors shall be required. While the office remains vacant, the Alternate of the former Director shall exercise the powers of the latter, except that of appointing an Alternate.

Article 27

BOARD OF DIRECTORS: POWERS

Without prejudice to the powers of the Board of Governors as provided in Article 24 of this Agreement, 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 by this Agreement, exercise all the powers delegated to it by the Board of Governors, and in particular:

(i) prepare the work of the Board of Governors;

(ii) in conformity with the general directions of the Board of Governors, establish policies and take decisions concerning loans, guarantees, investments in equity capital, borrowing by the Bank, the furnishing of technical assistance, and other operations of the Bank;

(iii) submit the audited accounts for each financial year for approval of the Board of Governors at each annual meeting; and

(iv) approve the budget of the Bank.

Article 28

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 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, if there is no Director of its nationality, a member may send a representative to attend, without right to vote, any meeting of the Board of Directors when a matter particularly affecting that member is under consideration.

Article 29

VOTING

1. The voting power of each member shall be equal to the number of its subscribed shares in the capital stock of the Bank. In the event of any member failing to pay any part of the amount due in respect of its obligations in relation to paid-in shares under Article 6 of this Agreement, such member shall be unable for so long as such failure continues to exercise that percentage of its voting power which corresponds to the percentage which the amount due but unpaid bears to the total amount of paid-in shares subscribed to by that member in the capital stock of the Bank.

2. In voting in the Board of Governors, each Governor shall be entitled to cast the votes of the member he or she represents. Except as otherwise expressly provided in this Agreement, all matters before the Board of Governors shall be decided by a majority of the voting power of the members voting.

3. In voting in the Board of Directors each Director shall be entitled to cast the number of votes to which the Governors who have elected him or her are entitled and those to which any Governors who have assigned their votes to him or her, pursuant to Section D of Annex B, are entitled. A Director representing more than one member may cast separately the votes of the members he or she represents. Except as otherwise expressly provided in this Agreement, and except for general policy

decisions in which cases such policy decisions shall be taken by a majority of not less than two-thirds of the total voting power of the members voting, all matters before the Board of Directors shall be decided by a majority of the voting power of the members voting.

Article 30

THE PRESIDENT

1. The Board of Governors, by a vote of a majority of the total number of Governors, representing not less than a majority 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 four (4) years. He or she may be re-elected. He or she shall, however, cease to hold office when the Board of Governors so decides by an affirmative vote of not less than two-thirds of the Governors, representing not less than two-thirds of the total voting power of the members. If the office of the President for any reason becomes vacant, the Board of Governors, in accordance with the provisions of paragraph 1 of this Article, shall elect a successor for up to four (4) years.

3. The President shall not vote, except that he or she may cast a deciding vote in case of an equal division. He or she may participate in meetings of the Board of Governors and shall chair the meetings of the Board of Directors.

4. The President shall be the legal representative of the Bank.

5. The President shall be chief of the staff of the Bank. He or she shall be responsible for the organisation, appointment and dismissal of the officers and staff in accordance with regulations to be adopted by the Board of Directors. In appointing officers and staff, he or she shall, subject to the paramount importance of efficiency and technical competence, pay due regard to recruitment on a wide geographical basis among members of the Bank.

6. The President shall conduct, under the direction of the Board of Directors, the current business of the Bank.

Article 31

VICE PRESIDENT (S)

1. One or more Vice-Presidents shall be appointed by the Board of Directors on the recommendation of the President. A 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, a Vice-President shall exercise the authority and perform the functions of the President.

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

Article 32

INTERNATIONAL CHARACTER OF THE BANK

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

2. The Bank, its President, Vice-President(s), officers and staff shall in their decisions take into account only considerations relevant to the Bank's purpose, functions and operations, as set out in this Agreement. 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(s), officers and staff of the Bank, in the discharge of their offices, shall 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 33

LOCATION OF OFFICES

1. The principal office of the Bank shall be located in London.

2. The Bank may establish agencies or branch offices in the territory of any member of the Bank.

Article 34

DEPOSITORIES AND CHANNELS OF COMMUNICATION

1. Each member shall designate its central bank, or such other institution as may be agreed upon with the Bank, as a depository for all the Bank's holdings of its currency as well as other assets of the Bank.

2. Each member shall designate an appropriate official entity with which the Bank may communicate in connection with any matter arising under this Agreement.

Article 35

PUBLICATION OF REPORTS AND PROVISION OF INFORMATION

1. The Bank shall publish an annual report containing an audited statement of its accounts and shall circulate to members at intervals of three (3) months or less a summary statement of its financial position and a profit and loss statement showing the results of its operations. The financial accounts shall be kept in ECU.

2. The Bank shall report annually on the environmental impact of its activities and may publish such other reports as it deems desirable to advance its purpose.

3. Copies of all reports, statements and publications made under this Article shall be distributed to members.

Article 36

ALLOCATION AND DISTRIBUTION OF NET INCOME

1. The Board of Governors shall determine at least annually what part of the Bank's net income, after making provision for reserves and, if necessary, against possible losses under paragraph 1 of Article 17 of this Agreement, shall be allocated to surplus or other purposes and what part, if any, shall be distributed. Any such decision on the allocation of the Bank's net income to other purposes shall be taken by a majority of not less than two-thirds of the Governors, representing not less than two-thirds of the total voting power of the members. No such allocation, and no distribution, shall be made until the general reserve amounts to at least ten (10) per cent of the authorized capital stock.

2. Any distribution referred to in the preceding paragraph shall be made in proportion to the number of paid-in shares held by each member; provided that in calculating such number account shall be taken only of payments received in cash and promissory notes encashed in respect of such shares on or before the end of the relevant financial year.

3. Payments to each member shall be made in such manner as the Board of Governors shall determine. Such payments and their use by the receiving country shall be without restriction by any member.

CHAPTER VII

WITHDRAWAL AND SUSPENSION OF MEMBERSHIP: TEMPORARY SUSPENSION AND TERMINATION OF OPERATIONS

Article 37

RIGHT OF MEMBERS TO WITHDRAW

1. Any member may withdraw from the Bank at any time by transmitting 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 such notice is received by the Bank. However, at any time before the withdrawal becomes finally effective, the member may notify the Bank in writing of the cancellation of its notice of intention to withdraw.

Article 38

SUSPENSION OF MEMBERSHIP

1. If a member fails to fulfil any of its obligations to the Bank, the Bank may suspend its membership by decision of a majority of not less than two-thirds of the Governors, representing not less than two-thirds of the total voting power of the members. The member so suspended shall automatically cease to be a member one year from the date of its suspension unless a decision is taken by not less than the same majority to restore the member to good standing.

2. 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 39

SETTLEMENT OF ACCOUNTS WITH FORMER MEMBERS

1. After the date on which a member ceases to be a member, such 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, equity investments or guarantees contracted before it ceased to be a member are outstanding; but it shall cease to incur such liabilities with respect to loans, equity investments and guarantees entered into thereafter by the Bank and to share either in the income or the expenses of the Bank.

2. At the time a member ceases to be a member, the Bank shall arrange for the repurchase of such former member's shares as a part of the settlement of accounts with such former member in accordance with the provisions 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, with the original purchase price of each share being its maximum value.

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

(i) any amount due to the former member for its shares shall be withheld so long as the former member, its central bank or any of its agencies or instrumentalities 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 liability of the former member resulting from its subscription for shares in accordance with paragraphs 4, 5 and 7 of Article 6 of this Agreement. In any event, no amount due to a member for its shares shall be paid until six (6) months after the date upon which the member ceases to be a member;

(ii) payments for shares may be made from time to time, upon their surrender by the former member, to the extent by which the amount due as the repurchase price in accordance with paragraph 2 of this Article exceeds the aggregate amount of liabilities on loans, equity investments and guarantees in sub-paragraph (i) of this paragraph until the former member has received the full repurchase price;

(iii) payments shall be made on such conditions and in such fully convertible currencies, or ECU, and on such dates, as the Bank determines; and

(iv) if losses are sustained by the Bank on any guarantees, participations in loans, or loans which were outstanding on the date when the member ceased to be a member, or if a net loss is sustained by the Bank on equity investments held by it on such date, and the amount of such losses exceeds the amount of the reserves provided against losses on the date when the member ceased to be a member, such former member 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 under paragraph 4 of Article 6 of this Agreement, to the 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 41 of this Agreement within six (6) months of the date upon which any member ceases to be a member, all rights of such former member shall be determined in accordance with

the provisions of Articles 41 to 43 of this Agreement.

Article 40

TEMPORARY SUSPENSION OF OPERATIONS

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

Article 41

TERMINATION OF OPERATIONS

The Bank may terminate its operations by the affirmative vote of not less than two-thirds of the Governors, representing not less than three-fourths of the total voting power of the members. Upon such termination of operations the Bank shall forthwith cease all activities, except those incident to the orderly realization, conservation and preservation of its assets and settlement of its obligations.

Article 42

LIABILITY OF MEMBERS AND PAYMENT OF CLAIMS

1. In the event of termination of the operations of the Bank, the liability of all members for uncalled subscriptions to the capital stock of the Bank shall continue until all claims of creditors, including all contingent claims, shall have been discharged.

2. Creditors on ordinary operations holding direct claims shall be paid first out of the assets of the Bank, secondly out of the payments to be made to the Bank in respect of unpaid paid-in shares, and then out of payments to be made to the Bank in respect of callable capital stock. 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 holders of contingent claims.

Article 43

DISTRIBUTION OF ASSETS

1. No distribution under this Chapter shall be made to members on account of their subscriptions to the capital stock of the Bank until:

(i) all liabilities to creditors have been discharged or provided for; and

(ii) the Board of Governors has decided by a vote of not less than two-thirds of the Governors, representing not less than three-fourths of the total voting power of the members, to make a distribution.

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 of its obligations to the Bank.

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

CHAPTER VIII

STATUS, IMMUNITIES, PRIVILEGES AND EXEMPTIONS

Article 44

PURPOSES OF CHAPTER

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

Article 45

STATUS OF THE BANK

The Bank shall possess full legal personality and, in particular, the full legal capacity:

(i) to contract;

(ii) to acquire, and dispose of, immovable and movable property; and

(iii) to institute legal proceedings.

Article 46

POSITION OF THE BANK WITH REGARD TO JUDICIAL PROCESS

Actions may be brought against the Bank only in a court of competent jurisdiction in the territory of a country in which the Bank has an office, has appointed an agent for the purpose of accepting service or notice of process, or has issued or guaranteed securities. No actions shall, however, be brought by members or persons acting for or deriving claims from members. The property and assets of the Bank shall, wheresoever located and by whomsoever held, be immune from all forms of seizure, attachment or execution before the delivery of final judgment against the Bank.

Article 47

IMMUNITY OF ASSETS FROM SEIZURE

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 48

IMMUNITY OF ARCHIVES

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

Article 49

FREEDOM OF ASSETS FROM RESTRICTIONS

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

Article 50

PRIVILEGE FOR COMMUNICATIONS

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

Article 51

IMMUNITIES OF OFFICERS AND EMPLOYEES

All Governors, Directors, Alternates, officers and employees of the Bank and experts performing missions for the Bank shall be immune from legal process with respect to acts performed by them in their official capacity, except when the Bank waives this immunity, and shall enjoy inviolability of all their official papers and documents. This immunity shall not apply, however, to civil liability in the case of damage arising from a road traffic accident caused by any such Governor Director, Alternate, officer, employee or expert.

Article 52

PRIVILEGES OF OFFICERS AND EMPLOYEES

1. All Governors, Directors, Alternates, officers and employees of the Bank and experts of the Bank performing missions for the Bank:

(i) not being local nationals, shall be accorded the same immunities from immigration restrictions, alien registration requirements and national service obligations, and the same facilities as regards exchange regulations, as are accorded by members to the representatives, officials, and employees of comparable rank of other members; and

(ii) shall be granted the same treatment in respect of travelling facilities as is accorded by members to representatives, officials and employees of comparable rank of other members.

2. The spouses and immediate dependants of those Directors, Alternate

Directors, officers, employees and experts of the Bank who are resident in the country in which the principal office of the Bank is located shall be accorded opportunity to take employment in that country. The spouses and immediate dependants of those Directors, Alternate Directors, officers, employees and experts of the Bank who are resident in a country in which any agency or branch office of the Bank is located should, wherever possible, in accordance with the national law of that country, be accorded similar opportunity in that country. The Bank shall negotiate specific agreements implementing the provisions of this paragraph with the country in which the principal office of the Bank is located and, as appropriate, with the other countries concerned.

Article 53

EXEMPTION FROM TAXATION

1. Within the scope of its official activities the Bank, its assets, property, and income shall be exempt from all direct taxes.

2. When purchases or services of substantial value and necessary for the exercise of the official activities of the Bank are made or used by the Bank and when the price of such purchases or services includes taxes or duties, the member that has levied the taxes or duties shall, if they are identifiable, take appropriate measures to grant exemption from such taxes or duties or to provide for their reimbursement.

3. Goods imported by the Bank and necessary for the exercise of its official activities shall be exempt from all import duties and taxes, and from all import prohibitions and restrictions. Similarly goods exported by the Bank and necessary for the exercise of its official activities shall be exempt from all export duties and taxes, and from all export prohibitions and restrictions.

4. Goods acquired or imported and exempted under this Article shall not be sold, hired out, lent or given away against payment or free of charge, except in accordance with conditions laid down by the members which have granted exemptions or reimbursements.

5. The provisions of this Article shall not apply to taxes or duties which are no more than charges for public utility services.

6. Directors, Alternate Directors, officers and employees of the Bank shall be subject to an internal effective tax for the benefit of the Bank on salaries and emoluments paid by the Bank, subject to conditions to be laid down and rules to be adopted by the Board of Governors within a period of one year from the date of entry into force of this Agreement. From the date on which this tax is applied, such salaries and emoluments shall be exempt from national income tax. The members may, however, take into account the salaries and emoluments thus exempt when assessing the amount of tax to be applied to income from other sources.

7. Notwithstanding the provisions of paragraph 6 of this Article, a member may deposit, with its instrument of ratification, acceptance or approval, a declaration that such member retains for itself, its political subdivisions or its local authorities the right to tax salaries and emoluments paid by the Bank to citizens or nationals of such member. The Bank shall be exempt from any obligation for the payment, withholding or collection of such taxes. The Bank shall not make any reimbursement for such taxes.

8. Paragraph 6 of this Article shall not apply to pensions and annuities paid by the Bank.

9. No tax of any kind shall be levied on any obligation or security issued by the Bank, including any dividend or interest thereon, by whomsoever held:

(i) which discriminates against such obligation or security solely because it is issued by the Bank, or

(ii) if the sole jurisdictional basis for such taxation is the place or currency in which it is issued, made payable or paid, or the location of any office or place of business maintained by the Bank.

10. No tax of any kind shall be levied on any obligation or security guaranteed by the Bank, including any dividend or interest thereon, by whomsoever held:

(i) which discriminates against such obligation or security solely because it is guaranteed by the Bank, or

(ii) if the sole jurisdictional basis for such taxation is the location of any office or place of business maintained by the Bank.

Article 54

IMPLEMENTATION OF CHAPTER

Each member shall promptly take such action as is necessary for the purpose of implementing the provisions of this Chapter and shall inform the Bank of the detailed action which it has taken.

Article 55

WAIVER OF IMMUNITIES, PRIVILEGES AND EXEMPTIONS

The immunities, privileges and exemptions conferred under this Chapter are granted in the interest of the Bank. The Board of Directors may waive to such extent and upon such conditions as it may determine any of the immunities, privileges and exemptions conferred under this Chapter in cases where such action would, in its opinion, be appropriate in the best interests of the Bank. The President shall have the right and the duty to waive any immunity, privilege or exemption in respect of any officer, employee or expert of the Bank, other than the President or a Vice-President, where, in his or her opinion, the immunity, privilege or exemption would impede the course of justice and can be waived without prejudice to the interests of the Bank. In similar circumstances and under the same conditions, the Board of Directors shall have the right and the duty to waive any immunity, privilege or exemption in respect of the President and each Vice President.

CHAPTER IX

AMENDMENTS, INTERPRETATION, ARBITRATION

Article 56

AMENDMENTS

1. Any proposal to amend this Agreement, whether emanating from a member, a Governor or the Board of Directors, shall be communicated to the Chairman of the Board of Governors who shall bring the proposal before that Board. If the proposed

amendment is approved by the Board the Bank shall, by any rapid means of communication, ask all members whether they accept the proposed amendment. When not less than three-fourths of the members (including at least two countries from Central and Eastern Europe listed in Annex A), having not less than four-fifths of the total voting power of the members, have accepted the proposed amendment, the Bank shall certify that fact by formal communication addressed to all members.

2. Notwithstanding paragraph 1 of this Article:

(i) acceptance by all members shall be required in the case of any amendment modifying;

(a) the right to withdraw from the Bank;

(b) the rights pertaining to purchase of capital stock provided for in paragraph 3 of Article 5 of this Agreement;

(c) the limitations on liability provided for in paragraph 7 of Article 5 of this Agreement; and

(d) the purpose and functions of the Bank defined by Articles 1 and 2 of this Agreement;

(ii) acceptance by not less than three-fourths of the members having not less than eighty-five (85) percent of the total voting power of the members shall be required in the case of any amendment modifying paragraph 4 of Article 8 of this Agreement.

When the requirements for accepting any such proposed amendment have been met, the Bank shall certify that fact by formal communication addressed to all members.

3. Amendments shall enter into force for all members three (3) months after the date of the formal communication provided for in paragraphs 1 and 2 of this Article unless the Board of Governors specifies a different period.

Article 57

INTERPRETATION AND APPLICATION

1. Any question of interpretation or application of the provisions of this Agreement arising between any member and the Bank, or between any members of the Bank, shall be submitted to the Board of Directors for its decision. If there is no Director of its nationality in that Board, a member particularly affected by the question under consideration shall be entitled to direct representation in the meeting of the Board of Directors during such consideration. The representative of such member shall, however, have no vote. Such right of representation 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 58

ARBITRATION

If a disagreement should arise between the Bank and a member which has ceased to be a member, or between the Bank and any member after adoption of a decision to terminate the operations of the Bank, such disagreement shall be submitted to arbitration by a tribunal of three (3) arbitrators, one appointed by the Bank, another by the member or former member concerned, and the third, unless the parties otherwise agree, by 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. A majority vote of the arbitrators shall be sufficient to reach a decision which shall be final and binding upon the parties. The third arbitrator shall have full power to settle all questions of procedure in any case where the parties are in disagreement with respect thereto.

Article 59

APPROVAL DEEMED GIVEN

Whenever the approval or the acceptance of any member is required before any act may be done by the Bank, except under Article 56 of this Agreement, approval or acceptance shall be deemed to have been given unless the member presents an objection within such reasonable period as the Bank may fix in notifying the member of the proposed act.

CHAPTER X

FINAL PROVISIONS

Article 60

SIGNATURE AND DEPOSIT

1. This Agreement, deposited with the Government of the French Republic (hereinafter called "the Depository"), shall remain open until 31 December 1990 for signature by the prospective members whose names are set forth in Annex A to this Agreement.

2. The Depository shall communicate certified copies of this Agreement to all the Signatories.

Article 61

RATIFICATION, ACCEPTANCE OR APPROVAL

1. The Agreement shall be subject to ratification, acceptance or approval by the Signatories. Instruments of ratification, acceptance or approval shall, subject to paragraph 2 of this Article, be deposited with the Depository not later than 31 March 1991. The Depository shall duly notify the other Signatories of each deposit and the date thereof.

2. Any Signatory may become a party to this Agreement by depositing an instrument of ratification, acceptance or approval until one year after the date of its entry into force or, if necessary, until such later date as may be decided by a majority

of Governors, representing a majority of the total voting power of the members.

3. A Signatory whose instrument referred to in paragraph 1 of this Article is deposited before the date on which this Agreement enters into force shall become a member of the Bank on that date. Any other Signatory which complies with the provisions of the preceding paragraph shall become a member of the Bank on the date on which its instrument of ratification, acceptance or approval is deposited.

Article 62

ENTRY INTO FORCE

1. This Agreement shall enter into force when instruments of ratification, acceptance or approval have been deposited by Signatories whose initial subscriptions represent not less than two thirds of the total subscriptions set forth in Annex A including at least two countries from Central and Eastern Europe listed in Annex A.

2. If this Agreement has not entered into force by 31 March 1991, the Depository may convene a conference of interested prospective members to determine the future course of action and decide a new date by which instruments of ratification, acceptance or approval shall be deposited.

Article 63

INAUGURAL MEETING AND COMMENCEMENT OF OPERATIONS

1. As soon as this Agreement enters into force under Article 62 of this Agreement, each member shall appoint a Governor. The Depository shall call the first meeting of the Board of Governors within sixty (60) days of entry into force of this Agreement under Article 62 or as soon as possible thereafter.

2. At its first meeting, the Board of Governors:

(i) shall elect the President;

(ii) shall elect the Directors of the Bank in accordance with Article 26 of this Agreement;

(iii) shall make arrangements for determining the date of the commencement of the Bank's operations; and

(iv) shall make such other arrangements as appear to it necessary to prepare for the commencement of the Bank's operations.

3. The Bank shall notify its members of the date of commencement of its operations.

Done at Paris on 29 May 1990 in a single original, whose English, French, German and Russian texts are equally authentic, which shall be deposited in the archives of the Depository which shall transmit a duly certified copy to each of the other prospective members whose names are set forth in Annex A.

ANNEX A

INITIAL SUBSCRIPTIONS TO THE AUTHORIZED CAPITAL STOCK FOR PROSPECTIVE MEMBERS WHICH MAY BECOME MEMBERS IN ACCORDANCE WITH ARTICLE 61

	NUMBER OF SHARES	CAPITAL SUBSCRIPTION (in million Ecus)
A - European Communities		
a)		
Belgium	22 800	228.00
Denmark	12 000	120.00
France	85 175	851.75
Germany, Federal Republic of	85 175	851.75
Greece	6 500	65.00
Ireland	3 000	30.00
Italy	85 175	851.75
Luxembourg	2 000	20.00
Netherlands	24 800	248.00
Portugal	4 200	42.00
Spain	34 000	340.00
United Kingdom	85 175	851.75
b)		
European Economic Community	30 000	300.00
European Investment Bank	30 000	300.00
B - Other European Countries		
Austria	22 800	228.00
Cyprus	1 000	10.00
Finland	12 500	125.00
Iceland	1 000	10.00
Israel	6 500	65.00
Liechtenstein	200	2.00
Malta	100	1.00
Norway	12 500	125.00
Sweden	22 800	228.00
Switzerland	22 800	228.00
Turkey	11 500	115.00
C - Recipient countries		
Bulgaria	7 900	79.00
Czechoslovakia	12 800	128.00

	German Democratic Republic	15 500	155.00
	Hungary	7 900	79.00
	Poland	12 800	128.00
	Romania	4 800	48.00
	Union of Soviet Socialist Republics	60 000	600.00
	Yugoslavia	12 800	128.00
D -	Non-European Countries		
	Australia	10 000	100.00
	Canada	34 000	340.00
	Egypt	1 000	10.00
	Japan	85 175	851.75
	Korea, Republic of	6 500	65.00
	Mexico	3 000	30.00
	Morocco	1 000	10.00
	New Zealand	1 000	10.00
	United States of America	100 000	1000.00
E -	Non allocated shares		
	TOTAL	125	1.25
		1 000 000	10000.00

(*) Prospective members are listed under the above categories only for the purpose of this Agreement. Recipient countries are referred to elsewhere in this Agreement as Central and Eastern European countries.

ANNEX B

SECTION A - ELECTION OF DIRECTORS BY GOVERNORS REPRESENTING BELGIUM, DENMARK, FRANCE, THE FEDERAL REPUBLIC OF GERMANY, GREECE, IRELAND, ITALY, LUXEMBOURG, THE NETHERLANDS, PORTUGAL, SPAIN, THE UNITED KINGDOM, THE EUROPEAN ECONOMIC COMMUNITY AND THE EUROPEAN INVESTMENT BANK (HEREINAFTER REFERRED TO AS SECTION A GOVERNORS).

1. The provisions set out below in this Section shall apply exclusively to this Section.

2. Candidates for the office of Director shall be nominated by Section A Governors, provided that a Governor may nominate only one person. The election of Directors shall be by ballot of Section A Governors.

3. Each Governor eligible to vote shall cast for one person all of the votes to which the member appointing him or her is entitled under paragraphs 1 and 2 of Article 29 of this Agreement.

4. Subject to paragraph 10 of this Section, the 11 persons receiving the highest number of votes shall be Directors, except that no person who receives less than 4.5 per cent of the total of the votes which can be cast (eligible votes) in Section A shall be considered elected.

5. Subject to paragraph 10 of this Section, if 11 persons are not elected on the first ballot, a second ballot shall be held in which, unless there were no more than 11 candidates, the person who received the lowest number of votes in the first ballot shall be ineligible for election and in which there shall vote only:

(a) those Governors who voted in the first ballot for a person not elected; and

(b) those Governors whose votes for a person elected are deemed under paragraphs 6 and 7 below of this Section to have raised the votes cast for that person above 5.5 per cent of the eligible votes.

6. In determining whether the votes cast by a Governor are deemed to have raised the total votes cast for any person above 5.5 per cent of the eligible votes, the 5.5 per cent shall be deemed to include, first, the votes of the Governor casting the largest number of votes for such person, then the votes of the Governor casting the next largest number and so on, until 5.5 per cent is reached.

7. Any Governor, part of whose votes must be counted in order to raise the total of votes cast for any person above 4.5 per cent shall be considered as casting all of his or her votes for such person, even if the total votes for such person thereby exceed 5.5 per cent and shall not be eligible to vote in a further ballot.

8. Subject to paragraph 10 of this Section, if, after the second ballot, 11 persons have not been elected, further ballots shall be held in conformity with the principles and procedures laid down in this Section, until 11 persons have been elected, provided that, if at any stage 10 persons are elected, notwithstanding the provisions of paragraph 4 of this Section, the 11th may be elected by a simple majority of the remaining votes cast.

9. In the case of an increase or decrease in the number of Directors to be elected by Section A Governors, the minimum and maximum percentages specified in paragraphs 4, 5, 6 and 7 of this Section shall be appropriately adjusted by the Board of Governors.

10. So long as any Signatory, or group of Signatories, whose share of the total amount of capital subscriptions provided in Annex A is more than 2.4 per cent, has not deposited its instrument or their instruments of ratification, approval or acceptance, there shall be no election for one Director in respect of each such Signatory or group of Signatories. The Governor or Governors representing such a Signatory or group of Signatories shall elect a Director in respect of each Signatory or group of Signatories, immediately after the Signatory becomes a member or the group of Signatories become members. Such Director shall be deemed to have been elected by the Board of Governors at its inaugural meeting, in accordance with paragraph 3 of Article 26 of this Agreement, if he or she is elected during the period in which the first Board of Directors shall hold office.

SECTION B - ELECTION OF DIRECTORS BY GOVERNORS REPRESENTING OTHER COUNTRIES.

Section B (i) - Election of Directors by Governors representing those countries listed in Annex A as Central and Eastern European Countries (recipient countries) (hereinafter referred to as Section B (i) Governors).

1. The provisions set out below in this Section shall apply exclusively to this Section.

2. Candidates for the office of Director shall be nominated by Section B (i) Governors, provided that a Governor may nominate only one person. The election of Directors shall be by ballot of Section B (i) Governors.

3. Each Governor eligible to vote shall cast for one person all of the votes to which the member appointing him or her is entitled under paragraphs 1 and 2 of Article 29 of this Agreement.

4. Subject to paragraph 10 of this Section, the 4 persons receiving the highest number of votes shall be Directors, except that no person who receives less than 12 per cent of the total of the votes which can be cast (eligible votes) in Section B (i) shall be considered elected.

5. Subject to paragraph 10 of this Section, if 4 persons are not elected on the first ballot, a second ballot shall be held in which, unless there were no more than 4 candidates, the person who received the lowest number of votes in the first ballot shall be ineligible for election and in which there shall vote only:

(a) those Governors who voted in the first ballot for a person not elected; and

(b) those Governors whose votes for a person elected are deemed under paragraphs 6 and 7 below of this Section to have raised the votes cast for that person above 13 per cent of the eligible votes.

6. In determining whether the votes cast by a Governor are deemed to have raised the total votes cast for any person above 13 per cent of the eligible votes, the 13 per cent shall be deemed to include, first, the votes of the Governor casting the largest number of votes for such person, then the votes of the Governor casting the next largest number and so on, until 13 per cent is reached.

7. Any Governor, part of whose votes must be counted in order to raise the total of votes cast for any person above 12 per cent shall be considered as casting all of his or her votes for such person, even if the total votes for such person thereby exceed 13 per cent and shall not be eligible to vote in a further ballot.

8. Subject to paragraph 10 of this Section, if, after the second ballot, 4 persons have not been elected, further ballots shall be held in conformity with the principles and procedures laid down in this Section, until 4 persons have been elected, provided that, if at any stage 3 persons are elected, notwithstanding the provisions of paragraph 4 of this Section, the 4th may be elected by a simple majority of the remaining votes cast.

9. In the case of an increase or decrease in the number of Directors to be elected by Section B (i) Governors, the minimum and maximum percentages specified in paragraphs 4, 5, 6 and 7 of this Section shall be appropriately adjusted by the Board of Governors.

10. So long as any Signatory, or group of Signatories, whose share of the total amount of capital subscriptions provided in Annex A is more than 2.8 per cent, has not deposited its instrument or their instruments of ratification, approval or acceptance, there shall be no election for one Director in respect of each such Signatory or group of Signatories. The Governor or Governors representing such a Signatory or group of Signatories shall elect a Director in respect of each Signatory or group of Signatories, immediately after the Signatory becomes a member or the group of Signatories become members. Such Director shall be deemed to have been elected by the Board of Governors at its inaugural meeting, in accordance with paragraph 3 of Article 26 of this Agreement, if he or she is elected during the period in which the first Board of Directors shall hold office.

Section B (ii) - Election of Directors by Governors representing those countries listed in Annex A as other European countries (hereinafter referred to as Section B (ii) Governors).

1. The provisions set out below in this Section shall apply exclusively to this Section.

2. Candidates for the office of Director shall be nominated by Section B (ii)

Governors, provided that a Governor may nominate only one person. The election of Directors shall be by ballot of Section B (ii) Governors.

3. Each Governor eligible to vote shall cast for one person all of the votes to which the member appointing him or her is entitled under paragraphs 1 and 2 of Article 29 of this Agreement.

4. Subject to paragraph 10 of this Section, the 4 persons receiving the highest number of votes shall be Directors, except that no person who receives less than 20.5 per cent of the votes which can be cast (eligible votes) in Section B (ii) shall be considered elected.

5. Subject to paragraph 10 of this Section, if 4 persons are not elected on the first ballot, a second ballot shall be held in which, unless there were no more than 4 candidates, the person who received the lowest number of votes in the first ballot shall be ineligible for election and in which there shall vote only:

(a) those Governors who voted in the first ballot for a person not elected; and

(b) those Governors whose vote for a person elected are deemed under paragraphs 6 and 7 below of this Section to have raised the votes cast for that person above 21.5 per cent of the eligible votes.

6. In determining whether the votes cast by a Governor are deemed to have raised the total votes cast for any person above 21.5 per cent of the eligible votes, the 21.5 per cent shall be deemed to include, first, the votes of the Governor casting the largest number of votes for such person, then the votes of the Governor casting the next largest number and so on, until 21.5 per cent is reached.

7. Any Governor, part of whose votes must be counted in order to raise the total of votes cast for any person above 20.5 per cent shall be considered as casting all of his or her votes for such person, even if the total votes for such person thereby exceed 21.5 per cent and shall not be eligible to vote in a further ballot.

8. Subject to paragraph 10 of this Section, if, after the second ballot, 4 persons have not been elected, further ballots shall be held in conformity with the principles and procedures laid down in this Section, until 4 persons have been elected, provided that, if at any stage 3 persons are elected, notwithstanding the provisions of paragraph 4 of this Section, the 4th may be elected by a simple majority of the remaining votes cast.

9. In the case of an increase or decrease in the number of Directors to be elected by Section B (ii) Governors, the minimum and maximum percentages specified in paragraphs 4, 5, 6 and 7 of this Section shall be appropriately adjusted by the Board of Governors.

10. So long as any Signatory, or group of Signatories, whose share of the total amount of capital subscriptions provided in Annex A is more than 2.8 per cent, has not deposited its instrument or their instruments of ratification, approval or acceptance, there shall be no election for one Director in respect of each such Signatory or group of Signatories. The Governor or Governors representing such a Signatory or group of Signatories shall elect a Director in respect of each Signatory or group of Signatories, immediately after the Signatory becomes a member or the group of Signatories become members. Such Director shall be deemed to have been elected by the Board of Governors at its inaugural meeting, in accordance with paragraph 3 of Article 26 of this Agreement, if he or she is elected during the period in which the first Board of Directors shall hold office.

Section B(iii) - Election of Directors by Governors representing those countries

listed in Annex A as Non-European Countries (hereinafter referred to as Section B (iii) Governors).

1. The provisions set out below in this Section shall apply exclusively to this Section.

2. Candidates for the office of Director shall be nominated by Section B (iii) Governors, provided that a Governor may nominate only one person. The election of Directors shall be by ballot of Section B (iii) Governors.

3. Each Governor eligible to vote shall cast for one person all of the votes to which the member appointing him or her is entitled under paragraphs 1 and 2 of Article 29 of this Agreement.

4. Subject to paragraph 10 of this Section, the 4 persons receiving the highest number of votes shall be Directors, except that no person who receives less than 8 per cent of the total of the votes which can be cast (eligible votes) in Section B (iii) shall be considered elected.

5. Subject to paragraph 10 of this Section, if 4 persons are not elected on the first ballot, a second ballot shall be held in which, unless there were no more than 4 candidates, the person who received the lowest number of votes in the first ballot shall be ineligible for election and in which there shall vote only:

(a) those Governors who voted in the first ballot for a person not elected; and

(b) those Governors whose votes for a person elected are deemed under paragraphs 6 and 7 below of this Section to have raised the votes cast for that person above 9 per cent of the eligible votes.

6. In determining whether the votes cast by a Governor are deemed to have raised the total votes cast for any person above 9 per cent of the eligible votes, the 9 per cent shall be deemed to include, first, the votes of the Governor casting the largest number of votes for such person, then the votes of the Governor casting the next largest number and so on, until 9 per cent is reached.

7. Any Governor, part of whose votes must be counted in order to raise the total of votes cast for any person above 8 per cent shall be considered as casting all of his or her votes for such person, even if the total votes for such person thereby exceed 9 per cent and shall not be eligible to vote in a further ballot.

8. Subject to paragraph 10 of this Section, if, after the second ballot, 4 persons have not been elected, further ballots shall be held in conformity with the principles and procedures laid down in this Section, until 4 persons have been elected, provided that, if at any stage 3 persons are elected, notwithstanding the provisions of paragraph 4 of this Section, the 4th may be elected by a simple majority of the remaining votes cast.

9. In the case of an increase or decrease in the number of Directors to be elected by Section B (iii) Governors, the minimum and maximum percentages specified in paragraphs 4, 5, 6, and 7 of this Section shall be appropriately adjusted by the Board of Governors.

10. So long as any Signatory, or group of Signatories, whose share of the total amount of capital subscriptions provided in Annex A is more than 5 per cent, has not deposited its instrument or their instruments of ratification, approval or acceptance, there shall be no election for one Director in respect of each such Signatory or group of Signatories. The Governor or Governors representing such a Signatory or group of Signatories shall elect a Director in respect of each Signatory or group of

Signatories, immediately after the Signatory becomes a member or the group of Signatories become members. Such Director shall be deemed to have been elected by the Board of Governors at its inaugural meeting, in accordance with paragraph 3 of Article 26 of this Agreement, if he or she is elected during the period in which the first Board of Directors shall hold office.

SECTION C - ARRANGEMENTS FOR THE ELECTION OF DIRECTORS REPRESENTING COUNTRIES NOT LISTED IN ANNEX A.

If the Board of Governors decides, in accordance with paragraph 3 of Article 26 of this Agreement, to increase or decrease the size, or revise the composition, of the Board of Directors, in order to take into account changes in the number of members of the Bank, the Board of Governors shall first consider whether any amendments are required to this Annex, and may make any such amendments as it deems necessary as part of such decision.

SECTION D - ASSIGNMENT OF VOTES.

Any Governor who does not participate in voting for the election or whose vote does not contribute to the election of a Director under Section A or Section B (i) or Section B (ii) or Section B (iii) of this Annex may assign the votes to which he or she is entitled to an elected Director, provided that such Governor shall first have obtained the agreement of all those Governors who have elected that Director to such assignment.

A decision by any Governor not to participate in voting for the election of a Director shall not affect the calculation of the eligible votes to be made under Section A, Section B (i), Section B (ii) or Section B (iii) of this Annex.

To the Chairman of the Conference
on the Establishment of the
European Bank for
Reconstruction and Development

M. Chairman

As you know, the initiative of the President of France M. P. Mitterrand to establish the European Bank for Reconstruction and Development for the purpose of facilitating the transition of Central and Eastern European countries towards market-oriented economies has found understanding and support on behalf of the Soviet authorities. The Soviet delegation participated in the sessions of talks on drafting the constituent documents of the Bank. As a result the constituent countries have reached considerable progress in drawing up the Agreement establishing the European Bank for Reconstruction and Development.

At the same time, certain difficulties largely stem from fears of a number of countries that due to the size of its economy the Soviet Union may become the principal recipient of credits of the Bank and therefore will narrow its capacity to extend aid to other Central and Eastern European Countries.

In this connection, I would like to assure you dear Mr. Chairman, that the intentions of the Soviet Union to become an equal member of the Bank account primarily for its will to establish a new institution of multilateral co-operation so as to foster historical reforms on the European continent.

I would like to inform you that my government is prepared to limit its access to the Bank's resources, pursuant to paragraph 4 of Article 8 of the Articles of Agreement of the Bank, for a period of three years starting from the entry into force of the Articles of Agreement of the Bank.

During that period, the Soviet Union wishes that the Bank will provide technical assistance and other types of assistance directed to finance its private sector, to facilitate the transition of State-owned enterprises to private sector ownership and control and to help enterprises operating competitively and moving to participation in the market-oriented economy, subject to the proportion set forth in paragraph 3 of Article 11 of this Agreement. The total amount of any assistance thus provided by the Bank would not exceed the total amount of the cash disbursed and the promissory notes issued by the Soviet Union for its shares.

I am confident that continuing economic reforms in the Soviet Union will inevitably promote the expansion of the Bank's activities into the territory of the Soviet Union. However, the USSR, being interested in securing the multilateral character of the Bank, will not choose that at any time in future the Soviet borrowings will exceed an amount consistent with maintaining the necessary diversity in the bank's operations and prudent limits on its exposure.

Please accept, Mr. Chairman, the assurances of my highest consideration.

Head of Soviet Delegation
Chairman of the Board
of the State Bank of the U S S R
Victor V. Gerashcenko