ECONOMIC COMMISSION FOR AFRICA

Interim Secretariat of the Preferential Trade Area for Eastern and Southern Africa (PTA)

Meeting of Clearing and Payments Committee of the PTA for Eastern and Southern African States

Lusaka, Zambia, 1-5 November 1982

SECOND REVISED DRAFT CHARTER CONCERNING THE EASTERN AND SOUTHERN AFRICAN TRADE AND DEVELOPMENT BANK
Introduction

It will be recalled that at the Fourth Meeting of the Lusaka MULPOC Council of Ministers and the Second Extraordinary Meeting of Ministers of Trade, Finance and Planning it was agreed in principle to establish a Development Bank for the Eastern and Southern African subregion. The objectives of such a Bank should not be confined to promoting development only but should also include the financing of trade within the Preferential Trade Area. It was agreed to include these provisions in a new Charter of the Development Bank for Eastern and Southern African States.

The first draft of the Charter was considered by a meeting of officials from Ministries of Finance and Central Banks of the subregion held in Addis Ababa from 12-15 May 1981. The meeting made amendments to the Draft Charter but made it clear that the exercise was undertaken without committing their countries to the Draft Charter. Thereafter the Draft Charter was submitted through the Meeting of Officials from Eastern and Southern African States to the Resumed Session of the Enlarged Conference of Ministers of Trade, Finance and Planning of Eastern and Southern African States held in Addis Ababa from 18-21 May 1981. At this meeting the Ministers decided that the Bank study on which the Draft Charter was based should be undertaken again with new terms of reference. The Ministers therefore merely noted the Draft Charter and requested that a new Draft Charter be drafted when the new bank study was available. In order to complete the record, the first Draft Charter as revised by officials of Ministries of Finance and Central Banks of the subregion and noted by the Resumed Session of the Enlarged Conference of Ministers of Trade, Finance and Planning of Eastern and Southern African States. Since then the attached Second Revised Draft Charter, which is submitted for the consideration of the Clearing and Payments Committee of the PTA, has been prepared in the light of the Study on the Bank which is also to be considered by the Committee.
DRAFT CHARTER CONCERNING THE EASTERN AND SOUTHERN AFRICAN DEVELOPMENT BANK

IN EXERCISE of the powers conferred upon the Authority of the Preferential Trade Area for Eastern and Southern African States by Article 34 of the Treaty for the establishment of the Preferential Trade Area for Eastern and Southern African States, the following Charter of the Eastern and Southern African Trade and Development Bank is hereby prescribed.

ARTICLE 1

Interpretation

In this Charter:

"Authority" means the Authority of the Preferential Trade Area established by Article 6 of the Treaty;

"Bank" means the Eastern and Southern African Trade and Development Bank established by Article 32 of the Treaty;


"Member State" means a Member State of the Preferential Trade Area or such State as may become a member of the Bank in accordance with the provisions of Article 3 of this Charter;

"Preferential Trade Area" means the Preferential Trade Area for Eastern and Southern African States established by Article 2 of the Treaty;

"Treaty" means the Treaty for the establishment of the Preferential Trade Area;

ARTICLE 2

Establishment of the Bank

The Bank established by Article 32 of the Treaty shall operate in accordance with the provisions of this Charter.

ARTICLE 3

Membership of the Bank

The members of the Bank shall be the Member States of the Preferential Trade Area and such other States or such bodies corporate, enterprises or institutions which with the approval of the Board of Governors may become members of the Bank.
ARTICLE 4

Objectives and functions of the Bank

1. The objectives of the Bank shall be to:

(a) promote the general economic and social development of the Member States of the Bank;

(b) promote the investment within the Member States of public and private capital for development purposes;

(c) promote the establishment in the Member States of national development finance institutions;

(d) develop and stimulate trade among the Member States;

(e) support and supplement the activities of national financial institutions of the Member States which cater for the needs of exporters and export-oriented industries where they exist and to promote the establishment of such institutions where they do not exist;

(f) mobilize resources from domestic and external sources for the operations of the Bank.

2. For the purposes set out in paragraph 1 of this Article the Bank shall:

(a) finance projects and programmes relating to the economic and social development of the Member States giving special priority to:

(i) the financing of projects or programmes which by their nature or scope concern more than one Member State; and

(ii) the financing of projects or programmes designed to make the economies of the Member States increasingly complementary to each other;

(b) co-operate with other institutions and organizations, public or private, national or international which are interested in the social and economic development of the Member States;

(c) supplement the activities of the national development finance institutions of the Member States by providing lines of credits and technical assistance;

(d) strengthen the national development finance institutions of the Member States by participating in their equity and providing technical assistance to them;

(e) assist in project formulation, undertake pre-feasibility and feasibility studies and provide technical assistance for the preparation, financing and implementation of projects in the Member States;
(f) provide training in all fields of development banking for the benefit of the personnel of the national development finance institutions;

(g) provide financial assistance for the promotion of trade within the Member States by providing the necessary credits and the guarantees;

(h) grant loans to and invest in enterprises that would promote trade among the Member States;

(i) accept, discount, rediscount and endorse the trade bills of commercial, central and development banks and other national financial institutions of the Member States for the purpose of promoting trade among themselves;

(j) assist in the establishment of export development banks and export credit guarantee and insurance facilities within the Member States and participate in the equity capital of national export credit guarantee and insurance institutions and provide these institutions with technical assistance as necessary;

(k) assist enterprises in the Member States, particularly the small- and medium-sized enterprises engaged in export trade among the Member States, in the preparation of projects for financial assistance from the Bank;

(l) provide export credit guarantee facilities;

(m) issue guarantees such as bid bonds, advance payments guarantees, performance guarantees etc., to importers on behalf of exporters for the purpose of trade among the Member States;

(n) provide information on a regular basis to the export sector about export incentives and procedures and about prevailing export financing facilities;

(o) provide information on the credit standing of the buyers from the Member States;

(p) train personnel of national financial institutions of the Member States in the field of export financing;

(q) mobilize resources for the carrying out of the activities of the Bank; and

(r) undertake such other activities and provide such other services as may advance the purposes of the Bank.

ARTICLE 5

Authorized capital

1. The authorized capital stock of the Bank shall be US$800,000,000.

2. The authorized capital stock of the Bank shall be divided into 80,000 shares having a par value of US$10,000 each which shall be available for subscription only by members in accordance with the provisions of Article 6 of this Charter.
3. The original authorized capital stock of the Bank shall be divided into one-third paid-in shares and two-thirds callable shares.

ARTICLE 6

Subscription of shares

1. Each member of the Bank shall subscribe to shares of the capital stock of the Bank.

2. Each subscription to the original authorized capital stock of the Bank shall be for paid-in shares and callable shares in the ratio of 1:2.

3. The initial subscriptions of members to the authorized capital stock of the Bank shall be determined by the Bank but no subscription shall be authorized which would have the effect of reducing at any time, the percentage of capital stock held by the Member States below 51 per cent of the total subscribed capital stock.

4. If the authorized capital stock of the Bank is increased the following provisions shall apply:

   (a) subject to the provisions of this Article subscriptions to any increase of the authorized capital stock shall be subject to such terms and conditions as the Bank shall determine;

   (b) the Member States shall subscribe to the increased capital stock in accordance with the criteria laid down by the Board of Governors for making initial capital allocations;

   (c) each member, other than a Member State, shall be given a reasonable opportunity to subscribe to a proportion of the increase of stock equivalent to the proportion which its stock theretofore subscribed bears to the total subscribed capital stock immediately prior to such increase:

Provided that no such member shall be obliged to subscribe to any part of an increase of capital stock;

Provided further that the provisions of sub-paragraphs (b) and (c) of this paragraph shall not apply in respect of any increase or portion of an increase in the authorized capital stock which is intended solely to give effect to determinations of the Bank under paragraph 3 of this Article; and

Provided further that subscriptions shall be restricted proportionately to the extent necessary to ensure that at any time the percentage of capital stock held by the Member States remains not less than 51 per cent of the total subscribed capital stock.
5. Shares shall be issued at par unless the Bank, by a vote representing a majority of the total voting power of members, decides in special circumstances to issue them 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:

Provided that if any shares of stock which are transferred to the Bank are subsequently subscribed for by or otherwise transferred to the Member States, they shall take up such shares in proportions laid down by regulation by the Board of Governors.

7. The liability of the members on shares shall be limited to the unpaid portion of the issue price of the shares.

8. No member shall be liable, by reason of its membership of the Bank, for the obligations of the Bank.

ARTICLE 7

Payment of subscriptions

1. Payment of the amount subscribed to the paid-in capital stock of the Bank shall be made in four instalments. The first instalment shall be 10 per cent of the paid-in capital and shall be paid within thirty days of the entry into force of this Charter. The second instalment shall be paid within six months thereafter and the remainder in two yearly equal instalments.

2. The payment of each instalment of subscriptions by each of the Member States to the original paid-in capital stock shall be made as follows:

   (a) 50 per cent shall be paid in convertible currency; and

   (b) 50 per cent shall be paid in the currency of the Member State concerned.

3. Each instalment for the payment of subscriptions by members other than Member States, to the original paid-in capital stock shall be paid in convertible currency.

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

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

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

   (c) any other need or needs as the Board of Governors may deem fit.
5. In the event of a call being made in terms of paragraph 4 of this Article payment may be made as decided by the Bank in convertible currency or in the currency required to discharge the obligations of the Bank for the purposes of which the call is made. Calls on unpaid subscriptions shall be uniform in percentage on all callable shares.

6. The Bank shall determine the place for any payment of subscriptions; provided that, until the first meeting of its Board of Governors, the payment of the first instalment referred to in paragraph 1 of this Article shall be made to the Bank of _________ as Trustee for the Bank.

ARTICLE 8

Ordinary capital resources

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

(a) the authorized capital stock of the Bank including both paid-in and callable shares subscribed pursuant to the provisions of Article 6 of this Charter;

(b) funds raised by borrowing of the Bank by virtue of powers conferred by Article 20 of this Charter in respect of which calls may be made as provided for in paragraph 4 of Article 7 of this Charter;

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

(d) income derived from loans made from funds referred to in paragraphs (a), (b), and (c) of this Article or from guarantees or from insurance premiums received by the Bank; and

(e) any other funds or income received by the Bank which do not form part of its special funds referred to in Article 10 of this Charter.

ARTICLE 9

Trade Financing Fund

The Governors of the Bank shall establish a Trade Financing Fund of US$70,000,000 initially out of the ordinary capital stock of the Bank for the purpose of carrying out the provisions of Article 4 of this Charter relating to the trade financing operations of the Bank.

ARTICLE 9

Special Funds

1. The Bank may accept for administration from such sources as it considers appropriate, Special Funds which are designed to promote the objectives of the Bank.
2. Special Funds accepted by the Bank under paragraph 1 of this Article shall be used in such manner and upon such terms and conditions as are not inconsistent with the objectives of the Bank and the agreement under which such funds are accepted by the Bank for administration.

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

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

   (a) funds accepted by the bank in any Special Fund;
   (b) funds repaid in respect of loans or guarantees financed from any Special Fund which under the regulations of the Bank covering that Special Fund, are received by such Special Fund;
   (c) income derived from operations of the Bank by which any of the resources or funds referred to in sub-paragraphs (a) and (b) of this Article are used or committed if under the regulations of the Bank covering the Special Fund concerned, that income accrues to such Special Fund; and
   (d) any other resources at the disposal of any Special Fund.

ARTICLE 11
Use of resources

The resources and facilities of the Bank shall be used only within the Member States to implement the objectives of the Bank as set out in Article 4 of this Charter.

ARTICLE 12
Ordinary, trade financing and special operations

1. The operations of the Bank shall consist of ordinary operations, trade financing operations and special operations. Ordinary operations shall be those financed from the ordinary capital resources of the Bank referred to in Article 8 of this Charter; Trade Financing Operations shall be those financed from the Trade Financing Fund referred to in Article 9 of this Charter and Special Operations shall be those financed from the Special Funds referred to in Article 10 of this Charter.

2. The Ordinary Capital Resources, the Trade Financing Fund and the Special Funds of the Bank shall at all times and in all respects be held, used, committed, invested or otherwise disposed of entirely separately from each other.
3. (a) The ordinary capital resources shall not be charged with or used to discharge losses or liabilities arising out of trade financing operations or special operations of the Bank for which the Trade Financing Fund or Special Funds were originally used or committed.

(b) The Trade Financing Fund shall not be charged with or used to discharge losses or liabilities arising out of ordinary operations or special operations of the Bank for which ordinary capital resources or Special Funds were originally used or committed. The Special Funds shall not be charged with or used to discharge losses or liabilities arising out of ordinary operations or trade financing operations of the Bank for which ordinary capital resources or the Trade Financing Fund were originally used or committed.

4. Expenses relating directly to ordinary operations, trade financing operations and special operations shall be charged to ordinary capital resources, the Trade Financing Fund, and those relating to special operations and the Special Funds respectively. Any other expenses shall be charged as the Bank shall determine.

ARTICLE 13

Methods of operation

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

   (a) by making or participating in direct loans with its unimpaired paid-in capital and except in the case of its Special Reserve as defined in Article 19 of this Charter, with its reserves and undistributed surplus or with the unimpaired Special Funds;

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

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

   (d) by guaranteeing, in whole or in part, loans made by others for economic development or for the promotion of trade within the Preferential Trade Area.

2. The Bank may also provide re-financing and accept, endorse, discount re-discount the trade bills of the Member States. Further, it may provide export credit insurance and re-insurance of export credit organizations where they exist in the Member States.
ARTICLE 14

Provision of currencies for loans and other financial transactions

In making loans or in undertaking other financial transactions the Bank may provide finance in the following ways:

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

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

ARTICLE 15

Operating principles

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

(a) the Bank shall be guided by sound banking principles in its operations and shall finance only economically sound and technically feasible projects;

(b) in selecting projects, the Bank shall always be guided by the need to pursue the objectives set out in Article 4 of this Charter;

(c) subject to this Article, the Bank shall ensure a fair distribution of the benefits of its operations among the Member States;

Provided always that the Bank may give preference to programmes and projects in the territories of Lesotho and Swaziland by reason of their unique situation within the context of the Preferential Trade Area, and in the territories of the Comoros and Djibouti by reason of their special economic conditions;

(d) the Bank shall so conduct its operations as to earn a reasonable return on its capital;
(e) the operations of the Bank shall provide principally for the financing of specific projects within the Member States but may include loans or refinancing or guarantees of loans made to the national commercial, central and development banks and any other financial institutions and the national development and trade promotion agencies of the Member States;

(f) the Bank shall seek to maintain a reasonable diversification in its investments;

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

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

(i) before a loan is granted or guaranteed or an investment made, the application shall have submitted adequate proposal to the Bank, and the President of the Bank shall have presented to the Board of Directors a written report regarding the proposal, together with his recommendations;

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

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

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

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

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

(o) the Bank shall take all necessary measures to ensure that the proceeds of any loan made, guaranteed, or participated in by the Bank are used only for the purposes for which the loan was granted and with due attention to considerations of economy and efficiency; and
the Bank shall ensure that every loan contract entered into by it shall enable the Bank to exercise all necessary powers of entry, inspection and supervision of operations in connection with the project and shall further enable the Bank to require the borrower to provide information and to allow inspection of its books and records during such time as any part of the loan remains outstanding.

ARTICLE 16

Terms and conditions for direct loans and guarantees

1. In the case of direct loans made or participated in or loans guaranteed by the Bank, the contract shall establish in conformity with the operating principles set out in Article 15 of this Charter and subject to the other provisions of this Charter, the terms and conditions for the loan or the guarantee concerned, including payment of principal, interest, commitment fee and other charges, maturities and dates of payment in respect of the loan, or the fees and other charges in respect of the guarantee, respectively.

2. The contract shall provide that all payments to the Bank under the contract shall be made in the currency loaned or any convertible currency as may be determined by the Bank.

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

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

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

ARTICLE 17

Defaults on loans and methods of meeting liabilities of the Bank

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

2. Payments in discharge of the liabilities of the Bank on borrowing or guarantees chargeable to the ordinary capital resources shall be charged first against the Special Reserve and then, to the extent necessary and at the discretion of the Bank, against other reserves, surplus and capital available to the Bank.
3. Guarantees by the Bank shall also provide that the Bank may terminate its liability with respect to interest if upon default by the borrower or any other guarantor, the Bank offers to purchase, at par and interest accrued to a date designated in the offer, the bonds or other obligations guaranteed.

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

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

**ARTICLE 17**

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

3. Whenever necessary to meet contractual payments of interest, other charges or amortization on borrowings of the Bank in its ordinary operations, or to meet its liabilities with respect to similar payments in relation to loans guaranteed by it, chargeable to its ordinary capital resources, the Bank may call an appropriate amount of the uncalled subscribed callable capital in accordance with the provisions of paragraphs 4 and 5 of Article 7 of this Charter.

**ARTICLE 18**

**Commission and fees**

1. In addition to interest the Bank shall charge a commission on direct loans made and the discounting, re-discounting, acceptances and endorsements of bills undertaken as part of its ordinary operations at a rate to be determined by the Board of Directors and computed on the amount outstanding with respect to each such transaction.

2. In guaranteeing a loan and in discounting, re-discounting, accepting and endorsing trade bills as part of its ordinary operations, the Bank shall charge a fee at a rate determined by the Board of Directors payable periodically on the amount outstanding with respect to each transaction.
3. Other charges, including commitment fee, of the Bank in its ordinary operations and any commission, fees or other charges in relation to its special operations shall be determined by the Board of Directors:

Provided that such charges, commissions or fees shall be such that together with interest and other earnings shall enable the Bank to earn a reasonable return on its capital.

ARTICLE 19

Special Reserve

The amount of commission and guarantee fees received by the Bank under the provisions of Article 18 of this Charter shall be set aside as a Special Reserve which shall be kept for meeting liabilities of the Bank in accordance with the provisions of Article 20 of this Charter. The Special Reserve shall be held in such liquid form as the Board of Directors may decide.

ARTICLE 20

Borrowing and other additional powers of the Bank

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

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

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

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

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

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

(e) to charge for such technical advice and assistance as it may provide.
ARTICLE 21

Allocation of net income

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

2. Any distributions to members made in accordance with the provisions of paragraph 1 of this Article shall be in proportion to the number of shares held by each member and payments shall be made in such manner and in such currency as the Board of Governors shall determine.

ARTICLE 22

Notice to be placed on securities

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

ARTICLE 23

Currencies

1. Whenever it shall become necessary under this Charter to determine whether any currency is convertible, such determination shall be made by the Bank.

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

   (a) currencies received by the Bank in payment of subscriptions to its capital stock;

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

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

(e) currencies received from the Bank in the distribution of the net income of the Bank in accordance with the provisions of Article 21 of this Charter.

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

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

5. Each Member State shall ensure, in respect of projects within its territories, that the currencies necessary to enable payments to be made to the Bank in accordance with the provisions of the contracts referred to in Article 16 of this Charter shall be made available in exchange for the currency of the Member State concerned.

6. Whenever the par value of the currency of a Member State is reduced as against the unit of account or the foreign exchange value of the currency of a Member State has, in the opinion of the Bank, depreciated to a significant extent within the territory of that Member State, such Member State shall pay to the Bank within a reasonable time an additional amount of its own currency sufficient to maintain the value, as of the time of subscription, of the amount of the currency of such Member State paid into the Bank by that Member State under sub-paragraph (b) of paragraph 2 of Article 7 of this Charter, and the currency furnished under the provisions of this paragraph, provided however, that the foregoing shall apply only so long as and to the extent that such currency shall not have been initially disbursed or exchanged for another currency.

7. Whenever the par value of the currency of the Member State is increased as against the unit of account or the foreign exchange value of the currency of a Member State has, in the opinion of the Bank, appreciated to a significant extent within the territory of that Member State, the Bank shall return to such Member State within a reasonable time an amount of such currency to which the provisions of paragraph 6 of this Article are applicable.
ARTICLE 24

Organs of the Bank

The Bank shall have the following organs:

A Board of Governors;
A Board of Directors;
A President, and
such other officers and staff as it may consider necessary.

ARTICLE 25

Board of Governors - composition and functions

1. Each member of the Bank shall appoint one governor and one alternate who shall serve for three years, subject to termination of appointment at any time, or to re-appointment at the pleasure of the appointing member. No alternate may vote except in the absence of his principal. The Board of Governors shall select one of the Governors as Chairman, who shall hold office until the next regular meeting of the Board. The voting power of each governor shall be the same as the member appointing him.

2. All the powers of the Bank shall, subject to this Charter, be vested in the Board of Governors. The Board of Governors shall more particularly have the following functions and duties:

(a) to discuss and give guidance to the Board of Directors as appropriate with respect to:
   (i) the operations of the Bank;
   (ii) the Annual Report of the Bank; and
   (iii) any matters which the Board of Directors may refer to it.

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

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

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

(e) to take decisions on the admission of States other than the Member States of the Preferential Trade Area, and bodies corporate, enterprises or institutions in accordance with the provisions of Article 3 of this Charter;
(f) to take decisions on any increases in the authorized capital stock in accordance with the provisions of paragraph 4 of Article 6 of this Charter;

(g) the termination of the operations of the Bank in accordance with the provisions of Article 38 of this Charter.

3. With the exception of the powers set out in paragraph 2 of this Article, the Board of Governors may delegate its powers to the Board of Directors.

4. The Board of Governors shall retain full power to exercise authority over any matter delegated to the Board of Directors under paragraph 3 of this Article.

5. The Board of Governors shall determine its own procedure, including that for convening its meetings, for the conduct of business thereat and at other times, and for the rotation of the office of the Chairman among themselves.

ARTICLE 26

Board of Directors - composition and functions

1. The Board of Directors shall consist of not more than seven directors. Five of these directors and their alternates shall be appointed by the Member States and the remaining two and their alternates shall be elected by members other than the Member States.

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

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

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

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

4. An alternate director shall have full power to act for the director to whom he is an alternate, if such director is not present. An alternate director may participate in meetings of the Board of Directors but may vote only when he is acting in the place of and in the absence of the director to whom he is an alternate.
5. While the office of a director is vacant the alternate of the former director shall exercise the powers of that director.

6. Without prejudice to the powers of the Board of Governors as provided in Article 25 of this Charter, the Board of Directors shall be responsible for the conduct of the general operations of the Bank and for this purpose shall, in addition to the powers provided for it expressly in this Charter and the powers delegated to it by the Board of Governors, in particular:

(a) appoint the President and on his recommendation one or more Vice-Presidents of the Bank and determine their terms of service;

(b) appoint such technical or other sub-committees as it deems necessary;

(c) determine the organization and offices of the Bank and prescribe the responsibilities attached to the administrative and professional offices of the Bank;

(d) approve the budget of the Bank;

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

(f) in conformity with the general directives of the Board of Governors, take decisions concerning particular loans, guarantees, investment in equity capital and borrowing of funds by the Bank and on similar financial transactions;

(g) determine the rates of interest for loans; commissions and fees for guarantees and other financial transactions of a similar kind; and

(h) submit the accounts for each financial year and an annual report for approval to the Board of Governors.

ARTICLE 27

Procedure of the Board of Directors

1. The Board of Directors shall normally meet at the principal office of the Bank and shall meet at least once every three months or more frequently if the business of the Bank so requires. The Board of Directors shall lay down rules of procedure governing their meetings.

2. The President and in his absence the Vice-President shall be Chairman of the Board of Directors. Meetings of the Board shall be convened by the Chairman or in his absence, by the Vice-Chairman. Meetings other than regular meetings shall be so convened:

(a) whenever the Chairman or in his absence the Vice-Chairman deems it necessary or desirable or;
(b) whenever a two-thirds majority of the members of the Board of Directors so request.

3. The Chairman of the Board of Directors shall have no vote except a deciding or casting vote in the case of an equal division. Subject to this, he may participate in meetings of the Board of Directors.

4. A quorum for any meeting of the Board of Directors shall be a majority of the total number of directors representing not less than two-thirds of the voting rights of the Bank;

Provided that if within two hours of the time appointed for the holding of a meeting of the Board of Directors a quorum is not present the meeting shall automatically stand adjourned to the next day at the same time and place, or if that day is a public holiday or a Sunday to the next succeeding day which is not a public holiday or a Sunday at the same time and place, and if at such adjourned meeting a quorum is not present within two hours from the time appointed for the meeting, the directors present shall constitute a quorum and may transact the business for which the meeting was called.

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

ARTICLE 28

Voting

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

2. In voting in the Board of Directors —

(a) each director shall be entitled to cast the number of votes of those members of the Bank whom he represents, which votes need not be cast as a unit; and

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

the Board of Governors —

or shall be entitled to cast the number of Member State which appointed him; and which
(b) except as otherwise expressly provided in this Charter, all matters before the Board of Governors shall be decided by a majority of the voting power represented at the meeting.

ARTICLE 29

President of the Bank.

1. There shall be a President and one or more Vice-Presidents of the Bank. The President shall be a person of integrity and of the highest competence in matters pertaining to the activities, management and administration of the Bank. While holding office, neither the President nor a Vice-President shall be a governor or a director or alternate for either. Further, the President shall not perform any other duties or functions outside the Bank which in the opinion of the Board of Directors are incompatible with his office in the Bank.

2. Subject to the provisions of paragraph 4 of this Article, the President shall hold office for a term of five years. This term may be renewed unless the Board of Governors decides otherwise.

3. The President shall vacate his office if the Board of Directors so decides.

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

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

6. The President shall be the Chief Executive of the Bank and shall conduct under the direction of the Board of Directors the current business of the Bank. He shall be responsible for the organization, appointment and dismissal of the officers and staff in accordance with regulations prescribed by the Directors.

7. The President, the Vice-President or Vice-President or in his absence, the members of the staff of the Bank shall always be of the Member States.

8. In appointing officers and staff of the Bank to the paramount importance of securing the technical competence, pay due regard to the Member States.

9. A Vice-President or in his absence may be appointed by the President to perform the powers of the President in the event of the vacancy of the President.
10. Decisions of the Board of Directors concerning the appointment or termination of the term of office of the President shall be taken by a vote representing a two-thirds majority of the total voting power of the members of the Bank.

11. The President and officers and staff of the Bank, in the discharge of their offices, owe their duty entirely to the Bank and to no other authority. Each member of the Bank shall respect the international character of this duty and shall refrain from all attempts to influence the President or any of the officers and staff of the Bank in the performance of their functions.

ARTICLE 30

Prohibition of political activity

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

2. The Bank, its President and officers and staff shall not interfere in the political affairs of any Member State nor shall they be influenced in their decisions by the political character of a Member State. Only economic and financial considerations shall be relevant to their decisions and such considerations shall be weighed impartially to achieve and carry out the objectives and functions of the Bank as set out in Article 4 of this Charter.

ARTICLE 31

Principal office of the Bank

The principal office of the Bank shall be located at ____________ in the Republic/Kingdom of ____________ and the Bank may establish up to three regional offices at such other places within the Member States as the Board of Governors shall determine.

ARTICLE 32

Channels of communications and depositories

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

2. Each Member State shall designate its Central Bank, or such other agency as may be agreed upon with the Bank as a depository with which the Bank may keep its holdings of currency and other assets.
ARTICLE 33

Working languages

The working languages of the Bank shall be English, French and Portuguese.

ARTICLE 34

Accounts and reports

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

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

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

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

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

ARTICLE 35

Withdrawal of members

1. Any member of the Bank wishing to withdraw from the Bank shall give to the President one year's written notice of its intention to withdraw and at the end of such year shall, if such notice is not withdrawn cease to be a member of the Bank.

2. During the period of one year referred to in paragraph 1 of this Article, a member wishing to withdraw from the Bank shall nevertheless observe the provisions of this Charter and shall remain liable for the discharge of its obligations under this Charter.
ARTICLE 36

Suspension of membership

1. If a member of the Bank fails to fulfil any of its obligations to the Bank, the Board of Governors may suspend such member by a majority vote of the total number of Governors representing the majority of the total voting power of the Bank.

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

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

ARTICLE 37

Settlement of accounts

1. (a) For the purposes of this paragraph the words "the relevant date" shall mean in respect to any member either the date on which that member delivered a notice of withdrawal in accordance with the provisions of Article 35 of this Charter or, as the case may be, the date on which that member ceased to be a member in accordance with the provisions of Article 36 of this Charter.

(b) After the relevant date, a member shall remain liable for any balance required by the Bank to be paid by the member on account of the amount originally subscribed for its shares and for any calls made by the Bank pursuant to the provisions of paragraph 4 of Article 7 of this Charter in respect of the contingent liability of that member for any calls made by the Bank in respect of that member's shares after the relevant date to meet obligations of the Bank resulting from any loans, guarantees or obligations contracted by the Bank before the relevant date but such member shall not incur liability with respect to loans, guarantees or obligations entered into by the Bank after the relevant date nor shall it share either in the income or the expense of the Bank after the relevant date.

2. At the time a member ceases to be a member, the Bank may arrange for the repurchase of its shares as a part of the settlement of accounts with such member in accordance with the provisions of paragraphs 3 and 4 of this Article. For this purpose, the repurchase price of the shares shall be the amount certified by auditors of high repute selected by the Board of Governors on the date the member ceases to be a member.
3. The payment for shares repurchased by the Bank under this Article shall be governed by the following conditions:

(a) any amount due to the member concerned for its shares shall be withheld so long as that member remains liable immediately, in the future or contingently as a borrower or guarantor, to the Bank and such amount may, at the option of the Bank, be applied on any such liability as it matures. No amount shall be withheld on account of the contingent liability of the member for future calls on its subscription for shares in accordance with the provisions of paragraph 4 of Article 7 of this Charter. In any event, no amount due to a member for its shares shall be paid until twelve months after the date on which the member ceases to be a member;

(b) payments for shares may be made from time to time, upon their surrender by the member concerned, to the extent by which the amount due as the repurchase price in accordance with paragraph 2 of this Article exceeds the aggregate amount due immediately, in the future or contingently from such member as a borrower from or a guarantor to the Bank as referred to in sub-paragraph (a) of this paragraph, until the former member has received the full repurchase price;

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

(d) if losses are sustained by the Bank on any guarantees, loans insurance, reinsurance or other undertaking which were outstanding on the date when a member ceased to be a member and the amount of such losses exceeds the amount of any reserve specifically provided against such losses on that date, the member concerned shall repay, upon demand, the amount by which the repurchase price of its shares would have been reduced if the losses had been taken into account when the repurchase price was determined. In addition, the former member shall remain liable on any call for unpaid subscriptions in accordance with the provisions of paragraph 4 of Article 7 of this Charter, to the same extent that it would have been required to respond if the impairment of capital had occurred and the call had been made at the time the repurchase price of its shares was determined; and

(e) nothing herein contained shall render any member whether or not he shall cease to be a member, liable in his capacity as a member or former member of the Bank for any sum or sums in excess of the portion of the issue price of his shares for the time being unpaid.
4. If the Bank terminates its operations in accordance with the provisions of Article 38 of this Charter within twelve months of the date upon which any member ceases to be a member, all rights of the member concerned shall be determined in accordance with the provisions of Article 38, 39 and 40 of this Charter. Such member shall be considered as still a member for the purposes of such Articles but shall have no voting rights.

ARTICLE 38

Termination of operations

1. This Charter shall have indefinite duration.

2. Notwithstanding the provisions of paragraph 1 of this Article, the Bank may terminate its operations by resolution of the Board of Governors approved by a vote representing not less than 85 per cent of the total voting power of the members.

3. After the operations of the Bank have been terminated in accordance with the provisions of paragraph 2 of this Article, the Bank shall forthwith cease all activities, except those incidental to the orderly realization, conservation and preservation of its assets and the settlement of its obligations.

ARTICLE 39

Liability of members and payment of claims

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

2. All creditors holding direct claims shall first be paid out of the assets of the Bank and then out of payments to the Bank on unpaid or callable subscriptions. Before making any payments to creditors holding direct claims, the Board of Directors shall make such arrangements as are necessary, in its judgment, to ensure a pro rata distribution among holders of direct and contingent claims.

ARTICLE 40

Distribution of assets

1. No distribution of assets shall be made to members on account of their subscriptions to the capital stock of the Bank until all liabilities to creditors shall have been discharged or provided for and any such distribution shall be approved by the Board of Governors on the recommendations of the Board of Directors by a vote representing not less than 85 per cent of the total voting power of the members.
2. Any distribution of the assets of the Bank to the members shall be in proportion to the capital stock held by each member and shall be effected at such times and under such conditions as the Bank shall consider fair and equitable. The shares of assets distributed need not be uniform as to type of asset. 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.

ARTICLE 41
Judicial proceedings

1. Actions may be brought against the Bank in the territories of the Member States only in a court of competent jurisdiction in a Member State in which the Bank has an office, has appointed an agent for the purpose of accepting service or notice of process, or has issued guaranteed securities.

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

ARTICLE 42
Status, capacity, immunities and privileges

1. To enable the Bank to achieve its objectives and perform the functions with which it is entrusted, the status, capacity, privileges, immunities and exemptions set out in paragraphs 1 to 15 of this Article shall be accorded to the Bank in the territory of each Member State.

2. The Bank shall possess full juridical personality and, in particular, full capacity:

(a) to enter into contracts;
(b) to acquire and dispose of immovable or movable property; and
(c) to institute legal proceedings.
3. The Bank, its property and assets shall enjoy immunity from every form of legal process, except insofar as in any particular case it has, through the President, expressly waived its immunity; provided however that no waiver of immunity shall extend to any measure of execution.

4. The principal office of the Bank shall be inviolable. The property and assets of the Bank shall be immune from search, requisition, confiscation, expropriation, and any other form of interference whether by legislative, executive, judicial or administrative action.

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

6. The official communications of the Bank shall be accorded by each Member State the same treatment that it accords to the official communications of other Member States or international organizations including diplomatic missions.

7. (a) The Bank, its property, other assets, income and its operations and transactions, shall be exempt from all taxation and from all customs duties and prohibitions and restrictions on imports and exports in respect of articles imported or exported by the Bank for its official use. The Bank shall also be exempt from any obligation relating to the payment, withholding or collection of any tax or duty;

(b) No tax of any kind shall be levied on any obligations or securities issued by the Bank, including any dividend or interest thereon, by whomever held:

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

(ii) if the sole reason for the imposition of such a tax is the place or currency in which such obligations or security are issued, made payable or paid or the location of any office maintained by the Bank.

(c) No tax of any kind shall be levied on any obligations or securities guaranteed by the Bank, including any dividend or interest thereon, by whomever held:

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

(ii) if the sole reason for the imposition of such a tax is the location of any office maintained by the Bank.
8. All governors, directors, alternates, officers and staff other than those who are recruited locally and are assigned to hourly rates of the Bank (referred to in this Article as "officials of the Bank"), shall enjoy in the territories of the members of the Bank the following privileges and immunities:

(a) immunity from legal process in respect of words spoken or written and all acts performed by them in their official capacity; such immunity to continue notwithstanding that the persons concerned may have ceased to be officials of the Bank;

(b) immunity from personal arrest or detention;

(c) immunity from seizure of their personal and official baggage;

(d) exemption from taxation on the salaries and emoluments paid to them by the Bank;

(e) immunity from national service obligations;

(f) immunity, together with members of their families and their personal employees, from immigration restrictions and alien registration;

(g) the same privileges in respect of exchange facilities as are accorded to the officials of comparable rank forming part of diplomatic missions;

(h) the same repatriation facilities in time of international crisis, together with members of their families and their personal employees, as diplomatic envoys;

(i) exemption for officials of the Bank, other than nationals and permanent foreign residents of the Member States where the principal and regional offices of the Bank are located, from any form of direct taxation on income derived from sources outside such Member States and the freedom to maintain within such Member States or elsewhere, foreign securities and other movable and property, and whilst employed by the Bank in such Member States and at the time of termination of such employment, the right to take out of such Member States funds in currencies other than that of such Member States without any restrictions or limitations, provided that the said officials can show good cause for their lawful possession of such funds;
(j) the right to import, free of duty and other levies, prohibitions and restrictions on imports, their furniture and personal effects within twelve months after first taking up their post in the Member States where the principal and regional offices of the Bank are located; the same regulations shall apply for other than nationals and permanent foreign residents of such Member States in the case of importation, transfer and replacement of automobiles, as are in force for the resident members of diplomatic missions of comparable rank;

(k) the Government of the Member States where the principal and regional offices of the Bank are located undertake to provide each official of the Bank or expert attached to the Bank with a residential house or flat as appropriate. Such house or flat shall be of a similar standard and rent as the accommodation occupied by resident members of diplomatic missions of comparable rank in such Member States. The Governments of such Member States further undertake to pay one-third of the monthly rent payable for such house or flat provided by them as required under this sub-paragraph.

9. All officials of the Bank shall be provided with a special identify card certifying that they are officials of the Bank enjoying the privileges and immunities specified in this Charter.

10. (a) The Government of ............... shall accord to the President full diplomatic privileges and to such of his immediate assistants as may be agreed between the Bank and the Government.

(b) For this purpose the President and the immediate assistants referred to in sub-paragraph (a) of this paragraph shall be incorporated by the Ministry of Foreign Affairs of the Government of ............... into appropriate diplomatic categories and shall enjoy the customs and other privileges and immunities granted to resident members of diplomatic missions of comparable rank.

11. The Bank shall prevent its premises from becoming a refuge for fugitives from justice or for persons subject to extradition or persons avoiding service or legal process or judicial proceedings.

12. Without prejudice to the foregoing provisions, the Member States undertake to accord to all representatives of the Member States all officials of the Bank and experts providing advice or assistance to the Bank, such facilities and courtesies as are necessary for the exercise of their functions in connection with the Bank. All such persons shall more particularly, in pursuance of the provisions of this Charter, have the right of entry into, sojourn, or exit as is necessary for the purpose of performing their duties. They shall be granted facilities for speedy travel and visas, where required, shall be granted promptly and free of charge.
13. The President shall have the right and duty to waive the immunity of any official of the Bank in cases where in his opinion the immunity would impede the cause of justice and can be waived without prejudice to the interests of the Bank.

14. The Bank shall co-operate at all times with the appropriate authorities of the Member States to facilitate the proper administration of justice, secure the observance of national laws, and prevent the occurrence of any abuse in connection with the privileges, immunities and facilities mentioned in this Article.

ARTICLE 43

Amendment of the Charter

1. This Charter may be amended only by the Governors of the Bank by a two-thirds majority of the total voting power of the members of the Bank.

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

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

(a) the right of a member to withdraw from the Bank as provided in Article 35 of this Charter;

(b) the right to subscribe to capital stock of the Bank as provided in paragraph 4 of Article 6 of this Charter; and

(c) the limitation on liability as provided in paragraphs 7 and 8 of Article 6 of this Charter.

ARTICLE 44

Interpretation or application

Any question of interpretation or application of the provisions of this Charter arising between any member and the Bank or between two or more members of the Bank shall be submitted to the Board of Directors for decision.
ARTICLE 45

Settlement of disputes

1. If a dispute shall arise between the Bank and a member or between the Bank and a former member of the Bank, such dispute shall be submitted to arbitration by a tribunal of three arbitrators. One of the arbitrators shall be appointed by the Bank, one by the member or former member concerned and the third, unless the parties otherwise agree, by the Executive Secretary of the United Nations Economic Commission for Africa. The third arbitrator shall be empowered to settle all questions of procedure in any case where the parties fail to reach agreement with respect to the procedure to be adopted by them.

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

ARTICLE 46

Power to make regulations

Subject to the provisions of the Charter, the Board of Governors may make such regulations, including financial regulations and limits that may be imposed on the operations of the Bank, being consistent with the provisions of the Charter, as it considers necessary or appropriate to further the objectives and functions of the Bank.

ARTICLE 47

Final provisions

1. This Charter, of which the English, French and Portuguese texts are equally authentic, shall be deposited with the Executive Secretary of the United Nations Economic Commission for Africa.

2. This Charter shall enter into force at the same time as the Treaty for the establishment of the Preferential Trade Area for Eastern and Southern African States.

3. Any of the States, bodies corporate, enterprises and institutions referred to in Article 3 of this Charter which are desirous of becoming members of the Bank after the coming into force of this Charter shall do so by depositing its instruments of accession with the President of the Bank.

4. The President of the Bank shall transmit certified copies of this Charter and advice concerning acceptance, approval or accession to this Charter to the members of the Bank, the Secretariat of the Preferential Trade Area for Eastern and Southern African States, and to such other international organization as the Board of Governors shall determine.
ARTICLE 48

Commencement of operations

1. Upon the entry into force of this Charter each member shall appoint a Governor in accordance with the provisions of Article 25 of this Charter and the Executive Secretary of the United Nations Economic Commission for Africa shall call the first meeting of the Board of Governors of the Bank.

2. The meeting referred to in paragraph 1 of this Article shall:

   (a) elect the Chairman of the Board of Governors pursuant to the provisions of paragraph 1 of Article 25 of this Charter;

   (b) give such directions to the Board of Directors and other organs of the Bank as are necessary for the expeditious and effective implementation of the Charter.

3. Within two months of the entry into force of this Charter the members of the Bank shall appoint and elect as the case may be, the members of the Board of Directors. The Board of Directors shall within one months of its being constituted hold its first meeting and:

   (a) appoint the President of the Bank;

   (b) give all necessary directions to the President as to the implementation of this Charter; and

   (c) do all such other things as may be necessary for the expeditious and effective implementation of this Charter.