



**PROTOCOL ON THE  
AFRICAN INVESTMENT BANK**

## **Preamble**

### **The Member States of the African Union;**

**Considering** that the Constitutive Act of the African Union established the African Investment Bank in its article 19(c);

**Further considering** the Treaty establishing the African Economic Community, adopted in Abuja, Nigeria, in June 1991;

**Desiring** to address collectively the main economic development challenges facing African continent;

**Recalling** Assembly Decision AU/Dec.64(IV) on the location of the Headquarters of African Union institutions in the regions of the Continent, adopted in Abuja, Nigeria, in January 2005;

**Further recalling** Executive Council Decision Ex.CLIDec.329(10) on the establishment of the African Union Financial Institutions adopted in Addis-Ababa, Ethiopia, in January 2007;

**Considering** the General Convention on the privileges and immunities of the Organization of African Unity/African Union;

**Firmly convinced** that the attainment of the objectives of the African Union requires the establishment of the African Investment Bank.

### **HAVE AGREED AS FOLLOWS:**

#### **Article 1: Definitions**

In this Protocol unless otherwise specifically stated:

**“Act”** means the Constitutive Act of the Union;

**“Assembly”** means the Assembly of Heads of State and Government of the Union;

**“Bank”** means the African Investment Bank of the Union;

**“Commission”** means the African Union Commission;



**“Court”** means the African Court of Justice and Human Rights;

**“Executive Council”** means the Executive Council of Ministers of the Union;

**“General Assembly”** means the General Assembly of the Bank;

**“Member State”** means a Member State of the Union;

**“Protocol”** means this Protocol and the Statute annexed to it;

**“State Parties”** means the Member States that have ratified or acceded to this Protocol;

**“Union”** means the African Union established by the Act.

### **Article 2: Establishment of the Bank**

1. The Bank is hereby established in accordance with Article 19(c) of the Act.
2. The Bank shall be an Organ of the Union in accordance with Article 5 (i) of the Act.

### **Article 3: Purpose of the Bank**

The purpose of the Bank shall be to foster economic integration and development through investment in development projects in line with the objectives of the Union.

### **Article 4: Functions of the Bank**

1. The Bank shall function in accordance with the provisions of the Act, this Protocol, the Statute annexed to it and its rules of procedures. The functions of the Bank are:
  - a) Make financing available, in accordance with banking principles,
  - b) The financing of public and private projects intended to advance regional economic integration of State Parties;
  - c) Support the strengthening of private sector activities;
  - d) Assist in the modernization of rural sector in low-income State Parties.





2. The Bank shall also provide technical assistance to State Parties and other stakeholders, as may be needed, for the study, preparation and implementation of investment projects.
3. The Bank shall undertake other activities and the provision of such other services as may advance the purpose of the Bank.

#### **Article 5: Headquarters of the Bank**

1. The Headquarters of the Bank shall be in Tripoli, the Great Socialist People's Libyan Arab Jamahiriya.
2. There may be established such other offices or Branch Agencies of the Bank outside the Headquarters.

#### **Article 6: Working languages of the Bank**

The working languages of the Bank shall be those of the Union.

#### **Article 7: Dissolution**

1. By a resolution, the General Assembly of the Bank may recommend the dissolution of the Bank.
2. Upon the recommendation of the General Assembly, the Assembly may decide to dissolve the Bank and determine the terms and conditions of dissolution.
3. After such dissolution, the Bank shall forthwith cease all activities, except that incidental to the orderly realization, conservation and preservation of its assets and settlement of its obligations.

#### **Article 8: Interpretation**

The Court shall be seized with matters of interpretation arising from the application or implementation of this Protocol and the Statute annexed to it. Pending its establishment, such matters shall be submitted to the Assembly of the Union, which shall decide.





**Article 9: Signature, Ratification and Accession**

1. The present Protocol shall be open for signature, ratification or accession by Member States, in accordance with their respective constitutional procedures.
2. The instruments of ratification or accession to the present Protocol shall be deposited with the Chairperson of the Commission.

**Article 10: Entry into force**

1. The present Protocol and the Statute annexed to it shall enter into force thirty (30) days after the deposit of the fifteenth instrument of ratification.
2. For each Member State which shall ratify or accede to it subsequently, the Present Protocol and the Statute annexed to it shall enter into force on the date on which the instruments of ratification or accession are deposited with the Chairperson of the Commission.

**Article 11: Amendment and Revision**

1. This Protocol and the Statute annexed to it may be amended or revised by the decision of the Assembly.
2. Any member State Party to this Protocol or the Bank may propose, in writing to the Chairperson of the Commission, any amendment or revision of the Protocol.
3. The Chairperson of the Commission shall notify the proposal to all member States at least thirty (30) days before the meeting of the Assembly, which is to consider the proposal.
4. The Chairperson of the Commission shall request the opinion of the Bank on the proposal and shall transmit the opinion, if any, to the Assembly, which may adopt the proposal, taking into account the opinion of the Bank.
5. The amendment and revision shall enter into force in accordance with the provisions of the article 10.



**Article 12: Depository**

1. This Protocol and the Statute annexed to it, drawn up in four (4) original texts in the Arabic, English, French and Portuguese languages, all four (4) texts being equally authentic, shall be deposited with the Chairperson of the Commission who shall transmit a certified true copy to the Government of each Member State.
2. The Chairperson of the Commission shall notify Member States of the dates of deposit of the instruments of ratification or accession and shall upon the entry into force of this Protocol register the same with the Secretariat of the United Nations.

**ADOPTED BY THE TWELFTH ORDINARY SESSION OF THE  
ASSEMBLY, HELD IN ADDIS ABABA, ETHIOPIA,**

**4<sup>TH</sup> FEBRUARY 2009**

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## **STATUTE OF THE AFRICAN INVESTMENT BANK**



## CHAPTER I

### GENERAL PROVISIONS

#### Article 1 Definitions

In this Statute, except otherwise indicated, the following shall mean:

- “Act”** means the Constitutive Act of the African Union;
- “Assembly”** means the Assembly of Heads of State and Government of the African Union;
- “Bank”** means the African Investment Bank of the African Union;
- “Board”** means the Board of Directors of the Bank;
- “Commission”** means the Commission of the African Union;
- “Court”** means the African Court of Justice and Human Rights;
- “Diaspora”** means people of African origin living outside the continent, irrespective of their citizenship and nationality and who are willing to contribute to the development of the continent and the building of the African Union;
- “Executive Council”** means the Executive Council of Ministers of the African Union;
- “General Assembly”** means the General Assembly of the Bank;
- “General Convention”** means the General Convention on Privileges and Immunities of the African Union;
- “Investment Project”** means any public or private project that contributes to the integration or development of the Continent;
- “Low-Income Country”** means a country whose gross domestic product per capita was less than or equal to US\$765 in 1995;
- “Member State”** means a Member State of the African Union;
- “Members”** means State parties and natural and moral persons which subscribe to shares of the Bank;



- “President”** means the President of the Bank;
- “Protocol”** means the Protocol on the African Investment Bank;
- “Senior Officials”** means Vice-Presidents and category of Officials specify by the Bank;
- “Shareholders”** means State Parties and other entities that have subscribed to the shares of the Bank;
- “State Parties”** means the Member States that have ratified or acceded to the Protocol;
- “Statute”** means this Statute;
- “Subscription”** means the amount of shares held by a Member State;
- “Union”** means the African Union established by the Act;
- “Vice President”** means an Executive Vice President of the Bank.

## **Article 2 Establishment of the Bank**

1. The Bank is hereby established in accordance with Article 19 (c) of the Act.
2. The Bank shall be an Organ of the Union in accordance with Article 5 (i) of the Act.

## **Article 3 Purpose of the Bank**

The purpose of the Bank shall be to foster economic integration and development through investment in development projects in line with the objectives of the Union.

## **Article 4 Functions of the Bank**

1. The Bank shall function in accordance with the provisions of the Act, the Protocol, this Statute and its rules of procedure. The functions of the Bank are:
  - a) Make financing available, in accordance with banking principles;
  - b) The financing of public and private projects intended to advance regional economic integration of State Parties;



- c) Support the strengthening of private sector activities;
  - d) Assist in the modernization of rural sector in low-income State Parties.
2. The Bank shall also provide technical assistance to State Parties and other potential beneficiaries, as may be needed, for the study, preparation, and implementation of investment projects.
  3. The Bank shall undertake other activities and the provision of such other services as may advance the purpose of the Bank.

### **Article 5**

#### **Headquarters of the Bank**

1. The Bank shall be based in the City of Tripoli, in the Great Socialist People's Libyan Arab Jamahiriya.
2. The Headquarters is for the official use of the Bank. The President of the Bank may authorize the holding of meetings or social functions at the Headquarters or other offices of the Bank when such meetings or functions are closely linked or are compatible with the objectives of the Bank.
3. The Bank may establish, as may be needed, offices or Branch Agencies of the Bank outside the Headquarters.

## **CHAPTER II**

### **MEMBERSHIP**

#### **Article 6**

#### **Membership**

1. All Member States of the African Union who are parties to the Protocol are Members of the Bank.
2. Membership in the Bank shall also be open to:
  - a) Public financial institutions or enterprises of State Parties;
  - b) Nationals of a State Party, legal entities registered in a State Party with fifty-one percent (51%) of the capital owned by nationals of a State Party, and the Diaspora.
  - c) Financial Institutions of the Regional Economic Communities.





**CHAPTER III**  
**CAPITAL AND RESOURCES OF THE BANK**

**Article 7**  
**Authorized Capital Stock**

**Section 1: Initial Capital Stock**

1. The authorized initial capital stock of the Bank shall be in the amount of twenty five billion dollars (US\$25,000,000,000) and shall be divided into two million five hundred thousand (2,500,000) shares having a par value of ten thousand dollars (\$10,000) each.
2. The authorized capital stock shall be divided into paid-in shares and callable shares. The initial total aggregate par value of paid-in shares shall be four billion dollars (\$4,000,000,000), and twenty one billion dollars (\$21,000,000,000) shall be callable.
3. The General Assembly shall determine the proportion of authorized capital stock in paid-in shares and callable shares from time to time. It may also increase the capital stock of the Bank, at such time and under such terms and conditions, as it may determine.

**Section 2: Subscription of Shares**

1. A Member States subscription to shares shall be determined based on a composite index of economic and demographic variables to be determined by the General Assembly.
2. The authorized capital stock of the Bank shall be available for entire subscription by States Parties and other entities as referred to under Article 6.
3. Shares of the Bank shall be divided into two (2) categories as follows:
  - a) "A" shares, being shares to be subscribed by States Parties, shall represent at least seventy-five percent (75%) of total capital stock.
  - b) "B" shares shall represent, at the most, twenty-five percent (25%) of total capital and shall be held by other members as referred to under Article 6(2) and 6(3).



4. Each member shall subscribe to shares of the authorized capital stock of the Bank. The number of "A" shares to be subscribed by the members shall be those set forth in this Statute, which specifies the obligation of each member as to both paid-in and callable capital. The number of "B" shares to be subscribed by other members shall be determined by the General Assembly.
5. In case of an increase in the authorized capital stock, that increase shall be in the form of callable capital. Each member shall have a reasonable opportunity to subscribe, under such uniform terms and conditions as the General Assembly 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 obligated to subscribe to any part of an increase of the authorized capital stock.
6. The General Assembly shall determine the date for the end of subscriptions. The share of a shareholder in the subscribed capital may not be pledged or attached in any way. Members may dispose of their shares by transferring them to another member holding the same kind of shares or to a third party eligible under Article 6 of this Statute or to the Bank. However, "A" shares shall only be transferred to "A" shareholders.
7. At the date set for the end of the first round of subscription of shares, the shares not subscribed shall be available to all the members, each member in its category, for a second round of subscription. At the end of the process, the remaining "B" shares may also be subscribed, if need be, by State Parties.
8. The General Assembly may, at the request of a member, increase the subscription of such member, or allocate shares to that member within the authorized capital stock which is not taken up by other members.

**Section 2A: Subscription of "A" Shares**

Each State Party shall subscribe to the "A" shares in accordance with the provisions outlined in Article 7 Section 2(1) from the date of deposit of its instrument of ratification or accession.

**Section 2B: Subscription of "B" Shares**

1. Entities as referred under Article 6(2) eligible for membership shall subscribe to "B" shares. However, no such subscription shall be authorized which has the effect of reducing below seventy-five percent (75%) the percentage of "A" shares in the total subscribed ordinary capital stock held by State Parties.





2. Entities as referred under Article 6(2) which become members of the Bank after it starts its activities shall subscribe to the "B" shares as shall be determined by the General Assembly at the time of their subscription.

### **Section 3: Voting Rights**

1. Voting rights will be determined proportionally according to the allocated quota paid-in subscription to each Member.
2. The application of voting rights pertaining to decisions of the General Assembly and the Board of Directors shall be defined in an Annex to this Statute.

### **Section 4: Payments of Subscriptions**

1. All payment obligations of a member in respect of subscription to shares in the initial capital stock shall be settled in United States dollars.
2. Payment of the subscriptions to the callable capital stock of the Bank shall be subject to call only as and when required by the Bank to meet its liabilities.
3. In the event of a call referred to in paragraph 2 of this Section, payment shall be made in United States dollars. However, based on international economic and financial conditions the General Assembly may, on the proposal of the Board, adopt any other currency.
4. Payment of the paid-in shares of the amount initially subscribed to by each member, as provided by Article 7 of this Statute, may be made in full or in four (4) installments of twenty five percent (25%) each of such amount.
5. The first installment shall be paid by each member within sixty (60) days after the day of entry in force of the Protocol and the Statute, or after the date of deposit of its instrument of accession or approval in accordance with the provisions of Article 10 of the Protocol, if the latter is later than the date of entry into force. The remaining three (3) installments shall become due successively one year from the date on which the preceding installment became due.
6. Fifty percent (50%) of the payment of each installment pursuant to paragraph 4 of this Section or by a newly admitted member may be made in promissory notes or other obligations issued by such member and denominated in United States dollar, to be drawn down as and when the Bank needs funds for its operations. Such notes or obligations shall be non-negotiable, non-interest-bearing and payable to the Bank upon demand.





7. The Bank shall determine the place for any payment under this Article not later than thirty (30) days after the inaugural meeting of its General Assembly, provided that, before such determination, the payment of the first installment referred to in paragraph 5 of this Section shall be made transitly to the Central Bank of Libya, pending the establishment of the African Central Bank.
8. Members who fail to make payments on their callable capital or a portion of therefore, within the stipulated timeframe to be determined by the General Assembly, shall relinquish their subscribed shares or a portion thereof and the corresponding proportional voting rights. These shares that have been relinquished shall be offered for purchase by other members and approved by the Board of Directors.
9. The liability of members on the capital shares shall be limited to the unpaid portion of their issue price. No shareholder shall be liable, by reason of its membership, for obligations of the Bank.
10. If a member fails, for reasons other than international or regional economic circumstances, to meet the obligations of membership arising from this Statute, in particular the obligation to pay its share of the subscribed capital, or to service its borrowings, the granting of loans or guarantees to that member or to investors of the concerned State Party may be suspended by a decision of the General Assembly.

### **Article 8** **Ordinary Capital Resources**

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

- a) Authorized capital stock of the Bank, including both paid-in and callable shares subscribed to;
- b) Funds raised by borrowings of the Bank;
- c) Funds received in repayment of loans or guarantees and proceeds from the disposal of equity investment made with the resources indicated in paragraphs a) and b).
- d) Income derived from loans and equity investment made from the resources indicated in above-mentioned paragraphs a) and b), and income derived from guarantees and underwriting not forming part of the operations of the Bank in low-income countries.



**Article 9**  
**Fund for Operations in Low-Income Countries**

1. A Fund for operations in low-income countries (hereinafter called "Special Fund") shall be established for the making of loans and the issuance of guarantees on terms and conditions appropriate for investment projects in the concerned countries.
2. The Special Fund shall have the purpose and functions set forth in Articles 3 and 4 of this Statute.
3. The resources of the Special Fund shall come from but not limited to the followings:
  - a) Special contributions of State Parties;
  - b) Voluntary contributions from State parties and other entities;
  - c) Funds accepted by the Bank from international donor communities;
  - d) Resources raised through borrowings of the Bank;
  - e) Funds repaid in respect of loans made or guarantees issued, and the proceeds of equity investments, financed from the Special Fund own resources;
  - f) Income derived from investment of Special Fund resources;
  - g) Net income from ordinary capital operations.
4. The administration of the Special Fund shall be entrusted to the Bank in conformity with the management modalities of this Fund as provided by the General Assembly.

**Article 10**  
**Other Resources**

1. The Bank may accept the administration of any other funds designed to serve the purpose and that fall within the objectives of the Bank. The full cost of administering any such of fund shall be charged to that fund.
2. Funds accepted by the Bank may be used 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 Statute, and with the agreements relating to such funds.





## CHAPTER IV

### OPERATIONS

#### Article 11 Operations of the Bank

##### **Section 1: General Provisions**

1. The Bank shall have the power to borrow, invest funds, and/or deposit funds, not needed for its immediate operations, in national and/or regional capital markets, after consultation with the authorities of concerned State Parties and/or Regional Economic Communities.
2. The Bank is authorized to borrow and invest in the international financial market. However, these investments shall be made in conformity with the rules and regulations provided by the General Assembly.
3. The Bank shall enjoy decision-making independence regarding its management, governance and control structures.
4. The Bank shall be financially autonomous, and consequently, shall operate on a broadly self-financing basis.
5. The Bank shall monitor its financial operations and those of its partners to ensure compliance with the principles of integrity and transparency. The same principles shall also apply to the origin and destination of capital for all financial transactions in which the Bank operates. The governing structure of the Bank shall monitor the effective implementation of this provision.

##### **Section 2: Separation of Operations**

1. The operations of the Bank shall consist of ordinary operations and special operations.
2. Ordinary operations shall be those financed from the Ordinary Capital resources of the Bank. Special operations shall be those financed from the Special Fund resources.
3. 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 separate from each other. The financial statements of the Bank shall show the ordinary operations and special operations separately.





4. 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.
5. Expenses relating directly to ordinary operations shall be charged to the ordinary capital resources of the Bank. Expenses relating directly to special operations shall be charged to the Special Funds resources. Any other expenses shall be charged, as the Bank shall determine.

### **Section 3: Limitation on Ordinary Operations**

1. The total amount of outstanding loans commitments, equity investments and guarantees made by the Bank on its ordinary operations shall not be increased at any time, if by such increase the total amount of its impaired subscribed capital, reserves and surpluses included in its ordinary capital resources would be exceeded.
2. The gross amount of borrowings outstanding shall not exceed the sum of callable capital of its members, paid-in capital, and reserves including surplus and special reserve.
3. The amount of any equity investment shall not normally exceed such percentage of the equity capital of the enterprise concerned as shall be approved by the Board. 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 of any of its investments, actual or threatened insolvency of the enterprise in which such investment shall have been made.

### **Section 4: Recipients and Method of Operation**

Subject to the conditions stipulated in this Statute, the Bank may provide or facilitate financing to any State Party or any African entity/enterprise operating in the territory of a State Party, as well as to regional agencies or entities concerned with the economic integration of Africa.



### **Section 5: Currencies**

1. The official currency of the Bank shall comprise of a basket of currencies that represent a "unit of account" taking into account the AfDB unit of account and the IMF Special Drawing Rights (SDR). When determining and/or reviewing the unit of account, such determination shall strive to protect the value of the capital stock of the Bank.
2. The General Assembly may review the formula of that unit of account periodically.
3. Whenever it shall become necessary under this statute to determine whether any currency is fully convertible, such determination shall be made by the Bank taking into account the paramount need to preserve its own financial interests.
4. State Parties shall not impose any restrictions on the receipt, holding, use or transfer by the Bank of the following:
  - a) Currencies received by the Bank in payment of subscriptions to its capital stock;
  - b) Currencies obtained by the Bank from borrowing;
  - c) Currencies and other resources administered by the Bank as contribution to the Special Fund (for operations in low-income countries) and
  - d) Currencies received by the Bank in payment on account of principal interest, dividends or other charges in respect of loans or investments.

### **Section 6: Areas of Cooperation**

1. In carrying out its functions, the Bank shall dedicate necessary resources to building partnerships aimed at improving the effectiveness of its operations.
2. Within the African continent, the Bank shall maintain working ties with shareholders, civil society organizations and the other Union Organs in pursuit of its purpose. It shall develop partnerships with commercial banks and shall coordinate its operations with regional and continental institutions that finance development projects across Africa, while preserving its autonomy and its own decision-making procedures.
3. In pursuance of its objectives, the Bank shall closely cooperate with international financial institutions and such cooperation shall strive to ensure synergy and partnership.





## Article 12 Allocation of Income

1. The General Assembly shall, after making provision for reserves, determine annually what part of the net income of the Bank shall be allocated to the Special Fund and what part, if any, shall be distributed.
2. The distribution referred to in the preceding paragraph shall be made in proportion to the number of shares held by each member.
3. Payments shall be made in United States dollars or such other currencies as the General Assembly may determine.

## CHAPTER V GOVERNANCE AND MANAGEMENT

### Article 13 Governance Structure of the Bank

The governance structure of the Bank shall consist of a General Assembly, a Board of Directors and a President.

#### **Section 1: General Assembly**

1. The General Assembly shall consist of the shareholders or their representatives.
2. The General Assembly shall, *inter alia*:
  - a) Decide on the number of directors and determine the composition of the Board and shall be reflective of the voting rights, the details of which are outlined in an annex hereto.
  - b) Elect and suspend the members of the Board and decide on the conditions of their admission to the Board;
  - c) Appoint, suspend or remove the President of the Bank from office, on the recommendation of the Board;
  - d) Adopt its own rules of procedure, the rules of procedure of the Board as well as the code of conduct of the Bank;
  - e) Propose for adoption by the Assembly, the Statute and the Staff Rules and Regulations of the Bank;
  - f) Propose for adoption by the Assembly, amendments to the Protocol and the Statute





- g) Decide on the admission of new members and conditions of this admission, as provided in Article 5 of this Statute;
  - h) Decide to increase or reduce the authorized capital stock;
  - i) Approve the structure of the Bank;
  - j) Determine the terms of loans of the Bank;
  - k) Appoint auditors and decide on their mandate and their remuneration;
  - l) Adopt the annual report of the Board and the annual report of the Bank;
  - m) Approve the annual financial statements of the Bank, after taking cognizance of the auditors' report;
  - n) Authorize the conclusion of general agreements of cooperation;
  - o) Consider solvency of the Bank and, if necessary, propose to the Assembly the liquidation of the Bank;
  - p) Determine the number of Executive Vice-Presidents;
  - q) Determine the date of commencement of operations of the Bank.
3. The General Assembly may delegate to the Board, all or part of its powers as may be considered necessary, with the exception of those listed in paragraph 2 of this Section.
  4. The decisions of the General Assembly shall be taken by a double majority of shares and shareholders. In the event of a tie, the majority of shares shall prevail. The Rules of Procedure of the General Assembly shall determine the modalities for the application of this provision.

## **Section 2: Board of Directors**

1. Members of the Board shall be non-resident. Nevertheless, if required by the activities of the Bank, the General Assembly may decide to grant the resident status to them.
2. Three quarters of the members of the Board shall be members having subscribed to category "A" shares. All members of the Board shall be persons possessing high competence and experience in economic, financial and banking affairs.
3. Members of the Board and their respective alternates shall be appointed for a term of three years renewable once, on a rotational basis according to regional distribution as defined by the AU relevant decisions.
4. The Board shall elect a Chairperson from among its members for a term of one year, which is renewable.
5. The Board shall, *inter alia*:
  - a) Prepare the sessions of the General Assembly;



- b) Appoint, suspend or remove the Vice-President(s) on the recommendation of the President of the Bank;
  - c) Take the decisions concerning loans, guarantees, investments in equity capital, borrowing, management and other operations by the Bank;
  - d) Determine the rates of interest for direct loans and of commissions for guarantees;
  - e) Submit the accounts for each financial year and an annual report for approval to the General Assembly at each annual session; and
  - f) Approve the annual budgets of the Bank.
- 6 The Board shall establish an Audit Committee, and other Committees as may be necessary to perform its functions.
  7. The Board may delegate to the President, all or part of its powers as may be considered necessary, with the exception of those listed in paragraph 4 of this Section.
  8. The decisions of the Board shall be taken by a simple majority of members present and voting. In the event of a tie, the chairman shall cast the prevailing vote. The Rules of Procedure of the Board shall determine the modalities for the application of this provision.

### **Section 3: President of the Bank**

1. The Bank shall be directed and managed by a President who shall be assisted in his/her functions by Vice-Presidents, senior officials and professional, technical and administrative staff. He/she shall be the Chief Executive and the Legal Representative of the Bank.
2. Under the supervision of the General Assembly and the control of the Board , the President shall, among others:
  - a) recruit and appoint staff of the Bank bearing in mind the dominant concern of providing the Bank with the services of persons with the highest qualities of productivity, technical competence and integrity, while ensuring that the principles of quota, gender parity and equitable geographical distribution are respected, in conformity with the relevant legal instruments of the Union;
  - b) remove staff of the Bank for any reasons specified in the rules and regulations of the Bank's staff;
  - c) ensure the strict application of this Statute, and the conventions and decisions of the General Assembly and of the Board;





- d) sign agreements or conventions committing the Bank, after their approval by the Board;
  - e) ensure the day to day management of the Bank;
  - f) prepare the operational budget and the annual budget of the Bank;
  - g) prepare the Code of Conduct of the Bank;
  - h) be responsible for the secretariat of the Board.
3. The President shall be elected by the General Assembly for a term of five (5) years renewable once. He/she shall be a national of a State Party. The President shall be a woman or a man selected among personalities with all the assurances of integrity and competence in the economic, financial, banking or legal domains.
  4. The President may delegate some of his/her powers to his/her Vice-President(s).

#### **Article 14**

#### **Provisional Structure of the Bank**

For the launching of its activities, the Bank shall be endowed with a provisional structure approved by the Executive Council.

#### **Article 15**

#### **Incompatibilities and Obligations**

1. In the performance of their duties, the President and other Staff of the Bank shall not seek or receive instructions from any government or from any authority other than the Bank. They shall refrain from any action which may reflect adversely on their position as international officials responsible only to the Bank.
2. Each member shall undertake to respect the exclusive character of the responsibilities of the President and the other staff of the Bank. They shall not influence or seek to influence them in the discharge of their responsibilities.
3. The President and the other staff of the Bank shall not, in the discharge of their duties, engage in any other occupation, whether gainful or not. They shall respect the obligations arising there from, and in particular their duty to behave with integrity and discretion and to regulate their conduct with only the interests of the Bank in view, and not to seek or accept instructions from the Government of any State Party or authority external to the Bank.
4. In the event of any breach of these obligations by the President or Vice Presidents of the Bank, the General Assembly, at the request of the Board, shall decide on the disciplinary measures to be applied to the President and to the senior officials. The President or the senior official of the Bank concerned shall have the right to appeal such measures before the Court, after exhausting all available means of redress.





5. In the event of breach of these obligations by other staff, the internal procedures set out in the Statute and the Staff Rules and Regulations shall be applied. The staff member concerned shall have a right of appeal before the Court, after exhausting all available means of redress.

## **CHAPTER VI**

### **WITHDRAWAL AND SUSPENSION OF MEMBERS, TEMPORARY SUSPENSION AND TERMINATION OF OPERATIONS OF THE BANK**

#### **Article 16 Withdrawal**

1. Any member may withdraw from the Bank at any time by delivering a notice in writing to the Bank at its Headquarters.
2. Withdrawal by a member shall become effective, and its membership shall cease, on the date specified in its notice but in no event less than six (6) months after the date the Bank has received that notice. 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.
3. A withdrawing member shall remain liable for all direct and contingent obligations to the Bank to which it was subject at the date of delivery of the withdrawal notice. If the withdrawal finally becomes effective, the withdrawing member shall not incur any liability for obligations resulting from operations of the Bank affected after withdrawal of the member in accordance with paragraphs 1 and 2 above.

#### **Article 17 Suspension of Membership**

1. The General Assembly may suspend any member which fails to fulfill its obligation to the Bank.
2. The member so suspended shall automatically cease to be a member of the Bank one (1) year from the date of its suspension unless the General Assembly, during the one-year period, decides to restore the member to good standing.
3. While under suspension, a member shall not be entitled to exercise any rights under this Statute, except the right of withdrawal, but shall remain subject to all its obligations.
4. The General Assembly shall determine the conditions of suspension of a member and its release.



### **Article 18 Settlement of Accounts**

1. From the date of suspension, the affected member shall remain liable for its direct obligations to the Bank and for contingent liabilities to the Bank so long as any part of the loans, equity investments or guarantees contracted before the affected member was suspended and remains outstanding; but it shall not incur liabilities with respect to loans, equity investments and guarantees entered into thereafter by the Bank nor participate either in the income or expenses of the Bank.
2. At the time a shareholder ceases to be a member, the Bank may assist in arranging for the purchase of such former member's shares by other members of the Bank. For this purpose, the purchase 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. If the Bank terminates its operations pursuant to Article 19 of this Statute within six (6) months of the date upon which any member ceases to be a member, all rights of the member concerned shall be determined in accordance with the provisions of Articles 20 and 21 of this Statute. Such member shall be considered as still a member for purposes of such Articles but shall have no voting rights.

### **Article 19 Temporary Suspension of Operations**

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

### **Article 20 Termination of Operations**

1. The Bank may terminate its operations by a resolution of the General Assembly approved and endorsed by the Assembly of the Union.
2. After such termination, the Bank shall forthwith cease all activities, except those incidents to the orderly realization, conservation and preservation of its assets and settlement of its obligations.





### **Article 21** **Liability of Members and Payment of Claims**

1. In the event of termination of the operations of the Bank, the liability of all members for uncalled subscriptions to the capital stock of the Bank and in respect of the depreciation of their currencies shall continue until all claims of creditors, including all contingent claims shall have been discharged.
2. All creditors holding direct claims shall first be paid out of the assets of the Bank and then out of payments to the Bank of 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 22** **Distribution of Assets**

1. In the event of termination of the operations of the Bank, 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 have been discharged or provided for. Moreover, such distribution must be approved by the General Assembly by a vote of shareholders according to the rules of procedure.
2. After a decision has been taken to distribute the assets of the Bank, in accordance with the preceding paragraph, the Board of Directors may decide to make successive distribution of such assets. This distribution shall be subject to the prior settlement of all outstanding claims of the Bank against each member.

## **CHAPTER VII**

### **STATUS, IMMUNITIES, EXEMPTIONS AND PRIVILEGES**

#### **Article 23** **Status of the Bank**

To enable it to fulfil its purpose and the functions with which it is entrusted, the Bank shall possess full international personality. To these ends, it may enter into agreements with members, non-members and other international organisations. To the same ends, the status, immunities, exemptions and privileges set forth in this chapter shall be accorded to the Bank in the territory of each State Party.





## Article 24 Status in State Parties

In the territory of each State Party, the Bank shall possess full juridical personality and, in particular, full capacity:

- a) To contract;
- b) To acquire and dispose of immovable and movable property; and
- c) To institute legal proceedings.

## Article 25 Privileges and immunities of the Bank

1. The Headquarters and the other Offices or Branch Agencies of the Bank shall be governed by Host agreements negotiated with the Host Countries.
2. The Headquarters and the other Offices of the Bank shall enjoy the privileges and immunities stipulated in the General Convention, the Vienna Convention on Diplomatic Relations and Vienna Convention on the Law of Treaties between States and International Organisations or between International Organisations.

### **Section 1: Property, Funds, Assets and Transactions of the Bank**

1. The Bank premises, buildings, assets and other property wherever located and by whomsoever held, shall enjoy immunity from every form of legal process except in so far as in any particular case the Bank has waived such immunity in accordance with the provisions of the General Convention.
2. The premises and buildings of the Bank shall be inviolable. The property and assets of the Bank, wherever located and by whomsoever held, shall be immune from search, requisition, confiscation, expropriation and from any other form of interference, whether by executive, administrative, juridical or legislative action.
3. The archives of the Bank and in general all documents belonging to it or held by it shall be inviolable wherever located.
4. Without being restricted by financial controls, regulations or moratoria of any kind:
  - a) The Bank may hold funds, gold or currency of any kind and operate accounts of any currency.
  - b) The Bank shall be free to transfer its funds, gold, or currency from one country to another or within any country and to convert any currency held by it into any other currency.



## **Section 2: Tax exemptions**

1. The Bank, its income, assets and properties shall be exempt:
  - a) From all direct taxes, except that the Bank will not claim exemption from taxes or dues which are no more than charges for public utility services;
  - b) From import and export duties, prohibitions and quantitative restrictions on imports and exports in respect of articles imported or exported by the Bank intended for and used for its official purpose. It is provided, however, that articles imported under such exemption shall not be sold with or without consideration in the country into which they were imported except under conditions agreed upon by the appropriate authorities of the Government of that Country.
  - c) From custom duties, prohibitions and restrictions on imports and exports in respect of its publications.
2. While the Bank will not, as a general rule, claim exemption from excise duties and from transaction taxes on the sale of movable and immovable property which from part of the price to be paid, nevertheless when the Bank is making important purchases for official use of property on which such duties and taxes have been charged or are chargeable, State Parties will enact the necessary provisions or make appropriate administrative arrangements for the remission or refund of the amount of duty or tax so charged.

## **Section 3: Communications**

1. For its official communication and the transfer of all its documents, the Bank shall enjoy in the territory of each State Party treatment not less favourable than that accorded by the Government of that State to any other International Organisation as well as any government, including its diplomatic mission, in matters of priorities, rates and taxes on mails, cables, telegrams, radiograms, telephotos, telephones and other communications, as well as press rates for information to the press and radio. Official correspondence and other official communications of the Bank shall not be subject to censorship.
2. The Bank shall have the right to use codes and to dispatch and receive its official correspondence, either by courier or in sealed bags which shall have the same immunities and privileges as diplomatic couriers and bags.





**Article 26**  
**Immunities and Privileges of the Officials of the Bank**

1. The Officials of the Bank who are not citizens of the host country or the Nationals to whom diplomatic status has been accorded on the discretion of the host country as per Articles 8(2) and 38(2) of the Vienna Convention on Diplomatic Relations, 18 April 1961, shall:
  - a) Be immune from legal process in respect of words spoken, written and all acts performed by them in their official capacity;
  - b) Be exempt from taxation on the salaries and emoluments paid to them by the Bank;
  - c) Be immune from national service obligations;
  - d) Be immune, together with their spouses and relatives residing with and dependent on them, from immigration restrictions and alien registration and finger printing;
  - e) Be accorded the same privileges in respect of exchanges facilities as are accorded to the officials of comparable rank forming part of diplomatic missions to the Government concerned;
  - f) Be given, together with their spouses and relatives residing with and dependent on them, the same repatriation facilities in time of international crisis as diplomatic envoys;
  - g) Have the rights to import free of duty their furniture and effects at the time of first taking up their post in the country in question.
2. In addition to the immunities and privileges specified in paragraph 1 of this article, the President and senior officials of the Bank shall be accorded in respect of themselves, their spouses and minor children, the privileges and immunities, exemptions and facilities accorded to diplomatic envoys, in accordance with international law.
3. Privileges and immunities are granted to Bank officials in the interests of the Bank and not for the personal benefit of the individuals themselves. The President of the Bank shall have the right and the duty to waive the immunity of any official of the Bank in any case where, in his/her opinion, the immunity would impede the course of justice and can be waived without prejudice to the interests of the Bank. In the case of the President and senior officials of the Bank, the General assembly shall have the right to waive immunity.
4. The Bank shall co-operate at all times with the appropriate authorities of the State Parties to facilitate the proper administration of justice, secure the observance of police regulations and prevent the occurrence of any abuse in connection with the privileges, immunities and facilities mentioned in this article.





### **Article 27**

#### **Privileges and Immunities of the Representatives of the State Parties, the members of the General Assembly and the Board of Directors**

The representatives of the State Parties, the members of the General Assembly and the Board to meetings and conferences convened by the Bank, shall, while exercising their functions and during their travel to and from the place of these meetings, be accorded the privileges and immunities stipulated in the Article V of the General Convention.

### **Article 28**

#### **Privileges and Immunities of the Experts on Mission for the Bank**

Experts (other than officials coming within the scope of article 26) performing missions for the Bank shall be accorded such privileges and immunities as are necessary for the independent exercise of their functions during the period of their missions as stipulated in the article VII of the General Convention.

## **CHAPTER VIII:**

### **MISCELLANEOUS PROVISIONS**

### **Article 29**

#### **Channel of Communications and Depositories**

1. Each member shall designate an appropriate official entity with which the Bank may communicate in connection with any matter relating the Bank.
2. The Bank may hold its assets with such depositories as the Board shall determine.

### **Article 30**

#### **Publication of the Protocol and the Statute annexed to it, Dissemination of Information and Reports**

1. The Bank shall make available the text of the Protocol and the Statute and all its important documents in all working languages of the Union.
2. Shareholders shall provide the Bank with all the information it may request of them in order to facilitate the conduct of its operations.



3. The Bank shall publish and transmit to its members an annual report containing an audited statement of its accounts. It shall also transmit quarterly to the members a summary of its financial position and a profit and loss statement showing the results of its operations.
4. The Bank may also publish such other reports as it deems desirable to carry out its mandate and functions. They shall be transmitted to the members of the Bank.
5. The Bank shall prepare and submit annually a report on its activities to the Assembly through the Executive Council.

### **Article 31** **Approval by Members**

Whenever the approval of any shareholder is required before the Bank may do an act, approval shall be deemed as having 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.

### **Article 32** **Beginning of Bank Operations**

1. As soon as the Protocol and the Statute enter into force, each member shall appoint a representative and the Chairperson of the Commission shall call the inaugural meeting of the General Assembly.
2. The Bank shall notify its members of the date of the beginning of its operations.

### **Article 33** **Resolution of Disputes**

In case of a dispute relating to the shareholding of the capital stock or to the withdrawal from the capital stock between the Bank and a former member, or between the Bank and a member, upon termination of operation of the Bank, such dispute shall be submitted to the Court.

### **Article 34** **Annexes**

1. Annexes to this Statute shall comprise of:
  - b) Subscription formula;
  - c) Table of subscriptions;





- d) Voting rights as it pertains to decisions of the General Assembly and Board of Directors;
2. These Annexes shall be adopted by the Decision of the Assembly

## **CHAPTER IX**

### **FINAL PROVISIONS**

#### **Article 35 Entry into force**

This Statute shall enter into force thirty (30) days after the deposit of the fifteenth instrument of ratification of the Protocol.

#### **Article 36 Amendment and Revision**

1. This Statute may be amended or revised by the Decision of the Assembly.
2. Any State Party or the Bank may propose, in writing to the Chairperson of the Commission, any amendment or revision to the Statute.
3. Amendments or revisions shall be adopted by the Assembly and submitted, for ratification, to all Member States, in compliance with their respective constitutional procedures. They shall enter into force thirty (30) days after the deposit of the fifteenth instrument of ratification.

**ADOPTED BY THE FOURTEENTH ORDINARY SESSION OF  
THE ASSEMBLY, HELD IN ADDIS ABABA, ETHIOPIA,  
2<sup>ND</sup> FEBRUARY 2010**

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2010

# Protocol on the African Investment Bank

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