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Asian Infrastructure Investment Bank Bill

Bill No. 22/2015.

Read the first time on 13 July 2015.

ASIAN INFRASTRUCTURE INVESTMENT BANK ACT 2015

(No. of 2015)

ARRANGEMENT OF SECTIONS

Section

1. Short title and commencement
 2. Interpretation
 3. Deposit of instrument of ratification
 4. Power to subscribe to shares of Bank
 5. Sums payable to Bank to be charged on Consolidated Fund
 6. Moneys received by Government to be paid into Consolidated Fund
 7. Certain provisions of Agreement to have force of law
 8. Companies Act does not apply to Bank and to issue by Bank of shares, debentures, etc.
 9. Power to make regulations
- The Schedule — Provisions of the Agreement having the force of law
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A BILL

i n t i t u l e d

An Act to implement the International Agreement for the establishment and operation of the Asian Infrastructure Investment Bank, to enable Singapore to become a member of the Bank and for connected purposes.

Be it enacted by the President with the advice and consent of the Parliament of Singapore, as follows:

Short title and commencement

1. This Act may be cited as the Asian Infrastructure Investment Bank Act 2015 and comes into operation on such date as the Minister may, by notification in the *Gazette*, appoint.

5 Interpretation

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

“Agreement” means the Agreement for the establishment and operation of the international body known as the Asian Infrastructure Investment Bank;

10 “Article” means Article of the Agreement;

“Bank” means the Asian Infrastructure Investment Bank established under the Agreement;

“Minister” means the Minister responsible for finance.

Deposit of instrument of ratification

15 3. The President may empower a person named in an instrument under the President’s hand to deposit, on behalf of the Government of Singapore, an instrument of ratification of the Agreement with the Government of the People’s Republic of China stating that the Government of Singapore —

20 (a) has accepted the Agreement in accordance with the law of Singapore; and

(b) has taken all steps necessary to enable the Government of Singapore to carry out all its obligations under the Agreement.

25 Power to subscribe to shares of Bank

4.—(1) Subject to subsection (2), the Minister may, on behalf of the Government —

30 (a) subscribe to shares of the original authorised capital stock of the Bank in accordance with paragraph 1 of Article 5 to an amount not exceeding US\$250 million;

(b) where the shares of Singapore have been increased at the request of the Government under paragraph 3 of Article 5, subscribe to the amount of such increase; and

(c) where the original authorised capital stock of the Bank is increased under paragraph 4 of Article 5, subscribe to a proportion of the increase of stock as provided in that paragraph.

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(2) The total subscription to the Bank may not exceed the sum of US\$500 million unless increased with the approval of Parliament signified by resolution.

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Sums payable to Bank to be charged on Consolidated Fund

5.—(1) The following sums are to be charged on the Consolidated Fund:

(a) all sums payable to the Bank by way of subscription to its paid-in capital stock under paragraph 1 of Article 6;

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(b) all sums payable to the Bank by way of subscription to its callable capital stock as and when required by the Bank, under paragraph 3 of Article 6;

(c) all sums payable to the Bank by way of increase of the shares of the Bank's capital stock subscribed by the Government under paragraphs 3 and 4 of Article 5;

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(d) all sums payable to the Bank under any other provisions of the Agreement.

(2) All sums charged on the Consolidated Fund under this section may be paid in United States dollars or in such other currency permitted by the Agreement.

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Moneys received by Government to be paid into Consolidated Fund

6. All sums received by or on behalf of the Government from the Bank are to be paid into the Consolidated Fund.

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Certain provisions of Agreement to have force of law

7.—(1) Despite anything to the contrary in any other law, the provisions of the Agreement set out in the Schedule have the force of law.

5 (2) Nothing in Article 51 is to be construed as —

(a) entitling the Bank to import into Singapore goods free of any customs duty without any restriction on their subsequent sale in Singapore;

10 (b) conferring on the Bank any exemption from taxes or duties which form part of the price of goods sold or services supplied; or

(c) conferring on the Bank any exemption from taxes or duties which are in fact no more than charges for services rendered.

15 (3) The Minister may, by notification in the *Gazette*, amend the Schedule in conformity with any amendments to the provisions of the Agreement set out in the Schedule which may subsequently be made and adopted.

Companies Act does not apply to Bank and to issue by Bank of shares, debentures, etc.

20 8. The Bank is not to be treated as a corporation within the meaning of the Companies Act (Cap. 50), and the provisions of that Act do not accordingly apply to the Bank or to the issue by the Bank of any shares, debentures, bonds, notes or other securities.

Power to make regulations

25 9.—(1) The Minister may make regulations for the purpose of carrying out the provisions of this Act.

(2) All such regulations are to be presented to Parliament as soon as possible after publication in the *Gazette*.

THE SCHEDULE

Section 7(1) and (3)

PROVISIONS OF THE AGREEMENT HAVING THE FORCE OF LAW

CHAPTER IX

STATUS, IMMUNITIES, PRIVILEGES AND EXEMPTIONS

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Article 44 Purposes of Chapter

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

2. Each member shall promptly take such action as is necessary to make effective in its own territory the provisions set forth in this Chapter and shall inform the Bank of the action which it has taken.

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Article 45 Status of the Bank

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

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- (i) to contract;
- (ii) to acquire, and dispose of, immovable and movable property;
- (iii) to institute and respond to legal proceedings; and
- (iv) to take such other action as may be necessary or useful for its purpose and activities.

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Article 46 Immunity from Judicial Proceedings

1. The Bank shall enjoy immunity from every form of legal process, except in cases arising out of or in connection with the exercise of its powers to raise funds, through borrowings or other means, to guarantee obligations, or to buy and sell or underwrite the sale of securities, in which cases actions may be brought against the Bank only in a court of competent jurisdiction in the territory of a country in which the Bank has an office, or has appointed an agent for the purpose of accepting service or notice of process, or has issued or guaranteed securities.

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2. Notwithstanding the provisions of paragraph 1 of this Article, no action shall be brought against the Bank by any member, or by any agency or instrumentality of a member, or by any entity or person directly or indirectly acting for or deriving claims from a member or from any agency or instrumentality of a member. Members shall have recourse to such special procedures for the settlement of controversies between the Bank and its members as may be prescribed in this Agreement, in the by-laws and regulations of the Bank, or in the contracts entered into with the Bank.

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THE SCHEDULE — *continued*

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

5 **Article 47 Immunity of Assets and Archives**

1. Property and assets of the Bank, wheresoever located and by whomsoever held, shall be immune from search, requisition, confiscation, expropriation or any other form of taking or foreclosure by executive or legislative action.

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

Article 48 Freedom of Assets from Restrictions

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

Article 49 Privilege for Communications

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

Article 50 Immunities and Privileges of Officers and Employees

20 All Governors, Directors, Alternates, the President, Vice-Presidents and other officers and employees of the Bank, including experts and consultants performing missions or services for the Bank:

- 25 (i) shall be immune from legal process with respect to acts performed by them in their official capacity, except when the Bank waives the immunity and shall enjoy inviolability of all their official papers, documents and records;
- (ii) where they are not local citizens or nationals, shall be accorded the same immunities from immigration restrictions, alien registration requirements and national service obligations, and the same facilities as regards exchange regulations, as are accorded by members to the representatives, officials and employees of comparable rank of other members; and
- 30 (iii) shall be granted the same treatment in respect of travelling facilities as is accorded by members to representatives, officials and employees of comparable rank of other members.

THE SCHEDULE — *continued***Article 51 Exemption from Taxation**

1. The Bank, its assets, property, income and its operations and transactions pursuant to this Agreement, shall be exempt from all taxation and from all customs duties. The Bank shall also be exempt from any obligation for the payment, withholding or collection of any tax or duty. 5

2. No tax of any kind shall be levied on or in respect of salaries, emoluments and expenses, as the case may be, paid by the Bank to Directors, Alternate Directors, the President, Vice-Presidents and other officers or employees of the Bank, including experts and consultants performing missions or services for the Bank, except where a member deposits with its instrument of ratification, acceptance, or approval a declaration that such member retains for itself and its political subdivisions the right to tax salaries, and emoluments, as the case may be, paid by the Bank to citizens or nationals of such member. 10

3. No tax of any kind shall be levied on any obligation or security issued by the Bank, including any dividend or interest thereon, by whomsoever held: 15

- (i) which discriminates against such obligation or security solely because it is issued by the Bank; or
- (ii) if the sole jurisdictional basis for such taxation is the place or currency in which it is issued, made payable or paid, or the location of any office or place of business maintained by the Bank. 20

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

- (i) which discriminates against such obligation or security solely because it is guaranteed by the Bank; or 25
- (ii) if the sole jurisdictional basis for such taxation is the location of any office or place of business maintained by the Bank.

Article 52 Waivers

1. The Bank at its discretion may waive any of the privileges, immunities and exemptions conferred under this Chapter in any case or instance, in such manner and upon such conditions as it may determine to be appropriate in the best interests of the Bank. 30

EXPLANATORY STATEMENT

This Bill seeks to enable Singapore to become a member of the international body known as the Asian Infrastructure Investment Bank (the Bank).

Clause 1 relates to the short title and commencement and clause 2 defines certain terms used in the Bill.

The Bill empowers the President to empower a person named in an instrument under the President's hand to deposit, on behalf of the Government of Singapore, an instrument of ratification of the Agreement (clause 3).

The Bill empowers the Minister responsible for finance to subscribe to the capital stock of the Bank (clause 4) and charges certain sums of moneys payable to the Bank on the Consolidated Fund (clause 5).

Sums received by or on behalf of the Government from the Bank will be paid into the Consolidated Fund (clause 6).

The Bank is not to be treated as a corporation within the meaning of the Companies Act (Cap. 50) (clause 8).

The Minister is empowered to make regulations for the purpose of carrying out the provisions of the Bill (clause 9).

The Bill seeks also to give legal effect to the provisions of Chapter IX of the international agreement establishing the Bank, which relates to the status, immunities and privileges of the Bank and its officers and employees (clause 7 and the Schedule).

EXPENDITURE OF PUBLIC MONEY

This Bill will involve the Government in extra financial expenditure which will amount to a sum not exceeding US\$250 million in respect of the initial subscription to the Asian Infrastructure Investment Bank. In addition, there may be other expenditure the amounts of which cannot at present be ascertained.
