

Report on the Articles of Agreement of the Asian Infrastructure Investment Bank

The Asian Infrastructure Investment Bank (AIIB) stems from an initiative by China, joined by the parties to the Memorandum of Understanding of October 24, 2014 (MOU), recognizing the importance of infrastructure to the development of Asia and the need for considerable additional long-term financing for infrastructure in the region.

A Special Ministerial Meeting of the signatories to the MOU set up a forum to prepare the establishment of the AIIB, the Chief Negotiators' Meetings, joined by representatives of the parties to the MOU. These parties, having signed or later endorsed the MOU, are the Prospective Founding Members of the AIIB, to become Founding Members following their signature and ratification of the AIIB Articles of Agreement (the AIIB Articles).

The first Chief Negotiators' Meeting took place in Kunming, China in November 2014.¹ The second Chief Negotiators' Meeting took place in Mumbai, India in January 2015, co-chaired by India.² The third Chief Negotiators' Meeting took place in Almaty, Kazakhstan in March 2015, co-chaired by Kazakhstan.³ The fourth Chief Negotiators' Meeting took place in Beijing, China in April 2015.⁴ The fifth Chief Negotiators' Meeting took place in Singapore in May 2015, co-chaired by Singapore.⁵ The final text of the Articles of Agreement of the Asian Infrastructure Investment Bank was adopted on May 22, 2015 at the Singapore meeting.

During the discussions on the draft AIIB Articles, the representatives came to the view that certain formulations in the text represented general understandings which needed to be recorded. It was therefore agreed that a report summarizing these understandings would form part of the AIIB's basic documents, for future reference in interpreting the AIIB Articles. The explanatory paragraphs attached to this introduction should be viewed against that background.

Chief Negotiators for Establishing the Asian Infrastructure Investment Bank

Singapore May 22, 2015

¹ Prospective Founding Members: Bangladesh, Brunei Darussalam, Cambodia, China, India, Indonesia, Kazakhstan, Kuwait, Lao PDR, Malaysia, Mongolia, Myanmar, Nepal, Oman, Pakistan, Philippines, Qatar, Singapore, Sri Lanka, Thailand, Uzbekistan and Vietnam.

² Maldives, New Zealand, Saudi Arabia and Tajikistan joined as Prospective Founding Members.

³ Jordan, Luxembourg, Switzerland and the United Kingdom joined as Prospective Founding Members.

⁴ Australia, Austria, Azerbaijan, Brazil, Denmark, Egypt, Finland, France, Georgia, Germany, Iceland, Iran, Israel, Italy, Korea, Kyrgyz Republic, Malta, Netherlands, Norway, Poland, Portugal, Russia, Spain, South Africa, Sweden, Turkey, and United Arab Emirates joined as Prospective Founding Members.

⁵ Representatives from all Prospective Founding Members participated.

Explanatory Notes

Preamble. Representatives highlighted that the Bank would be established as a multilateral financial institution to promote sustained and stable growth in Asia.

Article 1, paragraph 2. Representatives noted that the current geographical region and composition listing for Asia and Oceania by the United Nations for statistical purposes formed the basis for their consideration of “Asia” and “region”. The listing can be found at <http://unstats.un.org/unsd/methods/m49/m49regin.htm>.

Representatives further noted that future decisions on regional classification, if needed, would be made by the Board of Governors under paragraph 2 of Article 1, and that decisions on new members would be made by the Board of Governors under paragraph 2 of Article 3.

Article 5, paragraphs 2 and 3. While representatives recognized that the Board of Governors might need to exercise some flexibility in the future that would reduce the regional shareholding percentage in paragraphs 2 and 3 below 75%, representatives agreed that a minimum of 70% regional shareholding would be important in preserving the regional character of the Bank. Representatives noted that, in Schedule A, unallocated shares had been shown for regional members (Part A) and non-regional members (Part B), respectively, in anticipation of additional members joining in each category.

Article 5, paragraph 4. Representatives noted that the basic parameter for allocation of capital stock to members would be the relative share of the global economy of members within the regional and non-regional groupings, respectively. Members’ shares of the global economy would be measured by reference to Gross Domestic Product (GDP), with the understanding that GDP share would be indicative only for non-regional members.

Representatives further noted that reviews of capital stock by the Board of Governors need not result in a capital increase, and any such increase would require Board of Governors’ approval in accordance with paragraph 3 of Article 4.

Article 6, paragraph 5. Representatives agreed that a member that is eligible to borrow from the International Development Association (but not from the International Bank for Reconstruction and Development) would be considered a less developed country for purposes of this paragraph.

Article 11, paragraph 1. Representatives noted that the Preamble and the functions and purposes of the Bank in Articles 1 and 2 focus on the economic development of the Asia region. To the extent permitted under its operational policies, the Bank could provide financing to recipients located outside the region under Article 11, paragraph 1, consistent with its purpose and functions.

Article 13, paragraph 4. Representatives emphasized that the operational and financial policies of the Bank, referred to in paragraph 4, would be subject to approval by the Board of Directors in accordance with Article 26 and should be based on international best practices. These policies would include, among others, environmental and social frameworks, disclosure, procurement, and debt sustainability. A policy on operations in disputed areas would provide that, for financing in a disputed area, member consent is obtained in accordance with paragraph 3, and the Bank does not take a position on territorial claims.

Article 15, paragraph 1. Representatives noted that the inclusion of “other similar forms of assistance” was intended to permit the possibility of investment grants and similar instruments commonly used in infrastructure financing by multilateral development banks and others. Project preparation support could also be provided under this paragraph.

Article 16, paragraph 1. Representatives noted that the reference to “relevant legal provisions” was not intended to restrict the Bank from the benefits of treatment commonly extended to multilateral development banks by member countries in their markets.

Article 16, paragraph 8. Representatives noted that this paragraph, together with paragraph 4 of Article 24, provided the framework for the establishment of subsidiary entities with the approval of the Board of Governors. The establishment of offices of the Bank under paragraph 2 of Article 32 would be regulated under the By-Laws of the Bank.

Article 25. Representatives noted that the Board of Governors would consider rules at its inaugural meeting to enable each Director in a constituency of more than a specified number of members to appoint an additional Alternate Director. Such rules would require a Director appointing an additional Alternate Director to designate which Alternate Director shall act for the Director: (i) in his absence; and (ii) when the office of the Director is vacant under sub-paragraph 5 (c).

Article 26. Representatives noted that major policies established by the Board of Directors under Article 26 (ii) would include such policies as environmental and social impact and procurement (Article 13) and disclosure (Article 34).

A higher three-quarters majority of total voting power would be required for decisions by the Board of Directors to approve major operational and financial policies, delegate authority to the President under Bank policies, and for decisions on delegation of the Board’s authority to take decisions on operations.

Representatives agreed that the oversight mechanism to be established by the Board of Directors under Article 26 (iv) would be designed in line with the principles of transparency, openness, independence and accountability, and would address such areas as audit, evaluation, fraud and corruption, project complaints and staff grievances, and reflect the Bank’s character as a multilateral

financial institution focused on infrastructure development.

Article 60. Representatives agreed that, until the Articles of Agreement had entered into force, the Prospective Founding Members would continue to convene Chief Negotiators' Meetings to provide a broader consultation mechanism for the establishment of the AIIB. Once the Articles of Agreement had entered into force, and until the final date under Article 58, paragraph 1, Interim Arrangements would provide an opportunity for Prospective Founding Members to continue to participate in AIIB governance, pending their completion of the steps for membership. In that period, the Boards would accommodate non-voting representatives as follows, in order to ensure that major decisions will be supported by adequate consultation of all Signatories and reached by consensus to the maximum extent possible.

- a. Board of Governors. Each Signatory that has not yet become a member could send a representative to attend meetings of the Board of Governors as an observer.
- b. Board of Directors. Signatories could agree on notional constituency groupings, recognizing that actual constituencies would be formed when members' Governors cast their votes for or assign their votes to a Director. Based on these notional constituency groupings, each constituency would either be represented by a Director if one has been elected by a member or members in the constituency, or, if there is no Director yet for the constituency, by a special Constituency Representative selected by the constituency members through consultations. Constituency Representatives could participate in Board of Directors' meetings without voting. A Director would informally represent the Signatories in the constituency that had not yet become members, as well as formally representing the Governors who had cast their votes for or assigned their votes to the Director. Each constituency group would be represented by a Director or by a Constituency Representative, but not both.

Once the deadline has passed for Signatories to complete the steps for membership and become members under Article 58, the period to become Founding Members would end. At that point, all Founding Members would participate in AIIB governance under normal AIIB governance arrangements, and these Interim Arrangements would terminate.