§ 285. Acceptance of membership by United States in Asian Development Bank

The President is hereby authorized to accept membership for the United States in the Asian Development Bank (hereinafter referred to as the "Bank") provided for by the agreement establishing the Bank (hereinafter referred to as the "agreement") deposited in the archives of the United Nations.


SUBCHAPTER XIV—ASIAN DEVELOPMENT BANK

§ 285a. Appointment of Governor, Alternate Governor and Director; compensation

(a) The President, by and with the advice and consent of the Senate, shall appoint a Governor of the Bank, an alternate for the Governor, and a Director of the Bank.

(b) No person shall be entitled to receive any salary or other compensation from the United States for services as a Governor or Alternate Governor. The Director may, in the discretion of the President, receive such compensation, allowances, and other benefits as, together with those received by him from the Bank, will equal those received by him from the Foreign Service Act of 1980. Any other compensation received by him from other United States agencies, for services as a Governor or Alternate Governor, shall be credited to the Bank.


§ 285b. Coordination of policies and operations

The policies and operations of the representatives of the United States on the Bank shall be coordinated with other United States policies in such manner as the President shall direct.


Amendments

1989—Pub. L. 101–240 struck out subsec. (a) designation and struck out subsec. (b) which read as follows: "An annual report with respect to United States participation in the Bank shall be submitted to the Congress by such agency or officer as the President shall designate."

§ 285c. Congressional authorization needed for certain actions

Unless the Congress by law authorizes such action, neither the President nor any person or agency shall, on behalf of the United States, (a) subscribe to additional shares of stock of the Bank; (b) vote for or agree to any amendment of the agreement which increases the obligations of the United States, or which would change the purpose or functions of the Bank; or (c) make a loan or provide other financing to the Bank, except that funds for technical assistance note to exceed $1,000,000 in any one year may be provided to the Bank by a United States agency created pursuant to an Act of Congress which is authorized by law to provide funds to international organizations.


SUBSEQUENT REPLENISHMENTS

Pub. L. 105–118, title V, §560(a), Nov. 25, 1997, 111 Stat. 2425, provided in part that the Secretary of the Treasury may contribute on behalf of the United States to the sixth replenishment of the resources of the Asian Development Fund, subject to obtaining the necessary appropriations, and authorized $300,000,000 to be appropriated without fiscal year limitation.

Pub. L. 103–87, title V, §526, Sept. 30, 1993, 107 Stat. 952, provided in part that the Secretary of the Treasury is authorized to agree on behalf of the United States to participate in the fifth replenishment of the Asian Development Fund, subject to obtaining the necessary appropriations.

§ 285d. Federal Reserve banks as depositories

Any Federal Reserve bank which is requested to do so by the Bank shall act as its depository or as its fiscal agent, and the Board of Governors of the Federal Reserve System shall su-
pervise and direct the carrying out of these functions by the Federal Reserve banks.

(Pub. L. 89–369, § 6, Mar. 16, 1966, 80 Stat. 72.)

§ 285e. Authorization of appropriations; income covered into Treasury

(a) There is hereby authorized to be appropriated, without fiscal year limitation, for the purchase of twenty thousand shares of capital stock of the Bank, $200,000,000.

(b) Any payment made to the United States by the Bank as a distribution of net income shall be covered into the Treasury as a miscellaneous receipt.


§ 285f. Jurisdiction and venue of actions

For the purpose of any civil action which may be brought within the United States, its territories or possessions, or the Commonwealth of Puerto Rico, by or against the Bank in accordance with the agreement, the Bank shall be deemed to be an inhabitant of the Federal judicial district in which its principal office or agency in the United States is located, and any such action to which the Bank shall be a party shall be deemed to arise under the laws of the United States, and the district courts of the United States, including the courts enumerated in section 460 of title 28, shall have original jurisdiction of any such action. When the Bank is a defendant in any action in a State court, it may, at any time before the trial thereof, remove such action into the district court of the United States for the proper district by following the procedure for removal of causes otherwise provided by law.

(Pub. L. 89–369, § 8, Mar. 16, 1966, 80 Stat. 72.)

§ 285g. Status, immunities, and privileges

The agreement, and particularly articles 49 through 56, shall have full force and effect in the United States, its territories and possessions, and the Commonwealth of Puerto Rico, upon acceptance of membership by the United States in, and the establishment of, the Bank. The President, at the time of deposit of the instrument of acceptance of membership by the United States in the Bank, shall also deposit a declaration that the United States retains for itself and its political subdivisions the right to tax salaries and emoluments paid by the Bank to its citizens or nationals.

(Pub. L. 89–369, § 9, Mar. 16, 1966, 80 Stat. 72.)

§ 285h. Securities issued by Bank as exempt securities; suspension of exemption provisions; reports to and of Securities and Exchange Commission

(a) Any securities issued by the Bank (including any guarantee by the Bank, whether or not limited in scope) in connection with raising of funds for inclusion in the Bank’s ordinary capital resources as defined in article 7 of the agreement and any securities guaranteed by the Bank as to both principal and interest to which the commitment in article 6, section 5, of the agreement is expressly applicable, shall be deemed to be exempted securities within the meaning of subsection (a)(2) of section 77c of title 15, and subsection (a)(12) of section 78c of title 15. The Bank shall file with the Securities and Exchange Commission such annual and other reports with regard to such securities as the Commission shall determine to be appropriate in view of the special character of the Bank and its operations and necessary in the public interest or for the protection of investors.

(b) The Securities and Exchange Commission, acting in consultation with such agency or officer as the President shall designate, is authorized to suspend the provisions of subsection (a) of this section at any time as to any or all securities issued or guaranteed by the Bank during the period of such suspension. The Commission shall include in its annual reports to Congress such information as it shall deem advisable with regard to the operations and effect of this section and in connection therewith shall include any views submitted for such purpose by any association of dealers registered with the Commission.

(Pub. L. 89–369, § 9, Mar. 16, 1966, 80 Stat. 73.)

§ 285i. Authorization for payment of United States contribution; United States Special Resources

(a) Subject to the provisions of this subchapter, the United States Governor of the Bank is authorized to enter into an agreement with the Bank providing for a United States contribution of $100,000,000 to the Bank in two annual installments of $50,000,000 each, beginning in fiscal year 1972. This contribution is referred to hereinafter in this subchapter as the “United States Special Resources”.

(b) The United States Special Resources shall be made available to the Bank pursuant to the provisions of this subchapter and article 19 of the Articles of Agreement of the Bank, and in a manner consistent with the Bank’s Special Funds Rules and Regulations.


§ 285j. United States Special Resources

(a) Development projects and programs

The United States Special Resources shall be used to finance specific high priority development projects and programs in developing member countries of the Bank with emphasis on such projects and programs in the Southeast Asia region.

(b) Authorized uses

The United States Special Resources shall be used by the Bank only for—

(1) making development loans on terms which may be more flexible and bear less heavily on the balance of payments than those established by the Bank for its ordinary operations; and

(2) providing technical assistance credits on a reimbursable basis.

(c) Eligible goods and services

(1) The United States Special Resources may be expended by the Bank only for procurement
in the United States of goods produced in, or services supplied from the United States, except that the United States Governor, in consultation with the National Advisory Council on International Monetary and Financial Policies, may allow eligibility for procurement in other member countries from the United States Special Resources if he determines that such procurement eligibility would materially improve the ability of the Bank to carry out the objectives of its special funds resources and would be compatible with the international financial position of the United States.

(2) The United States Special Resources may be used to pay for administrative expenses arising from the use of the United States Special Resources, but only to the extent such expenses are not covered from the Bank’s service fee or income from use of United States Special Resources.

(d) Repayment in dollars

All financing of programs and projects by the Bank from the United States Special Resources shall be repayable to the Bank by the borrowers in United States dollars.


DELEGATION OF FUNCTIONS


§ 285k. Utilization of United States Special Resources

(a) The letters of credit provided for in section 265j of this title shall be issued to the Bank only to the extent that at the time of issuance the cumulative amount of the United States Special Resources provided to the Bank (A) constitute a minority of all special funds contributions to the Bank, and (B) are no greater than the largest cumulative contribution of any other single country contributing to the special funds of the Bank.

(b) The United States Governor of the Bank shall give due regard to the principles of (A) utilizing all special funds resources on an equitable basis, and (B) significantly shared participation by other contributors in each special fund to which United States Special Resources are provided.


§ 285l. Letter of credit form for United States Special Resources

The United States Special Resources will be provided to the Bank in the form of a non-negotiable, noninterest-bearing, letter of credit which shall be payable to the Bank at par value on demand to meet the cost of eligible goods and services, and administrative costs authorized pursuant to section 285(c) of this title.


§ 285m. Withdrawal rights covering United States Special Resources

The United States shall have the right to withdraw all or part of the United States Special Resources and any accrued resources derived therefrom under the procedures provided for in section 8.03 of the Special Funds Rules and Regulations of the Bank.


§ 285n. Authorization of appropriations to provide United States Special Resources

For the purpose of providing United States Special Resources to the Bank there is hereby authorized to be appropriated $100,000,000, all of which shall remain available until expended.


AMENDMENTS

1973—Pub. L. 93–189 substituted “$100,000,000” for “$50,000,000 for the fiscal year 1972 and $40,000,000 for the fiscal year 1973”.

§ 285o. Expropriation of United States property; loan restrictions

The President shall instruct the United States Executive Director of the Asian Development Bank to vote against any loan or other utilization of the funds of the Bank for the benefit of any country which has—

(1) nationalized or expropriated or seized ownership or control of property owned by any United States citizen or by any corporation, partnership, or association not less than 50 per centum of which is beneficially owned by United States citizens;

(2) taken steps to repudiate or nullify existing contracts or agreements with any United States citizen or any corporation, partnership, or association not less than 50 per centum of which is beneficially owned by United States citizens; or

(3) imposed or enforced discriminatory taxes or other exactions, or restrictive maintenance or operational conditions, or has taken other actions, which have the effect of nationalizing, expropriating, or otherwise seizing ownership or control of property so owned;

unless the President determines that (A) an arrangement for prompt, adequate, and effective compensation has been made, (B) the parties have submitted the dispute to arbitration under the rules of the Convention for the Settlement of Investment Disputes, or (C) good faith negotiations are in progress aimed at providing prompt, adequate, and effective compensation under the applicable principles of international law.


§ 285p. Illegal drug traffic; loan restrictions

The Secretary of the Treasury shall instruct the United States Executive Director of the Asian Development Bank to vote against any
loan or other utilization of the funds of the Bank for the benefit of any country with respect to which the President has made a determination, and so notified the Secretary of the Treasury, that the government of such country has failed to take adequate steps to prevent narcotic drugs and other controlled substances (as defined by the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 801 et seq.)) produced or processed, in whole or in part, in such country, or transported through such country, from being sold illegally within the jurisdiction of such country to United States government personnel or their dependents, or from entering the United States unlawfully. Such instruction shall continue in effect until the President determines, and so notifies the Secretary of the Treasury, that the government of such country has taken adequate steps to prevent such sale or entry of narcotic drugs and other controlled substances.


REFERENCES IN TEXT


§ 285q. Subscription to additional shares; authorization of appropriations

(a) The United States Governor of the Bank is authorized to subscribe on behalf of the United States to thirty thousand additional shares of the capital stock of the Bank, and subject to the terms and conditions of Resolution Numbered 46 adopted by the Bank’s Board of Governors on November 30, 1971.

(b) In order to pay for the increase in the United States subscription to the Bank provided for in this section, there is hereby authorized to be appropriated without fiscal year limitation $361,904,726 for payment by the Secretary of the Treasury.


§ 285r. Contribution to special funds; authorization of appropriations

(a) The United States Governor of the Bank is hereby authorized to agree to contribute on behalf of the United States $50,000,000 to the special funds of the Bank. This contribution shall be made available to the Bank pursuant to the provisions of article 19 of the articles of agreement of the Bank.

(b) In order to pay for the United States contribution to the special funds, there is hereby authorized to be appropriated without fiscal year limitation $50,000,000 for payment by the Secretary of the Treasury.


§ 285s. Additional subscription to shares; authorization of appropriations

(a) The United States Governor of the Bank is authorized to subscribe on behalf of the United States to sixty-seven thousand and five hundred additional shares of the capital stock of the Bank: Provided, however, That any subscription to additional shares shall be effective only to such extent or in such amounts as are provided in advance in appropriation Acts.

(b) In order to pay for the increase in the United States subscription to the Bank provided for in this section, there are authorized to be appropriated without fiscal year limitation $514,286,250 for payment by the Secretary of the Treasury.


AMENDMENTS

1981—Subsec. (a). Pub. L. 97–35 substituted “effective only to such extent or in such amounts as are provided in advance in appropriation Acts” for “‘made only after the amount required for such subscription has been appropriated’.”

Effective Date of 1981 Amendment


§ 285t. Additional contribution to special funds; authorization of appropriations

(a) The United States Governor of the Bank is authorized to contribute on behalf of the United States $180,000,000 to the Asian Development Fund, a special fund of the Bank: Provided, however, That any commitment to make such contribution shall be made subject to obtaining the necessary appropriations.

(b) In order to pay for the United States contribution to the Asian Development Fund provided for in this section, there are authorized to be appropriated without fiscal year limitation $180,000,000 for payment by the Secretary of the Treasury: Provided, however, That not more than $14,116,177 may be made available for such contribution for the fiscal year 1982.


AMENDMENTS


Effective Date of 1981 Amendment

Amendment by Pub. L. 97–35 effective Aug. 13, 1981, except that any funds authorized to be appropriated
shall not be available for use or obligation prior to Oct. 1, 1981, see section 1372 of Pub. L. 97–35, set out as an Effective Date note under section 290i of this title.

**Effective Date**

Section effective Oct. 3, 1977, except that no funds authorized to be appropriated by this section may be available for use or obligation prior to Oct. 1, 1977, see section 1001 of Pub. L. 95–118, set out as a note under section 282i of this title.

§ 285u. Additional contribution to special funds

(a) United States share

The United States Governor of the Bank is authorized to contribute on behalf of the United States $378,250,000 to the Asian Development Fund, a special fund of the Bank, except that any commitment to make such contribution shall be made subject to obtaining the necessary appropriations.

(b) Authorization of appropriations; maximum available for certain years

In order to pay for the United States contribution to the Asian Development Fund provided for in this section, there are authorized to be appropriated, without fiscal year limitation, $378,250,000 for payment by the Secretary of the Treasury: Provided, however, That not more than $111,250,000 of such sum may be made available for the fiscal year 1982, and not more than $44,500,000 of such sum may be made available for the fiscal year 1983.

(c) Funding requirements

For the purpose of keeping to a minimum the cost to the United States, the Secretary of the Treasury—

(1) shall pay the United States contribution to the Asian Development Fund authorized by this section by letter of credit in four annual installments; and

(2) shall take the steps necessary to obtain a certification from the Bank that any undisbursed balances resulting from drawdowns on such letter of credit will not exceed at any time the United States share of expected disbursement requirements for the following three-month period.


**Amendments**


**Effective Date of 1981 Amendment**


§ 285v. Sense of Congress respecting membership of Taiwan in Bank

It is the sense of the Congress that it is the policy of the United States that Taiwan (before January 1, 1979, known as the Republic of China) shall be permitted to retain membership in the Asian Development Bank and that the United States Executive Director of the Bank shall notify the Bank that a serious review of future United States participation, including any future payments to the Asian Development Fund, would ensue if Taiwan were expelled from the Bank.


§ 285w. Contribution to Asian Development Fund; authorization of appropriations

(a) The United States Governor of the Bank is authorized to contribute on behalf of the United States $66,750,000 to the Asian Development Fund, a special fund of the Bank: Provided, however, That any funds authorized to be appropriated shall be made subject to obtaining the necessary appropriations.

(b) In order to pay for the United States contribution to the Asian Development Fund provided for in this section, there is authorized to be appropriated, without fiscal year limitation, $66,750,000 for payment by the Secretary of the Treasury: Provided, however, That no funds may be made available for such contribution for the fiscal year 1982.


**Effective Date**

Section effective Aug. 13, 1981, except that any funds authorized to be appropriated shall not be available for use or obligation prior to Oct. 1, 1981, see section 1372 of Pub. L. 97–35, set out as a note under section 290i of this title.

§ 285x. Additional subscription to shares

(a) United States share

(1) The United States Governor of the Bank is authorized to subscribe on behalf of the United States $378,250,000 to the Asian Development Bank; and

(2) Any subscription to the capital stock of the Bank shall be effective only to such extent or in such amounts as are provided in advance in appropriation Acts.

(b) Authorization of appropriations

In order to pay for the increase in the United States subscription to the Bank provided for in subsection (a) of this section, there are authorized to be appropriated, without fiscal year limitation, $1,322,999,476 for payment by the Secretary of the Treasury.


**Amendments**


**Effective Date of 1981 Amendment**


§ 285y. Contribution of the United States to the capital stock of the Asian Development Bank

It is the sense of the Congress that—

(A) the Republic of China (Taiwan) is a charter member in good standing of the Asian Development Bank;

(B) the Republic of China has grown from a small economy in the late 1940's to one of the economic success, a model for other nations in Asia.

(2) It is the sense of the Congress that—
§ 285y. Additional contribution to special funds; authorization of appropriations

(A) The United States Governor of the Bank shall be authorized to contribute on behalf of the United States $775,000,000 to the special fund of the Bank, a special fund of the Bank.

(1) Subject to obtaining the necessary appropriations, there are authorized to be appropriated, without fiscal year limitation, $775,000,000 for payment by the Secretary of the Treasury.


§ 285z. Additional contribution to special funds; authorization of appropriations

(a) The United States Governor of the Bank is authorized to contribute on behalf of the United States $964,280,000 to the special fund of the Bank.

(1) Subject to obtaining the necessary appropriations, there are authorized to be appropriated, without fiscal year limitation, $964,280,000 for payment by the Secretary of the Treasury.


§ 285aa. Capital increase

(a) Subscription authorized

(1) The United States Governor of the Bank may subscribe on behalf of the United States to 30,230 additional shares of the capital stock of the Bank.


§ 285dd. Ninth replenishment

(a) Contribution authority

(1) The United States Governor of the Bank may contribute on behalf of the United States an amount equal to the amount appropriated under subsection (a) of this section, pursuant to the resolution of the Bank entitled “Seventh Replenishment of the Asian Development Fund”.

(b) Limitations on authorization of appropriations

Any commitment to make the contribution authorized by paragraph (1) shall be effective only to such extent or in such amounts as are provided in advance in appropriations Acts.


§ 285bb. Additional contribution to special funds

(a) Contribution authority

(1) In general

The United States Governor of the Bank may contribute on behalf of the United States $520,000,000 to the Asian Development Fund, a special fund of the Bank.

(2) Subject to obtaining the necessary appropriations, there are authorized to be appropriated, without fiscal year limitation, $520,000,000 for payment by the Secretary of the Treasury.


§ 285cc. Eighth replenishment

(a) Contribution authority

(1) The United States Governor of the Bank is authorized to contribute on behalf of the United States $461,000,000 to the eighth replenishment of the resources of the Fund, subject to obtaining the necessary appropriations.

(b) Limitations on authorization of appropriations

Any commitment to make the contribution authorized by paragraph (1) shall be effective only to such extent or in such amounts as are provided in advance in appropriations Acts.

§ 285ee

TITLE 22—FOREIGN RELATIONS AND INTERCOURSE

Page 144

States, $461.000.000 to the ninth replenishment of the resources of the Fund, subject to obtaining the necessary appropriations.

(b) In order to pay for the United States contribution provided for in subsection (a), there are authorized to be appropriated, without fiscal year limitation, $461,000,000 for payment by the Secretary of the Treasury.


§ 285ee. Fifth capital increase

(a) Subscription authorized

(1) The United States Governor of the Bank may subscribe on behalf of the United States to 1,104,420 additional shares of the capital stock of the Bank.

(2) Any subscription by the United States to capital stock of the Bank shall be effective only to such extent or in such amounts as are provided in advance in appropriations Acts.

(b) Authorization of appropriations

(1) In order to pay for the increase in the United States subscription to the Bank provided for in subsection (a), there are authorized to be appropriated, without fiscal year limitation, $13,323,173,083, for payment by the Secretary of the Treasury.

(2) Of the amount authorized to be appropriated under paragraph (1)—

(A) $532,929,240 is authorized to be appropriated for paid-in shares of the Bank; and

(B) $12,790,243,843 is authorized to be appropriated for callable shares of the Bank, for payment by the Secretary of the Treasury.


SUBCHAPTER XV—INTERNATIONAL MONETARY FUND AND BANK FOR RECONSTRUCTION AND DEVELOPMENT

§ 286. Acceptance of membership by United States in International Monetary Fund

The President is hereby authorized to accept membership for the United States in the International Monetary Fund (hereinafter referred to as the “Fund”), and in the International Bank for Reconstruction and Development (hereinafter referred to as the “Bank”), provided for by the Articles of Agreement of the Fund and the Articles of Agreement of the Bank as set forth in the Final Act of the United Nations Monetary and Financial Conference dated July 22, 1944, and deposited in the archives of the Department of State.

(July 31, 1945, ch. 339, § 2, 59 Stat. 512.)

SHORT TITLE OF 1968 AMENDMENT

Pub. L. 90–349, June 19, 1968, 82 Stat. 188 (enacting sections 286n to 286r of this title and amending sections 412, 415, 417, and 467 of Title 12, Banks and Banking), is known as the “Special Drawing Rights Act”. For complete classification of this Act to the Code, see Short Title note set out under section 286n of this title and Tables.

SHORT TITLE

Section 1 of act July 31, 1945, provided: “This act (enacting this subchapter and amending section 822a of former Title 31, Money and Finance) may be cited as the ‘Bretton Woods Agreements Act’.”

PAR VALUE MODIFICATION

For Congressional direction that the Secretary of the Treasury maintain the value in terms of gold of the holdings in United States dollars of the International Monetary Fund and of the International Bank for Reconstruction and Development following the establishment of a par value of the dollar at $38 for a fine troy ounce of gold pursuant to the Par Value Modification Act and for the authorization of the appropriation necessary to provide such maintenance of value, see section 5152 of Title 31, Money and Finance.

§ 286a. Appointments

(a) Governors and executive directors; term of office

The President, by and with the advice and consent of the Senate, shall appoint a governor of the Fund who shall also serve as a governor of the Bank, and an executive director of the Fund and an executive director of the Bank. The executive directors so appointed shall also serve as provisional executive directors of the Fund and the Bank for the purposes of the respective Articles of Agreement. The term of office for the governor of the Fund and of the Bank shall be five years. The term of office for the executive directors shall be two years, but the executive directors shall remain in office until their successors have been appointed.

(b) Alternates; term of office

The President, by and with the advice and consent of the Senate, shall appoint an alternate for the governor of the Fund and an alternate for the governor of the Bank. The President, by and with the advice and consent of the Senate, shall appoint an alternate for each of the executive directors. The alternate for each executive director shall be appointed from among individuals recommended to the President by the executive director. The terms of office for alternates for the governor and the executive directors shall be the same as the terms specified in subsection (a) of this section for the governor and executive directors.

(c) Governor to serve as councillor; alternates and associates

Should the provisions of Schedule D of the Articles of Agreement of the Fund apply, the Governor of the Fund shall also serve as councillor, shall designate an alternate for the councillor, and may designate associates.

(d) Compensation for services

(1) No person shall be entitled to receive any salary or other compensation from the United States for services as a Governor, executive director, councillor, alternate, or associate.

(2) The United States executive director of the Fund shall not be compensated by the Fund at a rate in excess of the rate provided for an individual occupying a position at level IV of the Executive Schedule under section 5315 of title 5. The United States alternate executive director of the Fund shall not be compensated by the Fund at a rate in excess of the rate provided for an individual occupying a position at level V of the Executive Schedule under section 5316 of title 5.