

THE ANDEAN DEVELOPMENT CORPORATION
AGREEMENT ACT

Act
12 of 1999.

[26th March, 1999.]

1. This Act may be cited as the Andean Development Corporation Agreement Act. Short title.

2. In this Act—

Interpreta-
tion.

“the Corporation” means the Andean Development Corporation established by the Corporation Agreement;

“the Corporation Agreement” means the Agreement done at Bogota, Republic of Colombia on the 7th day of February, 1968 for the establishment and operation of an international body to be called the Andean Development Corporation, the text of which is set out in Part I of the Schedule;

Schedule.
Part I.

“the Operating Conditions Agreement” means the Agreement Relating to Operating Conditions of the Corporation, the text of which is set out in Part II of the Schedule;

Part II.

“the Subscription Agreement” means the Agreement for the Subscription of Common Capital Stock of the Corporation, the text of which is set out in Part III of the Schedule.

Part III.

3.—(1) The Minister responsible for finance is authorized to pay for the account of Jamaica the amounts payable from time to time to the Corporation under the Subscription Agreement and the Operating Conditions Agreement:

Financial
provisions.

Provided that the Bank of Jamaica may from time to time, subject to the terms of any agreement made by that

Bank with the Government, pay from its own funds such of the amounts aforesaid as may be specified in the agreement.

(2) The Minister responsible for finance may borrow from any person, any sum or sums required for payments under this section and, for the purpose of such borrowing, he may create and issue any securities bearing such rate of interest and subject to such conditions as to repayment, redemption or otherwise as he thinks fit.

(3) The principal and interest of any securities issued under subsection (2) and the expenses incurred in connection with their issue shall be charged on the Consolidated Fund.

(4) Subject to the terms of any agreement to the contrary made by the Bank of Jamaica with the Government pursuant to the proviso to subsection (1), any moneys received by the Government from the Corporation or raised by securities under subsection (2) shall be paid into the Consolidated Fund Account and shall form part of the Consolidated Fund and be available in any manner in which that Fund is available.

(5) The Bank of Jamaica shall act as a depositary for the holdings of currency of Jamaica and other assets of the Corporation.

Status,
immunities
and privileges
of
the Corporation.

4.—(1) The provisions of—

- (a) Articles 4 11., 47, 49, 50, 52, 53 a and b and 54 of the Corporation Agreement; and
- (b) paragraphs 2.2, 7, 8, 11.2, 12, 13, 14, 15, 16 and 18 of the Operating Conditions Agreement,

shall have the force of law in Jamaica.

Subscription
to Series
"C" shares.

5. The Government shall, pursuant to the Subscription Agreement, subscribe to the Series "C" shares of Common Capital Stock of the Corporation.

6. The Corporation shall be exempt from the provisions of the Banking Act, the Companies Act, the Financial Institutions Act and the Moneylending Act.

Exemption
of Corpora-
tion from
provisions
of certain
enactments.

SCHEDULE

(Section 2)

PART I

AGREEMENT ESTABLISHING THE ANDEAN DEVELOPMENT CORPORATION

The Governments of the Republics of Bolivia, Colombia, Chile, Ecuador, Perú and Venezuela, encouraged by the mutual desire of procuring, in the shortest possible time, the economic integration of their countries in order to accelerate the economic and social development of their people, in accordance with the principles set out in the Treaty of Montevideo, in the Charter of Punta del Este, in the Declaration signed in Bogotá by the Presidents of Colombia, Chile and Venezuela and by the Presidents of Bolivia, Ecuador and Perú, represented by their Personal Delegates, and in the Declaration of the Presidents of America at Punta del Este.

Manifesting the necessity that each of the signatory countries of the Declaration of Bogotá set as an object the creation of more adequate economic conditions for their participation in the Latin American Common Market;

Declaring that to attain the ends indicated they must overcome the difficulties that arise due to the different stages of development, from their different economic conditions in general and particularly of the markets in order to achieve a harmonious and balanced growth of the Subregion;

Bearing in mind that the Declaration of Bogotá created the Mixed Commission and other entities as organs for promotion, consultation and coordination of the policies which are to be adopted in the diverse subregional countries and advised on the creation of an organization to materialize and concretize the actions agreed to, especially those related to the study and execution of multinational projects and which serve as the dynamic element in the operation and completion of a subregional integration agreement;

Estimating that for the better realization of the diverse activities that the aforementioned organization must carry out in the Subregion to fulfill its objectives, it is advisable that each of the countries proceed to promulgate the pertinent legal, regulatory and administrative provisions;

Considering that the participation by public and private sectors of the countries within and outside of the Subregion, as well as the participation of international financing organizations has a significant importance because of technical, scientific and financial assistance they may provide;

Expressing that joint action by the subregional countries is important to achieve a balanced and harmonious economic development, together with the rest of the Latin American nations which, when integrated, will form the Common Market;

Have resolved to create a development corporation and, to that effect, enter into the Agreement which constitutes it; designating for this purpose their Plenipotentiaries who, after having exhibited their full powers and these found to be in good and due form, have agreed to organize the Andean Development Corporation which shall be governed by the following provisions:

CHAPTER I

NAME, LEGAL STATUS, HEADQUARTERS, OBJECT AND FUNCTIONS

Article 1. Name and Legal Character

By means of the present Agreement the High Contracting Parties organize the Andean Development Corporation.

The Corporation is a legal entity of public international law and is subject to the provisions contained in the present instrument.

Article 2. Headquarters

The Corporation has its headquarters in the city of Caracas, Republic of Venezuela.

The Corporation may establish such agencies, offices or representation as deemed necessary for the carrying out of its functions, in each of the participating countries and thereout.

Article 3. Object

The object of the Corporation is to foster the subregional integration process. To this effect, within a sense of rational specialization and an even distribution of investments within the area, taking into consideration the necessity for effective action in favour of the relatively less developed countries and with adequate coordination with the organization in charge of the subregional integration, it shall foster the better use of the opportunities and resources which the area of action offers, through the creation of production and service enterprises and the expansion, modernization or conversion of the existing ones.

Article 4. Functions

To carry out the object indicated in the preceeding article, the Corporation has the following functions:

- a. To effect studies destined for identifying investment opportunities and to direct and prepare the corresponding projects;
- b. To divulge among the countries of the area the results of its surveys and studies, with the objective of adequately orientating the investment of available resources;
- c. To provide directly or indirectly technical assistance and the necessary financing for the preparation and execution of multinational or complementation projects;

- ch. To obtain internal or external credits;
- d. To issue bonds, debentures or other obligations which may be placed within or outside the Subregion;
- e. To promote the attraction and mobilization of resources;

In exercising the functions referred to in this and the preceding paragraph, the Corporation shall be subject to the legal provisions of the countries in which said functions are exercised, or in whose national currencies the respective commitments are designated;

- f. To promote capital and technological contributions under the most favourable conditions;
- g. To grant loans and provide pledges, endorsements and other guaranties;
- h. To promote granting of share subscriptions guarantees (underwriting) and grant such guaranties in cases where adequate conditions are met;
- i. To promote the organization of enterprises, their expansion, modernization or conversion, to such effect it being able to subscribe to shares or participations.

The Corporation may transfer the shares, securities, rights, and commitments which it acquires, offering them in the first place to public or private entities of the Subregion and, in the event of lack of interest on their part, to third parties interested in the economic and social development of the same;

- j. To realize under the conditions determined specific tasks or acts related to its purposes which may be entrusted to it by its shareholders or third parties;
- k. To coordinate its actions with those of the other national and international entities in the development of the Subregion;
- l. To recommend the necessary mechanisms of coordination for the entities or organizations of the area which provide the investment resources;
- ll. To acquire, and dispose of, movable and immovable property, file or answer legal and administrative actions and, in general, to effect all types of operations, acts, contracts and agreements required for the fulfilment of its ends.

CHAPTER II

CAPITAL, SHARES AND SHAREHOLDERS

Article 5.¹ Capital

- ¹ 1. The authorized capital of the Corporation is TWO MILLION FIFTY THOUSAND U.S. Dollars (US\$2,000,050,000.00) divided into Series "A" and Series "B" shares, in addition to Series "C", the issuance of which is authorized by the Board of Directors.

(1) Adjusted according to Decision No. 97/90 of the Extraordinary Shareholders Assembly held on June 12, 1990.

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- a. "Series A", consisting of five nominal shares with a value of ONE MILLION TWO HUNDRED THOUSAND US DOLLARS (US \$1,200,000) each.

In each country of the Subregion one of these shares was subscribed to by the Government or by the public, semi-public or private institutions with social and public purposes, designated by said Government, and

- b. "Series B", consisting of eighteen thousand eight hundred (18,800) nominative shares with a nominal value of FIVE THOUSAND US DOLLARS (US\$5,000) each subscribed and guaranteed by the respective Government, in accordance with the following particulars:

—Bolivia	1.360 shares of US\$5,000 each	US\$ 6,800,000
—Colombia	5.360 shares of US\$5,000 each	US\$26,800,000
—Ecuador	1.360 shares of US\$5,000 each	US\$ 6,800,000
—Perú	5.360 shares of US\$5,000 each	US\$26,800,000
—Venezuela	5.360 shares of US\$5,000 each	US\$26,800,000

The shares were effectively subscribed and paid up in each country by the respective governments or public, semi-public or private institutions with social or public purposes designated by said Governments.

- c. 20,000 Series "B" shares, subscribed to for the amount of ONE HUNDRED MILLION US Dollars (US\$100,000,000) to be paid up in four annual instalments as of September, 1984, distributed as follows:

—Bolivia	1.600 shares of US\$5,000 each	US\$ 8,000,000
—Colombia	5.600 shares of US\$5,000 each	US\$28,000,000
—Ecuador	1.600 shares of US\$5,000 each	US\$ 8,000,000
—Perú	5.600 shares of US\$5,000 each	US\$28,000,000
—Venezuela	5.600 shares of US\$5,000 each	US\$28,000,000

- d. Guarantee capital, consisting of forty thousand (40,000) nominal Series "B" shares with the value of FIVE THOUSAND Dollars (US\$5,000) each, the subscription of which, pursuant to the legal provisions in force in each country, was guaranteed by the respective Government, in accordance with the following particulars:

—Bolivia	3.200 shares of US\$5,000 each	US\$16,000,000
—Colombia	11.200 shares of US\$5,000 each	US\$56,000,000
—Ecuador	3.200 shares of US\$5,000 each	US\$16,000,000
—Perú	11.200 shares of US\$5,000 each	US\$56,000,000
—Venezuela	11.200 shares of US\$5,000 each	US\$56,000,000

These shares have been effectively subscribed to in each country by the respective governments or by the public, semi-public or private institutions with social or public purposes designated by said Governments:

- e. The Series "B" shares may be effectively subscribed to in each country by the respective Government or by the public, semi-public and private institutions with social and public purposes designated by said Governments or by natural persons or private corporations; in the latter case by up to forty percent (40) of the total shares of this Series, corresponding to each country.
 - f. Both Series "A" and Series "B" shares, corresponding to each country shall bear the name of the respective country.
2. With charge to the guarantee capital the following operations may be performed:
- a. Issue of bonds, debentures, and other titles;
 - b. Granting of sureties, endorsements and other guarantees; and
 - c. Acquisition or leasing of certain goods destined for specific multinational projects.
 - i. With the affirmative vote of at least seven (7) Directors the Board of Directors may commit the guarantee capital to the aforementioned operations by establishing the nature, amount and further terms and conditions of the financial commitments which may be covered with charge to the aforementioned guarantee capital, which shall in no case exceed the amount of said capital.
 - ii. Payment of guarantee capital shares will be subject to demand, upon agreement by the Board of Directors, only when needed to meet the Corporation's obligations which may be due or to fall due, arising out of such operations set forth in paragraph 2 above, in the event that the institutions was not, with its own resources, in a condition to meet them.
 - iii. In the case of such demand, in relation to a specific obligation, the payment of the shares, for the amount necessary, shall be prorated by shareholders in proportion to their number of shares.
 - iv. The obligation of the shareholders to satisfy the demand for payment of their shares in the guarantee capital shall continue to exist until said shares have been paid in full.
 - v. Payment may be made, at the option of a shareholder, in United States Dollars of the weight and in accordance with such law current as of the date of demand, or in such currency needed to meet the Corporation's obligations which have given rise to said demand.

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Article 6.² Share Issuance with a Charge to Unsubscribed Authorized Capital.

The unsubscribed authorized capital, that is, the amount of SIX HUNDRED MILLION US Dollars (US\$600,000,000) may be disposed of by the Board of Directors for subscription upon affirmative vote of at least seven (7) Directors in the following cases:

- a. For the issuance of new Series "B" shares, which shall be offered first to the shareholders in proportion to the shares held by them, in relation to the total capital.
- b. For the issuance of shares in the case of the participation of a new country, in which opportunity said country may subscribe to directly or through the entity it so designates, one Series "A" shares and a number of Series "B" shares pursuant to the conditions established in paragraph 1. b, c, d and e of Article 5 of this Agreement as well as the shares agreed upon by the Board of Directors.
- c. For the issuance of Series "C" shares, the characteristics of which shall be determined in each case by the Board of Directors, destined for being subscribed by corporations and natural persons from outside of the region.
- d. For the issuance of Series "B" and "C" shares pertaining to the guaranteed capital.

Article 7. Special Subscription Right

Notwithstanding the provisions in paragraph a. of the preceding Article, any country having a lesser number of Series "B" shares than other countries may, at any time, be able to subscribe to shares charged to authorized capital account up to a number equal to that of the largest shareholder.

Article 8. Payment of Capital

The Series "A" and "B" shares shall be paid in five (5) annual and consecutive instalments, the first one payable ninety (90) calendar days after the entry into force of this Agreement, or, as the case may be, thirty (30) calendar days after the date of deposit of the instrument of ratification.

At least fifty (50) percent of each of those instalments shall be paid in United States of America dollars, with the exception of the first which shall be paid in full in this currency.

The remaining fifty (50) percent of the other instalments may be paid in domestic currency, by the subscribers corresponding to each country, provided that total convertibility and maintenance of the value of the said currency is guaranteed to the satisfaction of the Corporation, and upon prior approval by the Board of Directors, in relation to United States of America dollars in accordance with the weight and the law in force on the date of entry into force of this Agreement.

(2) Adjusted according to Decision No. 75 of the Special Assembly held the 30th October, 1986.

Article 9. Increase or Reduction of Capital

The capital may be increased or reduced upon prior decision of the Shareholders' Assembly.

Article 10.³ Share Transferability

Series "A" shares shall be transferred within each country with the previous consent of the respective Government to public, semi-public or private entities with social and public ends as may be designated by said Government. The Series "B" shares shall be transferable only to corporations or natural persons from the respective country of the Subregion, in accordance with the percentage referred to in paragraph 1, subparagraphs b, c, d, and e of Article 5.

CHAPTER III**SHAREHOLDER'S ASSEMBLIES****Article 11. Shareholder's Assemblies**

The Shareholder's Assemblies may be Regular or Special. They are composed by shareholders or their representatives or proxies meeting such quorum and upon such conditions as set forth herein.

Article 12. Regular and Special Assemblies

The Regular Assembly shall take place once a year within ninety (90) days following the end of the fiscal year, upon prior call made by the Executive President of the Corporation, and the Special Assembly upon prior call made by the Executive President at his own initiative, by the Board of Directors, by two (2) Series "A" shareholders, or by shareholders that represent at least twentyfive (25) percent of the paid-in capital. Notice of a Special Assembly shall be served thirty (30) calendar days prior to the date of the meeting, indicating the purpose for calling it.

Article 13. Powers of the Regular Assembly

The powers of the Regular Assembly are:

- a. To consider the Board of Director's annual report, the general balance sheet and the profit and loss statement, after hearing the external auditors report, and to determine the destination of the profits;
- b. To elect members of the Board of Directors according to the norms established in this Agreement;
- c. To designate the external auditors;
- ch. To fix the remunerations of the Board members and of the external auditors;
- d. To consider any other matter that is expressly submitted to it and that does not pertain to the competence of any other body of the Corporation.

(3) Adjusted according to Division No. 79 of the Regular Assembly held the 30th of March, 1987.

Article 14. Powers of the Special Assembly

The powers of the Special Assembly are:

- a. To increase, reduce or restore corporate capital;
- b. To dissolve the Corporation;
- c. To change the headquarters of the Corporation, when the Board of Directors so proposes;
- ch. To consider any other matter which may be expressly submitted to it and that does not pertain to the competence of any other body of the Corporation.

The Special Assembly may deal only with the matters expressly included in the Notice calling it.

Article 15. Amendment of this Agreement

The Special Assembly shall have sufficient power to modify the provisions which govern the Corporation in all those administrative and procedural matters required for the better accomplishment of the proposed objectives.

Likewise, the Special Assembly with an affirmative vote of the five (5) Series "A" shareholders plus half plus one of the rest of the shares represented at the meeting, may modify the Board of Director's structure and adopt the corresponding provisions which it may deem pertinent, maintaining in any case, the basis criteria of the present Agreement.

In those other provisions related to the structure itself of the Corporation, the Special Assembly may recommend those amendments which, in its opinion, shall be submitted to the approval of the Contracting Parties.

Article 16. Quorum

A quorum shall exist at the Regular and Special Shareholders' Assemblies when a plural number of persons representing at least four (4) Series "A" shares and fifty (50) percent of the other shares attend.

In cases where the regular and Special Assembly cannot be held because of lack of a quorum, another assembly shall be called with at least thirty (30) calendar days in advance, it being stated in said notice that it shall be held whatever the number of persons present.

Article 17. Decisions

At Regular Assemblies the decisions shall be made by a majority represented by at least three (3) Series "A" shares plus half plus one of the other shares represented at the meeting.

At the Regular or Special Assemblies the required majority shall be four (4) Series "A" shares plus half plus one of the other shares represented at the meeting.

In the second notice, whether it be Regular or Special Assembly, the decisions shall be adopted with an affirmative vote of at least two (2) Series "A" shares, plus the absolute majority of the other shares represented at the meeting.

Article 18. Right to Vote

Shareholders who are in default of their capital contributions shall have no right to vote.

Article 19. Remittance of Reports and Balance Sheets

All shareholders have the right, during the fifteen (15) calendar days prior to the Shareholders' Assembly, to examine the inventory and the list of the shareholders at the Corporation's headquarters and may request a copy of the balance sheet and the auditor's report. At least fifteen (15) calendar days prior to each Assembly, the reports and balance sheets shall be remitted to all the shareholders at the address which appears registered at the Corporation.

Article 20. Minutes

Deliberations and decisions of the Assemblies shall be recorded in a Book of Minutes.

Article 21. Votes of Members of the Board of Directors

The members of the Board of Directors and the Executive President may not vote on the approval of the balance sheet or on matters involving their responsibility. Neither may they act as proxies for other shareholders in the Assemblies.

Article 22. Force of Decisions

The decisions of the Assemblies, within the limits of their powers, pursuant to the present Agreement, are binding on all the shareholders, even upon those who have not attended such Assemblies.

CHAPTER IV

BOARD OF DIRECTORS

Article 23.⁴ Composition

The Board of Directors shall be composed of eleven (11) Directors elected for a period of three (3) years, who may be re-elected. Each Director shall have a personal Alternate elected for the same period and in the same manner as the Principal.

Article 24.⁴ Designation and Election

The election of the Directors shall be performed in the following manner:

(*) Adjusted according to Decision No. 91 of the Special Assembly of the 30th of October, 1989.

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- a. Five (5) Directors and their Alternates, designated one (1) per share by each Series "A" shareholders.
- b. Five (5) Directors and their Alternates shall be elected by the holders of Series "B" shares. For this election each shareholder shall have a number of votes equal to the number of shares he or she possesses or represents multiplied by the number of Directors to be elected. Each shareholder may cast his total number of votes for one candidate or distribute them among several. The candidates receiving the largest number of votes shall be considered as elected.
- c. One (1) Director and its respective Alternate shall be elected by banking and Financial Institutions of the Subregion shareholders of the Corporation.

Directors referred in letter (c) shall be elected pursuant to internal rules approved by the shareholders of the institutions mentioned above, in which expressly recognized the principle of alternability, by reason of the nationality of the Directors.

Article 25.⁵ Quorum

The Board of Directors may validly convene with the presence of at least six (6) members.

Article 26.⁵ Resolutions

Each Director shall have one vote in the Board of Directors' Meeting. Resolutions shall be adopted by a majority of no less than half plus one of the Directors present. In the cases foreseen in Article 6, and under paragraph a., c., ch., h., i., ll., and n. of Article 27., the affirmative vote of at least seven (7) Directors shall be required.

Article 27. Powers of the Board of Directors

The powers of the Board of Directors are:

- a. To establish and direct the financial, credit and economic policy of the Corporation;
- b. To elect annually one of the Directors to preside at the meeting of the Board of Directors and the Assembly;
- c. To name and remove the Executive President;
- ch. To name and remove the Vice-Presidents of the Corporation, upon the request of the Executive President;
- d. To determine the remuneration of the Executive President and the Vice-Presidents;
- e. To approve the annual expense budget, at the Executive President's proposal;

(*) Adjusted according to Decision No. 91 of the Special Assembly of the 30th of October, 1989.

- f. To approve the asset and liability of credit operations, investments or any other operation which are within the Corporation's purpose and which may be proposed by the Executive President;
- g. To agree to issuance of bonds, debentures or other financial obligations and to determine their conditions; to grant guaranties for the subscriptions of shares and securities in general (underwriting); to operate with participation certificates; to authorize trust operations;
- h. To delegate to an executive committee, in other subsidiary bodies which the Board of Directors deems advisable to create or in the Executive President or other officials whom the Executive President may recommend, such functions referred to in letters f and g in the case of operations the amount of which not exceeds such limit as may be established by the Board itself;
- i. To solve at the proposal of the Executive President such matters not provided for in this Agreement, as well as their full interpretation, by rendering account in the latter case to the Shareholders' Assembly in their following meeting;
- j. To present to the Shareholders' Assembly the annual report and balance sheets;
- k. To propose to the Shareholders' Assembly the distribution of profits;
- l. To propose to the Shareholders' Assembly the formation of Reserves;
- ll. To pass and modify the Corporation's Internal Regulations;
- m. To agree to serve calls for regular Shareholders' Assemblies when this Agreement so prescribe and for Special Shareholders' Assemblies when corporate interests so require, the Board so deems advisable, or whenever it is so requested by the Corporation's Shareholders in accordance with the provisions of Article 12 hereof;
- n. To propose to the Assembly the change of headquarters when for reasons of indisputable necessity it deems it convenient.

Article 28. Replacement

To replace a Director who is disabled, deceased or who has resigned, the following rules shall be applied:

- a. If it is the case of a Director representing Series "A" shares, he shall be appointed by the owner of the represented share directly; and
- b. If it is the case of a Director representing Series "B" shares, the Board of Directors shall designate the respective alternate as a principal and should there be none, shall appoint his replacement who shall continue in office until the next regular Assembly, at which a definitive election shall be made. The Director so

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named by the Assembly shall hold the position only for the period of time that is left to complete the term of the replaced Director.

Article 29. Meetings

The Board of Directors shall meet whenever it so agrees to, when called by its President, upon the request of three (3) Directors, or when the Executive President so requires. The meeting shall be held at the Corporation's headquarters, except in the case of a decision of the Board of Directors to the contrary, and on such occasions as may be determined by the Board of Directors.

Article 30. Minutes

Deliberations and resolutions of the Board of Directors shall be recorded in a special Book of Minutes.

CHAPTER V**THE EXECUTIVE PRESIDENT AND OTHER OFFICIALS****Article 31. Functions of the Executive President**

The Executive President, an international official, shall be the legal representative of the Corporation and shall have the following powers:

- a. To exercise the immediate direction and administration of the Corporation;
- b. To decide and be in charge of all matters which are not expressly reserved to the Shareholders' Assemblies, the Board of Directors, the Executive Committee or other subsidiary bodies as the Board of Directors may create, as well as those which may be entrusted to him;
- c. To participate in the meetings of the Board of Directors with a voice but no vote.

Article 32. Duration

The Executive President shall hold office for five (5) years, may be re-elected and shall remain in office until his replacement takes over.

Article 33. Temporary Absence

The Executive President shall be replaced temporarily by the highest ranking Vice-President, and in his absence by the official so designated by the Board of Directors.

Article 34. Complete Absence

In the case of the absolute absence of the Executive President, the Board of Directors shall designate his replacement.

Article 35. Powers of Attorney

The Executive President may confer powers of attorney with such powers as he deems necessary to represent the Corporation in lawsuits or otherwise. He may also confer special powers of representation in matters concerning the interest of the Corporation.

Article 36. Vice-Presidents

The Board of Directors upon the recommendations of the Executive President may designate such Vice-President or Vice-Presidents as may be required for the management of the institution, determining in each case their corresponding powers, duties and remuneration. These designations shall be made in such a way that said officials shall be of different nationality, within the Subregion.

Article 37. Designation of Personnel

The designation of personnel shall be of the Executive President's competence, who shall inform the Board of Directors at its next meeting of any action taken, as well as the powers, duties and remunerations fixed in accordance with the budget.

Article 38. Selection of Personnel

To integrate the Corporation's personnel, it first must take into consideration efficiency, competency and honesty but, at the same time, it shall give importance to the necessity of choosing personnel with a geographical criterion, preferably subregional, as broad as possible.

Article 39. International Character of the Personnel

In the performance of their duties, the personnel shall not seek or receive instructions from any Government or from any other authority outside of the Corporation. They shall abstain from realizing any act incompatible with their position as international employees responsible only to the Corporation.

CHAPTER VI**FISCAL YEAR, PROFITS AND FINANCIAL STATEMENTS****Article 40. Fiscal Year**

The fiscal operation of the Corporation shall be of yearly period, which initial date shall be established by the Board of Directors.

Article 41. Balance Sheet and Statement of Profits and Losses

The day on which the fiscal year ends the accounts shall be closed in order to prepare the annual Balance Sheet and Statement of Profits and Losses for the respective year.

Article 42. Reserves

Each year at least ten (10) percent of the net profits shall be set aside to form a Reserve Fund until it reaches an amount not less than fifty (50) percent of the subscribed capital. In addition, the Assembly may agree to constitute other reserves and the distribution of the remainder among the shareholders, as dividends.

Article 43. Auditors

The Corporation shall hire the services of an auditing firm of recognized international prestige, which shall certify the annual Balance Sheet for the consideration of Regular Assembly.

CHAPTER VII**LIQUIDATION AND ARBITRATION****Article 44. Liquidation**

Once the dissolution of the Corporation has been agreed upon, its liquidation by a liquidator or a liquidating commission shall proceed, in accordance with the decision to that effect made by the Shareholders' Assembly.

The liquidator or the liquidating commission shall represent the Corporation during the liquidation process, shall pay the outstanding debts, collect the credits, distribute the surplus among the shareholders in proportion to the paid-in capital represented by each share; and, in general, shall exercise all the functions concerning the liquidation process.

The Assembly which makes the designation of the liquidator or the liquidation commission, shall fix the length of time for which they shall hold their positions and establish the fundamental rules which shall govern the liquidation. At the end of their task, or the periods determined by the Assembly, the liquidators shall render a detailed account of the activities realized and, upon terminating their task, shall present an itemized report of the entire liquidation.

Article 45. Arbitration

In the case of disagreement arising between the Corporation and its shareholders, said controversy shall be submitted to arbitration by a tribunal composed of three persons.

One of the arbitrators shall be designated by the Corporation's Board of Directors, another by the interested party and a third, by mutual agreement among the arbitrators. If an agreement is not reached, the Corporation or the interested party may request the designation of a third arbitrator from the Mixed Commission or the organization which eventually may replace it.

None of the arbitrators shall be of the same nationality as the party interested in the controversy.

If all attempts to reach an unanimous agreement fail, the decisions shall be made by a majority.

A third arbitrator may decide all questions of procedure and competency in the cases in which the parties cannot agree on the matter.

CHAPTER VIII

IMMUNITIES, EXEMPTIONS AND PRIVILEGES

Article 46. Scope of this Chapter

In order to fulfill the ends foreseen in the present Agreement, the High Contracting Parties agree that the Andean Development Corporation shall enjoy within the territory of each of them all the immunities, exemptions and privileges which are established in this Chapter.

Article 47. Immunity of Assets

The property and other assets of the Corporation, wheresoever located, shall enjoy immunity from expropriation, search, requisition, confiscation, seizure, sequestration, attachment, retention or any other form of forceful seizure which disturbs the entity's dominion on said property by reason of executive or administrative action by any of the Contracting States.

Said property and assets shall have identical immunity with respect to judicial actions until a final judgement has been pronounced against the Corporation.

Article 48. Transferability and Convertibility

The assets of any kind belonging to the Corporation shall enjoy free transferability and convertibility.

Article 49. Inviolability of Archives

The archives of the Corporation are inviolable.

Article 50. Exemption from Restrictions on Assets

The property and other assets of the Corporation are exempt from any type of restrictions, regulations, controls and moratory measures, to the extent necessary for the accomplishment of the Corporation's objectives and functions, except as otherwise expressly provided for in this Agreement.

Article 51. Communications and Correspondence Privileges

The Contracting States shall accord to the official communication of the Corporation the same treatment as the official communication of other contracting countries.

The Corporation's correspondence, including packages and printed matter, when bearing its franchise seal, shall circulate postage free through the mails of the Contracting States.

Article 52. Tax Exemptions

- a. The Corporation is exempt from all types of taxes, and in the appropriate case, from all customs duties on its income, property and other assets, as well as on the operations and transactions effected in accordance with this Agreement.

The Corporation is likewise exempt from all liability related to the payment, retention or collection of any taxes, contributions or tariffs.

- b. The salaries and fees which the Corporation pays the Directors, their Alternates, and its officials and employees, who are not citizens or nationals of the country where the Corporation has its headquarters or offices, are tax exempt.
- c. No tax of any kind shall be levied on any obligations or securities issued by the Corporation, including any dividend or interest thereon, by whomsoever held:
 1. If such taxes discriminate against such obligations or securities solely because they are issued by the Corporation, or
 2. If the sole jurisdictional basis for such taxes is the place or currency issued, made payable or paid, or the location of any office or place of business maintained by the Corporation.
- d. Neither shall there be tax of any kind levied on any obligations or securities guaranteed by the Corporation, including any dividend or interest thereon, by whomsoever held:
 1. If such taxes discriminate against such obligations or securities solely because they are guaranteed by the Corporation;
 2. If the sole jurisdictional basis for such taxes is the location of any office or place of business maintained by the Corporation.

Article 53. Personnel Immunities and Privileges

The Directors, Executive President, Vice-Presidents and Executive Officials, technicians, and professionals of the Corporation shall enjoy the following privileges and immunities:

- a. Immunity with respect to judicial and administrative process relative to acts performed by them in their official capacity, except when the Corporation expressly waives such immunity;
- b. When they are not nationals of the country in which they are located, the same immunities, with respect to immigration restrictions, alien registration requirements and military service obligations, and the same facilities with respect to exchange regulations which the country concedes to the representatives, officials and employees of comparable rank from other member countries; and

- c. The same privileges with respect to travel facilities which the Contracting States grant to representatives, officials and employees of comparable rank from other Contracting States.

Article 54. Notice of Process

Judicial action against the Corporation may only be filed in a tribunal of competent jurisdiction in the territories of a Contracting State in which the Corporation may have established an office or where it may have appointed an agent or a representative empowered to accept service or notice of process, or where it may have issued or guaranteed securities.

The Contracting States of this Agreement, the persons who represent or who derive their rights from them, may not file any legal action against the Corporation. Nevertheless, the shareholders may assert such rights pursuant to special procedure which may be designated in this Agreement, in the Regulations of the institution or in the contracts into which they enter, in order to settle the controversies that may arise between them and the Corporation.

CHAPTER IX

**WITHDRAWAL AND SUSPENSION OF SERIES "A"
SHAREHOLDERS**

Article 55. Right to Withdraw

Any Series "A" shareholder may withdraw from them, in which case the Corporation shall acquire said share. Notice of such decision shall be served to the Board of Directors in writing.

The Series "A" shares shall be paid according to the book value they represent, and the Board of Directors, in accordance with the financial conditions of the Corporation, shall determine the payment terms which shall not be longer than five (5) years.

The Series "B" shares held by natural persons or legal entities of the country to which the Series "A" shareholder belongs who decides to withdraw from the Corporation, may be freely transferred within the Subregion, provided that the proportion assigned to natural persons or private legal entities stipulated in paragraph 1. e of Article 5 is observed.

In the case of Series "A" shareholder withdrawal, the next Regular Shareholders' Assembly shall adapt the pertinent provisions of the present Agreement to the newly created situation, in accordance with the general sense hereof.

Article 56. Suspension

The Series "A" shareholder that should seriously fail, in the opinion of the Board of Directors, to fulfill any of its obligations towards the Corporation may be suspended when the Assembly so decides.

The suspended shareholder shall automatically cease being a member of the Corporation after fifteen (15) months have elapsed as of the suspension date, unless the Assembly decides otherwise.

While the suspension lasts, the shareholder may not exercise any of the rights conferred on him by this Agreement, except the right to withdraw.

CHAPTER X

FINAL PROVISIONS

Article 57. Entry into Force

The present Agreement shall enter into force when the instruments of ratification have been deposited with the Ministry of Foreign Affairs of the Republic of Venezuela, by representatives from three (3) of the signatory countries among them the headquarters country. If within a period of time of one year as of the deposit of the ratification instruments by the last of the three countries, the others have not complied with the deposit of the ratification instruments, the Board of Directors shall call a Special Shareholders' Assembly for the purpose of adapting the relevant provisions of this Agreement to the number of countries which have ratified this instrument.

The countries which have deposited their instruments of ratification prior to the date on which this Agreement enters into force shall be members from that date. The other countries shall be members from the date on which they deposit their instruments of ratification.

Article 58. Reservations to this Agreement

The signature, ratification of, or accession to this Agreement cannot be subject to reservations.

Article 59. Accession

Once the present Agreement enters into force, all those which signed the Declaration of Bogotá of August 16, 1966, and are accepted by the Mixed Commission or by the organization that eventually replaces it may accede hereto.

This Agreement shall enter into force for the Acceding State thirty (30) days after the deposit of the instrument of accession. In this case, the Shareholders' Assembly shall consider and resolve, if deemed convenient, the adjustment of the relevant provision of the present Agreement.

Article 60. Reincorporation

The Assembly may determine the conditions for the reincorporation of a Series "A" shareholder who may have withdrawn.

TRANSITORY PROVISIONS

- First: As of the date this Agreement enters into force the headquarters country shall call the first Assembly within the period of sixty (60) calendar days.
- Second: Within the period elapsed between the date that this Agreement enters into force and the holding of Special Assembly which is referred to in Article 57, the Andean Development Corporation shall be provisionally administered in the manner that the Assembly establishes in accordance with the general criteria that are indicated in this Agreement.
- Third: If three (3) countries have ratified the present Agreement and the headquarters country has not done so within three (3) months from the date of deposit of the last ratification instrument, the ratifying countries may agree upon another headquarters.

Done at the City of Bogotá, Colombia, on the seventh day of the month of February of the year *nineteen hundred sixty-eight*, in the Spanish language, in six equally authentic copies.

In witness whereof, the plenipotentiaries whose signatures appear below have signed this Agreement.

For the Government of the Republic of Bolivia,
Tomás Guillermo Elio

For the Government of the Republic of Colombia,
Jorge Valencia Jaramillo

For the Government of the Republic of Chile,
Salvador Lluch

For the Government of the Republic of Ecuador,
Gonzalo Apunte

For the Government of the Republic of Perú,
José de La Puente

For the Government of the Republic of Venezuela,
Héctor Hurtado

I hereby certify that the above Agreement Establishing the Andean Development Corporation was printed in Caracas, Venezuela, in the month of May, 1987, as an official document of this institution.

Lic. José Iturralde Arteaga,
General Secretary.

[The inclusion of this page is authorized by L.N. 3/2001]

PART II

AGREEMENT RELATING TO OPERATION CONDITIONS

BETWEEN

THE GOVERNMENT OF JAMAICA (hereinafter referred to as "The Government") represented by _____ and the *CORPORACION ANDINA DE FOMENTO* (hereinafter referred to as "The Corporation") represented by its executive President, L. Enrique García, duly authorised by article 31 of the Agreement of the Corporacion Andina de Fomento executed in Bogota, Republic of Colombia, on February 7, 1968.

WHEREAS:

1. "The Corporation" is a multilateral financial institution, organised as a legal entity of Public international Law, with the objective of achieving the economic and social development of its people, and whose activity is developed as a Multiple Bank and a financial agent.
2. "The Government" has become a shareholder of "The Corporation" with the subscription of _____ Series "C" shares, as it is said in the Agreement for the Subscription of Common Capital Stock between "The Government" and "The Corporation", dated _____, 199 .
3. "The Government" wishes to facilitate the carrying out by "The Corporation" of its functions in Jamaica, with the *Government*, public and private corporations, multilateral, bilateral or other financial institutions.
4. "The Corporation" may establish in Jamaica a representative office, or may appoint an agent, manager or representative, as it deems necessary for the carrying out of its functions.

NOW IT IS HEREBY AGREED AS FOLLOWS:

"THE CORPORATION" ACTIVITIES IN JAMAICA

1. "The Corporation" may carry out with "The *Government*", public or private corporations, and financial institutions, all type of operations in line with its objectives.

STATUS:

2. "The Government" recognizes "The Corporation" as a multilateral development finance institution with full capacity to:
 - 2.1 Acquire and dispose of immovable and movable property in Jamaica (including capacity to hold or grant any mortgage, lien or other charge or interest in such property);
 - 2.2 Enter into all types of contracts;

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- 2.3 Sue and be sued in a tribunal of competent jurisdiction in Jamaica. A judicial action against "The Corporation" may only be filed in Jamaica if it has established an office, or has appointed an agent or a representative empowered to accept service of process, or where it may have issued or guaranteed securities.

"The Government", the persons who represent or who derive their rights from them, may not file any legal action against "The Corporation". Nevertheless, "The Government" as a shareholder of "The Corporation" may assert such rights pursuant to the regulations of "The Corporation".

3. "The Corporation" will not be treated as a bank or moneylender for the purposes of local banking or moneylending law requirements, and will not be obliged to register as an external company.
4. The property and other assets of "The Corporation", wheresoever located, shall enjoy immunity from expropriation, search, requisition, confiscation, seizure, sequestration, attachment, retention or any other form of forceful seizure which disturbs the entity's dominion on said property by reason of executive or administrative action of "The Government".

Said property and assets shall have identical immunity and are exempt with respect to Judicial actions until a final judgment has been pronounced against "The Corporation".

5. The property and other assets of "The Corporation" are exempt of any type of restrictions, regulations, controls and moratoria measures, to the extent necessary for the accomplishment of "The Corporation's" objectives and functions.
6. "The Government" guarantees the inviolability of "The Corporation's" archives.
7. "The Government" shall accord to the official communications of "The Corporation" the same treatment given to the official communications of the member countries of "The Corporation".
8. "The Corporation's" correspondence, including packages and printed matter, when bearing its franchise seal, shall circulate postage free through the mail of Jamaica.
9. "The Corporation's" staff shall enjoy immunity with respect to judicial and administrative process relative to acts performed by them in their official capacity, except when "The Corporation" expressly waives such immunity.

LOCAL OFFICE:

10. "The Corporation" may, at its own expense, maintain a representative office in Jamaica from which to carry on its operations there but will meanwhile carry on those operations by visits of its employees.

ANDEAN DEVELOPMENT CORPORATION AGREEMENT

EXONERATION OF TAXES FOR THE CORPORATION'S INVESTMENTS AND OPERATIONS:

11. In respect of "The Corporation's" operations in Jamaica "The Government" undertakes to ensure that:
 - 11.1 "The Corporation" will be exempt from all direct or indirect taxes, duties, levies, deductions or other imposts of any kind now or hereafter imposed in Jamaica.
 - 11.2 "The Government", governmental agencies, public and private companies in Jamaica which make payments of interests, dividends, fees or other moneys to "The Corporation" will not be obliged to withhold or make any deduction on account of any such taxes, levies or imposts.
 - 11.3 No tax of any kind shall be levied on any obligations or securities issued by "The Corporation", including any dividend or interest thereon, by whomsoever held:
 - 11.3.1 If such taxes discriminate against such obligations or securities solely because they are issued by "The Corporation"; or
 - 11.3.2 If the sole jurisdiction basis for such taxes is the place or currency issued, made payable or paid, or the location of any office or place of business maintained by "The Corporation".
 - 11.4 Neither shall there be tax of any kind levied on any obligations or securities guaranteed by "The Corporation", including any dividend or interest thereon, by whomsoever held:
 - 11.4.1 If such taxes discriminate against such obligations or securities solely because they are guaranteed by "The Corporation";
 - 11.4.2 If the sole jurisdiction basis for such taxes is the location of any office or place of business maintained by "The Corporation".

EXONERATION OF TAXES AND DUTIES FOR THE CORPORATION AND STAFF

12. "The Corporation" will be authorized to import free of customs or import duties, vehicles, goods and technical equipment necessary for the operation of any representation it may decide to maintain in Jamaica. Such vehicles, goods and technical equipment may be subsequently re-exported free of export duties and other fiscal charges.
13. "The Corporation's" staff (not being citizens of Jamaica) will be accorded exemptions, concessions and privileges in respect of taxation, import duties and otherwise, no less favourable than those accorded to such employees of international institutions to the extent that they will:

- 13.1 Not be subject to income or similar taxes in respect of salaries and emoluments received from "The Corporation"; and
- 13.2 Be entitled within six months of arriving in Jamaica to import free of customs or import duties, personal effects (including one vehicle for personal or family use) and household goods and to export the same free of export duties and other fiscal charges at the end of their stay in Jamaica.

ENTRY VISAS, WORK PERMITS, ETC.

- 14. "The Government" will facilitate the issue of all visas, permits and other authorisations required to enable "The Corporation's" staff, and their families, to work in Jamaica and to enter, remain and reside in and leave Jamaica at any time and from time to time as required in order to carry out "The Corporation's" purposes, in accordance with the laws of Jamaica.
- 15. "The Government" will give sympathetic consideration to applications for work permits for spouses of "The Corporation's" staff (not being citizens of Jamaica).

FOREIGN INVESTMENT/EXCHANGE CONTROL

- 16. "The Government" undertakes to procure that the departments or offices for the time being responsible for foreign investment and foreign exchange control matters will:
 - 16.1 Deal expeditiously with any request for any approval for foreign investment and/or foreign exchange control purposes that may be required for a proposed investment by "The Corporation" in any enterprise in Jamaica.
 - 16.2 Grant all authorizations that may be required:
 - 16.2.1 For the remittance out of Jamaica of all dividends and other distributions, interest, profits, gains, proceeds or realisation, income, fees and moneys of any kind whatsoever arising from or in connection with any investment by "The Corporation" in Jamaica.
 - 16.2.2 For the remittance out of Jamaica of any moneys belonging to employees of "The Corporation" and their spouses and children (not being citizens of Jamaica).
 - 16.2.3 For the purchase at the best authorized exchange rate available of any foreign currency that may be required in connection with any such remittances.

OTHER MATTERS

17. With the exception of the exemptions and privileges applicable only to the staff of a representative office, the treatment which "The Government" accords to "The Corporation" will apply whether or not "The Corporation" maintains an office, agent, manager, representative or any other staff in Jamaica. Such exemptions and privileges may be extended to any wholly-owned investment subsidiary of "The Corporation" approved in writing for this purpose by "The Government".
18. If further matters arise concerning "The Corporation's" operations in Jamaica, "The Government" and "The Corporation" will discuss the same with a view to establishing appropriate additional arrangements in the spirit of this Agreement.
19. Any legislative and administrative action required in Jamaica necessary to confer full legal authority for the matters hereby agreed will be taken by "The Government" or its appropriate departments and offices.
20. Any problems arising under this Agreement will be discussed between "The Government" and "The Corporation" with a view to their being speedily and amicably resolved.

The parties subscribe to this Agreement in the city of _____ in _____, on the _____ day of _____, 199 _____ in two original copies in English and two original copies in Spanish, all of the same tenor.

THE GOVERNMENT OF
JAMAICA

CORPORACION ANDINA DE
FOMENTO

L. ENRIQUE GARCIA
Executive President.

PART III

AGREEMENT FOR THE SUBSCRIPTION OF
COMMON CAPITAL STOCK

This Agreement for the Subscription of Common Capital Stock has been entered into by the CORPORACION ANDINA DE FOMENTO (hereinafter referred to as "The Corporation") represented by its Executive President, Dr. L. Enrique Garcia, of the first part; and the GOVERNMENT OF JAMAICA, hereinafter referred to as "The Government" represented by the Honourable....., of the second part; in accordance with the following clauses:

FIRST: "The Government" agrees with "The Corporation" to subscribe for Series "C" shares of Common Capital Stock of "The Corporation", each share with a cash value of..... United States dollars; the total price of the stock being the amount of United States dollar (US\$.....).

The characteristics of the Series "C" stock are those stated in Annex I, which will form an integral part of this Agreement.

SECOND: The price of stock will be paid by "The Government" in two (2) parts, fifty percent (50%) shall be paid on the date of the subscription of the stock and the remaining fifty percent (50%) shall be paid within a period of after the date of the subscription of the stock.

THIRD: The amounts mentioned in the foregoing clause will be paid by "The Government" in United States dollars.

FOURTH: As of the date on which "The Government" effects the first payment referred to in the Second Clause of the Agreement, it will acquire the rights and obligations corresponding to a Series "C" Stockholder of "The Corporation".

FIFTH: For the effects of this Agreement, the parties give the following addresses:

THE GOVERNMENT OF JAMAICA

Mailing Address: Kingston, Jamaica.

Cable Address: Telephone: (876)
Fax: (876)

CORPORACION ANDINA DE FOMENTO

Mailing Address: Edificio Torre CAF
Avenida Luis Roche
Altamira,
Caracas, Venezuela.

ANDEAN DEVELOPMENT CORPORATION AGREEMENT

Cable Address: Corporacion Andina de Fomento
 Telephone: (582) 209-2120
 Fax: (582) 209-2406
 Telex No.: 23504 CAFVF

SIXTH: Any problems arising under this Agreement will be discussed between the parties in order to arrive at a speedy and amicable resolution of the matter.

By common agreement the parties subscribe to this Agreement for Subscription of Common Capital Stock in the city of _____ this _____ day of _____, 199 in two (2) originals in English and two (2) originals in Spanish, all of the same tenor.

**THE GOVERNMENT OF
JAMAICA**

**CORPORACION ANDINA DE
FOMENTO.**

L. ENRIQUE GARCIA
Executive President.

ANNEX I

CORPORACION ANDINA DE FOMENTO

RESOLUTION No. 865/89

D.LXII.R.5/89

FEATURES OF SERIES "C" SHARES

The Board of Directors

Having seen:—

Document D.LXII.D.6/89 and the power granted them by letter (c) of Article 6 of the Constitutive Agreement of the Corporacion Andina de Fomento.

Resolved:—

To state the basic features of Series "C" shares, to wit:

1. Type of Share: Nominal.
2. Currency: Shares will be rated in United States dollars and shall be paid in any currency to the satisfaction of the Corporation. Total convertibility and maintenance of the value thereof in relation to the United States dollars shall be guaranteed.

[The inclusion of this page is authorized by L.N. 3/2001]

3. Form of Payment: Shares shall be subscribed to form the paid-up capital and security capital in such proportion, terms and conditions to be agreed upon by subscribers and the administration.

Payment is to be made within such period of time as agreed upon by the parties, which shall not exceed two (2) years.

4. Value of shares:

— Face Value: Five Thousand United States dollars (US\$5,000.00).

— Cash: The equity value to be determined by the Administration.

5. Subscription and Assignability: These shares may be subscribed to by international agencies or by corporations or natural persons from outside of the sub-region. At any rate, such subscription shall be first approved by the Board of Directors.

Shares may be assigned to similar persons in a same country, and those subscribed to by international agencies may be assigned to other similar agencies.

6. Certificate of Shares and Assigning Procedure: The provisions set forth in Articles 5, 6, 7 and 8 of the Corporation's General By-Law shall apply to Series "C" shares. Shares belonging to international agencies shall be marked so identified, it being recorded in the stockholders book, in replacement of country's name and stockholder's nationality as referred to in Articles 5 and 6 respectively.

7. Other rights and Obligations: The rights and obligations set forth in the Constitutive Agreement and in the General By-Law, Meeting's decisions and Board of Directors' resolutions not exclusively referring to Series "A" and "B" stockholders shall apply to Series "C" stock holders.

Caracas, September 19, 1989.