

法規名稱：PARTICIPATION AGREEMENT BETWEEN THE REPUBLIC OF CHINA AND CENTRAL AMERICAN BANK FOR ECONOMIC INTEGRATION

簽訂日期：民國 80 年 06 月 20 日

生效日期：民國 80 年 06 月 20 日

PARTICIPATION AGREEMENT

The CENTRAL AMERICAN BANK FOR ECONOMIC INTEGRATION, an international juridical person, hereinafter referred to as "the Bank" and the REPUBLIC OF CHINA, hereinafter "Participant" have agreed to execute this Participation Agreement.

The Bank, under Board of Governors Resolution, approved the Statutes appearing as Annex A of this Agreement and which is considered as to be part of the same, by which the "FUND FOR THE ECONOMIC AND SOCIAL DEVELOPMENT OF CENTRAL AMERICA", hereinafter

The Fund", was created.

The Statutes permit the participation in the Fund of non-regional countries which shall have executed this Participation Agreement.

Based upon the foregoing, the parties agree to the following:

FIRST

The Participant commits itself to contribute to the Fund with a sum of ONE HUNDRED FIFTY MILLION DOLLARS OF THE UNITED STATES OF AMERICA (US\$150,000,000.00), integrated in the following manner:

- a) Twenty five percent (25%), equivalent to THIRTY SEVEN MILLION AND FIVE HUNDRED THOUSAND DOLLARS OF THE UNITED STATES OF AMERICA (US\$37,500,000.00), within a period of two (2) years in annual and consecutive installments, the first of which shall be paid within ninety (90) days after entering into force of the present Agreement.
- b) The remaining seventy five percent (75%) shall be paid upon request by the Bank and only in the case that the Bank and the Fund resources are not sufficient to pay obligations incurred in obtaining resources for the Fund, provided such obligations shall have been accepted in accordance with paragraph d) of Article 12 of the Statutes.

The contributions mentioned in this Article shall be paid in dollars of the United States of America.

SECOND

The payment request referred to in paragraph b) of First above, shall be in proportion to the contribution of each Participant and uniform for all Participants. Such payment is an independent obligation for each of the participants. If the Bank makes a payment request and the total of the payments received by the Bank are, for any reason, insufficient to cover the obligations due, or near maturing referred to in paragraph b) of First above, the Bank shall have the right of making new payment requests to the Participants, up to the amount necessary to comply with said obligations. The Participant shall under no circumstance be obliged to satisfy requests for an amount greater than the existing balance of the contribution referred to in paragraph b) of First above.

If a request has been made to satisfy the obligations referred to in First, b), due to a Participant's delay in making a timely payment, the Bank shall be obliged, as soon as the Participant makes the payment, to return to the other Participants who shall have paid, the amounts which respectively correspond to them. In all cases, if for any reason at the time of payment there is a surplus in relation to the matured obligations which gave rise to the request, the Bank shall return the unused amounts to the Participants in proportion to the contributions they shall have paid.

By agreement among the Bank and the Participants, the amounts which the Participant had paid by reason of a payment request, may be returned to the participant or considered as payments in cash which the Participant had to pay, according to the paragraph a), First, in which case the contribution obligation shall continue exigible by such amount, according to paragraph b) First.

THIRD

The payment requests of the contributions referred to in paragr-

aph b), First, shall be made by the Bank, with prior notification to the representatives referred to in Fifth hereof and to each Participant country.

FOURTH

For the contribution referred to in paragraph a) of First above, the Bank shall issue to the Participant one or more Certificates of Participation, which shall be convertible into shares of the Bank, in accordance with Article 19 of the Statutes.

Having modified the Bank's Constitutive Agreement, in order to permit the admission of countries out of the region as partners of the Bank, once the pertinent legal requisites in its country have been complied with, the Participant accepts that its Certificate of Participation be exchanged for shares in the Bank's capital. The contributions referred to in paragraph b) of First, shall become part of the Bank's authorized and underwritten capital, in accordance with the indications contained in Article 19 of the Statutes.

FIFTH

The Participant shall be represented in accordance with Articles 10 and 11 of the Statutes, without prejudice to the provisions referred to in Article 21 of the Same.

SIXTH

The Fund shall operate only during the necessary time to implement the amendments to the Bank's Constitutive Agreement and consolidate the Fund in CABEI'S Capital.

Thus, the contributions of the Participants to the Fund will be in force for the same period of the Fund.

As long as this process is unfinished and in the event of the Bank's dissolution and liquidation, the following rules will be followed:

- a) With respect to the contributions under paragraph a) of Article 7 of the Statutes, the Participant shall receive only the prorated part corresponding to them of the net liquid value of the Fund.
- b) The contributions contemplated in paragraph b) of said Artic-

le, shall serve only as support for the obligations which shall have been contracted in accordance with paragraph d) of Article 12 of the Statutes.

SEVENTH

The Participant will not be able to withdraw the resources contributed to the Fund within the first five years of its incorporation, except if it is for its integration as partner of the Bank. If the Participant withdraws as member of the Fund, its responsibility for the direct obligations with the Bank will not cease, with respect to loans or credits obtained or guarantees granted prior to the date in which the Participant ceased as member. However, it shall not have any responsibility with respect to the loans and credits obtained or guarantees granted after its retirement as Participant.

The rights and obligations of the Participant that is no longer a member, will be determined in accordance with the balance sheet for special liquidation, that for such purpose is prepared on the date of its effective separation.

EIGHTH

Any communication, notification or request given, made or sent by the Participant or the Bank, in accordance with this Agreement, shall be in writing and shall be considered as duly given, made or sent to the Party to whom it is addressed, when it shall have been delivered personally or by mail, telegram, telex, cable or radiogram, to said Party, at the following addresses:

To the Participant:

The Central Bank of China

2, Roosevelt Road, Sec. 1

Taipei 10757 Republic of China

Telex: 21532 GOVTBANK

to the Bank:

Central American Bank for

Economic Integration

P.O. Box 772

Tegucigalpa, Honduras Central America

Telex: 1103 BANCADIE/1269 BCIEHT

The above addresses may be modified, provided the corresponding notification is given, in accordance with this Agreement.

NINTH

In case of any difference in the interpretation of this Agreement or of any controversy arising under this Agreement which is not resolved by agreement between both parties, said parties shall submit unconditionally and irrevocably to the proceedings and decision of an Arbitration Tribunal composed of and formed by three persons as follows: One of the arbitrators shall be appointed by the Bank, another by the Participant, and a third by both the Bank and the Participant. In the case that agreement is not reached with respect to this appointment, the third member shall be designated by the Secretary General of the Organization of American States. It is understood that the third arbitrator may decide all procedural issues in those cases in which the parties are not in agreement on the subject matter. The decision of the Tribunal shall not be subject to appeal.

TENTH

The Participant commits itself to taking all the necessary measures and expending its best efforts so that, within the briefest possible time, the pertinent internal legal requisites are complied with to permit its incorporation as non regional member to the Bank, after the amendment of the Constitutive Agreement of the Bank, in order to facilitate the admission of new members to the Bank.

ELEVENTH

This Agreement enters into effect on the date expressed at the end of the same.

TWELFTH

This Agreement is prepared and signed in both Spanish and English. In the event of ambiguity or conflict between the two versions, the Spanish language version will prevail.

Both parties sign two copies of this Agreement, one for each of the parties, both of the same meaning and equally binding.

At the twentieth day of the month of June of the year nineteen hundred and ninety one.

POR EL GOBIERNO DE LA

REPUBLICA DE CHINA

FOR THE GOVERNMENT OF THE

REPUBLIC OF CHINA

[Signed]

Chuan-li Huang

Embajador de la Republica de

China en Honduras

Ambassador of the Republic of

China in Honduras.

ANNEX A

STATUTES OF THE FUND FOR THE ECONOMIC AND SOCIAL DEVELOPMENT OF
CENTRAL AMERICA

ESTABLISHMENT AND OBJECTIVES

Article 1.

The Fund for the Economic and Social Development of Central America of the Central American Bank for Economic Integration, hereinafter "the Bank", in which non regional countries may participate. These Statutes contain the rules for the functioning, operation and organization of said Fund.

Article 2.

The objectives of the Fund shall be to contribute to the economic and social development of Central America, by means of the financing of regional programs and projects, in accordance with the guidelines and dispositions contained in these Statutes. The Fund shall consist of the total of the financial resources at its disposal, in accordance with the present Statutes.

The Fund's resources shall be a part of the Bank's general patrimony and will be used exclusively for the objectives and the execution of the operations as foreseen in the Statutes.

PARTICIPANTS

Article 3.

Non regional countries, hence forward called "Participants", may

belong to the Fund when invited to participate if they are approved by the Board of Governors, and which sign the Participation Agreement referred to in Article 5.

RESOURCES

Article 4.

The Fund shall have the following resources:

- a) The paid-in contributions of the Participant.
- b) The resources obtained by the Bank with the contributions mentioned in paragraph b) of Article 7, as collateral.
- c) Those obtained for the Fund from international entities and organizations by any legal means.
- d) Other resources obtained by the Bank for the Fund by any legal means.
- e) The profits generated by the operations of the Fund.

CONTRIBUTIONS

Article 5.

Each of the Participants shall subscribe with the Bank a Participation Agreement, subject to Board of Director's authorization, which shall be similar for all Participants, with indication of the amount, payment conditions, nature and terms of the contributions. For their paid-in cash contributions, the Participants shall receive from the Bank the corresponding Certificates of Participation. Relative to the contributions referred to in paragraph b) of Article 7, the pertaining Participation Agreement shall govern.

Article 6.

The total amount of the Participants contributions shall be nine hundred eighty (980) million Dollars of the United States of America.

Article 7.

Each Participant shall subscribe one-hundred percent (100%) of its contribution, which shall be integrated as follows:

- a) 25% in cash, within a period of up to four (4) years, in annual and consecutive installments, the first of which shall be paid on the date set forth in the respective Participation A-

greement.

- b) The remaining 75% upon request by the Bank and only in the case that the Bank and the Fund resources are not sufficient to pay obligations incurred in obtaining resources, provided such obligations shall have been accepted in accordance with paragraph d) of Article 12.

OPERATIONS

Article 8.

The resources of the Fund may be used to finance the following programs and projects:

- a) Infrastructure projects for completion of existing regional systems or which compensate for disparities in basic sectors which hinder the balanced development of Central America.
- b) Long-term investment projects in industries of a regional nature or of interest to the Central American market, which will contribute to increase the goods available for Central American trade, or for the later and the export sector.
- c) Coordinated projects in farming techniques tending to improve, expand or substitute crops that lead to regional Central American supply.
- d) Projects to finance enterprises requiring expansion or rehabilitation of their operations, modernization of their processes or modifications in the structure of their production in order to improve their efficiency and competitive capacity within the Common Market, so as to facilitate free Central American trade.
- e) Projects to finance services essential in the operation of the Common Market.
- f) Social Development Programs to attend social needs of the Central American countries, which the Bank considers to be of regional interest.
- g) Housing programs; and
- h) Other productive programs or projects which complement the economic growth among the Central American countries and increase their interregional trade as well as with third countries.

es.

The Fund resources shall be used jointly with other resources of the Bank and in cofinancing operations with other institutions.

REGULATIONS

Article 9.

The Board of Directors of the Bank, with the agreement of the Representatives, is empowered to issue and amend the internal regulations, rules and policies which shall be required for the sound management of the Fund, and to solve all issues relative to problems arising regarding the Fund.

REPRESENTATION AND ADMINISTRATION

Article 10.

Each twenty-five percent (25%) of the total amount of the contributions referred to in Article 6 shall confer the right to appoint a representative to the Fund. Consequently, the number of representatives may not exceed four.

Notwithstanding the above, no individual Participant shall have the right to appoint more than one (1) Representative, even if it has a participation greater than the indicated twenty-five percent (25%). In any case, if only one or more countries have been incorporated, and have not completed the said 25%, they are empowered to appoint a representative who will act as such until the date in which a new Representative is appointed by the Participants which have subscribed 25%.

Article 11.

For as long as two thirds of the total amount of the contributions referred to in Article 6 have not been underwritten, the Bank, with the agreement of the Participants, may adopt other rules of representation, while maintaining at all times the maximum number of Representatives referred to in Article 10.

Article 12.

The Representatives shall have the following powers:

- a) To accept or not the allocation of the Fund's resources for specific programs and projects.

- b) To accept or not the regulations relative to the acquisition of goods and services to be financed with the Fund's resources.
- c) To approve the transfer of Fund's resources to other funds of the Bank.
- d) To accept or refuse that the contributions mentioned in paragraph b) of Article 7 of these Statutes be used as collateral for obligations contracted by the Bank for the purpose of providing resources to the Fund. The amount of the obligations thus contracted may not exceed the total amount of said contributions.
- e) Make the recommendations deemed necessary in connection with the proper functioning of the Fund.

Article 13.

For the implementation of the power conferred by these Statutes to the Representatives, resolutions will be made by majority of votes, except in the circumstances described in paragraph c) of Article 12, where the unanimity of votes shall be required, with the understanding that each one of the Representatives is entitled to only one vote. The resolution adopted must be communicated to the Bank. In its meetings the Board of Directors may request the Representatives to intervene, with the right of voice but not of vote. In the same manner, the Representatives may request the intervention of the Board of Directors in its meetings. In which case the Directors will have the right of voice but not of vote.

ACCOUNTS AND REPORTS

Article 14.

The Bank shall maintain in separate accounts the entries of the credits and debits of the Fund's operations and shall thus be shown in its profit and losses statements, as well as in its balance sheets.

AUDITS

Article 15.

The Fund's operations and accounts shall be subject to the same

verification and auditing procedures determined by the rules.

DURATION, DISSOLUTION AND LIQUIDATION

Article 16.

The Fund shall operate only during the necessary time to implement amendments to the Bank's Constitutive Agreement and consolidate the Fund in CABEI's capital. Thus, the contributions of the Participants shall be in the Fund just during the time it stands in force.

For as long as this process shall not have been concluded, and in the eventuality of the Bank's dissolution and liquidation, the following shall govern:

- a) With respect to the contributions under paragraph a) of Article 7, the Participants shall receive only the prorated part corresponding to them of the net liquid value of the Fund.
- b) With respect to the contributions contemplated in paragraph b) of the same Article, they shall be lien only for obligations contracted in accordance with paragraph d) of Article 12.

SUPPLEMENTARY LEGAL REGIMEN

article 17.

Matters not provided for in these Statutes and its regulations, shall be governed by the usual banking practices of the multilateral organizations, wherever applicable, and by the Participation Agreements executed with the Participants.

MODIFICATION OF THE STATUTES

Article 18.

These Statutes can be modified by the Bank's Board of Governors, with the prior acceptance of three-quarters of the Participants, which represent, at least, a seventy-five percent (75%) of the underwritten contributions.

FINAL DISPOSITIONS

Article 20.

If within a period of six (6) years, beginning with the date of signing of the first Participation Agreement, the modification to the Bank's Constitutive Agreement for the incorporation of Participants, as partners, has not been implemented, the Fund's

resources will be considered in trust and the Participants with the Bank will agree upon the conditions subject to such trust, procuring that the same tend to obtain the incorporation of countries outside the Region in the Bank's social capital.

Article 21.

The representation granted to the Participants in these Statutes will be valid for a two-year term, beginning as of the effective legal date of the Protocol containing the modifications to the Bank's Constitutive Agreement which permit the incorporation of the Participants in the Bank's social capital. Subsequently the powers established in Article 12, will be performed by the Board of Directors.