

International Finance Corporation's Membership Acquisition Act, 2022 (1965)

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Amendment:

Republic Strengthening and Some Nepal Laws

Amendment Act, 2066 (2010)¹

2066.10.7(21 Jan. 2010)

Act number 6 of the year 2022(1965)

An Act Made To Enable Nepal to Become a Member of the International Finance Corporation by Acceptance of the International Agreements for the Establishment and Operation of the Corporation

Preamble: Whereas, the International Finance Corporation has prescribed the terms and conditions set out in Schedule-1 of this Act as the terms and conditions upon which Nepal may be admitted to membership of the International Finance Corporation; and

Whereas, for the purpose of complying with the terms and conditions aforesaid, it is necessary to make provision as hereinafter set out;

Now, therefore, be it enacted by His Majesty King Mahendra Bir Bikram Shah Dev on the advice and with the consent of the *Rastriya Panchayat*.

¹ This Act came into force on 15 *Jestha* 2065(28 May 2008) and "*Prasati*" has been deleted.

1. **Short title and commencement:** (1) This Act may be called as the International Finance Corporation's Membership Acquisition Act, 2022 (1965)".

(2) This Act shall come into force immediately.
2. **Definitions:** Unless the subject or the context otherwise requires, in this Act:
 - (a) "Corporation" means the International Finance Corporation.
 - (b) "Corporation Agreement" means the Articles of Agreement of the Corporation.
3. **Authorization to accept Agreements and deposit instruments of acceptance:** The Minister for Finance is, hereby, authorized by instruments under his or her hand to empower such person as may be named in such instruments, on behalf of the Government of Nepal:
 - (a) To sign the Articles of Agreement of the International Finance Corporation.
 - (b) To deposit with the International Bank for Reconstruction and Development an instrument of acceptance of the Corporation Agreement setting out that the Government of Nepal has accepted in accordance with the Nepal laws the respective Articles and the terms and conditions prescribed thereunder as the terms upon which Nepal shall be admitted to membership of the International Finance Corporation.
4. **Powers to pay moneys to the Corporation:** The Minister for Finance shall have authority to pay to the Corporation from the Consolidated Fund of the Government of Nepal such moneys/subscription as may be payable from time to time to the Corporation on behalf of the Government of Nepal

in accordance with the terms and conditions set forth in Schedule-1 and the Corporation Agreement.

5. **Nepal Rastra Bank to be nominated as depository:** The Nepal Rastra Bank is, hereby, nominated as the depository for the purposes of Section 9 of Article 4 of the Corporation Agreement, as set out in Schedule-2.
6. **Channel of Communication:** The Secretary at the Ministry of Finance, Government of Nepal is, hereby, designated as the channel of communication for the purposes of Section 10 of Article 4 of the Corporation Agreement.
7. **Status, immunities and privileges of the Corporation:** Notwithstanding anything contained in the Nepal laws in force, the status, immunities and privileges set forth in Article 8 of the Corporation Agreement, and as set out in Schedule-4, shall be accorded to the Corporation.
8. **Power to amend Schedules:** If any amendment is made to any matter contained in any Schedule of this Act of the Corporation Agreement, the Government of Nepal may accordingly amend the Schedule of this Act, by publishing a Notification in the Nepal Gazette, from time to time.
9. **Power to frame Rules:** The Government of Nepal may frame Rules in order to implement the objectives of this Act.

Schedule-1

International Finance Corporation

Resolution No.

Admission of Nepal to Membership of the Corporation

Whereas, the Government of Nepal has applied for admission to membership in the International Finance Corporation in accordance with Section 1 (6) of Article 2 of the Articles of Corporation Agreement; and

Whereas, pursuant to Section 17 of the By-laws of the Corporation, the Executive Directors, after consultation with representatives of the Government of Nepal, have made recommendations to the Board of Governors regarding this application;

Now, therefore, the Board of Governors, hereby, resolves that the terms and conditions upon which Nepal shall be admitted to membership in the Corporation shall be as follows:

1. **Definitions:** The following terms used in this Resolution shall have the following respective meanings:
 - (a) "Corporation" means the International Finance Corporation.
 - (b) "Articles" means the Articles of the Corporation Agreement.
 - (c) "Dollars" means the dollars of the United States of America.
 - (d) "Subscription" means the subscription made by a member to the capital stock of the Corporation.
2. **Subscription:** By accepting membership in the Corporation, Nepal shall pay subscription price of 55 shares of the capital stock of the Corporation, and the value of each such a share shall be 1,000 Dollars.

3. **Membership of Bank:** prior to accepting the membership of the Corporation, Nepal has to become a member of the Bank for International Reconstruction and Development.
4. **Payment of subscription:** Before accepting membership in the Corporation, Nepal shall pay to the Bank on account of the subscription price of the shares in capital stock subscribed by Nepal in gold or in full payment of 55,000 Dollars payable for the same.
5. **Representation and Information:** Before accepting membership in the Corporation, Nepal shall represent to the Corporation that it has taken all action necessary to sign and deposit the instrument of acceptance and sign the Articles as contemplated by paragraph 6 (c) and (d) of this Resolution, and Nepal shall furnish to the Corporation such information in respect of such action as the Corporation may request.
6. **Acceptance of Membership:** Nepal shall become a member of the Corporation with a subscription as set out in paragraph 2 of this Resolution as of the date when Nepal shall have complied with the following requirements:
 - (a) made the payments called for by paragraph 4 of this Resolution;
 - (b) furnished the representation, and such information as may have been requested, pursuant to paragraph 5 of this Resolution;
 - (c) deposited with the Government of the International Bank for Reconstruction and Development an instrument stating that it has accepted in accordance with its law the Articles and all the terms and conditions prescribed in this Resolution, and

that it has taken all steps necessary to enable it to carry out all its obligations under the Articles and this Resolution;

- (d) signed the original copy of the Articles held in the Archives of the International Bank for Reconstruction and Development.

7. **Limitation on Period for Acceptance of Membership:** Nepal may accept membership in the Corporation pursuant to this Resolution until 31 March 1965, and if the Executive Directors deem necessary for an extraordinary circumstance that this limitation on period for acceptance of membership by Nepal pursuant to this Resolution should be extended, they may extend this limitation on period.

Schedule-2

Section 9 of Article 4 of the Articles of Agreement of the International Finance Corporation

Section 9. Depositories: Each member shall designate its central bank as a depository in which the Corporation may keep holdings of such member's currency or other assets of the Corporation, or, if it has no central bank, it shall designate for such purpose such other institution as may be acceptable to the Corporation.

NEPAL LAW COMMISSION

Schedule-3

Section 10 of Article 4 of Articles of Association of the International Finance Corporation

Section 10. Channel of Communication: Each member shall designate an appropriate authority with which the Corporation may communicate in connection with any matter arising under this Agreement.

NEPAL LAW COMMISSION

Schedule-4

Article 6 of Articles of Agreement of the International Finance Corporation

Status, immunities and privileges

Section 1. Purposes: To enable the Corporation to fulfill the functions with which it is entrusted, the status, immunities and privileges provided in this Article shall be accorded to the Corporation in the territories of each member.

Section 2. Status of the Corporation: The Corporation shall possess full juridical personality and, in particular, the capacity:

- (1) to contract;
- (2) to acquire and dispose of immovable and movable property;
- (3) to institute legal proceedings.

Section 3. Position of the Corporation with Regard to Judicial Process:

Actions may be brought against the Corporation only in a court of competent jurisdiction in the territories of a member in which the Corporation has an office, has appointed an agent for the purpose of accepting service or notice of process, or has issued or guaranteed securities. No actions shall, however, be brought by members or persons acting for or deriving claims from members. The property and assets of the Corporation shall, wheresoever located and by whomsoever held, be immune from all forms of seizure, attachment or execution before the delivery of final judgment against the Corporation.

Section 4. Immunity of Assets from Seizure: Property and assets of the Corporation, wherever located and by whomsoever held, shall be immune

from search, requisition, confiscation, expropriation or any other form of seizure by executive or legislative action.

Section 5. Immunity of Archives: The archives of the Corporation shall be inviolable.

Section 6. Freedom of Assets from Restrictions: To the extent necessary to carry out the operations provided for in this Agreement and subject to the provisions of this Agreement, all property and assets of the Corporation shall be free from restrictions, regulations, controls and moratoria of any nature.

Section 7. Privilege for Communications: The official communications of the Corporation shall be accorded by each member the same treatment that it accords to the official communications of other members.

Section 8. Immunities and Privileges of Officers and Employees: All Governors, Executive Directors, Alternates, officers and employees of the Corporation:

- (1) shall be immune from legal process with respect to acts performed by them in their official capacity except when the Corporation waives this immunity;
- (2) not being local nationals, shall be accorded the same immunities from immigration restrictions, alien registration requirements and national service obligations and the same facilities as regards exchange restrictions as are accorded by members to the representatives, officials and employees of comparable rank of other members;
- (3) shall be granted the same treatment in respect of travelling facilities as is accorded by members to representatives,

officials and employees of comparable rank of other members.

Section 9. Immunities from Taxation: (a) The Corporation, its assets, property, income and its operations and transactions authorized by this Agreement, shall be immune from all taxation and from all customs duties. The Corporation shall also be immune from liability for the collection or payment of any tax or duty.

(b) No tax shall be levied on or in respect of salaries and emoluments paid by the Corporation to Executive Directors, Alternates, officials or employees of the Corporation who are not local citizens, local subjects, or other local nationals.

(c) No taxation of any kind shall be levied on any obligation or security issued by the Corporation (including any dividend or interest thereon) by whomsoever held:

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

(d) No taxation of any kind shall be levied on any obligation or security guaranteed by the Corporation (including any dividend or interest thereon) by whomsoever held:

- (i) which discriminates against such obligation or security solely because it is guaranteed by the Corporation; or

- (ii) if the sole jurisdictional basis for such taxation is the location of any office or place of business maintained by the Corporation.

Section 10. Application of Article: Each member shall take such action as is necessary in its own territories for the purpose of making effective in terms of its own law the principles set forth in this Article and shall inform the Corporation of the detailed action which it has taken.

Section 11: Waiver: The Corporation may, at its discretion, waive privileges and immunities granted under this Article on such conditions and at such a degree as may be required.

NEPAL LAW COMMISSION