



**BYLAWS OF THE
BOARD OF DIRECTORS OF THE
BORDER ENVIRONMENT COOPERATION COMMISSION AND
THE NORTH AMERICAN DEVELOPMENT BANK**

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THE NORTH AMERICAN DEVELOPMENT BANK**

Article 1. Scope

(a) These Bylaws establish the procedures that the Board of Directors of the Border Environment Cooperation Commission and the North American Development Bank will follow. These Bylaws are adopted under the authority of, and are intended to be complementary to, the Protocol of Amendment (the "Protocol") to the Agreement Between the Government of the United States of America and the Government of the United Mexican States Concerning the Establishment of a Border Environment Cooperation Commission and a North American Development Bank, signed on November 25 and November 26, 2002. Appendix I to the Protocol shall hereinafter be referred to as the "Charter."

(b) In the event of a conflict between the provisions of these Bylaws and the provisions of the Charter, the provisions of the Charter shall prevail. In the event of a conflict between these Bylaws and any rules and regulations adopted pursuant to the Charter, these Bylaws shall prevail.

(c) The United States and Mexico shall be referred to herein as the "Parties". The Parties reserve their sovereign right to carry out environmental infrastructure projects within their respective territories without the assistance or certification of the Board of Directors of the Border Environment Cooperation Commission ("BECC") and the North American Development Bank ("Bank"), in accordance with Chapter V, Article I(b) of the Charter.

Article 2. Principal Offices

(a) The principal office of the Bank shall be located in San Antonio, Texas, United States of America.

(b) The principal office of the BECC shall be located in Ciudad Juarez, Chihuahua, Mexico.

Article 3. Meetings of the Board of Directors

(a) Pursuant to Chapter III, Article V of the Charter, the Board shall meet publicly at least twice each calendar year on such dates as the Board shall determine. The Board shall designate one public meeting each year as the Annual Meeting.

(b) The Board may hold additional meetings when it so decides.

(c) The Board may hold executive sessions where sensitive or confidential matters may be discussed, upon decision of the Chairman or upon request by any of the Board members provided that the Chair concurs.

(d) The Secretary shall notify each Board member of the date, time and place of each meeting of the Board. Such notifications must be dispatched not less than thirty (30) calendar days prior to the date for any meeting, except that for non-public meetings, in urgent cases, notice shall be sufficient if dispatched not less than ten (10) calendar days prior to the date set for the meeting. In addition, with respect to public Board meetings, the Secretary shall provide public notice at least thirty (30) calendar days prior to the date for the meeting.

(e) The Board shall meet at the principal office of the Bank or the principal office of the BECC, generally alternating between the two countries, unless the Board decides that a particular meeting shall be held elsewhere.

(f) A quorum for any meeting of the Board shall be three Board members from each Party or their delegates, and shall include the Board members representing the U.S. Department of the Treasury, *Secretaría de Hacienda y Crédito Público* of Mexico, the Environmental Protection Agency of the United States, and SEMARNAT of Mexico.

(g) Except as the Board otherwise specifically directs, the General Manager of the BECC ("General Manager") and the Managing Director of the Bank ("Managing Director"), together with the Chairperson of the Board (the "Chairperson") and in cooperation with the host country and city, shall be responsible for making all necessary arrangements for holding Board meetings.

Article 4. Attendance at Meetings

(a) Non-public meetings of the Board shall be open for attendance only by Board members and their delegates; the General Manager and the Deputy General Manager of the BECC; the Managing Director and Deputy Managing Director of the Bank; the required staff of the Board members or their delegates, the BECC, and the Bank; and such other persons as the Board may invite.

(b) A Party may establish rules for attendance at Board meetings with respect to Board members appointed by that Party, including the terms of office of such Board members, the ability to designate a delegate, and the position level of any such delegate.

Article 5: Public Board Meetings

(a) Public meetings of the Board shall be open for attendance by the participants named in Article 4(a) and members of the public. The Board may request that people attending a public Board meeting provide their names and organizational affiliation, if any. Any person who wishes to speak on a matter related to BECC or NADB at the Board's public meeting may be recognized by the Chairperson of the public Board meeting to make an oral statement on such matter at the public Board meeting.

Any person may submit a written statement on a matter related to BECC or NADB at the Board's public meeting for its consideration. A person seeking such recognition or submitting such written statement shall provide to the Secretary his/her name, topic, and organizational affiliation, if any.

(b) The Board may invite to a public Board meeting any person it deems appropriate to advise the Board on any matter relevant to the work of the BECC or the Bank.

(c) The Chairperson, in consultation with the Board, may set reasonable limits on the total number of oral and written statements on each matter on the agenda and the time allowed for each. The Chairperson shall have the authority to decide all other operational aspects of the public meeting, in consultation with the Board, as appropriate, including the participants, the speakers to be recognized and the length of time an individual may speak.

Article 6. Agenda of Meetings

(a) The Chairperson, with the assistance of the General Manager and the Managing Director, shall prepare an agenda for each meeting of the Board, and the Secretary shall transmit such agenda to each Board member with the notice of the meeting no later than thirty (30) calendar days prior to the date established for the meeting. In addition, for each public Board meeting, the Secretary shall include the draft agenda for the meeting with the public notice of such meetings. The final draft agenda and support documents for the meetings shall be sent to all Board members not less than twenty-one (21) calendar days prior to the date of the meeting.

(b) Additional subjects may be placed on the agenda for any Board meeting by any Board member provided that he/she shall give notice thereof to the Chairperson not less than fourteen (14) calendar days prior to the date set for the meeting and that the Chairperson concurs. Support documents for such additional items shall be sent to all Board members no less than seven (7) calendar days prior to the date of the meeting. In special circumstances, the Chairperson may at any time place additional subjects on the agenda for any Board meeting. The Chairperson shall give notice of the addition of any subjects to the agenda to each Board member as soon as possible. In no event will a vote on a project certification be held unless the requirements of Article 10(b) have been met.

(c) The agenda shall be submitted by the Chairperson to the Board for approval at the beginning of each meeting.

(d) The Board shall be informed in a timely manner of all requests to the NADB and BECC for financing, certification and technical assistance. The Board shall be informed on a regular basis of the status of all such requests. A report on such requests and their status shall be an agenda item at each meeting of the Board.

(e) Prior to, or in the course of, any meeting, the Board may modify or eliminate items from the agenda.

(f) Any item included on the agenda for a Board meeting, consideration of which has not been completed at that meeting, shall, unless the Board decides otherwise, be automatically included on the agenda for the next meeting.

Article 7. Chairperson

The Chairperson shall be, on an alternating basis, the representative of the U.S. Department of the Treasury and the *Secretaría de Hacienda y Crédito Público* of Mexico, for a term that will coincide with the period between two Annual Board meetings. The Chairperson or his/her delegate shall preside at all Board meetings

Article 8. Secretary

(a) The Managing Director of the Bank and the General Manager of the BECC shall jointly serve as the Secretary of the Board and, as Secretary, shall be responsible for the preparation of a summary of the record of the proceedings of any Board meeting.

(b) The Board shall receive such support from the Secretary in the holding of its meetings and in the general execution of its functions as it deems appropriate.

(c) The Secretary shall perform the following functions, and other functions as needed:

i) Assist the Chair in the preparation of the Agenda;

ii) Notify the Board of meetings at least thirty (30) calendar days in advance of a meeting, and at least ten (10) calendar days in advance for non-public urgent meetings, including in the notification the date, location and agenda.

iii) Notify the public of any public Board meetings at least thirty (30) calendar days in advance of the meeting, including in the notification the date, location and draft agenda.

iv) Produce the necessary information and reports for the Meetings,

v) Distribute the necessary information for the Meetings at least twenty-one (21) calendar days in advance or, for added agenda items, at least seven (7) calendar days in advance.

vi) Together with the Chairperson, and in cooperation with the host country, be responsible for making all the necessary arrangements for Board meetings. Be responsible for the logistics of the Board meetings, including provision of simultaneous translation for Board meetings.

vii) Prepare the Board Resolutions for approval in both languages.

viii) Prepare the Minutes within thirty (30) calendar days of the Board meeting and submit them to Board for review and approval

ix) Between Board meetings, provide support to the Board to support its functioning (preparation of reports, papers, resolutions, etc. in Spanish and English.)

x) Any other matter that the Board instructs.

Article 9. Minutes

(a) The Board shall keep a summary record (minutes) of its proceedings which shall be provided to each Board member.

(b) Verbatim records will be reflected in the minutes only if a Board member requests that his/her remarks be taken down verbatim.

(c) Within thirty (30) calendar days following a Board meeting, the minutes of the meeting will be sent to the Board of Directors for review and approval.

(d) Minutes approved by the Board, except for those of executive sessions, shall be made available to the public, with material deemed too sensitive for public distribution redacted.

Article 10. Voting

(a) Subject to Section 1(c) of Article II in Chapter II of the Charter, all decisions of the Board of Directors shall require the approval of a majority of the directors appointed by each Party; provided that, in the case of any decision relating to or affecting project certification or financing, such majority shall include the directors representing the U.S. Department of the Treasury, *Secretaría de Hacienda y Crédito Público* of Mexico, the Environmental Protection Agency of the United States, and SEMARNAT of Mexico in order to ensure appropriate consideration of financial, technical and environmental matters. A written record of such decisions shall be made public in English and Spanish.

(b) The Board shall vote on project certification in accordance with Chapter I, Article II, Section 3, of the Charter only after the public has had an opportunity to comment to the Board on the certification of each project. Any public comment period prior to a Board decision on project certification will be at least thirty (30) calendar days.

(c) At any meeting of the Board, the vote of any Board member must be cast in person by the Board member or his/her delegate.

(d) At any meeting the Chairperson may ascertain the sense of the meeting in lieu of a formal vote but he/she shall require a formal vote upon the request of any Board member. Whenever a formal vote is required the written text of the motion and/or resolution shall be distributed to the Board members.

Article 11. Voting without Meeting

(a) Whenever the Chairperson, in consultation, as appropriate, with the Managing Director or General Manager, considers that the decision on a specific question which is for the Board to decide should not be postponed until the next meeting of the Board and does not warrant the calling of a urgent meeting of the Board, the Chairperson shall request the Board to vote without meeting.

(b) In making the request, the Secretary shall transmit the necessary resolution and supporting documents to the Board by an appropriate means of communication. The Board members shall transmit their votes in writing by an appropriate means of communication.

(c) Approval of a resolution by a vote without a meeting shall require that the votes submitted meet the quorum requirements of Article 3(f) and the voting requirements of Article 10(a).

Article 12. Terms of Service

On a case-by-case basis and as needed, non-federal Board members may receive reimbursement for reasonable expenses incurred in attending meetings of the Board.

Article 13. Committees and Subcommittees

The Board may establish Committees and Subcommittees of the Board as it deems appropriate.

Article 14. Authority of the Managing Director, General Manager, Deputy Managing Director and Deputy General Manager

(a) The Managing Director, with the assistance of the Deputy Managing Director, shall conduct, under the direction of the Board, the ordinary business of the Bank and shall exercise all powers delegated to him by the Board. The Board shall establish the criteria and procedures, including the conditions for presenting reports, which the Managing Director and the Deputy Managing Director shall follow in order to promptly present to the Board matters that require their attention.

(b) The General Manager, with the assistance of the Deputy General Manager, shall conduct, under the direction of the Board, the ordinary business of the BECC and shall exercise all powers delegated to him by the Board. The Board shall establish the criteria and procedures, including the conditions for presenting reports, which the General Manager and the Deputy General Manager shall follow in order to promptly present to the Board matters that require their attention.

Article 15. Written Submissions

(a) Any person may make a written submission to the Board at any time on any subject relevant to the work of the BECC or the Bank.

(b) A written submission will only be considered by the Board if it is submitted in either English or Spanish.

Article 16. Reports

(a) The General Manager and Managing Director shall submit to the Board a consolidated, or separate, annual report(s) in conformity with Chapter I, Article III, Section 7 and Chapter II, Article VII, Section 4(a) of the Charter, which shall include the audited statements of their accounts referred to in Article 18 (b) herein. The report(s) shall be reviewed and approved by the Board and shall subsequently be made available to the public.

(b) The Managing Director shall submit to the Board quarterly a summary statement of the Bank's financial position and a profit-and-loss statement showing the results of its operations, in conformity with Chapter II, Article VII, Section 4(a) of the Charter.

(c) The General Manager and the Managing Director shall submit to the Board a report or reports at least quarterly that shall include the following: the project pipeline for certification and financing; the status of projects under design or construction; the status of project disbursements; the status of technical assistance requests and approved technical assistance; total financing (by program); total technical assistance (by program); loan portfolio statistics; and other information that may be requested by the Board; and, if appropriate, results of any public consultations undertaken during the reporting period, including those consultations held as follow-up of Board decisions.

Article 17. Fiscal Year

The financial year of the Bank and the BECC shall begin on 1 January and end on 31 December of each year.

Article 18. Budget and Audits

(a) The General Manager and Managing Director shall prepare an administrative budget annually for the BECC and the Bank, respectively, to be presented to the Board for its approval.

(b) The accounts of the Bank and the BECC shall be audited in accordance with generally accepted accounting principles at least once a year by independent external auditors of international reputation chosen by the Board on the basis of proposals by the Managing Director and the General Manager. The Managing Director and the General Manager shall submit to the Board for approval the audited Consolidated Financial Statements With Report of Independent Accountants and Report

to Management. Upon approval by the Board, these documents shall be available to the public in the annual report referred to in Article 16 herein.

Article 19. Official Languages

- (a) The official languages of the Board of Directors are Spanish and English.
- (b) All Board documents, including agendas, minutes and texts of motions and/or resolutions, shall be prepared in both English and Spanish, each text being equally authentic.
- (c) Participation in the Board meetings may be in either one of the official languages, and simultaneous interpretation in both languages shall be provided at all Board meetings.

Article 20. Confidentiality and Protection of Information

(a) The Board shall establish for itself, its committees and subcommittees, rules of confidentiality and appropriate treatment of information that requires protection from disclosure, pursuant to the Charter, these Bylaws or other applicable regulations adopted by the Board, pursuant to Chapter III, Article VII, Section 1, of the Charter.

(b) The Board may direct the Commission and the Bank to enter into confidentiality agreements with third parties outside the BECC or Bank to protect information designated confidential pursuant to the Charter, these Bylaws or other applicable regulations adopted by the Board, pursuant to Chapter III, Article VII, Section 1, of the Charter.”

Article 21. Definitions

Terms that are defined in the Charter have the same meaning in these by-laws.

“Non-federal Board member” means a Board member that is not a representative of the Mexican or the United States’ federal governments, namely, one of the following: the representative of one of the U.S. border states; the representative of one of the Mexican border states; a member of the United States public who is a resident of the border region; or a member of the Mexican public who is a resident of the border region.

Article 22. Amendment of the Bylaws

These Bylaws may be amended by the Board at any meeting thereof or by vote without a meeting as provided in Article 11. In amending these Bylaws, the Board shall strive to act by consensus.