ARAB FUND FOR ECONOMIC AND SOCIAL DEVELOPMENT

AGREEMENT Establishing the ARAB FUND FOR ECONOMIC AND SOCIAL DEVELOPMENT
AGREEMENT
Establishing the
ARAB FUND FOR
ECONOMIC AND
SOCIAL DEVELOPMENT
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Agreement
Establishing The
Arab Fund For Economic
And Social Development

The Governments of:

- The Hashimite Kingdom of Jordan
- The Republic of Tunisia
- The Algerian Democratic and People's Republic
- The Democratic Republic of the Sudan
- The Republic of Iraq
- The Kingdom of Saudi Arabia
- The Syrian Arab Republic
- The Libyan Arab Republic
- The Arab Republic of Egypt
- The Yemen Arab Republic
- The State of Kuwait
- The Republic of Lebanon
- The Kingdom of Morocco
- The People's Democratic Republic of Yemen
- The State of The United Arab Emirates
- The State of Bahrain
- The State of Qatar
Desirous of building the Arab Economy on a strong foundation that will enable it to meet the requirements of economic and social development in their countries, and in order to achieve the aims of the Pact of the League of Arab States.

Have approved the text of this Agreement as adopted by the Economic Council in its resolution Number 345 at its meeting held on Thursday, 18th Safar, 1388 H. (16th May, 1968).

Article 1

There shall be established an Arab regional financial organization, enjoying an independent juridical personality, called the “ARAB FUND FOR ECONOMIC AND SOCIAL DEVELOPMENT”, and having its Head Office in the City of Kuwait. The Fund may, by a decision of the Board of Governors as provided for in Article 19, establish branches and agencies in any country.
PART ONE

Purposes of the Fund

Article 2

The Fund shall participate in the financing of economic and social development projects in the Arab states and countries by:

1 - Financing economic projects of an investment character by means of loans granted on easy terms to Governments, and to public or private organizations and institutions, giving preference to economic projects that are vital to the Arab entity and to joint Arab projects.

2 - Encouraging, directly or indirectly, the investment of public and private capital in such a manner as to ensure the development and growth of the Arab economy.

3 - Providing technical expertise and assistance in the various fields of economic development.
Membership and Capital

Article 3
Members of the Fund shall be:

1 - Member States of the League of Arab States and other Arab countries having subscribed to the capital of the Fund before the 1st of July 1968. These shall be considered as founding members.

2 - Any other Arab states or countries whose accession to the Agreement shall be approved by the Board of Governors.

Article 4
The Board of Governors of the Fund may decide to accept the participation of public and private Arab financial institutions and organizations in the Arab states and countries in the capital of the Fund.

Article 5
1 - The capital of this Fund shall be One Hundred Million Kuwaiti Dinars (One Kuwaiti Dinar being equal to 2.48828 grams of gold) that are convertible into convertible currencies.

2 - The capital shall be divided into ten thousand shares having a value of Ten Thousand Kuwaiti Dinars each.

3 - Upon signing this Agreement, the founding members shall subscribe shares of the capital of the Fund in accordance with the following schedule:
<table>
<thead>
<tr>
<th>State</th>
<th>Number of Shares</th>
</tr>
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<tbody>
<tr>
<td>The Hashimite Kingdom of Jordan</td>
<td>200</td>
</tr>
<tr>
<td>The Republic of Tunisia</td>
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<td>The Algerian Democratic and People’s Republic</td>
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<td>The Kingdom of Morocco</td>
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<tr>
<td>The People’s Democratic Republic of Yemen</td>
<td>1</td>
</tr>
<tr>
<td>The State of The United Arab Emirates</td>
<td>500</td>
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<tr>
<td>The State of Bahrain</td>
<td>50</td>
</tr>
<tr>
<td>The State of Qatar</td>
<td>100</td>
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Article 6
Increase of Capital

The capital of the Fund may be increased on the following conditions:

1 - The approval by an absolute majority of the votes cast in the case of issuing new shares for allocation to an Arab country wishing to join the Fund.

2 - The approval by a three-fourths majority of the votes cast in all other cases.

3 - In case an increase is decided upon pursuant to the preceding paragraph, every member may subscribe thereto in the proportion which its shares bear to the capital and under such conditions as the Board of Governors may decide. This proportion may be increased or reduced, subject to the approval of an absolute majority of the votes cast.

4 - Only members of the Fund and institutions and organizations provided for in Article 4 hereof, can subscribe for shares in an increase of capital.

Article 7
Subscription

1 - Each founding member shall subscribe shares in accordance with the schedule set forth in paragraph 3 of Article 5. The Board of Governors shall determine the shares to be subscribed by other members in the manner provided for in paragraph 1 of Article 6.

2. - Shares shall be issued at their nominal value.
3 - The member shall pay 10% of the value of the shares for which it has subscribed upon depositing the instruments of ratification of this Agreement. The member shall deposit such amount in the Fund’s name with the Ministry of Finance of the State of Kuwait, which shall invest it under Government guarantee and return it together with the profits accruing therefrom to the body that the Board of Governors of the Fund shall designate at its first meeting.

4 - In addition to the stipulations in Paragraph 3, the member shall pay 10% of the value of the shares for which it has subscribed, upon this Agreement coming into force, pursuant to Article 40 hereof.

5 - The remaining capital shall be paid up in ten equal annual instalments, the first of which shall fall due one year after the Fund shall commence its operations.

6 - In case of accession of an Arab state or country to this Agreement after its coming into force, the new member shall pay on the share portion allotted to it, an amount proportionately equal to that paid by existing members on their shares.

Article 8

1 - No member shall be deemed liable, by virtue of its membership, for the Fund’s obligations beyond the limits set out in this Agreement.

2 - Every member shall remain liable for the unpaid portion of its shares.
3 - The provisions of Paragraphs 1 and 2 of this Article shall apply to the organizations and institutions provided for in Article 4.

Article 9
Disposal of Shares

Shares in the Fund may not be disposed of in any manner whatsoever, nor may their title be transferred, except to the Fund.

Article 10
Resources of the Fund

1 - The Fund's resources shall consist of the capital subscribed, the reserves, and the loans raised by the Fund through the issuing of bonds or the obtaining of credits from public and private Arab institutions or from individuals or international institutions.

2 - The Fund shall determine the conditions relating to bonds issue.

3 - The value of the bonds issued by the Fund may not, at any time, exceed twice the amount of the capital, unless by special resolution of the Fund's Board of Governors to be adopted by a two-third majority of votes.
Functions of the Fund

**Article 11**
Operations of the Fund

The Fund shall, in particular, carry out the following operations:

1 - Borrow funds from internal and foreign markets and determine the guarantee necessary therefor.

2 - Guarantee the securities relating to the projects wherein the Fund has invested its resources in order to facilitate their sale.

3 - Buy and sell the securities issued or guaranteed by it or wherein it has invested its resources.

4 - Invest surplus resources, its savings and pension funds and the like, in first class securities.

5 - Carry out any other operation connected with the purposes of the Fund as provided for in Article 2.

**Article 12**
Guarantees

1 - All lending operations undertaken by the Fund in favour of a public or private organization or institution shall be guaranteed by the Government of the State or the country where the project is carried out.

2 - The Fund is entitled, when financing a non-governmental project, to ask for special guarantees in addition to the governmental guarantees stipulated in Paragraph 1 of this Article.
Article 13
Limitations on Financing

1 - The Fund shall not finance a project in the territory of any member without the permission of the government concerned.

2 - The Fund shall stipulate that the proceeds of the loan be used for the purposes for which the loan was granted.

3 - The Fund shall not share in the management of any project wherein it has invested its resources.

4 - The Fund shall carry out its financing operations on the terms it shall deem appropriate, taking into consideration the requirements and risks of the project.

5 - The Fund shall ascertain, through its technical experts, the reliability of any project before financing it.

6 - The Fund shall strive for the continuous investment of its resources on satisfactory terms.

7 - The Fund may raise loans in any member country to finance a project after obtaining the permission of the government of that country. In case the project is to be carried out in the country of another member, the member in whose country the loan is raised shall undertake to transfer the proceeds of the loan to the country where the project is to be carried out, at the Fund’s request.
Article 14
Currencies in which loans are granted

The Fund shall pay the borrower the amount of the loan in the currency agreed upon by the two parties and as required for the execution of the project.

Article 15
Conversion of Currencies

The Fund shall be entitled to convert the currencies at its disposal into any other currency deemed best suited for its purposes.

Article 16
Repayment of Loans

Contracts relating to the loans granted by the Fund shall provide for the methods of repayment of such loans as follows:

1 - The Fund shall determine the cost of the loans granted by it, the commission, the methods of discharge of the debt, the dates of maturity, the payment, and the conditions relating thereto.

2 - The loan contract shall stipulate the currency in which payments due shall be made. The Fund shall endeavour, as far as possible, to recover its loans in the currency in which they were contracted. The borrower may, however, repay the loan in another currency subject to the approval of the Fund.

3 - The Fund may modify the terms of the loan contract at the borrower’s request, but without prejudice to the interest of the Fund or other members and subject to the approval of the guaranteeing government.

4 - The Fund may modify the conditions of repayment of the loan.
Article 17
Prohibition of Political Activity

The Fund and the officers in charge of its management shall not interfere in political affairs. Economic and social considerations shall be the only relevant factors in the making of decisions.
Article 18
Structure of the Fund
The Fund shall be composed of the Board of Governors, the Director-General Chairman of the Board of Directors, the Board of Directors, the Loan Committees, and the staff necessary to perform the duties determined by the Administration of the Fund.

Article 19
Board of Governors
1 - The Board of Governors shall consist of a Governor and an Alternate Governor, appointed by each member of the Fund for a period of five years, unless the member considers the replacement of either of them during the said period; they may be reappointed. The Board shall elect every year one of the Governors as its Chairman.

2 - The Board of Governors shall be considered as the General Assembly of the Fund, and shall have all powers. It may delegate to the Board of Directors any of its powers, except the power to:

a - Admit new members.
b - Increase the capital.
c - Suspend a member.
d - Settle disputes over the interpretation of the provisions of this Agreement.
e - Conclude agreements for the purpose of cooperating with other international organizations.
f - Terminate the operations of the Fund and liquidate its assets.
g - Determine the distribution of the net income of the Fund.
3 - The Board of Governors shall meet once a year at least. It shall also meet whenever so requested by any three of its members having one quarter of the total voting power, or by the Board of Directors.

4 - The meeting of the Board shall be valid provided a quorum is present representing no less than two-thirds of the total voting power.

5 - The Board of Governors may establish the necessary procedure whereby the Board of Directors may obtain the approval of the members of the Board of Governors on a specific question without calling a meeting of the latter.

6 - The Board of Governors and the Board of Directors, each within its province, may lay down such rules, instructions and regulations as may be necessary to conduct the business of the Fund.

7 - The Governors and their Alternates shall carry out their duties as members of the Board of Governors without remuneration. The Fund, however, shall pay them appropriate expenses incurred in attending meetings.

8 - The Board of Governors shall determine the remuneration to be paid to the members of the Board of Directors and their Alternates, as well as the salary and terms of the contract of service of the Director-General Chairman of the Board of Directors.
Article 20
Voting

1 - For voting purposes at meetings of the Board of Governors, each member shall have two hundred votes, regardless of the number of shares it may hold, plus one additional vote for each share held.

2 - Except as otherwise provided, all matters before the Board shall be decided by an absolute majority of votes.

Article 21
Director-General
Chairman of the Board of Directors and Staff

1 - The Board of Governors shall appoint a Director-General to the Fund who is not a Governor or his Alternate, nor a Director or his Alternate. In case of a temporary absence of the Director-General, the Board of Governors shall appoint a replacement for him to act on his behalf during his absence.

2 - The Director-General shall preside at the meetings of the Board of Directors. He shall have no vote, save in the event of an equal division, in which case he shall have a casting vote. He may be called to attend the meetings of the Board of Governors and take part in its discussions, but shall not vote at such meetings.

3 - The Director-General shall be the head of the staff of the Fund and shall be responsible for conducting all business under the supervision of the Board of Directors. He shall apply technical and administrative regulations within the Fund, and have the right to appoint and dismiss experts and staff in accordance with the regulations of the Fund.
Article 22
Board of Directors

4 - The Director-General and staff owe their duty to the Fund. In the course of the conduct of business, they must not allow themselves to be influenced by any considerations other than the interest of the Fund, and they shall remain impartial in the discharge of their duties.

5 - In appointing the staff, the Director-General shall pay due regard that positions be distributed to the extent possible amongst nationals of the Arab states and countries members of the Fund, provided that there shall be no departure from the principle of securing the required efficiency and expertise.

1 - The Board of Directors shall be charged with all the activities of the Fund in a general manner, and shall exercise the powers delegated to it by the Board of Governors.

2 - The Board of Directors shall be composed of four full-time Directors elected by the Board of Governors from among Arab citizens of recognized experience and competence. They shall be elected for a term of two years renewable.

3 - Members of the Board of Directors shall be elected as follows:

a - Each Governor shall nominate as candidates one Director and one Alternate Director.

b - The Board of Governors shall elect from among the candidates four Directors and four Alternate Directors, by a majority of votes.
c - Each Governor shall delegate to one of the elected Directors the number of votes he represents in the Board of Governors.

4 - The Alternate Directors shall assist the Directors in their work and shall attend the meetings of the Board of Directors. An Alternate Director shall have the right to vote in the absence of the Director for whom he is acting.

5 - The Directors and their Alternates shall continue in office until their successors are appointed. If the office of one of them becomes vacant for a maximum period of ninety days, the Governors whose votes were represented by the former Director shall select a successor for the remainder of the term, provided that such selection is approved by the Board of Governors. The successor shall be in the same position as his predecessor with respect to the number of votes which he represents.

6 - Meetings of the Board of Directors shall be valid provided a quorum of two-thirds of the total votes is present.

7 - Resolutions of the Board of Directors shall be adopted by an absolute majority of the votes cast unless otherwise provided.

Article 23
Loan Committees

1 - Loan committees shall be formed to submit the necessary reports on the projects and the adequacy of the loans requested therefor.

2 - Each committee shall include an expert selected by the Governor representing the member in whose territory the project
is located, and one or more members of the technical staff of the Fund appointed by the Chairman of the Board of Directors.

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<th>Article 24</th>
<th>Reports and Statements</th>
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<td>The Fund shall issue an annual general report on its financial position. It may also issue a report on its activities with respect to the various projects as well as any other reports on the carrying out of its purposes. Such reports and statements shall be distributed to all members.</td>
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<td>A 10% part of the annual net income of the Fund shall be allocated to the General Reserve. The Board of Governors may decide to allocate an additional amount to form a supplementary reserve. The balance shall be distributed to members in proportion to the number of shares held by them.</td>
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Withdrawal - Suspension of Membership
Suspension of Operations

Article 26
Withdrawal of Members

No member shall have the right to withdraw from the Fund before the expiry of five years of membership. Withdrawal shall be by way of submitting a notice in writing to the Head Office of the Fund, expressing the member's wish to withdraw. Withdrawal shall become effective on the date such notice is received.

Article 27
Suspension of Membership

1 - If a member fails to fulfill any of its obligations to the Fund, its membership may be suspended by decision of a majority of the Board of Governors. The member so suspended shall definitively cease to be a member one year from the date of suspension unless another decision is taken by a majority of votes to readmit the suspended member.

2 - While under suspension a member shall not be entitled to exercise any rights under this Agreement, except the right of withdrawal.

Article 28
Rights and Obligations of Governments Ceasing to be Members

1 - When a Government ceases to be a member under the provisions of Articles 26 and 27, it shall remain liable for all its obligations to the Fund, so long as any part of the loans or guarantees contracted before it ceased to be a member are outstanding; but the former member shall cease to incur any liabilities with respect to new loans or guarantees entered into by the Fund and shall cease to share either in its income or expenses.

2 - When a Government ceases to be a member, the Fund shall purchase the shares of such Government and settle its accounts. The purchase price of the shares shall be the value shown by the books of the Fund or the paid up value, whichever is less.
3 - The payment for shares purchased by the Fund under the preceding Paragraph shall be governed by the following conditions:

a - The Fund shall withhold any amount due to the Government for its shares so long as such Government or any public or private organization or institution in its territory remains liable to the Fund. The Fund shall be entitled to lay hold on the amount withheld in settlement of outstanding loans and obligations. In any event, no amount due to a member shall be paid until at least six months after the date upon which it ceased to be a member.

b - The Fund may pay to the Government for its shares a part of the amount withheld, in proportion to the rights recovered by the Fund.

c - If any loss is sustained by the Fund as a result of the operations undertaken by it under this Agreement and is still outstanding on the date when the Government ceased to be a member, and the amount of the loss exceeds the amount of the reserve provided to be set against such loss on the aforesaid date, then such Government shall be liable to repay upon demand the amount by which the purchase price of the said Government's shares by the Fund would have been reduced, if the loss had been taken into account when the purchase price was determined.

Article 29
Suspension of the Operations of the Fund and Liquidation of its Assets

1 - In an emergency the Board of Directors may temporarily suspend operations in respect of loans, guarantees and participation in projects. It shall convene the Board of Governors to an extraordinary meeting to consider the case and take a decision in this respect.
2 - The Fund may suspend permanently its operations by decision of a majority of three-quarters of the votes of the Board of Governors. The Fund shall, following such a decision, forthwith cease all activities, except such operations and measures as are necessary to the realization, conservation and preservation of its assets and property.

The Fund shall continue to exist, and all mutual rights and obligations between the Fund and its members under this Agreement shall remain standing until the final settlement of its obligations and distribution of its assets. During this time, no member may be suspended, nor may it withdraw, and no assets may be distributed to members except under the provisions of Part Five of this Agreement.

3 - No distribution of the assets of the Fund may be made until all creditors' claims have been settled. Such assets shall be distributed proportionately to the shares held by each member. Distribution shall be effected in cash or other assets at such times and in such currencies as the Fund shall deem appropriate.

4 - Any member receiving assets distributed by the Fund in accordance with the provisions of Part Five shall be subrogated to all the rights pertaining to such assets as the Fund enjoyed prior to their distribution.
Legal Status, Immunities and Privileges

Article 30

1 - The Fund shall possess juridical personality and, in particular, the capacity:

a - to contract;

b - to acquire immovable and movable property and to dispose of same;

c - to institute legal proceedings.

2 - Actions shall be brought against the Fund in the courts having competent jurisdiction in the place where its Head Office is situated, and may be brought against it as well in the place where the dispute has arisen if the Fund has a branch office or an agent authorized to accept notice of process.

3 - No actions shall be brought against the Fund by members or persons acting for or deriving claims from members.

4 - All property and assets of the Fund shall, wherever located and by whomsoever held in the member countries, be immune from all forms of provisional measures before the delivery of final judgement against the Fund.

5 - All property and assets of the Fund, wherever located and by whomsoever held in the member countries, shall be immune from search, requisition, confiscation, expropriation, or any similar forms of compulsory measures by an executive or legislative authority.

6 - The papers, registers and documents of the Fund, wherever located and by whomsoever held, shall be inviolable.
Article 31
Freedom of Assets from Restrictions

All property and assets of the Fund, to the extent necessary to carry out the operations provided for in this Agreement and subject to the provisions of this Agreement, shall be free from all restrictions, regulations, controls, and moratoria of any kind.

Article 32

Communications of the Fund shall be accorded by each member the same treatment that it accords to the official communications of other members.

Article 33
Immunity from Taxation in Member Countries

1 - The Fund, its assets, property, income, its operations and transactions provided for in this Agreement, shall be immune from all taxation and from all custom duties. The Fund shall also be immune from the obligation of collection or payment of any tax or duty.

2 - Shares of the Fund shall be immune from all taxes and duties when issued or circulated.

3 - Bonds and securities issued by the Fund, as well as dividends, interest and commissions thereon and the like, by whomsoever held, shall be immune from taxation of any kind.

Article 34
Immunities and Privileges of Officers and Employees of the Fund

1 - Governors and their Alternates, Directors and their Alternates, officers and employees of the Fund shall enjoy the following :

a - Immunity from legal process with respect to acts performed by them in their official capacity;

b - Immunity from immigration restrictions, alien registration requirements and exchange control;
c - Travelling facilities;

d - Immunity from taxation regarding the salaries or remunerations paid to them by the Fund.

2 - In addition to the privileges and immunities accorded to the Fund and its staff under this Agreement, the Board of Governors may determine any other privileges and immunities that it may deem necessary for the achievement of the purposes of the Fund.

Article 35
Amendment of Provisions of the Agreement

1 - Any member, Governor, or Director, shall be entitled to propose amendments to this Agreement, by communicating the amendment proposal to the Chairman of the Board of Governors who shall bring the proposal before the Board at the earliest opportunity. If the proposal is approved by the Board, the Fund shall seek the opinion of all members on same. When three-fourths of the voting members have accepted the proposal, the Fund shall certify the amendment by formal communication addressed to all members. The amendment shall be registered with the Secretariat General. *

2 - Notwithstanding Paragraph 1 of this Article, acceptance by all members is required in the case of any amendment modifying:

a - The right to withdraw from the Fund provided in Article 26 hereof;

* Translator's Note: The "Secretariat General" means the "Secretariat General of the League of Arab States".
b - The limitation of the members' liability in respect of the unpaid portion of their shares as provided in Article 8 hereof;

c - An increase of the capital as authorized under Paragraph 3 of Article 6 hereof.

3 - Amendments shall come into force for all members three months after the date of the formal communication issued by the Fund, unless a shorter period is fixed by the Board of Governors.
PART SEVEN

Interpretation and Arbitration

Article 36

1 - It shall be within the competence of the Board of Governors to examine and settle all differences arising between any member and the Fund, or between the members themselves, regarding the interpretation of the provisions of this Agreement. The decision of the Board shall be final and binding.

2 - Any member may appeal against the decisions of the Board of Directors interpreting any of the provisions of this Agreement to the Board of Governors who shall give a final and binding decision on the matter in dispute. The Fund, pending the decision of the Board of Governors, may act on the basis of the decision of the Board of Directors.

Article 37

Arbitration

Whenever a disagreement arises between the Fund and a State or a country which has ceased to be a member, or between the Fund and a member during the final liquidation of the Fund, any party may submit such disagreement to arbitration by a tribunal of three arbitrators, one appointed by the Fund, another by the second party, and the third arbitrator shall be selected by the two arbitrators.

In case the two arbitrators fail to agree on the selection of the third arbitrator, the Secretary General of the League of Arab States shall select one from among Arab jurists. The award of the arbitration tribunal shall be final and binding.
Final Provisions

Article 38
Every Government shall become member of this Fund as of the date on which it shall deposit with the Secretariat General of the League of Arab States the instruments of ratification or accession.

Article 39
Ratification, Deposit and Accession

1 - This Agreement shall be ratified by the signatory Arab states and countries, in accordance with their basic laws as early as possible. The instruments of ratification shall be deposited with the Secretariat General of the League of Arab States which shall make a record of the depositing of the instruments of ratification and to notify the Arab member states and countries thereof.

2 - Arab states and countries which have not signed this Agreement may accede thereto, following the approval of the Board of Governors, by addressing a notification to the Secretary General of the League of Arab States who shall notify their accession to the Arab states and countries, members of the Fund.

Article 40
This Agreement shall come into force one month after the deposit of the instruments of ratification by states whose total subscription is not less than 45% of the capital stock provided for in Article 5 hereof.

Article 41
The Secretary General of the League of Arab States shall convene the first meeting of the Board of Governors.

IN WITNESS WHEREOF, the authorised delegates whose names appear below have signed this Agreement on behalf and in the name of their Governments.

Done in Cairo, on Thursday, 18th Safar 1388 H., 16th May 1968, in a single document in Arabic to be kept with the Secretariat General of the League of Arab States. A certified true copy shall be handed to each signatory or acceding state.