

CONVENTION ESTABLISHING THE INTER-ARAB INVESTMENT GUARANTEE CORPORATION*

THE CONTRACTING COUNTRIES

Hashemite Kingdom of Jordan
United Arab Emirates
State of Bahrain¹
Republic of Tunisia
Democratic and Peoples Republic of Algeria
Republic of Djibouti²
Kingdom of Saudi Arabia³
Republic of the Sudan
Syrian Arab Republic
Democratic Republic of Somalia⁴
Republic of Iraq
Sultanate of Oman⁵
Palestine⁶
State of Qatar
State of Kuwait
Republic of Lebanon
Socialist People's Libyan Arab Jamahiriya
Arab Republic of Egypt
Kingdom of Morocco
Islamic Republic of Mauritania⁷
Arab Republic of Yemen

PREAMBLE

THE ARAB COUNTRIES signatory to this Convention.

* Source: Inter-Arab Investment Guarantee Corporation (1988). *Convention Establishing the Inter-Arab Investment Guarantee Corporation* (Safat: Inter-Arab Investment Guarantee Corporation). The numbering of notes in this reproduction does not necessarily correspond to their numbering in the original source version [Note added by the editor].

¹It became a party to the Convention on 3/11/1981.

²It became a party to the Convention on 25/5/1981.

³It became a party to the Convention on 20/4/1977.

⁴It became a party to the Convention on 21/10/1981.

⁵It became a party to the Convention on 5/6/1977.

⁶It became a party to the Convention on 22/3/1979.

⁷It became a party to the Convention on 10/5/1976.

DESIROUS of strengthening their economic relations within a framework of effective cooperation;

SEEKING to promote the flow of capital between their territories in order to finance their development efforts for the benefit of their peoples;

STRESSING the importance of the role which the Arab investor can play in this respect if reasonable security is assured;

EAGER to provide such security against the non-commercial risks which may confront inter-Arab investment and which are difficult for the investor to avert by measures; and

ENDEAVOURING to limit the consequences likely to ensue from the materialisation of such risks,

HAVE AGREED as follows:

CHAPTER I⁸ ESTABLISHMENT OF THE CORPORATION PURPOSES - STATUS - SEAT - DURATION - LEGAL REGIME

Article 1 - Establishment of the Corporation

There is hereby established in accordance with the provisions of this Convention an organisation called "The Inter-Arab Investment Guarantee Corporation" (hereinafter referred to as "the Corporation").

Article 2 - Purposes

1. The purpose of the Corporation is to provide insurance coverage through both direct insurance and reinsurance for the Arab insured in the form of reasonable compensation for losses resulting from risks defined in the Convention.⁹
2. For the purpose of promoting investments among member countries, the Corporation shall carry out activities which are ancillary to its main purpose and in particular the promotion

⁸The Council by article (3) of Resolution 9/8987 made the following amendment to the convention:

The term "Insured party" shall be substituted for the term "The investor" wherever it appears in the Convention of the Inter-Arab Investment Guarantee Corporation [The location of this note was not indicated in the original source document].

⁹The text is appearing as amended by Council Resolution No. 9/1987, The text before amendment reads as follows:

The purpose of the Corporation is to provide insurance coverage for Arab investors in the form of reasonable compensation for losses resulting from non-commercial risks as defined in Article 18 [The location of this note was not indicated in the original source document].

of research relating to the identification of investment opportunities and the conditions of investments in the said countries.

Article 3 - Status

The Corporation shall possess juridical personality. It shall enjoy administrative and financial independence and shall possess in the territory of each member country all such rights and powers as may be necessary for the fulfilment of its functions.

Article 4 - Seat

The Corporation shall have its seat in the City of Kuwait and may establish branch offices in any other country as it may deem necessary for its activities.

Article 5 - Duration

The duration of the Corporation shall be thirty years commencing from the date on which this Convention enters into force and shall thereafter be automatically renewed for similar successive terms unless the Corporation is liquidated in accordance with the provisions of Article 33.

Article 6 - Legal Regime

1. The Corporation shall be governed by the provisions of this Convention and by such supplementary rules and regulations as may from time to time be laid down by the Council of the Corporation.
2. Where in any particular case the texts referred to in the preceding paragraph do not contain an applicable provision, such case shall be governed by the legal principles common to the contracting countries and by the recognised principles of International Law.

CHAPTER II MEMBERSHIP AND CAPITAL

Article 7 - Membership¹⁰

¹⁰This text is appearing as amended by Council resolution No. 2/1977. The text before amendment reads as follows:

Article 7 - Membership

1. Every contracting country, or public organisation designated by any such country, subscribing to the initial capital of the Corporation in accordance with the Subscription Schedule appended to this Convention shall be considered an original member.
2. Any other Arab country may accede to this Convention upon due compliance with the procedure hereinafter prescribed. Such public corporation as may be designated by it, shall thereupon acquire the status of member of the Corporation with regard to participation in its capital and to all the other obligations of membership.
3. Where a public organisation under the control of a contracting country becomes a member, that country shall be deemed to a guarantor of all the obligations of such public organisation towards the Corporation.

1. Every contracting country, and public organisation nominated by any country subscribing to the initial capital of the Corporation, shall be considered an original member.
2. Any other Arab Country may accede to this Convention upon due compliance with the procedures therein prescribed. Such country, and such public and semi-public organisations as may be nominated by it, shall thereupon acquire the status of membership of the Corporation with regard to participation in its capital and to all other obligations of membership.
3. When one organisation or more, public or semi-public, belonging to a contracting country becomes a member, that country shall be deemed to a guarantor of all the obligations of such public or semipublic organisation towards the Corporation.
3. (Bis): Any International Arab Organisation may, by a resolution of the Council, be admitted to this Convention upon due compliance with the procedures hereinafter prescribed. Such Organisation shall hereupon acquire the status of membership of the Corporation on the same basis referred to in paragraph two of this Article.
4. The liability of a member shall be limited to the amount of its share in the capital. No member shall by reason of its membership be liable for the obligations of the Corporation towards third parties.

Article 8 - Capital¹¹

1. The Corporation shall have an open-ended capital based on an initial amount of ten million Kuwait Dinars at official par value at the time of signature of this Convention, divided into ten thousand registered shares of one thousand Kuwaiti Dinars each.
2. The minimum subscription of each member shall be five per cent of the amount of the initial capital, i.e. equivalent to one-half million Kuwaiti Dinars.

Where the status of a member is accorded to one or more public or semi-public organisation belonging to one country, such minimum limit shall apply only to the organisation which represents such country¹²

3. Member shall pay in Kuwaiti Dinars, or in any other convertible currency at the exchange rate set forth in paragraph 1 of this Article, fifty per cent of the price of the shares subscribed by them in five annual installments, the first of which shall be payable within a

¹¹The Council issued resolution no. 2/1975 with recommendation to the Member States to increase their subscriptions in the capital to the extent allowing the capital to be raised to 25 million Kuwaiti Dinars (see page 41) [Note by the editor: The page reference in this note corresponds to the location of the cited resolution in the original source document].

¹²This text is appearing as amended by Council resolution no. 2/1977. The text before amendment reads as follows:

Article 8 - Capital

2. The minimum subscription of each member shall be five cent [sic] of the amount of the initial capital, equivalent to one-half million Kuwaiti Dinars.
4. The liability of a member shall be limited to the amount of its share in the capital. No member shall by reason of its membership be liable for the obligations of the Corporation towards third parties.

period of three months from the date on which this Convention enters into force with respect to the member concerned. The remaining installments shall become due on the last day of each period of one year from the date fixed for payment of the first installment. All such installments shall be paid into an account opened in the name of the Corporation in accordance with a resolution passed by its Council at its first meeting.

4. The unpaid portion of the capital shall constitute an obligation of the respective members in the proportion of the unpaid share of each. Such obligation shall mature and become payable to such extent as may be determined by the Council of the Corporation in every case where it is decided to increase the amount payable on account of shares.
5. Immediately on being notified of the Council's decision to that effect, members shall pay the amounts which have been decided to be paid on account of capital.
6. All calls made in pursuance of the provisions of paragraph 4 of this Article shall be paid in Kuwaiti Dinars or in such other freely convertible currency at the exchange rate set forth in paragraph 1 of this Article.

With the special approval of the Council in exceptional cases attributable to fundamental disequilibrium in the balance of payments of a member country, such member may pay in its own local currency a proportion not exceeding twenty-five per cent of the amount of the call. In all such cases the member concerned shall at the earliest possible opportunity permit the conversion of the amounts paid on its local currency at the same exchange rate at which it was paid. The Corporation shall in addition have the right to use these funds for the purpose of defraying its current expenditures in the member country concerned or for payment of such compensation as may be due by the Corporation and payable in such currency.

7. The capital of the Corporation shall be increased upon the admission of every new member in pursuance of paragraph 2 of Article 7 or upon the increase of the shareholding of any one or more of the members. The capital shall, on the other hand, be decreased upon the withdrawal of any of the members or in pursuance of a resolution to that effect by the Council of the Corporation.
8. A contracting country may dispose of its entire share to, or acquire the entire share registered in the name of, a public corporation controlled by such country, and may, with the consent of the Council of the Corporation, transfer to another member any shares held in excess of the minimum subscription specified in paragraph 2 of this Article.

CHAPTER III ORGANISATION AND MANAGEMENT

Article 9 - Organs of the Corporation

The Corporation shall have the following organs:

- a. The Council of the Corporation which shall be composed of one representative for each member of the Corporation.
- b. The Supervisory Committee which shall be composed of six experts of whom five shall be

of different nationalities and elected by the Council from nationals of the member countries upon the nomination of the members of the Corporation. The sixth shall be appointed by the Council upon the nomination of the Federation of Arab Chambers of Commerce, Industry and Agriculture but shall have no counted vote in the deliberations of the Committee. The term of appointment of the members of the Committee shall be three years subject to renewal.¹³

- c. The Director-General who shall be a national of a contracting country, and shall be elected by the Council from among candidates nominated by the members. He shall be elected for a term of five years subject to renewal.
- d. The Deputy Director-General, who shall be a national of a contracting country, and shall be elected by the Council from among candidates nominated by the members for a term of five years subject to renewal. He shall not be of the same nationality as the Director-General.
- e. Professional and Administrative Staff, who shall be appointed by the Director-General in accordance with the provisions of Articles 12 and 14 of this Convention.

Article 10 - The Council

- 1. The Council shall have all the powers necessary for the realisation of the objectives of the Corporation, except such powers as are by the terms of this Convention specifically conferred upon another organ of the Corporation.
- 2. The Council shall have the following functions, in particular:
 - a. Formulation of the general policy of the Corporation.
 - b. Adoption of such necessary rules and regulations as may be proposed by the Director-General after prior consultation with the Supervisory Committee.
 - c. Determination of the ways in which the funds of the Corporation shall be invested.
 - d. Interpretation and amendment of the provisions of this Convention.
 - e. Reduction of the capital of the Corporation otherwise than reduction caused by the withdrawal of a member.
 - f. Appointment of members of the Supervisory Committee and termination of their appointment in accordance with the by-laws of the Corporation.
 - g. Appointment and termination of the services of the Director General and the Deputy

¹³The text appears as amended by Council Resolution No 2/1980. The text before amendment reads as follows:

- b. The Supervisory Committee which shall be composed of three experts of different nationalities to be elected by the Council from nationals of the member countries. Two shall be elected from among candidates nominated by the members of the Corporation and the third from a list of candidates submitted by the Federation of Arab Chambers of Commerce, Industry and Agriculture. The term of appointment of the members of the Committee shall be five years subject to renewal.

Director-General in accordance with the by-laws of the Corporation.

- h. Adoption of the annual financial programme of the Corporation, approval of its balance sheet and its revenue and expenditure account and adoption of the annual reports presented by the Director-General.
 - i. Admission of new members to the Convention.
 - j. Determination of the consequences of suspension of or withdrawal from membership under the provisions of Chapter VIII of this Convention.
 - k. Deciding upon the distribution of profits and the formation of reserves in accordance with the financial regulations of the Corporation.
 - l. Suspension of operations and liquidation of the Corporation.
 - m. Delegation to the Director- General of authority to exercise any of the powers of the Council except the powers specified in this paragraph.
3. Chairmanship of the sessions of the Council shall be held in rotation by the representatives of the members in accordance with the alphabetical order of the contracting countries.
 4. The Council shall hold one meeting at least every year upon invitation of the Director-General accompanied by a draft agenda. In every session the Council shall determine the place in which the next following session shall be held. The Council may hold meetings whenever necessary either upon its own decision or upon request to that effect by the Supervisory Committee or by the Director-General.¹⁴
 5. A quorum for any meeting of the Council shall be a majority of delegates representing three-quarters of the total voting power of the members. If in any meeting there is no quorum, the Director-General shall call another meeting to be held at the earliest possible opportunity and the quorum for such second meeting shall be a majority of delegates representing two- thirds of the total voting power of the members.
 6. Each member shall be entitled to five hundred votes in respect of the minimum shares held in the capital, plus one additional vote for each two shares held in excess of such minimum. Votes shall be cast as one unit and no member shall be entitled to split the number of votes to which it is entitled.

If the minimum limit of subscription does not apply to the public or semi- public organisation, such organisation shall have one vote for each two shares it holds. The votes of a country and the public or semi- public organisations belonging to it should not be

¹⁴This text is appearing as amended by Council resolution no. 2/1978. The text before amendment reads as follows:

4. The Council shall hold one session every six months upon the invitation of the Director-General. Such invitation shall be accompanied by a draft agenda. In every ordinary session the Council shall determine the place in which the next following session shall be held.

The council may hold extraordinary sessions whenever necessary either upon its own decision or upon a request to that effect by the Supervisory Committee or by the Director-General.

split.¹⁵

7. All matters before the Council shall be decided by simple majority of the voting power represented at the meeting: Provided that decisions relating to the matters specified in paragraph 2 of this Article shall require a special majority of two-thirds of the total voting power of the members of the Corporation (which majority is hereinafter be referred to as the "special majority").
8. No member shall in any vote in a Council meeting represent more than one other member and shall in this case be authorised by a written proxy.
9. The Council shall adopt its own rules of procedure for the conduct of its business, recording of its decisions and the appointment of its secretariat. Such rules may establish a procedure whereby the Council may, without holding a meeting, take decisions on certain matter referred to it by the Director General, other than matters specified in paragraph 2 of this Article.

Article 11 - Supervisory Committee

1. The Supervisory Committee shall supervise the activities of the Corporation and may, without interference in the administration of the Corporation, tender such advice as it may consider appropriate. The Committee shall carry out its function in any of the following particular ways:
 - a. Making recommendations and expressing views to the Council and to the Director-General.
 - b. Examining such reports and memoranda on the work or the accounts of the Corporation prepared at the request of the Committee, or referred to it, by the Director- General.
 - c. Verifying the conformity of insurance operations undertaken by the Corporation with the rules and regulations in force.
 - d. Preparation of semi-annual reports on its work for submission to the Council.
2. The Committee shall elect a Chairman from its members who shall be responsible for conducting the meeting of the Committee, following up its decisions and calling its meetings at the seat of the Corporation at least once every four months. A meeting of the Committee shall also be called in pursuance of a resolution to that effect by the Council or upon a reasoned request by one of its members or by the Director- General.
3. A quorum for any meeting of the Committee shall consist of at least three of the members who have the right to vote of whom one shall be the Chairman.

¹⁵This text is appearing as amended by Council resolution no.2/1977. The text before amendment reads as follows:

6. Each member shall have five hundred votes in respect of the minimum shares held in the capital plus one additional vote for each two shares held in excess of such minimum. Votes shall be cast as a unit and no member shall be entitled to split the number of votes to which it is entitled.

Decisions of the Committee shall be carried by the unanimous vote of the members present. In case of dissent all different views shall be recorded in the minutes of the meeting and notified to the Council and to the Director- General.¹⁶

4. The Committee may invite the Director- General or his Deputy to attend any of its meeting and to participate in its deliberations but neither of them shall have the right to vote.
5. The Committee shall lay down the necessary arrangements concerning the conducting of its business, the recording of its decisions and minutes of its meetings and the notification thereof to the Council and to the Director-General.
6. Members of the Supervisory Committee shall be entitled to such remuneration as the Council shall determine.

Article 12 - Director-General

1. The Director-General shall be responsible for the administration of the Corporation in conformity with the by-laws, regulations and decisions made by the Council. His functions shall include the following:
 - a. Conclude insurance contracts with investors as well as other agreements pertaining to the activities of the Corporation.
 - b. Invest the funds of the Corporation.
 - c. Prepare research programmes in the light of the provisions of paragraph 2 of Article 2 hereof and follow up the implementation of such programmes.
 - d. Submit to the Council an annual report on the work of the Corporation in addition to other periodic reports.
 - e. Prepare all documents necessary for the business of the Council.
 - f. Furnish the Committee with the information and data as may be required.
 - g. Appoint members of the Professional and Administrative staff of the Corporation and fix their salaries in accordance with the regulations laid down by the Council.
 - h. Prepare the draft annual financial programme, the balance sheet and the profit and

¹⁶The text appears as amended by Council Resolution No 2/1980. The text before amendment reads as follows:
A quorum for any meeting of the Committee shall consist of at least two members including the Chairman.
Decisions of the Committee shall be carried by the unanimous vote of the members present. In case of dissent all different views shall be recorded in the minutes of the meeting and notified to the Council and to the Director-General.

loss account.

- i. Prepare periodic plans for the promotion of the activities of the Corporation.
2. The Director-General shall be the authorized representative of the Corporation.
3. The Director-General shall attend the meetings of the Council and participate in its deliberations without the right to vote.

Article 13 - Deputy Director-General

The Deputy Director-General shall be appointed after consultation with the Director-General. He shall assist the Director-General in the administration of the Corporation and shall perform his duties in his absence. The Director-General may also delegate some of his functions to the Deputy Director-General.

Article 14 - Professional and Administrative Staff

In appointing members of the Professional and Administrative Staff the Director-General shall give first priority to nationals of the contracting countries and then to nationals of other Arab states; provided that the persons employed shall possess suitable qualifications, experience and qualities of character.

CHAPTER IV INSURANCE OPERATIONS

Article 15 - Investments Eligible for Insurance¹⁷

1. Investments eligible for insurance shall comprise all investments between the contracting countries whether they are direct investments (including enterprises and their branches or agencies, ownership of a part of capital and ownership of real estate) or portfolio investments (including ownership of shares, stocks and bonds). Eligible investments also comprise loans for a term exceeding three years as well as such shorter term loans as the Council may in exceptional cases decide to treat as eligible for insurance.
2. In identifying investments for the purpose of the preceding paragraph, the Corporation shall be assisted by the guidelines issued by the International Monetary Fund on the Definition of long term assets and liabilities in the context of the preparation of balance of payments statistics.
3. In appraising the eligibility of an investment for the purpose of insurance no distinction shall be made on account of the monetary or non-monetary form of the transaction. Reinvestment of earnings accrued out of a previous investment shall also be eligible for insurance.

¹⁷The Council issued resolution no 3/1975 to the effect that loans pertaining to export and import transactions between Member States are to be considered as eligible for insurance by the Corporation even if such loans are for a term less than three years (See page 47) [Note by the editor: The page reference in this note corresponds to the location of the cited resolution in the original source document].

4. Insurance shall not be made available except for new transactions commencing after the conclusion of insurance contracts with the exception of operations for which the Corporation has agreed to issue re-insurance.¹⁸
5. Private investments and other mixed and public investments operating on a commercial basis shall be eligible for insurance.
6. The conclusion of insurance contracts shall be subject to the condition that the investor shall have obtained the prior approval of the competent official authority in the host country for the making of the investment and for its insurance with the Corporation against the risks to be covered.

Article (15 bis) - Export Credit Guarantee¹⁹

1. Credit facilities pertaining to export and import transaction between contracting countries shall regardless of their duration be eligible for insurance provided that such loans are connected with the export of services or primary goods produced by any one of these countries, or with goods manufactured by that country or have been assembled or processed therein, as long as such transactions yield an obvious added economic value to the said country.
2. Insurance may be extended to cover commercial risks relating to export credits. Commercial risks shall for purposes of this provision mean risks attributable to transactions of the debtor such as his failure to pay, insolvency, bankruptcy, or rescission or termination of the contract. Insurance contracts shall state specifically the risks covered in each case.
3. In accordance with this article the Council shall fix the maximum amount of total cover which may be provided by the Corporation, the rules of its distribution among the Contracting Countries and the maximum sums insured in each case.
4. The premium rate to be paid shall be fixed without abiding by Article 19 and after due regard is paid to the probabilities of the realization of risk.
5. Para. (b) of Article (15) shall not be applicable to export credit guarantee operations. Nevertheless, the insured shall prove that the export/import transaction relating to the insurance contract has been made according to the procedure and regulations in both the country of export and import.

Article 16 - Priorities

1. Subject to all operations being conducted on a sound basis and with the object of serving the interests of the investors, the Corporation shall accord special priority to the following

¹⁸The text appears as amended by Council resolution no.9/1987. The text before amendment reads as follows:
4. Insurance shall not be available except for new investments which are made after the conclusion of an insurance contract.

¹⁹The article has been added by council Resolution No.9/1987.

investments:

- a. Investments which promote economic cooperation among the contracting countries and in particular joint Arab projects and other projects which promote Arab economic integration.
 - b. Investments proved to the Corporation to be effective in the development of the productive capacities of the economy of the host country.
 - c. Investments in which the guarantee of the Corporation is considered to be an essential consideration in the decision to make them.
2. In determining the priorities specified in the preceding paragraph the Corporation may cooperate with the competent organs in the contracting countries and with the organs of such regional or international organisation as may be concerned.
 3. The proposal of a particular investment or the accord of priority to it by the Corporation in pursuance of the preceding two paragraphs shall in no way be construed as entailing liability on the part of the Corporation for the commercial consequences arising from the execution or operation of such investment.

Article 17 - Nationality of the Investor

1. To be accepted as a party to an insurance contract, the investor must either be a natural person, who is a national of a contracting country, or a juridical person whose stocks or shares are substantially owned by one or more of the contracting countries or by their nationals, and whose main seat is located in one of these countries.²⁰

Nevertheless, a juridical person may, by a resolution of the Council, be accepted as a party to an insurance contract, even if his main seat is located in a non-contracting country, provided that such juridical person is owned by not less than fifty per cent to one or more of the contracting countries or to their nationals or to the juridical persons who are, under the provisions of the above paragraph acceptable as party to the insurance contract.

In no event shall the investor be a natural person who is a national of the host country or a juridical person whose main seat is located such country if its stocks and shares are substantially owned by this country or its nationals.

2. All insurance contracts shall embody a term enabling the Corporation to amend or rescind the contract or to take any other measures in all cases where, after the conclusion of the relevant contract, any of the conditions set forth in the preceding paragraph ceases to obtain. Such conditions must also be satisfied at the time any claim is made by an investor for compensation due in respect of an insured loss.

²⁰The Council resolution no. 3/1977 was issued whereby the Director- General was authorized to conclude contracts with Banking and investment institutions and the subsidiaries thereof even if their main seats are located in non contracting countries (See page 50) [Note by the editor: The page reference in this note corresponds to the location of the cited resolution in the original source document].

3. For the purposes of the foregoing provisions, the nationality of a contracting country shall prevail in case the investor has more than one nationality, and the nationality of the host country shall prevail over that of any other contracting country.

Article 18 - Risks Eligible for Insurance

1. The insurance provided by the Corporation may cover all or part of the losses resulting from any one or more of the following non-commercial risks:²¹
 - a. Measures taken by the public authorities in the host country, either directly or through an agency, whereby the investor is deprived of his substantial rights with respect to his investment, and, in particular, confiscatory measures, nationalization, sequestration, expropriation, compulsory seizure, deprivation of a creditor of his rights including the right of assignment, and the imposition of moratoria of unreasonable length.
 - b. Introduction by the public authorities in the host country, either directly or through an agency, of new measures which substantially restrict the ability of the investor to repatriate the principal of his investment or to remit his earnings therefrom or the investment amortization installments.

The above provision shall be construed to include a delay for an unreasonable period in approving the transfer, as well as the imposition by the public authorities at the time of transfer of a rate of exchange which is clearly discriminatory against the investor. The risk provided for in this paragraph shall not be deemed to include measures existing at the time of conclusion of the insurance contract and shall not include general devaluation of currency or cases of exchange depreciation.
 - c. Any military action emanating from a foreign source or from the host country which directly affects the tangible assets of the investor, and all public civil disturbances such as revolutions, coups d'etat insurrections and acts of violence of a public character having the same effect.
2. Insurance contracts shall specifically (sic) the risks covered by the insurance in each case. In

²¹The text is appearing as amended(1) by Council Resolution No. 9/1986. The paragraph was amended the first time by Council Resolution No. 7/1976 to read as follows:

Nevertheless, a juridical person may, by a resolution of the Council, be accepted as a party to an insurance contract, even if his main seat is located in a non-contracting country, provided that such juridical person is owned by not less than fifty per cent to one or more of the contracting countries or to their nationals or to the juridical persons who are, under the provisions of the above paragraph acceptable as party to the insurance contract. In no event shall such an investor be a national of the host country.

The text before amendment by Resolution 7/1976 read as follows:

To be accepted as a party to an insurance contract, the investor must either be a natural person, who is a national of a contracting country, or a juridical person whose stocks or shares are substantially owned by one of the contracting countries or by its nationals and whose seat of control is situated in one of these countries. In no event shall such an investor be a national of the host country. [Note by the editor: the location of this note is not indicated in the original text].

all cases the insurance contract shall not cover losses arising from any measures taken by the public authorities in the host country in any of the following cases:

- a. Where such measures can be provided against by ordinary insurance transactions on reasonable terms.
 - b. Where the investor has expressly agreed to such measures being taken or has been directly responsible for them.
 - c. Where the measures are such as a state may normally take for the purposes of regulating economic activity in its territory and which do not involve discrimination against the investor by the insurance.
3. The Corporation shall in no case assume responsibility for commercial risks that attend the insured investment.

Article 19 - Fees and Premiums

1. In consideration of the examination of an insurance application the Corporation shall collect a fee in advance from all applicants and may, where no insurance contract is eventually concluded, refund the said fee either wholly or in part.
2. The Corporation shall determine in respect of each type of risk the rate of the annual premium payable by investors, but shall not, in fixing such rate, discriminate between the various host countries. In determining the level of such premiums the Corporation shall take into account the need for meeting its administrative expenses and, as far as feasible, the need for accumulating appropriate reserves.
3. The Corporation may enter into agreements with host countries whereby such countries may bear either wholly or in part the fees and premiums payable.

Article 20 - Limits of Insurance

1. The Council of the Corporation shall fix the maximum amount of the total cover which may be provided by the Corporation. This total cover shall not at any time exceed five times the amount of capital plus reserves.²²
2. The Council shall pay regard to the necessity of spreading the insurance operations among the various contracting countries.
3. The amount of insurance in respect of any single transaction should not exceed ten per cent of the total amount of the capital and reserves. Such limit may be increased to twenty per cent in case of investments having special priority in accordance with paragraph one of Article 16 of this Convention.²³

²²The Council fixed by Resolution No. 5/1982. The maximum amount of the total cover and the maximum amount of operations per country (See page 51) [Note by the editor: The page reference in this note corresponds to the location of the cited resolution in the original source document].

²³This text is appearing as amended by Council resolution no. 8/1976/2. The text before amendment reads as

4. The amount of compensation paid to an investor shall not exceed the amount of the loss sustained in consequence of the occurrence of the insured risk or the amount of insurance agreed upon in the insurance contract, whichever is the lesser.

Article 21 - Subrogation of the Corporation to the Rights of the Investor

1. The Corporation shall, upon paying or agreeing to pay compensation to an investor for any insured loss, be subrogated to all the rights which the investor may have in relation to the insured investment or to which he may become entitled in consequence of the occurrence of the loss.
2. Insurance contracts shall specify in detail the limits within which the Corporation shall be subrogated to the rights of the investor in the event of the Corporation agreeing to compensate such investor for the loss covered by the insurance.
3. By virtue of such subrogation, host countries shall as soon as possible discharge to the Corporation their obligations towards the insured investor and shall in addition, if so required by the Corporation, afford it all appropriate facilities to benefit from the rights acquired by reason of such subrogation. Failing this, the Corporation shall from the date of subrogation be entitled against the authorities of the host country to moratory interest on the amounts to which it has been subrogated to. Such interest shall be calculated on the basis of the prevailing rates on commercial loans granted by banks in said country.²⁴

CHAPTER V FINANCIAL PROVISIONS

Article 22 - Financial Management

1. The Corporation shall carry out its activities with due regard to maintaining a sound financial position in accordance with established business practices.
2. The Council shall, on the advice of the Director- General and after consultation with the Supervisory Committee, lay down such financial rules and regulations as may be necessary

follows:

3. The amount of insurance in respect of any single transaction shall not exceed ten per cent of the aggregate amount of the capital plus reserves. Such maximum may be increased to twenty per cent in the case of investment in Arab joint projects.

²⁴The text appears as amended by Council Resolution No. 9/1986. The text before amendment reads as follows:
By virtue of such subrogation, host countries shall as soon as possible discharge to the Corporation their obligations towards the insured investor, and shall in addition afford all appropriate facilities to the Corporation to exercise the right acquired by reason of such subrogation.

for the business of the Corporation.

3. The Director-General shall submit to the Council, at a date not later than the thirtieth day of September of each year, an estimate of the expected current administrative expenditures and income for the following fiscal year.
4. The financial year shall commence on the first day of January and end on the thirty-first day of December of each year: Provided that the first financial year shall commence on the date of the entry into force of this Convention.

Article 23 - Accounts

1. The Director-General shall, not later than the thirty first day of March of every year, submit with his annual report on the work of the Corporation a balance sheet showing the assets and liabilities of the Corporation at the end of the previous financial year together with the profit and loss account for the year.
2. The accounts of the Corporation shall be certified by one or more auditors practicing in the contracting countries and appointed annually by the Council. The remuneration payable to such auditors shall be fixed by the Council.
3. Before the date specified in paragraph 1 of this Article the auditors shall lay before the Council a report embodying their observations on the financial position and the annual accounts of the Corporation. The report shall be transmitted to the Supervisory Committee and to the Director- General.

Article 24 - Profits and Reserves

1. The Corporation shall retain all profits realised from its operations and set aside such profits as a reserve until the assessment of such reserve reaches three times the capital of the Corporation.
2. After the reserve has reached the level prescribed in the preceding paragraph, the Council shall decide the manner of utilisation or distribution of the realised annual profits: Provided that no more than ten per cent of such profits shall be distributed and that the distribution shall be made pro rata in proportion to the share of each member in the capital of the Corporation.
3. The Council shall on the recommendation of the Director-General specify the currency or currencies in which profits shall be distributed to each member.
4. The Council may decide to capitalise part of the reserve, in which event the resultant increase of capital shall be distributed among the members in the proportion of their shareholding at the time of such distribution.

CHAPTER VI IMMUNITIES AND EXEMPTIONS

Article 25 - Assets of the Corporation

1. The assets of the Corporation in the territories of the contracting countries shall be immune from and shall not be subject to nationalisation, confiscation, expropriation, sequestrations or seizure except in execution of a final judgment delivered by a competent judicial authority.
2. Without prejudice to the provisions of paragraph 6 of Article 8, assets of the Corporation, its profits and its financial operations shall not be subject to exchange restrictions.
3. The provisions of the preceding paragraph 2 of this Article shall not apply to assets acquired by the Corporation by virtue of subrogation to the rights of an investor pursuant to the provisions of Article 21 if such assets were originally subject to exchange restrictions.

Article 26 - Taxes

The assets of the Corporation, its income and its operations authorised by this Convention shall in all the contracting countries be immune from all taxes and duties: Provided that such immunity shall not extend to fees paid in consideration of specific services rendered to the Corporation by a public utility. The issue and circulation of the shares of the Corporation shall similarly be immune from all taxes and duties.

Article 27 - Documents and Correspondence

Every contracting country shall accord the documents and correspondence of the Corporation the same treatment that it accords to official documents and correspondence of other contracting countries.

Article 28 - Officers and Employees of the Corporation

1. Members of the Council and of the Supervisory Committee, the Director- General and his Deputy and the staff of the Corporation shall in the territory of each contracting country enjoy such of the following immunities and exemptions as are accorded to the representatives of the other contracting countries:
 - a. Immunity from legal or administrative process with respect to acts performed by them in their official capacity.
 - b. Exemption from immigration and residence restrictions applicable to aliens.
 - c. Travelling facilities.
 - d. Exemption from tax on salaries or remuneration received from the Corporation.
2. Nothing in this Article shall be construed as requiring any of the contracting countries to accord any of the aforementioned immunities or exemptions to any of its nationals.

Article 29 - Additional Privileges

The Corporation may conclude with the State in which it has its seat or with any other country, agreements whereby immunities and exemptions other than those set forth in this Chapter are accorded to the Corporation or to any of its staff.

CHAPTER VII WITHDRAWAL AND SUSPENSION OF MEMBERSHIP

Article 30 - Withdrawal

1. Any contracting country may withdraw from this Convention after the lapse of five years from the date of the entry into force of the Convention with respect to such country. The withdrawal shall be effected by a notice in writing addressed to the Corporation at its principal office, but shall not become effective until after the expiry of three months from the date of such notice, during which period the member may revoke the notice.
2. Withdrawal shall have the effect of terminating the membership in the Corporation of the country concerned or of the public organisation controlled by such country.
3. Termination of membership shall have no effect on the existing or contingent obligations of such a member assumed towards the Corporation before the termination of the membership.
4. For every member whose membership has been terminated, the Corporation shall open a special account showing the financial rights and obligations of the member. The account shall not be closed until after satisfaction of the obligations referred to in the preceding paragraph and after adjustment of the rights of the member concerned.
5. The Corporation shall enter into a special agreement with the member for the settlement of its position in the Corporation and for the mode of meeting its liabilities consequent upon the termination of its membership.

Article 31 - Suspension of Membership

1. If a member fails to fulfill any of its obligations arising out of its membership, the Council may by a unanimous vote (excluding the vote of the member concerned) suspend the said member from exercising its rights in the Corporation. The member shall remain during the period of suspension subject to all the obligations of membership.
2. Suspension of membership shall entail abstention by the Corporation from conducting new operations in respect of investments either from or into the territory of the suspended member.
3. Unless the Council takes a decision revoking suspension, the membership of a suspended member shall cease after one year from the date of its suspension. The provisions of paragraphs 3, 4 and 5 of the preceding Article shall apply to a member whose membership has ceased in pursuance of this paragraph.

CHAPTER VIII SUSPENSION OF OPERATIONS AND LIQUIDATION

Article 32 - Suspension of Operations

1. The Council may, whenever it deems it justified, suspend the issuance of new insurance contracts for a specified period.
2. In an exceptional emergency the Council may by a special majority vote suspend the operations of the Corporation for a period not exceeding the duration of such emergency: Provided that necessary arrangements shall be made for the protection of the interests of the Corporation and of third parties.
3. The decision to suspend operations shall have no effect on the obligations of the members towards the Corporation or on the obligations of the members towards insured investors or towards third parties.

Article 33 - Liquidation

1. The Council may by a special majority vote and after giving the members notice of not less than four months, take a reasoned decision for the dissolution and liquidation of the Corporation. The Council shall undertake the consequential liquidation proceedings either by itself or through liquidators appointed by it for that purpose by the same special majority.
2. The Council shall at the same meeting in which the decision of liquidation is taken determine such measures as may be necessary for the protection of the rights of the holders of insurance policies as well as the rights of third parties.
3. The Council shall by a special majority vote and after due provision having been made for the discharge of the existing and contingent liabilities of the Corporation, determine the manner in which its net asset shall be distributed among the members in proportion to the share of each in the capital.

CHAPTER IX SETTLEMENT OF DISPUTES

Article 34 - Dispute Concerning the Interpretation and Application of the Convention

1. The Council shall be the final arbiter in respect of disputes arising between the contracting countries or between the members and the Corporation concerning the interpretation or the application of the provisions of this Convention.
2. Disputes specified in the preceding paragraph and arising after cessation of the Corporation's operations, or arising between the Corporation and a country that has withdrawn from the Convention or a member that has lost its membership, shall be settled in accordance with the procedure set out in the annex to this Convention, unless the parties shall have agreed on a different manner for the settlement of such disputes.

Article 35 - Disputes Concerning Insured Investments

1. Without prejudice to the jurisdiction of the Council with regard to the interpretation and application of the provisions of this Convention, and to its competence to determine matters

comprised by such jurisdiction, any dispute between any of the contracting countries or the members on the one part and the Corporation on the other part concerning an investment insured in pursuance of this Convention or concerning any other matter shall be settled in accordance with the provisions set out in the Annex hereto.

2. Any dispute between the Corporation and a country that has withdrawn from the Convention or a member that has lost its membership, concerning an investment insured in pursuance of this Convention shall be settled in accordance with the procedure set out in the Annex hereto, without regard to the jurisdiction of the Council in the interpretation and the application of the provisions of the Convention.

Article 36 - Disputes Concerning Insurance Contracts

Insurance contracts shall stipulate the method of settlement of disputes that may arise between the Corporation and the insured investors.

Article 37 - Disputes with Third Parties

Except for the disputes specified in the preceding articles, all other disputes between the Corporation and third parties shall be subject to the jurisdiction of the competent judicial authority in the contracting countries.

CHAPTER X MISCELLANEOUS PROVISIONS

Article 38 - Amendment of the Convention

1. The Council may by a special majority vote and upon a proposal emanating from a member, from the Committee or from the Director General amend the provisions of this Convention.
2. No proposal for amendment shall be considered by the Council except after the expiry of at least four months from the date of communicating the said proposal to the members.
3. Any amendment whereby the share of a member in the capital of the Corporation is increased shall have no effect except with the express consent thereto of the member concerned.

Article 39 - Prohibition of Political Activity

Without prejudice to the right of the Corporation to take into consideration all the circumstances surrounding an investment required to be insured, the Corporation and all persons working in any of its organs shall not in any manner interfere in the political affairs of any of the member countries.

Article 40 - International Character of the Staff

All persons working in the different organs of the Corporation are prohibited from doing

any act inconsistent with the international character of their functions and independence from any authority other than the Corporation. Government of member countries shall refrain from all attempts to influence any such persons either directly or indirectly in the discharge of their duties.

Article 41 - Agreements for Treatment of Investments

The Corporation shall seek to enter into agreements with the contracting countries relating to the principles or rules for the treatment of insured investments in the territory of each such country and shall encourage the conclusion of similar agreements among those countries.

Article 42 - Cooperation with other Organisations

1. The Corporation shall, within the limits of the scope of its activities as set forth in this Convention, cooperate with public organisations of national or international character engaged in the fields of development and insurance. The Corporation may by a special majority resolution passed by the Council conclude such agreements as may be conducive to the strengthening of such cooperation.
2. The Corporation may entrust to governmental authorities in member countries the performance of some of the measures relating to its operations.

Article 43 - Secrecy

All persons working in any of the organs of the Corporation shall observe the secrecy of information and data obtained by them in the course of the discharge of their duties.

Article 44 - Channel of Communications

Each of the member countries shall designate the official authority with which the Corporation may communicate in connection with all facilities or measures required. All information provided by such authority shall be deemed to have been provided by the country concerned.

**CHAPTER XI
FINAL PROVISIONS**

Article 45 - Deposit and Ratification

The original of this Convention shall be deposited with the Ministry of Foreign Affairs of the State of Kuwait, which shall receive the instruments of ratification thereof, and communicate them to all the signatory countries, to the General Secretariat of the Arab League and to the Kuwait Fund for Arab Economic Development.

Article 46 - Entry into Force

This Convention shall enter into force when it has been ratified by at least five countries whose total subscriptions amount to not less than sixty per cent of the capital of the Corporation.

It shall enter into force with respect to other original and adhering countries from the date of the deposit by such countries of the instrument of ratification thereof.

Article 47 - Inaugural Meeting of the Council

Upon entry into force of this Convention the Director General of the Kuwait Fund for Arab Economic Development shall call for the inaugural meeting of the Council. The said meeting shall be held at the seat of the Corporation during the month following that in which this Convention has entered into force.

ANNEX **SETTLEMENT OF DISPUTES**

Article 1 - Application of the Annex

All disputes within the provisions of Articles 34/2 and 35 of this Convention shall be settled exclusively in accordance with the procedure laid down in this Annex.

The Annex shall form an integral part of the Convention and shall not be open to any reservations.

Article 2 - Negotiations

In the event of any dispute covered by Article 34/2 and 35 of this Convention, the parties concerned shall attempt to settle such dispute by negotiation, and no recourse shall be made to conciliation or arbitration except after exhaustion of the procedure of settlement by negotiation. Such negotiation shall be deemed to have been exhausted if the parties concerned fail to reach a settlement within a period of six months from the date of the request by any of the parties to enter into such negotiation.

Article 3 - Conciliation

1. If the dispute is not resolved through negotiation, the parties concerned may by mutual agreement attempt settlement through conciliation. If no such agreement is reached, recourse shall be made to arbitration in accordance with the provisions of the following Article.
2. The agreement for recourse to conciliation shall specify the matter in dispute and the claims of the parties in respect thereof. It shall also specify the name of the conciliator chosen by the parties together with his agreed remuneration. The parties may request the Secretary-General of the Arab League to appoint such a conciliator.
3. The task of the conciliator shall be limited to seeking a compromise between the different views with regard to the dispute and to bringing about agreement between the parties on mutually accepted terms. It shall be the duty of the parties to provide the conciliator with all information and documents which would help him in the discharge of his task.

The parties shall not be entitled to arbitration proceedings except after the conciliator has concluded his work within the period fixed therefore.

4. The conciliator shall, within a period not exceeding six months from the date of commencement of his mission, draw up a report recording the result of his efforts and setting out the issues between the parties and his proposal for their settlement and specifying such of them as have been accepted by the parties.

The said report shall not be admissible in evidence before the Arbitral Tribunal to which the dispute may be referred subsequently.

Each party to the dispute shall express his views on the said report and shall communicate such views to the other party within a period of one month from the date of issue of the report.

5. If the conciliator shall not be able to make his report within the fixed period, or if the parties do not accept the proposals contained in the report, the dispute shall be settled by arbitration in accordance with the provisions of the following Article.

Article 4 - Arbitration

1. Arbitration Procedure.

- a. Arbitration proceedings shall be instituted by means of a notice by the party requesting arbitration addressed to the other party or parties to the dispute.

The notice shall specify the nature of the dispute, the relief sought and name of the arbitrator appointed by the said party.

The other party shall, within a period of thirty days from the date of the giving of the notice, notify the party seeking arbitration of the name of the arbitrator appointed by such other party.

The two arbitrators shall, within a period of thirty days from the date appointment of the last of them, select an Umpire, who shall act as Chairman of the Arbitral Tribunal. In case of equal division in the Tribunal the Umpire shall have a casting vote.

- b. If the other party shall fail to appoint an arbitrator within thirty days after the date of the giving of the notice, or if the arbitrators shall, within sixty days from the said date, be unable to agree on the selection of the Umpire, the Arbitral Tribunal shall be composed of a sole arbitrator or by an uneven number of arbitrators including the Umpire to be appointed at the request of any party to the dispute by the president of the Arab Court of Justice. Until such Court is constituted the request shall be directed to the Secretary General of the Arab League.
- c. No party to the dispute shall, after commencement of the hearing of the dispute, have the right to change the arbitrator appointed by him.

In case any arbitrator shall resign, die, or become incapacitated, a successor arbitrator shall be appointed in his stead through the same procedure whereby the original arbitrator was appointed. The successor arbitrator shall have all the powers

and duties of the original arbitrator.

- d. The Arbitral shall hold its first sitting at such time and place as shall be fixed by the Umpire. Thereafter, the Arbitral Tribunal shall fix the place and time of its sittings.
- e. The Arbitral Tribunal shall decide all questions relating to its competence and determine its rules of procedure.
- f. If in the course of hearing by the Arbitral Tribunal of any of the disputes set forth in Article 35.1 of this Convention an objection is raised to the effect that the said dispute falls within the jurisdiction of the Council in accordance with Article 34.1 and the Arbitral Tribunal is satisfied that the objection is genuine, then and in every such case the objection shall be referred to the Council and the arbitration proceedings shall stand adjourned until matter has been decided by the Council. The decision of the Council on the nature of the dispute shall be binding upon the Arbitral Tribunal.
- g. The Arbitration Tribunal shall afford to all the parties reasonable opportunity to produce their pleadings and to make their statements. All decisions of the Tribunal shall be adopted by a majority vote and shall state the reasons on which they are based. The award of the Tribunal shall be signed at least by the majority of the members and a copy thereof shall be delivered to each the parties. The award of the Tribunal shall be final and binding upon the parties and shall be executed immediately after it has been rendered, unless the Tribunal has fixed an interval for its execution or the execution of any part thereof. The award shall not be subject to appeal or revision.
- h. The parties shall agree on the amount of fees payable to the arbitrators. If no agreement is reached before the Tribunal commences its sittings, the Tribunal shall fix a reasonable amount as may be required for the conduct of the proceedings. The Tribunal shall also fix the remuneration of other persons employed to perform work connected with the arbitration proceeding.

Each party shall defray its own costs in the arbitration proceedings but the costs of the Arbitral Tribunal shall be borne by the parties in equal proportions. The Tribunal shall determine any issue concerning the division of the costs of the Arbitral Tribunal or the procedure for payment of such costs.

- i. Any notice or process directed by one of the parties to the other in connection with the settlement of the aforementioned disputes or with the execution of the arbitration award shall be in writing. The application shall be deemed to have been made and the notice to have been legally served, upon delivery thereof, in respect of any contracting country to the authority designated by such country in pursuance of Article 44 hereof, and in respect of the Corporation or of a member organization at its principal office.

The parties shall by virtue of this Convention waive all other conditions concerning the service of any such notice or process.

2. Substantive Law

In the application of the provisions of this Convention the regulations of the Corporation, decisions of the Council and other contractual rules relied upon by the parties to the dispute, the Arbitration Tribunal shall abide by the legal sources set out in Article 6 of this Convention. Subject to the Agreement of the parties to the dispute, the Tribunal may decide the dispute in accordance with the principles of justice and equity.

In no event shall the Tribunal refrain from giving judgment in the dispute on the ground of deficiency or uncertainty of the law applicable.

3. Interpretation of the Award

Any dispute arising out of the interpretation of the award of the Arbitral Tribunal on any specific issue shall be submitted to the Tribunal by which the award has been made within three months from the date of rendering of the award.

Such reference shall be made upon an application to the Umpire by a party to the original dispute. The Umpire shall thereupon call for a meeting of the same tribunal to be held within a period of two months from the date of the application. If the same tribunal cannot be convened, a new tribunal shall be formed in accordance with the procedure laid down in paragraph 1 of this Article.

In all such cases the Tribunal may order the stay of the execution of the previous award until the new application has been determined.

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