

The Agreement Establishing the OPEC Fund for International Development

As revised on May 27, 1980



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PREAMBLE

The Countries, Members of the Organization of the Petroleum Exporting Countries (OPEC), on whose behalf this Agreement is signed:

Conscious of the need for solidarity among all developing countries in the establishment of the New International Economic Order,

In keeping with the spirit of the Solemn Declaration of the Sovereigns and Heads of States of the OPEC Member Countries issued in Algiers, March 1975, of promoting the economic development of all the developing countries,

Aware of the importance of economic and financial cooperation between OPEC Member Countries and other developing countries, and of the strengthening of the collective financial institutions of developing countries,

And desirous of establishing a collective financial facility to consolidate their assistance to other developing countries, in addition to the existing bilateral and multilateral channels through which they have individually extended financial cooperation to such other countries,

Have, therefore, agreed to establish an international financial institution under the name of the “OPEC Fund for International Development” in accordance with the following Articles:

Article One:

Legal Status, Membership and Domicile of the Fund

- 1.01 The OPEC Fund for International Development (hereinafter called the Fund) is a multilateral agency for financial cooperation and assistance established by OPEC Member Countries and endowed by them with an international legal personality.
- 1.02 Membership in the Fund shall be open to all OPEC Member Countries.
- 1.03 The Fund shall be governed by the provisions of this Agreement and by relevant recognized principles of international law.
- 1.04 The Ministerial Council shall determine the location of the headquarters of the Fund which shall constitute its legal domicile.

Article Two:

Objective and Functions of the Fund

- 2.01 The objective of the Fund is to reinforce financial cooperation between OPEC Member Countries and other developing countries by providing financial support to assist the latter countries on appropriate terms in their economic and social development efforts.
- 2.02 The Fund is empowered to engage in all functions necessary or incidental to the carrying out of its objectives according to the guidelines to be issued for this purpose by the Ministerial Council and the Governing Board. It is, in particular, empowered to:
 - a) provide concessional loans for balance of payments support;
 - b) provide concessional loans for the implementation of development projects and programs;
 - c) make contributions and/or provide loans to eligible international agencies; and
 - d) finance technical assistance activities.

- 2.03** In the cases where collective action by OPEC Member Countries is deemed appropriate, the Fund may be entrusted by its Members with the task of an agent acting on their behalf in particular in their relations with other international financial institutions, within the limits approved in each case by the Ministerial Council.

**Article Three:
Beneficiaries of the Fund**

- 3.01** Eligible beneficiaries of the financing provided by the Fund shall be:
- a)* the Governments of developing countries other than OPEC Member Countries; and
 - b)* international development agencies the beneficiaries of which are developing countries.
- 3.02** In carrying out its functions, the Fund shall pay special attention to the needs of the less developed among eligible countries.

**Article Four:
Resources of the Fund**

- 4.01** The resources of the Fund shall consist of:
- i)* Contributions by Member Countries;
 - ii)* Funds received from operations or otherwise accruing to the Fund.
- 4.02** No Member shall be liable by reason of its membership for obligations of the Fund except within the limits provided in this Agreement. Each Member's liability extends only to that portion of its contribution that has not been paid in. The Fund's liability shall be limited to the obligations which the Fund shall have entered into pursuant to this Agreement.

- 4.03** Each Member of the Fund shall within sixty days of the entry into force of this Agreement in respect thereof, or of its final approval of any increase of its contribution, issue a letter of undertaking indicating the amount of its contribution, or the increase thereof as the case may be, to the benefit of the Fund and shall deposit such letter with the Director-General of the Fund and a copy thereof with its Executing National Agency.
- 4.04** *a)* Contributions to the Fund shall be paid by each Member in such amounts and at such dates as the Governing Board shall determine to enable the Fund to meet its commitments. Each payment shall be effected in freely usable currencies the amount of which shall be equivalent, at the time it is received by the Fund, to the U.S. Dollar amount required for payment.
- b)* For the purpose of Article 4.04 “freely usable currencies” shall mean currencies that are in fact widely used to make payments for international transactions and are widely traded in the principal exchange markets.
- 4.05** *a)* Any Member may, with the approval of the Ministerial Council, increase its contribution to the Fund.
- b)* No Member shall be obliged to increase its contribution to the Fund without its own accord.

**Article Five:
Administration of the Fund**

- 5.01** The Fund shall have:
- i)* a Ministerial Council
 - ii)* a Governing Board
 - iii)* a Director-General and such staff as shall be necessary for the Fund to carry out its functions within the framework of an organization chart to be approved by the Governing Board.

5.02 Each Member shall be represented in the Ministerial Council by its Minister of Finance or any other authorized senior representative. The Council shall hold one annual meeting and such special meetings as its work may require. The Council shall have the supreme authority over the Fund and shall, in particular, be endowed with the power to:

- i)* issue policy guidelines to be followed by the Governing Board
- ii)* approve the replenishment of the resources of the Fund
- iii)* authorize the administration of special funds as provided for in Article 8
- iv)* appoint the Fund's auditors, approve the Fund's audited financial statements and consider the annual report on the Fund's activities
- v)* authorize the Fund's agency functions provided for under Article 2.03
- vi)* adopt amendments to this Agreement
- vii)* settle disputes that could not be resolved by the Governing Board
- viii)* suspend a Member
- ix)* suspend and terminate the operations of the Fund and distribute its assets
- x)* appoint the Director-General and determine his remuneration.

5.03 The Ministerial Council shall adopt its rules of procedure. It shall elect a Chairman from among its Members who shall serve for one year. A quorum for any meeting of the Council shall be constituted by two-thirds of its Members provided they contribute seventy percent of the contributions to the Fund. Unless otherwise provided in this Agreement, decisions of the Council shall be taken by the same majority required for constituting a valid quorum. Decisions of the Ministerial Council shall enter into force upon their adoption, unless otherwise specified therein.

- 5.04** The Governing Board shall be composed of one representative and one alternate for each Member of the Fund who shall be designated and may be replaced, by a notice to the Director-General issued by the Minister of Finance or the other authorized representative of the Member concerned.
- 5.05** Subject to the directives issued by the Ministerial Council, the Governing Board shall be responsible for the conduct of the general operations of the Fund. It shall in particular lay down the policies for the utilization of the Fund's resources and shall issue directives and regulations according to which the resources of the Fund shall be administered and disbursed. In issuing such directives and regulations, the Governing Board shall give due regard to the equitable distribution of the Fund's operations among eligible beneficiaries.
- 5.06** The Governing Board shall adopt its rules of procedure and shall elect a Chairman from among its Members who shall serve for one year. A two-thirds majority of the Members representing seventy percent of the contributions to the Fund's resources shall constitute the quorum for the meetings of the Board. Unless otherwise provided in this Agreement, decisions of the Governing Board shall be taken by the same majority required for constituting a valid quorum.
- 5.07** Members of the Ministerial Council and the Governing Board shall serve as such without remuneration from the Fund.
- 5.08** The Ministerial Council shall appoint the Director-General for a period of five years. The Director-General shall be responsible for conducting the business of the Fund under the direction of the Governing Board and in accordance with the Agreement Establishing the Fund and the directives and regulations issued thereunder. Without prejudice to the provisions of Article 6.02, the Director-General shall be the legal representative of the Fund and shall participate, without the right to vote, in all meetings of the Ministerial Council and the Governing Board.

- 5.09** The Director-General shall appoint and organize the staff of the Fund in accordance with regulations adopted by the Governing Board. In appointing the staff due regard shall be paid to the importance of securing the highest standards of technical competence and of giving priority in the recruitment of Professional Staff to nationals of Member Countries. Senior Professional Staff members shall be nationals of Member Countries. In the discharge of their duties the staff shall regulate their conduct solely in accordance with the interests and objective of the Fund and in line with the international nature of their responsibilities.

**Article Six:
Operations**

- 6.01** Applications for assistance from the Fund shall be submitted by eligible beneficiaries to the Director-General of the Fund for evaluation within the framework of the Fund's programs of work.
- 6.02** Approval of assistance operations shall be undertaken by the Governing Board and shall be extended in each case by virtue of an agreement to be signed on behalf of the Fund by the Chairman of the Governing Board or his authorized representative.
- 6.03** The Fund may, by virtue of a special arrangement to be entered into for this purpose, entrust an appropriate international development agency, an Executing National Agency or any other qualified agency of a Member with the task of technical, economic and financial appraisal of the projects or programs submitted to the Fund by eligible beneficiaries. Such appraisal shall otherwise be undertaken by the Fund.
- 6.04** The Governing Board may entrust an appropriate international agency, an Executing National Agency or any other qualified agency of a Member, with the task of the administration of the project and program loans approved by it. Such administration shall otherwise be undertaken by the Fund. The administration of loans shall be subject to the provisions of this Agreement, the directives and regulations issued by the Governing Board and the details of each loan agreement.

- 6.05** Each Member of the Fund shall designate by a written notice to the Fund, its Executing National Agency which shall act as the channel of communications with the Fund on matters connected with this Agreement and may be entrusted with such functions as are referred to in the Articles of this Agreement. If required, each Executing National Agency shall establish in its records a special account in the name of the Fund separate from its own accounts and shall keep the Fund's assets and transactions separate and apart from all its own assets and transactions.

**Article Seven:
Financial Regulations**

- 7.01** The Governing Board shall issue financial regulations applicable to the Fund's activities and covering in particular the Fund's financial statements, administrative budget, investment of liquid funds, internal and external auditing as well as disbursement and expenditure procedures.

**Article Eight:
Special Funds**

- 8.01** The Ministerial Council may authorize the undertaking by the Fund of the management of financial resources put at its disposal by Member Countries for specific purposes. The Governing Board shall lay down procedures necessary for the administration of such funds and the terms and conditions upon which they may be administered. The resources of such special funds shall have accounts showing their use, commitment and investment separately from those of the Fund's own resources.

**Article Nine:
Privileges and Immunities**

- 9.01** The Fund and its assets shall enjoy in the territory of the Parties to this Agreement immunity from all confiscation measures, as well as from sequestration, moratoria or any form of seizure by executive or legislative action.

- 9.02** The Fund, its assets, property, income and its operations and transactions related thereto shall also be exempted from rules and regulations applicable to national public funds as well as from exchange control regulations and all forms of taxes and duties imposed in the countries Party to this Agreement.
- 9.03** The Fund shall enjoy immunity from every form of legal process excepting the arbitration procedures which the Fund accepts to participate therein.
- 9.04** The Fund shall ensure, by virtue of appropriate provisions in its loan agreements, that the Fund, its assets, transactions, revenues and documents shall receive in the territory of its Borrowers adequate immunity and exemption from taxation and charges, control over transfer of currencies, measures of expropriation, nationalization, sequestration, custody or seizure as well as submission to the jurisdiction of national courts in matters related to its loan agreements.

**Article Ten:
Amendment of the Agreement**

- 10.01** Amendments to this Agreement may be proposed to the Ministerial Council by the Governing Board acting on the basis of a three-fourths majority of its Members. Amendments shall be adopted by the Ministerial Council, upon the recommendation of the Governing Board or on its own initiative, by a three-fourths majority of Members contributing four-fifths of the contributions to the Fund.

**Article Eleven:
Suspension and Termination of the Fund's Operations**

- 11.01** The Ministerial Council may decide to suspend or terminate the operations of the Fund at any time by a four-fifths majority of its members representing Members contributing at least four-fifths of the contributions to the Fund. The proposal to suspend or terminate operations shall not be put to the vote in the same session in which it is submitted.

- 11.02** In the event of termination of the operations of the Fund, the liability of all Members for uncalled contributions to the Fund's resources shall continue until all claims of creditors including all contingent claims, shall have been discharged. No distributions of assets shall be made to Members on account of their contributions to the Fund's resources until all liabilities to creditors shall have been discharged or provided for.
- 11.03** The Governing Board shall undertake the consequential liquidation proceedings either by itself or through a committee of liquidators appointed by it. Distribution of assets of the Fund among Members shall be in proportion to the contribution made by each Member to the Fund, and shall be effected at such times and under such conditions as the Governing Board shall determine.

**Article Twelve:
Interpretation and Settlement of Disputes**

- 12.01** Any question of interpretation of the provisions of this Agreement, or any dispute between the Members of the Fund or between an Executing National Agency and the Fund, shall be settled by the Governing Board and failing this by the Ministerial Council.

**Article Thirteen:
Withdrawal and Suspension of Membership**

- 13.01** A Member may withdraw from the Fund by transmitting a notice to this effect addressed to the Chairman of the Ministerial Council.
- 13.02** Withdrawal shall take effect on the date specified in the notice, which shall not be less than six months after receipt of such notice.
- 13.03** If a Member fails to fulfill any of its obligations to the Fund, the Ministerial Council may suspend its membership by a three-fourths majority of the Members contributing seventy percent of the Fund's resources. Unless the Ministerial Council decides otherwise, the Member so suspended shall automatically cease to be a Member two years from the date of its suspension. While under

suspension, a Member shall not be entitled to exercise any rights under this Agreement except the right of withdrawal and shall remain subject to all of its obligations.

- 13.04** Whenever a State ceases to be a Member, whether by withdrawal or through the operation of Article 13.03, it shall remain under the obligation to pay its pro rata share of the commitments made by the Fund up to the date of effectiveness of the termination of its membership.
- 13.05** In case of a dispute between the Fund and a State that has ceased to be a Member, or between the Fund and any Member upon the termination of the operations of the Fund, such dispute shall be referred to the Ministerial Council in an attempt to reach an amicable settlement acceptable to both parties. In case no such settlement is reached, the dispute shall be submitted to arbitration by a tribunal of three arbitrators. One of the arbitrators shall be appointed by the Fund, another by the Member or former Member concerned and the two parties shall appoint the third arbitrator, who shall be the Chairman. If within 45 days of receipt of the request for arbitration either party has not appointed an arbitrator, or if within 30 days of the appointment of two arbitrators the third arbitrator has not been appointed, either party may request the President of the International Court of Justice, or such other authority as may have been prescribed by regulations adopted by the Governing Board, to appoint an arbitrator. The procedure of the arbitration shall be fixed by the arbitrators, but the Chairman shall have full power to settle all questions of procedure in any case of disagreement with respect thereto. A majority vote of the arbitrators shall be sufficient to reach a decision, which shall be final and binding upon the parties.

Article Fourteen: Transitional Provision

- 14.01** The Fund shall substitute for the Contributing Parties thereto in all the loan agreements signed in the name of the Contributing Parties to the Fund for the commitment of resources of the Fund before the date of the adoption of the amendment of this Agreement endowing the Fund with an autonomous legal personality.

**Article Fifteen:
Signature and Entry into Force**

- 15.01** This Agreement shall be open for signature at the OPEC Secretariat between January 28 and February 28, 1976. The Secretary-General of OPEC shall act as the depository and, as such, shall provide each signatory with a certified copy of this Agreement and shall notify each OPEC Member Country of each signature, acceptance or accession to this Agreement.
- 15.02** This Agreement shall enter into force when instruments of ratification, acceptance or accession have been deposited by at least nine Member Countries of the Organization of Petroleum Exporting Countries contributing at least seventy-five percent of the total amount of contributions mentioned in the Schedule of Contributions appended to this Agreement.



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