

No. 32192

MULTILATERAL

Agreement for the establishment of the African Export-Import Bank “AFREXIMBANK” (with Charter). Concluded at Abidjan on 8 May 1993

Authentic texts: English, French, Arabic and Portuguese.

Registered by the Secretary-General of the African Development Bank, acting on behalf of the Parties, on 13 October 1995.

MULTILATÉRAL

Accord en vue de la création de la Banque africaine d'import-export « AFREXIMBANK » (avec Statuts). Conclu à Abidjan le 8 mai 1993

Textes authentiques : anglais, français, arabe et portugais.

Enregistré par le Secrétaire général de la Banque africaine de développement, agissant au nom des Parties, le 13 octobre 1995.

AGREEMENT¹ FOR THE ESTABLISHMENT OF THE AFRICAIN EXPORT-IMPORT BANK (“AFREXIMBANK”)

THE STATES AND INTERNATIONAL ORGANIZATIONS PARTIES TO THE PRESENT AGREEMENT:

MINDFUL of the various factors impairing African foreign trade, including, *inter alia*, deteriorating terms of trade, declining export prices, increasing external debt and inadequacy of financing facilities, coupled with the rising cost of trade credit:

NOTING that the decline in African exports has impacted adversely on the economies of African states and hindered their ability to achieve a self-reliant development:

HAVING REGARD to the Agreement establishing the African Development Bank signed in Khartoum, Sudan on the 4th day of August 1963,¹ which calls on the African Development Bank to take measures aimed at bringing about an orderly expansion of African foreign trade and, in particular, intra-African trade:

¹ Came into force on 20 October 1993, the date when (i) 10 States or international organizations had signed it and (ii) 7 instruments of ratification, acceptance or approval had been deposited with the Secretary-General of the African Development Bank, in accordance with article XVIII (2):

<i>Participant</i>	<i>Date of deposit of the instrument of ratification</i>	
African Development Bank	6 May	1993
Botswana	19 October	1993
Côte d'Ivoire	19 August	1993
Eastern and Southern African Trade and Development Bank (PTA Bank).....	13 September	1993
Guinea	20 October	1993
Malawi	20 August	1993
Zimbabwe	9 September	1993

Subsequently, the Agreement came into force for the following States on the date of deposit of their instruments of ratification with the Secretary-General of the African Development Bank, in accordance with article XVIII (4):

<i>Participant</i>	<i>Date of deposit of the instrument of ratification</i>	
Nigeria	21 October	1993
African Re-insurance Corporation.....	November	1993*
Tunisia	8 November	1994
Mali	24 February	1994
Egypt	9 March	1994
Ethiopia	25 March	1994
Senegal	19 September	1994
Sudan	26 November	1994

* The day of the month was not provided.

² United Nations, *Treaty Series*, vol. 510, p. 3.

RECOGNIZING that the objective of promoting and expanding intra-African and extra-African trade, thereby stimulating economic development, can best be achieved through the creation of a trade financing international institution whose principal purpose is to provide and mobilize the requisite financial resources;

CONVINCED that a partnership of African States, international organizations and public and private institutions and investors will facilitate an additional flow of resources in support of African foreign trade;

NOTING the commendable effort of the African Development Bank in promoting the establishment of an African export-import bank;

HAVE HEREBY AGREED AS FOLLOWS:

ARTICLE I

Establishment, Definitions

1. There shall be established an international financial institution to be known as "the African Export-Import Bank ("AFREXIMBANK"), (hereinafter called "the Bank"), which shall operate in accordance with the provisions of the constituent charter appended in Annex 1 to this Agreement (hereinafter referred to as "the Charter").
2. The Charter, which may be amended from time to time in accordance with its provisions, shall derive its legal force from this Agreement and shall be valid and operative among all shareholders of the Bank.
3. Capitalized terms used herein, unless defined in this Agreement, shall have the respective meanings ascribed thereto in the Charter.

ARTICLE II

Purpose and Functions

1. The purpose for which the Bank shall be established is to facilitate, promote and expand intra-African and extra-African trade.

2. To serve its purpose, the Bank shall in accordance with the Charter, as amended from time to time, carry out the following functions:
- (i) to extend direct credit to eligible African exporters, in any appropriate form, by means of providing pre-shipment and post-shipment finance;
 - (ii) to extend indirect short-term credit, and where appropriate medium-term credit, to African exporters, and importers of African goods, through the intermediary of banks and other African financial institutions;
 - (iii) to promote and finance intra-African trade;
 - (iv) to promote and finance the export of non-traditional African goods and services;
 - (v) to provide finance to export-generative African imports, preference being given to imports of African origin, including imports of equipment, spare-parts and raw materials, as deemed appropriate by the Bank;
 - (vi) to promote and finance South-South trade between African and other countries;
 - (vii) to act as intermediary between African exporters and African and non-African importers through the issuance of letters of credit, guarantee and other trade documents in support of export-import transactions;
 - (viii) to promote the development within Africa of a market for bankers acceptances and other trade documents;
 - (ix) to promote and provide insurance and guarantee services covering commercial and non-commercial risks associated with African exports;
 - (x) to provide support to payment arrangements aimed at expanding the international trade of African States;
 - (xi) to carry out market research and provide any auxiliary services aimed at expanding the international trade of African countries and boosting African exports;

- (xii) to carry on banking operations and borrow funds; and
- (xiii) to undertake any other activities and provide other services which it may deem to be incidental or conducive to the attainment of its purpose, as determined by the General Meeting of Shareholders of the Bank.

ARTICLE III

Legal Status

1. The Bank shall be an international institution with full juridical personality under the laws of the states parties to this Agreement (hereinafter referred to as "the Participating States"), and shall, in particular, have the legal capacity to:
 - (i) enter into contracts and conclude agreements;
 - (ii) acquire and dispose of movable and immovable property; and
 - (iii) be a party to judicial and other legal or administrative proceedings.

ARTICLE IV

Membership

1. Membership of the Bank shall be open to: (a) all independent African states and African continental, regional and sub-regional financial institutions and economic organizations; (b) African public and private banks and financial institutions and African public and private investors; and (c) international financial institutions and economic organizations and non-African states, banks, financial institutions and public and private investors. The conditions governing eligibility to membership shall be determined by the General Meeting of Shareholders of the Bank.
2. Membership of the Bank shall be acquired in accordance with the provisions of the Charter upon subscribing shares of the capital stock of the Bank. All shareholders of the Bank shall subscribe to the Charter by affixing their signatures thereto or depositing with the Provisional Depositary or the Depositary (as defined in Article XIX of this Agreement) a letter of acceptance of the provisions of the Charter.