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THE COOPERATION COUNCIL FOR THE ARAB STATES OF THE GULF*

*Amr Daoud Marar***

I. INTRODUCTION

THE Cooperation Council for the Arab States of the Gulf, normally referred to as the G.C.C.¹(Cooperation Council) was established in May of 1981. The Cooperation Council consists of six Member States: (1) The United Arab Emirates;² (2) The Kingdom of Bahrain;³ (3) the Kingdom of Saudi Arabia;⁴ (4) the Sultanate of Oman;⁵ (5) the State of Kuwait;⁶ and (6) the State of Qatar.⁷ The primary founding documents and regulations that established the Cooperation Council, its main organizations, and its executive procedures are the Cooperation Council Charter (Charter), the Supreme Council Rules of Procedure, the Ministerial Council Rules of Procedure, and the Commission for the Settlement of Disputes Rules of Procedure.

The aim of the establishment of the Cooperation Council can be deduced from the Charter's preamble: "to effect co-ordination, integration, and interconnections between them in all fields".⁸ Following the approval of the above mentioned documents, the Member States concluded

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1. A council shall be established hereby to be named the Co-operation Council for the Arab States of the Gulf." COOPERATION COUNCIL CHARTER art. 1, *available at* <http://www.gcc-sg.org> [hereinafter CHARTER].
2. Member in the World Trade Organization (WTO) since April 10, 1996.
3. Member in the WTO since January 1, 1995.
4. Applied to join GATT/WTO in July 21, 1993, negotiations still in process.
5. Member in the WTO since November 9, 2000.
6. Member in the WTO since January 1, 1995.
7. Member in the WTO since January 13, 1996.
8. See CHARTER pmb1. However, it can be argued that there are Arab and Islamic dimensions for this cooperation: "Having the conviction that coordination, cooperation, and integration between them serve the sublime objectives of the Arab Nation . . . [i]n order to channel their efforts to reinforce and serve Arab and Islamic causes." *Id.* art. 1.

the Unified Economic Agreement with the desire to “co-ordinate and standardise their economic, financial and monetary policies, as well as commercial and industrial legislation, and customs regulations. . .”.⁹ While there are many elements which led to the establishment of the Cooperation Council, the agreements above indicate that the Member States were willing to cooperate to achieve a better economic environment in the region through concluding these agreements. This chapter gives an overview of these recent regional integration efforts concluding with a few suggestions.

II. THE MAIN ORGANIZATIONS

The Cooperation Council consists of four main organizations:¹⁰ the Supreme Council¹¹, the Commission for Settlement of Disputes¹², the Ministerial Council¹³ and the Secretariat-General.¹⁴ Also, these organizations have the authority to establish any sub-agencies when necessary.¹⁵ This section discusses a brief overview of the functions of these organizations and their role in the Cooperation Council.

A. THE SUPREME COUNCIL

The Supreme Council is comprised of the heads of each Member State¹⁶ and is considered to be the highest authority of the Cooperation Council.¹⁷ The Supreme Council meets annually,¹⁸ which must be in one of the Member States’ territories.¹⁹ The validity of any of the Supreme Council meetings is dependent upon the attendance of two-thirds of the Member States.²⁰ Article 8 of the Charter lays down the functions of the Supreme Council.²¹ The Supreme Council reviews the matters of interest to the Member States,²² establishes the higher policy for the Cooperation Council,²³ reviews the recommendations and reports submitted by the Ministerial Council for approval,²⁴ reviews the reports prepared by the

9. See Unified Economic Agreement, Nov. 11, 1981, pmb., available at <http://www.gcc-sg.org>.

10. CHARTER art. 6.

11. *Id.* art. 6(1)

12. *Id.* The Commission is attached to the Supreme Council.

13. *Id.* art. 6(2).

14. *Id.* art. 6(3).

15. *Id.* art. 6.

16. *Id.* art. 7(1). See also *Rules of Procedure of the Supreme Council*, art. 2(1) (May 25, 1981), available at <http://www.gcc-sg.org> [hereinafter *Rules of SC*].

17. CHARTER art. 7(1).

18. *Id.* art. 7(2); *Rules of SC*, *supra* note 16, art. 4(1)(a). The Supreme Council can also convene “extraordinary sessions” upon the request of any member seconded by another member.

19. CHARTER art. 7(3); *Rules of SC*, *supra* note 16, art. 4(1)(c).

20. CHARTER art. 7(4); *Rules of SC*, *supra* note 16, art. 5(2).

21. See also *Rules of SC*, *supra* note 16, art. 3 (prescribing functions of the Supreme Council).

22. CHARTER art. 8(1).

23. *Id.* art. 8(2).

24. *Id.* art. 8(3).

Secretary-General,²⁵ approves the bases for dealing with other states and international organizations,²⁶ nominates the members of the Commission for the Settlement Disputes,²⁷ and appoints the Secretary-General.²⁸ The Supreme Council also has the power to amend the Charter.²⁹

Article 9 of the Charter and provisions of the Rules of Procedure of the Supreme Council³⁰ address the voting system within the Supreme Council. Each member of the Supreme Council has one vote.³¹ No Member State can represent another Member State or vote on its behalf.³² The voting decides whether or not a particular resolution is to be adopted by the Supreme Council.³³ The Charter divides the voting into two categories, substantive matters and procedural matters. Substantive matters must be approved unanimously by the Member States participating in the vote and procedural matters must be approved by a majority vote.³⁴ However, any member who abstains can record that he is not bound by the resolution.³⁵ Additionally, there is no clear reference in any of the agreements as to what should be considered a substantive matter or a procedural matter. In the absence of such a clear reference, the Supreme Council shall decide what is a substantive matter and what is procedural.³⁶ This Supreme Council decision is considered to be a substantive matter in itself, which requires an unanimous voting.³⁷

B. THE MINISTERIAL COUNCIL

The Ministerial Council is composed of the Foreign Ministers of the Member States or other designated Ministers.³⁸ The Ministerial Council convenes regular meetings every three months,³⁹ but it can also convene extraordinary meetings based on an invitation by one of the Member

25. *Id.* art. 8(4).

26. *Id.* art. 8(5).

27. *Id.* art. 8(6).

28. *Id.* art. 8(7).

29. *Id.* art. 8(8).

30. *Id.* art. 9(1).

31. *Id.*

32. *Id.* art. 9(2).

33. *Id.*

34. *Id.*

35. *Rules of SC*, *supra* note 16, art. 5(2).

36. See Abdul Monaem Daoud, *Gulf Cooperation Council: An Attempt to Develop it in the Light of the European Common Market Example*, (Monshat Al-Maref, Alexandria) (in Arabic), at 80.

37. *Id.* However, with due respect, the conclusion reached by Abdul Monaem is arguably unrealistic in light of the *Rules of Procedure of the Ministerial Council*, art. 33(2) (May 25, 1981), available at <http://www.gcc-sg.org> [hereinafter *Rules of MC*]. This article states that if there is any disagreement among the Member States to decide what is substantive and what is procedural, the matter shall be settled by a majority vote. This means that the matter to settle what is substantive and what is procedural is considered a procedural matter in itself, in direct contradiction with Abdul Monaem's opinion. Although, article 33(2) of the *Rules of MC* applies to the Ministerial Council, it can be argued that by analogy the same could apply to the Supreme Council.

38. CHARTER art. 11(1).

39. *Id.* art. 11(2); *Rules of MC*, *supra* note 37, art. 4(1).

States and seconded by another.⁴⁰ Like the Supreme Council, the Ministerial Council's meetings are considered valid if attended by two-thirds of the Member States.⁴¹ Article 12 of the Cooperation Council Charter states the functions of the Ministerial Council, which include: (1) proposing policies, prepare recommendations, studies and projects aimed at developing cooperation and coordination between Member States in various fields;⁴² (2) endeavouring to encourage, develop, and coordinate activities existing between Member States in all fields;⁴³ (3) encouraging means of cooperation and coordination between the various private sector activities, develop existing cooperation between Member States' industry and Chambers of Commerce, and encouraging the movement of workers who are citizens of the Member States within the Cooperation Council;⁴⁴ (4) referring any of the various aspects of cooperation to one or more technical or specialized committees for study and presentation of appropriate recommendations;⁴⁵ (5) making arrangements for meetings of the Supreme Council and preparing its agenda;⁴⁶ and (6) reviewing matters referred to it by the Supreme Council.⁴⁷

Voting in the Ministerial Council is addressed in both the Charter and the Ministerial Council Rules of Procedure. Like the Supreme Council, each member in the Ministerial Council has one vote.⁴⁸ Again both agreements divide voting into two categories, substantive matters and procedural matters. Like the voting rules for the Supreme Council, resolutions on substantive matters must be approved unanimously and resolutions on procedural matters must be approved by the majority.⁴⁹ However, unlike the voting rules for the Supreme Council, the Ministerial Council Rules of Procedure state that if there is a disagreement over what is substantive and what is procedural, a majority vote should settle this matter.⁵⁰ This rule implies that the determination of a matter's character is a procedural matter.⁵¹

C. THE SECRETARIAT-GENERAL

The Secretariat-General is composed of a Secretary-General and other necessary assistants.⁵² The Secretary-General must be a citizen of a Cooperation Council⁵³ and is appointed by the Supreme Council for a pe-

40. CHARTER art. 11(2); *Rules of MC, supra* note 37, art. 5(1).

41. CHARTER art. 11(4).

42. *Id.* art. 12(1).

43. *Id.* art. 12(2).

44. *Id.* art. 12(3).

45. *Id.* art. 12(5).

46. *Id.* art. 12(10).

47. *Id.* art. 12(11).

48. *Id.* art. 13(1); *Rules of MC, supra* note 37, art. 34(1).

49. CHARTER art.13(2) ; *Rules of MC, supra* note 37, art. 33(1).

50. *Rules of MC, supra* note 37, art. 33(2).

51. *See supra* discussion accompanying note 37.

52. CHARTER art. 14(1).

53. *Id.* art. 14(2).

riod of three years, which may only be renewed once.⁵⁴ The functions of the Secretariat-General are explained in article 15 of the Charter. The Secretariat-General must: (1) prepare studies related to cooperation and coordination;⁵⁵ (2) follow up the implementation of Supreme Council and Ministerial Council resolutions by the Member States;⁵⁶ (3) prepare any reports or studies requested by the Supreme Council and Ministerial Council;⁵⁷ (4) prepare budgets, closing accounts and drafts of administrative and financial regulations of the Cooperation Council;⁵⁸ and (5) prepare for the meetings, prepare agendas, and draft resolutions for the Ministerial Council.⁵⁹ The Secretariat-General plays a vital role in the organization of the Cooperation Council.

D. THE COMMISSION FOR SETTLEMENT OF DISPUTES

The Commission for Settlement of Disputes (Commission) is composed of at least three citizens of the Member States.⁶⁰ The Supreme Council should select the members of the Commission separately depending on the nature of the dispute.⁶¹ The Commission is located in Riyadh, the capital of Saudi Arabia.⁶² It has jurisdiction to consider matters referred to it by the Supreme Council regarding disputes between Member States,⁶³ as well as any disagreements on the interpretation and implementation of the Charter.⁶⁴ However, the Commission's task is considered to be completed upon the submission of its recommendations or opinions to the Supreme Council.⁶⁵ Unlike the above mentioned organizations, the meeting is valid only if attended by all members.⁶⁶

Article 7 of the Rules of Procedure of the Commission address the voting system. Every member has one vote and all recommendations are issued by majority vote.⁶⁷ However, in the case of an indecisive vote, the party with whom the Chairman⁶⁸ has voted prevails.⁶⁹ Regarding the recommendations and the opinions issued by the Commission, article 9 of the Rules of Procedure of the Commission sets out four guiding points when issuing such recommendations. First, the recommendations or the opinions should be in accordance with the Charter, international laws and

54. *Id.*

55. *Id.* art. 15(1).

56. *Id.* art. 15(3).

57. *Id.* art. 15(4).

58. *Id.* art. 15(5)-(6).

59. *Id.* art. 15(7).

60. *Rules of Procedure of the Commission for Settlement of Disputes*, art. 4(a) (May 25, 1981), available at <http://www.gcc-sg.org> [hereinafter *Rules of CSD*].

61. *Id.*; See also CHARTER art. 10(2).

62. *Rules of CSD*, *supra* note 60, art. 2.

63. *Id.* art. 3(a).

64. *Id.* art. 3(b).

65. *Id.* art. 4(c).

66. *Id.* art. 5(a).

67. *Id.* art. 7.

68. The Chairman is selected by the Commission from among its members. *Id.* art. 6.

69. *Id.* art. 7.

practices, and the principles of Islamic *Shariah*.⁷⁰ Second, the Commission, while considering any dispute and before issuing the final recommendation, may ask the Supreme Council to take an interim action called for by circumstances.⁷¹ Third, the Commission should justify its recommendations by specifying the reasons on which they were based.⁷² Finally, if the opinion is not issued unanimously, the dissenting members are entitled to record their dissenting opinion.⁷³

III. THE ECONOMIC OBJECTIVES

The main reason behind establishing any regional integration effort is to achieve progress in matters that are related to the economies of the Member States. The members are normally looking for economic and developmental aims to be achieved as a result of the regional integration efforts. Accordingly, such aims should be translated into agreements and mechanisms to achieve the desired goals. The Cooperation Council is no exception. The Member States of the Cooperation Council are aiming to achieve this economic and developmental progress through their economic integration efforts. These objectives are stated in the various agreements establishing the Cooperation Council and those signed among the Member States: (1) the Charter;⁷⁴ (2) the Economic Agreement;⁷⁵ (3) the recently revised Unified Industrial Development Strategy;⁷⁶ (4) the amended Joint Agricultural Policy;⁷⁷ and (5) the Long-term Comprehensive Development Strategy.⁷⁸ An overview of these agreements and policies is necessary to understand the economic bases for the

70. *Id.* art. 9(a).

71. *Id.* art. 9(b).

72. *Id.* art. 9(c).

73. *Id.* art. 9(d).

74. CHARTER art. 4.

75. Economic Agreement, December 31, 2001, available at <http://library.gcc-sg.org/English/econagreeeng2003.htm> [hereinafter Economic Agreement]. The Economic Agreement amended and revised the Unified Economic Agreement, which was signed and approved on November 11, 1981. See Unified Economic Agreement, Nov. 11, 1981, available at <http://www.gcc-sg.org/Economic.html> [hereinafter Unified Economic Agreement]. However, article 32(2) of the Economic Agreement states that: “[The Economic Agreement] shall supersede the GCC Economic Agreement signed in 1981 . . . and shall supersede equivalent provisions set forth in bilateral agreements [between Member States.]”

76. *Unified Industrial Development Strategy* (revised version), 2000, available at <http://library.gcc-sg.org/english/industrial.htm> [hereinafter *UIDS*]. The original *UIDS* was adopted by the Supreme Council in 1985. However, the *UIDS* was revised and a new version was adopted by the Supreme Council in 1998.

77. *Joint Agricultural Policy*, 1996, available at <http://library.gcc-sg.org/book4/book4003.htm> [hereinafter *JAP*]. The *JAP* was adopted by the Supreme Council in 1985. However, it was amended and the new amended version was adopted in 1996.

78. *Long-Term Comprehensive Development Strategy*, 2003, available at <http://www.gcc-sg.org/English/strategy2003.html> [hereinafter *Development Strategy*]. The *Development Strategy* is a review of the document *Development Goals, Policies and Plans for the GCC States*, which was adopted in 1985. However, this article will be covering the *Development Strategy*. The economic objectives are also covered in the *Development Goals, Policies and Plans for the GCC States*.

regional integration efforts by the Member States of the Cooperation Council. However, more attention will be paid to the Economic Agreement as it is the most important and comprehensive agreement concluded among the Member States.

A. ARTICLE 4 OF THE CHARTER

Article 4 of the Charter⁷⁹ sets out the basic objectives and illustrates the particular emphasis on certain economic aims:

1. To effect coordination, integration, and inter-connection between Member States in all fields in order to achieve unity between them.
2. To deepen and strengthen relations, links, and areas of cooperation now prevailing between their peoples in various fields.
3. To formulate similar regulations in various fields including:
 - a. Economic and financial affairs.
 - b. Commerce, customs, and communications.
 - c. Education and culture.
 - d. Social and health affairs.
 - e. Information and tourism.
 - f. Legislative and administrative affairs.
4. To stimulate scientific and technological progress in the fields of industry, mining, agriculture, water, and animal resources; to establish scientific research; and to establish joint ventures and encourage cooperation by the private sector for the good of their peoples.

B. THE ECONOMIC AGREEMENT

Article 4 mentioned the economic objectives broadly and comprehensively. More detailed and defined methods are required in order to implement these objectives.⁸⁰ As a result, the Unified Economic Agreement (since supplanted by the Economic Agreement)⁸¹ was created by the Member States.⁸² The Economic Agreement aims to provide a vehicle "to achieve advanced stages of economic integration that would lead to a Common Market and an Economic and Monetary Union among Member States according to a specific timetable, while enhancing market mechanisms and fostering the role of the private sector."⁸³ The Economic Agreement consists of nine chapters and thirty-three articles.⁸⁴ Chapter I of the Economic Agreement deals with matters related to the trade where the Member States of the Cooperation Council agreed to

79. CHARTER art. 4.

80. Abdullah El-Kuwaiz, *Economic Integration of the Co-operation Council of the Arab States of the Gulf: Challenges, Achievements and Future Outlook*, in JOHN A. SANDWICK, *THE GULF CO-OPERATION COUNCIL: MODERATION AND STABILITY AN INTERDEPENDENT WORLD* 71-72 (Westview Press, 1987).

81. Economic Agreement, *supra* note 75.

82. El-Kuwaiz, *supra* note 80, at 72.

83. See Economic Agreement, *supra* note 75, pmb1.

84. *Id.*

establish a customs union among themselves to be implemented in January 2003.⁸⁵ Chapter II deals with establishing the Cooperation Council's Common Market. The Economic Agreement obliges each Member State to accord other Member States' natural and legal citizens the same treatment,⁸⁶ which includes: free movement of citizens, right of residency,⁸⁷ free movement of capital,⁸⁸ the right to work in private and government jobs,⁸⁹ the right to be engaged in all professions and crafts,⁹⁰ the right to be engaged in all economic, investment, and service activities,⁹¹ and the right to own stock and form corporations.⁹²

Chapter III of the Economic Agreement governs the Economic and Monetary Union, which the Member States aim to establish. The Economic Agreement discusses currency unification and monetary union according to a specified timetable.⁹³ This unification is to be achieved through the harmonization of economic and monetary policies, including banking legislation.⁹⁴ The Economic Agreement addresses the investment climate in the Cooperation Council's Member States. The Economic Agreement obliges Member States to unify their investment-related laws,⁹⁵ integrate their financial markets, and unify their legislation and policies.⁹⁶ Chapter IV covers matters related to development. The Economic Agreement requires Member States to adopt the necessary policies to achieve an integrated development process.⁹⁷ Article 8 covers industrial development and reaffirms the need to unify the industrial policies among the Member States. Likewise, and taking into consideration that all Member States are oil producing countries, article 9 requires Member States to unify all the policies related to oil, gas, and natural resources.⁹⁸ The Economic Agreement also covers the agricultural cooperation among the Member States and calls for the unification of the relevant policies and legislations.⁹⁹

The Economic Agreement reaffirms the main purpose of the regional integration efforts of the Cooperation Council by allocating an article in the agreement that encourages Member States to support all joint

85. *Id.* art. 1.

86. *Id.* art. 3.

87. *Id.* art. 3(1).

88. *Id.* art. 3(7).

89. *Id.* art. 3(2).

90. *Id.* art. 3(4).

91. *Id.* art. 3(5).

92. *Id.* art. 3(9).

93. *Id.* art. 4. The single currency is to be created by 2010, as voted on by the Cooperation Council's Member State in their Summit on December 30 – 31, 2001. See B. Laabas and I. Limam, *Are GCC Countries Ready for Currency Union*, Arab Planning Institute, Kuwait, at 2, available at <http://www.arab-api.org/wps0203.pdf> (Apr. 2002) [hereinafter Laabas].

94. Economic Agreement, *supra* note 75, art. 4.

95. *Id.* art. 5(1).

96. *Id.* art. 5(3).

97. *Id.* art. 7.

98. *Id.* art. 9.

99. *Id.* art. 10.

projects, both private and public.¹⁰⁰ Most important are projects related to the infrastructure of the Member States, for example, projects related to the transportation, communications, electricity, and tourism.¹⁰¹ Member States should encourage private sector joint projects amongst one another, and all procedural obstacles encountering joint projects should be eliminated.¹⁰² However, the Economic Agreement calls for the adoption of the necessary policies and mechanisms to protect the environment.¹⁰³

Chapter V deals with the development of human resources. This development involves, *inter alia*, the utilization of human resources for the provision of health care and social services,¹⁰⁴ enhancement of the role of women in development,¹⁰⁵ eradication of illiteracy and compulsory basic education,¹⁰⁶ unification of the labor legislation,¹⁰⁷ unification of job descriptions and classification for all professions and trades in all sectors,¹⁰⁸ and adoption of policies to increase the participation rates of nationals of Member States in the labor market.¹⁰⁹ Chapter VI deals with matters related to scientific and technical research among the Member States. This chapter obliges the Member States to adopt policies to support joint scientific and technical research. These policies should include, *inter alia*, increasing the funds allocated to scientific and technical research¹¹⁰ and encouraging and providing the necessary incentives to the private sector to contribute to the funding of such research.¹¹¹ In addition to the support of scientific research, there is a need to provide mechanisms to protect intellectual property. The Economic Agreement calls for the development of intellectual property procedures and regulations among the Member States.¹¹²

Chapter VII deals with the necessary infrastructure among the Member States, mainly transportation and communication. Developing such infrastructure will facilitate the desired objectives of the Cooperation Council's agreements regarding the movement of goods, people, and capital. Any Member State shall accord same treatment to all citizens of other Member States in the use of its marine facilities, including fees and taxes.¹¹³ The Economic Agreement calls for integration policies to be

100. *Id.* art. 12 states, "For the purpose of enhancing ties between Member States in the productive sectors, utilising economics of scale, achieving economic integration, and improving distribution of integration benefits among them, Member States shall undertake the measures necessary to support, finance, and form joint projects, both private and public."

101. *Id.* art. 12(1).

102. *Id.* art. 12(4).

103. *Id.* art. 11.

104. *Id.* art. 13.

105. *Id.*

106. *Id.* art. 14.

107. *Id.* art. 16.

108. *Id.*

109. *Id.* art. 17.

110. *Id.* art. 18(1).

111. *Id.* art. 18(2).

112. *Id.* art. 12.

113. *Id.* art. 22.

adopted by the Member States for the establishment of the infrastructure projects such as seaports, airports and roads.¹¹⁴ This new infrastructure will facilitate the trade exchange among the Member States. Likewise, the Economic Agreement calls for measures to be taken to ensure the integration of the Member States' communication policies, including telecommunication, postal services, and data network services.¹¹⁵ Keeping with the developing technology, the Economic Agreement states that Member States shall take all necessary measures to facilitate banking and trade exchange through electronic means and to unify their electronic commerce legislation.¹¹⁶

In an attempt to provide a legal mechanism to resolve and settle any disputes resulting from the implementation of the Economic Agreement, the Member States agreed to establish a specialized judicial commission to adjudicate any disputes.¹¹⁷ However, disputes cannot be referred directly to this commission. Initially, the Secretariat-General will hear disputes brought by any citizen of the Cooperation Council Member States or any other official entity and will seek to resolve them amicably.¹¹⁸ If the Secretariat-General could not settle the dispute amicably, the matter is referred to the Cooperation Council Commercial Arbitration Center (Arbitration Center) with the consent of the parties.¹¹⁹ If the parties fail to agree to refer the case to the Arbitration Center, the dispute is then referred to the Commission.¹²⁰

C. THE UNIFIED INDUSTRIAL DEVELOPMENT STRATEGY

The Unified Industrial Development Strategy attempts to unify the industrial development policies among the Member States and to re-emphasize its importance in the Member States' economy. This strategy is akin to guidelines that Member States should take into consideration when planning to develop their industrial sectors. The first section states the main objectives of the Unified Strategy, which are: speed up an integrated industrial development process in the Member States,¹²¹ increase the manufacturing sector growth in the Member States,¹²² raise the share of nationals in the manufacturing sector,¹²³ and promote the integration of the industrial sector with the petroleum and gas sectors, as well as with other sectors of the economy.¹²⁴

This strategy establishes certain priorities. Generally, Member States

114. *Id.* art. 23.

115. *Id.* art. 24.

116. *Id.* art. 25.

117. *Id.* art. 27(3).

118. *Id.* art. 27(1).

119. *Id.* art. 27(2).

120. *Id.*

121. *UIDS*, *supra* note 76, § I(1).

122. *Id.* § I(2).

123. *Id.* § I(3).

124. *Id.* § I(6).

should give priority to industries that develop their natural resources,¹²⁵ to industries that promote integration,¹²⁶ and to small and medium sized industries that pave the way for the transformation of the Member States into an industrialized society.¹²⁷ The strategy encourages Member States to promote the private sector initiatives to establish viable industrial projects.¹²⁸ However, the strategy mentions three main elements to be considered by Member States upon implementing this strategy. First, Member States should provide the necessary incentives for the industrial project such as providing the industrial investor with technical advice and assistance for the industrial investor,¹²⁹ exempting from import customs duties the equipment and raw materials required by the plant,¹³⁰ and providing soft loans for the small and medium size projects.¹³¹ Second, Member States should provide basic facilities to the industrial projects, which include: constructing specialized industrial towns and zones,¹³² encouraging the private sector to construct and expand the industrial towns,¹³³ and continuing to improve the support sector services, such as highway, communications, banking, insurance, and trade services.¹³⁴ Finally, the strategy mentions other issues to which Member States should pay attention, including enacting anti-dumping and countervailing tariff legislation that conforms to the World Trade Organisation (WTO) agreement,¹³⁵ establishing and adopting appropriate fiscal and monetary policies that insure an adequate and sustained demand for national industrial products,¹³⁶ and developing Foreign Capital Investment Regulations (Laws) to create an investment climate that attracts foreign investors.¹³⁷

D. THE JOINT AGRICULTURAL POLICY

The aim of the Joint Agricultural Policy¹³⁸ is the achievement of agricultural integration among the Member States.¹³⁹ The policy is based on the optimum use of the available natural resources.¹⁴⁰ Again, the importance of the private sector's participation in the economic development of

125. *Id.* § II(1).

126. *Id.* § II(2).

127. *Id.* § II(4).

128. *Id.* § III.

129. *Id.* § III(a)(1).

130. *Id.* § III(a)(2).

131. *Id.* § III(a)(4).

132. *Id.* § III(b)(1).

133. *Id.* § III(b)(2).

134. *Id.* § III(b)(3).

135. *Id.* § III(c)(1).

136. *Id.* § III(c)(7).

137. *Id.* § III(c)(8). However, the Cooperation Council has adopted the Reference Model Regulation (Law) for the Promotion of Foreign Investment in the GCC states. See Cooperation Council for the Arab States of the Gulf Secretariat General, *Areas of Cooperation*, available at <http://www.gcc-sg.org/cooperation.html> (last visited Sept. 6, 2004).

138. *JAP*, *supra* note 77.

139. *Id.* § 2(2).

140. *Id.* § 2(3).

the Member States is clear in this policy. The functions of the agricultural production shall be carried out by the private sector, and public sector participation in these projects shall be temporary and limited to situations in which the private sector was unable to provide the necessary cash flow.¹⁴¹ Accordingly, the role of the Member States is to provide the necessary “financial infrastructure in support of production and crop marketing, as well as the basic needs of the rural population.”¹⁴² This infrastructure should include inter alia: easy financing, price support, vocational training, and transferring technology.¹⁴³ To make this strategy more efficient, the Member States divided the strategy into four joint programs: (1) the joint program for the coordination of local agricultural plans and policies; (2) the joint programs for surveying, exploiting, and preserving natural resources; (3) the joint programs for agricultural research and technology development; and (4) the joint policy for agricultural and food production.¹⁴⁴

E. THE LONG-TERM COMPREHENSIVE DEVELOPMENT STRATEGY (2000-2025)

In the Long-term Comprehensive Development Strategy (Development Strategy), the Member States objectively assess the challenges facing the Cooperation Council in various spheres. The Member States establish certain objectives and goals to be achieved and policies to be implemented in order to meet these challenges. The main goal for this development plan is “accomplishing sustainable and integrated development [plans], imparting the necessary flexibility to serve the goals of development in each state separately and jointly at the level of the Council thereby accomplishing constant rise in the quality of life of the people in the GCC states and instilling the capacity to adjust with the developments of the 21st century.”¹⁴⁵ According to the Development Strategy, the individual challenges being faced by the Member States vary from joint Cooperation Council challenges. Among these challenges, the strategy mentions economic and development issues. The Member States realize the growing trend towards globalization of the economy.¹⁴⁶ This trend includes freeing the international trade and investment within the framework of the WTO, replacing centralized planning with decentralized planning, and establishing a free market economy.¹⁴⁷ Taking these economic challenges into consideration, the economic objectives were revisited and mentioned again in the Development Strategy. The Development Strategy ensures that Member States remove all hurdles that prevent the

141. *Id.* § 2(5)(a).

142. *Id.* § 2(5)(b).

143. *Id.*

144. For more on these programs, see *id.*

145. See *Development Strategy*, *supra* note 78, “The Main Goal and the Strategic Objectives.”

146. See *Development Strategy*, *supra* note 78, “Second Set of Challenges.”

147. *Id.*

movement of economic resources between the Cooperation Council Member States, re-emphasizing the integrated economic partnership.¹⁴⁸ The strategy also directs Member States to remove the sources of vulnerability from the economic environment in the Cooperation Council Member States,¹⁴⁹ ensure adequate water resources for development needs,¹⁵⁰ derive maximum benefits from infrastructure facilities,¹⁵¹ build joint large-scale Gulf projects,¹⁵² and undertake small-scale projects that will fulfill the objectives of integration between the large-scale projects.¹⁵³

IV. CUSTOMS AND MONETARY UNIONS

The establishment of customs and monetary unions have always been desired by the Member States of the Cooperation Council.¹⁵⁴ Unlike the monetary union, the Member States agreed to a deadline for the implementation of the customs union and stated this deadline in the Economic Agreement.¹⁵⁵ The customs union is now in place. The Member States have approved a common customs law that unifies customs procedures in all the Cooperation Council Member States.¹⁵⁶ The customs law, which consists of seventeen sections and 179 articles, is a legal instrument regulating customs work, customs procedures at the land, sea, and air terminals, and all matters related to customs tariffs and duties. Also, the law regulates the relationship between customs administrations in the Cooperation Council and the trade community. The Customs Law supersedes the customs laws and regulations of any Member States.¹⁵⁷

148. See *Development Strategy*, *supra* note 78, "Economic Issues."

149. *Id.*

150. *Id.*

151. *Id.*

152. *Id.*

153. *Id.*

154. Customs and monetary unions were mentioned in the Unified Economic Agreement that was signed in 1981. Article 4(1) states, "Member States shall establish uniform minimum Customs tariffs applicable to the products of countries other than G.C.C. Member States." However, article 22 of the same agreement states, "Member States shall seek to co-ordinate their financial, monetary and banking policies and enhance cooperation between monetary agencies and central banks, including the endeavour to establish a joint currency in order to further their desired economic." Both of these objectives have been reaffirmed in the Economic Agreement as mentioned above in this article. See Economic Agreement, *supra* note 75, arts. 4(1) & 22.

155. Article 4(3) of the Unified Economic Agreement stated that uniform customs tariffs should be implemented gradually within five years from the date that the agreement became effective by 1986. See Unified Economic Agreement, *supra* note 75, art. 4(3). However, this has not been achieved, and article 1 of the new Economic Agreement stated that a customs union should be implemented not later than the first of January 2003. See Economic Agreement, *supra* note 75, art. 1.

156. See *Common Customs Law for the Arab States of the Gulf* (January 2003), available at <http://library.gcc-sg.org/English/enew01.htm> [hereinafter *Customs Law*], which was adopted in 2001 by the Supreme Council; see also *Rules of Implementation of the Customs Law* (January 2003), available at <http://library.gcc-sg.org/English/enew01.htm>.

157. *Customs Law*, *supra* note 156, art. 179. However, despite the fact that the Customs Law supersedes any existing custom laws in any of the Member States, article

At the time of the writing of this article, the Cooperation Council has not adopted any laws or detailed projects establishing the monetary union or implementing the provisions related to the financial and monetary union. Although, the deadline for the establishment of the monetary union was not stated in the Economic Agreement, the Member States voted on a deadline of 2010.¹⁵⁸

V. EFFORTS OF LEGAL UNIFICATIONS

Harmonization of laws, whether at international or regional levels, facilitates transactions concluded between different sovereignties, and encourages all forms of economic exchange. Having taken this into consideration, and in order to achieve its objectives and aims of establishing a regional block, the Cooperation Council attempted to unify various laws and regulations.¹⁵⁹ For example, the Cooperation Council adopted the following list of unified laws and regulations:¹⁶⁰

- a. Trade Marks Regulations: adopted in 1987.
- b. Commercial Agencies Regulations: adopted in 1987.
- c. The Unified Regulations of Patent: adopted in 1992.
- d. Model law for Foreign Investment: adopted in 1989.
- e. The Unified Commercial Law: adopted in 1992.
- f. The Unified Law of Commercial Registry: adopted in 1992.
- g. The Unified Law of Marine.
- h. The Unified Law of Supervision on Insurance: adopted in 1989.
- i. The Unified Law of Companies.
- j. The Unified Law of Personal Status: adopted 1996.

However, the above-mentioned unified laws and many others are non-obligatory laws. This means that Member States are not obliged to implement them. As a result, some laws that were adopted in the late 1980s have not been implemented by all of the Member States of the Cooperation Council.

179 further states that any implementation by the Member States should be "within limits of the constitutional rules and Laws and the basic laws in force in each State with contradiction therewith."

158. Laabas & Liman, *supra* note 93.

159. Regulation is used as an alternative term for law in some of the Cooperation Council Member States. For example, in Saudi Arabia, "Company law" is referred to as "Company Regulations." However, the law titles have been translated by the author. Some of these laws can be found in Arabic. Cooperation Council for the Arab States of the Gulf Secretariat General website, at <http://www.gcc-sg.org/> (last visited Sept. 6, 2004).

160. This is not an exhaustive list. More details are available in Cooperation Council for the Arab States of the Gulf Secretariat, *Achievements Synopsis of the Arab States of the Gulf (2003)* (in Arabic), available at <http://library.gcc-sg.org/book8a01e.htm> (last visited Sept. 6, 2004) [hereinafter *Achievements Synopsis*].

VI. CONCLUDING REMARKS¹⁶¹

We have reviewed the ambitious plans, projects, agreements, strategies, and policies that the Member States of the Cooperation Council have concluded, adopted, and to some extent implemented. The Cooperation Council is working hard to achieve the desired objectives stated in the various agreements and policies. However, further suggestions may need to be considered such as:

Law is the instrument being used to implement different economic policies. In order to achieve a successful outcome of these regional integration efforts, Member States may need to consider that a certain level of "rule of law" should be achieved at the national, as well as regional levels. Rule of law implies clarity in the laws, regulations, and judicial process. The definition of the rule of law and its elements can be extended to apply to a regional level. This means that Member States should subordinate their own national legal systems to a regional rule of law.

Member States have expressed their desire to implement a market-based economy.¹⁶² It is widely accepted that rule of law is a pre-condition for the establishment of a market-based economy.¹⁶³ Also, a market-based economy that relies on the market forces necessitates a strongly developed financial system and legal infrastructure, both of which facilitate financial transactions and encourage private sector investments. Although the Economic Agreement mentions the need to harmonize banking and financial laws,¹⁶⁴ Saudi Arabia, for example, has no existing banking legal framework to achieve this objective.¹⁶⁵ Accordingly, mere statements in the agreements should be overlooked, and the focus must be shifted to the practicality and the creation of a strong financial and banking legal framework. This necessitates the adaptation of the existing legal framework to accommodate these new changes. For example, strong banking laws require good security collateral laws.

With regard to legal unification, Member States agreed that the only source for their laws should be the Islamic *Sharia*.¹⁶⁶ No further clarifica-

161. In this concluding section, some examples are given from Saudi Arabia, its legal system and its implementation of the Cooperation Council Agreements.

162. *Development Strategy*, *supra* note 78.

163. Ibrahim Shihata, *Good Governance and the Role of Law in Economic Development*, in *MAKING DEVELOPMENT WORK: LEGISLATIVE REFORM FOR INSTITUTIONAL TRANSFORMATION AND GOOD GOVERNANCE* xviii (Ann & Robert B. Seidman & Thomas W. Wälde eds., Kluwer Law International 1999).

164. Economic Agreement, *supra* note 75, art. 4.

165. This should not be confused with the Saudi Banking Control Law (1966), which was passed as a legal means to supervise the banks. Legal framework is meant to be other legislations concerned with banking transactions. Saudi Arabia applies Islamic law, and there is difficulty in bringing banking disputes before the Islamic courts because banks deal with interest, which is against Islamic law principles. The Saudi government has therefore established the Banking Disputes Settlement Committee to deal with banking disputes.

166. This was approved in the first meeting of the Ministers of Justice of the Cooperation Council held on December 13, 1982. See *Achievements Synopsis*, *supra* note 160.

tions mention how such aim can be achieved. The opposition of Islamic law to the charge of interest and other financial transactions might affect the desired aim of unifying banking legislations. Again, it can be argued that Saudi Arabia does not have a banking legal framework as a result of its application of Islamic law, which is against conventional banking. If the Cooperation Council's Member States are serious about an established and a unified legal framework governing banking and financial transactions, this issue must be further explored. Also, Member States should consider giving a bigger role to Islamic banks and try to unify their techniques and interpretations of different transactions.

As mentioned in the previous section, various laws have been unified and approved by the Cooperation Council. Most of these laws, however, are non-obligatory pilot laws. No clear rules have been mentioned or agreed upon among the Member States in any of the agreements as to the nature of the law and to whether it should be obligatory or not. However, it is clear that whether these laws will be obligatory is left to the vote of the Member States. In order to achieve the desired objective of law harmonization in the Cooperation Council, the Member States have to take further measures to enforce the unity of their laws. Unifying laws that are not obligatory do not achieve the desired goal. Also, laws that would help in achieving the economic development, including laws related to commerce, banking, and finance, should be a priority for the Member States. Arguably, a law such as the Unified Law of Personal Status, comparing to other areas of law, is less important in regional integration efforts.

The Cooperation Council took a large step forward by establishing a specialized judicial commission to resolve any dispute arising out of the Economic Agreement. According to the Economic Agreement, the Secretariat-General should seek to settle any disputes amicably, prior to referring disputes to the Commission.¹⁶⁷ In my opinion, the commission should be directly involved in settling the disputes, rather than the Secretariat-General trying to settle them amicably first, then allowing the parties to exclude the Commission's jurisdiction by seeking alternative dispute settlement. The Commission's direct involvement would strengthen the judicial process in the Cooperation Council.

While, it may be premature to discuss the Commission's jurisdiction,¹⁶⁸ I believe that determination of whether the Commission's decisions supersede the national courts of Member States is important. For example, if a citizen of a Member State of the Cooperation Council wishes to challenge an administrative decision taken by one of the public entities of the Member States in breach of the Economic Agreement, can this citizen

167. Economic Agreement, *supra* note 75, art. 27(1).

168. *Id.* art. 27(4). "Until the charter of the commission. . . comes into force, all disputes which the two parties do not agree to settle through arbitration and which could not be amicably settled by the Secretariat General, shall be referred to the competent GCC committees for settlement."

sue this public entity before the Commission, or must he or she go through a legal proceeding within the national legal system of the Member States, leaving the Commission as the highest authority to appeal to, tantamount to the European Court of Justice?

The Member States of the Cooperation Council are facing many challenges ahead. In order to achieve all their objectives, all Member States should have the necessary political will and should subordinate their systems to the Cooperation Council to build a strong regional block.

