
***Opening Address of the Symposium
on Financial Legislation***

It pleases me to address today this honorable gathering, at the opening of this symposium organized by the Kuwait Institute for Juridical and Legal Studies and the Central Bank of Kuwait (CBK), in participation with the International Monetary Fund, which aims to provide the attendees with the opportunity of discussing certain legal aspects of the banking business.

The subject of this symposium is an overarching one, since banking activity encompasses several interrelated elements and involves several economic, social, legislative and technical aspects and considerations, and extends numerous and diverse services to several segments of the society, sectors of the economy and institutional units. I am confident that this symposium will realize its beneficial objectives by providing a suitable opportunity for shedding light on the legal aspects of banking activity, which is governed by international rules and customs of a particular nature.

It is perhaps superfluous here to explain the particular nature of the activity of banks, the risks they face and effects thereof. Nonetheless, it is worth noting that the significant role of the banking business in the national economy has prompted international institutions and organizations to develop a set of international standards which have as their purpose to organize banking activity and to enhance its efficiency within the framework of an effective supervisory system.

Without doubt, developing and bringing to completion the banking and financial legislative framework in response to the major changes witnessed in the banking industry in general is a main factor in regard to enhancing the efficiency of the banking sector, and providing it with the elements allowing it to play a more effective role in support of the growth and performance of the various other sectors of the national economy.

Worth noting too is the significant role of both the executive and legislative authorities in the State of Kuwait in regard to developing and bringing to completion banking and financial legislations. In this regard Law No. 30 of 2003 was issued in 2003, adding a special section for Islamic banks to the Central Bank of Kuwait Law No. 32 of 1968 regarding currency, the Central Bank of Kuwait and the organization of banking business. Also, at the beginning of 2004, other amendments were made to certain provisions of this Law.

From another perspective, the fact that the various aspects of banking business involve inter-connected and inter-dependent relationships - whether among the banking system units on the domestic and external levels, or between these units and their customers - emphasizes the importance of reaching a clear understanding of the legal aspects relevant to all elements of the banking business. In this regard, the experiences gained and crises confronted by the banking system in several countries have proved that the insufficiency of the legal environment was a main factor behind the spread of damage resulting from these crises and the delay in remedying them. Therefore, many countries took the direction of establish-

ing a judicial system specializing in banking, financial and commercial issues.

Judicial procedures for banking transactions are known not to differ much from those concerning other transactions, as both are subject to the same procedures prescribed by the law. Nonetheless, the transactions of financial institutions are of a special nature, involving issues concerning the financial rights of conflicting parties, and resulting in court cases that address the financial positions of entities playing an effective and influential role in the national economy, whereby these court cases encompass complex and inter-connected technical and legal aspects. Therefore, it is indispensable to provide a legislative and judicial environment suitable for the nature of these conflicts. Accordingly, there is need for a special handling of these court cases, to ensure the proper functioning and promptness of the judicial process, and to prevent the usurpation of rights and procrastination in the meeting of obligations. This will necessarily result in increasing domestic and foreign investments, which is vital for enhancing the growth rate of the national economy.

Adequate awareness of domestic and international developments and changes in the banking and financial business constitutes one of the most significant means for achieving timely and enforceable justice in banking and financial disputes, and legal stability in the positions resulting from the resolution of these conflicts. This is particularly the case as financial markets are considered to be undergoing continuous developments and innovation, therefore necessitating the establishment of a supervisory environment that is keen on developing and applying the latest international

supervisory systems and policies on the one hand, and constantly reviewing the legislation organizing the banking and financial business in line with the developments witnessed in the banking and financial industry on the other hand.

I wish in this connection to mention the essential and effective role of the judiciary in its proper application of the law for the resolution of banking conflicts, thereby implementing the objectives of legislation and establishing rules for the guidance of all those concerned with understanding banking and financial legislation and their means of application. The CBK's participation in organizing this symposium stands as proof of its keenness to achieve the objectives for which it is being held.

In closing, I hope that this symposium will provide an understanding of the banking business and the legal aspects related to it, thereby contributing to the enrichment of these aspects, and positively influencing the banking and financial conditions which will result in furthering the economic development of the country.