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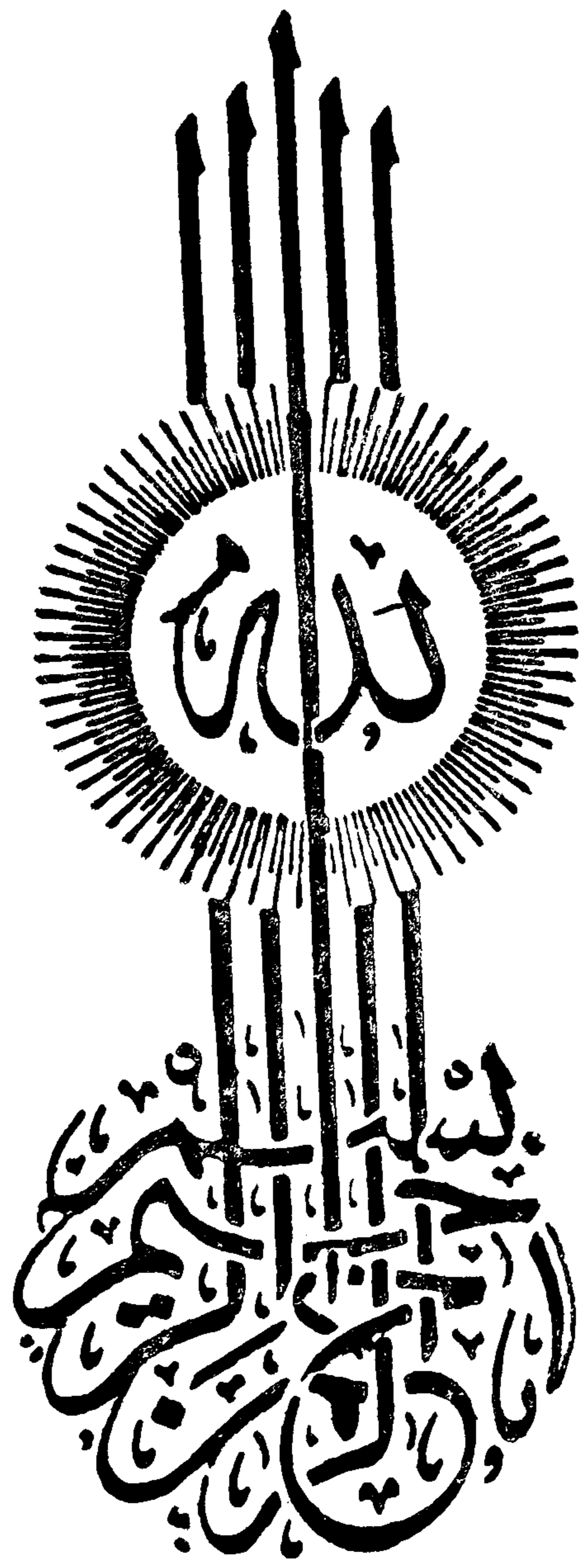
**THE G.C.C. SECURITY CONVENTION:
A LEGAL AND PRACTICAL ANALYSIS**

SUBMITTED BY

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TO THE UNIVERSITY OF GLASGOW AS A THESIS
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IN THE FACULTY OF LAW AND FINANCIAL STUDIES

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DEDICATION

With my humble respect to His Majesty the King and all my Royal Family and to the Government and people of the Kingdom of Saudi Arabia, and to the Arab States and for the progress of Peace, understanding and International co-operation.

ACKNOWLEDGEMENT

My most sincere and grateful thanks I am pleased to record:

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Finally to the many others, too many to detail but each of them is aware personally of my profound gratitude for their unselfishly donated time and most constructive assistance.

ABSTRACT

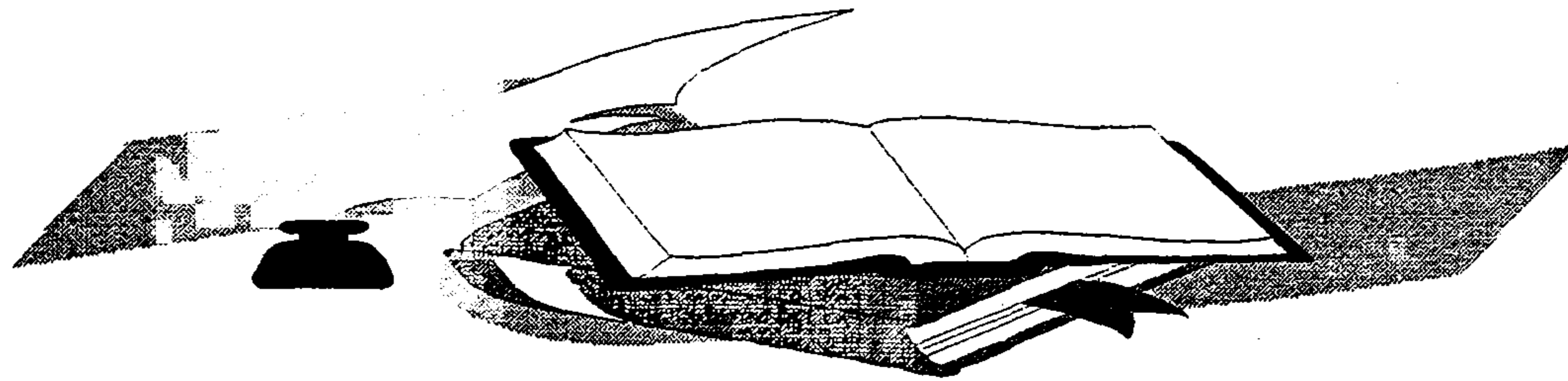
This thesis is a legal and practical analysis of the Gulf Co-operation Council Security Convention of December 1994. The study commences with an explanation of the structure, operation and functions of the G.C.C., in particular its role in matters of security. Drafting of the Convention began in 1982 and its eventual adoption, some 12 years later, was largely the result of the two Gulf Wars.

This study provides, for the first time, research based on the input of Senior Government Officials from G.C.C. Member States on matters of security and reveals previously unpublished information.

The core of this thesis is a detailed analysis of the G.C.C. Security Convention, in which the strengths and weaknesses are identified. This analysis required the translation of the Convention into English, a task not hitherto undertaken. This semi-official translation of the Convention appears in Appendix 1. Particular regard is had to the reasons that some of the G.C.C. Member States have not signed or ratified the Convention. A serious drafting defect has been found in Article 28 of the Convention; the text is contradictory and, if applied in particular cases, would make the extradition provisions unworkable.

The G.C.C. Security Convention is compared with earlier bilateral agreements and with the League of Arab States, the Council of Europe and the UN, through the Model Extradition Agreement. These comparative studies further indicate strengths and weakness of the G.C.C. Convention. A further analysis is given of the position of all Member States, who have signed or ratified the Convention, in relation to them entering into any other treaty or agreement.

This Convention , the first comprehensive security agreement in any part of the world, is a possible model for other regional organisations concerned about their overall security.



ABBREVIATIONS

AWACS :Airborne Warning and Control System aircraft.

AJIL: American Journal of International Law.

CAMI: Council of Arab Ministers of the Interior.

CSDRP : Commission for the Settlement of Disputes.

ECCP: European Committee on Crime Problems.

ECHR: European Commission For Human Rights.

ECOSOC: Economic and Social Council.

ECSC: European Coal Steel Community.

E.E.C.: European Economic Community.

ETS: European Treaty Series.

Euratom: European Atomic Energy Community.

G.A.: General Assembly.

G.C.C.: Gulf Co-operation Council.

ICF : International Coalition Force.

I.C.J.: International Court of Justice.

INTERPOL: International Criminal Police Organization.

IPJ: International Policy Journal(Cairo, Egypt).

I.R.A.: Irish Republic Army.

K.S.A.: Kingdom of Saudi Arabia.

L.A.S.: League of Arab States.

MCCE: Ministerial Committee of the Council of Europe.

MSC: Military Staff Committee.

NATO: North Atlantic Treaty Organization.

NCB: National Central Bureaux.

O.A.U.: Organization of African Unity.

OEEC: Organization for European Economic Cooperation.

PBUH: Peace Be Upon Him (for Prophet Mohammed).

RPMC: Rules of Procedure of the Ministerial Council.

RPSC: Rules of Procedure of the Supreme Council.

TWA: Trans-World Airlines.

U.A.E.: United Arab Emirates.

UN :United Nations.

UNEF: United Nations Emergency Force.

U.N.E.S.C.O.: United Nations Educational, Scientific, and Cultural Organization.

U.N.H.C.F.: United Nations High Commissioner for Refugees.

UNTS: United Nations Treaty Series.

USA: United States of America.

UTA: Union des Transports Aeriens.

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INTRODUCTION

There is a shortage of scholars and literature of security matters particularly in the Arabic World. This was stated by H.R.H. Prince Naif Ben Abdel-Aziz Al-Saud, the Saudi Minister of the Interior(1). This is an admission that the literature dealing with security issues is limited. "The G.C.C. Comprehensive Security Convention, an Analytic and Strategic Study" is a contribution to cope with this shortage.

No single writer has discussed this subject matter from the time it was a mere concept in 1977 until 1994 when the G.C.C. Comprehensive Security Convention was ratified. Therefore, the theme of this research is new and never discussed before.

The importance of the study emanates from the importance of the Gulf region; its strategic location and its great petroleum reserve. Furthermore, the study is important since it deals with the internal security of the G.C.C. States.

These States tend to preserve their internal security and to avoid threats and dangers such as; the import of the Iranian revolution, any attempts to overthrow governments in some of the G.C.C. States, any terrorist and other activities such as bombing aimed at destabilizing internal security and stability, and any attempt by the superpowers to intervene in the G.C.C. States' internal affairs.

AIMS.

Amongst the purposes of this study is to give the world a clear picture of the extent of security co-operation among the G.C.C. States through the G.C.C. Comprehensive Security Convention. This study also aims to assess the advantages of the G.C.C. Security Convention: particularly, it is a convention

which is new, comprehensive and it covers many aspects of security, while other security conventions are relatively older and specially dedicated to extradition.

This study targets the discussion of the problems and obstacles that delayed the ratification of the G.C.C. Security Convention from its 1982 draft until its ratification in 1994. This study will analyse the reasons why some G.C.C. States did not ratify the Convention. It will also discuss the attitude of the non-signatory States towards the signatory States.

This study further aims to come up with conclusions related to the G.C.C. Security Convention by means of an analysis of the legal articles of the Security Convention and comparing them with those of other conventions.

METHODOLOGY.

To reach its goal, the study will be based on analysis, comparison and assessment. It will be also academic research distinct from religious or ethnic bias and diplomatic influence. While assessing and comparing the various security conventions, the study will be neutral when analysing conflicting points of view.

There have been difficulties in acquiring necessary materials for this study because of the lack of literature concerning the G.C.C. Security Convention, except some cursory journalistic articles. The confidentiality of security information is another problem in obtaining fruitful sources for this study.

Efforts have been exerted in meeting decision-makers and those responsible in the G.C.C. States to obtain the information directly from them. Endeavours have been also expended to systematize interviews with such high-ranking officials in spite of their precious time and important responsibilities. Among those who were interviewed are 30 high ranking ministers and officials from the six G.C.C. states of the G.C.C. Secretariat-General including a Crown Prince and a Prime Minister.(2)

The absence of an official translation of the G.C.C. Comprehensive Security Convention available from the G.C.C. Secretariat-General was another obstacle to overcome. Consequently, the Arabic text of the Convention will be translated into English (and appears as Appendix 1). Any translation will require the permission of officials in the G.C.C. Secretariat-General to ensure conformity of the translated text with the original one.

STRUCTURE AND CONTENT.

As far as the contents of the study are concerned, it is necessary first to discuss the G.C.C. and its legal regime, since the G.C.C. Comprehensive Security Convention, which is the main subject of the study, was adopted within the framework of this regional arrangement. The G.C.C. will be analysed in Chapter 1.

The adoption of the G.C.C. Comprehensive Security Convention was due to many events, principally the Gulf Wars and the instability that caused in the region and their relative effect in these States. In fact, Kuwait and Saudi Arabia were badly affected by these wars, though its effects extended to the other G.C.C. States. This is discussed in Chapter 2.

The 1994 G.C.C. Security Convention itself will be analysed and discussed in detail in Chapter 3.

The multi-lateral security co-operation within the framework of the G.C.C. was initiated by bilateral agreements concluded between Saudi Arabia and other G.C.C. States. Chapter 4 of this study will compare and analyze the provisions of these bilateral agreements.

The study will move, in Chapter 5, from the Gulf framework to that of the Arab World. It will assess and analyse the Arab Extradition Convention concluded in 1952 and the Riyadh Convention on Judicial Co-operation of 1983. The Lockerbie

case will be discussed as an example of the importance of the Extradition Convention as an agreement between an Arab State and a Western State.

In Chapter 6 a comparison will be provided between the G.C.C. Security Convention, the European Convention on Extradition and the UN Model Treaty on Extradition

The conclusion of this study will discuss the merits and the negative remarks concerning the G.C.C. Comprehensive Security Convention; and the recommendations, to be taken into consideration, which will be submitted to officials to remedy the G.C.C. Security perspective.

THE MEANINGS OF SECURITY.

Before discussing the subject matter of the study, it is appropriate to briefly identify security and criminal extradition.

It has to be borne in mind that the term "security" is ambiguous since it is used in many different fields and aspects to mean quite different things.

Despite the fact that the term "security" (3) is difficult to define, it is nonetheless necessary to offer some definition for the purposes of this study.

From the very beginning, the concept of security provided human beings with tranquillity and the absence of fear. Nowadays, security is no longer confined to crime; it extends also to the broader human right regarded as fundamental in contemporary social systems(4). One of the purposes of each political community is the preservation of fundamental and natural rights, among which is the right to security; or, put another way, the right to be free of oppression, tyranny and injustice. The UN Universal Declaration on Human Rights(5) considers the right to security to be one of the most important individual rights(6).

New forms of crime have emerged, such as organized crime, which transcend national borders and threaten more than one state, resulting in states seeking to apply measures to protect their external security(7).

The wider meaning of security concerns both internal and external threats and dangers. Security can no longer be concerned only with traditional threats and dangers to a state's internal order to be addressed by traditional measures for the prevention of crime, the detection of criminals and their prosecution and punishment. Security has a wider meaning and includes national and international security. It extends to new forms of threats and dangers; these might be military or economic(8) or social(9).

Under this wider concept of security(10), it is not enough to rely on military measures of protection. It is necessary to add to military measures or to contain them by a limited degree of economic, political and cultural measures to protect society against the onslaught of the security dangers by which it is confronted.

It is very difficult to separate internal and external security as they have become inter-related. The importance of the distinction between internal(11) and external security lies in the distribution of responsibilities and competence among the authorities concerned with the realization of security.

Before the Second World War, it was generally accepted that the protection of a state from external threat was the function of the armed forces(12). Since 1945, states have reconsidered the concept of external security. Many threats do not need military intervention; on the contrary, in some cases a military solution may aggravate the underlying causes of the problem as it is the case with the first world war.

Modern technology allows a state to control its own territory and to observe events in the territories of other states. This technology is not the monopoly of any single state, but is accessible by others, giving them the ability to intervene in each others affairs. While this is in some ways positive, it also represents a danger to state security. It was these technological developments which led states to relinquish their policy of isolation and self-sufficiency in security matters and to cooperate with other states to solve common security problems(13).

Also, the traditional state has adapted to become the multi-competence state which tends to seek to realize the general well-being by involving itself in fields which were formerly not regarded as part of the functions of a state. Nonetheless, security, in the widest sense, is still seen as the primary aim and function of a state(14).

On the international level, a similar development has occurred. From a pre-occupation with issues of peace and war, states now seek to co-operate in a variety of fields such as commerce, investment and economic development(15).

Many issues are related to security such as, inter alia, combating crime and extradition procedures. The international community witnesses an increase in crime commission as the following table(16) shows:

Year	<i>Crimes committed for each 100.000 inhabitants</i>	<i>Crimes annual increase (percentage)</i>	<i>accumulative increase (percentage)</i>
1986	2.548	—	—
1987	2.592	1.7	1.7
1988	2.650	2.2	4.0
1989	2.858	7.8	12.2
1990	3.140	6.4	23.2

This table, the latest information available, gives statistics concerning crime commission in the world. Crime commission is not limited to any particular States. Crime, whatsoever its form, is most frequently committed in developed Countries in comparison with the under developed. The US being a superpower could not avoid the civil aviation and Oklahoma bombings which cost the lives of many innocent persons.

Crime has negative effects on the community. Therefore, prosecution of criminals would inhibit whoever avails himself the possibility to commit a crime. There is no problem if the criminal is but in a hand length of the competent authorities in his country.

Difficulties arise when the person commits a crime and takes refuge in another State. The boundaries of the refuge State would save him from prosecution and would encourage criminal activities. Furthermore, a crime when committed in a State may damage the benefits of a second State. The later State has the right to prosecute such criminal offender. This issue has only one remedy, namely, extradition.

This remedy is not new. In fact, States adopted extradition from early ages. In 1280 BC, Rameses II of Egypt and the Hittite prince Hattushilish III concluded an extradition agreement by virtue of which the parties are obliged to extradite to each other fugitive persons who commit political offences only⁽¹⁷⁾. This rule is the opposite to what is known in the modern international law.

Islam, in its beginning, practiced extradition; Prophet Mohammed (Peace Be Upon Him) concluded an agreement with Quoraish tribe. It is known as the *Hodaibia* reconciliation. It provided for an armistice for ten years between the two parties. By virtue of the *Hodaibia* reconciliation, Quoraish tribe would not extradite an apostate Muslim who fled to Quoraish. On the contrary, Muslims would extradite to Quoraish any Quoraishi who would wish to embrace Islam⁽¹⁸⁾.

The actual practice of this extradition agreement is the *Re Jundel Ben Sohail Ben Amer*(19). He fled from Quoraish and took refuge within the Muslims for embracing Islam. This person effectively embraced Islam. He complained when he knew that he would be extradited by virtue of the *Hodaibia* reconciliation, nonetheless, Prophet Mohammed (PBUH) was obliged to extradite him to fulfill his obligation(20), in accordance with the Divine Verse: *..And fulfill(every) covenant. Verily! The covenant, will questioned about* (21) and *O, you who believe! Fulfill(your) obligations* (22).

Extradition is a procedure by virtue of which a requested State extradite a person, existing in its territory, to a requesting State for prosecution or carrying out a declared punishment(23). Justice is the main basis of extradition issue. It is unjust that an offender escapes prosecution. Prosecution is profitable for States as a whole. The collective interest of States necessitates co-operation and co-ordination to preserve their security and stability(24).

Criminal extradition has many sources; the domestic regulations, whereby it is possible that a State has acts governing extradition procedure; International customs and Principle of Reciprocity by means of which two States or more extradite persons to each other(25); and the international agreements.

International agreements that regulate extradition procedures may be multi-lateral and ratified by a group of States for example the European Convention on Extradition of 1957. The latter permits the accession of new member States; whereas, there are close conventions which are limited to the original signatory States, such as the G.C.C. Comprehensive Security Convention. An extradition agreement may be bilateral, the case of the Bilateral Agreements concluded between Saudi Arabia and the rest of the Gulf States in 1982.

Extradition issue may be dealt with as a main subject of an agreement of Fraternity and Neighbourhood as the one concluded between Saudi Arabia and Yemen in 1933. This issue may also appear in Judicial Agreement which includes many other issues along with the implementation of Judicial Intimation and Delegation such as the Arab Riyadh Convention on Judicial co-operation of 1983. Furthermore, extradition may be discussed in security conventions which govern matters such as the exchange of security informations and combating illegal entry and exit such as the G.C.C. Comprehensive Security Convention. Other international agreements may be dedicated to extradition such as the Arab Extradition Convention of 1952 and the European Convention on Extradition.

The G.C.C. States are also affected by international changes. They have witnessed crimes that threatened their security and stability due to their natural richness and strategic location. The Governments of these States were keen to find a collective security formula to protect their internal security after they have secured their external security by establishing the Peninsula Shield, developing their military defensive systems and concluding military agreements with the US and some European States particularly after the Second Gulf War.

Internal security is as important as external security. The G.C.C. States are not satisfied with bilateral agreements to regulate extradition. They agreed to conclude a security convention governing extradition, combating crime and combating illegal entry and exit and other matters. The Convention is the G.C.C. Comprehensive Security Convention.

NOTES

- 1) The author met H.R.H. Prince Naif Ben Abdel-Aziz Al-Saud, the Saudi Minister of the Interior on 2 October 1996.
- 2) See Bibliography and References.
- 3) Security means a secure condition or feeling; a thing that guards or guarantees; the safety of a State against espionage, theft, or other danger; an organization for ensuring this. See: the Concise Oxford Dictionary, 8th ed., BCA London 1993. The term "security" as opposed to fear, we say that "he is secure" as opposed to "he is afraid", "people are secure in a country" and safe from harm; sometimes security may be interpreted as safety, it is said that a community is guaranteed security, meaning that all its problems are settled and safety reigns the members of this community who feel secure and their basic needs are satisfied. For more details, see: Wajdi Mohammed Farid, Qoran Dictionary, Dar Echaab for Publication.; Razi Abibakr Abdelkader, Mokhtar Assahih, Cairo 1905, P 38; Maarouf Louis, Arab Language Dictionary, Beirut 1947, 10th. Ed., P 16.
- 4) Ghazi Mohammed Selim, The General Rights in Islam, Edt. by Chabab Al-Jamia Institution, P 194 Et. Seq..
- 5) Art. 3 of the Universal Declaration on Human Rights(1948).
- 6) M.N. Shaw, International Law, 3rd ed. Woodnough Bookbinding, Cambridge, 1994, PP. 187-189.
- 7) Security Conference, Paper Published in "The Security" Magazine, issued by the General Direction of Dubai Police, Ed. N. 228 of January 1994, P. 18.; "The Role of The Police in the Crime Contention", A Research Paper Presented in the "The Complimentarity of Efforts of the Concerned Crime Contention Systems" Symposium held by the Arab Center of Security Studies and Training, During 20-22 of November 1989.
- 8) The economic security is part of security as a whole, relating to security of economy which gives it more importance if any defect in the economic field has many repercussions on security. The economic security is concerned with preparing the appropriate background for development, and bringing about an end to crimes that threaten the national economy. Within the framework of the economic security, we find many problems related to energy, foodstuffs, and financial matters; since the economic injury is no longer confined to the resistance and siege activities. For more details, see: La Nouvelle Armee Economique, Par La Committe d'Etudes de Defence National, Dans La Revue "Defence National" Mars 1980, PP. 7-23.

- 9) The social security is defined as means of protecting a state's customs and properties that are drawn from religious, historical and civilizational moralities, from foreign destructive tendencies that aim to sap these principles and traditions, and the social security tends to fortify the society from these ideas.
- 10) Hussain Adli, National Security and Its Realization Strategy, Kitab Assaa, Cairo 1977, P. 11.
- 11) It is sometimes called: the individual security; or national security; or state security. They are all synonymous.; Kelsen Hans, The Collective Security Under International Law, PP. 4 Et. Seq.
- 12) Amer Salah-Eddine, The Internal Project, An Analytic Study, Cairo, PP. 5 Et. Seq.
- 13) Soltan Hamed(&others) General International Law, Dar An-nahda AL Arabia, Cairo 1978, P.396.
- 14) Ezaid Abdallah Ben Abdallah, Arab Security Responsibility, A research Paper Presented in the 3rd Scientific Symposium Held by the Arab Center of Security Studies and Training, Riyadh 1406 H., P.323.
- 15) Alatar Fouad, The Political Systems and the Constitutional Law, Dar An-nahda AL-Arabia, Cairo 1976, PP.3-8.; Atamawi Solaiman, The Political Systems and the Constitutional Law, 1988, P.85.
- 16) From a report prepared by the UN Secretariat-General for the UN Conference for Combating Crime and the Treatment of Offenders, held in Cairo, Egypt from 29 April to 8 May 1995.
- 17) Geoff Gilbert, Aspects of Extradition Law, Martinus Nijhoff Publishers, London 1991, P. 9.
- 18) Imam Abi-Alhassan Ashaibani Ibn Al-Athir, Ibn Al-Athir on The Complete History, The Arab Book House, 4th edt., Beirut 1983, Vol. II, PP. 138-140; Abou Mohammed Abdel-Malek Ben Hicham, The Conduct of The Prophet (Peace Be Upon Him), Realization of Sheikh Mohammed Mohi-Eddine Abdel-Majid, the Presidency the Committee of the Scientific Researches, Advice, Advocacy and Guidance, Riyadh, Vol. III, PP. 366-367.
- 19) Najm Mohammed Ben Fahd, Ithaaf Al-Waraa Bi-Akhbar Oum Al-Qura, Inquiry of Fahim Mohammed Shalthout, Oum Al-Qura University, Mekka, Part I, PP. 465-468; Sheikh Mohammed Al-Khodari, Nour Al-Yaqin Li Sirat Saaid Al-Morsalin, Dar At-taoun For Publishing, Mekka, 23rd edt., PP. 189-192.
- 20) Uaidh Mohammed Huzal, The Principles of Extradition In Islamic Fiqh, the Modern Tendencies and Its Practice in Saudi Arabia, a Master Thesis, The Centre of the Arabic Security Studies and Training, Riyadh 1995, P. 247.
- 21) Quran, 17:34; Interpretation of The Meanings of The Noble Quran by Dr. Muhammad Taqi-ud-Din Al-Hilali and Dr. Muhammad Muhsin Khan, Maktba Dar-Us-Salam, Riyadh 1994, PP. 431-432.

22) Quran, 5:1; Ibid, P.163.

23) Mahmoud Zaki Shems, International Judicial and Extradition Agreements(1926-1985),
Damascus 1986, P. 15.

24) Mohammed Al-Hossain Mosilhi, Private International Law, A Study of Its General Principles
And Its Application In Saudi Arabia, King Fahd Security Faculty, 6th ed., Riyadh 1995, PP.
297-298.

25) Ibid, PP. 298 et seq.

CHAPTER ONE

LEGAL REGIME OF THE G.C.C.

The G.C.C. is one of a number of Arab regional organizations⁽¹⁾. Its Charter was signed by the member countries' leaders during their meeting in Abu Dhabi on 25 May 1981. The G.C.C. is formed by the six Gulf Arab states: the Kingdom of Saudi Arabia, United Arab Emirates, Oman Sultanate, Kuwait, Bahrain, and Qatar. The G.C.C., as a regional arrangement, is not a product of coincidence; it is a product of many factors, particularly to establish security in the Gulf region. Experts and specialists drafted the rules of procedure of the G.C.C. principal organs: the Supreme Council, the Ministerial Council, the General Secretariat and the Commission for the Settlement of Disputes.

As far as the achievements of the G.C.C. are concerned, no one can ignore its role in the sphere of international relations and the peaceful settlement of local disputes. The G.C.C. coordinates with other regional or international organizations, whether general or specialized, to realize its purposes. Therefore, there is a close relation between the G.C.C. and the UN since the UN is the authorizing source for the different regional organizations⁽²⁾. Also there is a strong relation between the G.C.C. and the League of Arab States since the G.C.C. is an Arab regional organization and the League of Arab States is concerned as "the mother organization" for the different regional organizations dealing with Arab-Arab affairs⁽³⁾.

THE BACKGROUND TO THE G.C.C..

Before dealing in detail with the circumstances for establishing the G.C.C., it is useful to know details of the six Gulf countries' area, population, date of independence and national incomes(4).

	K.S.A.	KUWAIT	U.A.E.	BAHRAIN	QATAR	OMAN
Area/Km2	2149.690	17.820	83.600	620	11.000	212.460
Population in million	16	2	2.1	0.458	0.469	1.3
Unification or Unity	Unified in 24/9/1932 by King Abdulaziz Al-Saud.	Independe nce from UK in 19/6/1961.	Independe nce from UK in 2/12/ 1971	Independ ence from UK in 15/8/1971	Independ ence from UK in 3/9/1971	Independe nce from UK in 1971
National total Income/ million USA \$.	85843	31169	27350	2938	5675	7351

Except for K.S.A., the other G.C.C. countries were for decades under a United Kingdom protectorate. The British presence withdrew from Kuwait in June 1961(5). The British Government declared its intention to withdraw from them in January 1968(6). Later Sheikh Zaid Ben Sultan Al-Nahian and Sheikh Racheed Ben Saad A-Makhtoum (governors of Abu Dhabi and Dubai) decided to form a federal union between them and invited Bahrain, Qatar, and the Emirates of

Chariqa, Ajman, Oum qiwin, Raas Al Khaima, and Al fojaira to join the federation(7).

By the end of February 1968, a meeting was held in Dubai by the governors of the nine States(8), but the consultations led only to the union of the six Arab Emirates, without Qatar, Bahrain, and Raas Al Khaima; in December 1971(9); in 1972(10), Raas Al Khaima joined the Federal Union whose constitution permitted any Arab State to join the Federation(11).

The formation of the G.C.C. reflects the strong desire among the region's peoples to cooperate with each other, and to depend on themselves in realizing their security(12). The security factor was an important incentive in the creation the G.C.C. since the Gulf region has been a target for many predators, particularly after major international political upheavals. The conflict between the two Superpowers reached as far as the Arab Gulf region, for the region has a strategic importance for Western industry, and it represented a major security concern because of its geographic proximity with the Soviet Union.

The American Administration had chosen Iran as a powerful "policeman" to protect American interests in the region(13). To assume this function, the American administration provided Iran's Shah with essential weapons, until the Islamic revolution in Iran in February 1979. The American administration started looking for a substitute for Iran for the protection of the region and proposed this task to the Saudi Government. This was refused(14), despite America's cordial relationship with the Gulf leaders and its consent to the A.W.A.C.S. contract for Saudi Arabia. Yet the Gulf States did not forget the American administration's negligence of Arab concerns in the conflict with Israel (15), nor did they forget the American support of the Iranian occupation of the three UAE. islands (Abu Moussa, Greater and Lesser Tanbs).

On the other hand, the Soviet leaders' preoccupation with the Gulf region was their interest in the region's petroleum resources and as a response to American diplomacy in the region, which was seen to endanger Soviet national security. The conflict escalated when Soviet troops invaded Afghanistan in December 1979⁽¹⁶⁾.

Because Afghanistan is proximate to the Gulf region, the American administration did not stand by, but directly menaced the Soviet Union through the declaration of President Jimmy Carter of 23 January 1980⁽¹⁷⁾, particularly when the Soviet Union gained more political influence in Aden and in the African Horn⁽¹⁸⁾. The American declaration warned that any threat to the Gulf region's security would be considered as a direct aggression against US., and that the American administration would not hesitate to intervene in the region by any means. The American initiative was given expression when the American administration formed a Rapid Deployment Force to be used if necessary.

As a reply to President Carter's declaration, the Soviet leader, Leonid Brezhnev, declared "the Principle of Peace" in an address before the Indian Parliament in December 1980. The Soviet leader's position was to consider the Gulf region as neutral in Superpower conflicts, taking into consideration that the region's countries are non-aligned and not members of any military alliances⁽¹⁹⁾. The position was to respect the sovereignty of these countries over their natural resources⁽²⁰⁾. The Gulf countries were expected to accept these understandings. However, because of the continuation of the situation in Afghanistan, the Gulf countries mistrusted the Soviet declaration which was considered only as a reply to that of America.

The Gulf countries frankly declared that the conflict between the Superpowers was the greatest menace to the region's security. Thus, the Gulf countries had to find means to protect their security and political systems through collective coordination in different fields.

Several Gulf countries put forward proposals for the security of the region. OMAN Sultanate⁽²¹⁾ submitted a proposal on the protection of navigation in the Hormuz strait in the light of its strategic importance. The proposal stipulated that each Gulf State would participate in the expenses of the necessary militarization of the Strait and in the creation of a joint naval force from the naval forces of each country so as to realize Gulf security⁽²²⁾. The project was rejected particularly by Kuwait and Iraq because it would inevitably make the West involved in Gulf security and protection⁽²³⁾.

The Saudi proposed⁽²⁴⁾ adopting security measures for the guarantee of the Gulf States' internal security. The same bilateral arrangements were to be undertaken with the other G.C.C. countries. This proposal made it clear that Saudi Arabia did not intend to make the organization to be established one modeled on NATO or the WARSAW Pact. Saudi Arabia was interested in the military question; to the end that any country in the organization should have a military force capable of defending its sovereignty against any external aggression.

The Kuwaiti proposal⁽²⁵⁾ emphasized economic, cultural, petroleum, and industrial cooperation rather than military and security measures. In mid-December 1980, Bahrain⁽²⁶⁾ submitted a proposal which consisted of creating a joint military force in which it would take part along with Saudi Arabia, Kuwait, Qatar, and Oman.

The security situation deteriorated in the Gulf region after the outbreak of the Iraq-Iran war. The Khomainsi revolution was not well established when the Iraqi President Saddam Hussein revoked the Shatt El-Arab Convention which had been ratified by the Governments of these two countries in Algeria in 1975⁽²⁷⁾. Saddam Hussein was himself the deputized representative of his country in Algeria. The Iraq-Iran war contributed to the feeling of insecurity in the Gulf countries⁽²⁸⁾. The need for security coordination increased, for this war represented a direct and

immediate threat to the region's security⁽²⁹⁾. Since the protagonists were two Gulf countries, the effects of the war extended to all the G.C.C. countries. Therefore, one can consider the outbreak of the war as a primary factor in the establishment of the G.C.C.

A further complication arose when Egypt ratified a Peace Treaty with Israel⁽³⁰⁾. The Arab leaders met in summit at Baghdad after the ratification of this treaty and decided on the expulsion of Egypt from the Arab League and the provisional transfer of the Arab League's headquarters from Cairo to Tunis. This isolation of Egypt had its effects on the political dispositions of the Arab Gulf leaders since the Egyptian-Israeli peace agreement prevented Egypt from supporting the other Arabs in their conflict with Israel. Therefore the G.C.C. States felt the importance of cooperation among themselves, particularly after the loss of the major military power in the Arab world.

It should be borne in mind that the G.C.C. countries great economic expansion took place during the Egypt and Israel war in October 1973. The G.C.C. countries had become great petroleum exporters⁽³¹⁾. The Arabs entered into an accord which consisted of a ban of petroleum to the US and all other States which supported Israel in its conflict with the Arabs⁽³²⁾. As a result of this prohibition, the international economy was disrupted, and American industry paralyzed. The petroleum price increased and the Gulf countries' national incomes flourished. This economic boom was exploited by investing in development ventures and by starting major projects. Economic coordination between Gulf States began when they created many joint projects even before the creation of inter alia, The Gulf News Agency and the International Gulf Bank⁽³³⁾. Such joint ventures and coordination represented strong incentives for the creating of a regional organization linking the six Gulf countries.

Common bonds link the six Gulf countries. They share similar political systems (hereditary ruling houses) and similar constitutional institutions. There is a unity of culture, religion, language, linked tribal origins⁽³⁴⁾, and a common civilization and history. These factors all make the six Gulf countries distinguishable from other peoples around them. There is also a similarity in the economy; in each of the six countries, petroleum exports represent the main source of foreign earnings and so of investment resources.

All these bonds have importance for the coordination of policy and development, and turning the G.C.C. idea, as stated in the Preamble to the Charter, into reality. However, of greatest importance for the G.C.C. countries is in the emergence of an organization able to build up its own force to defend its members against any foreign threats⁽³⁵⁾.

These are the main factors which led to the creation of the G.C.C. However, the six Gulf countries' constitutions were different and this would affect the manner of co-ordination and those fields in which it would be operational. Indeed, it is a basic principle of the G.C.C., though this is not expressly stated in the Charter, that each member State shall implement the Resolutions of the organization according to its own constitutional and other legal requirements⁽³⁶⁾.

During the eleventh Arab Conference Summit held in Jordan in November 1980⁽³⁷⁾, the proposal for a Gulf regional organization was put forward and this was repeated at the meeting of the Gulf countries held on the margin of the Islamic Summit Conference in Taif at the end of January 1981⁽³⁸⁾. Two weeks later, the Foreign Ministers of the six Gulf States met in Riyadh in 4 February 1981, signing a declaration calling for the establishment of the G.C.C.⁽³⁹⁾.

A committee of experts met in Riyadh on February 24⁽⁴⁰⁾ and in Muscat on March 4 to prepare the G.C.C. Charter, and in Muscat on March 9 and 10, 1981⁽⁴¹⁾, the

Foreign Ministers met to discuss the final draft form of the G.C.C. Charter. In Abu Dhabi, on May 19 and 20(42), experts discussed the organizational rules of the Commission for the Settlement of Disputes. The system was proposed by the Kuwaiti Government and recommended by the G.C.C Foreign Ministers. They discussed the Council's Secretariat-General, and the requirements for immunities and privileges for the staff and representatives of the organization.

The six Gulf Heads of States decided to meet in summit in Abu Dhabi on May 25 and 26, 1981(43). The Foreign Ministers met on May 23 to 25, 1981, to prepare the agenda for this summit which was to discuss the experts' recommendations. They were, in the event, also to approve the nomination of Abdullah Yacoub Bishara, the former Kuwait's permanent representative to the UN., as the first Secretary-General of the Council(44). They were also to approve the Rules for Procedure of the Commission for the Settlement of Disputes.

During the Summit meeting, the leaders signed the G.C.C Charter and created five policy area committees(45): the Economic and Social Planning Committee, the Financial and Economic Co-operation Committee, the Industrial Co-operation Committee, the Petroleum Committee, and the Social and Cultural Services Committee.

The establishment of the G.C.C. was welcomed by the leaders of Arab World and other foreign countries. From the beginning, the G.C.C. was supported by the USA(46). In fact, the US. Approval was expressed by the US. Assistant Secretary of State for Near Eastern and South Asian Affairs in May 1982, he stated that the establishment of the G.C.C. was an *"important step in the sustained search for co-operation..that is an objective which the peoples of the region cherish, and which we welcome and support, for such co-operation is central to building prospects for peace and orderly progress"*(47). The British Prime Minister, Margaret Thatcher, expressed her support for Gulf cooperation to guarantee its

own defense⁽⁴⁸⁾. The French Government congratulated the G.C.C. leaders on this initiative to protect themselves, believing the security of the Gulf to be the responsibility of the States alone⁽⁴⁹⁾. Belgium⁽⁵⁰⁾, Pakistan⁽⁵¹⁾, Turkey⁽⁵²⁾, Austria⁽⁵³⁾, China⁽⁵⁴⁾ and the Netherlands⁽⁵⁵⁾ all welcomed the establishment of the G.C.C..

In the Arab World, South Yemen was silent and did not express its attitude towards the G.C.C. establishment⁽⁵⁶⁾, while North Yemen⁽⁵⁷⁾, Iraq⁽⁵⁸⁾, Sudan⁽⁵⁹⁾ and Tunisia⁽⁶⁰⁾ welcomed the establishment of the G.C.C.. This was also supported by the Egyptian Minister of Information in a speech in Oman Sultanate on February 1983⁽⁶¹⁾.

The Soviet Union's attitude was reserved, mainly because there were no diplomatic relations with the G.C.C. States at that time⁽⁶²⁾. Jordan⁽⁶³⁾ and Syrian⁽⁶⁴⁾ attitudes towards the establishment of the G.C.C. were not clear for these two countries followed the Soviet Union's policy. On the other hand, the Iranian Government⁽⁶⁵⁾ disapproved this union and expressed its anxiety over the G.C.C. support for Iraq with which Iran was in conflict.

As far as international organizations were concerned, the Secretariat-General of the UN welcomed the establishment of the G.C.C.⁽⁶⁶⁾. Moreover, the Secretary-General of the Arab League⁽⁶⁷⁾ extolled this step towards the reinforcement of the Arab "complementarity". The General Secretariat of the Islamic Conference organization⁽⁶⁸⁾ also considered the G.C.C. a strengthening of the Arab nation.

The G.C.C. enjoys the international legal personality⁽⁶⁹⁾ provided by the actual practice of the Council reinforced by the G.C.C. Charter which reads:

"The Secretary-General and the Assistant Secretaries-General and all Secretariat-General's staff shall carry out their duties in complete independence and for the joint benefit of the member States..."⁽⁷⁰⁾. This is confirmed in the Immunity and

Privileges Agreement signed in Riyadh in 1984⁽⁷¹⁾. The staff of the Council enjoy independent status within the Member States. They enjoy the rights, privileges and obligations of international personnel in States that recognize the organization and grant facilities for its operations⁽⁷²⁾.

The G.C.C. is an organization of wide competence⁽⁷³⁾ since its operations or activities are not limited to a particular field, but involve coordination in a wide range of interests and activities; economic, social, political⁽⁷⁴⁾. Military coordination has followed from the establishment of The Peninsula Shield, a programme of cooperation and mutual assistance in military training and preparedness.

THE G.C.C. CHARTER.

The Charter starts with a Preamble stating the names of the six signatory States (Member States), the reasons for establishing the Council, and the bonds (similar economic and political systems) that link the States, and the Islamic bonds that unify their people. The Preamble is an integral and essential part of the treaty. It has the same legal force as the substantive articles of the text⁽⁷⁵⁾.

The G.C.C. was established by the Charter, as stated in art. 1 of the Charter. Art. 2 states that the permanent headquarters of the G.C.C. is in the Saudi capital, Riyadh. Few of the treaties establishing regional organizations identify permanent headquarters. In the case of the Arab Maghreb Union, its establishing treaty does not appoint the location of the Secretariat-General, but the treaty states that the Secretariat-General would move with the rotating presidency⁽⁷⁶⁾. However, the work and conferences of the G.C.C. are not limited to the permanent headquarters of the Council.

Art. 4 sets out the objectives of the Council in four points. In brief, they are the necessity of coordination between different administrative systems within the G.C.C. countries and the promotion of cooperation between the member States in different fields to achieve a comprehensive economic unity through progressive steps that would unify regulations in economic, financial, custom commercial, cultural, legislative, information, and social fields.

The G.C.C. Charter does not state the principles to be adopted to achieve its purposes. It does not state fixed principles, since the drafters of the G.C.C. Charter judged it unnecessary to repeat the policies adopted by the UN and the league of Arab States, for the G.C.C. countries are members of these organizations. The resolutions of the G.C.C. dealt with cooperation principles in the political field, and fixes them in the following⁽⁷⁷⁾:

- Arab Gulf regional security is the responsibility of its population only, therefore it is necessary to depend on the forces of the region's States;
- Isolation of the Gulf region from international conflicts;
- Detachment from military alliances and the maintenance of the non-alignment principle;
- Respect for other nations' self-determination, and non-intervention in the internal affairs of other States;
- Settlement of regional disputes through peaceful means;
- Peaceful coexistence with the international community in general and with Gulf region States in particular;
- Respect for international co-operation.

COUNCIL MEMBERSHIP.

Art.5 of the Charter states that membership of the G.C.C. is limited to the six Gulf States that established it(78), that is, membership of the G.C.C. is open only to the original members. There is no provision in the Charter for the accession of new members.

Membership of the G.C.C. is limited to the original six signatory States(79). It is therefore a closed organization. It is noticed that Art.5 does not name the Member States. These are, however, cited in the Preamble, for these States participated in the Foreign Ministers' meeting held at Riyadh on 4 February 1981.

Art. 6 lays down the main organizations of the G.C.C.: these are the Supreme Council which is made up of the Member States' leaders (Art.7(1)); the Ministerial Council, formed by the Foreign Ministers (or their representatives) of the G.C.C. countries; the Secretariat-General, formed by a group of executive and administrative personnel headed by the Secretary-General (Art.14) The Commission for Settlement of Disputes, which is attached to the Supreme

Council, is a non-standing body with quasi-judicial functions(Art.10). These are referred to generally as the “organs” of G.C.C.(Art.6).

Similarly with the treaties of other international organizations, the G.C.C. Charter establishes a Secretariat invested with a general competence to administer the affairs of the organization and to oversee the implementation of the organization's objectives. The executive functions of the G.C.C. are undertaken by the Ministerial Council (Art.12) largely in conjunction with the assistance of the Secretariat-General(MCRP). The Secretariat-General is the bureaucracy of the Council. The Supreme Council is the decision-making organ and the Ministerial Council the executive. Whilst the Secretariat-General is permanently situated at Riyadh, the Supreme and Ministerial Councils rotate among the Member States. However, each may, as it finds appropriate and practical, establish subsidiary bodies in other places(Art. 6).

Art. 17 deals with the Privileges and Immunities of the Co-operation Council and its organizations. The Council and the personnel of various organizations operating in the territories of the Member States, enjoy the diplomatic immunities and privileges established for similar international organizations.

International organizations usually enjoy legal competence and an internationally independent persona⁽⁸⁰⁾ to carry out their duties. This applies also with respect to their relations with their Member States, thereby ensuring office-holders and officials in such organizations are not prejudiced in the performance of their duties by their national identities and attachment⁽⁸¹⁾ their loyalties and obligations are confined within the organization they are appointed to serve.

Art.18 of the Charter deals with the contribution to G.C.C. Secretariat-General's budget: contributions to the G.C.C. budget shall be equal for all Member States. This is uncommon since in international organizations contributions to the budget

are generally fixed for each Member State taking into consideration the Member State's total national income in comparison to that of other Member States. However, the G.C.C. seeks to avoid the application of international organizations, and the influence of the Member States will be proportional to their contributions.

Therefore, The G.C.C. Member States have sensibly adopted the equality principle. Even though the Saudi national income is relatively higher than the national incomes of other Member States. Therefore, Saudi Arabia has been ready to contribute a greater amount than the other Member States, the organization would be made dependent upon this member State.

The G.C.C. Charter became effective, at the date when the Heads of State signed the Charter (Art.19(1)). A copy of the Charter was deposited at the Saudi Foreign Affairs Ministry since Saudi Arabia is the location of the G.C.C. headquarters and "which shall act as Custodian"(82). Thereafter it was deposited at the office of the Secretariat-General of the G.C.C.(Art.19(2)).

Art.22 states that, by a resolution of the Ministerial Council, the G.C.C. Secretariat-General shall deposit and register copies of G.C.C.'s Charter with the League of Arab States, as being the main Arab regional organization and with the UN as being the umbrella international organization.

Art.20 establishes the procedures to be followed to amend the Charter(83). Only one amendment has been made, relating to the frequency of meetings of the Ministerial Council(84).

A member State presents any proposed amendment to the Secretary-General, who in turn will refer it to the Council members to study the content and effect of the amendment. The proposed amendment must be presented to the Member States at

least four months prior to submission to the Ministerial Council. The amendment is effective when it is unanimously approved by the Supreme Council.

In international and regional organizations, any amendment of the Constitution usually requires the approval of a majority of the Member States: UN Charter, art. 108(including the permanent members in the Security Council); the League of Arab States Charter art.19; and O.A.U., art. 33.. Majorities are required because it is difficult to reach unanimity. The G.C.C. Charter, however, stipulates unanimity because this is not so difficult to reach as in other organizations. The number of Member States in the G.C.C. is limited and most of the time they have attitudes to important matters. Furthermore, unanimity is not consonant with the principle of cooperation.

Art. 21 prohibits reservations in respect of the provisions of the Charter(85). In the G.C.C. Charter, to state the repercussions of the reservations voicing would avoid the discussion about reservations the member States have to manifest.

THE SUPREME COUNCIL.

Art.7(1) of the G.C.C. Charter, and Art. 2 of the Supreme Council Rules of Procedure deal with the composition of the Supreme Council. It is formed by the Heads of the Member States. Its presidency is rotated among the Heads of State according to the alphabetical order of their States.

The president assumes this function until the nomination of another president in the next ordinary session, provided that his State is not party in a dispute brought before the Supreme Council. In this event another president is provisionally designated during the session which the dispute is discussed(86). Before the Supreme Council's meetings, each Member State shall notify the Secretary-General, at least seven days prior the meeting, of the names of the members of its delegation(87).

The Supreme Council's competence is discussed in art. 8 of the G.C.C. Charter and in separate parts of the Supreme Council Rules of Procedure: its competence is as follows(88):

- Sets the Principles and headlines of the G.C.C.'s framework.
- Considers the studies and reports presented by the ministerial Council or attributed to the Secretary-General.
- Appoints the members of the Commission for the Settlement of Disputes, promulgates resolutions according to the counsel of the commission.
- Nominates the Secretary-General, as it is the case for many other international and regional organizations: Art. 16 of O.A.U. Charter entitles the heads of the member States' conference to nominate the Secretary-General of the organization(89).
- Amends the G.C.C. Charter.
- Confirms the Secretariat-General's budget.

- Considers the important affairs in the member countries, and sets the basis of treatment of other States and international organizations.
- Appoints members of the technical commissions to be established, members highly qualified in their fields of competence.
- Charges one or more of its members with the study of a particular subject before bringing it before a session for discussion and giving other member States enough time to consider the subject before opening the discussion session.

The Supreme Council meets in ordinary session, commonly called "Summits" twice a year⁽⁹⁰⁾. This article also allows for the convening of extraordinary sessions. The annual sessions are rotated among the Member States⁽⁹¹⁾. This is common in regional organizations since meeting continuously in one Member State gives this State domination over the affairs of the organization.

The Secretary-General invites representatives from the Member States to a meeting held before the session to consult on the different issues to be included in the agenda⁽⁹²⁾. The Secretary-General sets the opening and closing dates⁽⁹³⁾ and sends invitations to the States at least thirty days before the session, five days for extraordinary sessions⁽⁹⁴⁾.

The Supreme Council holds an extraordinary session, either on the Supreme Council's resolution in the last session or on the request of a Member State with the support of another member State. An extraordinary session is held no more than five days after the date of the invitation to the session. The Rules of Procedure prohibit the inclusion on the agenda of items other than those for which the extraordinary session is held⁽⁹⁵⁾.

The session may be closed or open according to the Supreme Council's determination at the beginning of the session of whether there are issues that need

to be discussed behind closed doors(96) or whether other items may be discussed publicly. The Supreme Council's session is legally valid if two-thirds of the Heads of the Member States, that is four are present(97).

The normal agenda contains reports from the Ministerial Council and the Secretariat-General, and a report presented by the Secretary-General concerning the work performed by the Supreme Council between the two sessions and the measures adopted to perform such work(98).

The draft agenda may include items that a Member State considers necessary to bring before the Supreme Council. also we may find matters about which the Supreme Council promulgates resolutions to include them in its draft agenda.

Any member of the Supreme Council has the right to require the inclusion of extra matters on the draft agenda in two circumstances. First, if the matter is both important and urgent, it can be included in the draft agenda at any time prior the session opening(99). Secondly, if the matter is not urgent, it can be included in the draft agenda at least fifteen days prior the opening of the session provided it is sent to the Member States at least five days prior the opening of the session(100).

An ordinary session of the Council is adjourned after the completion of the consideration of the matters placed on the agenda. The Council may adjourn discussion of items set on the agenda provided that the Council resumes discussion at a later date(101).

The Supreme Council's Office comprises the President of the Supreme Council, as the head of the office, the Chairman of the Ministerial Council and the Secretary-General(102). This means that its formation is not fixed and changes with the change of the Supreme Council's President and the Chairman of the Ministerial Council, while the Secretary-General is the only fixed member in the

office⁽¹⁰³⁾. This adds to the influence of the Secretariat-General in the hierarchy of the G.C.C..

This office has as its principal task assisting the President of the Supreme Council in directing the session's activities; it also reviews the terms of resolutions passed by the Supreme Council, and assumes other functions allocated by the Supreme Council⁽¹⁰⁴⁾.

In the G.C.C.'s Supreme Council, each Member State has one vote⁽¹⁰⁵⁾ regardless of its human or material wealth, or its size as political weight. No State has the right to vote on behalf of another State⁽¹⁰⁶⁾.

Each member State has the right to abstain, or to express a reservation on a procedural matter or on some parts of it. The reservation shall be duly documented in writing⁽¹⁰⁷⁾.

In the case of an amendment to a proposition approved by voting, the content of the amendment would be exposed to the Supreme Council for the voting first. If there is more than one amendment, the amendment which changes much of the substance of the approved initial proposition would be first subject to voting. The amendment with less changes would be next, etc., finally the amended proposition would be presented to voting⁽¹⁰⁸⁾.

When the Supreme Council promulgates a resolution, unanimous approval is required when dealing with substantive matters, while resolutions on procedural matters shall be carried by a majority vote⁽¹⁰⁹⁾. The Charter does not state what are substantive and procedural matters⁽¹¹⁰⁾. In the G.C.C. the distinction between substantive and procedural matters submitted to the Supreme Council is determined by the Ministerial Council⁽¹¹¹⁾ for it is the organ charged with preparing reports and studies presented to the Supreme Council's sessions.

Concerning amendment of the Supreme Council's Rules of Procedure, any Member State can make a proposal which the Secretariat-General circulates to all Member States at least thirty days prior to presenting the proposal to the Ministerial Council. It is also impossible to attach further major change to the proposed amendment unless the Secretariat-General sends it to the Member States at least fifteen days before presentation to the Ministerial Council. An amendment must be approved by majority vote in the Supreme Council(112).

On the question of the legal effect of the Supreme Council's resolutions(113), are they compulsory and binding on the Member States or are they just recommendations? The Charter does not state whether the Supreme Council's resolutions are obligatory or mere recommendations. There are two points of view. The first says that they are just recommendations, the same as the League of Arab States' resolutions. The second says that they are obligatory resolutions. The Member States' desire to achieve co-ordination and cooperation within the terms of the G.C.C. Charter; to this end, they consider these resolutions compulsory and subject to implementation. Failure to implement resolutions will frustrate the purposes of the organization. These resolutions are unanimously promulgated by the Heads of the member States and this reinforces their binding quality.

THE MINISTERIAL COUNCIL.

The Rules of Procedure that organize the work of the Ministerial Council contain thirty-nine articles. The Ministerial Council is composed of the Member States' Foreign Ministers or other delegated Ministers(114). The member States must provide the Secretary-General with the names of their delegations at least a week prior the opening of an ordinary session, and at least three days prior the opening of an extraordinary session(115).

The Charter deals with the functions of the Ministerial Council. It makes arrangements for Supreme Council sessions and prepares the draft agenda and other necessary preparatory work for Supreme Council sessions. It appoints the Assistant Secretaries General on the nomination of the Secretary-General. The Ministerial Committee prepares recommendations or resolutions concerning co-ordination and cooperation between the Member States in the different fields specified in the Charter. It approves the periodic administrative and financial reports and the internal regulations proposed by the Secretary-General and implements what it is assigned by the Supreme Council

The Ministerial Council is convened in ordinary sessions once every three months(116). The Secretary-General addresses invitations to the Member States at least fifteen days prior to the opening of an ordinary session(117) and five days prior to the convening to an extraordinary sessions(118).

For ordinary sessions, the Secretary-General prepares the draft agenda containing matters sent to him by the Supreme Council, matters that the Ministerial Council decides to include in the agenda and his report on the work of the G.C.C. (119). It is possible to include other matters in the agenda provided that they are notified ten days prior to the opening of the ordinary session and sent to the member States at least five days prior the opening of the session(120). If these items are both

important and urgent, they can be included in the agenda up to the date of the opening of the ordinary session(121).

The Ministerial Council's Office is composed of the Council's Chairman, the presidents of its working sub-commissions and the Secretary-General(122). The Council's chairmanship is rotated every six months according to the alphabetical order of the States. He presides over ordinary and extraordinary sessions provided that his country is not party in a dispute brought before the session. In this case, another Chairman is temporarily nominated(123).

Sub-commissions may be appointed to assist the Ministerial Council perform its functions. These are of two kinds; working sub-commissions and the preparatory sub-commission(124). Working commissions are formed by the Ministerial Council to perform specific functions(125). Preparatory commissions are formed by the Secretary-General from representatives of the member States after the consultation with the Chairman of the Ministerial Council. These preparatory commissions meet at least three days before the opening of the session and prepare a study of matters in the agenda(126).

This office has important powers assigned to it. It supervises the implementation of resolutions passed by the Council. It co-ordinates the work of the Council and the sub-commissions and assists the Council's Chairman in the management of the session's work. It also assumes functions assigned by the Ministerial Council(127). The Ministerial Council holds open or closed(128) sessions according to the Council's consideration of whether a matter requires secrecy.

The promulgation of resolution by the ministerial Council is identical to the Supreme Council in promulgating resolutions(129). Ministerial Council substantive resolutions require approval by unanimity. Procedural matters require a majority(130). The Council itself considers by a majority resolution whether a

matter is substantive or procedural⁽¹³¹⁾. Each member State has one vote⁽¹³²⁾; voting is secret if a member State requests it⁽¹³³⁾ or if the Chairman of the Council so decides.

The Ministerial Council pursues the implementation of the Supreme Council resolutions which are of two kinds. First; the internal resolutions issued by the Supreme Council to the internal organs of the G.C.C.. Second; resolutions directed to the Member States. The Ministerial Council can not oblige the Member States to implement these resolutions, but it presents reports to the Supreme Council showing the work done by Member States in implementing these resolutions⁽¹³⁴⁾.

As for the amendment⁽¹³⁵⁾ of the propositions presented to the Ministerial Council, they are treated the same way as those presented to the Supreme Council; as for the amendment of the Ministerial Council's rules of procedure, it should be presented by a member State or the Secretary-General pursuant to Art. 38(a) of the Ministerial Council's rules of procedure, while in the Supreme Council, the Secretary-General has no right to present an amendment to the Supreme Council's rules of procedure, but the right to amendment is limited to the member States only.

In the Ministerial Council, if the Secretary-General or a Member State request an amendment, the Secretariat General sends this request to all member States at least thirty days before submission to the Ministerial Council, and if they want to add more principal changes in the amendment request, it should be sent by the Secretary-General to all member States at least fifteen days prior submission to the Ministerial Council, the Council considers the amendment request and issues a majority resolution⁽¹³⁶⁾.

THE G.C.C. SECRETARIAT-GENERAL.

The Secretariat-General is a permanent authority in the G.C.C. It prepares for the Summit meetings and for the commissions working within the framework of the G.C.C.(137). The functions of the Secretariat-General dictate that it shall have a permanent headquarters(138). Art. 2 of the Charter establishes that this shall be located in Riyadh, Saudi Arabia. The Charter provides that the other organs of the G.C.C. shall rotate around the Member States or establish branches among them.

Some regional organizations do not require a permanent headquarters, for example the Arab Maghreb Union in which the Secretary-General operates in the rotating President's home State(139). The organization of African Unity Charter does not state that Adis Ababa should be the headquarters of the organization, but practice has determined that it is.

The Secretary-General is the head of G.C.C.'s administrative organization. He is nominated, from among the member States' citizens, and appointed by a resolution of the Supreme Council. He is appointed for a three year period renewable once(140). The Supreme Council, at its first session held at Abu Dhabi in May 1981, appointed Abdullah Yacoub Beshara as the first Secretary-General of the G.C.C. He remained in his position until 21 December 1992(141) when he was replaced by Cheikh Fahim El-Qassimi of the United Arab Emirates.

The Secretary-General is responsible for the effective performance of the Secretariat-General's functions(142). He appoints most of the personnel of the Secretariat-General. He prepares the draft budget of the Secretariat-General, which is then subject to Supreme Council approval(143). The Secretary-General arranges meeting of the Supreme Council and the Ministerial Council and sends invitations and papers to Member States to attend these meetings. He represents the Council at other organizations. Such representation demonstrates the international persona

of the organization. In general he acts within the framework of the competence he is charged with(144).

Under the Secretary-General in the administrative structure are the Assistant Secretaries-General appointed by the Ministerial Council(145), on the nomination of the Secretary-General for a three year renewable period.

The Secretariat-General is also formed of other personnel selected by the Secretary-General from among the citizens of Member States. As far as possible, a principle of equal distribution of appointments is observed among the Member States. If the Secretary-General wishes to nominate an official from a non-member Country of the G.C.C., this exception requires the approval of the Ministerial Council(146).

The main responsibilities of the Secretariat-General are the preparation of the periodic reports concerning the work of the Co-operation Council and in following up the implementation by the Member States of the resolutions and recommendations of the Supreme and Ministerial Councils. It prepares the budgets and the closing accounts for the G.C.C. and prepares draft administrative and financial regulations for the G.C.C. Other tasks may be charged by the Supreme and Ministerial Councils(147).

The Secretariat-General enjoys diplomatic immunities and privilege in all Member States, even in the State of which the person is a citizen(148). An official in the service of the G.C.C. owes his first loyalty to the organization(149). This is, nonetheless without prejudice to his identity as a citizen of his home State. During his tenure, a G.C.C. official must be free of instructions from his home State(150). State representatives to the G.C.C., however, enjoy the immunities and he is detached from his State identity in the course of assuming the G.C.C. duties(151).

G.C.C. personnel are in a contractual relationship⁽¹⁵²⁾ with the regional organization and their conduct must be wholly consistent with this primary obligation. Obligations of confidentiality and secrecy may extend beyond the tenure of office in the G.C.C.⁽¹⁵³⁾.

The Secretariat-General is an administrative system of numerous sectors. Each is headed by a Director who is responsible before the Secretary-General for the affairs of his sector. The main administrative structure consists of the Secretary-General's Office and the offices of the Assistant Secretaries-General for Economic and Political affairs⁽¹⁵⁴⁾. The four Sectors:

- Human resources and the environment.
- Financial and administrative affairs.
- Legal affairs.
- Information, and the Information Center.

Each sector is divided into Departments with more specific responsibilities, and each Department has directorates with closely defined administrative, technical and professional responsibilities.

**THE COMMISSION FOR THE SETTLEMENT
OF DISPUTES RULES OF PROCEDURE(CSDRP).**

A commission for the Settlement of Disputes is provided for in art. 10 of the Charter. Rules and Procedures are laid down in a separate instrument of thirteen articles(155). The Commission operates under the Supreme Council(156). Art. 2 of the Rules of Procedure of the Commission for the Settlement of Disputes establishes the seat of the Commission at Riyadh. It can, however, hold meetings elsewhere.

The Commission Settlement of Disputes Rules has jurisdiction to consider matters referred to it by the Supreme Council concerning disputes between Member States and differences of opinion as to the interpretation or execution of the Charter. Findings are referred to the Supreme Council for appropriate action(157).

Art. 4 deals with the composition of the Commission. Its members are appointed by the Supreme Council from among the citizens of the member States provided that their countries are not party in a dispute for which the Commission is formed. The Commission is not a permanent, but only an ad hoc body.

The members of the Commission shall not be less than three(158), but may refer to experts for a better understanding of the dispute. They have only one vote each, and its findings are issued by majority of its members. In case of a tie in the vote. the opinion supported by the Chairman of the Commission outweighs the opposing opinion(159).

Art. 9 states the main sources of law the Commission for the Settlement of Disputes relies on in issuing its findings:

- The G.C.C. Charter.
- International Law.

- International Practice.
- Islamic Shari'ah.

The Commission's recommendations to the Supreme Council include the particular measures to be taken to cope with the circumstances of the dispute(160). The Commission's recommendations should be straight-forward and clear and specify the reasons for making such recommendations(161). If a member has a different opinion, the dissenting opinion is also presented and documented(162).

Members of the Commission for the Settlement of Disputes enjoy such immunities in the G.C.C. Member States as are necessary to perform their duties without impediment(163). The members of the Commission receive remuneration established by the Supreme Council(164) to be remitted from the Secretariat budget(165).

The Rules of Procedure explain the legal nature of the Commission. This is not a court since its composition is not fixed and permanent, but changes with the incidence and nature of the dispute in hand. The Commission does not have the authority to promulgate obligatory resolutions. The Commission for the Settlement of Disputes has only limited consultative competence for it submits its opinions and recommendations to the Supreme Council to take the appropriate measures. The Commission is at most a quasi-judicial body.

The role that the Commission of the Settlement of Disputes might play is limited. In international relations, political disputes are very difficult to settle through judicial means. States prefer to solve them in diplomatic ways. Political disputes commonly require concessions among the disputing parties.

Up to now, there has not been one practical settlement of a dispute through the G.C.C.'s Commission for the Settlement of Disputes(166). The Member States

have preferred to attempt settlements through the Supreme or Ministerial Councils, that is, by diplomatic means. The dispute between Qatar and Bahrain (about *Howar* island⁽¹⁶⁷⁾) is a case in point. It is significant that in this dispute the political-diplomatic processes within the G.C.C. have failed and the parties have turned to the judicial processes of the International Court of Justice(ICJ) at the Hague⁽¹⁶⁸⁾.

IMPLEMENTATION OF OBJECTIVES OF THE G.C.C..

Though the G.C.C. is a relatively new regional organization, it has achieved a good deal by comparison with other regional international organizations. The extent to which the G.C.C. has realized its objectives differs with regard to the fields of cooperation; it has succeeded more in the economic field than in the unification of policies on international disputes and on military and security co-ordination.

The G.C.C. Supreme Council second session, held at Riyadh in November 1981, issued a resolution approving Unified Economic Agreement(169) and established the Industrial Co-operation Committee as a permanent committee. Based on the Supreme Council's approval, the G.C.C. Ministers of Finance and Economy held a meeting in January 1982 to implement the provisions of the Agreement. The Unified Economic Agreement is a comprehensive programme for establishing an integrated market among the Member States of the G.C.C.(170).

During the Supreme Council second session in Manama Heads of the Member States agreed to establish the Gulf Investment Corporation(171). The G.C.C. would establish a joint investment fund and Board to facilitate economic investment amongst the Member States. The Agreement was made, in the first instance, for unifying, and setting the national Customs tariffs starting from March 1983. The G.C.C. Board of Specifications and Standards was established(172). This was accomplished by transforming the existing Saudi Arabian Board of Specifications into a Gulf Board. By virtue of the Unified Economic Agreement(UEA) it was to become possible for citizens of the Member States to practice, as if in their own country, many professions for instance; medicine, legal practice, consultancy, accountancy, legal accountancy, administrative consultancy, economic and agricultural consultancy, pharmacy, translation, computer programming, and computing(173).

It was decided⁽¹⁷⁴⁾, that any person holding the citizenship of any Member State may establish an economic activity in any other Member State. Moreover, G.C.C. citizens may possess real estate in any Member State⁽¹⁷⁵⁾. G.C.C. States' students are to be granted equal opportunities for postgraduate studies. Commissions have been formed to unify the External Custom Tariffs⁽¹⁷⁶⁾ and to co-ordinate monetary policies of the States.

The most important achievement of the G.C.C. in the political field is the adoption of the "Principle of limitations". From the beginning, the G.C.C. has refused to accept foreign military bases in its territories and asserted its complete detachment from military alliances⁽¹⁷⁷⁾. At the time of the foundation of the organization, the superpowers' conflict was at its most menacing. When the East-West conflict subsided, the Iran-Iraq war blew up. The G.C.C. States' important and strategic interests became directly menaced particularly during the eight years of Iran-Iraq war. Consequently, the G.C.C. States came to accept the presence of American naval vessels in the Gulf. The vessels were to be engaged as escort for tankers from the Gulf ports to safer distance. The tankers of different nationalities transporting oil, the American flag as a symbol of American protection from the Iranian military threat.

American and European military presence in the Gulf became apparent during the Iraqi invasion of Kuwait⁽¹⁷⁸⁾. These military forces used the G.C.C. territories as bases to launch land operations to free Kuwaiti territory. After the complete liberation of Kuwait in February 1991, these forces were withdrawn.

The G.C.C. States adopted a unified stand in opposing the invasion and supported the return of the legitimate Kuwaiti Government under the leadership of *Sheikh Al Sabah*. The G.C.C. States endeavoured to limit the spread of war and to settle the dispute through common pacific means within the framework of international law.

This principle has been important in respect of Islamic States in conflict, especially where one is an aggressor over another. The G.C.C. States insisted that States comply with the provisions of the Security Council's Resolutions concerning this crises⁽¹⁷⁹⁾. The G.C.C. States spared no effort or cost to resist and throw back Iraqi oppression and to restore the sovereignty of Kuwait.

Concerning the Palestinian affairs, the leaders of the G.C.C. Member States have insisted that the Palestinian population should be restored to their legitimate right to self-determination. The G.C.C. has also reviled Israeli aggressive policies over the Palestinian people and Israeli government acts of arbitrary settlement of its nationals. Consequently, the G.C.C. has provided the representatives of the Palestinian people with moral and material supports⁽¹⁸⁰⁾.

Serbian aggression over Bosnia Herzegovina has attracted the attention of the G.C.C.. The Council Member States complained at this aggression and backed the Bosnian Muslims with material assistance. Moreover, they have supported international efforts to lift the weapons embargo over BOSNIA⁽¹⁸¹⁾. The G.C.C. also endeavoured to bring to an end the civil war in Somalia and has supported international efforts to persuade the belligerents to cease the bloody war⁽¹⁸²⁾.

At the First meeting of the G.C.C. Interior Ministers, held on 23-24 February 1982 at Riyadh, seven security committees were formed. These committees are presided over by the States Interior Ministers⁽¹⁸³⁾. Heads of security systems(as relevant to be specialized committees) are invited to the yearly meetings, or meetings any other time if necessary. These committees submit their recommendations to Interior Ministers' meetings. The committees are as follows:

TRAFFIC AWARENESS (TRAFFIC DIRECTORS)

This committee has published materials containing statistics concerning traffic accidents in the G.C.C. Member States. The nationals of any Member State are

free to drive in any Member State, they can drive with any member State' driving license.

RESIDENCE (PASSPORTS AND IMMIGRATION)

This committee issued many important recommendations for instance: abolishing exit-entry cards for G.C.C. citizens and the unification of passports in G.C.C. countries.

CITIZENSHIP.

This committee has agreed many criteria to guide the Member States in the field of citizenship. There is already striking similarity of the regulations of citizenship in the member States(184).

DRUGS CONTROL.

This committee endeavours to prepare a unified information project to create public awareness about drug-taking and about the bad effects of drugs. The drug control departments in the Member States exchange information about drugs traffic, trade and control.

CRIMINAL INVESTIGATION.

The committee conduct special studies concerning crimes of falsification and forgery. It has held joined training courses for the official personnel working in this field.

AIRPORTS SECURITY.

Many specialized training exercises are undertaken jointly. Security operations in the Member States' airports has become an important feature of G.C.C. Security(185). The G.C.C. Secretariat-General organized the first common course in Britain in 1989 and the second in France in 1992.

CIVIL DEFENCE.

This committee has issued recommendations to the States' Ministers of Interior, for instance, to establish a unified system for civil defence in the G.C.C. Member States. Studies and researches are exchanged and field visits are made between experts in the sphere of civil protection in the G.C.C. Member States(186).

PENAL INSTITUTIONS.

This committee endeavours to promote the efficiency of correctional institutions (prisons) and to approximate policies and practices in these institutions in the G.C.C. Member States. It is also a function of this committee to promote cooperation and coordination among the competent authorities in the field of post-penal responsibility for prisoners.

CUSTOM HOUSE.

The committee holds periodical meetings in order to promote the unification of domestic customs control systems and regulations in the G.C.C. Member States.

COMPUTER SERVICES.

Computer facilities in the various Interior Ministries in G.C.C. Member states connect the parallel Departments with each other. Computer facilities are used for storing the information related to Ministries of Interior(187)and specialized functions.

WEAPONS AND EXPLOSIVES.

This committee holds periodical meetings to exchange information about illegal smuggling and trade in weapons, explosives and ammunitions. Its purpose is to create a special system for the control of weapons, explosives, and ammunitions in the G.C.C. member States.

The G.C.C. Ministers of Interior and State officials responsible for security have been energetic in reaching a higher level of coordination between the States in the various aspects of security. This is vital for the maintenance of stability and security of the political systems of the Gulf. The Supreme Council in its eighth session of 1987 held at Riyadh(188), approved the G.C.C. Comprehensive Security Strategy, following approval by the G.C.C. Ministers of Interior at the extraordinary session of their Committee held at Muscat. A Comprehensive Security Convention was approved during the fifteenth session held in Manama in 1994. Kuwait and Qatar still have to sign this convention(189). This is discussed in Chapter Three.

The G.C.C. Member States have established rapid deployment forces and the "Peninsula Shield". Equipped with modern weapons, these forces are convincing units for Gulf defence. The G.C.C. proposes to become increasingly reliant on Gulf military expertise and self-sufficiency. Programmes for joint training and field exercises were promoted. A committee of Gulf military leaders have been established(190).

Co-operation in the field of law is based on the unification of laws and coordination between the legal systems of the Gulf States. The common source of Islamic law(Shari'ah) provides the rationale and justification for seeking unification of law among the Gulf States and this informs the many studies being undertaken concerning the G.C.C. States legal systems.

Co-ordination between legislative and judicial departments in the Member States aims to approximate these systems gradually to form a unified system in all the Member States. The most important advance in this field is approval by the G.C.C. Ministers of Justice, in their first meeting held in December 1982(191), of the Islamic Shari'ah as the common source of legislation. A draft convention,

concerning the implementation of judgments and judicial delegation is under preparation.

The Secretariat-General has prepared draft laws related to security and social and economic harmonization. Numerous "model laws" are under discussion and preparation. The Secretariat also issues a periodical law publication, *Legal Bulletin*. This is distributed to all member States and information centers. Most importantly, this records laws promulgated in the Member States pursuant to the resolutions of the G.C.C..

**THE G.C.C. S RELATIONS WITH REGIONAL
AND INTERNATIONAL ORGANIZATIONS.**

The G.C.C. has relations with the different regional and international organizations. High level visits are exchanged with other organizations, for instance the Organization of African Unity. The G.C.C. also cooperates with other organizations, such as the European Community, with which it signed a Co-operation Treaty in June 1988. The G.C.C.-E.E.C. meetings have been extended to specialized committees formed to study means for their closer cooperation(192).

The G.C.C. is diligent in its relation with regional and international organizations, particularly those which conform with the Council's purposes and principles. While, there are many organizations which have relations with the G.C.C., reference will be confined to relations with The League of Arab States and the United Nations Organization.

The G.C.C. and the League of Arab States(LAS) have a strong relations since the LAS is thought of as a "parent" Arab organization. The G.C.C. Charter agrees with L.A.S. Charter in its stated endeavour to achieve similar purposes(193). These are articulated in the G.C.C. Charter Preamble:

"Having the conviction that co-ordination, cooperation, and integration between them serve the sublime objectives of the Arab Nation;"

The G.C.C. States each had relations with the LAS before the establishment of the G.C.C. In fact, Saudi Arabia was among the founders of the LAS which was established in 1945(194); Kuwait requested the membership of the League after getting independence(195), and became a member of LAS in July 1961. Qatar, Bahrain, U.A.E. and Oman Sultanate joined the LAS in the year of their independence,1971.

The Secretariat-General has reinforced relation with LAS starting in 1984, since it represented the Council by diplomatic missions to the temporary headquarters of LAS in Tunis(196). The G.C.C. Secretariat-General exchanges documents and information with the League and the Council's visits intensified after the Iraqi invasion of Kuwait. The Heads of G.C.C. States stress the importance of Arab Unity and their emancipation from foreign occupation or aggression at their end of Summit 'communiques'. The G.C.C. States have adopted a positive role in financing developmental economic projects in Arab States. they lighten debt burdens, even rescinding debts owed by some Arab States(197).

It is established in international law that all international treaties, including of course the Charters of regional and other international bodies, shall be registered with the United Nations(198). The G.C.C. has confirmed its relations with the Arab League by similarity registering the Charter with this organization(199).

The UN is the central and in many ways the umbrella international organization. The G.C.C., regional organization, was established within the framework of Chapter Eight of the UN Charter. Moreover the purposes and objectives of the G.C.C. agree with the UN(200). The G.C.C.'s basic principles match those of the UN. The G.C.C. Member States are members of the UN, Saudi Arabia was among the founder nations of the UN in 1945. It was at the time the only independent G.C.C. State(201), thus it participated in the work of the San Francisco Conference(202). Kuwait secured independence two years before joining the UN in May 1963. This delay was caused by the Soviet objection to the Kuwaiti request for UN membership, other G.C.C. States joined the UN immediately after their independence a decade later.

The G.C.C. contribution to the UN budget (1994) was 1.53%, this is similar to countries such as Australia and Netherlands. Saudi Arabia leads the G.C.C. States in the contribution in the UN budget of 0.96%, next Kuwait contributes 0.25%,

U.A.E. 0.21%, Qatar 0.05%, and Oman and Bahrain 0.03% each⁽²⁰³⁾. G.C.C. States have assumed many positions in the UN systems particularly Kuwait, Saudi Arabia and U.A.E.⁽²⁰⁴⁾, demonstrating both commitment and influence in the organization.

There is a clear relationship between the UN and G.C.C. with regard to peace-keeping and international security. The G.C.C., through diplomatic means, endeavour to settle disputes in many countries. It also aims, within the framework of the Gulf security arrangements, to keep the Gulf region free from international conflicts.

The G.C.C. has shown keen support for the programmes of UN agencies. The G.C.C. Secretary-General, in 24 February 1986, signed the UN special declaration related to the comprehensive inoculation of children by 1990. He also declared the G.C.C.'s support of UNICEF⁽²⁰⁵⁾ in achieving its important humanitarian purposes.

NOTES

- 1) The General Secretary registered the fundamental statute with the UN Secretariat on 20 September 1982, in accordance with art. 102 of the UN Charter. The certificate of registration No 29203 done at New York on 20 August 1986. The Same document was registered with the Arab League Secretariat on 29 December 1982. See: 26 ILM(1987), PP. 1138-1143.
- 2) The UN Charter, art. 52(1),(2)&(3).
- 3) John Christie, "History and Development of The Gulf Co-operation Council: a Brief Overview", ed. In Sandwick John, The Gulf Co-operation Council, Westview Press, Boulder, 1987, P. 14; G.C.C. Charter Preamble; See Art. 9. of the Charter of the LAS.
- 4) Saad eddine Ibrahim, 'The Civil Society And Democratic Change In The Arab Countries', The annual report 1993, Ibn Khaldoun Center, Cairo, PP. 160,175, 187, 195, 199, 205; Asharida Abdelmohdi, The G.C.C., Its Mechanisms, Its Declared Purposes and Its Relation With the Regional and International Organizations, Madbouli Library, 1st ed. Cairo 1995, P. 203.
- 5) Naif Abid, The G.C.C., from Co-operation to complementarity, The Centre of the Arab Unity Studies, Beirut 1996, 1st ed., P. 51; Bishara Khidr, Europe and The Arab Gulf States, The Distant Partners, Translated into Arabic by Hassan A. Qabissi, The Centre of the Arab Unity Studies, Beirut 1995, 1st ed., P. 29.
- 6) Twinam J. Wright, The Gulf, Co-operation And The Council, Middle East Policy Council, Washington DC, 1992, PP. 67-72; Alashaal Abdullah, The G.C.C. Legal And Political Framework, Dar An-nahda Al Arabia, 2nd ed., Cairo 1988, PP. 70 & 73; Abdelmohdi Asharida, OP CIT, P. 79.
- 7) Twinam J. Wright, "Reflections On Gulf Co-operation, With Focus on Bahrain, Qatar and Oman", edited in John A. Sandwick, The Gulf Co-operation Council, Moderation and Stability in an Interdependent World, American-Arab Affairs Council, Washington D.C. 1987, P. 27; John Christie, OP CIT, PP. 8-9.; Erik R. Peterson, The Gulf Co-operation Council, Search for Unity in a Dynamic Region, Westview Press 1988, P. 18.
- 8) Alashaal Abdullah, The G.C.C. Legal And Political Framework, OP CIT, P. 45; Asharida Abdelmohdi, OP CIT, P. 75.
- 9) Naif Abid, OP CIT, P. 121.
- 10) Alashaal Abdullah, The G.C.C. Legal And Political Framework, OP CIT, P. 47.
- 11) The UAE. Constitution, art.1(3) the text in Al-Baharna, The Modern Gulf Arab States, Beirut 1973, PP. 285 et seq.

- 12) Al-alkim Hassan Hamdan, The G.C.C. States In An Unstable World, Foreign-Policy Dilemmas Of Small States, SAQI BOOKS, London 1994, PP. 163-165.
- 13) John Christie, OP CIT, P. 10.
- 14) Jamal Z. Kacem, "The G.C.C.: The Establishment and Its International, Arab and Regional Position", a research paper presented during the fourth scientific symposium held by Kuwait University, ed. In "The Gulf And Arab Peninsula Studies" Magazine, Kuwait University, November 1993, P. 47.
- 15) Alaazami Waleed, The Saudi-American Relation and Gulf Security, Al Hikma Publishing, 1st ed., London 1992, P. 70; Asserjani Khalid, "The Chinese Missile Transaction and The Israeli Threat to Saudi Arabia", International Policy Journal, Cairo July 1988.
- 16) Al-Aklm Hassan Hamdan, OP CIT, P. 34.
- 17) "All Fields As Military Objectives", Congressional Research Service, Library of Congress Washington, 21 August 1975; Aidros, "The G.C.C. Between Gulf Security and Foreign Challenges", a research paper presented during the fourth scientific symposium held by Kuwait University, ed. In "The Gulf And Arab Peninsula Studies" Magazine, Kuwait University, November 1993, P 173; Naif Abid, OP CIT, P. 56.
- 18) Charles E. Davies, Global Interests in The Arab Gulf, University of Exeter Press, Exeter 1992, P. 220.
- 19) Ramazani R.K., The Gulf Co-operation Council, Record And Analysis, University Press of Virginia, Charlottesville 1988, PP. 118-119.
- 20) Jamal Z. Kacem, OP CIT, P. 48; Sabri Moklad, "The Issues Of Gulf Security: Political and Strategic Dimensions", International Policy Journal(IPJ), Cairo, October 1982; Waleed H. Alaazami, OP CIT, P. 115.
- 21) Ramazani R.K., OP CIT, P. 5.
- 22) Aidros, OP CIT, PP. 166-167.
- 23) Aidros, OP CIT, P. 166.
- 24) Alashaal Abdullah, The G.C.C. Legal And Political Framework OP CIT, PP. 24-25.
- 25) Peterson, J.E., "The G.C.C. and Regional Security", ed. In John Sandwick, OP CIT, P. 172.
- 26) Alashaal Abdullah, The G.C.C. Legal And Political Framework, OP CIT, P. 22.
- 27) UN. Treaty Series 14905; Kamel S. Abu Jaber, 'The Iran-Iraq War: Regime Security and Regional Security', ed. in Mohammed Ayoob, Regional Security in the Third World, Croom Helm, London 1986, P 157; Amin S.H., Political and Strategic Issues in the Gulf, Ruyston, Glasgow 1994, PP. 64-72.
- 28) Al-Aklm Hassan Hamdan, OP CIT, PP. 42-44.

- 29)The Gulf countries tried to reconcile Iraq and Iran and to bring the war to an end. But these attempts were in vain. Later on, and because Iraq is an Arab country, the Gulf countries took the side of Iraq. They provided Iraq with money to build up an arsenal strong enough to withstand Iran. The Gulf countries adopted this attitude when Iran categorically refused conciliation efforts, the Iranian Government publicly unveiled its expansion programme, and it claimed its sovereignty over Bahrain. See Nadav Safran, The Saudi Arabia, The Ceaseless Quest For Security, Cornell University Press, London 1988, PP. 364-374; Abdullah Yacoub Bishara, "The G.C.C.: Goals, Establishment and Future", a paper presented during the Forum: "The Development of Gulf Co-operation" held by Faculty of Economics, University of Kuwait, April 1982, ed. In, The G.C.C. The March And Challenges, Publications of the G.C.C. Secretariat-General, 3rd ed. 1991, P.12.
- 30)The Camp David Treaty was ratified in March 26,1979, preceded by the Egyptian President Saddat visit to Al-Qods and, the proposed peace initiative before the Israeli Knisset in November 1977. The Arabs considered the Egyptian-Israeli peace process to be an individual initiative which represented a betrayal of the Palestinian and Arab causes. The Arabs considered the resolutions of the Baghdad Summit to be an Arab reaction to this Egyptian policy. Arab-Egyptian relations did not recover until Cairo regained the Arab League's trust in 1990 and the League's headquarters reinstated in Cairo. See: Charles Tripp, "Egypt", edited in Peter Sluglett & Marion Farouk-Sluglett, Guide to The Middle East, "The Times" Publishing, Times Books, London 1996, P. 48; Richard Owen and Peter Sluglett, "Israel", edited in Peter Sluglett & Marion Farouk-Sluglett, OP CIT, P. 108; Twinam J. Wright, The Gulf, Co-operation and The Council, OP CIT, P. 72; Shalabi Salah Abdulbadii, The International Organizations In The International Law And In The Islamic Thought, P. 244.
- 31)The G.C.C. petroleum export represents 90% of the total export of these Countries. See: Alashaal Abdullah, The G.C.C. Legal And Political Framework , OP CIT, P. 10.
- 32)Bruce Henderson, "A Historical Perspective of USA-G.C.C. Economic and Financial interdependence", edited in: Sandwick, OP CIT, P. 53.
- 33)Twinam J. Wright, "Reflections on Gulf Co-operation with Focus on Bahrain, Qatar and Oman, OP CIT, P. 31.
- 34)Emile A. Nakhleh, The Gulf Co-operation Council: Policies, Problems and Prospects, Praeger, New York 1986, P. 18.
- 35)These bonds were also stated in the declaration issued by the meeting of G.C.C. foreign affairs ministers in 4 February 1981 in Riyadh. This was the meeting that laid the foundations for the first 'Summit' of the Gulf Heads of State, which in turn became the Supreme Council. See: Al-Baharna , "The G.C.C. Prominent Role In Realizing Gulf Unity",

- a Research Paper, presented during the fourth scientific symposium held by Kuwait University, ed. In "The Gulf And Arab Peninsula Studies" Magazine, Kuwait University, November 1993, P. 7.
- 36) Nicholas B. Angell, "Impact of the G.C.C. on the Developing Legal Systems of the Gulf Countries", edited in: Sandwick, OP CIT, P. 129.
- 37) Raghav Y. Hilmi, The G.C.C. Future Perspective: Economic, Political and Legal Study, Dar Al-Oroba, Kuwait 1983, P. 63.
- 38) Asharida Abdelmohdi, OP CIT, P. 80.
- 39) Raghav Y. Hilmi, OP CIT, P. 64.
- 40) Twinam J. Wright, The Gulf, Co-operation And The Council, OP CIT, P. 4.
- 41) Emile A. Nakhleh, OP CIT, P. 3.
- 42) Alashaal Abdullah, The G.C.C. Legal And Political Framework ,OP CIT, P. 27.
- 43) Raghav Y. Hilmi, OP CIT, P. 68; Salah-Eddine Amer, "The G.C.C. and The International Order", a research paper presented during the fourth scientific symposium held by Kuwait University, ed. In "The Gulf And Arab Peninsula Studies" Magazine, Kuwait University, November 1993, P. 7.
- 44) Twinam J. Wright, "Reflections on Gulf Co-operation with Focus on Bahrain, Qatar and Oman, OP CIT, P. 32.
- 45) See Working Paper in Ramazani, R.K., OP CIT, PP. 29-30.
- 46) Twinam J. Wright, The Gulf, Co-operation And The Council, OP CIT, PP. 13-16.
- 47) Nicholas A. Veliotis, Statement before the European and Middle East Sub-committee, 10 May 1982.
- 48) Yahya Raghav Hilmi, OP CIT, P. 71.
- 49) Alashaal Abdullah, The G.C.C. Legal And Political Framework ,OP CIT, P. 34.
- 50) Id.
- 51) Id.
- 52) Id.
- 53) Id.
- 54) Id.
- 55) Id.
- 56) Naif Abid, OP CIT, P. 135.
- 57) The G.C.C. March, The UAE Ministry of Culture and Information, 1991, P.18.
- 58) Id.
- 59) Naif Abid, OP CIT, P. 135.
- 60) The G.C.C. March , OP CIT, P. 18.
- 61) Alashaal Abdullah, The G.C.C. Legal And Political Framework ,OP CIT, P. 33.

- 62) Stephen Page, "The Soviet Union and the G.C.C. States: A Search For Openings", edited in: John A. Sandwick, OP CIT, P. 150.
- 63) Naif Abid, OP CIT, P. 135.
- 64) Id.
- 65) Kacem Jamal Zakaria, OP CIT, P. 56.
- 66) Alashaal Abdullah, The G.C.C. Legal And Political Framework, OP CIT, P. 31.
- 67) Naif Abid, OP CIT, P. 135; Raghav Y. Hilmi, OP CIT, P. 71.
- 68) Naif Abid, Id.
- 69) Ian Brownlie, Principles of Public International Law, 4th ed., Clarendon Press, Oxford 1990, PP. 680-683.
- 70) Art. 16 of the G.C.C. Charter which provides provisionally for the enjoyment of privileges and immunity.
- 71) The text in the Publications of the G.C.C. Secretariat-General; The G.C.C. Charter, art. 17; Ahmed Aboulwafa, The G.C.C. As An International Organization: a Legal Study, Dar An-nahda Al-Arabia, Cairo 1996, 1st ed., P. 132.
- 72) Al-Muslemani A.A., The Legal Aspects of The Gulf Co-operation Council, Ph.D Thesis Submitted to the University of London, New Printing Co., Qatar 1996, P. 184.
- 73) Naif Abid, OP CIT, P. 151.
- 74) The G.C.C. Charter, art. 4.
- 75) Acharida Abdelmohdi, OP CIT, P. 93.
- 76) Arab Maghreb Union is a union of the Kingdom of Morocco, Tunisia, Algeria, Libya, Mauritania. The establishing treaty does not state the way of succession of presidency, the siege of the General Secretariat of the Union moves with the periodical president State. See: Alcharida Abdelmohdi, OP CIT, P. 156.
- 77) Alashaal Abdullah, The G.C.C. International Relations, Datassalassil, Kumait 1990, 1st ed., PP. 18-19.
- 78) Raghav Yahya Hilmi, OP CIT, PP. 95-96
- 79) Acharida Abdelmohdi, OP CIT, PP. 93 et seq.
- 80) Greig D.W., International Law, 2nd ed., Butterworths 1976, PP. 110-111.
- 81) Sarhan Abdelaziz, The International organization, Dar An-nahada AL-Arabia, Cairo 1990, P. 181.
- 82) The G.C.C. Charter, art. 19(2).
- 83) Raghav Yahya Hilmi, OP CIT, PP. 98-99.; Acharida Abdelmohdi, OP CIT, P. 89; Ahmed Aboulwafa, OP CIT, PP. 23 et seq.
- 84) The Annual Report, 1985.

- 85)The International Justice Court, in its legal counsel of 1951 concerning the reservations on the Prohibition of Human Race Genocide Convention, stated that it is possible to voice reservations even if there is no provision in the Charter, providing the reservations would not contradict the provisions and purposes of the Convention, and provided the reservation is supported by members of the Convention. Mahmoud Abdelghani, Reservations On International Treaties In The International Law And In The Islamic Sharia, Dar Alitihad Alarabi litibaa, Cairo 1986, 1st ed., P. 60; Ali Ibrahim, Reservation to International Conventions in the Light of International Judiciary & Vienna Conventions of 1960 & 1986, Dar An-nahda Al-Arabia, Cairo 1996-7, P. 90.
- 86)Art. 7(1)(2) of the Supreme Council's rules of procedure.
- 87)Art. 2(2) of the Supreme Council's Rules of Procedure.
- 88)Alashaal Abdullah, The G.C.C. Legal And Political Framework, OP CIT, P. 146; Ahmed Aboulwafa, OP CIT, P. 41; Yahya Hilmi, OP CIT, P. 106.
- 89)Elghonimi Mohammed Talaat, The General Principles In The Nations Law...The International Organizations, Monchaat Almaarif, Alexandria 1971, P. 1107.
- 90)Commonly, the Supreme Council's session is sufficiently held once a year.
- 91)Art. 7(3) of the G.C.C. Charter, and Art. 4(1c)of the Supreme Council's rules of procedure.
- 92)Art. 4(1d) of the Supreme Council's rules of procedure.
- 93)The annual period is set within the Gregorian calendar, and the dates set normally at the end of the year.
- 94)Art. 4(2b) of the Supreme Council Rule's of Procedures.
- 95)Art. 6 of the Supreme Council Rule's of Procedures.
- 96)Art. 5(1) of the Supreme Council's Rules of Procedure.
- 97)Ibid, Art. 5(2).
- 98)Ibid, Art. 8(2).
- 99)Ibid, Art. 8(4).
- 100)Ibid, Art. 8(3).
- 101)Ibid, Art. 8(7).
- 102)Ibid, Art. 9(1).
- 103)The Secretary-General is nominated for, a three-year renewable period. In fact, the first Secretary-General, Abdullah Beshara, was renewed in his tenure of the office twice.
- 104)Art 9(2) of the Supreme Council's Rules of Procedure.
- 105)Art. 14 of the Supreme Council's Rules of Procedure; Art. 9(1) of the G.C.C. Charter.
- 106)Art. 14 of the Supreme Council's Rules of Procedure.
- 107)Art. 15(2) of the Supreme Council's rules of procedure.
- 108)Art. 16(1) of the Supreme Council's rules of procedure.

- 109) Art. 9(2) of the G.C.C. Charter; Art. 5(2) of the Supreme Council's Rules of Procedure.
- 110) The UN Charter has similar provisions: On substantive matters the votes of the Permanent members plus four others are required. On procedural matters the votes of any nine members are sufficient. See : The UN Charter. Art. 27.
- 111) Art 33(2) of the Ministerial Council's rules of procedure; Raghav Yahya Hilmi, OP CIT, P. 107.
- 112) Art. 18 of the Supreme Council's rules of procedure.
- 113) Raghav Yahya Hilmi, OP CIT, PP. 109-110; Albaharna Hussein Mohammed, OP CIT, P. 184.
- 114) Acharida Abdelmohdi, OP CIT, P. 111; MCRP. Art. 2(1).
- 115) Raghav Yahya Hilmi, OP CIT, P. 114-115.
- 116) MCRP, Art. 4(1).
- 117) Ibid, Art. 4(3).
- 118) Ibid, Art. 6(3).
- 119) Ibid, Art. 8.
- 120) Ibid, Art. 10.
- 121) Ibid, Art. 11.
- 122) Ibid, Art. 17(1).
- 123) Ibid, Art. 15(4).
- 124) Ibid, Art. 19(1).
- 125) Ibid, Art. 21(1).
- 126) Ibid, Art. 20.
- 127) Ibid, Art. 18.
- 128) Ibid, Art. 28.
- 129) Acharida Abdelmohdi, OP ICT, PP. 113-114.
- 130) MCRP, art. 33(1).
- 131) This is better than what is prescribed in the Security Council's distinction between substantive and the procedural matters. Whether the matter is substantive or procedural requires unanimity of the Permanent Members of the Security Council, meaning that originally every matter presented to the Security Council is a substantive matter until the opposite is proved by the voting in the Security Council. See: Goldstein s. Joshua, International Relations, Harper Collins, New York 1994, P. 232; Raghav Yahya Hilmi, OP CIT, P. 107.
- 132) MCRP, Art. 34(1).
- 133) Ibid, Art. 35(2).
- 134) Acharida abdelmohdi, OP CIT, P. 114; Raghav Yahya Hilmi, O CIT, P. 117.

- 135)MCRP, Art. 37.
- 136)Ibid, art. 38(2),(3),(4).
- 137)The G.C.C. Charter, art. 15.
- 138) Art. 10 of the league of Arab State's Charter states that CAIRO is the permanent headquarters of the Organization. It was transferred temporarily to Tunis after the Egyptian-Israeli Peace Treaty signed at Camp David, the organization's headquarters returned to Cairo in 1990 after the return of Egypt to the League of Arab States.
- 139)Acharida Abdelmohdi, OP CIT, P. 156.
- 140)Art. 14(2) of the G.C.C. Charter.
- 141)Kuwaiti Abdullah Yacoub Beshara worked for many years in the Kuwaiti diplomatic service. He was the representative of the Kuwaiti Government during its membership in the Security Council. He was also its representative in the General Assembly. He remained Secretary-General for a period longer than is provided in the Charter. This states that the Secretary-General shall be re-selected only once, but Mr. Beshara's mandate was renewed more than once. See Acharida Abdelmohdi, OP CIT, P. 118; Twinam J. Wright, The Gulf Co-operation And The Council, OP CIT, P. 5; Raghav Yahya Hilmi, OP CIT, P. 67.
- 142)The G.C.C. Charter, Art. 14(5).
- 143)Ibid, Arts. 15(6).
- 144)Raghav Yahya Hilmi, OP CIT, PP. 121-122.; Acharida Abdelmohdi, OP CIT, PP. 118-119.
- 145)Art. 12(8) of the G.C.C. Charter.
- 146)Art. 14(4) of the G.C.C. Charter.
- 147)Art. 15 of the G.C.C. Charter.
- 148)Alashaal Abdullah, The G.C.C. Legal And Political Framework, OP CIT,P. 150; Raghav Yahya Hilmi, OP CIT, P. 125.
- 149)Art. 16 of the G.C.C. Charter.
- 150)Acharida Abdelmohdi, OP CIT, P. 122.
- 151)Raghav Yahya Hilmi, OP CIT, P. 125; See Chapters 4. and 5. of the G.C.C. Prerogatives and Immunities agreement.
- 152)For more details about the obligations of officials and servants of international organizations: See, Sarhan Abdelaziz, OP CIT, PP. 179 et seq; Aghonimi Mohammed Talaat, OP CIT, PP. 349-351, Chihab Mofid, The International Organizations, Dar An-nahada AL-Arabia, 10th ed., Cairo 1990, PP. 154-156; Mosilhi Mohammed Elhossini, International Organizations, Dar An-nhada AL-Arabia, Cairo 1989, PP. 113-119.
- 153)Art. 16 of the G.C.C. Charter; Acharida Abdelmohdi, OP CIT, P. 122; Aboulwafa, OP CIT, P. 53.

- 154)Raghab Yahya Hilmi, OP CIT, P. 124.
- 155)Rules of Procedures Commission for the Settlement of Disputes, G.C.C. Legal Gazette, ed.3(1983), Riyadh, PP.17-19.
- 156)Charter Art. 10(1).
- 157)Art. 10(3) of the G.C.C. Charter, CSDRP, Art. 3.
- 158)CSDRP, art. 4(1).
- 159)Ibid, art 7.
- 160)Ibid, art. 9(d).
- 161)Ibid, art. 9(a).
- 162)Ibid, art. 9(c).
- 163)Ibid, art. 10.
- 164)Ibid, art. 11.
- 165)Id.
- 166)Acharida Abdelmohdi, OP CIT, P. 126.
- 167)Al Mazidi Feisal, The Future Of The Gulf, The Legacy Of The War And The Challenges Of The 1990s, I.B. Tauris, London 1993, P. 31; Ramazani R.K., OP CIT, PP. 125-127.
- 168)Al-Alkim, OP CIT, P. 87; "Al-Quds Al-Arabi", 1 November 1992.
- 169)For the English text of The Unified Economic Agreement(UEA), see: 26 ILM PP. 1160-1163. UEA is composed of seven Chapters of 28 Articles. The First Chapter deals with the exchange among the member States of animal, agricultural and industrial products on the same terms as national products; it deals also with dropping the Customs' duty over the national animal, agricultural, industrial and natural resources products; the G.C.C. States set a unified minimum customs' duty; and any member State should provide the transit facilities for the products of other G.C.C. States to their destination. The Second Chapter of the treaty deals with the transfer of funds and persons, and freedom of practice of economic activities. Citizens of the Member States are to be treated as nationals for the purposes of ownership, movement, work and residence. Later Chapters provide for Developmental co-ordination, Technical cooperation, Transport and Communication, Financial and Monetary cooperation. The Seventh Chapter deals with the final provisions of the treaty for bringing the agreement into effect; See: AlBaharna Hussain Mohammed, OP CIT, P. 166; John Christie, OP CIT, PP. 19-20.
- 170)Twinam J. Wright, The Gulf, Co-operation And The Council, OP CIT, P. 109.
- 171)The G.C.C. Realizations Synopsis, the publications of the G.C.C. Secretariat-General, Riyadh 1993, P. 54; Acharida Abdelmohdi, OP CIT, P. 231.
- 172)Final Communique of the Third Meeting of the Supreme Council, 11 November 1982, Bahrain.

- 173)The G.C.C. Realizations Synopsis, OP CIT, PP 60-61; Twinam J. Wright, The Gulf, Co-operation And The Council, OP CIT, P. 110.
- 174)The G.C.C. Realizations Synopsis, OP CIT, P. 62.
- 175)"The Economic Bulletin" the G.C.C. Secretariat-General, 7th edt. 1992, P. 102.
- 176)Twinam J. Wright, The Gulf, Co-operation And The Council, OP CIT, PP. 114-115.
- 177)Alashaal Abdullah, The G.C.C. International Relations, OP CIT, P. 18.
- 178)AlBaharna Hussein Mohammed, OP CIT. P. 175.
- 179)See the author's Master Thesis, 'The Iraq-Kuwait War Under The Islamic Shari'ah And The General International Law', thesis submitted to King Abdulaziz University, Jeddah 1995, PP. 136 et seq.
- 180)"The G.C.C. March", OP CIT, P. 284.
- 181)"The G.C.C. Realizations Synopsis", OP CIT, P. 33-34.
- 182)Ibid, OP CIT, P. 25.
- 183)"The G.C.C. Realizations Synopsis", OP CIT, P. 37.
- 184)Ibid, OP CIT, P. 42.
- 185)Ibid, OP CIT, P. 43.
- 186)Ibid, OP CIT, P. 44.
- 187)Ibid, OP CIT, P. 45.
- 188)"The G.C.C. March", OP CIT, P. 254.
- 189) In answering a press question, H.R.H. Prince NAIF BEN ABDEL-AZIZ, the Saudi Minister of Interior, declared that Qatar is going to sign this convention.
- 190)AlBaharna Hussein Mohammed, OP CIT, P. 178.
- 191)"The G.C.C. Realizations Synopsis", OP CIT, P. 91.
- 192)Novati, G., "The E.E.C. and the Gulf Co-operation Council", in The Arab Gulf And The West, Center For Arab Gulf Studies, University of Exeter 1985; Acharida Abdelmohdi, OP CIT, P. 161.
- 193)Assayari Mohammed Saud, 'The G.C.C. As a Regional Organization And Its Relation With The UN And A.C.L.', the Co-operation Magazine, the G.C.C. Secretariat-General, 3rd ^{No 3} edt., July 1986; John Christie, OP CIT, P. 14; Aboulwafa, OP CIT, P. 178.
- 194)The seven founders of the L.A.S. were according to the date of their signature of the Charter: East Jordan 10 April 1945, Egypt 12 April 1945, Saudi Arabia 16 April 1945, Iraq 25 April 1945, Lebanon 16 May 1945, Yemen 19 May 1945, Syria 9 February 1946: See Chihab Mofid, OP CIT, P. 421.
- 195)The Kuwaiti request to join the L.A.S. came after the Kuwait-Iraq crisis of 1961. Afraid of the Iraqi military threats, Kuwait asked the help of Great Britain. Other Arab Countries sent military forces to resist the Iraqi threats to Kuwait. These forces did not stay long in Kuwait

since this crisis was settled in an Arab framework. The Security Council failed to settle this dispute because of the Soviet Union's opposition and support of Iraq: See the author's Master thesis, *OP CIT*, PP. 21-22; Hanafi M. Imam, 'The Iraqi Aggression Of Kuwait.. The G.C.C. Under Test', a research paper presented during the fourth scientific symposium held by Kuwait University, the Kuwaiti Institution for the Scientific Progress, and the Kuwaiti Center For Research and Studies, vol. 1

196)Acharida Abdelmohdi, *OP CIT*, P. 35.

196)Similar benefits are also extended to non-Arab Islamic Countries.

198)UN Charter Art. 102(1).

199)The G.C.C. Charter, Art. 22.

200)Acharida Abdelmohdi, *OP CIT*, P. 133; Assayari Mohammed Saud, *OP CIT*.

201)Unlike the other G.C.C. States, Saudi Arabia has never been colonized, it was unified by King Abdul-Aziz in September 1932.

202)Alghonimi Mohammed Talaat, *OP CIT*, PP. 545 ET SEQ.

203)Alashaal Abdullah, *The G.C.C. International Relations*, *OP CIT*, P. 144.

204)United Nations Handbook 1994, Scale of Assessments, PP. 281- 282.

205)"The G.C.C. Realizations Synopsis" , *OP CIT*, P. 35.

CHAPTER TWO

THE EFFECT OF GULF WARS ON
G.C.C. SECURITY

The Gulf Co-operation Council was seriously affected by the out-break of the Iraq-Kuwait war. The effect of this was to expedite the approval of the Gulf Security Convention and its eventual ratification. The Convention itself was the subject of discussion and negotiation between the Member States for more than a decade after the foundation of the Council. Final approval and ratification (by four of the six Member States) was achieved at the end of 1994.

Many important questions are raised. For example, why was the Security Convention approved only after the Second (Iraqi-Kuwaiti) Gulf War?. Secondly, if there is a connection between the conclusion of the Security Convention and the Second Gulf War, then what is the role of the First Iran-Iraq Gulf War?.

In this study we trace the effect of the First and Second Gulf Wars on the internal and external security of the Gulf region. The two events together exerted a strong influence on decision-making in the Gulf.

The Iran-Iraq War was primarily caused by the issue of supremacy over the Shatt Al-Arab waterway(1), the river separating Iran and Iraq. It extends from the confluence of the Dijla and Forat rivers to Gulf Cape. The two countries signed a treaty in 1937(2) by which they agreed that control over this region would rest in Iraq provided, however, that Iraq guaranteed freedom of Iranian navigation on the river. It was also agreed that control of Abdan Island and other Islands near to the eastern bank would be given over to Iran.

Iran tried to disclaim this treaty. It sought to apply the principle established in International Law whereby an imaginary boundary line is drawn in the middle of the river. Consequently, the Shah of Iran annulled the treaty of 1969⁽³⁾. Iraq resisted this and the Iranian Government responded by encouraging the Kurdish Revolution to destabilize the internal security of Iraq. However, the Iraqi Government signed a peace treaty with the Kurds in 1970⁽⁴⁾ granting self-autonomy intending thereby to stabilize the internal situation in Iraq. However, the Iraqi government procrastinated in the implementation of this treaty⁽⁵⁾, Iran continued supporting the Kurds until Iraq submitted to the Iranian request concerning Shatt Al-Arab. An agreement was ratified in Algiers in 1975⁽⁶⁾, as a marginal event at the OPEC Presidents' meeting. Saddam Hussein, then vice-President of the Iraqi Republic, and the Shah of Iran were the signatories.

When the Islamic Iranian Revolution replaced the Shah's regime in Iran in 1979 Saddam Hussein pursued hostilities against Iran, profiting from the internal troubles of the country. He also sought to ensure that the Iranian revolution would not support the Shiite unrest in Iraq⁽⁷⁾.

The Iran-Iraq war broke out in September 1980. Iraqi troops won victories at the beginning of the War, but the Iranians were to regain the territories occupied by Iraq. Some states and international organization proposed mediation to end the War; the Iranian Government refused any mediation without the implementation of its conditions which were also rejected by the Iraqi Government⁽⁸⁾. That is why the war continued up to 1987 though the belligerents signed a cease-fire in 1985. Iranian troops occupied the Iraqi Fao Peninsula in April 1988. Therefore, in regaining this territory the War ended up without a victory for either of the belligerents, and both parties reached a cease-fire accord in August 20, 1988⁽⁹⁾ under international supervision.

Though the belligerents are not members of G.C.C.(10), the war has had dramatic effects on the G.C.C.. The effects are twofold, positive and negative. As for the negative effects on internal G.C.C. security, the situation was unstable, particularly if we take into account the large proportion of Shiites(11) in the G.C.C. countries. As such, the Shiites would naturally support the Islamic Revolution in Iran, and resist the policies of their governments. Further, their aim was to "export" the revolution to these countries which explains the number of security troubles particularly in Bahrain which witnessed violent demonstrations in December 1981(12). The manifestations had the potential to turn into a "coup d'etat" if Saudi Arabia had not intervened to re-establish political order(13).

Among the G.C.C. states, Kuwait suffered particularly from the continuation of War as Iran considered Kuwait as a strong ally of Iraq. Consequently, there were explosions in places throughout Kuwait(14), Some petroleum depositories were destroyed(15), and a number of violent disturbances occurred in June and August 1981(16) and September 1982. These activities increased in December 1983; and in May 1985, the Kuwaiti Crown Prince became the target of a failed murder attempt. At this time, there were many secret cells aiming to overthrow the governing system in Kuwait(17).

The War increased the superpowers(18) involvement in Gulf regional affairs, particularly in the militarization of facilities in the Gulf region and neighbouring regions. As a consequence, American weapons exports increased as compared to the pre-War period(19). The developmental activities of the region were slowed down by the increased militarization and the financial assistance, allowances and credits granted to the Iraqi Government when Iran revealed its intention of bringing an end to the war. Because of this the G.C.C. states, particularly Saudi Arabia and Kuwait, changed their attitude from neutrality to one of support for Iraq when Iranian leaders publicly showed their eagerness towards these states and

attempted to export the Shiite Revolution there. The continuation of the War increased the reliance on petroleum reserves to meet these expenses(20).

Moreover, navigation in the region was disrupted because of missile attacks on Kuwaiti tankers. Therefore, the Kuwaiti Government decreed that the Kuwaiti tankers would fly the American flag to avoid such missile attacks(21).

As for the positive side of the War, internal unstable conditions led to the G.C.C. Countries increasing coordination between themselves(22) in security matters to safeguard their respective governing systems and increase regional stability in general. They, therefore, concluded bilateral security conventions between Saudi Arabia and the other G.C.C. member States(23).

These bilateral security conventions were not sufficient to meet the needs of the G.C.C. states, and they started looking for a joint security formula to act as a unified Gulf security strategy.

Among the joint security convention projects, the project proposed in 1984 defined the means for security cooperation among the G.C.C. security systems to promote the preservation of internal security and deal with any possible foreign threat. Security cooperation also dealt with combating crime, illegal entry, smuggling, and the pursuit and extradition of criminals(24).

Though reservations were expressed by some Governments over the draft proposals, they reached, after a long term study, a preliminary agreement at the Riyadh Summit of December 1987(25), namely the Unified Gulf Security Strategic Project which would be free from the reservations stated in the previous project.

Besides security coordination, the G.C.C. States moved towards democratic measures designed to lighten security burdens caused by the then current troubles.

One of the more prominent measures was the one put forward by the Kuwait Government which held parliamentary elections in February 1985 and formed the sixth Kuwaiti parliament assembly(26).

As for the positive effects of war on defence, the war was an incentive to expedite the establishment of the G.C.C., though the idea had been muted before that time, and to form a forum that would include the War's belligerents and the main super-powers of the Gulf region. The war, therefore, encouraged the G.C.C. countries to establish the Peninsula Shield. In spite of it being a largely symbolic force, it represents the potential nucleus of a Unified Gulf Army.

With regard to the militarization of the G.C.C. States, each state spent a lot on the modernization of its military arsenals and the development of its forces in an attempt to preserve external security which in turn had a great effect on internal security.

In fact, Saudi Arabia received five AWACS from the US in 1981(27). In June 1984, these aircraft detected Iranian spy aircraft attempting to enter Saudi air space and succeeded in shooting down an Iranian "Phantom" aircraft(28), forcing Iran to abandon future missions. Saudi Arabia also bought Chinese long range missiles capable of reaching Iraqi and Iranian territories(29). Further reconnaissance aircraft and electronic radar networks were also acquired in the region to counter Iranian threat to navigation(30).

The G.C.C. was affected, to a great extent, by the First Gulf War even though not a party to it. The situation was aggravated in the Second Gulf War as the G.C.C. was a major party and therefore, any ensuing effects served only to intensify those consequences of the First Gulf War.

The out-break of the Second Gulf War can be seen to be due to Iraq's insistence not to withdraw its forces from occupied Kuwait in August 1990(31). The occupation lasted seven months during which Iraq refused all attempts to end the crisis through mediation, nor did Iraq comply with the appropriate Security Council Resolutions. In this context, the Security Council issued its Resolution No 678 of November 29, 1990, the G.C.C. gave Iraq a window of opportunity,(up to mid-January 1991), to comply with Security Council Resolutions. If Iraq failed to do so, the International Coalition Force(ICF),based in the region, was "authorised" to "*take necessary measures*" to make Iraq submit to the resolutions. Because of the Iraqi Government's obstinacy(32) and refusal to comply, war was declared on January 17,1991 followed by an ICF air attack. The consequences were dramatic for Iraq and the terrestrial war was soon over(33).

The consistent and united G.C.C. front played an important role at the outset of the crisis. Security riots and demonstrations were expected to occur because of the presence of the "*west*" in the region. However, the seriousness of the Iraqi threat helped in the prevention of such occurrences.

The Second Gulf War ended with victory for the ICF over Iraq which submitted to those Security Council Resolutions relating to the conflict(34). The war ended but its impact still exerts a strong influence because of the immense infrastructural damage caused in Iraq and Kuwait in particular and to a lesser degree in G.C.C. States and neighbouring countries.

In Iraq, the main victims of the Iraqi leaders aggressive posturing was the population in general and the war inflicted a great many civilian casualties. As a direct consequence, the Iraqi people revolted. Thus the Shiites(35) in the South rioted against the Government and occupied some regions in the South(36). They were swiftly put down by Iraq which used aircraft capable of chemical attacks.

Those territories occupied by the Shiites were regained and the Shiites themselves were on the verge of being exterminated without some international intervention.

The Kurds (37) in the North profiting from the defeat of Iraqi troops organized a demonstration in March 1991(38). They occupied police stations and other government buildings in an attempt to revenge themselves on Iraqi Government retaliation operations carried out against them in the past. Prominent among them all is the incidents of Halbaja in 1988(39). To realize their hope of implementing the 1970 Treaty, Iraqi forces launched air attacks against the Kurds. To avoid their obliteration, the Security Council issued its Resolution No 688 which condemned the Iraqi Government aggression over their nationals and urged the Iraqi Government to provide the Kurds in the north with humanitarian relief aid. American and Western troops set up refugee camps and security zones for the Kurds in the North(40).

As for living conditions in Iraq, which have an effect on internal security matters, the economic situation increasingly deteriorated after the War, and the Iraqi Dinar reached its lowest level ever because of the economic embargo imposed on Iraq, and which is still in effect today. There was increased economic disarray and a surge in crime, representing an ever-present danger for the Iraqi population. The situation forced many Iraqis to flee to neighbouring States(41). The G.C.C. states, because of their geographic proximity, were the destination of many Iraqis fleeing from the worsening conditions in Iraq(42).

The occupation of Kuwait and the War that followed affected the Gulf region, the G.C.C. countries and more particularly Kuwait which was occupied during most of the war. During this time Kuwaiti and non-national residents in Kuwait were victims of all kinds of torture in particular members of Kuwaiti resistance. The Iraqi troops engaged in looting and the general destruction of private and public property(43). They committed all kinds of atrocities(44) since there was no

internal security at that time. They turned schools and sport clubs into military barracks. The most dangerous act committed by Iraqi troops was the burning of oil wells⁽⁴⁵⁾ and pouring petroleum into Gulf waters causing devastating environmental pollution in the Gulf and neighbouring regions from which they will suffer for decades to come in spite of the efforts of different bodies and organizations concerned with the environment to eliminate the consequences of this ecological catastrophe or at least to lessen its effects⁽⁴⁶⁾.

There was also the problem of the Kuwaiti prisoners detained by the Iraqi Government⁽⁴⁷⁾. The problem that preoccupied Kuwait (together with the existence of the same Iraqi dictatorship headed by Saddam Hussein) was the unsolved Iraq-Kuwait boundary demarcation by an international Committee, and the throngs of Iraqi troops along the Iraqi-Kuwait borders as of October 1994⁽⁴⁸⁾. Such critical issues were the main obstacle towards the Arab "entente" called for by some Arab leaders and the main causes of Arab discord which predicts the outbreak of the conflict once again.

As for the Kuwaiti post-war political scene, it is now more than ever in need of increased democracy. The population demanded a calling to account of defaulters and those responsible for their being occupied by Iraq. Both Kuwaiti leaders and the population were preoccupied with post war deterioration of the economy. This was in turn exploited by the opposition. On the first day of the Kuwait's liberation, a crisis erupted between the authorities and the opposition. As a consequence, the Custom Laws were declared⁽⁴⁹⁾, increasing the influence of the popular opposition and leading to the standing down of the Kuwaiti Government in 20 March 1991. The Kuwaiti Government took additional measures to reduce popular tension and disturbances in the country⁽⁵⁰⁾.

Concerning the effect of the war on the internal security of Kuwait, violence increased dramatically. Many citizens still held an approximately 100,000 items of

weaponry (51) in spite of the Government's frequent request that citizens hand them in. Shooting police agents became frequent, crime and the escape of the convicted persons to G.C.C. States also increased. Drug-taking and murder also rose sharply. Comparing the 1992 to 1989 statistics, one notices that crime of theft proportionally increased by 9.3%, delicts by 5.5%, assault by 52.7%. New crime came the forefront, such as rape and drug dealing. The divorce rate increased from 1928 before the war to 2193 in the post-war(52).

The War caused huge financial losses exceeding \$240 billion(53), most of which was incurred by Saudi Arabia and Kuwait. Such material loss led to the contraction of Kuwaiti assistance to some Arab States and a decrease in living standards as compared to the pre-war situation. These losses were further compounded by the military expenditure of the war(54).

In Saudi Arabia(55), the second State in G.C.C. to be affected by the crisis, the State faced destabilization from the throng of Iraqi troops on Saudi borders and the menace of infiltration into Saudi territory of destructive elements to destabilize internal security. Therefore, Saudi Arabia allotted substantial amounts to ICF expenses and the construction of camps for refugees(56).

Saudi Arabia was estimated to have lost in this war \$64 billion(57), and it is the first time the country resorted to debt aid from financial institutions. The deficit reached \$34 billion in 1991 compared to between \$6(58) and \$9 billion in 1990(59).

In Bahrain, one notices that the financial markets, which represents 15% of the gross domestic product, were harmed by the provisional closing of the financial and commercial institutions, with knock-on social consequences(60). This again resulted in the demand for increased political representation in the governing institutions of the country.

In Qatar, the prominent post-war change was the taking control of the Qatari Government by Sheik Hamad Ben Khalifa Al-Taani after dethroning his father in an attempt "to correct political imbalances" within the country.

In Oman, some terrorist cells, profiting from the prevalent conditions, targeted the state's security and its political institutions(61). Some of them demanded participation in the governing of the country.

In UAE, \$2 billions were transferred in August 1990, causing the destabilization of the Gulf monetary market(62). Its action was carried out in reparation for some states which suffered from the Iraqi occupation of Kuwait. It further dropped outstanding debts of some countries.

The war also helped to re-open Gulf State border problems. Among the more serious incidents is the Iranian occupation of three UAE islands, the Qatar-Bahrain(63) border conflict and the Saudi-Qatar border conflict(64) which led to Qatar boycott G.C.C. Ministerial Council meetings for a period of time.

The Iraq-Kuwait conflict not only effected the main belligerents and other G.C.C. States, but also its effects extended to include many neighbouring countries. For instance, Syria, because of its attitude towards the conflict and compliance to International Law (65), regained its place within the Arab ranks. However its budget suffered due to militarization in its attempt to create a strategic equilibrium with Israel and because of the reduction of income transferred home by its nationals residing in the G.C.C. countries(66). These conditions represented a burden on the Syrian economy affected internal conditions.

Jordan's relationship with the G.C.C. states was disturbed because of the Jordanian attitude towards the conflict. It lost assistance from the G.C.C. states,

and was harmed by the return of Jordanian workers from G.C.C. countries and non-national workers residing in Iraq and Kuwait. This situation represented a heavy burden on the Jordanian Government(67), Many demonstrations were held, in Jordan, in support of the Iraqi Policy against the ICF. The Jordanian Government was forced to drift along with public opinion to avoid internal riots.

As for the Palestinian situation(68), the Iraq-Kuwait conflict occurred at the time of the Palestinian '*Intifada*', and it was an appropriate opportunity for Israeli Government, under the leadership of Yitzhak Shamir, to oppress and to exterminate Palestinian '*Intifada*' as witnessed in the carnage at Al-Qods on 8 October 1990. This was followed by other massacres in Gaza and the West Bank(69). Moshe Arens, Israeli Minister of Defence also declared that Israel would continue its occupation of Lebanese territories. Israel profited from being targeted by Iraqi *Scud* Missiles(70). Israel stated they would not reply to such Iraqi attacks and would show self-restraint(71) as required by the American administration and other Western powers. This was in response to the threat posed to the ICF caused by the influence of internal public opinion of Arab States parties(72) in the ICF in the event of Israeli retaliation. Consequently, Israel received "*Patriot*" missiles along with their operation systems; Israel also received grants and assistance from US and EC countries(73).

The Palestinians suffered due to the PLO's attitude towards the conflict. Kuwait evicted the "*Palestinian population undesirable "traitors"*"(74) adding further obstacles to the Palestinian peace process(75).

The Iraq-Kuwait conflict did have positive benefits for the PLO. The holding of an International Peace Conference in the Middle East resulted in lightening the criticism of American Policy which dealt with some affairs and neglected others. Consequently, there was some improvement in the Israeli-PLO Peace Process

which, in turn, led to the "*Oslo Declaration of Principles*" treaty, signed in September 1993(76).

Not only did Israel profit from this conflict, but Iran also did. In mid-August 1990, Iraq declared its compliance with the Algiers Agreement signed by both states in 1975. This concession was intended to gain the sympathy and support of Iran(77), yet Iran stuck to its neutral stance that helped improve, to certain extent, G.C.C.-Iranian relations(78).

Concerning Turkey(79), it has lost a great deal because of its extensive commercial and economic relations with Iraq(80). Turkey moved its forces to its southern borders, it being considered a NATO member(81), there was a variance among the Turkish leadership(82) concerning cooperation with the ICF which caused internal instability in relation to the Kurd crisis. As a result Turkish troops penetrated many kilometers into Northern Iraq to pursue members of the Kurdish Labor party(83).

As far as Yemen is concerned and because of the Yemeni attitude towards the conflict, it has lost the transfer of income home by Yemeni workers in Saudi Arabia. They represented the largest group of expatriate workers(84) in Saudi Arabia and the Saudi Government requested they legalize their residence status as Arab workers in the Kingdom, Saudi Arabia wanted to control security matters whenever a Yemeni national resident in the Kingdom intended to support his government attitude towards the conflict; consequently, many Yemeni returned to their home country.

In spite of the shock that struck Yemeni unity, causing a civil war between north and south Yemen,(a war that took thousands of Yemeni lives(85)), Yemen recovered but with a deep wound that harboured the out-break of conflict once again.

The positive effects of the Second Gulf War can be seen in the G.C.C.'s endeavours to bring the proposals and resolutions of the security convention into practice. They thus re-drafted the security convention into a unified draft within the framework of various security fields to be coordinated by the G.C.C.. After marathon negotiations, the Security Convention was signed by G.C.C. Interior Ministers (excepting those of Kuwait and Qatar), in Riyadh on 28 November 1994.

This Security Convention represents the main pillar in the implementation of the security strategy signed in 1987(86). It is certainly realizable as there is a harmony in the G.C.C. states' general structure enabling competent authorities to enact appropriate collective resolutions.

The G.C.C. states established constitutional institutions to widen popular participation in the management of their affairs. In fact, Saudi Arabia formed the Consultative Council, the Provinces Councils and the governing rules of procedure were declared. After the conflict, the Oman Sultanate established a Consultative Council, the same occurred in Bahrain when the Prime Minister endorsed the return of the Bahraini Parliament that had been dissolved in 1975(87).

As for external security coordination, because of its reciprocal relationship with internal security, G.C.C. States, along with Egypt and Syria, participated in the "*Damascus Declaration*"(88) ending with the military coordination between G.C.C. states, Egypt and Syria. This was to satisfy internal public opinion that requested an Arab security protection force. There would, therefore, be Egyptian and Syrian forces permanently in the Gulf region which would represent the nucleus of an Arab Peace Force(89) to protect security in the Gulf. However, the Iranian position (90) towards the *Declaration* made the G.C.C. states change a basic principle of this *Declaration*. As such, the presence of this force in the Gulf

region and its use would be related to the perceived needs of the G.C.C.. As a consequence, some G.C.C. states ratified defense treaties with the superpowers to protect them from external threats. Kuwait and US signed a Defense Treaty on September 1991(91), Bahrain did the same with the US in October 1991 and with Great Britain in July 1992(92).

Moreover, the G.C.C. States developed its capabilities and training on modern weapons and increased the number of these armies comparatively with the pre-war period.

NOTES

- 1) Peter Hunseler, 'The Historical Antecedents of The Shatt Al-Arab Dispute', Ed. in M.S. El-Azhary, The Iran-Iraq War, Croom Helm, London 1984, PP. 8-19.
- 2) Salah Al-Akad, The Political Tendencies in the Arabic Gulf in the Beginning of Contemporary Epoch until 1990-1991 Crisis, Anglo-Egyptian Library, Cairo 1992, P. 419 ;Peter Hunseler, OP CIT, PP. 14-17.
- 3) Ali Ibrahim, "Iraq-Iran Peace negotiations And the Future of Peace in the Gulf Region", P. 48, IPJ, 1990.
- 4) Peter Hunseler, OP CIT, PP. 18-19.
- 5) The Arabic Strategic Report 1991, The Political and Strategic Center of Ahram, 1992, P. 142.
- 6) UN. Treaty Series 14905.
- 7) The percentage of Shiites in Iraq is 60%; See 'The civil Society and the Democratic Change in the Arab Society' the Annual Report of 1992, under the supervision of Saad Edin Abraham, Bin Khaldoun Center, P. 424.
- 8) Salah Al-Akad, OP CIT, P. 421.
- 9) Concerning the Iraqi-Iranian conflict, the Security Council issued Resolutions particularly, Resolution 582 of February and Resolution 598 of July 20, 1987. For more details see: Ali Ibrahim, OP CIT; Ahmed Mahaba, 'Iran and The Gulf Security', in IPJ, ed. N 105, July 1991; Salah Al-Akad, OP CIT, P. 424.
- 10) The G.C.C. States tried to end this war as soon as possible with as little damage as they could manage, yet their "good offices" failed, and any of the G.C.C. states took the side of one of the belligerents because both of them are members in the Islamic Conference Organization and in other organizations, Saudi Arabia declared its neutrality with regard to this war. The position which changed when Iran rejected Fahd Peace Project in the Middle East which was presented by Saudi Arabia before the Arab Summit Conference held in August 1981; "Al-Watan" Gazette of 8 February 1994; A scientific Symposium held in Alexandria under the title: 'Arab Gulf Security'; G.H. Jansen, 'The Attitudes of The Arab Governments Towards the Gulf War', Ed. in M.S. El-Azhary, OP CIT, P. 86; Ralph King, 'The Iran-Iraq War: The Political Implications' Adelphi Papers, London, Spring 1987, P. 33.
- 11) The highest proportion of Shiites is in Bahrain, 75% of the whole population, the number of Shiites in Kuwait are between 30% and 45% of the population, and in U.A.E.

- approximately 30%; See: Waleed Mahmoud Abdelnacer, "Iran and Violence Groups in the Middle East", IPJ, NO 113, July 1993.
- 12)The Shiites of Iranian origins played a role in the developments of December 1981. See: Amr Hachem Rabii, 'Kuwait Security in The Gulf War', in IPJ, ed. of July 1985.
- 13)Essam Adib, Bahrain...Security and Liberty Issues, 1st Ed., Dar Safa, London 1988, P. 88.
- 14)The first military contact between Iran and Kuwait was in February 1986, and it was between an Iranian Helicopter and a Kuwait navy frigate in the Kuwaiti territorial waters. See: Amr Hachem Rabii, OP CIT.
- 15)Iran directed a 'Silk worm' missile on the petroleum refinery in the industrial island near Al-Ahmady petroleum refinery complex. The missile destroyed control systems and some petroleum pipelines. The Iranian attack came as a reply to the American attack against an Iranian petroleum construction. The American attack came in response to the attack against a tanker flying the American flag; See: Amr Hachem Rabii, OP CIT.
- 16)Ralph King, OP CIT, P. 36.
- 17)Most of the activities in Kuwait, at that time, were carried out by individuals belonging to the Pro-Iranian Islamic Da'wa Party. See: Amr Hachem Rabii, OP CIT.
- 18)El Azhary, 'The Attitudes of The Superpowers Towards the Gulf War', Ed. in M.S. El Azhary, OP CIT, PP. 88-102.
- 19)The G.C.C. militarization does not rely on the USA and the West. Indeed their actions lead to a diversification. For instance when the American administration refused the delivery of arms requested by Kuwait the arms were bought from the Soviet Union. See: 'The Arab Attitude' Magazine, Ed. of August 1984.
- 20)Asaid Aliwa, 'The Arab National Security and The Gulf War Consequences', in IPJ, Ed. July 1985.
- 21)Amr Hachem Rabii, OP CIT.
- 22)Ralph King, OP CIT, PP. 32-40.
- 23)'Al-Watan' Gazette of 9/2/1994.
- 24)'Al-Watan' Gazette of 9/2/1994.
- 25)'The G.C.C. Realizations Synopsis', OP CIT, P. 46.
- 26)This Assembly is viewed to be the most active of the Kuwaiti Assemblies, yet it is not a long term forum. See: John Peterson, The G.C.C....Steps Towards The Political Participation, Translated into Arabic by Daham Moussa Al-Atawna, Daham Moussa Al Atawna Press, London, PP.59 Et. Seq.
- 27)The aircraft arrived in Saudi Arabia a week after the declaration of Iran-Iraq War, this transaction created a media frenzy and unease in the U.S. Congress. See: Mohammed

- Romihi, 'The Arab Gulf Region in the Light of the International Changes', IPJ, Ed. of April 1983.
- 28) Ursula Braun, "The G.C.C.'s Security Role" a paper presented during the Centre for Arab Gulf Studies Symposium on "The Gulf and the Arab World" 1986; Ahmed Abu-Alhassan Halabi, 'The G.C.C. and Collective Defense Issues', in IPJ, Ed. of April 1985.
- 29) Khaled Zakaria Serjani, 'The Chinese Missile Transaction and the Israeli Threat to Saudi Arabia', in 'International Politics Journal, Ed. of July 1988.
- 30) Omar Az-Erijal, 'The G.C.C. Abu Dhabi Summit', in IPJ, Ed. of January 1987.
- 31) For the historical background of the conflict see: Maurice Mendelson & Susan Hulton, 'Iraq's Claim to Sovereignty Over Kuwait', Ed. in Richard Schofield, Territorial Foundations of the Gulf States, The SOAS/GRC Geopolitics Series, UCL Press, London 1994, PP. 117-142.
- 32) Nasser Ibrahim Rashid & Esber Ibrahim Shaheen, Saudi Arabia and the Gulf War, International Institute of Technology, Missouri 1992, PP. 151-152.
- 33) During the air war, 1685 tanks and 1400 cannons were destroyed; while during the terrestrial war, 1323 tanks and cannons were destroyed. See Aaron Breve (& others), The War in the Gulf...aloofness from Israel, The Israeli Center of Strategic Researches, Yafa, Transl. by: Badr Akili, Dar Jalil Press, Oman 1993, P. 193.
- 34) With regard to the Iraq-Kuwait crisis, the Security Council issued more than thirty Resolutions. The most crucial, in the settlement of the crisis, is Resolution 678, and the most important, as far as the post-war influences is concerned, is Resolution 687 issued in April 1991 since it deals with the war detainee problem, the boundary demarcation between Iraq and Kuwait, the international inspection of the banned weapons in Iraq, reparation and the return of the looted goods to Kuwait.
- 35) Nasser Ibrahim Rashid & Esber Ibrahim Shaheen, OP CIT, PP. 417-422.
- 36) IPJ, N. 105, of July 1991, P. 271.
- 37) Clovis Maksoud, 'The Kurds: An Old Crisis at a New Moment', Ed. in Phyllis Bennis & Michel Moushabeck, Beyond The Storm, A Gulf Crisis Reader, Cannongate, Edinburgh 1992, PP. 181-182; Nasser Ibrahim Rashid & Esber Ibrahim Shaheen, OP CIT, PP. 427-438.
- 38) Mohammed Mostafa Shahata, 'The Kurd Movement in Iraq and Turkey', in IPJ, Ed. N. 107, of January 1992.
- 39) Mohammed Al-Abassi, The Shedder of Blood...Between Iraq the Slaughter and Kuwait the wounded, Azahra for Arab Information, Cairo 1990, P.77.
- 40) Manal Lotfi, 'Two Years After the Out-Break of the Gulf War, the Management of Post-War Consequences', in IPJ, Ed. N. 111 of January 1993.

- 41)The prominent escape of the Lieutenant General Hussein Kamel caused great discomfort to the political governing body of Iraq One of the pillars of Iraqi leadership and son-in-law of the Iraqi President, he found refuge in Jordan. He held press conferences in which he related the drawbacks of the Governing system in Iraq and threatened to reveal Iraqi internal security secrets, forcing Saddam Hussein to hold a referendum on his presidency for a further seven year term. The Iraqi President was supported by 99% of the electorate, the referendum result came as a reply to Lieutenant General Hussein Kamel's declarations and showed the Iraqi leadership's lack of credibility and falsification in the electoral process.
- 42)Muhammad Faour, The Arab World After Desert Storm, United States Institute of Peace Press, Washington, D.C., PP. 103-106.
- 43)Ahmed Shalabi, Iraq and Kuwait Events...The Pains It Caused...And How To Correct It?, A Neutral Historical And Psychological Study, Azahra for Arabic Information, 1st Ed., Cairo 1992, P. 91.
- 44)The Iraqi Aggression of Kuwait.. Actually and tragedy the Kuwaiti Centre OF Researches and Studies, 1994, 2 ED., PP. 135-136.
- 45)oil wells were burned. See: Ibid, P. 407.
- 46)Abderahman Awadi, 'The environmental Pollution and the Role of the Regional Organization for the Protection of Maritime Environment in the Environment Re-Qualification', in 'The Gulf and Arab Peninsula Studies' Magazine, in Ed. N. 74 of July 1994.
- 47)'With The Prisoner' Magazine, issued by the National Committee for the Prisoners and the Detained, Ed. N.10, Kuwait, January 1995, P 11; See the Author's Master Degree Thesis, OP CIT, P. 297.
- 48)'With The Prisoner', OP CIT, Ed. N.8, November 1994, P. 24.
- 49)Mohammed Abdessalam, 'The Future of Kuwait After The Catastrophe', Ed. in IPJ, Ed. N0 205 of July 1991.
- 50)Muhammad Faour, OP CIT, P. 107.
- 51)Mohammed Abdessalam, OP CIT.
- 52)Bashir Salah Arashidi, 'The Kuwaiti People Social and Psychological Map after the Iraqi Aggression', 'Gulf and Arab Peninsula Studies' Magazine, Ed. N. 74, July 1994.
- 53)Saiid Shorbaji Abdelmola, 'The International Changes and its repercussions on the Arab Security', The Arab Center for Security Studies and Training Press, Riyadh 1992, P. 206.
- 54)Paul Stevens, 'Contemporary Oil Exploitation and Development Policies in The Gulf Region', Ed. in Richard Schofield, OP CIT, PP. 119-220.
- 55)Ibid, P. 218.

56) Many Iraqis took refuge in Saudi Arabia particularly after the War and those peoples displaced as a result of the failed riots in the south of Iraq, as well as some Iraqi prisoners who refused to return to their country, are considered as refugees. The number of refugees in Saudi Arabia is in the region of 63 thousands Iraqi refugees including women and children. The Saudi Government prepared a camp, in the Rafha region, containing 20 thousand refugees, it was considered as the best camp in the world, according the UNHCR's report reflected in the cost of its construction. The camp was equipped with extensive utilities including water and electricity. There were schools for the education of the children, giving opportunities to teachers, administrators and engineers from the Iraqi refugees; The Saudi Ministry of Education managed these schools. The refugees were moved to this camp in May Furthermore, the Saudi Kingdom also established Al-Artawiya camp Following the Emirate of Al-Mojmaa city, the Saudi Government provided these refugees with monthly pocket-money. Some refugees received plane tickets to perform Omra. The cost of these camps is around \$660 US according to the official report of the UNHCR. Concerning the Kuwaiti refugees, the Saudi Government played host to the Kuwaiti Government, prepared a residence in Taif in which the Kuwaiti Government could fulfill its duties. The Saudi Government also prepared residential complexes for the habitation of Kuwaiti families, they were well treated by the Saudi authorities and people, and their children were registered in the schools and universities and had access to the same services as any Saudi citizen. See: " Riyadh" newspaper, Ed. of 31 January 1996.

57) Saiid Shorbaji Abdelmola, OP CIT, P. 206.

58) Paul Stevens, OP CIT, P. 218.

59) Ahmed Monir Najar, 'Glimpses on the Economic Effects of the Iraqi Aggression over Kuwait', in *Gulf and Arab Peninsula Studies Magazine*, Ed. N. 74 of July 1994.

60) *Ibid*.

61) 'Asharq Al-Awsat' newspaper, Ed. N. 6204, of 23/11/1995.

62) Majdi Sobhi, 'The Gulf Post-War Political Economy', in *IPJ*, Ed. N. 105, July 1991.

63) Qatar-Bahrain conflict concerns the three petroleum rich islands which are: Facht Adabel, Jerada and Howar besides Zebara. This is the first Gulf boundary conflict to be submitted before the ICJ. This dispute erupted in conflict more than once and the most dangerous of them all was that of April 1986, in which both countries were on the verge of a military confrontation. Saudi Arabia, in this instance, mediated to avoid the confrontation. The dispute again surfaced during the Iraqi occupation of Kuwait. Consequently, Qatar presented a request to the ICJ in July 1991 asking for its sovereignty over these territories. However Bahrain refused the Qatari request based on the fact that the request should be presented by both parties. For more details, See: Mohammed Abdelfadil, 'Qatar and Bahrain conflict', in *IPJ*, Ed. N. 111, January 1993; Muhammad Faour, OP CIT, PP. 92-93;

Rodman R. Bundy, 'Maritime Delimitation in the Gulf', Ed. in Maurice Mendelson & Susan Hulton, OP CIT, P. 184; Malcolm D. Evans, "Case Concerning Maritime Delimitation and Territorial Questions Between Qatar and Bahrain (Qatar v. Bahrain), Jurisdiction and Admissibility", *International and Comparative Law Quarterly*, Vol. 44, July 1995, The British Institute of International and Comparative Law, London 1995.

- 64) The Saudi-Qatar conflict concerns the Al-Khofous region conceded by UAE to Saudi Arabia in the terms of the 1974 treaty. It is a very important area for Qatar since it links it with UAE which is one of the main commercial partners of Qatar. The conflict erupted when Qatar declared in 30 September 1992 that a Saudi military unit attacked the Qatari Al-Khofous area and occupied it. Saudi Arabia replied that the provisions of 1965 treaty are obligatory and Qatar could not by itself withdraw from the treaty, and negotiations, if there were any, should be on the basis of this treaty; The Qatari Ministerial Council promulgated a resolution concerning the treaty. Relations between the two countries were further damaged and Qatar stopped participating in the G.C.C. works until the conflict was solved through Egyptian mediation. A Saudi-Qatari commission was formed to implement the provisions of 1965 treaty. This measure came right after the signature of a trilateral, Saudi Arabia - Qatar - Egypt declaration. Later Qatar regained its place in the G.C.C.. See: Mohammed Mostafa Shahata, 'The Saudi borders with the Gulf States', in *IPJ*, Ed. N. 111 of January 1993.
- 65) Lawrence Freedman & Efraim Karsh, The Gulf Conflict 1990- 1991, Diplomacy and War in the New World Order, Faber & Faber, London 1993, PP. 96-97.
- 66) Ahmed Tabet, 'Syria and The Crisis: Regional and International Benefits Opportunity', in *IPJ*, Ed. N.103 of January 1991.
- 67) 'The Attitude of the Arab and International Parties From the Iraqi System Aggression Over Kuwait', G.C.C. Secretariat-General, Vol. I, December 1991, P. 50.
- 68) Abbas Shiblak, 'The Deepening Tragedy of The Palestinians', Ed. in Victoria Brittain, The Gulf Between Us, Gulf War and Beyond, Vigaro, London 1991, PP. 119-132.
- 69) Ahmed Sidki Adajani, 'The Palestinian Affair and the Arab-Zionist conflict after the Gulf War' a Paper presented in the symposium held by the Center of Arab Unity studies, under the title: "The Consequences of The Gulf War on the Arab Nation".
- 70) Mostafa Talas, Kuwait Liberation War, Talas Press, Damascus 1994, P. 120.
- 71) Lawrence Freedman & Efraim Karsh, OP CIT, PP. 102-107.
- 72) *Ibid*, OP CIT, PP. 331-341.
- 73) See the Author's Master Thesis, OP CIT, P 201; Morad Ibrahim Dassouki, 'Desert Storm...Lessons and Conclusions', in *IPJ*, Ed. N. 104 of April 1991.
- 74) Muhammad Faour, OP CIT, P. 107.

- 75) More than 250 thousand Palestinians lived in Kuwait and enjoyed extra privileges, yet the Palestinian supported the occupying Iraqi authorities with their pillage and destruction. The Palestinians were considered as traitorous and agents of the Iraqi Forces. During the conflict, Kuwait expelled 150 thousand Palestinians that cooperated with the occupying forces. As for the rest of them, the Kuwaiti Government had stopped the working contracts of Palestinians in the public sector since 5 August 1990. As for those working in the public sector, the Kuwaiti authorities refuse to renew their residence permissions. See: 'The Arabic Strategy Report' of 1991, OP CIT, PP. 294-296.
- 76) Saiid Amin Shalabi, 'The View of Johanne Host of the Treaty of Israeli-Palestinian Principles Declaration', in IPJ, Ed. N. 116, April 1994.; Badr Abdelaati, 'The Problematic of The Palestinian Autonomy Government...Discrepancy Issues Before "Oslo Treaty"', in IPJ, Ed. N. 114 of October 1993.
- 77) For more details, See: Lawrence Freedman & Efraim Karsh, OP CIT, P.108; 'The Arabic Strategy Report' of 1990, OP CIT, P. 142.
- 78) Ahmed Mahaba, OP CIT.
- 79) Lawrence Freedman & Efraim Karsh, OP CIT, PP. 352-354.
- 80) For more details, See: 'The Arabic Strategy Report' of 1990, OP CIT, P. 151.
- 81) Hani Raslan, 'Turkey and Gulf Security', in IPJ, Ed. N. 105 of July 1991.; See the Author's Master Thesis, OP CIT, P. 165.
- 82) Emad Jaad, 'The Geographic Approximate States: Loss and Benefit Calculations', in IPJ, Ed. N. 103, January 1991; Nabil Abdelfatah, 'The Arab From The Arabic System to The Middle Eastern System to be Established', ed. in IPJ, Ed. N. 111 of January 1993; 'The Arabic Strategy Report' of 1990, OP CIT, P. 153.
- 83) 'The Arabic Strategy Report' of 1991, OP CIT, P. 145.
- 84) During the Iraqi occupation of Kuwait, 700 thousand Yemeni workers left Saudi Arabia, and 150 thousand left Kuwait. Bear in mind that there were approximately one million Yemeni workers; 'The Arabic Strategy Report' of 1990, OP CIT, P. 374.; Ibrahim Karawan, 'The Arab Problematic in The Nineties...Breaking the Banned and the Search for the Road Landmarks' translation by: Manar Shorbaji, ed. in IPJ, Ed. N. 117 of July 1994.
- 85) Osama Al-Ghazali Harb, 'The Yemenite Conflict and The Consequences of the Gulf Crisis'(Editorial), ed. in IPJ, Ed. N. 117, July 1994; Abdullah Saleh, 'Yemen: The Conflict of Unity and Separation, in IPJ, Ed. N.117, July 1994.
- 86) 'Al-Hayat' newspaper, of 25 November 1993.
- 87) Osama Al-Majdoub, 'The Postulates of The Arab Reality after The Gulf Crisis', in IPJ, Ed. N. 106, October 1991.
- 88) Nabil Abdefataah, OP CIT.; Al-Alkim Hassan Hamdan, OP CIT, PP. 147-148.

89) Lawrence Freedman & Efraim Karsh, OP CIT, P. 97.

90) Iran considered the "Declaration" an alliance that jeopardized its security and that the Damascus Security of the Gulf is the duty of its States alone. The G.C.C. States, not ignoring the Iranian neutral attitude towards the Iraqi invasion of Kuwait, changed the basic strategy of the "6th of March Declaration". Also the G.C.C. did not want to carry the financial burden of the Declaration. Therefore, the draft Declaration did not become effective as it did not satisfy all parties.

91) Salah Al-Akad, OP CIT, P. 462.

92) "Al-Watan" Gazette of 11 February 1994.

CHAPTER THREE

THE G.C.C. SECURITY CONVENTION

The idea of security coordination between the G.C.C. States started long ago. Saudi Arabia ratified a treaty with the Kuwait Sheikdom in 1942(1). The idea for security coordination emerged gradually due to the contemporary political and security events in the Gulf region in particular, and in the Middle East in general. One notes that the military conflicts in the region led directly to the G.C.C. States' comprehensive security cooperation.

His excellency Sheikh Mohammed Al Khalifa, Bahraini Minister of Interior declared that: *"the idea of the comprehensive Security Convention emanated during the 1st Conference of the Arab Ministers of Interior in 1977 in Egypt, the Gulf Ministers of Interior met in the residence of Sheikh Saad Assabah, the then Minister of Interior, we all agreed to actually consider the issue"*(2).

Later on the project was concretized in 1982(3) within the framework of a comprehensive security strategy. It is noteworthy that there has been security cooperation between the Gulf States before the conclusion of the Security Convention and before the establishment of G.C.C.. H.R.H. Prince Ahmed Ben Abdul Aziz, the Saudi Vice-Minister of Interior, declares that: *"the security cooperation between the Gulf States was in existence for a long time basically because of the religious, social, cultural and other bonds"*(4).

It is noteworthy that this strategy was proposed firstly by Saudi Arabia(5). Bahrain later required that the Bahrain-Saudi Arabia bilateral convention would be adopted and extended to the other member States. The Bahraini proposal was discussed during the first meeting of the G.C.C. Interior Ministers in February

1982 in Riyadh. They considered the bilateral treaties signed by Saudi Arabia with other G.C.C. member States as the minimum level of cooperation in the security field and as a complementary part to the Security Convention. That is what Sheikh Fahem Al-Kassimi, the Secretary-General of the G.C.C., assured the author by declaring that: *"a decision was reached by the G.C.C. Ministers of Interior, namely that the bilateral agreements concluded between Saudi Arabia and the Gulf States is considered the minimum level of security cooperation when drafting the comprehensive Security Convention within the member States of the Council"*(6).

Many points were raised by the Gulf States which led to a number of studies into the preparation of a new draft that would take into consideration the different points of view. It was only in 1993(7), ten years later, that a draft was agreed on. It was further modified when it was submitted to the G.C.C. Supreme Council during its fourteenth session in 1993 which mandated the G.C.C. Interior Ministers to re-draft and sign the Security Convention.

The new draft was signed by the Interior Ministers of four G.C.C. States on 28 November 1994. The co-signatories to the new draft are: Saudi Arabia, United Arab Emirates, Oman Sultanate and Bahrain. Kuwait and Qatar did not sign this Convention; consequently, these two States, with respect to the Rules of Procedure(8), are not bound by the provisions of this Convention.

The Kuwaiti position was based on criminal extradition and the pursuit of criminals beyond the borders of neighbouring states. In fact, Kuwait justified its attitude on the grounds of its November 1962 Constitution which states, in Article 28, that: *"no Kuwaiti national is to be deported from Kuwait nor prevented from returning back to it"*. This means that a Kuwaiti national cannot be extradited from Kuwait, while Art. 28 of the Security Convention permits the national's extradition in the following words: *"...The last two paragraphs shall be applied*

even if the accused person whose extradition is sought is a citizen of the requested State"(9).

His excellency Sheikh Ali Assabah, the Kuwaiti Minister of Interior, declared the following: *"I am ready to sign the comprehensive Security Convention if Art.28 is omitted. If its omission can not occur, I propose that the member States would conclude bilateral agreements without Art. 28 which contravenes the Kuwaiti Constitution"(10).*

As for Qatar, two points were raised. First, it argued that the Convention would repeal bilateral treaties, yet Qatar withdrew this suggestion after recognizing the effect of Art. 41(11) which permits any two States to apply in their reciprocal relationship the provisions of either the bilateral convention or those of the G.C.C. Security Convention. This is discussed in Chapter Four. Secondly, in the case of dual nationality, agreed upon by G.C.C. member States and stated in the internal committees during the implementation of the provisions of the Security Convention; the Qatari ministerial Council approved the Convention and submitted it to Shoura Council which has so far not decided on its approval. To the author's point of view, Qatar signature of the Convention is related to a political decision. In fact, Sheikh Abdullah Al-Thani, the Qatari vice-President of the Ministerial Council and Minister of Interior revealed to the author that: *"The project of the security convention is submitted to the Shoura Council and it is still under study"*. To the question about the expected date of signing the Convention, his Excellency replied: *" I think it will be signed during the four coming months"(12).*

The author asked his excellency Badr Ben Saud Ben Harb, the Omani Minister of Interior (president of the present session of both Arab and Gulf Ministers of Interior) about extradition to non-signatory member States, namely Kuwait and Qatar, He replied:

“Oman prefers that Kuwait and Qatar would sign the security convention, but as far as criminal extradition is concerned, Oman would apply reciprocity, and up to now no criminal extradition has occurred between Oman and the Gulf States except with Saudi Arabia and UAE because we are neighbours”(13).

If one examines the Convention's provisions(14), it is formed of six chapters containing forty-five articles(Appendix 1). Like any international convention, the G.C.C. Security Convention opens with a preamble which emphasizes the Security Convention's aims to protect security and basic principles from the penetration of destructive ideas which corrode the basis of society. Further, the stability of the G.C.C. states is their collective responsibility.

After the preamble, the first chapter(15)contains the general principles in ten articles which urge the G.C.C. member States not to give refuge or shelter to criminals regardless of their citizenship. The Convention applies to the citizens of the G.C.C. States and of other States(16) resident in the G.C.C. territories. Also, the authorities of G.C.C. States are exhorted not to provide criminals, in any way, with assistance that could enable them to perform acts of violence and destruction against any G.C.C. member State(17).

The G.C.C. States are obliged to prevent their nationals and their residents from committing acts that might pose a threat to the internal security of any other G.C.C. member State(18).

As for security cooperation, the provisions of the Convention compel the exchange of security information, research, and study data and any expertise in security matters(19); and the exchange of books and bulletins issued by security organizations(20). Each member state has to inform the relevant bodies in other member States at least one month prior the opening of any conference or seminar

covering security matters in order that the concerned authorities can profit from the information(21).

Also the cooperation in security fields was initiated within the administrations of general relations of the police in the G.C.C. member States through the exchange of expertise, information, visits, the reinforcement of relations with the international organizations dealing with the police systems(22).

In addition, G.C.C. member States should exert their utmost efforts in unifying the system of penal laws, to facilitate security measures and unify regulations dealing with immigration, passports, residence permits and other matters pertaining to security organizations in general(23).

Art. 3 of the Convention states that the member States are banned from the exportation of weapons and explosives and their components without the consent of the competent authorities(24) in accordance with current legal procedures, and that they should not allow the circulation of pamphlets or any printed matter that contradict Islamic instructions or oppose the stability of G.C.C. security.

The second chapter of the G.C.C. Security Convention, formed of five articles, deals with the integration of security organizations in the G.C.C. States. The Secretariat-General of the G.C.C. is charged with preparing and organizing joint training sessions for the personnel of different security systems in the G.C.C. member States(25). The Secretariat-General is also empowered to invite experts to establish security training centers and to set up dedicated communications networks to be used by the Interior Ministries of the G.C.C. member States(26).

To attain a complete integration of security organizations, Art. 15 of the Convention states the necessity to carry out field visit exchanges with the personnel of member security organizations and to organize periodic meetings to

increase coordination between them and to acquaint them with up to date instruments used in the security field. Art. 14 prohibits the appointment, in the security field, by any G.C.C. State of any non-national without the consent of the Interior Minister of the State in which the person previously worked.

Chapter three of the G.C.C. Security Convention deals with smuggling and illegal entry and departure. This chapter is also formed of five articles. The provisions of the Convention require the utmost effort in preventing illegal entry and departure from member States⁽²⁷⁾. Security authorities of the member States are required to arrest illegal aliens and extradite them to the boundary security post of the country which they have illegally entered.

As for any unidentified persons who illegally enter a country after previously entering another country the same way, any authority which arrests such persons is required to ascertain their status and inform the relevant authorities of the State through whose territory he has passed⁽²⁸⁾.

As for fugitives from a member state, the authorities of the neighbouring states have to pursue these persons if they trespass a state's boundaries⁽²⁹⁾; the pursuit should be carried out only by bodies empowered for this purpose. It is stipulated that pursuit should be carried out by vehicles with distinguishable official emblems. Land pursuit differs slightly from maritime pursuit⁽³⁰⁾. In land pursuit, the number of patrol cars used should not exceed three cars and twelve persons. As for maritime pursuit, the number of cruisers used in the chase should not exceed two cruisers, nor exceed the registered crew of these cruisers. The pursuing vehicles should be lightly armed in accordance with what is agreed upon by the Interior Ministers of the G.C.C. member States⁽³¹⁾. When discussing pursuit, one notices that the Convention allows pursuit patrols to pursue the criminals into the territory of another State. A question arises, as to the extent these patrols can

operate, and if there is a limited distance, who is responsible for pursuit beyond this limit?

Art. 19 answers this question by stating that the pursuing patrols cannot cross the boundary of the neighbouring State beyond the boundary positions agreed upon by the neighbouring States⁽³²⁾, whether land or maritime boundaries. The pursuit and arrest of the pursued persons who enter the territories of a neighbouring State would then be the responsibility of the authorities of this State.

The problem experienced by some of the G.C.C. neighbouring States is that they still have not demarcated their international boundaries. This jeopardizes their mutual relationships and internal security; thus the Convention avoids this problem by insisting that the patrols' meeting points (on land or at sea) shall be agreed by the neighbouring States⁽³³⁾.

Because of the importance of boundary security in coping with smuggling and illegal entry and departure, the Convention imposes responsibilities on G.C.C. boundary patrol authorities to meet regularly to organize joint patrols in the boundary region⁽³⁴⁾.

The fourth chapter of the Convention, constituting six articles, deals with combating crime and compels the authorities in the member States to exchange the names of dangerous criminals and undesirable persons, to control their movements and, if necessary, to restrict their ability to travel⁽³⁵⁾.

Any G.C.C. member State can be asked to provide other States with available information concerning criminal activities that pose a threat to a member or non-member State⁽³⁶⁾, and new means of criminal detection⁽³⁷⁾. The provisions of the Convention urge the relevant authorities in the member States to oblige those

officers in the field of investigation and detection to attend preliminary interviews to supply official documentary proof as to their competence(38).

As this might involve secret information, considered to be too sensitive to be revealed at a particular time, Art. 26 compels G.C.C. member States to take appropriate and necessary measures to keep such information out of the public domain.

The fifth chapter of the Convention tackles the most important items of the Convention, namely criminal extradition. It is the longest chapter in the G.C.C. Security Convention since it covers the Articles from 27 up to 40. In this chapter, it is stated that the member States should extradite criminals from their territories(39). Any such extradition is covered by conditions that should be satisfied by the member states party to the extradition.

Particularly problematic is art. 28 which reads:

“Extradition shall be obligatory between the member States if the request satisfies two conditions:

a. If the acts alleged to have been committed by the accused, in accordance with the Laws and Statutes of the requesting States, constitute crimes which are within the crimes of divine ordinance punishment, retribution punishment or discretionary punishment, or crimes which are punishable by a deprivation of liberty of not less six months.

This provision shall apply even if the crime has been committed outside the territories of the two States provided the Laws or Regulations of the requesting State provide for the punishment of this crime if committed inside or outside its territory.

b. If judgment has been passed by the judicial authority in the requesting State, whether in the accused person's presence or in absentia, in relation to crimes punishable by

divine ordinance punishment or retribution punishment or discretionary punishment, or deprivation of liberty of a period of not less than six months... ”.

This text appears contrary to a strict legal conclusion since “*..satisfies two conditions*” in this context defeats the purpose of the Convention and it must be replaced by “*..satisfies one of the two conditions*” because it is impossible that a person can be alleged and convicted at the same time. It is noteworthy that art. 27 reads: “*..who are accused or have been convicted..*”. The author has retraced this issue in the bilateral Conventions and finds it different from the G.C.C. Security Convention and the 1982 draft security convention. For example, art. 22 of the 1982 draft security convention reads:

“Extradition shall be obligatory between the member States if the request satisfies two conditions:

a. If the authorities in the requesting State consider the offence, by virtue of their regulations, punishable by imprisonment for no less than six months.

b. If the offence is committed inside the territory of the requesting State or committed outside the territory of both the requesting and requested States and their legal systems punish offences if committed outside their territories”.

Paragraphs(a) and (b) of art. 22 of the 1982 draft convention are amalgamated with some changes to form paragraph(a) of art. 28 of the 1994 Convention.

Paragraph(b) is added without changing the introduction to art. 28. The author has discovered that paragraph(b) of art. 28 is taken from the Riyadh Convention of 1983, art.40 paragraphs(c) and(d), with some changes.

This important finding is worth submitting before the Ministerial Councils of the G.C.C. States to take the appropriate measures to remedy the defect in art.28.

Indeed the author, during the course of this study, interviewed three Ministers who agreed that such change was essential.

However, Art.28 deals with extradition of an accused person. Such a person, to be extradited, has to have committed offences punishable by divine ordinance punishment, retribution punishment or discretionary punishment(40). The conditions are not only limited to these crimes, but also to crimes punishable by at least six months imprisonment.

These offences are dealt with in the Islamic Shari'ah(41). The offences subject to the divine ordinance punishment (fixed penalties) are highway robbery, theft, fornication, accusation of adultery, and drinking alcohol(42). From the Holy Quran (the main source of the Islamic law), we read "*...provided they feel that they can keep the limits ordained by Allah. Such are the limits ordained by Allah which He makes plain to those who understand*"(2:230). This category of offences are clear and their punishment is fixed in advance and known by "*those who understand*"(43).

The offences punished by retribution(44) punishment (disciplinary or talion punishment)(45) are premeditated murder or wounding; from the Holy Quran, we read: "*We ordained therein for them: 'life for life, eye for eye, nose for nose, ear for ear, tooth for tooth, and wounds equal for equal'. But if any one remits the retaliation by way of charity, it is an act of atonement for himself. And if any fail to judge by (the light of) what Allah hath revealed, they are (no better than) wrong-doers*"(5:45). This statement is a clear explanation of the law of retribution. If any person premeditatedly kills or wounds another person, he shall be killed or wounded similarly; this is an aspect of the principle of the Islamic equality(46). Allah puts it as "*In the law of equality there is (saving of) life to you, O ye men of understanding: that ye may restrain yourselves*" (2:179). In case of unpremeditated murder or wounding, the law of retribution is not applied.

Discretionary punishment is imposed on offences not subject to divine ordinance or retribution⁽⁴⁷⁾. Discretionary punishment penalises any felony. The provisions of the Islamic Shari'ah do not define such offences or their punishment which is left to the judge's consideration to the offence; he has the right to sentence the offender taking into consideration the general well-being of the community⁽⁴⁸⁾.

A question might arise when the person subject to extradition commits a crime outside the territories of both requesting and requested states. The G.C.C. Security Convention states that it is possible that a previous judgment could apply provided that the law in force in the state requesting extradition is capable of punishing the crime both inside and outside its territory. The second condition for extradition is that the judgment should be issued by the judicial authorities of the requesting State for a crime punishable with a minimum six months imprisonment. The same requirement was laid down in Art. 22 of the 1982 draft convention that defined the extradition request as follows. First, the crime must be punishable to six months imprisonment. Secondly, the crime should be committed in the territory of the requesting State, or outside the territories of the requesting or the requested States provided that the laws of both States punish the commission of crimes outside their territories.

It should be noted that the Kuwaiti constitution forbids the deportation of nationals and the Security Convention states the extradition of nationals is competent⁽⁴⁹⁾. There is, however, a difference between deportation and extradition⁽⁵⁰⁾. Extradition is a procedure by which a State surrenders a person, located in its territory, to another State which requests his extradition to be tried for an offence he is charged with or to execute a punishment to which he is sentenced. Deportation is the call upon a foreigner to leave the State where he is living due to reasons related with the State's internal or external security. In international law⁽⁵¹⁾, nationals should not be deported, a measure adopted by all the governments either stated in their constitutions or in custom.

It should be noted that Art.37 of the UAE Constitution and Art.16 of the Oman Constitution also ban the deportation of their nationals which is similar to the Kuwaiti text. The UAE Constitution is more problematic than the Kuwaiti particularly in this regard since it completely forbids the extradition of nationals in Art. 38, yet UAE signed the G.C.C. Security Convention for the benefit of overall regional security.

It is to be borne in mind that the 1982 draft convention did not permit the extradition of nationals, since it classified the extradition of nationals within the cases in which extradition is not permitted, with the proviso that the State, of which the criminal holds citizenship, tries him in accordance with its laws and based on the accusation file presented by the requesting State; this is stated in Art. 23(1).

Where, for example, by virtue of a judgment issued by the Saudi judicial authority, Saudi security authorities require from Bahrain the extradition of a Bahraini citizen, and if the case of the person to be extradited satisfies all of the extradition conditions. Therefore, the Bahraini authorities should not refuse extradition just because the accused is a Bahraini national. Art. 28 of the G.C.C. Security Convention confirms this by obliging the extradition if the conditions are satisfied whether the person to be extradited is a national or a non-national.

The requested State may refuse to extradite a person when one of the following conditions is satisfied, i.e. if the offence subject of the extradition request is considered as a political offence. The description of a political offence is subject to various interpretations and its definition is imprecise⁽⁵²⁾. In fact, jurists disagree over the definition of the concept⁽⁵³⁾.

In the past, political offences were subject to extradition⁽⁵⁴⁾, yet such offences have been gradually become impermissible for extradition by the international community starting from the recommendations of the International Law Conference held in Oxford in 1870⁽⁵⁵⁾.

Internal laws⁽⁵⁶⁾, international agreements⁽⁵⁷⁾ and jurists do not set a plain definition for the political offence. Some jurists define the concept with relation to the political motives of the offender⁽⁵⁸⁾; for others, the offence is political if the acts forming the offence are of political nature such as the infringement of the security and the political system of the State.

Terrorist activities⁽⁵⁹⁾ (eg. air and maritime hijacking⁽⁶⁰⁾, explosions, etc..) are not considered political offences since these offences target the social system of the State in general. Therefore, the Council of the League of Nations tried the negotiation of an international convention for the prevention and punishment of crimes of political nature described as acts of political terrorism⁽⁶¹⁾. Moreover, the international community aims to exclude terrorist acts from political offences by concluding a series of conventions such as: Hague Convention of 1970⁽⁶²⁾, Montreal Convention of 1971⁽⁶³⁾(and protocol of 1988), Rome Convention of 1988⁽⁶⁴⁾(and protocol).

The definition of whether an offence is a political offence depends on the requested State's consideration⁽⁶⁵⁾. In case of a discrepancy between the asylum and requesting States over the definition of a political offence, the State soliciting extradition has the right to submit the dispute before international arbitration and justice⁽⁶⁶⁾.

Since the concept of political crime is very wide ranging, Art. 30 of the Security Convention lists criminal acts excluded from the concept of political crime, e.g. those offences committed against Heads of States, Crown princes, members of the

royal family, ministers and persons of their rank, military crimes, terrorism and acts of sabotage, high treason, pre-meditated murder and theft, and any such attempt at committing the above crimes, if they are punished by the laws in force of the State that requests the extradition(67).

There are two categories of military offences(68); first, purely military crimes, for instance, the desertion of the military duty, the transgression of military order. In such acts, extradition is not competent(69). Secondly, common offences committed by military persons, such acts are considered to be military offences because of the status of the offenders; for this category of military offences, extradition is applicable(70). This distinction was approved by the Oxford International Law Conference of 1880(71). It is to be borne in mind that the G.C.C. Security Convention lacks a definition of the military crime for which extradition is applicable, but it states that military crimes are extraditable without specification.

Extradition cannot apply if the person whose extradition is solicited commits the offence in the territory of the requested State(72).

Extradition is not allowed if the persons requested to be extradited enjoy diplomatic immunity whether they carry out diplomatic functions or not, in accordance with the principles of international law or by virtue of the international agreements(73). Further, extradition is not permitted if the person subject to the extradition is tried or is being tried for the crime to which his extradition is requested and the procedures are carried out in the requested State or in the State the crime is committed in provided that this latter state is not the requesting State(74).

Extradition is not permissible(75) in cases where the criminal proceedings are dropped or if the acts, committed by the person subject to the extradition, are described not to be criminal acts in accordance with the effective laws of the

requesting State. In fact, some acts are considered offences at a particular time, yet by virtue of newly enacted Laws and regulations, such acts are no longer offences and their criminal character is removed and their penalty is rescinded. The criminal would therefore benefit from such an enactment.

It should be noted that the 1993 and 1994 draft conventions state only one case in which extradition is banned, while the 1982 draft convention states four cases in Art. 23. These cases are; if the person requested for extradition is a national; if the crime is committed outside the territories of both requesting and requested States and their effective laws do not punish such acts; if the crime is committed in the territories of the requesting State and the person subject to the extradition demand is not one of its nationals and the acts are punishable by virtue of laws of the requested State; if the crime and the punishment are rescinded.

What are the formal conditions for the extradition request? Art. 31(b) answers this question by stating that the requesting file should contain a detailed report concerning the person requested, his identity, his description and his photograph; an arresting report issued by the competent authority showing that, by virtue of its effective laws, punishment is not to be dropped and that the act committed by the person requested for the extradition still considered a criminal offence. Moreover the file should contain a certified copy of the provisions that penalize the crimes committed by the person subject to the extradition; the evidence, issued by the competent authorities, that prove the culpability of the person requested; and a certified copy of the judgment against the person. If there is no judgment issued against the person an attendance warrant issued by the competent authorities is also presented along with a document that indicates that the request conforms with the provisions of the Convention.

When the request file contains all the required documents, it is conveyed from the authority of the State demanding the extradition of the person to the authority of

the requested State. The Convention laid down exceptions to the provisions of Art. 31. It states that the extradition is obligatory if the person to be extradited confesses guilt to the crime and the crime committed is included under acts of crime for which extradition is obligatory. In such cases, the requested State is obliged to extradite the person required(76).

It is noteworthy that the provisions of Art. 32 of the 1994 draft Convention are not referred to in the 1993 draft convention; it is the only article that is not stated in the 1993 draft. Thus, there are 44 articles in the 1993 draft, while in the 1994 draft there are 45 as noted above.

The 1982 draft convention (Art. 28) does not ignore the provisions laid down in the 1994 Convention (Art. 32). Both Articles are similar in spirit but with a slight difference as far as the textual level is concerned, particularly in the end of Art. 28(77).

When dealing with an extradition demand file, attention should be paid to the effective judicial systems in the G.C.C. member States at the time of the extradition request. In other words, if the laws of the requesting or requested States are amended after the date of the demand, these changes are not effective on the demand since the request was based on the laws and regulations in effect at the time of the request(78).

The extradition demand should be dealt with in a fixed period of time after which the requested State is obliged to inform the requesting State of its decision. In the case of a negative reply, the requested State has to justify its refusal. The Convention fixed the period of time for reply to two months starting from the date of receiving the request for extradition(79). In the case of a positive reply, the requesting State has to attend the collection of the person to be extradited within thirty days after the date of receiving a telegram concerning the extradition

decision. If the requesting State does not respect the time limit for reply, it will not have the right to extradite the person in question unless a new demand for extradition is made. This is because the requested State, due to the expiry of the fixed date, may release the detained person (80) subject to the extradition request.

On the practical level of criminal extradition, it may happen that a State receives, from other States, numerous demands for extradition of the same person and for the same crime; to avoid such a case, the G.C.C. Security Convention addresses the matter by stating that the requested State should give priority to the State which has suffered the greater damage and, secondly, the state where the crime was committed(81).

Extradition demands may be for different crimes. In this case a decision will depend upon the circumstances and in particular the gravity of the crime, the place where the crime was committed and the date of receipt of the extradition demand(82).

Art. 35 points out that if the requested person is sentenced to a crime committed in the requested State, this State has to inform the requesting State of its decision concerning the extradition demand either positively or negatively, and has to postpone the extradition until the person subject to the extradition demand serves their term of imprisonment or is found innocent of the crime. The requested State may provisionally deliver the person to the requesting State to appear before the competent authorities of the requesting State provided that the person is returned to the requested State.

Art. 36 deals with the precautionary detention of the person to be extradited in the requested State. The detention should not exceed thirty days. The authorities of the requested State should release him unless it receives, during this period of time, a renewed demand for extradition, or the authorities of the requested State decide

that his imprisonment for another thirty days as a maximum if the requesting State demands so, provided that this period of imprisonment is taken off any prison sentence that has been handed down in the requesting State.

By virtue of Art. 37, the requested State has to deliver incriminating evidence to the requesting State in accordance with the effective laws and regulations in the requested State.

It is obvious that the competent authorities in the requesting State would not try the person requested except for the crimes in the extradition demand; yet, by virtue of Art. 38(83), the person can be tried for other crimes if he consents.

Concerning extradition expenses, the requesting State incurs all extradition charges and the charges for the return of the person extradited, to the place he is extradited from, if the person is proved innocent(84).

The sixth and last chapter of the G.C.C. Security Convention deals with the final provisions. Art. 41 settles the case when the provisions of the G.C.C. Security Convention contradict the provisions of bilateral treaties (concluded between Saudi Arabia and other G.C.C. member States) to which the G.C.C. member States comply. Therefore, the application of extradition would be governed by the provisions which easily realize a comprehensive security cooperation(85).

The provisions of Art. 41 come in Art. 35 of the 1982 draft. Art. 35 gives priority in practice, in case of a contradiction, to the easiest provisions as far as the criminal extradition is concerned, while the 1993 draft convention completely omits mention of the Bilateral Security Treaties signed by the G.C.C. member States with each other. This draft also indicates that in case of conflict between a provision of the 1993 draft Convention and any national law, the priority in practice would go to the provision of this draft Convention. As for the ratification

of the provisions of this Convention, it shall be ratified during the four months from the date of signature and in accordance with the constitutional conditions in force in each member state.

Although the UAE signed the Convention, it did not ratify it. The author asked his Excellency Lieutenant General Dr. Mohammed Ben Badi, the Minister of Interior, about the reasons for which the UAE ratification is delayed. His Excellency said: *“the delay in ratifying the comprehensive security convention is because the convention is still under study in the Shoura Council, which is just a routine procedure. It will be finished soon, the cooperation is going on, the convention is in force, the directives of President Sheikh Zaid are clear and straightforward concerning the signing of the convention”*. The author pointed out that UAE Constitution forbids the extradition of nationals. His Excellency replied that: *“I do not think there is a contradiction between the Convention and the Constitution because the G.C.C. has a special priority and the text [of the constitution] would not apply to the G.C.C. States, but it does to other States”*(86).

The instruments of ratification are to be deposited with the Secretariat-General of the G.C.C. which in turn prepares a report of deposit of the instrument of ratification of each State and informs the other member States of any State deposition(87).

Art. 43 deals with the entry into force of the Convention. It is effective one month after the completion of deposition of ratification documents of two thirds of the signatory States. For the Convention to enter into effect, the instruments of ratification of three member States are to be deposited with the Secretariat-General, and a month would elapse after the third State's deposition of its instrument of ratification. Three member States have now completed the deposition of ratification documents namely Saudi Arabia, Bahrain and Oman. As a result, the Convention has entered into force as from 22/6/1995(88).

It would be illogical if the Convention stipulates, for its provisions to enter into effect, the deposition of the instrument of ratification of two thirds of the G.C.C. member States, since what matters for the effectiveness of any convention is the agreement of the Contracting Parties upon provisions of the convention.

As far as the entry into effect is concerned, the 1982 draft convention (Art.37) categorically differs from the 1993 draft convention and the 1994 Convention. The 1982 text stipulates the expiry of one month from the date of the deposition of instruments of ratification of all signatory States; whereas, the 1993 draft convention and the G.C.C. Security Convention require the deposition of instruments of ratification of two thirds of the signatory States.

As far as the amendment of the provisions of the Convention (89) is concerned, the consent of the Supreme Council is necessary to amend the provisions of the Convention. It is natural that the non-signatory States do not participate in this process.

Concerning the amendment of the convention's provisions, the 1982 draft convention (Art. 38) requires the approval of two thirds of the signatory States, whereas, the text of the 1993 draft convention (Art. 43) agrees with the text of the G.C.C. Security Convention's conditions laid down in Art. 44.

A question arises, namely, does the amendment require a majority decision or not?. In fact, the Convention does not define what kind of acceptance an amendment necessitates. The kind of acceptance relies on whether the amended provision is related to substantive matters which requires unanimous approval, or to procedural matters which require only a majority. To decide whether a matter is procedural or substantive is not within the jurisdiction of the Supreme Council, but that of the Ministerial Council(90).

To amend the G.C.C. Charter requires the unanimous decision of the Supreme Council(91), while a majority is sufficient to amend the Rules of Procedure of the Supreme Council or the Ministerial Council unless the provisions to be amended rely on the provisions of the Charter. If they rely on such provisions, amendment approval requires unanimous decision(92).

The last Article of the Convention deals with any member State s withdrawal from the Convention. It states that the withdrawing state must declare its withdrawal by conveying a letter to the G.C.C. Secretary-General. The withdrawal is not effective until after the termination of six months from the date of the withdrawal notification(93).

It is noteworthy that the idea of the Security Convention emerged since 1977, yet its signature occurred but in 1994, namely after the Second Gulf War. This delay is mainly due to many reasons: the numerous studies of the Convention by the member States, the many proposals made in drafts of the Convention and their amendments by the member States. The Contracting Parties were conscientious on the signature of all the members to the Council, particularly Kuwait which expressed, from the beginning, its disapproval of the G.C.C. Convention. This was ensured to the author by Dr. Mohammed Bin Saud Al-Sayari(94), the Director-General of the Legal Affairs in the G.C.C. Secretariat-General, by Mohammed Al-Doussari(95), the vice-Director of the Security Department in the Secretariat-General of the G.C.C., and by Ahmad Assa'doun(96), the Chairman of the Kuwaiti Oma'h Council (Parliament).

It was thought that the Iraqi invasion of Kuwait would make Kuwait change its attitude towards the signature of the Convention. Yet Kuwait is still holding to its stand.

As far as Qatar is concerned, it did not oppose neither the Security Convention nor the proposals related to the Convention. In the author's point of view, in the light basically of his meetings with officials in Qatar and in the G.C.C. Secretariat-General, the Qatari attitude is due to: the recently escalating boundary disputes with neighbouring States, the internal troubles immediately after the over-throw of Sheikh Khalifa Al-Thani by his son Sheikh Hamad Bin Khalifa and the formation of a new Government; the recent divergence with the G.C.C. member States during the Muscat Summit Conference of December 1995(97) concerning the Qatari desire to nominate its candidate to the G.C.C. Secretariat-General. The withdrawal of Sheikh Hamad Al-Thani from the final session of the summit is a precedent in the inter-G.C.C. relationship.

Nevertheless, Qatar should manage to overcome these problem with the support of the G.C.C. leaders; consequently, it is expected that Qatar will sign the Convention soon.

NOTES

- 1) The author's personal reference.
- 2) Meetings with His Excellency Sheikh Mohammed Al Khalifa, the Bahraini Minister of Interior in Manama on 16 & 18 March 1996.
- 3) The author's personal references.
- 4) A meeting with H.R.H. Prince Ahmed Ben Abdul Aziz, the Saudi vice-Minister of Interior in Riyadh on 3 April 1996.
- 5) An Arab Scientific Seminar concerning The Arab Gulf Security Held in Alexandria(Egypt) during 1-3 February 1994.
- 6) Meetings with Sheikh Fahem Al-Kassimi, the G.C.C. Secretary-General, in Riyadh on 3 March 1996.
- 7) The author's personal references.
- 8) Art. 33(1) of the Rules of Procedure of the Ministerial Council states the following:
"1.The Council shall pass its resolutions with the unanimous approval of the member States present and participating in the vote, while decisions in procedural matters shall be passed by a majority vote. Any member abstaining from voting shall record the fact that he is not bound by the vote."
- 9) The Kuwaiti delegation tried to gain exception from the implementation of the provision of Art. 28 to avoid contradiction with its constitution. However, the Oman Sultanate rejected any exception to the application of this article and Saudi Arabia supported this Omani position during the meeting of the under-secretaries of the G.C.C. Interior Ministers on 1988.
- 10)A meeting with his excellency Sheikh Ali Assabah, the Kuwaiti Minister of Interior, in Kuwait City on 27 March 1996.
- 11)Any state has the right to sign bilateral treaties.
- 12)A meeting with Abdullah Al-Thani, the Qatari vice-President of the Ministerial Council and Minister of Interior, in Doha on 25 March 1996.
- 13)A meeting with his excellency the Oman Minister of Interior in Muscat on 23 March 1996.
- 14)Bear in mind that the 1982 draft convention is constituted of five chapters of thirty-nine articles; the 1993 draft was formed of seven chapters of forty-four articles.
- 15)The first chapter 1982 draft contains also general principles in nine articles, while the first chapter of 1993 project stated the general principles in only three articles.
- 16)The G.C.C. Security Convention, Art. 1.
- 17)Ibid, Art. 1.

- 18)Ibid, Art. 2.
- 19)Ibid, Art. 4.
- 20)Ibid, Art. 5.
- 21)Ibid, Art. 8.
- 22)Mohammed Al Hossaini Abdul Aziz, The Police in the G.C.C. States, The Arab Centre for Security Studies and Training, Riyadh 1990, PP. 314-315.
- 23)The G.C.C. Security Convention, Art. 7 & 10.
- 24)The 1982 Security Convention draft ignores the export of weapons or explosives, but the 1993 and 1994 drafts refer to this matter.
- 25)The G.C.C. Security Convention, Art. 11.
- 26)Ibid, Art. 12 & 13.
- 27)Ibid, Art. 16.
- 28)Ibid, Art. 17.
- 29)Ibid, Art. 19.
- 30)The 1982 draft Convention refers to land pursuit only. As for the 1993 and 1994 draft conventions, they both deal with land and maritime pursuit.
- 31)The G.C.C. Security Convention, Art. 20.
- 32)The 1982 draft convention limited the distance into the neighboring State permitted for pursuing patrols at 20 kilometers while the 1993 and 1994 draft conventions do not maintain this limitation. Kuwait, however, reserved a penetration limit of 20 kilometers into its territories.
- 33)Feisal Al Mazidi, OP CIT, PP. 30-31.
- 34)The G.C.C. Security Convention, Art. 18.
- 35)Ibid, Art. 21.
- 36)Ibid, Art. 22.
- 37)Ibid, Art. 23.
- 38)Concerning the G.C.C. Security Convention's Art. 24 & 25, it is noteworthy that the 1993 and 1994 draft conventions state the presence of the officials of the investigating organizations in the G.C.C. States, while the 1982 draft ignores this matter.
- 39)The G.C.C. Security Convention, Art. 27.
- 40)Ibid, Art. 28.
- 41)Abdur Rahman I. Doi, Shari'ah: The Islamic Law, Taha Publishers, London 1984, PP. 2-8.
- 42)Abdurahman Bin Mohammed Anajdi, Hashia't Arawd Almarba' Sharh Zad Almostaqna', Vol. VII, 2nd Ed., Beirut 1403 H, P. 300.
- 43)Mohammed Assana'ni, Soboul Assalam, Sharh Bolough Almaram min Jam' Adilat Alahkam, Dar Al kitab Alarabi, Vol. IV, 5th Ed., Beirut 1990, P. 5.

- 44) Imam Mowafaq eddine Ibn Qodama and Shams eddine Ibn Qodama, Al Moghni Wa Sharh Al Kabir, Vol. X Dar Al Fikr Beirut, P. 343.
- 45) Imam Ahmed Ibnou Hajar (realized by Sheikh Abdel Aziz Ben Baz), Fath Al Bari Fi Sharh Sahih Al Boukhari, Vol XII, Dar Al Fikr, Beirut, PP 198-200.
- 46) Imam Ala'eddine Almadawi (inquiry Mohammed Al Faqi), Al Insaf, 1st Ed., Vol. X, Dar Ihya' Athorat Al Arabi, Beirut, P. 239.
- 47) Farhad Malekian, The Concept of Islamic International Criminal Law, Graham & Trotman, London 1994, P. 44.
- 48) Abdur Rahman I. Doi, OP CIT, PP. 233 Et. Seq.
- 49) Kuwaiti Constitution, Art. 28.
- 50) Mohammed Al Hossaini Moselhi, Private International Law, OP CIT, PP. 311-312.
- 51) Oppenheim's International Law, 9th Ed., Vol. 1, Parts 2 to Edited by Sir Robert Jennings QC and Sir Arthur Watts KCMG QC, Longman, London 1992, PP. 955-956; Geoff Gilbert, OP CIT, PP. 95-96; Extradition of German National Case, ILR, 21(1954), P. 232; Art. 3(1) French Extradition Law of (RG, 1927, P. 544); Ali Sadek Abuhif, General International Law, Monshaat Al Maarif, Alexandria 1993, P. 292.
- 52) Alun Jones, Jones on Extradition, Criminal Law Library, Sweet & Maxwell, London 1995, P. 143.
- 53) Ali Sadek Abuhif, OP CIT, PP. 308 ET SEQ.
- 54) Oppenheim, OP CIT, P. 962 ; Abdel Ghani Mahmud, Criminal Extradition On The Basis of Retaliation, 1st Ed, Dar Anahda AL-Arabia, Cairo 1991, P. 40.
- 55) Abdel Ghani Mahmud, Criminal Extradition On The Basis of Retaliation, OP CIT, P. 40.
- 56) Geoff Gilbert, OP CIT, PP. 120-130.; Whiteman, Digest, 6, PP 799-857; M. Cherif Bassiouni, International Extradition: United States Law and Practice (1983).
- 57) Oppenheim, OP CIT, PP. 970-971.
- 58) Geoff Gilbert, OP CIT, P. 120.
- 59) Kittrie, Year Book of World Affairs, 32(1978), PP. 208-236.; Gilbert, ICLQ, 34(1985), PP. 695-723.; Richard, AFDI, 34 (1988), PP. 652-676.
- 60) Sharon A. Williams, "International Law and Terrorism: Age-Old Problems, Different Targets", The Canadian Yearbook of International Law, Vol. XXVI 1988.
- 61) Oppenheim, OP CIT, PP. 969-970.
- 62) TS, No 39 (1972).
- 63) TS, No 10 (1974).
- 64) IMO Doc. SUA/ CONF/ 15 Mar. 10, 1988.
- 65) Geoff Gilbert, OP CIT, PP. 113-114.
- 66) Ali Sadek Abuhif, OP CIT, P. 309.

- 67)The G.C.C. Security Convention, Art. 30(1).
- 68)Geoff Gilbert, OP CIT, PP. 101-102.
- 69)Jones, OP CIT, P. 130; See Art. (5) of the Status of Forces Agreement between the Parties to the North Atlantic Treaty, UNTS 67.
- 70)Nacer Fadi Allah, "The Commonly Extraditable And Unextraditable Offences", Paper published in "The Rights" review, Kuwait University, 6th Year, 2nd Ed., June 1982.
- 71)Ali Sadek Abuhif, OP CIT, P. 307.
- 72)The G.C.C. Security Convention, Art. 30(2).
- 73)Ibid, Art. 30(3).
- 74)Ibid, Art. 30(4).
- 75)Ibid, Art. 29.
- 76)The G.C.C. Security Convention, Art. 32.
- 77)The end of Art. 28 reads as follows: "...and if the person required accepts to be extradited to the requesting State without an extradition demand file, the authorities of the requested State shall extradite him". This text is not maintained in the 1994 Security Convention.
- 78)The G.C.C. Security Convention, Art. 33(a).
- 79)The G.C.C. Security Convention, Art. 33(b); One notices that the 1982 draft convention does not fix the period of time during which the requested State has to deal with the extradition file.
- 80)The G.C.C. Security Convention, Art. 40.
- 81)The G.C.C. Security Convention, Art. 34(a); this provision is stated in Art. 33(a) in the 1993 draft convention and in Art. 25(a) in the 1982 draft convention.
- 82)The G.C.C. Security Convention, Art. 34(b); the same provision is stated in art. 33(b) of the 1993 draft convention, while the 1982 draft in art. 25(b) states that priority is given with respect to the date of receiving the demand of extradition.
- 83)There is no textual difference between Art. 38 of the G.C.C. Security Convention and art.37 of the 1993 draft convention, their corresponding one in the 1982 draft convention is Art. 32.
- 84)The corresponding article to Art. 39 is Art. 38 of the 1993 draft convention, and in the 1982 draft convention, it is Art. 33.
- 85)The G.C.C. Security Convention, Art. 41.
- 86)A meeting with his excellency the UAE Minister of Interior in Abu Dhabi on 30 March 1996.
- 87)The G.C.C. Security Convention, Art. 42.
- 88)Dates of Deposition; Saudi Arabia 11/4/1995, Bahrain 2/5/1995, Oman 22/5/1995, as referred to in Art. 43.
- 89)Ibid, Art. 44.
- 90)Rules of Procedures of the G.C.C. Ministerial Council, Art. 33(2).
- 91)The G.C.C. Charter, Art. 20(3).

- 92)The G.C.C. Supreme Council Rules of Procedure, Art. 18(4); The G.C.C. Ministerial Council Rules of Procedure, Art. 38(4).
- 93)The text of Art. 45 of the Convention is identical to the text of Art. 39 of the 1982 draft convention, which, in some ways, differs from Art. 44 of the 1993 draft convention which does not stipulate a fixed period of time. Further,nore, the consent of the Supreme Council is sufficient for withdrawal. This becomes effective after the consent of the Supreme Council without waiting for the termination of any fixed period of time.
- 94)A meeting with Dr. Mohammed Bin Saud Al-Sayari, the Director-General of the Legal Affairs in the G.C.C. Secretariat-General in 12 March 1996.
- 95)A meeting with Mohammed Al-Doussari, the vice-Director of the Security Department in the Secretariat-General of the in 08 April 1996.
- 96)A meeting with Ahmad Assa'doun, the Chairman of the Kuwaiti Oma'h Council (Parliament) in 26 March 1996.
- 97)The annual summit held by the G.C.C. Heads of States.

CHAPTER FOUR

SAUDI ARABIA'S STAND VIS-A-VIS BILATERAL SECURITY
AGREEMENTS CONCLUDED WITH
THE GULF STATES.

The Kingdom of Saudi Arabia has long shown an interest in co-ordinating security operations. However, before investigating these co-ordinating operations themselves, one needs to discuss the causes which urged the Saudi Government towards co-operation with other States whether on the international, Arab, Gulf or bilateral level.

At the turn of the century, the Kingdom of Saudi Arabia was divided into numerous Provinces before the emergence of King Abdul Aziz Ben Abdu Rahman Al-Saud who unified these Provinces and Emirates in 1932⁽¹⁾. An era of development and progress started following upon the discovery and production of petroleum⁽²⁾. To preserve such acquisitions, the Saudi Government had to secure peace and stability by strengthening relations with friendly and neighbouring countries, and by setting security plans to be adopted. These are the main causes behind the Saudi Government's ratification of security conventions. There was also an increase in smuggling operations on the Saudi borders, which together with the escape of fugitive criminals to neighbouring countries and the increase in foreign manpower which accompanied the economic renaissance added impetus to those causes⁽³⁾.

The question arises then, has Saudi Arabia first ratified security conventions in a bilateral framework or within the framework of the League of Arab States in 1952?

In fact, Saudi Arabia did not start ratifying security conventions in 1953, within the framework of the Arab League, but in a bilateral framework and precisely in

1931 with the Iraqi Kingdom, one year before the final unification of the Saudi Kingdom.

From that date on, Saudi Arabia ratified other bilateral conventions. Thus in 1353H.(1933), Saudi Arabia ratified with the Yemeni Kingdom an Islamic and Arab Fraternity Treaty. It later ratified with Kuwait an Extradition Convention in 1362H. (1942). Later on other extradition conventions were ratified between Saudi and Bahrain, the Sultanate of Oman, Qatar and the UAE. These were all bilateral conventions which the Kingdom ratified with each State separately.

One should bear in mind that the Saudi government ratified bilateral security conventions with other non-Gulf States, such as Pakistan, which is, however, beyond the concern of the present thesis.

In the present thesis, each of these security conventions will be studied in a chronological order; each will be analysed and compared with the Comprehensive G.C.C. Security Convention. However, only the major differences in these Conventions will be highlighted.

**EXTRADITION TREATY BETWEEN THE KINGDOM OF HIJAZ AND NAJD
WITH ITS APPURTENANCES AND THE IRAQI KINGDOM(4).**

Before the final unification of the Kingdom, Prince Faisal Ben Abdel Aziz, then deputizing for the King, ratified, in 1351H.(1931) in Makkah, an extradition agreement on behalf of the Kingdom of Hijaz and Najd with its appurtenance, and the Iraqi Kingdom. The latter represented by Nori Al-Said, the Iraqi Prime Minister. This agreement was made up of eight articles dealing with the extradition of criminals between the two States. By virtue of the Convention, the Iraqi government is compelled to extradite any Saudi national who commits extraditable crimes in the Saudi territories and flees to the Iraq territories(5). In its

turn, the Saudi government is compelled to extradite any Iraqi national who likewise commits an extraditable crime in the Iraqi territory and flees to the Kingdom of Hijaz and Najd with its appurtenances(6).

It is noteworthy that articles (1) and (2) reveal the limited applicability to criminal extradition of this convention since extradition is confined only to the nationals of the requesting State. Current security conventions, on the other hand, mostly permit the extradition of persons regardless of their nationality, whether, that is, they hold the nationality of the requesting State or that of other States. The only exception is the nationals of the requested State; what is referred to as “nationals’ extradition” is a bone of contention in extradition conventions.

Extraditable crimes are defined in this Convention as: banditry, robbery, pillage, spoliation, murder, laceration, illegal entry and assault. It also forbids the extradition of persons convicted of political crimes. While this is usually the rule, this article excludes those who commit crimes against a member of the Royal families of both Kingdoms(7).

One needs, here, to notice that the non-inclusion, in this article of detailed reference to political offences, is neither new nor unheard. The absence of a definition for a political offence in this Convention leaves it open to the discretion of the authorities in both states.

As for the formalities of the extradition request file and its components, the Convention cites the required documents therein to be: a description of the person whose extradition is required, a brief statement about the offence committed and a copy of any sentence passed against such person(s). These documents should all be validated by the competent authorities of the requesting State(8).

Furthermore, the Convention provides that it does not apply to crimes committed prior to its implementation⁽⁹⁾. Hence, if the Iraqi authorities request the extradition of an Iraqi national who has committed an offence and fled to the Saudi territories before the implementation of the said convention, the Saudi authorities can refuse to comply with the request even if it is submitted after that implementation. In doing so, the Saudi authorities will not have contravened the convention since Art. (6) clearly covers this eventuality and supports such a decision.

The Convention also mentions the principle that the person extradited can not be tried for an offence other than that for which extradition request has been made. Nor can he be tried for offences he has committed prior to the date of the extradition request unless he has been granted opportunity to leave the territories and he fails to do so⁽¹⁰⁾. The Convention thus states the provision and its exception: that the extradited person should be tried solely for the offence subject of the extradition request while he might be liable to punishment for offences he has committed prior to extradition request and for which no such request has been made if he does not leave that State after having been given the opportunity to do so.

This Convention concludes with expounding on its implementation and validity⁽¹¹⁾. As regards the latter, the Convention is valid for three years, automatically renewable, a renewal request being unnecessary, unless either party, i.e., Iraq and Saudi Arabia, expresses a desire to amend or modify any of its provisions during the last three months before its expiry date. In point of fact, the Convention is still valid provided that none of its provisions contradicts with those of the extradition Convention ratified within the framework of the League of Arab States in 1952.

**AN ISLAMIC AND ARAB FRATERNITY TREATY BETWEEN:
THE KINGDOM OF SAUDI ARABIA AND THE YEMENI KINGDOM(12).**

While the unification of the Kingdom of Saudi Arabia was still nascent, the Saudi government ratified a treaty with the Yemeni Kingdom on 6 February 1933(13). It was signed by Imam Abdu Aziz Ben Abdurahman on behalf of Saudi Arabia, and Imam Yahya Ben Muhammad Hamid Eddine on behalf of Yemen. In this Treaty, only two articles, i.e., (9 and 10) are relevant here since they deal with the question of the extradition of criminals.

Article 9 urges each of the Contracting Parties to take steps to prevent any hostile activities directed or even merely initiated against the other. The two Parties should carry out all necessary measures to ensure that. Hence, the State that receives the extradition request should extradite the person(s) in question who bear the nationality of the requesting State. However, if that person bears the nationality of a State other than that of the two Parties, then such person(s) should be only deported, considered non-grata and forbidden re-entry into the expelling country since they obviously seek to spread evil in the territories of either State. Moreover, one needs to mention two striking points as regards Art.(9). The first one is that this Treaty resembles the Extradition Convention of 1931 between the Iraqi and the Saudi governments in the fact that both restrict extradition to persons holding the nationality of the requesting State, and do not touch upon the extradition of citizens or nationals of the recipient of the extradition request. It differs, however, in going further than the earlier treaties to cover persons who hold the nationality of a third State, i.e., a State other than the requesting and recipient Parties. In regards to such persons who commit evil in the State the territories of which those persons happen to be has the right to deport them without notifying the authorities of the State which has required the taking of such measures. The second point is that this Article does not specify the offences or punishments due to which the person requested would be extradited or deported. It

merely states those “who commit evil”; needless to say, the term “evil” is loose enough to allude to numerous matters, and is rarely used in extradition conventions.

This Treaty also urges the closure of the State’s borders against any political dissenter, whether an individual or a group, an official or a non-official. In case such person manages to enter the territories of either Party, he should then be arrested in preparation for extraditing him to the authorities of his State. Otherwise, measures should be taken for his expulsion.

BILATERAL CONVENTIONS WITH THE G.C.C. STATES⁽¹⁴⁾:

The Convention between Saudi Arabia and Kuwait initiated bilateral security conventions between the former and the G.C.C. States. It was ratified four decades before the establishment of the G.C.C.. The agreement for the extradition of criminals between Saudi and Kuwait was entered into in 1942 and ratified in 1943. It was signed, on behalf of the Saudi government, by Sheikh Yossouf Yassin, the King’s private secretary and head of the political department, and on behalf of the British government, acting for the Sheikh of Kuwait, by Francis Hew William, the British Commissioned Minister in Jeddah. This Convention is made up of nine Articles.

The first part of this Convention stipulates that the two Contracting Parties are committed to extraditing persons who have committed extraditable offences in the territories of one of them, provided that the person required holds the nationality of the requesting State or of any other Arab State⁽¹⁵⁾. In other words, if a person of Kuwaiti nationality commits an extraditable offence in Saudi territories, and Kuwait requests his extradition, the Saudi authorities should extradite him. The same applies to persons of Syrian, Jordanian, Egyptian or other Arab nationalities. If, however, the person whose extradition is requested happens to

be an Italian or a Belgian, or someone who holds any non-Arab nationality, the Saudi authorities have the option to extradite the person or not since the Convention is silent on such cases.

The Saudi-Kuwaiti Convention thus widened the range of persons to whom extradition applies in comparison with the Saudi-Iraqi Convention of 1931 and the Saudi-Yemeni Treaty of 1933. The Saudi-Kuwaiti Convention extends the definition of persons to be extradited to include those who hold any Arab nationality. It nevertheless agrees with the other two in the fact that it does not tackle the extradition of the citizens or nationals of the State recipient of the extradition request.

The range of persons to be extradited, under the Saudi-Kuwaiti Convention, is, however, restricted in comparison with its counterpart under the G.C.C. Security Convention, Article 28 of which permits the extradition of the requested State's nationals. This provision was among the major causes behind the Kuwaiti non-ratification of the G.C.C. Security Convention.

On the other hand, the Saudi-Kuwaiti Convention forbids extradition for political offences. Hence paragraphs (b&c) which seek to exclude the erroneous inclusion within the concept of the political offence such crimes as: assault on the Saudi King or the Kuwaiti Sheikh or any member of their respective families, murder, injury, plunder and highway robbery⁽¹⁶⁾. As with the Saudi-Iraqi Convention, this section, too, omits to define the term "political offences".

The Saudi-Kuwait Convention includes mention of the contents of the extradition request file. These are: any data that would help in identifying the person whose extradition is requested, an authenticated copy of the sentence issued by the judicial authority in the requesting State against the person in question, and a

resume of the criminal acts committed by him. The Saudi or Kuwaiti extradition request is to be presented through the British legation in Jeddah(17).

It is pertinent here to note that the Saudi-Kuwaiti Convention urges the Contracting Parties to inform each other of the extradition request by the fastest means possible, pending the arrival of the extradition request file(18).

The Convention also includes mention of the principle stating that these provisions do not apply to offences committed prior the ratification of the Convention. That is to say, it is not permissible to extradite a person for committing an extraditable offence before the Convention was ratified(19). The same principle is also stated, as already noted, in the Saudi-Iraqi Extradition Convention.

The Saudi-Kuwaiti Convention stipulates, too, the rule that a person cannot be tried but for the offence stated in the extradition request. There is, however, an exception to this rule; the person extradited could be tried for offences other than the offence subject of the request when he is given the opportunity to leave the territories and fails to do so. The principle is annulled if the person commits an offence after being delivered to the authorities of the requesting State(20).

The Saudi-Kuwait Convention has not ignored the neutral zone which is specifically said to fall under the provisions of the Convention(21). The neutrality region has been defined by the Protocol for the demarcation of borders Najd and Kuwait(22). Thus, whoever commits an offence and flees to the neutrality region is considered to be in the territory of the State where he has committed the offence; hence its competent authorities have the right to try the offender. When, however, such crimes as banditry, robbery, pillage, spoliation, murder, or grievous bodily harm are committed in the neutrality region, and the offender succeeds in fleeing to his own country, he is then considered to have committed the offence in

his own country. Hence the authorities of his own State alone are responsible for his trial. If the aforementioned offences are committed in the neutrality region by a Saudi or a Kuwaiti national who manages to flee to a state other than his own, the offence then is considered to have been committed in the State whose nationality he holds and extradition procedures can be embarked upon.

The Saudi-Kuwaiti Convention concludes with articles dealing with the validity of the Convention⁽²³⁾ The Convention entered into force upon the exchange of instruments of ratification, and remains valid for five years. During the last six months before the expiry date, the Contracting Parties have the right to require the termination of the Convention. Such termination, however, becomes valid only six months after the date of the termination request.

It is pertinent, here, to ask whether the provisions of the Saudi-Kuwaiti Convention remain valid in the absence of a termination request or whether a demand for renewal is necessary.

The Convention itself answers such a query by stipulating that its validity does not require a formal request for renewal but that it occurs automatically so long as no request for termination has been received.

The similarity between the Saudi-Kuwaiti and the Saudi-Iraqi Extradition Conventions is quite obvious here in regards to the treaty's validity for a limited period which is automatically renewable without a request. However, the length of that validity constitutes the difference between them, being five years for the Saudi-Kuwaiti Convention and only three years for the Saudi-Iraqi Convention. Another difference resides in the fact that, when a Contracting Party desires the termination of the Convention, the request thereof has to be submitted during the last six months before the expiry date in the case of the Saudi-Kuwaiti Convention, while for the Saudi-Iraqi Convention, such presentation should take

place during the last three months before the expiry date. Compared with these two Conventions, the G.C.C. Security Convention is distinguished by the fact that its validity is not limited down to a specific period(24).

OTHER AGREEMENTS.

During the period between the ratification of the Saudi-Kuwaiti Convention and the ratification of security agreements between Saudi Arabia and other G.C.C. states, the Kingdom witnessed further growth with a concomitant increase in the care given to co-ordination of security matters with neighbouring States(25).

Hence the frequent visits of the Saudi Minister of the Interior, as the head of the security apparatus in the Kingdom, to different States to foster security co-operation, to check the rise in the incidence of crime, and to stem the phenomenon of numerous offenders committing crimes in the Kingdom and seeking asylum in other States. These efforts bore fruit when Saudi Arabia ratified Bilateral Extradition Conventions with Bahrain, the UAE, the Sultanate of Oman and Qatar.

This series of conventions began with the Saudi-Bahraini Security Convention, signed by Prince Naif Ben Abdel Aziz, the Saudi Minister of the Interior, and Muhammad Ben Khalifa Al-Khalifa, his Bahraini counterpart(26). This Convention was entered into on 9/3/1402 H.(1982), and ratified on 2/4/1402 H.(1982) and came into force one month after its ratification. Later the Saudi government signed Extradition Conventions separately with the Sultanate of Oman, the UAE and Qatar on 2/5/1402 H.(1982). These Conventions were ratified on 28/5/1402 H.(1982), and also came into force one month after their ratification.

As for the contents of these Conventions, the Saudi-Bahrain, the Saudi-Omani, the Saudi-UAE, and the Saudi-Qatari Extradition Conventions are each made up of sixteen articles.

The Saudi-Bahraini Extradition Convention starts off by expounding on the obligatory conditions of extradition⁽²⁷⁾, namely: if the person to be extradited has committed crimes punishable by divine ordinance, retribution punishment, or discretionary punishment over and above incarceration for no less than six months and the crime in question having been committed in the territory of the requesting State. However, a crime committed outside the territories of both the requesting and the requested States might yet lead to extradition provided that the current laws and regulations in the requesting State punish crimes committed outside its territories. This paragraph also allows for the extradition of nationals without restrictions, since it adds that: *“extradition includes all person(s) in question even if they are nationals of the requested Party.”*

Under this Convention, the range of the persons to be extradited has thus extended to the maximum possible since it covers the extradition of all persons whatever their nationalities. Hence if a Syrian, a Korean, or a Bahraini commits an extraditable offence in Bahrain, is later found in the Saudi territories, and a request for his extradition is placed by the Bahraini authorities, the Saudi authorities are committed, under the Saudi-Bahraini Extradition Convention, to extradite him even if he also happens to be a Saudi national. This is due, as already pointed out, to Art. 1 of the Saudi-Bahraini Convention that permits the extradition of nationals, a point of dire contention during the signature of the G.C.C. Security Convention.

One needs to add, here, that the Saudi-Bahraini extradition obligatory conditions overlook the second condition stipulated in the G.C.C. Extradition Convention

according to which the person to be extradited must have been sentenced for the extraditable offence in his presence or in absentia.

As for the security bilateral convention concluded between Saudi Arabia and each of Oman, Qatar and the UAE, they all have obligatory conditions⁽²⁸⁾ similar to those stipulated in the Saudi-Bahraini Convention, as far as the first condition is concerned. They differ, however, in regards to the second condition. Thus, the Saudi-UAE Bilateral Security Convention resembles the Saudi-Bahraini one in stipulating extradition whether:

“the offence has been committed in the territories of the requesting State or outside the territories of the Contracting Parties provided, the laws and regulations of the requesting State punish offences committed outside its territories”.

Nevertheless it says nothing whatsoever about the extradition of nationals, neither condoning, nor forbidding nor yet allowing it under specific conditions.

The Saudi-Omani and Saudi-Qatari Bilateral Security Conventions, on the other hand, agree upon the second condition. Hence the following provision occurs in both Conventions: *“if the offence has been committed outside the territory of the requesting State or outside the territories of the Contracting Parties provided the laws and regulations therein punish such offences when committed outside the two States, extradition, however, this does not include the requested State’s nationals by whom the attributed offence has been committed outside the requesting and requested States’ territories”.*

The difference between this text and what has been stipulated in the earlier conventions, with Bahrain and the UAE, is the following. In the Saudi-Qatari and the Saudi-Omani Bilateral Security Conventions, if the offence has been committed outside the territories of both Parties and thus the territorial jurisdiction

of their laws and regulations which punish such offences, it is necessary, that the laws and regulations of the requested State, punish such offences extra-territorially. But supposing the laws and regulations of the requested State do not punish offences committed outside its territories and outside the territories of the requesting State, in this case the extradition conditions are not satisfied. On the other hand, the texts of the Saudi-Bahraini and the Saudi-UAE Bilateral Security Conventions, make it sufficient that the laws of the requesting State punish offences committed outside the territories of both Parties, the requesting and requested States. Consequently, in the Saudi-Bahraini and the Saudi-UAE Bilateral Security Conventions, the range of the persons to be extradited is wider than the range decided upon in the Saudi-Qatari and the Saudi-Omani Bilateral Security Conventions.

The extradition of nationals is another major difference between these bilateral security conventions. Thus, unlike the Saudi-Bahraini Bilateral Security Convention, the Saudi-Omani and Saudi-Qatari Bilateral Security Conventions do not allow the unconditional extradition of nationals, although they do not overlook this matter as is the case with the Saudi-UAE Bilateral Security Convention. The two latter Conventions permit the extradition of nationals except when they have committed extraditable offences outside the territories of the requesting and requested States. The provisions of the G.C.C. Security Convention, however, are in accordance with those of the Saudi-Bahrain Bilateral Security Convention in permitting the unconditional extradition of nationals.

One needs, here, to note that Saudi Arabia, Bahrain, the UAE, the Sultanate of Oman are the four States which have signed the G.C.C. Security Convention. Hence, supposing a Saudi national had committed an extraditable offence in the Emirates' territories and had managed to flee to the Saudi territories, the Saudi authorities could have, if the UAE authorities had presented an extradition request, refused to comply with that request under the Saudi-UAE Bilateral

Security Convention which does not contain a provision concerning the extradition of nationals. But after the ratification, in 1994, of the G.C.C. Security Convention, the Saudi authorities are obliged to extradite its nationals to the UAE.

The same is true of Saudi Arabia and the Sultanate of Oman whose Bilateral Security Convention lays down a condition for the extradition of nationals; namely the presence of the offender in the territories of either of the Contacting Parties when the extraditable offence(s) had been committed. If this was not the case, the extradition request would be turned down as not fulfilling the stipulated conditions. But with the G.C.C. Security Convention, signed by both States, and in particular due to Article 28, the extradition of nationals is permissible regardless of the conditions laid down in the Saudi-Omani Bilateral Security Convention.

Besides, the Saudi-Bahraini Bilateral Security Convention stipulates for a case of rejection of an extradition request. The only condition for this to happen is that the offence ceases to be considered criminal, or that the punishment consequential upon the act, subject of the extradition request, is rescinded by virtue of the regulations of the requesting State⁽²⁹⁾.

In this regard, this Convention agrees with the Saudi-UAE Bilateral Extradition Convention in which a similar text occurs⁽³⁰⁾. Moreover these Conventions agree with the G.C.C. Security Convention in citing only one case of refusing extradition, that stipulated in Article 29 of the G.C.C. Convention.

Contrary to this, one finds that the Saudi-Omani and the Saudi-Qatari Bilateral Conventions have one point in common. The two lay down three cases for refusing extradition⁽³¹⁾. The texts in each is almost identical, in word and spirit, defining those cases as:

-If the offence is committed in the territories of the requesting State, while the offender does not hold its nationality, and the acts he is charged with are not punishable by the laws of the requested State.

-If the offence is committed outside the territories of the requesting and requested States, while the latter's current laws and regulations do not levy punishment for offences committed outside its territories, and the person subject to the extradition request does not hold the nationality of the requesting State.

-If the offence ceases to be considered criminal under the current laws and regulations of the requested State where the act has been committed and provided that the person required does not hold the nationality of the requesting State, and the offence in question is not murder.

The Saudi-Bahraini Bilateral Security Convention also provides for cases of extradition rejection⁽³²⁾, namely political offences. Aggression against members of the royal family, ministers and anyone of their rank is not considered a political offence; nor are murder, plunder, robbery, aircraft hijacking, vandalism, terrorism, and the attempt of any of the aforementioned offences, provided that the current laws and regulations of the requesting and the requested States punish such offences.

The Saudi-Bahraini Bilateral Security Convention stipulates other cases of rejecting extradition: for instance, if the offence is committed in the territory of the requested State while the person whose extradition is requested enjoys diplomatic immunity in accordance with International Law or any other treaties; or if the person in question has been tried or is being tried for the offence subject of the extradition request. This article resembles others in the Bilateral Security Conventions of Saudi Arabia with each of Qatar, the UAE and Oman (33).

It is necessary, here, to add that these Conventions are similar to the Saudi-Iraqi and the Saudi-Kuwaiti Bilateral Security Conventions because they lack a

definition for the term “political offences”. The G.C.C. Security Convention does the same in referring to the term without defining it(34).

As for cases of extradition rejection as stated in the G.C.C. Security Convention, they are quite similar to their counterparts as stated in the Saudi-Bahraini, the Saudi-Qatari, the Saudi-Omani, and the Saudi-UAE Bilateral Security Conventions.

The Saudi-Bahraini Bilateral Security Convention further provides for the case of concurrent extradition requests from different States(35), concerning the same person and for the same offence. The Convention stipulates that priority in extradition would be given to the Party whose interests have been most damaged by the offence and then to the State in whose territory the offence has been committed. If, however, the concurrent extradition requests concern different offences, extradition priority would then depend on the incidence and circumstances, especially the gravity of the offences committed, its locus and the date the extradition request was received. In this regard, the Saudi-Bahraini convention is similar(36) to the bilateral security conventions concluded with the UAE, Qatar and Oman. It also agrees with the G.C.C. Security Convention(37).

The Saudi-Bahraini Convention also provides for the case where the person whose extradition is requested is charged with an offence committed in the requested State. The latter State would then look into, but postpone taking a decision concerning, the extradition request pending the result of its investigations or trial, i.e., the offender being proven innocent or guilty of that charge. Otherwise, the requested State may hand over the required person to the requesting State to stand trial before its judicial authorities on the understanding that the requesting State would return the extradited person after being investigated or tried for the offence specified in the extradition request(38).

It is necessary, here, to add that the conventions Saudi Arabia concluded with Qatar, the UAE and Oman are similar⁽³⁹⁾ in this regard with the Saudi-Bahraini Bilateral Security Convention, and with the G.C.C. Security Convention, too⁽⁴⁰⁾.

As for the formal contents of the extradition request file, the Saudi-Bahraini Bilateral Security Convention stipulates⁽⁴¹⁾ that it should include: a detailed statement enabling the identification of the person required, including his identity, his description and his photograph. It should also contain a report issued by the competent authorities of the requesting State certifying that, under the legal system of the State of the person subject to the extradition request, the sentence against the person required has not been waived and that the acts committed have not ceased to be considered criminal. Also enclosed should be a certified copy of the legislation text(s) according to which the offence committed by the person to be extradited is punishable and the evidence held by the competent authorities against him, together with a certified copy of the sentence passed thereon. In the absence of such a sentence, the extradition request should be issued by the competent authority and presented with a clear indication that the request conforms with the provisions of the Convention. The extradition request file should then be sent by the competent authorities of the requesting State to the competent authorities of the requested State.

One needs to note, here, that all extradition conventions concluded bilaterally between Saudi Arabia and Qatar, Oman, and the UAE⁽⁴²⁾ include the same provision concerning the extradition request file as the Saudi-Bahrain Bilateral Security Convention.

However, as regards the formal documents contained in the extradition request file within the framework of the G.C.C. Security Convention⁽⁴³⁾, there is one point of difference which distinguishes this from the Bilateral Conventions. The G.C.C.

Convention stipulates that the report ascertaining that the sentence against the person required has not been waived and that the acts he is charged with, are still considered criminal should accord with the current legal system of the requesting State, whereas, in the Bilateral Conventions, the decision is taken in accordance with the legal system of the national State of the requested person.

The Saudi-Bahraini Bilateral Security Convention cites an exception in regards to the formal contents of the extradition request file⁽⁴⁴⁾. It is possible to dispense with the aforementioned documents if the person arrested admits that he is the person wanted and confesses to having committed the offence(s) provided it is an extraditable crime according to the Convention's provisions. The same exception is cited in the Saudi-Omani, the Saudi-Qatari and the Saudi-UAE Bilateral Security Conventions (45), while in the G.C.C. Security Convention⁽⁴⁶⁾, it also occurs but with a difference. The Bilateral Conventions stipulate that, "*...these authorities have the right to order his extradition*". This obviously means that it is discretionary and not obligatory. In case such a person is in the territories of a Party to the Convention, its authorities might order his extradition; but then again they might not. Within the framework of the G.C.C. Security Convention, things are different. The latter states that "*The competent authority in the requested State shall..*" which indicates obligation not discretion. Hence, the competent authorities in the detaining State have no alternative but to extradite him once his case satisfies the required exception conditions.

As for dealing with the extradition requests, the Saudi-Bahraini Bilateral Security Convention stipulates that when dealing with those requests the current regulations of both States, at the time of the request should be taken into consideration. Such a request should be reviewed within a specific period, not exceeding two months. During that period, the requested State should inform the requesting State of its response, whether positively or negatively, to the extradition request. In case of a negative reply to the extradition request; the

requested State should provide reasons for the rejection⁽⁴⁷⁾. This same provision is echoed in the Saudi-Qatari, the Saudi-UAE and the Saudi-Omani Bilateral Security Conventions⁽⁴⁸⁾, as well as in the G.C.C. Security Convention⁽⁴⁹⁾.

Furthermore, the Saudi-Bahraini Bilateral Security Convention permits the exceptional dispatch of the extradition request by telegraph or telephone to give the competent authorities, in the requesting State, time to prepare and gather the necessary documents for the extradition request file. The competent authorities, in the requested State, should put the person required under surveillance or arrest him on a precautionary basis for a period not exceeding thirty days. During this time, if the requesting Party fails to send the extradition request file, the requested State has the right to release the person requested or it might renew his precautionary arrest for another thirty days - if the requesting State so demands - provided that such period(s) would be subtracted from any custodial sentence imposed on that person by the requesting Party⁽⁵⁰⁾.

In this regard the Saudi-Bahraini Bilateral Security Convention, the other Bilateral Security Conventions⁽⁵¹⁾, and the G.C.C. Security Convention⁽⁵²⁾ all agree.

On the other hand, the Saudi-Bahraini Bilateral Security Convention stipulates the handing over, to the requesting State, of the person in question along with the evidence held against him as far as that is possible in accordance with the current legal system of the requested State⁽⁵³⁾. The Saudi-Qatari, the Saudi-UAE and the Saudi-Omani Bilateral Security Conventions⁽⁵⁴⁾ have the same provision as the Saudi-Bahraini Bilateral convention, as does the G.C.C. Security Convention⁽⁵⁵⁾.

Moreover, the Saudi-Bahraini Bilateral Security Convention prohibits the punishment, by the competent authorities in the requesting State, of the person extradited except for the offences specified in the extradition request⁽⁵⁶⁾, or for any other acts related to them or for offences committed by him after having been

extradited to the requesting State. Nevertheless, that person could, in exceptional circumstances, be punished for offences other than those specified in the extradition request or related acts in two cases: Firstly, when the person consents to such a step; and secondly, when the person has had the opportunity to leave that State, to which he has been extradited, and fails to seize the opportunity within thirty days. Hence, for the sake of illustration, if a Jordanian commits an offence in Saudi territory and then flees to the UAE, the competent authorities there could, on a Saudi extradition request, extradite this person to Saudi Arabia for this offence, or for any acts related to it. That person could then be punished for those and other crimes committed by him in Saudi territories after extradition, if he agrees to that or if he is offered the opportunity to leave the Saudi territory and fails to do so within thirty days. On this provision, all the Bilateral Security Conventions⁽⁵⁷⁾ agree, as does the G.C.C. Security Convention⁽⁵⁸⁾.

As for which Party bears the expenses of the extradition, the Saudi-Bahraini Bilateral Security Convention stipulates that the expenses incurred by the extradition are to be borne in the requesting Party, together with expenses incurred by the extradited person returning home if he is found innocent of the charges⁽⁵⁹⁾. The Saudi-Qatari, the Saudi-UAE and the Saudi-Omani Bilateral Security Conventions⁽⁶⁰⁾ agree with the Saudi-Bahrain Bilateral Security Convention, as does the G.C.C. Security Convention⁽⁶¹⁾ in terms of this provision.

Moreover, the Saudi-Bahraini Bilateral Security Convention urges the Contracting Parties to co-operate in the precautionary arrest of criminals⁽⁶²⁾, and the exchange of information about criminals either through visits or some other means of communication. The Saudi-Omani, the Saudi-UAE and the Saudi-Qatari Bilateral Security Conventions⁽⁶³⁾ contain similar provisions. There is, however, no similar specific article in the G.C.C. Security Convention; nevertheless, this idea is clearly stated in more than one place in the G.C.C. Security Convention.

The Saudi-Bahraini Bilateral Security Convention stipulates, moreover, that the requesting State should arrange to receive the person whose extradition it has demanded within thirty days from the date of the positive reply, by the requested State⁽⁶⁴⁾. If the requesting State fails to do so, the requested State has the right to release the person arrested. In this case, the former has no right to re-petition for the extradition of the same person, for the same offence.

This provision is also found in the Saudi-Qatari, the Saudi-UAE and the Saudi-Omani Bilateral Security Conventions⁽⁶⁵⁾. However, in regards to this provision, there is a difference between the Bilateral Security Conventions and the G.C.C. Security Convention. The latter stipulates, in this connection, the need for a new extradition request to receive a person who has formerly been the subject of an extradition request, but for whose reception the requesting Party did not make arrangements within thirty days. This is totally different from the bilateral conventions which do not require a new request for the same person in connection with the same offence.

As for the validity of the Saudi-Bahraini Bilateral Security Convention⁽⁶⁶⁾, it lasts for five years from date of ratification. The five year period is automatically renewable unless a Contracting Party expresses its desire to terminate the Convention, provided that desire is expressed during the last six months before the natural expiry date. Amending the provisions of the Convention, on the other hand, can be arranged with the approval of both Parties. The same article stipulates that, *"..it is yet permissible, with the approval of both Contracting Parties, to amend Articles during the validity period of the Convention"*.

This means that there is a divergence between the Bilateral Security Conventions and the G.C.C. Security Convention. The Bilateral Conventions do not specify the competent authorities in both Parties which are charged with the duty of amending the Convention's texts. The approval could, therefore, be given by the State's

representatives signing the Convention. On the other hand, any amendment of the G.C.C. Security Convention has to be approved by the Supreme Council⁽⁶⁷⁾ of the G.C.C.. This means that the approval of any such amendment is restricted to the member States' Heads of State.

Another difference is that, in the case of bilateral security conventions, the validity is tied to a specific period even though it is automatically renewable. They lack a sense of true permanence, while for the G.C.C. Security Convention, the validity is not temporary but permanent. In this regard, all bilateral conventions share that temporary nature, whether it is the Saudi-Omani, the Saudi-Qatari, or the Saudi-UAE Bilateral Security Conventions, they all agree with the Saudi-Bahrain one.

The Saudi-Bahrain Bilateral Security Convention concludes its provisions with formal articles on its approval and entry into force two months after the exchange of the ratification instruments between the two Contracting Parties⁽⁶⁸⁾. This Article makes null and void any previous agreement, between the two countries, dealing with the same topic. The same is true of the Saudi-Qatari, the Saudi-UAE and the Saudi-Omani Bilateral Security Conventions⁽⁶⁹⁾.

In this, too, the G.C.C. Security Convention's provisions differ from those of the Bilateral Conventions. The G.C.C. Security Convention states that its provisions enter into force one month after the date of the deposit of the instruments of ratification of two-thirds of the signatory member States⁽⁷⁰⁾. Moreover, the G.C.C. Security Convention does not annul any previous Conventions ratified by any member State; it specifically urges the member States to retain any Bilateral Security Conventions ratified by them even if the provisions of a bilateral convention conflict with those of the G.C.C. Convention. As discussed earlier, the articles of the latter do not annul those of the earlier bilateral provision, nor do they assume priority over them. The G.C.C. Convention stipulates that priority in

this case should be given to the provision which involves comprehensive security co-operation(71).

From this discussion of bilateral security conventions ratified by the Saudi government with G.C.C. States, one realises the extent of the similarity between the provisions of these conventions and those of the G.C.C. Security Convention, but especially between the latter and the Saudi-Bahraini Bilateral Security Convention(72). Thus, the G.C.C. Security Convention permits the unconditional extradition of nationals if the extradition satisfies the conditions required, as does Article (1) of the Saudi-Bahraini Bilateral Convention. This approach indicates that the G.C.C. member States wish to widen the range of extraditable persons and specifically to allow the extradition of nationals. Hence one may rightly argue that these states have reached a higher stage of development in regards to the extradition of criminals.

However, the question arises here: since Qatar and Oman are not party to the extradition treaty concluded within the framework of the League of the Arab States in 1952(73), nor to the Arab Judicial Co-operation Treaty of Riyadh in 1983(74), how would Saudi Arabia handle extradition questions with Qatar and Oman, and how would the latter, i.e., Qatar and Oman, handle theirs ?

Before ratifying bilateral security conventions with Qatar and the Sultanate of Oman, Saudi Arabia, as far as extradition is concerned, resorted to prevailing international practices which usually begin with the principle of reciprocity as is the case in the international relations between any two States not bound by any agreement regulating extradition matters. Added to these international relations and principles would be the special relations that link these States to each other which play a major role in extradition transactions. It is pertinent, here, to add that the ratification of such bilateral security conventions by Saudi Arabia bore fruit in an increase in the incidence of returned fugitives. Thus, for instance, the

statistics⁽⁷⁵⁾ conducted between 1403 H.(1983) and 1412 H.(1992), reveal that 553 offenders had fled from Saudi Arabian territories, and that the Saudi government captured 88 fugitives out of the 553. This fixes the rate of return at 20% of the total number of fugitives. Actually the rate is low but it is better than before the ratification of the bilateral security conventions.

The year	The number of offenders who fled from Saudi Arabia to another State.	The number of offenders extradited from other States to Saudi Arabia.
1403 H.	52	14
1404 H.	61	16
1405 H.	41	7
1406 H.	57	17
1407 H.	62	16
1408 H.	71	4
1409 H.	53	4
1410 H.	64	4
1411 H.	52	3
1412 H.	40	3

As for the executive aspect of the extradition system adopted by Saudi Arabia, that was left to the competence of the Ministry of the Interior by virtue of a Saudi Ministerial Council Resolution, No 83 dated on 1/2/1395H.. The Ministry of the Interior then mandated a committee formed of legal advisers to research the question of criminal extradition.

It often happens that the embassy or consulate of the State requesting extradition presents a provisional extradition request or a demand for house-arrest until the

documents necessary for the extradition file⁽⁷⁶⁾ are prepared. The Ministry of Foreign affairs receives the request file and sends it to the Ministry of the Interior which, in its turn, sends it to the competent committee, formed of three legal advisers. The latter has the right to question the person requested and it has the right to arrest or release him, just like judges. However, yet it may mandate this task to an investigator. If extradition is chosen as the result of a house-arrest demand, the committee issues its orders to arrest the person requested and informs the competent authorities in the requesting State. If after one month from the arrest date, the requesting State has not arranged to receive the person requested, the committee has the right to set that person free. Nevertheless if the committee receives a renewed request, and is convinced of the reasons that have prevented the requesting State from collecting the required person, the committee may decide to re-arrest the person for a renewed period. Should the extradition committee decide to reject the extradition request, it releases the person for lack of justifiable reasons for arresting him. In principle, the requesting State should assume the charges incurred for the return of the person to his country, yet Saudi Arabia often pays such expenses in order to encourage crime prevention.

When, on the other hand, Saudi Arabia wishes to recapture from abroad a fugitive⁽⁷⁷⁾ who has committed an offence in Saudi territories, the Interpol Communication department⁽⁷⁸⁾ notifies the Public Rights Administration which, in its turn, sends the extradition request file through diplomatic channels in no more than five days from the date of reception of notification from the Interpol Communication department. The latter might demand the prolongation of the arrest period if it expires before the completion of the extradition request file. An Interpol or a Public Rights official may be charged with the completion and following up of tasks when it is sent to the Ministry of Foreign Affairs, which in its turn, sends the file to the Saudi Embassy in the requested State. The Saudi Embassy conveys the file to the Ministry of Foreign Affairs of the requested State which, in its turn, sends it to the competent domestic authorities.

There is, as is apparently noticed, a strong relation between the Saudi International Police (InterPol) and the recapture committee (the Public Rights Administration). Co-operation and co-ordination always holds good between them whether Saudi Arabia is a requested or requesting Party.

One can say in conclusion that in regards to recapture, the Saudi Arabia adopts a twofold system, which mixes the administrative and the judicial. However as the executive authority plays a major role in the extradition of criminals, the system tends more to the administrative than to the judicial approach⁽⁷⁹⁾. As for the bilateral security conventions, they do not specify a system for the extradition of criminals⁽⁸⁰⁾.

Hence, the systems of extraditing criminals varies according to the approach adopted by each contracting party.

NOTES

- 1) The establishment of the Kingdom of Saudi Arabia passed through three stages:
 - The first stage: from 1744 to 1819 under the leadership of Imam Muhammad Ben Saud, the Emir of Dari'ah who was supported by Sheikh Muhammad Ben Abdel Wahhab.
 - The second stage: in 1825 under the leadership of Imam Turki Ben Abdullah who regained the reign of his ancestors.
 - The third stage was started in 1902 by King Abdul Aziz and continued until the unification of all the Kingdom's regions in 1932 when a decree was issued proclaiming the appellation of the Kingdom of Saudi Arabia. For more details, see: Said Ahmed Dahlan, A Study of the Domestic Policy of the Kingdom of Saudi Arabia, Dar al shorouk, Jeddah 1985, 2nd Ed., PP.29-33.
- 2) Saudi Arabia is the largest petroleum producer in the world and has the greatest reserves.
- 3) The large foreign manpower in Saudi Arabia of different nationalities, cultures and behavioral patterns has led to an increase of criminality and of escape from justice. On this topic, see: Muhammad Ben Ibrahim Ben Abdurahman Assif, The Criminal Phenomenon in the Saudi Society's Structure and Culture, Dar Ibn Laghboun for publication and distribution, Riyadh 1995, PP. 186-188.
- 4) The author's personal reference.
- 5) Art. 2 of the Extradition Convention between the Kingdom of Hijaz and Najd with its appurtenances, and the Iraqi Kingdom.
- 6) Ibid, Art. 1.
- 7) Ibid, Art. 3.
- 8) Ibid, Art. 4 and 5.
- 9) Ibid, Art. 6 specifies that: "According to this Convention, it is not permissible to extradite a person for an offence committed before the entry into effect of the said Convention".
- 10) Ibid, Art. 7.
- 11) Ibid, Art. 8.
- 12) The author's personal reference.
- 13) Uwaidh Muhammad Huzail, OP CIT, Vol. II, P.389.
- 14) The author's personal reference.
- 15) Articles 1 and 2 of the Saudi-Kuwaiti Bilateral Convention.
- 16) Ibid, Art. 3.

- 17) Ibid, Art. 4.
- 18) Ibid, Art. 5 stipulates the following: "In order to punish the offender and avoid his escape from the territories, the competent authorities in the Contracting Parties should correspond through the fastest means possible to insure arresting the offender pending the arrival of the request documents listed above in Article 4."
- 19) Ibid, Art. 6.
- 20) Ibid, Art. 7.
- 21) Ibid, Art. 8.
- 22) It is worth mentioning that the Protocol for the demarcation of the borders of Najd and Kuwait was entered into in the Okair region on the 2nd. of December, 1922. The Okair Protocol stipulates the establishment of a neutral region of 2000 square miles the riches of which and its riches are to be equally exploited by Najd and Kuwait. Another treaty was ratified in 1965 between Saudi Arabia and Kuwait to regulate the status of this region. For more details, see: 4 ILM 1134(1965); Muhammad Mostafa Shahata, "The Saudi Borders with the Gulf States", OP CIT.
- 23) The Saudi-Kuwaiti Bilateral Convention, Art. 9.
- 24) Any member State desiring to withdraw from the G.C.C. Security Convention presents a withdrawal request to the G.C.C. Secretary-General, such withdrawal becoming valid only six months after the date of its presentation while extradition requests received before the expiry date remain valid.
- 25) Among these prominent matters is the search for an ideal G.C.C. security formula and the Saudi proposal to establish an Arab "InterPol". At the establishment of the G.C.C., Saudi Arabia was also the first to call upon it to take charge of security and military affairs. For more details, see: "The Gulf and Arab Peninsula Documents, 1975", Bulletins of the Gulf and Arab Peninsula Studies Magazine, Kuwait University, Kuwait 1983, P.776.
- 26) It is pertinent here to note that when Sheikh Muhammad Ben Khalifa, the Bahraini Minister of Interior, was asked about the reasons for signing the Saudi-Bahraini Convention, whether it was because of the late 1981 cabal, supported by Iran to overthrow the Bahraini political system, or because of other reasons, his answer was that security co-operation between the Kingdom and Bahrain was strong and based on mutual understanding. He added that the signing of the Bilateral Convention was not because of that conspiracy but because of Prince Naif's visit to Bahrain at that time. The Bahraini Prime Minister confirmed this by declaring that the Saudi-Bahraini Bilateral Security Convention had been entered into before those events and that its ratification was decided during those circumstances to highlight the common destiny with Saudi Arabia and to show the latter's willingness to support sister states in their prosperity and adversity. For more details, see: Fatima Saad Eddine, The Gulf and the Arab Peninsula

Documents, 1982, Bulletins Of Gulf and Arab Peninsula Studies Magazine, OP CIT, PP. 393-396; Essam Al-Adib, OP CIT, PP. 87-88.

- 27) The Saudi-Bahrain Extradition Convention, Art. 1.
- 28) Art. 1 in the Saudi-UAE, the Saudi-Qatar and the Saudi-Oman Bilateral Security Conventions.
- 29) Art. 2 of the Saudi-Bahrain Bilateral Security Convention reads: "Rejection of Extradition, Extradition might be rejected if the criminality of the act ceases or the punishment is rescinded in accordance with the regulations of the requesting State."
- 30) The Saudi-UAE Bilateral Security Convention, Art. 2.
- 31) The Saudi-Oman and the Saudi-Qatar Bilateral Security Conventions, Art. 2.
- 32) Saudi-Bahrain Bilateral Convention, Art. 3.
- 33) Three above-mentioned Conventions, Art. 3.
- 34) The G.C.C. Security Convention, Art. 30.
- 35) Saudi-Bahrain Bilateral Convention, Art. 4.
- 36) Art. 4 of the Saudi-UAE, the Saudi-Qatar, the Saudi-Oman Bilateral Security Conventions.
- 37) Art. 34 of the G.C.C. Security Convention.
- 38) Art. 5 of the Saudi-Bahrain Bilateral Security Convention.
- 39) Art. 5 of the Conventions of all three instances.
- 40) The G.C.C. Security Convention, Art 35.
- 41) Saudi-Bahrain Bilateral Convention, Art 6.
- 42) Art. 6 of all three Conventions.
- 43) The G.C.C. Security Convention, Art. 31.
- 44) Saudi-Bahrain Bilateral Convention, Art. 7.
- 45) Art. 7 of the three Bilateral Conventions.
- 46) The G.C.C. Security Convention, Art. 32.
- 47) Saudi-Bahrain Bilateral Convention, Art. 8.
- 48) Art. 8 of all three Conventions.
- 49) The G.C.C. Security Convention, Art. 33.
- 50) Saudi-Bahrain Bilateral Convention, Art. 9.
- 51) Art. 9 of all three Conventions.
- 52) The G.C.C. Security Convention, Art. 36.
- 53) Saudi-Bahrain Bilateral Convention, Art. 10.
- 54) Art. 10 of all three Conventions.
- 55) The G.C.C. Security Convention, Art. 37.
- 56) Saudi-Bahrain Bilateral Convention, Art. 11.
- 57) Art. 11 of all the Bilateral Security Conventions.
- 58) The G.C.C. Security Convention, Art. 38.

- 59) Saudi-Bahrain Bilateral Convention, Art. 12.
- 60) Art. 12 of the other Bilateral Security Conventions.
- 61) The G.C.C. Security Convention, Art. 39.
- 62) Saudi-Bahrain Bilateral Convention, Art. 13.
- 63) Art. 13 of the other Bilateral Security Conventions.
- 64) Saudi-Bahrain Bilateral Convention, Art. 14.
- 65) Art. 14 of all three Conventions.
- 66) Saudi-Bahrain Bilateral Convention, Art. 15.
- 67) The G.C.C. Security Convention, Art. 44.
- 68) Saudi-Bahrain Bilateral Convention, Art. 16.
- 69) Art. 16 of all three Conventions.
- 70) The G.C.C. Security Convention, Art. 43.
- 71) Ibid, Art. 41.
- 72) In a meeting with the author, Sheikh Fahim Al-Kassimi the G.C.C. Secretary-General, declared that the Saudi-Bahraini Bilateral Security Convention represented the minimum of co-operation compared to the G.C.C. Security Convention.
- 73) These two Countries do not appear on the list of the Signatory States of the Extradition Treaty concluded within the framework of the League of the Arab States.
- 74) Uwaidh Muhammad Huzail, OP CIT, Vol. I, P 17.
- 75) Ibid, P. 5.
- 76) Mohammed Zafer Ashehri, Research in The Efficiency of Ways to Chase The Criminals are away Across The Borders, a Master Thesis submitted to the Arab Centre for Security and Training, Riyadh 1991, P. 189.
- 77) Ibid, P. 191.
- 78) Saudi Arabia joined Interpol in 1956. The Interpol communications Dept. in Saudi Arabia is made up of: the recapture and investigations section; research and translation; drugs; economic offences; a secretariat; and a section for forgery and falsification. This administration is charged with pursuing fugitive offenders; helping other agencies in recapturing those criminals; and also helping to extradite offenders who have fled to Saudi Arabia when a request for them is made. For more details, see: Mohammed Zafer Ashehri, OP CIT, P. 159; see also: Uwaidh Muhammad Huzail, OP CIT, Vol. II, P 361.
- 79) Mohammed Zafer Ashehri, OP CIT, P.57.
- 80) The ways adopted in the extradition of criminals are: The administrative system: in which the acceptance of extradition requests is the duty of the executive authority in the requested State. The system is easy and fast yet it lacks legal guarantees for the person required. It fosters the benefits of the requesting State over the legally necessary guarantees of the person extradited.

Among the States that adopt this system are Spain and Egypt. The judicial system: in which the acceptance of extradition requests is the duty of the judicial authority. It is neither as easy nor as fast as the administrative system, yet it assures legal guarantees for the person to be extradited since the demand of extradition and evidence are examined by the judiciary authority. This system is operational in Britain and other countries. The administrative/judicial system(mixed): it enjoys the advantages of the two previous systems and avoids their drawbacks. In terms of this system, the executive and judicial authorities both have a say in deciding extradition requests. It considers the judicial point of view as a consultative view, but the executive authority takes the final decision concerning the extradition request. This system was first adopted in Belgium that is why it is known as the Belgian system. It is considered as the best criminal extradition system adopted. The voluntary system: not an independent criminal extradition system, but it allows extradition to be accepted if the person to be extradited confesses himself to be guilty of the charges, admits that he is the person in question, and accepts his extradition without any extradition request. See Muhammad Zafer Ashehri, OP CIT, P. 46 Et. Seq; Uwaidh Muhammad Huzail, OP CIT, Vol. II, P 43 Et. Seq.

CHAPTER FIVE

SECURITY AND EXTRADITION IN THE LEAGUE
OF ARAB STATES

The League of Arab States(1), is a regional organisation, established to promote co-ordination and co-operation between the member States in different fields. The security field is given much prominence. In fact, the Council of the L.A.S. agreed, on 14 September 1952, upon three Conventions dealing with security and judicial co-operation during the 16th ordinary session. The three agreements are the Judicial Intimation and Delegation Convention, the Judgement Execution Convention, and the Criminal Extradition Convention, which is the subject of this study.

It is important to note that there were not many signatory States to the Criminal Extradition Convention at that time. They were the Hashemite Kingdom of Jordan, the Republic of Lebanon, the Syrian Republic, the Kingdom of Saudi Arabia, the Egyptian Kingdom and the Iraqi Kingdom(2). Later, the Convention was acceded to by Libya, the UAE, Bahrain, Kuwait and South Yemen.

Later, the Judicial Intimation and Delegation Convention and the Judgement Execution Convention were superseded by another Convention comprehensive enough to cope with renewed security concerns in Arab society; this convention is the Riyadh Judicial Co-operation Convention of 1983.

The section will discuss the Arab Criminal Extradition Convention, what is important as far as this study is concerned in the Riyadh Judicial Co-operation Convention, and the work of the Council of the Arab Ministers of the Interior, the

important organs that work within its framework and the most important activities undertaken.

Our study will be twofold, the first aspect is theoretical which discusses the provisions of the two Conventions and analyses their differences from the comprehensive G.C.C. Security Convention, while the second is practical and deals with the mechanisms that implement the provisions related to the criminal extradition within the Arab States.

THE CRIMINAL EXTRADITION CONVENTION(1952)(3).

The Convention begins with the obligation on the signatory Arab States to extradite criminals if any one of these States requires their extradition(4). This article is similar to Art. 27 of the G.C.C. Security Convention. The Convention lays down that extradition is permissible: When the person whose extradition is sought is convicted of an extraditable offence and that offence is committed in the territory of the requesting State(5). If the offence is committed outside the territories of both the requested and requesting States, it is necessary that both their legal systems punish an offence committed outside the territories of the States(6).

In this regard, there is a difference between the G.C.C. Security Convention and the provisions of the L.A.S. Criminal Extradition Convention. If the offence is committed outside the territories of the requesting and requested States, the G.C.C. Security Convention stipulates that, in such a case, extradition is permissible if the legal system in force in the requesting State declares the offence punishable. It does not, however, require that the offence be punishable by the legal systems of both States, as is stated in the L.A.S. Extradition Convention(7).

It is also stipulated that the offence should be either a serious crime or a misdemeanour punishable by a deprivation of liberty for one year or more

according to the laws of the requesting and requested States, or if the person is adjudicated to a deprivation of liberty of at least two months(8).

A point to note is that the G.C.C. Security Convention stipulates that the offence subject of an extradition request must be an offence punishable by Divine Ordinance(9), discretionary punishment(10) or retribution punishment(11), or a crime punishable by a deprivation of liberty for at least six months(12).

Extradition is not obligatory if the law in the requested State does not impose punishment for the offence for which extradition is requested, or does not carry an equivalent punishment in the requesting State(13). An exception to this rule is the case where the requested person is a national of the requesting State or a national of a third State whose law establishes a similar punishment.

As is the case of other extradition conventions, this Convention prohibits extradition for political offences(14), without defining this term. However, it states that whether the offence is a political offence or not is within the competence of the requested State. The Convention excludes some offences from being considered political: terrorism, pre-meditated murder, assault on Crown Princes, and assault on the States' Kings or Presidents and their families(15).

It is to be noted that the L.A.S. Extradition Convention is clearer as far as the definition of the offence is concerned as compared with both the G.C.C. Security Convention and the Riyadh Arab Judicial Co-operation Convention. In terms of the Convention, extradition is not permissible in the case where the person who is subject to the extradition request is convicted of the extraditable offence and the sentence is carried out; or he is adjudicated innocent in the requested State; or if he is still under interrogation procedures(16).

Extradition of a person is postponed when he is under investigation or trial for another offence in the requested State, until such time as he is adjudicated or he

carries out the period for which he is sentenced. He may be temporarily and exceptionally extradited provided he is returned to the requested State after his trial is over and before the passing of the sentence on him in the requesting State(17).

Extradition is not applicable if the sentence or crime has been prescribed by the expiry of time in accordance with the legal systems of the requesting and requested States. There is, however, an exception to this provision: extradition is possible when there is in the law of the requesting State neither prescription of the crime nor of the judgement with the passage of time and when the person subject of the extradition request is either a national of the requesting State or a national of a third State where the principle of the prescription of the punishment is not applied(18).

Art. 7. entitles States Parties to decline to extradite their nationals(19) provided that the requested State tries its national for the offence which is the subject of the extradition request, relying on the affair's file (*proces-verbal* minute) compiled in the requesting State. As for this principle, there is a great difference between the G.C.C. Security Convention and the L.A.S. Extradition Convention. In fact, the former, in Art. 28, obliges the extradition of nationals, while the L.A.S. Extradition Convention permits the requested State not to extradite its nationals.

By virtue of the L.A.S. Convention, the presentation and consideration of the extradition requests are carried out in accordance with the laws of each member State. The presentation of the extradition request is dependent on the law of the requesting State, and its consideration is in respect of the law of the requested State(20).

The documents to be contained in the extradition request file should include a report about the identity of the person whose extradition is sought; his description and documents proving his being a national of the requesting State; an official

copy if he has been adjudicated in presence or *in absentia*; or an arrest warrant if he has not been tried; in addition to these documents, it is preferable to attach a copy of the legal text which declares the offence and an official copy of the *proces-verbal* minute(21).

In exceptional situations and regardless of the formal procedure, it is permitted to convey the extradition request through telegraph or telephone or through other means(22). Consequently, the requested State is entitled to arrest the person whose extradition is requested for a period not exceeding thirty days after which, if it does not receive the necessary extradition documents or a request to renew the arrest for another thirty days, it is obliged to release the person(23).

In a case where the person whose extradition is requested is adjudicated, any period he has spent under arrest in the requested State would be deducted from the sentence imposed in the requesting State(24). The requested State must surrender any item in the person's possession when he is arrested and any evidence which incriminates the person within the limits permitted by the laws of the requested State(25).

If a State receives concurrent extradition request files concerning the same person for the same offence, the requested State is to give priority to the extradition file presented by the State whose interests are more damaged by the offence; thereafter, to the State in whose territory the offence is committed; then to the State whose nationality is held by the person who is the subject of the extradition request(26). This text is similar to the G.C.C. Convention, Art.34(a); yet art. 13 of the L.A.S. Convention omits mention of the request of the State of which the person is a national.

In the L.A.S. Extradition Convention, if concurrent extradition requests are related to different offences, priority is given to the State which first presents the extradition request. As is the case of any convention dealing with extradition, the

person to be extradited shall not be tried for anything other than the offence and related acts which are the subject of the extradition request⁽²⁷⁾. If the person commits offence(s) after his extradition to the requesting, it is permitted to try him for these offences, if he is offered the opportunity to leave the State to which he is extradited, and does not profit from this opportunity within thirty days time, it would be permitted, in this case, to try him for the offence(s) other than the one which is the subject of the extradition request⁽²⁸⁾.

One notices that this broadly agrees with the G.C.C. Security Convention Art. 38. which, moreover, adds another case: when the accused person consents to be tried for offences other than those subject to the extradition request.

The L.A.S. Extradition Convention contains a provision by virtue of which the signatory States are required to facilitate the transit of extradited persons through their territories and assume responsibility for their surveillance after receiving a copy of the extradition decision⁽²⁹⁾. This provision is included for two reasons: first, because of the large expanse of the Arab "plot"; secondly, the inadequate means of communication at that time.

The requesting State bears the expenses incurred by the extradition request and the return of the person extradited to the place from which he is extradited if he is adjudicated innocent⁽³⁰⁾. By virtue of this Convention, a judgement issued by a judicial authority in any member State can be executed in the State in whose territory the adjudicated person is located, but only with the consent of this State⁽³¹⁾. The point is ignored in the G.C.C. Security Convention.

The Convention also deals with a conflict between the provisions of this Convention and the provisions of any bilateral conventions concluded by member States. The rule is for the application of provisions which guarantee the easiest

extradition procedure⁽³²⁾, thus adding more flexibility to the application of Arab bilateral security conventions⁽³³⁾.

**THE RIYADH ARAB CONVENTION ON THE JUDICIAL
CO-OPERATION (1983)⁽³⁴⁾.**

The Arab States were keen to set up an Arab Charter dealing with co-operation in legislative and judicial fields to remain up to date with what was achieved by international conventions concerned with such matters. In the Prelude to this Convention, it is stated that it came about as a result of the declaration issued by the First Conference of the Arab Ministers of Justice held in the Moroccan capital, Rabat on December 1977⁽³⁵⁾. The Arab States approved the Riyadh Arab Convention on the Judicial Co-operation (hereafter referred to as the Riyadh Convention) by virtue of the approval of the Council of the Arab Ministers of Justice by the decree No (1) of 6 April 1983. The Convention entered into effect on 30 October 1985.

The Riyadh Convention is formed of eight chapters containing seventy two articles. The first Chapter deals with the general principles, and the eighth tackles the concluding principles. Its provisions cover, inter alia, the declaration and notification of judicial and non-judicial documents and papers; the judicial appointment; the attendance of witnesses and experts in penal or criminal affairs; the recognition and execution of adjudication issued in civil, personal status, commercial and administrative actions. Discussion is limited to the sixth and eighth Chapters. The former, deals with the extradition of criminals and adjudicated persons, which is the subject of this study.

Chapter (VI) begins with the obligation of the signatory States to extradite convicted persons and those adjudicated by their judicial authorities⁽³⁶⁾. Refusal to extradite is permissible if the person sought for extradition is a national of the

requested State provided that this State tries this person for the offence which must be punishable by the laws of both member Parties(37).

There is concern about the difficulty in defining the nationality of the person, since it is possible that a person holds more than one nationality. Such definition is determined at the date of the commission of the offence which is the subject of the extradition request(38). In the case when extradition is permissible, the requested State shall make such determination even if the extradition conditions are not fully satisfied. The situation would be different in cases where extradition is obligatory and the cases satisfy the extradition conditions. With the satisfaction of one of these cases, the requested State is obliged to extradite the person.

Such cases are(39):-

- When a person is convicted of an offence sanctioned by the laws in force in the requesting and requested States by a deprivation of liberty for at least one year, by the Law of either of the these two States;
- If not punished by the law of the requested State, or if the law of the requesting State declares the commission of such acts while the Law of the requested State does not, (particularly when this person is a national of the requesting State or a national of a third State) punish such acts;
- If the judicial authority in the requesting State adjudicates a person to a deprivation of liberty for one year or more either in presence or *in absentia*;
- If a person is adjudicated by the judicial authority in the requesting State for an offence not punished by the law of the requested State, or punishable by a different punishment than that imposed in the requesting State, since the person holds the nationality of the requesting State or the nationality of a third

contracting State which declares similar punishment to that decreed in the requesting State.

The text of the G.C.C. Comprehensive Security Convention, Art. 28(b), is taken from Art. 40(c&d) of the Riyadh Convention. The introduction of Art. 40 reads: *“The extradition shall be obligatory for the following persons”*. From this one may understand that these are not conditions for extradition, but cases where extradition is obligatory. One understands from the introduction of Art. 28. of the G.C.C. Security Convention that these are conditions for extradition, and not cases, an issue previously discussed(40).

Concerning the cases, listed by the Riyadh Convention, where extradition is not permissible(41):-

- Where the offence which is the subject of the extradition request is of a political nature according to the legal system adopted in the requested State. In this situation, the definition of the term “political offence” is within the competence of the requested State. This broadly agrees with what is laid down in the Extradition Convention concluded within the framework of the League of Arab States; the G.C.C. Security Convention, however, omits mentioning who would define whether the offence is political or not;
- If the offence which is the subject of the extradition request is the transgression of the military duties(42);
- The case when the offence which is the subject of the extradition request is committed in the territory of the requested State. But this offence damages the benefits of the requesting State, and its law permits the pursuit and punishment of such offenders;

- If a final judgement is issued in the requested State concerning the offence which is the subject of the extradition request;
- The case where the offence is repealed or the punishment has prescribed in accordance with the current legal system in the requesting State(43);
- The case where the offence which is the subject of the extradition request is committed outside the territory of the requesting State, and the offender is not a national of the requesting State and the legal system applicable in the requested State does not convict such a person if he commits an offence outside its territory;
- The case when an amnesty (44) is granted in the requesting State;
- The case where a person, whose extradition is sought, is convicted for an offence he has committed in the territory of the requested State, or a judgement is issued by the judicial authority of a third contracting State.

This article excludes some offences (45) that may not otherwise be considered as political offences such as: assault against the Kings and Presidents of the member States and the members of their families, assault against the Crown Princes and the vice-presidents of the member States, pre-meditated murder and robbery.

It is of value to note the difference between the Riyadh Convention and the G.C.C. Security Convention with regard to the cases where extradition is not permissible, the Riyadh Convention contains more such cases than in the G.C.C. Security Convention. The latter records only four cases in addition to the one where the criminal description is repealed and the punishment has prescribed. This

demonstrates the drafters' desire to limit the cases where extradition is not permitted in order to achieve a wider range of extradition cases.

When limiting the offences that cannot be considered as political offences, the Riyadh Convention states that these offences can not be considered political even if purposes thereof are political⁽⁴⁶⁾. However, the G.C.C. Security Convention, Art. 30(a), lays down those offences which are excluded from being considered political offences without mentioning whether their purposes are political or not.

The extradition request file should contain⁽⁴⁷⁾ a report concerning the nationality, the description and the identity of the person to be extradited; a warrant of arrest of the person or an official copy of a judgement issued by the judicial authority in the requesting State. A statement of particulars concerning the convicting proofs, the legal description, date and place of the offence which is subject of the extradition request.

The authorities in the requested State may arrest⁽⁴⁸⁾ the person to be extradited by virtue of a request from the requesting member State before the receipt of the extradition request file. The arrest request would be sent either by post or by any other written means. The person would be arrested for thirty days. This period would be renewed for another thirty days if the competent authorities in the requesting State presents a request for renewal. If this authority fails to be present for the delivery of the person in question during the first thirty days, or fails to sent an arrest renewal request⁽⁴⁹⁾, the requested State should release the person.

This Convention also covers the case of concurrent extradition requests⁽⁵⁰⁾ presented by different signatory States. The order of priority is similar to that laid down in the Convention concluded within the framework of the League of Arab States: priority is given first to the contracting State whose interests are most damaged by the offence; second to the contracting State in whose territory the offence is committed; third to the contracting State whose

nationality is held by the offender at the time of the offence. If all these conditions are satisfied simultaneously, the priority for extradition would be to the State which first presents the request for extradition.

It is worth noting that, in the case of concurrent extradition requests for the same person, the G.C.C. Security Convention limits the priority to two contracting States: to the State whose interests are damaged by the offence first, and then to the State where the offence is committed⁽⁵¹⁾. The situation is different when the extradition requests deal with different offences; priority, here, is defined by taking into consideration the circumstances, the gravity and the date of the commission of the offence⁽⁵²⁾.

Concerning any items used in the commission of the offence, when extraditing a person the requested State shall hand over all items in its possession used in the commission of the offence. In the case when extradition is not competent, the requested State must nonetheless deliver such items⁽⁵³⁾.

The consideration of the extradition requests is carried out taking into account the legal system applied in the requested State at the time of the extradition request⁽⁵⁴⁾. When extradition is refused, the requested State shall justify the reasons for its refusal⁽⁵⁵⁾.

The competent authorities in the requesting State are to receive the requested person according to an agreed date and place. If such authorities fail to receive the person in question, the authorities in the requested State may release him fifteen days after the date fixed by the authorities in both States. The person must be released thirty days after the agreed date if the authorities in the requesting State fail to receive the person, and the requested State would not have the right to present an extradition request concerning the same person for the same offence. It is possible that the authorities in the requesting State may face circumstances which prevent it from delivering the person within a limited period of time; in this

case, this authority should inform the authorities in the requested State about such circumstances and both authorities would fix another date on which extradition would take place⁽⁵⁶⁾.

When the person whose extradition is sought is convicted or tried by the judicial authority in the requested State for an offence other than the offence which is the subject of the extradition request, extradition would be postponed until the judicial authority in the requested State concludes the trial or the sentence is carried out⁽⁵⁷⁾.

The Riyadh Convention, Art. 50 deals with the case when the crime has been repealed. The new elements of the offence should fall under the category of offences for which extradition is obligatory. As is the case of the security conventions, the 1983 Riyadh Convention adopts the principle of deducting the period spent under arrest in the requested State from the punishment imposed in the requesting State⁽⁵⁸⁾.

Art. 52. lays down the cases when it is possible to proceed against the extradited person for offences other than the offence which is the subject of the extradition request. When the person is given the chance to leave the State to which he is extradited and fails to do so thirty days after his final release, or he has left the State and returns to it deliberately; when the extraditing member State agrees provided that a new extradition request is placed along with a judicial minute containing the *proces-verbal* related to the prolongation of the extradition.

The contracting State to which a person is extradited cannot extradite him to a third State, except in two cases⁽⁵⁹⁾: when the person is given the opportunity to leave the State to which he is extradited and fails to do so within thirty days after his final release; and if the extraditing member State accepts such a procedure.

The Riyadh Convention deals with facilitating the transit of persons, whose extradition is decided upon, through the territories of the States which are members of this Convention provided that the State to which the person is to be extradited places a request containing documents justifying this extradition.

The subsequent articles of Convention deal with the means of executing the judgements issued in a member State; such judgements must be final. The Convention records that the expenses incurred by the extradition are to be borne by both States⁽⁶⁰⁾; the requested State assumes the expenses until the person leaves its territory, while the requesting State is charged with the expenses from the territory of the extraditing State to its territory and the expenses of the return of the person if he is found innocent.

The Riyadh Convention divided the expenses between the two States, while the G.C.C. Security Convention, art. 39 states that these expenses are to be borne by the requesting State. These expenses may cover either the cost of the extradition procedure or the return of the person to the place from which he is extradited if he is found innocent.

Formal extradition requests among the member States are carried out by the Arab Office of Criminal Police⁽⁶¹⁾, through the Communication Department referred to in the Convention establishing the Arab Organisation for Social Security⁽⁶²⁾, as we shall see soon.

The Riyadh Convention, art. 69 states that its provisions are binding. Art. 69(a) stipulates that the Contracting States are not permitted to conclude other agreements whose provisions contravene the provisions of the Riyadh Convention. The provisions of the 1983 Riyadh Convention are part of the general system of the signatory States, and if any signatory State applies provisions other than those of the Riyadh Convention, such provisions are revoked and invalid.

This point is the reason behind the attitude of the G.C.C. States towards the Riyadh Convention since the provisions of the Riyadh Convention do not satisfy the desire of these States who wish wider co-operation in the field of extradition. These States thus did not ratify the Convention though their delegates have signed it. Their attitude becomes clearer with the 1994 G.C.C. Security Convention in which extradition of nationals is obligatory without restraint by virtue of Art. 28 which conflicts with the Riyadh Convention(63).

If there is any conflict between a provision of a previous convention and a provision of the Riyadh Convention, the former is not invalidated, but priority in execution is given to the provision that best realises the extradition of convicted and criminal persons(64).

The 1983 Riyadh Convention does not permit the Contracting Parties to place reservations(65). Withdrawal from the Convention is carried out by means of a written notification to be sent to the Secretary-general of the League of Arab States. The withdrawal would be effective six months after such notification(66). In other words, the provisions of this Convention are applicable with regard to the extradition requests placed during this time(67). The G.C.C. Security Convention has a similar provision on withdrawal.

The Riyadh Convention concludes by considering its attitude towards the Arab States which do not accede to the Convention. Such States must comply with the provisions of any Extradition Convention concluded within the framework of the League of Arab States. Whereas, the acceding States must apply the provisions of the Riyadh Convention which supersedes all agreements governing execution of judgements and extradition concluded within the L.A.S in 1952(68).

Whilst all the twenty-one Arab States which attended the conference on the Riyadh Convention signed it, only the following States ratified it; Palestine, Iraq, The Yemen Popular Democratic Republic, The Yemen Republic, Sudan Republic,

Mauritania, Syria, Somalia, Tunisia, Jordan, Morocco and Libya(69). It is necessary to understand the operation and structure of the mechanism of operating the Arab security, namely the Council of the Arab Ministers of the interior.

THE COUNCIL OF THE ARAB MINISTERS OF THE INTERIOR(C.A.M.I).

The idea to establish C.A.M.I. emanated from the Arab Ministers of the Interior's Conference held in Cairo on 1977(70). The Resolution that establishes it was issued during the Third Conference held in Taif on 1980. The provisions of its Principal System were ratified on 1982 during the Arab Ministers of the Interior extraordinary session held in Riyadh(71). In the same year, the League of Arab States approved its establishment and its Principal System by virtue of the decree issued on 23 September 1982(72).

The Principal System of the C.A.M.I. is formed of sixteen articles. Art. 1 defines the terms used in this Principal System; in addition, the Principal System states that the Council is formed by the Arab Ministers of the Interior to which the Arab Centre for Security Studies and Training(73) is affiliated.

This Council(74) is established to co-ordinate the efforts to guarantee the internal security and to prevent the commission of crimes in the Arab States. To reach such targets, the Council assumes some responsibilities that aim to, inter alia, sustain the Arab Security Organs whose capabilities are limited; to declare common Arab security plans to implement the general policy taking into account the internal security of these States; to establish the appropriate systems and committees to execute its purposes; and to establish committees formed of experts and advisers to supervise the studies to be carried out(75).

Its Resolutions are adopted by a vote of two-thirds of the attending member States. One may ask about the nature of the persons attending the meetings of the C.A.M.I.. The Principal System lays down an answer to the inquiry when stating

that the attending persons are: the Ministers of the Interior or their deputised representatives, the Secretary-general of the League of Arab States, or when absent, an Assistant Secretary would act on his behalf; and the Chairman of the Arab Centre of Security Studies and Training(76).

The Secretariat-General of the Council is an important organ of the Council(77)because of the many competences it assumes. The Secretary-General(78)is the head of this organ; he is appointed by the Arab Ministers of the Interior from among the candidates proposed by the member States. The Secretary-General is appointed for a three year renewable mandate. He is assisted by four assistant Secretaries-General nominated as follows: two assistant Secretaries-General from the States according to their sequence in descending alphabetical order and two from States according to the ascending alphabetical order.

Among the competences of the Secretariat-General: it supervises the systems, committees and organs established by the Council; it follows up the implementation of works and recommendations issued from the Council, Conferences and symposiums held within the framework of the Council; it convenes of the meetings of the Council and the established committees; and the Secretariat-General prepares for the budget project, for the annual plan and for the different studies recommended by the Council(79).

There are four specialised offices affiliated to the Secretariat-General of the C.A.M.I.; these are(80): *The Arab Office for Combating Crime*, situated in Baghdad. Among its competence is to find out the causes and solutions to crime, to revise the punishment of such crimes and to determine annual statistics for the crimes committed in the member States. *The Arab Office for Drugs' Affairs*, located in Amman, which strengthens co-operation between the authorities in the member States in the field of drug combating. *The Arab Office for the Civil Protection and Rescue*, in Casablanca; which strengthens the co-operation in the

field of civil protection, rescue and relief from natural and unnatural catastrophes. *The Arab Office for Criminal Police*, with its head office in Damascus; it promotes and strengthens co-operation among the Arab Police Systems. The Riyadh Convention on Judicial Co-operation, Art. 57, mentions that the Arab Office for the Criminal Police co-ordinates between the member States as far as extradition requests are concerned.

These specialised offices are under the supervision of the Secretary-General of the C.A.M.I. Their works are managed by directors appointed, from among candidates proposed by the member States, for five year mandate. Each director is assisted by a group of personnel. Another office is established, namely the *Arab Office for Security Information* in Cairo⁽⁸¹⁾ which co-ordinates information in efforts to cope with crimes commission in the member States; it characterises the activities of the C.A.M.I. and its affiliated systems. Besides the *Arab Police Sports Union*, it is also affiliated to the Secretariat-General of the C.A.M.I. It is situated in Cairo⁽⁸²⁾, it promotes relations between the Police Sports Teams from the member States.

Up to now, the Council has held thirteen sessions since its establishment⁽⁸³⁾; the first of these was the session held in Casablanca on December 1982, the last was in Tunis on January 1996. As far as the achievements of the Council are concerned, it has attained some of its purposes through security plans set up and executed within its framework. Its major accomplishments are the ratifications of the Arab Security Strategy of 1983⁽⁸⁴⁾, the Arab Security Plan of 1986⁽⁸⁵⁾, the Second Arab Security Plan of 1992⁽⁸⁶⁾ and the Arab Convention on the Drug Contention of 1994⁽⁸⁷⁾.

THE ARAB SECURITY STRATEGY.

The C.A.M.I. ratified the Arab Security Strategy(88) during the Second session by virtue of the Resolution (18) of 8 December 1983(89). This strategy comprises four sections, the purposes, elements, programmes and mechanisms. The purposes of the Arab Security Strategy are to realise the security complementarity pursuant to the Arab security unity under the guidance of the Islamic Shari'ah, to combat crime in all its traditional and modern forms, to preserve the security of individuals and to guarantee their safety, liberty, rights and properties, to preserve the security of the Arab nation and to protect it from internal or external terrorism and from acts of sabotage and to preserve the security of public institutions and utilities and to protect them from any aggression. It is to be noted that these purposes are general and span the Arab World(90).

There are nine elements and programmes of this Strategy. They are(91), inter alia, the establishment of a Model Arab Unified Criminal Law which has Islamic Shari'ah as a main source. When this law is established, the Arab States would revise their Criminal Laws in accordance with this Model Law. The Arab States should take advantage from modern technology in the field of security and should initiate security studies and research. The Arab States should strengthen security co-operation and establish a comprehensive Arab Security System through meetings of those responsible Officials in the Arab Security systems; exchanging research, studies and expertises in the security field and tracking fugitive offenders; and harmonizing bilateral and regional security agreements among Arab States. They should co-operate with other States and international organizations specialized in combating crimes through Arab States representation and attendance at international forums and meetings discussing security matters.

The mechanisms dealt with in the Arab security strategy are(92): To consider, after the conference of the Arab Leaders, the C.A.M.I. as the head of the Arab security authorities. To consider the Council and its affiliated systems as the organs

responsible for the duties related with the collective Arab security functions and that the *Arab Collective Fund*, affiliated to the C.A.M.I., is the body to finance the programmes dealt with in this Strategy and the consultative committees within the framework of the Secretariat-General for the C.A.M.I. for the promotion of the programme of discipline in the penal institutions and for the orientation and assessment of the educational and information programmes to limit its negative effects on both the security and the behavioural levels.

The implementation of this strategy ended on December 31, 1983, and an Arab Security Plan(93) was under study. In fact, the third session of the Council of Arab Ministers of the Interior decided to establish a committee to prepare this plan. When this plan was made, the C.A.M.I approved it during the fourth session by virtue of Resolution issued on 5 February 1986(94).

The purposes of the Arab Security Plan are, inter alia, The reinforcement of security co-operation among the Arab States. The confrontation of organised crimes within the framework of the Arab security endeavours and the connection of the security systems in the Arab States by a communication network and seeing the modern technology in detecting the criminals and the development of registration services in the security fields.

This plan was divided into two main programmes(95). The first programme is to be executed by the Secretariat-General of the C.A.M.I.. This programme encompasses holding meetings and communication relations for co-ordination. An annual meeting is to be held by the leaders of the Arab Police. A similar meeting gathering the Secretary-general of the Council, the Chairman of the Arab Centre for the Security Studies and Training, the Secretary-general of the Arab Police Sports Union, the Assistant Secretary-general of the Council, the directors of the specialised offices and the chiefs of communication departments in the Council is also proposed. Another meeting to be held once every two years gathering the chiefs of the criminal investigations, drugs, civil protection, passports, traffics,

ports and airports, the penal institutions and general relations. The Specialised Offices and Communication Departments should be developed and the instantly exchanged information should be made available for the Arab security systems.

The second programme is to be realised by the Arab Centre for the Security Studies and Training. The Arab Centre for Security Studies and Training makes many programmes charged with by the Arab Security Plan. Among these programmes: a lectures and seminars programme, a studies and research programme, an exhibition programme, security library programme, technical training programme, the Centre for security information programme, an information means programme and a training programme including six terms dealing with security items: trainers preparation, the promotion of the competence of the personnel of the security administrative system, the protection of important constructions, the use of criminal laboratories, the use of means of communication in security duties and means of carrying out investigations concerning the commission of crimes.

It is worth remarking that this plan was to last for five years starting from the beginning of 1987 until the end of 1991, and the implementation was supervised by the Secretariat-General of the C.A.M.I. and the Arab Centre for Security Studies and Training. In each year of the implementation of the Plan, the Secretariat-General and the Arab Centre for the Security Studies and Training submitted reports to the Council of Arab Ministers of the Interior concerning the steps taken as far as the Plan is concerned. Pursuant to the report submitted - by a working team formed by virtue of paragraph(2) of the Resolution issued by the Eighth Conference of the C.A.M.I.- before the C.A.M.I. in its ninth session held in Tunis in 1991, the latter decided that the duration of the Plan would be prolonged for a sixth year. Consequently, the Plan was terminated at the end of 1992(96).

THE SECOND ARAB SECURITY PLAN.

During the Tenth Conference of the Council of Arab Ministers of the Interior held in Tunis at the beginning of 1993, the Council approved a Second Arab Security Plan for the coming five years ending at the end of 1997⁽⁹⁷⁾. This Plan contains two main programmes. The first to be carried out by the Secretariat-General of the Council of Arab Ministers of the Interior and the second by the Arab Centre for the Security Studies and Training⁽⁹⁸⁾.

It is important to note that this Second Plan repeated some of the purposes stated in the previous plan because these purposes were not fulfilled, for example, the enhancement of co-operation among the security systems in the Arab States. Other purposes were added, the most important of which were those related with the standardisation of security terminology and the pursuit of collective security activities. This Second Plan widens its international perspective by covering both Arab and international events⁽⁹⁹⁾.

The C.A.M.I. has a crucial role in the field of the combating of Drugs since it adopted the Arab Strategy for Combating Illegal Use of Drugs and Narcotics during the fifth session held in Tunis by virtue of Resolution issued on 2 December 1986⁽¹⁰⁰⁾. The Council also adopted the Model Unified Arab Drugs Law by virtue of the Resolution issued on 5 February 1986 during the fourth session held in Casablanca. The Council also approved the Arab Convention for Combating Illegal Use of Drugs and Narcotics at the beginning of 1994⁽¹⁰¹⁾. This Convention is formed of twenty-six articles. What concerns this study is that its provisions urge the Contracting States to extradite to the requesting State persons who commit drugs-related offences. Art. 6 of this Convention explains the relevant extradition procedures. The text of the Convention states that the provisions of the Convention are obligatory for all member States. Consequently, the States are not permitted to conclude other agreements whose provisions

contravene those of this Convention, yet they are permitted to conclude agreements that better realise security co-operation in this field⁽¹⁰²⁾. The Convention entered into effect ninety days after the deposition of the instruments of ratification of one third of the member States⁽¹⁰³⁾, on 30 June 1996⁽¹⁰⁴⁾.

A recommendation of the Ninth Co-ordinating Meeting of the organs of the C.A.M.I. held in Tunis on September 1994 requests the Secretariat-General of the C.A.M.I. to prepare a Model Act for the Extradition of Criminals and Convicted Persons⁽¹⁰⁵⁾. This is to be considered as a directive for the member States while preparing for their domestic legislation concerning similar extradition or while amending appropriate laws. The Council of Arab Ministers of the Interior adopted the recommendations issued by this Ninth Co-ordinating Meeting by virtue of a Resolution outgoing from the Twelfth Session held in Tunis on January 1995⁽¹⁰⁶⁾. The author confirmed this with Dr. Ahmed Assalem, the Secretary-general of the C.A.M.I.⁽¹⁰⁷⁾.

This Model Criminal Extradition Act deals with matters related to the extradition. It obliges the member States to extradite the persons who are convicted or adjudicated by virtue of an extraditable offence⁽¹⁰⁸⁾. It stipulates that such offence is either committed in the territory of the requesting State or outside the territories of both requested and requesting States provided that their laws punish offences committed outside their territories⁽¹⁰⁹⁾.

It also discusses the offences for which extradition is obligatory and the persons whose extradition is obligatory⁽¹¹⁰⁾. The Model Criminal Extradition Act permits any Member State to avail itself of the right not to extradite its nationals⁽¹¹¹⁾ if the requested person holds its nationality at the time of the crime's commission provided that the requested State tries the person and notifies the authorities in the requesting State about the extradition request presented by such authorities⁽¹¹²⁾.

It deals with the cases in which extradition is not permitted⁽¹¹³⁾. These cases are somewhat similar to those laid down in the Riyadh Arab Convention on the Judicial Co-operation. Its subsequent provisions deal with other matters related to extradition⁽¹¹⁴⁾.

The activities of the C.A.M.I. and its organs are not limited only to Arab activities, but it extends also to international organisations. It participates in the international conferences discussing security. In fact, the Secretariat-General of the C.A.M.I. attends the gatherings held by the UN Programme For Combating Drugs; these gatherings are attended by the representatives of sixty countries and a group of governmental and non-governmental international organisations⁽¹¹⁵⁾. The Secretariat-General of the C.A.M.I. also attended the UN Ninth Conference On Crime Prevention and the Treatment of Criminals; it participated in the Fourth Meeting of the Committee For the Protection from Crime and the Criminal Justice, and it attended the meetings of General Assembly of the International Criminal Police; and the Secretariat-General of the Council of the Arab States of the Interior attended the Fifth Meeting dealing with financial resources from the criminal activities held in France.

One of the most important events considered by the members of the League of the Arab States in extradition is the Lockerbie case which has international repercussions. It is appropriate to analyse the unfortunate event because, first, it is linked with extradition and, secondly, it shows the endeavours of the League of Arab States to reach a reconciliation. The Lockerbie tragedy caused a problem(regionally and internationally) still unsolved. And the extradition requests concerning the Libyan nationals are not satisfied. In this sense, the UK. through their ambassador in Cairo, Mr. David Laswick who met the Secretary-General of the League of Arab States, still insists on its position that Libya has to extradite the convicted persons⁽¹¹⁶⁾. This attitude reflects the importance of L.A.S.

in resolving the problem that led to the imposing economic and political coercion(117).

The events of the case begin with the tragic explosion of Pan Am flight 103 over Lockerbie in Scotland on 21 December 1988(118), with the death of 259 passengers and crew and 11 residents of Lockerbie. Meanwhile, the French UTA Flight 772 exploded on the Nigerian desert with the loss of 171 lives(119). The investigations carried out by US and British authorities indicate that two Libyan nationals were responsible for this explosion and they made an extradition request to the Libyan authorities to extradite the Libyan nationals. The French authorities also issued a communique in which they accused the Libyan nationals for the explosion of the UTA flight. The three Western States requested the extradition of the Libyan nationals who caused the explosions.

The Libyan authorities refused to extradite their nationals because there is no extradition agreements, either bilateral or multilateral between Libya and the US, Britain or France. Had there been extradition agreements, the problem then lay in the Libyan Constitution which prohibits the extradition of nationals.

The Libyan refusal compelled the Western States to submit the case before the Security Council which issued Resolution 731 of 21 January 1992(120). The Resolution urges the Libyan authorities to comply with the Western States request since the terrorist acts committed by the two Libyan nationals should be prosecuted.

As a response to the Libyan s refusal and failure to comply with S.C. Resolution 731, the S.C. issued the Resolution 748(121). This Resolution imposed sanctions on Libya, inter alia, banning of flights to and from Libya and prohibiting the export of all kinds of arms to Libya. This Resolution was followed by the S.C.

Resolution 883 on 11 November 1993 which extended the previous sanctions imposed on Libya.

The Lockerbie case was brought before the ICJ basically to decide in the question of Interpretation and Application of the 1971 Montreal Convention for the Suppression of Unlawful Acts Against the Safety of Civil Aviation(122), art.14(1)(123). On 3 March 1992, Libya instituted proceeding for provisional measures with the ICJ(124). The ICJ issued its decision 92/8 of 14 April 1992: *The Court, by eleven votes to five, finds that the circumstances of the case are not such as to require the exercise of its power under Article 41 of the Statute to indicate provisional measures* (125).

The ICJ regarded as inappropriate the rights claimed by Libya under the Montreal Convention for protection by the indication of provisional measures. The decision of the ICJ was subject to conflicting views(126). Mr. Oda, the Acting President of the ICJ, and Judge Lachs agree that the decision of the Court, as being the guardian of legality for the international community as a whole(127), should not have been affected by the consequences of the Security Council Resolution 748 which suggested the possibility that, prior to the adoption of the resolution, the ICJ could have reached legal conclusions with effects incompatible with the Council actions and the ICJ might in that case be blamed for not having acted sooner.

Judge Ni supported the decision of the ICJ since the Libya's request should be denied due to the non-fulfilment of the six-month period required by virtue of the Montreal Convention, without having to decide at the same time on the other issues.

Others Judges(128) agree with the ICJ decision since US and UK are liable to request extradition of the accused Libyan with respect to the international law and,

Libyan domestic law bans the extradition of nationals. Regardless of these circumstances, the Security Council is concerned with combating international terrorism by virtue of Chapter VII of the UN Charter. Others view⁽¹²⁹⁾ that the ICJ decision resulted not from any collision between the competence of the Security Council and the competence of the Court, but from a collision between the obligations of Libya under the Resolution of the S.C. and any obligations which Libya has under the Montreal Convention; under the Charter, the obligations under the Resolution of the S.C. prevailed.

Other opposing views consider that the conflict is twofold, legal and practical⁽¹³⁰⁾. The legal one is based on the extradition of two Libyan nationals which is submitted by Libya (within its rights) before the ICJ, while the practical is mainly dealing with a terrorism-implicated State which is submitted by the UK and US (within their rights) before the Security Council. Judge Bedjaoui is of the view that the rights claimed by Libya exist *prima facie* and the conditions required by the ICJ for the indication of provisional measures are satisfied. He regretted that the ICJ did not indicate either specific provisional measures which were requested by Libya, *proprio motu*, general measures that could be the ICJ contribution to the settlement of the conflict. On the same side, Judge Weeramantry⁽¹³¹⁾ based his point of view on the fact that both ICJ and the Security Council are two coordinating bodies within the UN framework who have been approached separately by opposite parties to the same dispute. He considered that *proprio motu* provisional measures can be indicated in a manner that it would not collide with the Security Council Resolution 748 to settle the dispute.

Furthermore, Judge *ad hoc* El-Koshi⁽¹³²⁾ maintained that paragraph(1) of the Security Council Resolution 748 should not have any legal effect on jurisdiction of the ICJ. According to Judge El-Koshi, the Libyan request for provisional measures should be considered in accordance with habitual pattern of the jurisprudence of the ICJ and to act *proprio motu* to indicate measures.

The judgements of the ICJ are applicable and prevail over domestic regulations⁽¹³³⁾; therefore, the US, UK and France insist on the trial of the two Libyan nationals for the explosion of the two flights especially after the decision of the ICJ.

The League of Arab States mediated in this case and tried to convince the parties to reach a peaceful settlement. In fact, Mr. Ismat Abdelmajid, the L.A.S. Secretary-General held meetings in the permanent member States of the S.C. and with the UN Secretary-General to convince the Western States to accept the LAS proposal for the surrender of the Libyan nationals for trial in the Hague, the seat of the ICJ, by Scot judges and under Scot s Law⁽¹³⁴⁾.

The L.A.S. held several extraordinary sessions to discuss a peaceful solution to the conflict. In its ordinary sessions, the LAS discussed this case and issued many resolutions concerning this case⁽¹³⁵⁾. L.A.S. Resolution 5161 of March 1992 urged the S.C. to find a solution to the crisis through negotiation, mediation, and judicial settlement by virtue of art. 33 of the UN Charter; further, L.A.S. implored the S.C. not to adopt resolutions which impose sanctions on Libya since such resolutions aggravate and complicate the conflict. LAS established a mechanism (composed of Ministers from Tunisia, Algeria, Egypt, Morocco, Libya, Syria, Mauritania and the Secretary-General of L.A.S.) to hold discussions with the parties of the conflict and the permanent members of the S.C. and the Secretary-General of the UN.

In 27 March 1994, the Assembly of L.A.S. issued resolution 5373 which supported the proposal of the L.A.S. Secretary-General and urged the S.C. to take the proposal seriously since it would ensure peaceful solution which would avoid escalation in the region. As the Secretary-General of the L.A.S., Mr. Ismat Abdelmajid, confirmed to the author⁽¹³⁶⁾, the nucleus of the crisis is the absence of

an extradition agreement between Libya and the requesting States, or even between LAS(since Libya is a member of LAS) and these States. Also there is no international extradition convention that might oblige Libya to extradite its two accused nationals.

Other international and regional organizations tried to offer a solution to the crisis. In fact, the non-alignment States⁽¹³⁷⁾ expressed their refusal to impose sanctions on Libya since Libya provided the British Government with information concerning the IRA and its willingness to surrender its nationals for trial in an impartial third State. The Islamic Conference Organization showed its solidarity with the Libyan people who have suffered from the sanctions imposed on Libya knowing that the Libyan Government intended to reach a peaceful solution to the crisis⁽¹³⁸⁾.

The Organization of African Unity(OAU) established a Ministerial Committee composed of the Foreign Ministers of Ghana, Tunisia, Uganda, Cameroon, Zimbabwe and two assistants of the Secretary-General of the OAU. This Committee negotiated with the US, UK and France concerning the application of the S.C. resolutions without prejudicing Libyan sovereignty⁽¹³⁹⁾.

From this Crisis, the conclusion of an international agreement on extradition is important. With the existence of such an agreement, the conflict could have been solved. Political considerations may well end this crisis since from the legal perspective, this conflict has not been resolved⁽¹⁴⁰⁾.

NOTES

- 1) The league of Arab States is a regional organisation gathering the Arab States as members. Its Charter was ratified on 22 March, 1945 by six States: Syria, Lebanon, The Kingdom of Saudi Arabia, Egypt, Iraq and East Jordan; later it was ratified by Yemen. The Charter entered into effect on 11 May 1945. The rest of the Arab States successively adhered to the League until they reached twenty-two States. The Charter is formed of a preamble and twenty Articles dealing with the purposes of the League and their means of implementation. The League of Arab States consists of three main systems: (1) The Council of the League formed by the representatives of the member States.(2) The Secretariat-General of the League of Arab States, it is formed by the Secretary-general assisted by the Council of the League, the assistant secretaries and the personnel of the Secretariat-general.(3) A number of permanent Committees. For more details, See: Mofid Chihab, OP CIT, PP. 438 Et Seq.; Mohammed Talaat Alghonimi, OP CIT, PP. 1018 Et Seq.; Ali Sadek Abuhif, OP CIT, P. 685; "The League of Arab States...Fifty Years", The Secretariat-General of the League of Arab States, the League of Arab States Press, Cairo 1995, P. 242.
- 2) The Hashemite Kingdom of Jordan ratified the Convention on 17 February 1953 and approved it on 28 July 1954. The Syrian Republic ratified the Convention on 19 April 1953 and approved it on 29 September 1956. The Egyptian Kingdom ratified the Convention on 9 June 1953 and approved it on 8 March 1954. The Saudi Kingdom ratified the Convention on 22 May 1953 and approved it on 5 April 1954. The Iraqi Kingdom ratified the Convention on 27 July 1953 and approved it on 3 October 1957. The Lebanese republic ratified the Convention on 18 February 1953. As for the acceding States: Libyan Kingdom on 19 May 1957, Kuwait on 20 May 1962, The Popular Republic of South Yemen on 7 March 1970, The UAE on 5 February 1973, Bahrain on 4 December 1973.
- 3) The text of the Convention is in: Mahmoud Zaki Shems, International Judicial and Extradition Agreements(1926-1986), OP CIT; Shearer I.A., Extradition in International Law, University of Manchester, Manchester 1971, P. 52.
- 4) L.A.S. Extradition Convention, Art. 1.
- 5) Ibid, Art. 2.
- 6) Id.

- 7) The G.C.C. Security Convention, art 28.
- 8) L.A.S. Extradition Convention, Art. 3.
- 9) See Chapter on the G.C.C. Security Convention.
- 10)Id.
- 11)Id.
- 12)The G.C.C. Security Convention, art. 28.
- 13)L.A.S. Extradition Convention, art. 3.
- 14)Ibid, art. 4.
- 15)Egypt disapproved of the definition of extraditable offences, laid down in Art. 4. of this Convention. This disapproval was expressed through the Egyptian reservations on the Convention. See: "The Conventions and Agreements", The Legal Affairs Sector, the Secretariat-General of the L.A.S., Tunis 1985, P. 102.
- 16)L.A.S. Extradition Convention, Art. 5.
- 17)Id.
- 18)Ibid, Art. 6.
- 19)Ibid, Art. 7.
- 20)Ibid, Art. 8.
- 21)Ibid, Art. 10.
- 22)Ibid, Art. 11.
- 23)Id.
- 24)The Egyptian delegation placed a reservation on this article, it wanted the elimination of the term "arrest", and supersedes the term "imprisonment" by "placing under custody", see: "The Conventions and Agreements", OP CIT, P. 102.
- 25)L.A.S. Criminal Extradition Convention, Art. 12.
- 26)Ibid, Art. 13.
- 27)Ibid, Art. 14.
- 28)Id.
- 29)Ibid, Art. 15.
- 30)Ibid, Art. 16.
- 31)Ibid, Art. 17.
- 32)Ibid, Art. 18.
- 33)This Convention is similar to the Bilateral Conventions concluded between Saudi Arabia and other Arab States.

- 34)The text of the Convention is in: Mohamed Zaki Shems, International Judicial and Extradition Agreements(1926-1989), Damascus 1989.
- 35)"Security and Life" Magazine, 1st ed., 1st year, July/August 1982, The Arab Centre for Security Studies and Training, Riyadh, P 4.; Ahmed A. Salama, The Arab Riyadh Convention(1983) and International Co-operation in Judicial Procedure Matters a paper published in The Rights Magazine issued by the Scientific Council Publications, Kuwait University, 1991.
- 36)The Riyadh Convention on the Arab Judicial Co-operation, Art. 38.
- 37)Ibid, art. 39.
- 38)Id.
- 39)Ibid, art. 40.
- 40)See Chapter on the G.C.C. Security Convention.
- 41)The Riyadh Convention on the Arab Judicial Co-operation, art. 41.
- 42)Farid Azoughbi, The Penal Encyclopaedia, Sader House, 3rd ed. Beirut 1995, Vol. III, P. 207.
- 43)An action *ex delicto* (penal action) is usually terminated when a decisive judgement is issued, this judgement cannot be appealed. The action *ex delicto* can be terminated or rescinded for other reasons; such as, the death of the convicted, the amnesty and the abolition of the law punishing the act subject of the action *ex delicto*; such reasons differ from one legal system to another. For more details see: Mahmud Mahmud Mustafa, The Penal Proceedings Law, Dar An-nahda Alarabia, 12th ed., Cairo 1988, PP. 129 et seq.; Mahmud Najib Hosni, A Discussion Of The Penal Proceedings Law, Dar An-nahda Alarabia, 2nd ed., Cairo 1988, PP. 185 et seq.; Ahmed Fathi Sorour, The Mediator In The Penal Proceedings Law , Dar An-nahda Alarabia, 7th ed., Cairo 1993, PP. 141 et seq.
- 44)The amnesty on an offence means the termination of its obligatory execution against a person who is decisively adjudicated, this termination can be total or partial, and this punishment can be superseded by a simpler one. For more details, see: Mahmud Najib Hosni, A Discussion Of The Penal Law...The General Section , Dar An-nahda Alarabia, 6th ed., Cairo 1988, P. 914.

- 45)Abdurahim Sidki, "The Repercussion of Criminal Extradition On The Political Matters", a paper published in "The Arab Police Study" Magazine, ed. No 100, 25th year, January 1983.
- 46)Farid Azoughbi, OP CIT, Vol. III, PP. 174 et seq.
- 47)The Riyadh Convention on the Arab Judicial Co-operation, Art. 42.
- 48)Ibid, art. 43.
- 49)Ibid, art. 44.
- 50)Ibid, art. 46.
- 51)The G.C.C. Security Convention, art. 34(a).
- 52)Ibid, art. 34(b).
- 53)The Riyadh Convention on the Arab Judicial Co-operation, art. 47.
- 54)Ibid, art. 48.
- 55)Id.
- 56)Ibid, art. 48.
- 57)Ibid, art. 49.
- 58)Ibid, art. 51.
- 59)Ibid, art. 53.
- 60)Ibid, art. 56.
- 61)The Arab Office of Criminal Police is in Damascus.
- 62)The Riyadh Convention on the Arab Judicial Co-operation, Art. 57.
- 63)Ibid, art. 39.
- 64)Ibid, art. 69(b).
- 65)Ibid, art. 70.
- 66)Ibid, art. 71.
- 67)Id.
- 68)Ibid, art. 72.
- 69)The States which deposited their instruments of ratification with the Secretariat-general of the League of the Arab States: Palestine on 28 November 1983, Iraq on 16 March 1984, The Yemen Popular Democratic Republic on 13 April 1984, The Yemen Republic on 11 June 1984, Sudan Republic on 26 November 1984, Mauritania on 17 June 1985, Syria on 30 September 1985; Somalia on 2 October 1985, Tunisia on 29 October 1985, Jordan on 17 January 1986, Morocco on 30 March 1987, Libya on 16 January 1988.

- 70)The responsables of Arab Police held the Conference of the Ministers of the Interior. In their Fourth Conference, they notified the Secretary-general of L.A.S. to convene the Arab Ministers of the Interior to this Conference. The First Conference of Arab Ministers of the Interior was held in Cairo on 21 September 1977. See, Abu Fotouh Salama, "The Realisations and Instrumentality of The Leaders of Arab Police and Security During the Two Decades 1972-1992", a paper presented during the Conference "The Arab Police and Security Co-operation, 1972-1992, the Realisations and Perspectives" held by Ashariqa Police, UAE, 1992.
- 71)"The Council of the Arab Ministers of the Interior, Perspectives and Aspirations", publication of the Secretariat-General of the Council of the Arab Ministers of the Interior, Tunis 1996, P. 2.
- 72)Id.
- 73)The Arab Centre for Security Studies and Training is a scientific organisation affiliated to the Council of the Arab Ministers of the Interior. It is located in Riyadh. Its prominent goals are: to define the principles of the Islamic Criminal Legislation, to prepare trainers, promote training in the field of criminal protection and to strengthen the relations between scientific and social institutions.
- 74)The Council of the Arab Ministers of the Interior superseded the Arab Organisation for the Social Protection against Crime. The latter was established on 10 April 1960. It was composed of the General Assembly formed of the member States, it held ordinary sessions once a year; Three offices: The Crime Combating office in Baghdad, The Criminal Police in Damascus and Drugs office in Cairo; and an Executive Council formed the Heads of the latter three Offices, it held sessions three times a year. see: Muhammed Niazi Hatata, Crime Contention and The Treatment of Criminals, Dar An-nahda Al-arabia, Cairo 1995, PP. 14 et seq.
- 75)The Principal System of the Council of the Arab Ministers of the Interior, Art. 4.
- 76)Ibid, Art. 7.
- 77)The Council of the Arab Ministers of the Interior is the only Arab Ministerial Council that has a Secretariat-general because of its importance in preserving security in this States.
- 78)Dr. Akram Ibrahim Nachaat was the first Secretary-general of the Council of the Arab Ministers of the Interior, and he remained Secretary-general for three sessions until 1992, when Dr. Ahmed Assalem took over.
- 79)The Principal System of the Council of the Arab Ministers of the Interior, Art. 10.

- 80)Ibid, Art. 11.
- 81)To establish the Arab Office for Security Information was proposed by the Egyptian security authorities, it was approved by the Arab Ministers of the Interior in their tenth session held in Tunis on 4-5 January 1993, see "Life and Security" Magazine, The Arab Centre for Security Studies and Training, edt. 129, Riyadh February 1993, P. 25.
- 82)The Arab Police Sport Union is affiliated to the Secretariat-general of the Council of the Arab Ministers of the Interior by virtue of a Resolution issued by the Council of the Arab Ministers of the Interior on 2 December 1989. See, "A Report On the Realisations of the Secretariat-general of the Council of the Arab Ministers of the Interior", the Secretariat-general of the Council of the Arab Ministers of the Interior, Tunis 1996, P.4.
- 83)"The Council of the Arab Ministers of the Interior, Perspectives Aspirations", OP CIT, P.2.
- 84)Ibid, P. 9.
- 85)Ibid, P. 10
- 86)"A Report On the Realisations of the Secretariat-general of the Council of the Arab Ministers of the Interior", OP CIT, P. 18.
- 87)"The Council of the Arab Ministers of the Interior, Perspectives Aspirations", OP CIT, P. 14.
- 88)The term "Strategy" is derived from "Strategius", an ancient Greek commander famous for his long-term military plans. "Security Strategy" may mean for some, the incentive force for the preservation of security and stability; and for others, it is a package of principles governing security plans by police organisations which control the repercussions of social changes. For more details, see: Muhammed Ibrahim Zaid, "The Arab Security Strategy in The Next Decade...Future Perspective", A Research Paper presented during The Conference: "the Arab Police and Security Co-operation from 1972-1992", held in Ashariqa, UAE, December 1992; Ahmed Jalal Azedine, "The Arab Security Strategy- Realisations and Aspirations", A Research Paper presented during The Conference: "the Arab Police and Security Co-operation from 1972-1992", held in Ashariqa, UAE, December 1992.
- 89)The Resolution, establishing the basis of the Arab Security Strategy, was issued from the first session of the Council of the Arab Ministers of the Interior, held in Casablanca on December 1982. It was ratified during the second session of 1983. See: "Life and

- Security” magazine, The Arab Centre for the Security Studies and Training, ed. No 127, Riyadh, December 1992, P. 12.
- 90)Ahmed Jalal Azedine, OP CIT.
- 91)Muhammed Ibrahim Zaid, OP CIT; Ahmed Jalal Azedine, OP CIT; Muhammad Zafer Ashehri, OP CIT, P.207; Appendix No. 2 to the Arab Security Strategy as approved by the Council of the Arab Ministers of the Interior during its 2nd session held in Baghdad by virtue of Resolution 18 of 7 December 1983.
- 92)Ahmed Jalal Azedine, OP CIT.
- 93)“Life and Security” OP CIT, P. 12.
- 94)“The Council of the Arab Ministers of the Interior, Perspectives ..Aspirations”, OP CIT, P. 10.
- 95)Muhammed Ibrahim Zaid, OP CIT; Ahmed Jalal Azedine, OP CIT.
- 96)Ahmed Jalal Azedine, OP CIT.
- 97)“OKAZ” Newspaper, ed. Of 21 July 1996.
- 98)“Life and Security” magazine, OP CIT, ed. No 129, February 1993, P. 25.
- 99)Muhammed Ibrahim Zaid, OP CIT.
- 100)“The Arab Convention on Combating the Illegal Use of Drugs and Narcotics”, publication of the Council of the Arab Ministers of the Interior, Tunis 1994, P. 3.
- 101)The text of the Convention is in: “The Arab Convention on Combating the Illegal Use of Drugs and Narcotics”, OP CIT.
- 102)The Arab Convention On Combating of the Illegal Use of Drugs and Narcotics, Art. 22.
- 103)Ibid, Art. 24.
- 104)Confirmed during a meeting of the author with the Secretary-general of the Council of Arab Ministers of the Interior on July 8, 1996, OP CIT.
- 105)Tarek Abdewahab Selim, “The Project of The Model Act For The Extradition Of Criminals And Requested Persons”, the Secretariat-general of the Council of Arab Ministers of the Interior, Tunis 1995.
- 106)Tarek A. Selim, OP CIT.
- 107)During a meeting of the author with the Secretary-general of the Council of Arab Ministers of the Interior on 8 July 1996.
- 108)The Model Criminal Extradition Act, art. 1.
- 109)Ibid, art. 2.
- 110)Ibid, art. 3.
- 111)Ibid, art. 7.

- 112)Id.
- 113)Ibid, art. 4,5&6.
- 114)It is to be noted that this Model Act is just a project under study.
- 115)“A Report On the Realisations of the Secretariat-general of the Council of the Arab Ministers of the Interior”, OP CIT, P. 9.
- 116)The two Libyan nationals who are accused are Al Amin Khalifa Fhima and Abdelbaset Ali Mohamed Al Megrahi. See, Fiona Beveridge, “The Lockerbie Affair”, The International and Comparative Law Quarterly, Vol. 41, The British Institute of International and Comparative Law, London 1992.
- 117)“Asharq Al-awsat” newspaper, ed. 6545, of 29 October 1996.
- 118)Fiona Beveridge, OP CIT; The 1995 Arab Strategic Report, The Ahram Centre for Strategic and Political Studies, Cairo 1996, P. 160.
- 119)Fiona Beveridge, OP CIT.
- 120)S.C. Res. 731(1992) 21 Jan. 1992.
- 121)S.C. Res. 748 (1992) 31 March 1992.
- 122)UKTS 10 (1974), Cmnd. 5524.
- 123)The 1971 Montreal Convention, art. 14(1) reads: “*Any dispute between two or more Contracting States concerning the application or interpretation of this Convention which cannot be settled through negotiation, shall, at the request of one of them, be submitted to arbitration. If within six months from the date of the request for arbitration the Parties are unable to agree on the organisation of the arbitration, any one of those Parties may refer the dispute to the International Court of Justice by request in conformity with the Statute of the Court*”.
- 124)ICJ Report 1992.
- 125)Id.
- 126)Id.
- 127)Reference to ICJ Reports 1949, P 35.
- 128)Judges Evensen, Tarassov, Guillaume and Aguillar, the ICJ Report 1992, P.2.
- 129)Judge Shahabuddeen, the ICJ Report 1992, P.3.
- 130)The ICJ Report 1992, Judge Bedjaoui.
- 131)The ICJ Report 1992.
- 132)The ICJ Report 1992, P 6.
- 133)For further details, see: Ali Ibrahim, The International Legal System and the Domestic Legal Systems, Conflict or Harmony, Dar An-nahda Al-Arabia, Cairo 1996, PP. 88-90.

134)The 1995 Arab Strategic Report, OP CIT, P. 160.

135)For more details concerning L.A.S. resolutions, see: "Lockerbie Crisis.. Documents",
Publications of the Secretariat-General of L.A.S., International and Political Affairs
Sector.

136)The author held a meeting with the Secretary-General of the L.A.S. on 10 April 1996.

137)"Lockerbie Crisis.. Documents", OP CIT.

138)Id.

139)The 1995 Arab Strategic Report, OP CIT, P. 161.

140)Fiona Beveridge, OP CIT.

CHAPTER SIX.**THE EUROPEAN CONVENTION AND THE UN MODEL****CONVENTIONS ON EXTRADITION⁽¹⁾**

In modern history, Europe witnessed bloody conflicts which costed many millions of lives and which nurtured a population receptive to the emerging belief that Europe as a whole should pursue the path of unity. After the World War II, this belief was faced with a new political reality in the European States: Europe was divided into two blocs. Therefore, only the western bloc could pursue the road to unity with US financial assistance⁽²⁾. As a response to the Marshall Plan⁽³⁾, the organization for European Economic Co-operation (OEEC) was set up and the Council of Europe was established⁽⁴⁾.

The European Coal and Steel Community(ECSC)come into existence when France, the Federal Republic of Germany, Italy, the Netherlands, Belgium and Luxembourg signed the Treaty of Paris in 1951⁽⁵⁾. To begin the process of European unity by ECSC was not a random choice. It aimed to control military industry of the European States precisely West Germany whose problem loomed large for all the States involved in the unity process. For the same end, European States failed to create a unified European Army within a European Defence Community and defence matters were left for intergovernmental Co-operation⁽⁶⁾.

The Messina Conference of 1955 set up an inter-governmental committee presided by the Belgian Foreign Minister, Paul-Henri Spaak to examine the institutional requirements for the economic unity⁽⁷⁾. In 1958, two other communities were established: the European Economic Community(EEC)⁽⁸⁾ and the European Atomic Energy Community(Euratom)⁽⁹⁾.

The Council of Europe (10) is another important European Organization. Its Charter was signed on 5th May 1949 in St. James Palace in London and its headquarters are in Strasbourg, France(11). It is considered as an umbrella for European parliamentary democracy and a meeting point for countries respecting human rights and fundamental freedoms(12). The Charter was initially signed by the then ten original European States. Later other European States acceded to the Council(13).

With the exception of defence issues, the Council of Europe was established to foster closer ties among European democratic States and to promote multilateral Co-operation on all matters affecting contemporary societies. The Council of Europe is charged with three basic functions: to protect and reinforce democratic pluralism and human rights, to seek common solutions to the major societal problems confronting its members and to encourage a sense of Europe's multicultural identity(14).

The Council of Europe is formed of the Committee of Ministers(15), the Parliamentary Assembly(16) and the Secretariat(17). The Committee of Ministers acts for the Council of Europe. Each of these member States has one vote. The Committee issues its resolutions either by unanimity or by a majority of two-thirds, or any majority in accordance with the importance of the subject matter of the resolution issued(18). In fact, voting varies. The subject matter may necessitate a unanimous vote of the member States(19); matters of lesser importance may require a majority of two-thirds(20); procedural and the administrative resolutions that can be adopted by majority vote(21). This Committee is competent to study appropriate procedures to execute recommendations of the Parliamentary Assembly or proposals submitted by Governmental Experts Committees, either by issuing recommendations or ratifying agreements or otherwise.

The Parliamentary Assembly is an international parliamentary system, consisting of 263 parliamentarians and an equal number of substitutes⁽²²⁾. Representation in the Parliamentary Assembly is determined with regard to member States' population⁽²³⁾. The Assembly consists of representatives of each State elected by its Parliament or appointed in such manner as that Parliament shall decide; each representative must be a national of the member whom he represents, but shall not at the same time be a member of the Committee of Ministers⁽²⁴⁾. The Assembly issues its recommendations by a two-third majority of the votes⁽²⁵⁾.

The Secretariat-General is the coordinating structure of the Council of Europe. It is headed by the Secretary-general. The Statute of the Council of Europe surprisingly says nothing of the powers of the Secretary-General⁽²⁶⁾. He is appointed by the Consultative Assembly and recommended by the Ministerial Committee. The Assistant Secretary-general is similarly appointed. Within the Secretariat, there are about 1200 officials of thirty-eight member States appointed by the Secretary-general⁽²⁷⁾.

The Council of Europe aims to achieve greater unity among its members to realize economic and social development and to ensure human rights and fundamental freedoms within these States⁽²⁸⁾. The Council of Europe has succeeded in concluding many agreements and protocols. The most important of these are The European Convention For The Protection of Human Rights and Fundamental Freedoms which was ratified on 4 November 1950⁽²⁹⁾ and the European Convention on Extradition which is the subject of this study.

Extradition procedures are carried out amongst the European States in conformity with the norms of the International Law; or by virtue of the principle of reciprocity⁽³⁰⁾; or through bilateral agreements regulating such circumstances. In fact, the bilateral Agreement of 1174 concluded between Scotland and England is considered to be the first European Bilateral Extradition Agreement⁽³¹⁾.

In Paris on 13 December 1957, some member States of the Council of Europe ratified the European Convention on Extradition⁽³²⁾(hereinafter referred to as the European Convention). The European Convention consists of a preamble and thirty-three articles dealing with different aspects of extradition. After its entry in effect on 18 April 1960⁽³³⁾, it became apparent that it should be amended since the provisions no longer corresponded to the requirements for inter-State Co-operation in the field of extradition. Consequently, in 9-11 June 1969 a meeting was held by those responsible at national level for the application of the Convention. The participants agreed that revision of some provisions were needed to reconsider the application of the Convention⁽³⁴⁾.

In fact, the European Committee on Crime Problems (ECCP) held a series of meetings after which a sub-committee was set up, under the chairmanship of Dr. R. Linke (Austria), to study amendment of the European Convention as so required⁽³⁵⁾. The sub-committee submitted proposals to ECCP during the 23rd plenary session in May 1974⁽³⁶⁾; in turn, the ECCP submitted the text of the protocol to the Ministerial Committee of the Council of Europe⁽³⁷⁾. The Ministerial Committee approved the text of the Additional Protocol on May 1975 which was opened to signature on 15 October 1975⁽³⁸⁾. The Additional Protocol amended the provisions of Articles (3 & 9) of the European Convention.

The sub-committee headed by Dr. R. Linke met again in September 1974, April 1975 and March 1976 to prepare a second additional protocol to the European Convention on Extradition and to study other matters⁽³⁹⁾. The draft of the second additional protocol was submitted to the ECCP during its 26th plenary session in May 1977 which decided, in turn, to submit the text of the protocol to the Ministerial Committee of the Council of Europe. The Ministerial Committee approved the text of the second additional Protocol and opened it to signature by the member states who sign it in 17 March 1978⁽⁴⁰⁾. The Second Additional

Protocol to the European Convention on Extradition, formed of twelve articles, deals mainly with fiscal offences and judgments *in absentia* recorded in the European Convention.

The European Convention commences its provisions by requiring the member States to extradite all persons whose extradition is requested by another member State and who are either convicted of committing an offence or who are wanted by the requesting Party for the carrying out of a sentence or a detention order⁽⁴¹⁾. The Convention defines the circumstances in which extradition is to be granted⁽⁴²⁾. In fact, extradition is mandatory with regard to offences punishable under the laws of both the requesting Party and the requested Party by a deprivation of liberty or detention order for a period of at least one year or by a more severe penalty. Also, extradition is mandatory where a conviction and prison sentence have occurred or a detention order has been made in the territory of the requesting State, the punishment awarded must have been for a period of at least four months.

It is obvious that there is a difference in the period of the deprivation of liberty in each case. In the first case, the sentence is not yet rendered or a warrant of arrest is not issued concerning the offence; therefore, the punishment for the offence should not be less than one year. In the second case, a conviction, prison sentence or a detention order are issued in respect of the offence. In the first case, the required period is fixed by the law of both the requesting and requested States; whereas, in the second case, the period is fixed by the requesting State.

There is an apparent difference between the G.C.C. Security Convention and the European Convention in terms of the cases in which extradition is granted since the definition of "offence" differs in the two Conventions. In the European Convention, there are no offences punishable by Divine Ordinance, retribution and discretionary punishment stated in the G.C.C. Security Convention (art. 28). The existence of such offences in the latter Convention is due to the legal system in

force in the G.C.C. States, which is derived from the provisions of the Islamic Sha'ria, the main source of legislation in these States.

There is also a difference between the European Convention and the G.C.C. Security Convention as far as the sentence period is concerned. By virtue of the European Convention, extradition would not apply if the punishment period is less than one year; whereas, in terms of the G.C.C. Security Convention, extradition is legal if the offence is punishable by no less than six months imprisonment.

In terms of to the European Convention, the period of deprivation of liberty is considered by the laws of the requesting and requested States⁽⁴³⁾; whilst in the framework of the G.C.C. Security Convention, the limitation of the period is taken with regard to the law of the requesting State⁽⁴⁴⁾. Another difference worth mention is the case of a conviction and prison sentence occurred or a detention order has been made in the territory of the requesting Party, the punishment awarded must have been for a period of at least four months⁽⁴⁵⁾; whereas, in the G.C.C. Convention, the period (awarded by the judicial authorities in the requesting State for an offence punished by Divine Ordinance, retribution or discretionary punishment, or an offence punished by a deprivation of liberty) should not be less than six months⁽⁴⁶⁾.

It is important to note that the G.C.C. Security Convention is more wide ranging in the criminal extradition than the European Convention. In fact, the former adds to the extraditable offences those offences punishable by Divine Ordinance, retribution or discretionary punishment. For these offences, extradition is obligatory even if the period of punishment is less than six months which is recorded in the Convention and in accordance with the law of the requesting State alone.

The European Convention lays down circumstances when an extradition request includes several separate offences (each of which is punished) in the law of the requesting and requested, by deprivation of liberty or such under a detention order. However, some of which are punished by a year or more whilst others by less. In such cases, the requested State is obliged to extradite for a former category of offences; while in the latter, it shall have the right to grant extradition⁽⁴⁷⁾.

Art. 2(3) tackles the circumstances when the law of a Contracting State conflicts with the cases laid down in the previous provisions concerning extradition. When such conflict arises, the concerned State may exclude the offences for which its law prohibits extradition. Such contracting States, while depositing their instruments of ratification, must notify the Secretary-General of the Council of Europe of the offences in which extradition is not permissible by virtue of their law and of the excluded offences⁽⁴⁸⁾. The Secretary-General of the Council of Europe, in turn, must notify the other contracting States. Recording such provision is necessary to avoid requests for extradition for offences which are excluded from extradition by virtue of the law of a contracting State. If the law concerning extradition is amended in a contracting Party, this Party must notify the Secretary-General of the Council of Europe of the amendment, which is effective only after the passage of three months of such notification⁽⁴⁹⁾.

As is the case in all international conventions on extradition with regard to extradition for political offences⁽⁵⁰⁾, the provisions of the European Convention do not permit extradition for political offences or offences connected with a political offence⁽⁵¹⁾. It widens the scope in which extradition is refused if the requested State has substantial proof for believing that a request for an ordinary criminal offence has been made for the purpose of prosecuting or punishing a person because of his race, religion, nationality or political opinion, or that that person's position may be prejudiced for any of these reasons⁽⁵²⁾. The taking or the

attempt of taking the life of a Head of State or a member of his family are excepted from being considered political offences.

In the Convention there is limited excluded offences, while the additional Protocol (by virtue of Chapter I, art 1) adds more offences to be excluded from being considered as political offences. Such offences are crimes against humanity specified in the Convention on the Prevention and Punishment of the Crime of Genocide adopted on 9 December 1948 by the General Assembly of the UN.; any violations specified in Art. 50 of the 1949 Geneva Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field, Art. 51 of the 1949 Geneva Convention for the Amelioration of the Condition of Wounded, Sick and Shipwrecked Members of Armed Forces at Sea, Art. 130 of the 1949 Geneva Convention relative to the Treatment of Prisoners of War and Art. 147 of the 1949 Geneva Convention relative to the Protection of Civilian in Time of War; and any comparable violations of the laws of war having effect at the time when the Protocol enters into effect and of customs of war existing at this time which are not provided for in the above-mentioned provisions of the Geneva Conventions.

As far as political offences are concerned, one observes a closer similarity between the European Convention and the G.C.C. Security Convention since they both do not permit extradition for political offences. The European Convention excludes "*The taking or attempted taking of the life of a Head of State or a member of his family*" from being considered political offences; while, the G.C.C. Convention excludes, from being considered political offences, a number of offences eg. crimes of treason and sabotage and terrorism, crimes of murder and robbery and theft committed by acts of force by one or a group of persons, all offences committed against Heads of States, or their ancestors and descendants or their wives, crimes committed against crown Princes and Royal families, principalities and ministers, and those who are of the same rank and any attempt

or acting as an accomplice in these crimes if punishable under the laws and regulations of the requesting Party(53).

The European Convention excludes from extradition offences under Military Law(54). The European Convention states this provision in an independent article(55), while the G.C.C. Security Convention makes a similar provision which is listed within the offences which are considered not to be political offences(56). This means that the G.C.C. Security Convention does not agree with the European Convention since it does permit the extradition of military offenders.

The European Convention considers fiscal offences (in connection with taxes, duties, customs and exchange) for which extradition shall be granted only if the Contracting States have so decided in respect of any such offence or category of offences(57). This provision has been amended by the Second Additional Protocol by virtue of Chapter II which gives the provision a more mandatory form since extradition shall be granted by the member States regardless of any arrangements between them whenever the fiscal offence, under the law of the requesting State, corresponds, under the law of the requested State, to an offence of the same nature. Within the meaning of Chapter II, paragraph (2) of the Second Additional Protocol, the fact that law of the requested State does not impose the same category of tax or duty as the law of the requesting State is not significant. Extradition may not be refused on that basis. In the G.C.C. Security Convention, fiscal offences are totally excluded from extradition.

As is the case in international conventions on extradition, the European Convention gives the contracting States the right to refuse extradition of their nationals(58). The Convention gives its parties the right to define for themselves the term "nationals"(59). If the requested State does not extradite its national, it shall, on a request from the requesting State, submit the case to its competent

authorities so that the proceedings may be taken if they are considered appropriate⁽⁶⁰⁾.

The difference between the G.C.C. Convention and the European Convention is that the former permits extradition of nationals who have committed extraditable offences⁽⁶¹⁾.

Articles 7 to 11 of the European Convention goes on to list cases in which extradition is impermissible. The extradition of a person is to be refused if such person becomes immune from punishment or prosecution, according to the law of either the requesting or the requested State, or by reason of lapse of time ⁽⁶²⁾. Extradition of a person is to be refused if the competent authorities in the requested State are proceeding against such person in respect of the offence(s) which are the subject of the extradition request⁽⁶³⁾.

Extradition is also to be refused if the offence which is the subject of the extradition request is punishable by the death penalty⁽⁶⁴⁾ by virtue of the law of the requesting State if the death penalty is not provided for by the law of the requested State⁽⁶⁵⁾. Extradition may be granted if the requested State receives sufficient assurance that the death-penalty will not be carried out⁽⁶⁶⁾.

Extradition is granted if the extraditable offence is committed completely or partly in the territory of the requested State or committed in a place treated as a territory of such State; like for France, if the offence is committed in Algeria, France would consider that the offence is committed in its territories⁽⁶⁷⁾.

If an offence, which is subject of the extradition request has been committed outside the territory of the requesting State, extradition may be refused if the law of the requested State does not permit prosecution for the same category of

offences when committed outside the latter State's territory or does not permit extradition for the offence concerned(68).

Extradition may also be refused if a final judgment has been issued by the competent authorities of the requested State concerning the person whose extradition is sought(69). Extradition may also be refused if the competent authorities in the requested State have decided either not to institute, or to terminate, proceedings in respect of the same offence(s)(70).

It is noteworthy that the last two cases are laid down in art. 9 which has been amended by virtue of the 1975 Protocol in which the two cases are joined to form paragraph 1. The new provisions, paragraphs (2,3,4) list cases for which extradition may not be granted. These cases are when a final judgment has been rendered in a third Contracting State for the same offence(s) which is the subject of the extradition request. Such final judgment declares the person innocent, or the period of deprivation of liberty is carried out by the person, or the person is subject to a pardon or an amnesty or if the person is tried without imposing sanctions.

Though these previous cases, extradition may be granted if the offence(for which a final judgment has been issued) is committed in the requesting State against a person, or against an institution or against any thing having public status. If the person in respect of whom judgment was passed had himself a public status in the requesting State and if the offence in respect of which judgment was passed was committed completely or partially in the territory of the requesting State or in a place treated as its territory.

Among the cases in which extradition is declined, recorded in the G.C.C. Security Convention is the case when the sanction is rescinded by virtue of the law of the requesting State. The same case is provided for in the European Convention, but

the sanction is determined by the laws of the requesting and requested States. In the G.C.C. Security Convention, in the case when the crime is repealed, it is determined with regard to the law of the requesting State(71).

The G.C.C. Security Convention omits mentioning if extradition is granted in a case when a final judgment is pronounced by the competent authorities in the requested State, against a person sought for extradition for such offence which is the subject of the extradition request, or a decision issued by this authority is not to proceed against the person for the same offence. Also the G.C.C. Security Convention does not comment upon refusal of extradition in a case where the offence concerned requires death penalty in the requesting State and not liable for such punishment in the requested State, extradition is applied.

On the contrary, the G.C.C. Security Convention provides for the circumstance when the person sought for extradition enjoys diplomatic immunity(72), such circumstance is absent in the European Convention.

The European Convention stipulates that any extradition request shall be in writing and transmitted through diplomatic channels(73). Such request shall contain original or an authenticated copy of the conviction and sentence with any detention order or authenticated copy of the warrant of arrest or any other orders of the same effect, against the person sought for extradition by virtue of the law of the requesting State(74). It shall also contain a statement of the offence(s) which is the subject of the extradition request and the legal description of the offence(s) committed with a copy of any relevant enactment or, if not available, a statement of the relevant law and description of the person sought for extradition. It is preferable to join any other information that might help establish the nationality and the identity of the person whose extradition is sought such is recorded(75).

The European Convention states that it is not competent to proceed against a person who has been extradited or to arrest him in the requesting State⁽⁷⁶⁾ for any other offence which he has committed before his extradition. However, such authorities may proceed against him for an offence which is not the subject of the extradition request in two situations; when the person is permitted to leave the territories of the State to which he was extradited and he fails to do so within forty-five days or if he deliberately returns to the territory of the State after his departure; or when the State which has surrendered the person consents to such procedure ⁽⁷⁷⁾. In the G.C.C. Security Convention, the period within which the person is permitted to leave the territory of the State to which he has been extradited is thirty days⁽⁷⁸⁾, whilst it is forty-five days in the European Convention.

While proceeding against a person whose extradition is sought and the crime which is the subject of the request has been repealed, such person would be proceeded against if the new description falls under the category of extraditable offences. On the other hand, the European Convention prohibits re-extradition to a third State regardless that such State is a party to the Convention or not a member, for the offence the person has committed before his being surrendered by the authorities of the requesting State; thereby his re-extradition to a third State is legalized⁽⁷⁹⁾.

It is to be understood that the G.C.C. Security Convention omits mentioning the case of extradition to a third State; it declares, however, that to preserve the confidentiality of the exchanged information, the member States are not permitted to transmit the confidential-labeled information and materials to a third State which is not a party to the Convention unless agreed by the State from which the information and other materials originated⁽⁸⁰⁾.

The competent authorities in the requesting State may request the provisional arrest of the person whose extradition is sought(81). The authorities in the requested State shall consider the request for provisional arrest with regard to its law. Such request may be sent through diplomatic means or directly by post, telegraph, through Interpol or through any other means. After the lapse of eighteen days, any provisional arrest may be terminated if the competent authorities in the requested Party have not received the extradition request file(82). Such provisional arrest shall not exceed forty days(83). The release of the person shall not prejudice re-arrest and extradition if the requested State receives any extradition request subsequently(84). In the G.C.C. Security Convention, when the requested State does not receive an extradition request from the requesting State, the provisional arrest period is thirty days(85) and the period for renewal of provisional arrest is thirty days; whilst by the European Convention, the period in any case shall not exceed forty days.

The European Convention, unlike the G.C.C. Security Convention, omits mentioning that the period spent under provisional arrest shall be deducted from any sanction imposed on the person in the requesting State. In fact, Some European States do not adopt the principle stating that the period spent under provisional arrest shall be detracted from the punishment declared in the requesting State. As in *Re Frechengues* case; the person spent the period from 28 December 1967 to 16 May 1968 under arrest in Spain waiting for his extradition to France. The French *Cour de cassation* did not consider the cosmic judicial effects of the warrant of arrest issued by the *juge d'instruction* on extradition matter and the French authorities considered this period as a procedure taken by a foreign State that can not be associated with the procedure taken by the French authorities(86).

Art. 17 of the European Convention deals with the case when extradition is requested concurrently by more than one State, either for the same offence or for

different separate offences. The requested State gives priority of extradition to the State whose interests were damaged by the offence, to the State where the offence is committed and in accordance with the respective dates of the requests and the nationality of the person requested. In this regard, there is a similarity between the European Convention and the G.C.C. Security Convention(87).

The requested State shall inform, either positively or negatively, the requesting State of its decision about the extradition(88). If the requested State, wholly or partly, declines extradition, it shall provide its reasons in taking such decision(89). If extradition is granted, the competent authorities in the requested State shall inform the competent authorities in the requesting State of the place and date of surrender and the period spent by the person in detention awaiting extradition(90).

If the competent authorities in the requesting State fail to make arrangements for the collection of the person in the appointed period, the authorities in the requested State may release the person after the expiry of fifteen days(91). If there are circumstances that prevent the authorities of the requesting State to present for the collection of the person who is the subject of the extradition request, then such person, in any way, shall be released after the termination of the thirty days after arrest and the requested State may decline extradition of the person for the same offence(92).

When the requested State has taken a decision to extradite, it may postpone the surrender of the person in two circumstances(93); when the competent authorities in the requested State are proceeding against the person, or when he is tried in the requested State and his extradition is postponed until he carries out the imposed punishment(94).

Art. 20 deals with handing over the property of the person surrendered to the requesting State. Such property may be required as evidence or acquired as a result

of the offence and which, at the time of arrest, is found in the possession of the person or discovered subsequently. When extradition is granted, the handing over the property takes place even though the person is not extradited because of death or escape⁽⁹⁵⁾. When the said property is liable to seizure or confiscation in the territory of the requested State, such State may temporarily retain the property or hand it over provided such property is returned⁽⁹⁶⁾.

Art. 20(4) preserves any rights which the requested State or a third State may have acquired in the property. Where these rights exist, the property shall be returned without charge to the requested State as soon as possible after the trial. It is to be noted that there is a similarity between this article and the G.C.C. Security Convention⁽⁹⁷⁾.

The European Convention deals with expenses incurred by the extradition procedure. The expenses are borne by the requested State within the limits of its territory, while the transit expenses are borne by the requesting State⁽⁹⁸⁾. When extradition is from a non-metropolitan territory of the requested State, the expenses are borne also by the requesting State⁽⁹⁹⁾. It is to be borne in mind that the G.C.C. Security Convention differs from the European Convention concerning the expenses of the extradition transaction, providing that the requesting State assumes all the expenses incurred by the extradition⁽¹⁰⁰⁾.

The European Convention limited the territorial application of its provisions. They are applied to the metropolitan territories of the contracting or acceding States. The provisions of the Convention are applied also to French overseas departments and to Algeria⁽¹⁰¹⁾. In respect to the United Kingdom and Northern Ireland, the provisions are applied to the Channel Islands and to the Isle of Man. The contracting parties shall notify the Secretary-General of the Council of Europe of such extended territorial application of the Convention's provisions. By direct bilateral or multilateral arrangements between the member States, the application

of this Convention may be extended to other territories other than those mentioned in this Convention and subject to the conditions recorded in the arrangements(102).

Art. 28 of the European Convention discusses the relation between this Convention and other bilateral agreements concluded by the member States. It supersedes the provisions of any such bilateral treaties, conventions or agreements that govern extradition among any two contracting parties. Bilateral or multilateral agreements may be concluded by the member States only to supplement or to facilitate the provisions of the Convention. In this respect, there is a broad difference between the European Convention and the G.C.C. Security Convention. The provisions of the latter do not affect bilateral agreements governing extradition concluded by the contracting parties, even though they contravene the provisions of the G.C.C. Security Convention. Such bilateral agreements are not superseded but it is left to the member states to apply the provisions which are most beneficial to comprehensive security co-operation(103).

The European Convention is open to signature and it is possible for any State, which is member of the Council of Europe, to sign and ratify the Convention(104). Any State which is not a member of the Council of Europe may accede to the Convention by means of an invitation sent by the Committee of Ministers of the Council of Europe to such a State, provided that the invitation receives the unanimous approval of the member States of the Convention(105) who have ratified(106). From the prelude to the G.C.C. Security Convention, we read "*The G.C.C. Member States Have Agreed Upon The Following*", this means that the G.C.C. Security Convention is limited to the six States who are members of the Gulf Co-operation Council. While the European Convention has open membership enabling the European States which are Parties to the Convention to accede to it.

It is to be borne in mind that the G.C.C. Convention(art.44) deals with the possibility to amend the provisions of the convention provided that the Supreme Council consents to such amendments. Similar provision is absent in the European Convention yet it is supplemented by two additional protocols which amended some of the Convention's provisions.

It is important to note that the European Convention focuses on criminal extradition as its appellation demonstrates and it does not tackle other matters as those stated in the G.C.C. Convention, eg. the integration of security organs, illegal entry and exit and smuggling along with criminal extradition.

All in all, there are similarities and substantial differences between these two conventions due to the fact that there are common factors that unite the G.C.C. States, eg. a common source of legislation namely the Islamic Sha'ria, common cultural background, tradition, language and religion. On the contrary, the Council of Europe is formed of States of different legal systems, traditions and culture; linguistic difference. Each European State member to the European Convention tries to preserve its sovereignty and to constrict the application of the Convention as far as the criminal extradition is concerned as it is stated in art. 6 of the European Convention; whereas, the G.C.C. States waive their sovereignty by permitting the extradition of their nationals and facilitating extradition procedures.

THE UN MODEL CONVENTION ON EXTRADITION.

The United Nations(UN) is an international organization aimed to remedy the defects of the League of Nations. It emanated out of a series of wars and international conferences. 51 States, of those States who attended the San Francisco Conference, adopted the UN Charter(107). It was established for the preservation of international peace and security(108). The UN is formed, inter alia, of the Secretariat-general, Security Council, and the General Assembly.

In security matters, the Secretary General personally works with the Security Council. He has the power under the UN Charter(109) to bring to Security Council any matter that might threaten international peace and security, and so to play a major role in setting the UN's agenda in international security affairs. The UN staff numbers 15,000 people(5,000 at the New York UN headquarters and about 10,000 more around the world(110). The UN staff works in various areas including administrative personnel as well as technical experts and economic advisors charged with various programmes and projects in the UN member Countries(111).

The Secretariat-General is the executive branch of the UN, it is headed by the secretary general of the UN(112), he (it has never yet been a she) is the chief administrative officer of the of the organization and represents the member States. He is nominated by the Security Council(requiring the consent of all five permanent members) and approved by the General Assembly. The term of office is five years liable to renewal.

The Security Council is responsible for maintaining international peace and security and for restoring peace whenever it breaks down(Art.25). Its decisions are *binding* on all UN member States. In fifty years, the Security Council has passed only about 700 Resolutions(113) concerned with the world's various security disputes, especially in regional conflicts. The five permanent members of the Council are the US, Britain, France, Russia(Soviet Union), China(114). The Council also has ten non-permanent members who rotates onto the Council for two year terms. The latter members are elected(five each year) by the General Assembly from a list of nominees prepared by informal regional caucuses. The Security Council meets irregularly in the New York UN headquarters upon request of a UN member. The Military Staff Committee(MSC) is a formal mechanism under the supervision of the Security Council for coordinating multilateral military

action. MSC is formed of military officers from the permanent Security Council members(115).

The General Assembly of the UN is formed of 185 member States each with one vote(116). It usually meets (once a year) in plenary session from late September through January. It is a forum in which the States put forward their ideas and arguments. All the organs of the General Assembly(UN) other than the ICJ use the five working and official languages (English, French, Russian, Chinese, Spanish) to which Arabic was added as a working and official language in 1973(117). The assembly convenes for special sessions every few years on general topics such as economic co-operation. The assembly has met in emergency sessions(nine times) to deal with an immediate threat to international peace and security. The main source of power of the General Assembly lies in its control of finances for UN programmes and operations. It can pass resolutions on various matters.

The General Assembly is not a legislative body in that sense and its resolutions are purely recommendations(118), but when they are concerned with General norms of international law, then acceptance by a majority vote constitutes evidence of the opinions of governments in the widest forum for the expression of such opinions(119). The resolutions of General Assembly, being advisory, frustrate the third world majority. The Assembly elects members of certain UN agencies and programmes through its own system of committees, commissions, councils(120), etc.

The idea of the UN Model Convention on Extradition emerged during the Seventh UN Congress on the Prevention of Crime and the Treatment of Offenders held in Milan on 26 August-6 September 1985(121). The congress recommended the promotion of international activities in the field of the prevention of organized crime by means of concluding bilateral agreements on criminal extradition. The

General Assembly approved the Milan Plan of Action by the resolution 40/32 of 29 November 1985(122).

The Eighth Congress on the Prevention of Crime and the Treatment of Offenders held in Havana, Cuba during 27 August-7 September 1990 recommended that the General Assembly would adopt the UN Model Convention on Criminal Extradition by virtue of the resolution 45/116 of 14 December 1990(123).

The UN Model Convention is no exception to the common Conventions on Extradition. It is formed of eighteen articles. Its provisions are concerned solely with criminal extradition. However, the G.C.C. Security Convention is more general since it deals with other matters in addition to criminal extradition. The UN Model Convention begins with the obligation on the Contracting States to extradite a person who is wanted in the requesting State for prosecution for an extraditable offence or for the imposition or enforcement of a sentence in respect of such an offence(124).

The offences for which extradition is competent are those offences sanctioned by the laws of the requesting and requested States by imprisonment or other deprivation of liberty for no less than one(or two)year(s) or by a more severe penalty(125). In the G.C.C. Security Convention, the sanction must not be less than six months imprisonment (126) by virtue of the law of the requesting State. The second case for which extradition is competent when the person, who is sought for extradition, is tried and sentenced by a deprivation of liberty between four and six months(127).

The UN Model Convention provides for extradition for fiscal offences(128), this provision being similar to that laid down in the European Convention on Extradition. The requested State would not refuse extradition just because its own law does not impose taxation, customs, duties, exchange control or other revenue

matters similar to those imposed by the requesting State. The G.C.C. Security Convention is silent in relation to fiscal offences. Within the prospect of the G.C.C. Convention, if such fiscal offences satisfy the appropriate conditions for extradition, extradition shall be granted.

The UN Model Convention provides for requests for extradition including several separate offences, each of which is punished by the laws of the requesting and requested States. Extradition is granted for in those cases provided that the person is to be extradited for at least one extraditable offence⁽¹²⁹⁾.

Extradition must be declined when the offence for which extradition is requested is regarded by the requested State as an offence of a political nature or when the offence for which extradition is requested is a military offence⁽¹³⁰⁾. Extradition can be refused if a final judgment is rendered in the requested State concerning the offence which is the subject of the extradition request. If the requested State has substantial grounds for believing that the request for extradition has been made for the purpose of prosecuting or punishing the person because of his race, ethnic origin, sex, status, religion, nationality, political opinions⁽¹³¹⁾, etc... When the person is immune from judgment and punishment, this means if the person enjoys diplomatic immunity, his extradition can be refused⁽¹³²⁾. If the person to be extradited would be subject to torture or to a degrading treatment in the requesting State⁽¹³³⁾. When a judgment *in absentia* is rendered against this person or if a judgment is issued against him in his presence and the person does not have the opportunity to arrange his defence, therefore, extradition can be refused⁽¹³⁴⁾.

The UN Model Convention lists the optional grounds in which extradition may be declined. They are if the person requested holds the nationality of the requested State. If the competent authorities in the requested State decide not to institute or terminate proceedings against the person. If the prosecution (concerning the offence) is pending in the requested State. If the offence is sanctioned by death

penalty provided that the requesting State gives sufficient assurance that the capital punishment will not be imposed. If the offence is committed outside the territories of both States and the law of the requested State does not impose sanction on a person if he has committed an offence outside its territory. If the requested State considers the offence is committed in whole or in part in its territory. If a judgment is rendered against the person in the requesting State, or if the person would be subject to a judgment by an *ad hoc* Court in the requesting State or if his extradition is declined due to humanitarian reasons(135).

Concerning these circumstances and if extradition is refused, the requested State shall, if the requesting State so requests, submit the case to its competent authorities in order to take the appropriate action against the person who is sought for extradition(136).

In terms of the cases in which extradition is either granted or declined, it is apparent that the UN Model Convention provides for more cases than the G.C.C. Security Convention. From the author's point view, the drawbacks of art.4(d) is that it categorizes death penalty as an optional case for which extradition may be declined and this may encourage the commission of crimes since most of the great crimes compel the offender to escape for example such crimes as murder, terrorism and drug related crimes which are sanctioned by the laws of some States by death penalty. Whilst the less serious do not always compel the offender to flee to other Countries. Therefore, the UN Model Convention protects fugitive criminals from being extradited to their States for prosecution on the ground that the law of their States imposes death penalty.

It is also noticed that the UN Model Convention ignores stating the political offences as an exception to extradition as opposed to the G.C.C. Security Convention(137). Another substantial difference between the two Conventions concerns the military offences; in the UN Model Convention, the military offence

falls under the offences for which extradition is not permitted; while, it is possible to grant extradition for military offence by virtue of the G.C.C. Security Convention⁽¹³⁸⁾. The UN Model Convention states that extradition is to be refused if it is requested to prosecute the person because of race, religion or ethnic origin; such provision is completely absent in the G.C.C. Security Convention.

The UN Model Convention permits the requested State to refuse extradition of its nationals. On the other hand, the G.C.C. Convention allows the extradition of nationals⁽¹³⁹⁾. There is no exception to what is common in the international conventions on extradition, the UN Model Convention records almost the same papers contained in an extradition request file⁽¹⁴⁰⁾. They include any information that may help establish the identity and nationality of the person requested and his location; the text of the relevant provision of the law creating the offence, or a statement of the law relevant to the offence and a statement of the penalty for the offence; a copy of warrant of arrest issued by the authorities in the requesting State or a certified copy of the warrant. The extradition request shall be in writing and transmitted through diplomatic channels⁽¹⁴¹⁾.

The UN Model Convention discusses provisional arrest. In case of emergency, it is permitted that the requesting State may apply for provisional arrest of the person sought for extradition before presenting the extradition request⁽¹⁴²⁾. The requested State would consider the extradition request in accordance with its legal system in force⁽¹⁴³⁾. If the requested State does not receive the extradition request file within forty days, it must release the person⁽¹⁴⁴⁾. Such release shall not prejudice the later re-arrest and institution of proceedings with a view to extraditing the person requested⁽¹⁴⁵⁾. The requested State will consider the extradition request file. If extradition is declined, partially or wholly, the requested State shall, without delay, justify its decision⁽¹⁴⁶⁾.

There is a difference concerning the period of provisional arrest in both Conventions. It is forty days in the UN Model Convention, while it is thirty days in the G.C.C. Convention. In addition, the UN Model Convention does not mention any reduction of the period of provisional arrest spent in the requested State from any sanction imposed in the requesting State. The G.C.C. Convention contains such a provision(147).

By virtue of the provisions of the UN Model Convention, the requested State must consider the request for extradition under its law(148). It shall notify the requesting State of its decision either positively or negatively(149). In this regard, there is a difference between the two Conventions. The G.C.C. Convention gives the requested State two months time after the receipt to the extradition request to justify its decision(150). The UN Model does not state any similar period.

Art. 11 deals with the surrender of the person requested. The requested and requesting States shall prepare appropriate conditions for extradition. The authorities in the requested State must inform their counterparts in the requesting State of the length of time which the person has spent in detention in the requesting State(151). The person must be released if he is not surrendered in the appointed time. If circumstances, beyond its control, oblige one of the two States to delay the delivery of the person, such a State shall inform the other party of the circumstances and both parties would specify another date for the delivery.

In terms of the UN Model Convention, extradition of a person may be postponed if he is requested for trial or the imposition of a sentence in the requested State for offences other than the offence for which extradition is sought and the requesting State must be informed of such situation accordingly(152). If extradition is granted, the requested State may hand over the person's property if the requesting State requests so, provided that such property would be returned to the requested State if the latter so requires(153).

As is the case in most international conventions on extradition, the UN Model Convention states that the extradited person shall not be tried except for the offence which is the subject of the extradition request⁽¹⁵⁴⁾. However, a person can be tried for offences other than the one which is subject of the extradition request if the requested State consents and provided that the other offences shall fall under the category of the extraditable offences listed in the UN Model Convention⁽¹⁵⁵⁾.

The “rule of speciality” is not applicable by virtue of (art. 14(3)) except in two cases: when the person is given the opportunity to leave the territory of the requesting State and he does not leave it within thirty to forty-five days of the final discharge; or when the person voluntarily returns to requesting State. If one of these two cases are satisfied, the person can be prosecuted for offences other than the offence which is the subject of the extradition request.

There is a close similarity between this provision and art.38 of the G.C.C. Security Convention. The latter article states the case when the requested person consents to be tried or he is given the opportunity to leave the requesting State and he fails to do so within thirty days.

Art. 16 of the UN Model Convention deals with concurrent requests for extradition. The UN Model Convention does not give priority to any request and the consideration of the requests is left to the competent authorities in the requested State to decide. This text differs the G.C.C. Security Convention which gives priority to some extradition requests⁽¹⁵⁶⁾ as we have discussed in a previous chapter.

The UN Model Convention states that the requested State bears the expenses incurred by the extradition within the limit of its territorial jurisdiction⁽¹⁵⁷⁾. The requesting State would meet the charges and expenses incurred by the extradition

process from the territory of the requested State, including the transport charges and transit costs⁽¹⁵⁸⁾. The G.C.C. Security Convention, when dealing with the extradition costs, states that the requesting State must meet all the costs of the extradition procedure⁽¹⁵⁹⁾.

INTERPOL.

As far as extradition is concerned, Interpol is considered as a mechanism or a channel of communication between the requested and requesting States with the absence or presence of an extradition agreement. The European Convention on Extradition, the UN Model Convention on Extradition and the Commonwealth Scheme for the Rendition of Fugitive Offenders⁽¹⁶⁰⁾, to state the least, acknowledge Interpol as a mechanism of extradition. It is appropriate to discuss its structure and functions.

The first step towards the establishment of INTERPOL was taken in 1893, when Sir. Francis Galton published his views on fingerprint. A German criminologist Franz Von Liszt argued that crime covers the world. In 1914, by an invitation of Prince Albert I.A. of Monaco, police officials from twenty four nations met to discuss the establishment of International Police Co-operation⁽¹⁶¹⁾.

The establishment of Interpol goes back to 7 April 1923. It was called the International organization of Criminal Police⁽¹⁶²⁾. Mr. Florent Louwage⁽¹⁶³⁾, one of the most senior and respected policemen in Belgium, invited delegations to the Brussels Conference on June 1946 in which it was decided that the headquarters of the organization would be in *Rue Paul Valery* in Paris⁽¹⁶⁴⁾. In June 1956, a constitution for INTERPOL was agreed upon to organize its principal provisions. Since 1990, it has over 150 members worldwide⁽¹⁶⁵⁾.

By virtue of art.3 of its constitution, Interpol is charged with functions away from activities of political, military or religious nature(166) and without intervention in the member States' affairs. INTERPOL is charged with, *inter alia*, gathering information about crime and criminals from the National Central Bureaux (NCB). Such information are used in combating crime and to co-ordinate the actions of States in tracking and apprehending suspects and fugitive criminals(167). INTERPOL is composed of the executive committee, the advisers, a general assembly of all members, the General Secretariat (based at Lyons), and the NCB(based in the member force in each State)(168).

INTERPOL's general secretariat is formed by many permanent departments related to the organization and directed by the general secretary. Among these departments is the general administration sector dealing with financial matters of the organization; police co-operation sector concerned with the international co-operation in crime combating including extradition; studies and research sector; a special sector for the International Criminal Police Magazine(169).

The INTERPOL NCBs are formed by the authorities of the member States according to their laws. NCBs are responsible for collecting data which are necessary for combating crime. These *bureaux* are charged with tracking the requested fugitive persons(170). In practice, the requesting State sends to INTERPOL a memoranda containing the details concerning a fugitive person requested for extradition. INTERPOL issues its red "wanted" notices to all NCBs in the member States. The NCB in the State in whose territories the person is found out informs its counterpart in the requesting State.

NCBs play an important role in criminal extradition. even in the absence of an extradition agreement between the requesting and requested States. However, since resolutions of INTERPOL are not legally binding, experience unfortunately shows that when national self-interest is involved it usually prevails and the

governments which sponsor terrorists would certainly not co-operate⁽¹⁷¹⁾. The G.C.C. Security Convention does not mention INTERPOL. This does not mean that the G.C.C. States do not acknowledge the role of INTERPOL in criminal extradition. On the contrary, most of the Arab States, including the G.C.C. States, are members of the organization⁽¹⁷²⁾.

INTERPOL is an efficient mechanism in the execution of criminal extradition. In addition, the G.C.C. States have organs (belonging to the Ministries of the Interior) in collaboration with the judicial authorities charged with the criminal extradition.

The importance of INTERPOL is clear in the field of extradition. In practice, INTERPOL helped in the apprehension of 1355 fugitive offenders in 33 States for the purpose of extraditing them to the requesting States. Annually, the sector of crime general problems investigated in 3115 cases dealing with properties peculation⁽¹⁷³⁾. A distinctive trait of INTERPOL is the "speedy" arrest of fugitive offenders. In fact, there is one case recorded where a suspected forger was arrested in France one hour after the British NCB sent the information to INTERPOL⁽¹⁷⁴⁾.

NOTES

- 1) European Treaty Series NO. 24, 173; 30 I.L.M. 1357(1991).
- 2) Stephen Weatherill and Paul Beaumont, EC Law, 2nd ed., Penguin Books, London 1995, P. 1.
- 3) This Plan is taking the name of Mr. Marshall, the US Secretary of State of that time. See Also, A.H. Robertson, European Institutions, 3rd ed., Stevens/Matthew Bender, London 1973, P. 6.
- 4) Stephen Weatherill and Paul Beaumont, OP CIT, P. 2.
- 5) Fontaine, Europe-A Fresh Start: The Schuman Declaration 1950-90, Luxembourg, EC Official Publications, 1990.
- 6) David W.P. Lewis, The Road to Europe, Peter Lang Publishing, New York 1993, PP. 22-25.
- 7) Stephen Weatherill and Paul Beaumont, OP CIT, P. 4.
- 8) The European Community Treaty originally created a European Economic Community, its name was amended by the treaty on European Union.
- 9) Stephen Weatherill and Paul Beaumont, OP CIT, PP. 4-5.
- 10) M.N. Shaw, OP CIT, P. 763.
- 11) David W.P. Lewis, OP CIT, P. 18; Abdel Aziz Sarhan, OP CIT, P. 468.
- 12) David W.P. Lewis, OP CIT, P. 237.
- 13) The ten original European States are: Belgium, Denmark, France, Ireland, Italy, Luxembourg, the Netherlands, Norway, Sweden and the U.K.. The other acceding European States to the Council such as Greece and Turkey in 1949, Iceland in 1950, Germany in 1950, Austria in 1956, Cyprus in 1961, Switzerland in 1963, Malta in 1965, Portugal in 1976, Spain in 1977, Liechtenstein in 1978, San Marino in 1988, Finland in 1989, Hungary in 1990, Poland in 1991, Bulgaria in 1992, Estonia\ Lithuania\ Slovenia\ Slovakia\ Czech Republic\ Romania in 1993, Andorra 1994, Latvia\Albania (the former Yugoslav Republic of Macedonia)\ Ukraine in 1995 and the Russian Federation become the 39th member in February 1996. See: Diana Pinto, "The Council of Europe, Its Missions and Its Structures", ed. In, The Challenges of a Greater Europe, The Council of Europe and Democratic Security, Council of Europe Publishing, Strasbourg 1996, P. 29.; A.H. Robertson, OP CIT, P. 38; Mona Mahmoud Mostafa, The International and Regional Organizations Between Theory and Practice, Cairo, P. 470.
- 14) Diana Pinto, Id.
- 15) Lasok & Bridge, Law and Institutions of the European Union, Butterworths, 6th ed., London 1994, P. 8.

- 16)Id.
- 17)Id; Ali Sadek Abuhif, OP CIT, P.703.
- 18)Ali Sadek Abuhif, OP CIT, P. 704.
- 19)D.W. Bowett, The Law of International Institutions, 4th ed. Stevens & Sons, London 1982, P. 172.
- 20)Id.
- 21)Id.; Mona Mahmoud Mostafa, OP CIT, P. 703.; Ali Sadek Abuhif, OP CIT, P. 704.; Abdel Aziz Sarhan, OP CIT, P. 472.
- 22)Diana Pinto, OP CIT, P. 31.
- 23)David W.P. Lewis, OP CIT, P. 240; Abdel Aziz Sarhan, OP CIT, P. 476.
- 24)Art.25 of the Consultative Assembly Statute as amended in May 1951.
- 25)Mona Mahmoud Mostafa, OP CIT, P. 476.
- 26)Bowett, OP CIT, P. 172.
- 27)Diana Pinto, OP CIT, P. 33.
- 28)A.H. Robertson, OP CIT, P. 36.
- 29)TS NO 71 (1953); UNTS, 213, P. 221. See eg. Castberg, The European Convention on Human Rights, 1974; Nedjati, Human Rights Under the European Convention, 1978; Robertson, Human Rights in Europe, 2nd ed. 1977; Fawcett, The Application of the European Convention on Human Rights, 2nd ed. 1987; Van Dijk and Van Hoof, Theory and Practice of the European Convention on Human Rights, 1984; Merrills, the Development of International Law by The European Court of Human Rights, 1988; Beddard, Human Right and Europe, 2nd ed., 1980; Drzemczewski, The European Human Rights Convention in Domestic Law, 1983; The Yearbook of the European Convention on Humans (1958, and annual vols thereafter).
- 30)Austria, France, Italy, Spain and West Germany applied the principle of reciprocity in criminal Extradition with Brazil. For more detail, see: Jose Francisco Rezek, "Reciprocity As a Basis of Extradition", The British Yearbook of International Law, Vol. 52, 1982, P. 174.
- 31)Rolin, "Quelques Questions Relatives a l'Extradition", Receuil Des Cours 1923, P. 194.
- 32)The European States ratified the European Convention on Criminal Extradition (the original State-parties) are: Austria, Denmark, France, West Germany, Greece, Iceland, Italy, Luxembourg, Norway, Sweden and Turkey. "While the United Kingdom and Belgium were also original signatories, it was not until February 1991 that the UK ratified this Convention and it has not yet been ratified by Belgium" See: Michael Forde, The Law of Extradition in the United Kingdom, the Round Hall Press, Ilford, 1995, P. 13.
- 33)See: Explanatory Report on the Additional Protocol to The European Convention On Extradition, Council of Europe, Strasbourg 1975.

- 34)Ibid.
- 35)Ibid.
- 36)Ibid.
- 37)Ibid.
- 38)European Treaty Series, N0 86.
- 39)cf. the publication *Legal Aspects of Extradition among European States*, Council of Europe, Strasbourg 1970.
- 40)See, Text of the Second Additional Protocol to the European Convention on Extradition.
- 41)The European Convention on Extradition, Art. 1.
- 42)Ibid, Art. 2(1).
- 43)The European Convention on Extradition, Art. 2(1).
- 44)The G.C.C. Security Convention, Art. 28(a).
- 45)The European Convention on Extradition, Art. 2(1).
- 46)The G.C.C. Security Convention, Art. 28(b).
- 47)The European Convention on Extradition, Art. 2(2).
- 48)Ibid, Art. 2(4).
- 49)Ibid, Art. 2(5).
- 50)As it the case for Conventions on criminal extradition, the European Convention on Extradition follows the principle of not Extraditing for political offences. Whereas, the Eastern European States granted extradition for political offences, yet with the collapse of communism in the eighties, such States might not Extradite for political offences and some of them acceded to the European Convention on Extradition, the case Hungary in November 1990. See: Schmid, "Extradition and International Judicial and Administrative Assistance in Penal Matters in East European States", 34 Law in E. Europe 167, esp. PP. 169-73 (1988).
- 51)The European Convention on Extradition, Art. 3.
- 52)Ibid, Art. 3(2).
- 53)The G.C.C. Security Convention, Art. 30(1).
- 54)The European Convention on Extradition, Art. 4.
- 55)Id.
- 56)The G.C.C. Security Convention, Art. 30(1d).
- 57)The European Convention on Extradition, Art. 5.
- 58)Ibid, art. 6(1a).
- 59)Ibid, art. 6(1b).
- 60)Ibid, art. 6(2).
- 61)The G.C.C. Security Convention, Art. 28.
- 62)The European Convention on Extradition, Art. 10.

- 63)Ibid, Art. 8.
- 64)Ibid, art. 11; See: Sharon A. Williams, "Extradition to a State That Imposes the Death Penalty", *The Canadian Yearbook of International Law*, Vol. XXVIII 1990, U.B.C. Press, Vancouver, BC.
- 65)The European Convention on Extradition, Art. 11.
- 66)In the United Kingdom, section 12(2)(b) of the 1989 Extradition Act makes this the decision of the Secretary of State, who is expected to seek the required assurances from the requesting State.
- 67)The European Convention on Extradition, Art. 27(2).
- 68)Ibid, Art. 7(2).
- 69)Ibid, Art. 9.
- 70)Ibid.
- 71)The G.C.C. Security Convention, Art. 29.
- 72)Ibid, Art. 30(3).
- 73)The European Convention on Extradition, Art. 12(1).
- 74)Ibid, art 12(2a).
- 75)Ibid, Art. 12(2c).
- 76)Among the guarantees assured for the person, who is the subject of the extradition request, if he is proceeded against in contravention with the principles of International Law, is that the person can bring a complaint against the authorities that are illegally proceeding against him before the European Commission For The Human Rights(ECHR). See: *Convention For The Protection of Human Rights and Fundamental Freedoms* (H.M.S.O. 1950, Cmd. 8130); Geoff Gilbert, *OP CIT*, P. 37.
- 77)The European Convention on Extradition, Art. 14.
- 78)The G.C.C. Security Convention, Art.38.
- 79)The European Convention on Extradition, Art. 15.
- 80)The G.C.C. Security Convention, Art.26.
- 81)The European Convention on Extradition, Art. 16(1).
- 82)Ibid, art. 16(4).
- 83)Id.
- 84)Ibid, art. 16(5).
- 85)The G.C.C. Security Convention, Art. 36.
- 86)See: Raj Sarup, "Credit For Time Spent in Detention During Extradition Proceedings Abroad", *AJIL*, Vol. 73, 1979, P. 276.
- 87)The G.C.C. Security Convention, Art. 34.
- 88)The European Convention on Extradition, Art. 18(1).

- 89)Ibid, Art. 18(2).
- 90)Ibid, Art. 18(3).
- 91)Ibid, Art. 18(4).
- 92)Ibid, Art. 18.
- 93)Ibid, Art. 19.
- 94)Id.
- 95)Ibid, Art. 20(2).
- 96)Ibid, art. 20(3).
- 97)The G.C.C. Security Convention, Art. 37.
- 98)The European Convention on Extradition, Art. 24(2).
- 99)Ibid, art. 24(3).
- 100)The G.C.C. Security Convention, Art. 39.
- 101)At the time of the signature of the European Convention, Algeria was occupied by France and it was deemed as a part of the French territory. These provisions are no longer applicable to Algeria.
- 102)The European Convention on Extradition, Art. 27.
- 103)The G.C.C. Security Convention, Art. 41.
- 104)The European Convention on Extradition, Art. 29(1).
- 105)Ibid, Art. 30(1).
- 106)The States who have ratified the Convention (at 1995) are: Austria, Bulgaria, Cyprus, Czech and Slovak Federal Republic, Denmark, Finland, France, Germany, Greece, Hungary, Iceland, Israel, Italy, Liechtenstein, Luxembourg, Netherlands, Norway, Poland, Portugal, Spain, Sweden, Switzerland, Turkey and United Kingdom. See: Michael Forde, OP CIT, P. 14.
- 107)Goodrich, Hambro and Simons, Charter of the United Nations, 3rd ed. 1969; Joshua S. Goldstein, OP CIT, PP. 227-46
- 108)Ian Brownlie, Principles of Public International Law, 3rd ed., Oxford 1995, P. 702.
- 109)The UN Charter, Art. 99.
- 110)Joshua S. Goldstein, OP CIT, PP. 239-41.
- 111)D.W. Greig, OP CIT, PP. 822-35.
- 112)Past Secretaries-General have come from various regions of the World, but never from a great power. They are: Trygve Lie (Norway 1946-52), Dag Hammarskjold (Sweden 1953-61), U Thant (Burma 1961-71), Kurt Waldheim (Austria 1972-82), Javier Perez de Cuellar (Peru 1982-92), Boutros Boutros Ghali (Egypt 1992-1996) and Kofi Annan(Ghana 1996--).
- 113)Joshua S. Goldstein, OP CIT, P. 232.
- 114)M.N. Shaw, OP CIT, P. 703.

- 115)N.D. White, The United Nations and the Maintenance of International Peace and Security, Manchester University Press, Manchester 1990, PP.3-26; Joshua S. Goldstein, OP CIT, PP. 233-235.
- 116)Joshua S. Goldstein, OP CIT, P. 241.
- 117)G.A. Res. 3190 (XXVIII), and art. 51 of the G.A.'s rules of procedure.
- 118)M.N. Shaw, OP CIT, P. 754.
- 119)See the judgment in the case of Nicaragua V. United States (Merits), ICJ Reports 1986.
- 120)Ian Brownlie, OP CIT, P. 14.
- 121)The UN Congress on the Prevention of Crime and the Treatment of Offenders is held once each five years.
- 122)The Eighth Report of the UN Congress on the Prevention of Crime and the Treatment of Offenders, Havana, Cuba from 27 August-7 September 1990.
- 123)Ibid.; Mohammed Niazi Hatata, OP CIT , P. 134.
- 124)The UN Model Convention on Extradition, Art. 1.
- 125)Ibid, Art. 2(1).
- 126)The G.C.C. Security Convention, Art. 28.
- 127)The UN Model Convention on Extradition, Art. 2(1).
- 128)Ibid, Art. 2(3).
- 129)Ibid, Art. 2(4).
- 130)Ibid, Art. 3(c).
- 131)Ibid, Art. 3(b).
- 132)Ibid, Art. 3(e).
- 133)Ibid, Art. 3(f).
- 134)Ibid, Art. 3(g).
- 135)Ibid, Art. 4.
- 136)Ibid, Art. 4(f)
- 137)The G.C.C. Security Convention, Art. 30(1).
- 138)Ibid, Art. 30(1d)
- 139)Ibid, Art. 28.
- 140)The UN Model Convention on Extradition, Art. 5.
- 141)Ibid, Art. 5.
- 142)Ibid, Art. 9(1).
- 143)Ibid, Art. 9(3).
- 144)Ibid, Art. 9(4).
- 145)Ibid, Art. 9(5).
- 146)Ibid, Art. 9(3).

- 147)The G.C.C. Security Convention, Art. 36.
- 148)The UN Model Convention on Extradition, Art. 10.
- 149)Id.
- 150)The G.C.C. Security Convention, Art. 33(b).
- 151)The UN Model Convention on Extradition, Art. 11(1).
- 152)Ibid, Art. 12.
- 153)Ibid, Art. 13.
- 154)Ibid, Art. 14.
- 155)Ibid, Art. 14(1b).
- 156)The G.C.C. Security Convention, Art. 34(1).
- 157)The UN Model Convention on Extradition, Art. 17(1&2).
- 158)Ibid, Art. 17(3).
- 159)The G.C.C. Security Convention, Art. 39.
- 160)The European Convention on Extradition, 1957, ETS 24, 359 UNTS. The Commonwealth Scheme for the Rendition of Fugitive Offenders as amended, LMM(90)32; UN Model Convention on Extradition, 30 I.L.M. 1357(1991).
- 161)Tom Tullett, Inside Interpol, Frederick Muller, London 1966, P. 23.
- 162)The INTERPOL Fighting Crime, translated by Emad Tahina & Mazine Nafaa, Maad for the Publication and Distribution, Damascus 1991, P. 119.
- 163)Tom Tullett, OP CIT, P. 27.
- 164)Mohammed Mansour Assawi, The Principles of International Law in The Field of Combating The International Drug-Related Offences, Dar Al-matbouat Al-jamia, Alexandria 1984, P. 650.
- 165)Geoff Gilbert, OP CIT, P. 34.
- 166)Richard Clutterbuck, Terrorism, Drugs & Crime in Europe After 1992, Routledge, London 1990, P. 119; Mohammed Mansour Assawi, OP CIT, P. 659.
- 167)Joshua S. Goldstein, OP CIT, P. 170.
- 168)Geoff Gilbert, OP CIT.
- 169)Mohammed Mansour Assawi, OP CIT, P. 715.
- 170)Joshua S. Goldstein, OP CIT; Mohammed Mansour Assawi, OP CIT, P. 725.
- 171)Richard Clutterbuck, OP CIT, P. 119.
- 172)Shearer I.A., OP CIT, P. 203.
- 173)The INTERPOL Fighting Crime, OP CIT, P. 135.
- 174)Geoff Gilbert, OP CIT, P. 69.

CONCLUSION

The concept of a G.C.C. comprehensive Security Convention passed through many important stages and developments and through many drafts before its signature in December 1994. There arose appropriate conditions that compelled the emergence of such a Convention. In fact, the G.C.C. States are bound by many common elements: government systems, habits, religion, language, customs, geographic proximity and flourishing economies are common to all these States. However, these common factors could not achieve security by other arrangements, as we have seen in discussing the League of Arab States, the Council of Europe and the United Nations Organization. In these organizations, there are huge differences between their members, either on religious or linguistic levels or in the legal systems adopted in each member State.

These similarities, the great petroleum reserves, the superpowers endeavour to intervene in the G.C.C. States' internal affairs, the Iranian military intervention in Bahrain and UAE and its occupation of the three UAE islands, the bloody wars that the Middle East has witnessed, particularly the two Gulf Wars, all in some way prompted the adoption of the G.C.C. Security Convention so that the member States could enjoy stability and security within their territories.

There was security co-operation between the G.C.C. States before the adoption of the G.C.C. Security Convention and even before the establishment of the G.C.C. Such co-operation relied on the exchange of security information, extradition and other matters⁽¹⁾. The G.C.C. Security Convention emerged to rationalise and systematise this co-operation within a legal framework in respect of legal procedures which enable the security organs in the G.C.C. States to pursue security co-operation and harmony.

Extradition was applied among the G.C.C. States before the conclusion of bilateral conventions between Saudi Arabia and the other G.C.C. States, the ratification of the G.C.C. Comprehensive Security Convention and even before the establishment of the G.C.C.(2).

Co-operation in the field of extradition is still maintained with the non-signatory States, such as Kuwait to whom Bahrain granted extradition in 1995(3). This demonstrates the overall strength of security co-operation even in the absence of extradition agreements between the G.C.C. member States.

Throughout this study, the focus has been on the importance of transforming security co-operation among the G.C.C. States into the G.C.C. Security Convention.

Because this subject matter has never been tackled before, many difficulties were encountered, mainly in collecting materials for this study, since few writers have dealt with it except in scattered journalistic articles. Such writings and others deal with the G.C.C. in general and no single writer has tackled the G.C.C. Security Convention as such, since the subject matter is concerned with a critically sensitive subject, namely security. With such subject matter, confidentiality prevails and it is not possible for most writers to become acquainted with the critical details.

Because of the trust of the decision-makers in the G.C.C. States in the author, they were prepared to provide information concerning the confidential background of the Convention. However, they made sure that the author did not use the information in contravention of the security of the G.C.C. States.

Meeting such important officials in their own countries was not easy since it was very hard to co-ordinate meetings because of the functions they have assumed and

the importance of their responsibilities. The author was keen to hold such meetings to obtain the information directly from its source and use the information in its appropriate place.

The translation of the Convention from Arabic into English was another difficulty. There is no official translation of the G.C.C. Security Convention available from the G.C.C. Secretariat-General. The translation took around eight months and it compelled meetings with officials in the G.C.C. Secretariat-General to discuss the use of the correct legal terms and the interpretation of some equivocal parts of the Arabic text.

When the translation was finished, the text was submitted to officials in the G.C.C. Secretariat-General⁽⁴⁾ which approved the translated text of the Convention by means of an official letter from the G.C.C. Secretariat-General which acknowledges the conformity and reliability of my translated version with the Arabic text of the G.C.C. Comprehensive Security Convention (See Appendix 1b).

There were many difficulties translating into the English language. In art. 1, (الخارجين على القانون) [outlaws] appears; this description is wide enough to include a range of meanings in the English language. In art. 14, in the Arabic version, the word (تعيين) [to employ] appears without specifying the nature of the employment, either provisionally or permanently. In art. 17(b), we read in the Arabic text (مجهولو الهوية وكذلك الداخلون بصورة غير شرعية الذين كانوا قد دخلوا حدود إحداهما بصورة غير شرعية بعد أن دخلوا حدود دولة أخرى أو أكثر بطريقة مشروعة تتولى الدولة التي قامت بإلقاء القبض عليه معالجة أوضاعهم بعد إخطار الجهات المختصة في الدولة), [Unidentified persons and illegal entrants are those who have illegally entered the territory of a member State and the territory of

one or more member States by the same means. The last State entered illegally, when arresting them, should deal with them after informing the competent authorities in the State(s) through which they have passed.] This Arabic paragraph is very difficult to translate because of its complexity.

Also in art. 27 which requests the member States to extradite persons sought for extradition, there appears a verb (تقوم) from which we can not understand whether extradition is obligatory or optional. In art. 28 the words (جرائم الحدود و القصاص و التعزير) [divine ordinance punishment or retribution punishment or discretionary punishment] appear, for which it is very hard to find equivalents in the English language because such terms are specific to Islamic Shari'ah.

Through detailed analysis, important conclusions came out of this study. The positive and negative remarks with regard to the G.C.C. Security Convention and my recommendations shall be discussed, which it is hoped would be implemented by the security systems in G.C.C. States in particular and to all the security organs in general.

Attention has been drawn in his study to the fact that Kuwait and Qatar have not signed the Convention and UEA has signed but not ratified the Convention. Kuwait has not signed because art. 28 of the G.C.C. Security Convention, which obliges the requested State to extradite its own nationals, contravenes the Kuwait Constitution, art. 28, which forbids the deportation of nationals. However, the author has clarified the difference between extradition and deportation. Although the UAE and Oman Constitutions also ban the deportation of nationals, these two States signed the Convention; therefore, the Kuwaiti arguments for declining to sign the Convention are mere pretext.

On the other hand, Qatar approved the conclusion of this Convention. However, it insisted on reservations during the drafting of the Convention. The problematic reservations have been resolved; as discussed before, the Qatar Ministerial Council approved and has submitted the Convention to Shoura Council which still has not issued any decision about the approval of the G.C.C. Security Convention⁽⁵⁾. The circumstances witnessed recently by Qatar, the change that has occurred in the leadership of the State and the consequent political fluctuations, delayed Qatar's signature of the G.C.C. Comprehensive Security Convention. During a meeting with Sheikh Abdullah Al-Thani, the Qatar Prime Minister and Minister of the Interior (in the new Government), the author was informed that Qatar would sign the Convention in the four next months⁽⁶⁾. However, this period is over and Qatar still has not signed the Convention. The recent unrest in Qatar requires a period of time for conditions to stabilize and then the Convention could be signed.

Although the UAE signed the Convention, it did not ratify it. The UAE Minister of the Interior confirmed to the author that there is no problem in ratifying the Convention. From this study, the author realized that the cause for UAE's delay in ratifying the Convention resides in its Constitution, art.37, which forbids the deportation, and art.38 which forbids extradition, of nationals. The latter article contravenes art.28 of the G.C.C. Security Convention which obliges the requested Party to extradite its own nationals. The UAE's Government may overcome this obstacle by an appropriate reconciliation between the UAE's Constitution and the G.C.C. Convention since UAE officials are keen to adopt the provisions of the Convention to realize comprehensive security co-operation among the G.C.C. States.

From the previous discussion, the signatory States are UAE, Bahrain, Oman and Saudi Arabia; the States who have ratified the G.C.C. Security Convention are Bahrain, Oman and Saudi Arabia. The Convention became effective one month

after the ratification of two-thirds of the member Parties; it entered into effect on 22 June 1995.

In this study the author has discovered a requirement to change Art.28 of the 1994 Convention as discussed in Chapter 3. It is clearly impossible to satisfy the two conditions stated in Art.28; a person cannot be alleged to have committed and be convicted of an offence at the same time. Only one of the two conditions referred to can be satisfied.

The Ministerial Councils of the G.C.C. States should take action to rectify the problem of Art. 28.

Among the characteristics of the G.C.C. Security Convention, in comparison with other extradition agreements, is the inclusion of all security matters: security co-operation; exchange of security information; holding training sessions, conferences and forums; coordination in taking Arab and international decisions; harmonization of regulations governing security matters; non-intervention in domestic affairs of the member States; combating illegal entry or exit and smuggling; combating crime in all its forms; and dealing with extradition.

The G.C.C. Security Convention tackles all these various fields of security, whereas the other conventions are limited to extradition only; for example, the extradition conventions, which have been discussed, concluded within the framework of the League of Arab States, the Council of Europe and the UN Model Convention adopted by the UN General Assembly all deal exclusively with extradition.

The G.C.C. Security Convention deals with legal and Islamic Law provisions, while other Conventions are limited to pure legal provisions only. This shows that the common factor enjoyed by the G.C.C. States is the Islamic Shari'ah which is

the main source of their Constitutions. Therefore, it is not strange to find religious provisions included in the G.C.C. Security Convention, such as: "*It is prohibited to import or circulate or export pamphlets, printed materials or books or any publication in contravention of the Islamic faith,..*"(7) and "*..crimes of divine ordinance punishment, retribution punishment or discretionary punishment,..*"(8). Such judgment is issued by the Islamic Judicial Courts in the G.C.C. States.

The G.C.C. Security Convention is characterized by the obligation to extradite the nationals of Contracting Parties. This provision is absent in the other international conventions since extraditing(or not extraditing) a national is part of the State's rights and sovereignty. However, the G.C.C. States waive parts of their sovereignty to strengthen security co-operation.

The principle of the extradition of nationals, stated in the G.C.C. Comprehensive Security Convention, is not new; it was known at the beginning of the Islamic realm. In fact, Prophet Mohammed(Peace Be Upon Him) concluded an extradition agreement with Quoraish. This principle is still maintained by the systems of the G.C.C. States which adopt the Islamic Shari'ah as a basis.

The G.C.C. Security Convention, as with other extradition conventions, deals with political offences. However, it does not define this term. Nonetheless, it excludes various offences from being considered political offences and, in doing so, the Convention narrowed the flexible definition of political offences so that the persons who commit extraditable offences would not escape extradition by virtue of the provisions of the G.C.C. Security Convention.

To widen the scope of the application of extradition, the G.C.C. Security Convention excludes military crimes from being considered political offences. Therefore, persons who commit military crimes are liable to extradition; whereas, in other extradition agreements, extradition is not competent for military crimes.

The G.C.C. Security Convention explicitly states that terrorism is not categorized as a political offence. This would avoid any dispute as to whether a terrorist is liable to extradition or not. Other extradition conventions do not state whether terrorism would be categorized as a political offence, as the European Convention on Extradition does.

When an offence is committed outside the territories of both the requesting and requested States, the G.C.C. Security Convention stipulates that extradition is competent if the legal system of the requesting State alone punishes such an offence if committed outside its territory, regardless of the legal system in force in the requested State. This is unlike common extradition agreements which stipulate that the legal systems in both States must punish such an offence if committed outside their territories before extradition is competent.

The G.C.C. Comprehensive Security Convention is also characterized by the obligation of extradition for offences punishable by the death penalty. In fact, art. 28 of the G.C.C. Convention provides for the obligation of extradition for offences punishable by divine ordinance, retribution or discretionary punishments. The death penalty is applicable in terms of such decrees for punishment, derived as they are from the Islamic Shari'ah. The application of these provisions has reduced the rate of criminality in comparison with other States which do not apply such provisions. On the contrary, the European Convention on Extradition and the UN Model Convention on Extradition prohibit extradition for offences punishable by the death penalty. According to the author, such a prohibition may well encourage criminality, organized crime and Mafia activities.

Undoubtedly, bilateral or multilateral extradition conventions play a major role in tracking and prosecuting fugitive offenders. This does not prejudice other means of extradition such as extradition through the principle of reciprocity and

international customary law. Nevertheless, the presence of such extradition conventions is preferable.

Any international legal text, by itself, is not sufficient to realize the purposes required. It must be supplemented by conscious will and good faith in applying such text. The G.C.C. States enjoy this will and faith. From the author's perspective, there will be no major problems in applying the provisions of the G.C.C. Security Convention in future.

The bilateral conventions concluded between Saudi Arabia and other G.C.C. States had an important effect on drafting the G.C.C. Comprehensive Security Convention. The decision to consider bilateral conventions a lesser degree of security co-operation and an integral part in setting the text of the G.C.C. Convention was taken during the meeting of the G.C.C. Ministers of the Interior held in Riyadh on February 1982(9).

Among the characteristics of G.C.C. Security Convention is the fact that it does not supersede previous bilateral convention concluded between Contracting Parties. In the case of a conflict between the provisions of the Convention with those of the bilateral conventions, the provisions which best realize the comprehensive security co-operation are to be applied. This flexibility is not common in extradition agreements which, most of the time, supersede previous agreements, particularly if the former provisions contravene the latter. However, the G.C.C. States deemed it beneficial to maintain the previous bilateral extradition conventions where they are thought to be more effective.

In each G.C.C. member State, there is a special bureau charged with sending and receiving extradition requests. Nonetheless, the author proposes that there should be one central office, located in the G.C.C. Secretariat-General, charged with the coordination of extradition requests. It would assist in the standardisation and

processing of information whenever necessary and the settlement of disputes as may arise with regard to application of the provisions of the G.C.C. Security Convention.

The G.C.C. Security Convention is unique in being comprehensive and because of important measures it provides to facilitate extradition. It is confidently expected that, with the convention in effect and its structures in place, it will prove successful in achieving its goals. It is possible that other regional organization with similar security concerns could use the G.C.C. Security Convention as a model.

NOTES

- 1) This was confirmed by the G.C.C. Interior Ministers to the author during his meeting with them: the Bahrain Minister of the Interior on 16 and 18 March 1996, the Oman Minister of the Interior on 24 March 1996, the Qatar Minister of the Interior on 25 March 1996, the Kuwait Minister of the Interior on 27 March 1996, the UAE Minister of the Interior on 30 March 1996 and the Saudi Minister of the Interior, Prince Naif Ben Abdel-Aziz, on 2 October 1996.
- 2) The author's meeting with Prince Naif Ben Abdel-Aziz, on 2 October 1996.
- 3) The author's meeting with the Bahrain Minister of the Interior on 16 and 18 March 1996.
- 4) Dr. Mohammed Bin Saud Al-Sayari, the director-General of Legal Affairs; Mr. Mohammed Al-Dossari, the deputy Director of the security affairs.
- 5) This was approved during the author's meeting with the Qatar Minister of Justice.
- 6) The author's interview with the Qatar Minister of the Interior on 25 March 1996.
- 7) the G.C.C. Security Convention, art. 3.
- 8) Ibid, art. 28.
- 9) The author's meeting with Prince Naif Ben Abdel-Aziz, the Saudi Minister of the Interior.



The Cooperation Council for The Arab States Of The Gulf
Secretariat General

Saudi Arabia, Riyadh: 11462 - P.O.Box: 7153 - Telex: 203635 Tawini S.J. - Tel. 4827777 - Fax: 4829089

Ref. 49108

March 5, 1996

Attn. His Highness Bandar Ben Salman
Ben Mohammed Al-Saud

Your Highness:

Thank you for your letter 1289/KH/569 dated 20/7/1416 along with the translation of the GCC Security Agreement. Please be informed that the translation section in the GCC Secretariat General has reviewed your translation of the GCC Security Agreement and found it to be in conformity with the Arabic text and reliable.

Thank you and accept our best regards.

Sincerely yours,

Dr. Moh'd Bin Saud Al-Sayari
Director-General of Legal
Affairs



The Cooperation Council for The Arab States Of The Gulf
Secretariat General

Saudi Arabia, Riyadh: 11462 - P.O.Box: 7153 - Telex: 203635 Tawini S.J. - Tel. 4827777 - Fax: 4829089

To whom it may concern:

This is to state that the English version of the security agreement is the true translation of the Arabic version.

Bearing in mind that the Arabic version avails in the case of contradiction.

Sincerely,

Dr. Mohamed Al-Sayari
Director-General of
Legal Affairs Sector

THE SECURITY CONVENTION WITHIN THE G.C.C..

(1994)

To further the spirit of true brotherhood, in conformity with the fundamental principles established by the G.C.C.; and

To guarantee the preservation of the security and stability of the G.C.C. States relying on their own capacities and available energies to maintain security and stability, believing in the forgiving Sha'ria principles; and

To preserve the highest principles from destructive and blasphemous ideas and prejudicial activities; and

To promote security Co-operation within the G.C.C. to the complete and perfect level, hoping that brother Arab countries would follow; and

To strengthen existing Co-operation;

THE G.C.C. MEMBER STATES HAVE AGREED UPON THE FOLLOWING:

CHAPTER ONE: GENERAL PRINCIPLES.

Article 1.

The member States shall not shelter outlaws who are citizens of the G.C.C. States or others, nor encourage them further in their harmful behaviour towards the security of their countries, nor supply them with weapons or money or training in acts of violence and destruction; and the member States shall curb such persons' hostile activities towards any of the G.C.C. States and shall return them to their home States after taking suitable measures against them if they are citizens of the G.C.C. States.

Article 2.

Each member State shall take appropriate measures which are sufficient to prevent its citizens or its residents from intervening in the internal affairs of any of the member States.

Article 3.

It is prohibited to import or circulate or export pamphlets, printed materials or books or any other publication in contravention of the Islamic faith, or public morality, or the security and territorial integrity of any of the member States, which shall also ban the movement or exportation of weapons, munitions and explosives and their components unless permitted by the competent authorities and in accordance with legal procedures.

Article 4.

Contracting parties should exchange information and experience to promote ways of preventing and combating crimes of different types and extending technical help in all manner of security affairs in order to obtain the desired integration.

Article 5.

There should be the exchange of laws and acts and regulations concerning activities of the Ministries of the Interior and other security organs related to research, books, and printed materials, papers which are produced by the Ministries and similar bodies; and by any other explanatory material, and training and vocational films at their disposal.

Article 6.

Necessary facilities in the field of education and training should be extended to the personnel of Ministries of the Interior and similar organs in the member States, in institutions, faculties and specialized institutes.

Article 7.

Member States should, wherever possible, unify the laws or acts and procedures in the penal field and simplify security measures which combat different forms of crimes and their means of commission in order to realize the security of the G.C.C. States.

Article 8.

Each member State of the G.C.C. should inform other member States willing to participate at least one month prior to its commencement of conferences and educational seminars in the field of the Ministries of the Interior and other security agencies related in particular to combating crimes, traffic safety education, and training. These procedures should be accomplished by direct contact between the organs concerned, and meetings should be held between competent authorities in order to realize this objective.

Article 9.

Member States' Ministries of the Interior and similar security organs should be consulted in advance and their representatives should co-operate to co-ordinate and unify their stance towards the subjects brought forward on the working agenda of regional and international conferences.

Article 10.

Member States should, wherever possible, act to unify laws or regulations concerning immigration, passports, residence permits and other matters which come within the competence of the Ministries of the Interior and similar security organs in member States.

CHAPTER TWO: INTEGRATION OF SECURITY ORGANS.

Article 11.

Member States should co-operate in order to furnish the security organs in the States with up-to-date technological instruments and training of personnel through collective training sessions, undertaken under the organization of the Secretariat-General of the G.C.C. who will be responsible for ensuring the necessary finance for them.

Article 12.

Member States should establish a dedicated modern communication network serving the Ministries of the Interior and the other security organs in the member States, with the proviso that the Secretariat-General shall invite experts to establish an integrated study in respect of this network and the measures for obtaining the necessary financial resources for its implementation.

Article 13.

Member States should act to establish specialized security training centres in various fields as needed by the security organs in the member States, with the proviso that the G.C.C. Secretariat-General shall invite experts to undertake an integrated study concerning such centres and their specialization and their locations in the member States, as well as proposing the means of implementation.

Article 14.

It is prohibited to employ any person whatsoever his nationality, except its own citizens, who has worked in the security organs of a member State without securing the consent of the Minister of the Interior of the State where he has previously worked.

Article 15.

Member States should hold regular meetings and exchange field visits between personnel in security organs at all levels and in all different activities in order to further the relationship and co-operation and to acquaint them with the systems adopted and the instruments used.

CHAPTER THREE: ILLEGAL ENTRY OR EXIT, AND SMUGGLING.

Article 16.

Member States shall exert their utmost endeavours necessary to combat illegal entry or exit and smuggling through their borders and shall take all appropriate

legal measures against those who commit such acts or are proved to have participated in them.

Article 17.

The competent authorities in the member States shall arrest persons entering through illegal means and take appropriate measures against them in accordance with the following:

- A) Illegal entrants to one of the member States who have entered the territory of another of the member States by legal means shall be returned to the security post at the border of that State which they have entered by legal means.
- B) Unidentified persons and illegal entrants are those who have illegally entered the territory of a member State and the territory of one or more member States by the same means. The last State entered illegally, when arresting them, should deal with them after informing the competent authorities in the State through which they have passed.

Article 18.

All neighbouring member States shall organize and coordinate meetings and joint patrols within the border regions of the member States, as well as convening, if needed, regular meetings for that purpose between those responsible for the border posts in the member States.

Article 19.

All neighbouring member States shall extend their utmost endeavors in pursuing fugitive persons who are being pursued by a member State, where they pass, through the boundaries between the two States.

The pursuing patrols of any member State are not permitted to penetrate into the territory of a neighboring State except to a distance where the meeting point of the patrols on land or at sea shall be agreed upon between the two neighboring States. After being informed of such pursuit, the patrol of the entered State is empowered

to pursue, arrest and deliver the fugitive persons along with their possessions and their means of transportation to the nearest post of the State in whose territories the pursuit started.

Article 20.

In any pursuit, the following shall be observed:

- A) The pursuing cars or cruisers shall display the official emblem and be clearly distinguishable.
- B) The pursuing cars shall not exceed three in number and the cruisers shall not exceed two.
- C) The pursuing land patrols shall not exceed twelve persons and the pursuing marine patrols shall not exceed the registered crew of the two cruisers.
- D) The pursuing patrols, whether persons, cruisers or cars, shall be lightly armed in accordance with the agreement of the Ministers of the Interior.

CHAPTER FOUR: COMBATING CRIME.

Article 21.

Member States shall exchange the names of dangerous criminals and those with previous convictions, as well as persons suspected of being dangerous, reporting their movements and in particular banning their travel and, where possible and in circumstances in which these procedures are needed, in addition exchange a list of names of persons whose presence is undesirable in accordance with the prevailing Laws and regulations.

Article 22.

Member States should enhance contact between the competent organs responsible for criminal investigation and inquiry in the member States in order to communicate information obtained on criminal operations which have been

committed or might be committed in the territories of the member States or abroad.

Article 23.

The competent authority in each member State is required to inform its counterparts in the other member States about new types of crimes which have been committed and the means of their commission, as well as the procedures which have been taken to combat and to reduce them.

Article 24.

Each member State shall allow the officials of the organs of inquiry and investigation of another member State to attend the preliminary interrogation and charge in respect of crimes which have been committed in that State or which relate to its security or to similar crimes committed in its territory, or in respect of criminals of its nationality or accomplices who are residents or crimes whose consequences extend to its territory.

Article 25.

The competent authorities in each member State should take steps in accordance with its existing Laws and Statutes to extend the necessary assistance at the stage of detection and preliminary interrogation in respect of crimes whose punishment is within the competence of one of the member States, in particular in respect of a warrant for extradition or attendance or the execution of a motion for a hearing of the accused persons and the witnesses or in respect of other services such as, inspection, search and investigation.

Article 26.

Member States shall take the necessary measures in order to maintain the confidentiality of exchanged information when so by the State in possession of the information. Member States are not permitted to give such information and other

materials obtained in accordance with this Convention to another State which is not a member of the G.C.C. unless agreed by the State from which the information and other material originated.

CHAPTER FIVE: EXTRADITION OF CRIMINALS.

Article 27.

Each member State is obliged to extradite persons in its territory who are accused or have been convicted by the competent authorities of any of the member States in accordance with the rules and conditions laid down in this Chapter.

Article 28.

Extradition shall be obligatory between the member States if the request satisfies two conditions:

- A) the acts alleged to have been committed by the accused, in accordance with the Laws and Statutes of the requesting State, constitute crimes which are within the crimes of divine ordinance punishment, retribution punishment or discretionary punishment, or crimes which are punishable by a deprivation of liberty of not less than six months.

This provision shall apply even if the crime has been committed outside the territories of the two States, provided the Laws or Regulations of the requesting State provide for the punishment of this crime if committed inside or outside its territory.

- B) judgment has been passed by the judicial authority in the requesting State, whether in the accused person's presence or *in absentia*, in relation to crimes punishable by divine ordinance punishment or retribution punishment or discretionary punishment, or deprivation of liberty of a period of not less than six months.

The last two paragraphs shall be applied even if the accused person whose extradition is sought is a citizen of the requested State.

Article 29.

Extradition shall not take place if the crime has been repealed or the penalty rescinded in accordance with Laws or Regulations of the requesting State.

Article 30.

Extradition shall not be permitted in the following cases:

- 1) If the crime is political. The following shall not be considered political crimes:
 - A) Crimes of treason and sabotage and terrorism, and crimes of murder and robbery and theft committed by acts of force whether committed by one person or more.
 - B) All offences committed against Heads of States, or their ancestors and descendants, or their wives.
 - C) Crimes committed against Crown Princes and Royal Families, principalities and ministers, and those who are of the same rank in the member States.
 - D) Military crimes.
 - E) Any attempt or acting as an accomplice in these crimes if punishable under the Laws and Regulations of the requesting State.
- 2) If the crime is committed in the territory of the requested State.
- 3) If the person whose extradition is requested has diplomatic status and is entitled to diplomatic immunity or any other person entitled by such immunity in conformity with International Law or any pact or other charter.
- 4) If the person whose extradition is requested has been sentenced or is under interrogation or trial with regard to the crime which is the subject of the extradition request, either in the requested State or in the State in whose territory the crime has been committed, provided that the latter is not the requesting State.

Article 31.

- A) Requests for extradition shall be conveyed from the competent authority in the requesting State to the competent authority in the requested State.
- B) The requesting file shall contain:
- 1) A detailed report in respect of the identification of the requested person and his description and all data that help identify the requested person.
 - 2) A memorandum produced from the competent authority if the person has not been sentenced.
 - 3) A certified copy of the relevant Law which penalizes the act as well as a detailed report from the competent authority that has been handling the case with the proviso that this shall apply to those facts and evidence which prove the responsibility of the requested person.
 - 4) A certified copy of the judgment if the requested person has been sentenced whether the judgment is final or not.
 - 5) A report from the competent authority that is handling the case stating that the crime has not been repealed or the penalty rescinded in conformity with the Laws or Regulations of the requesting State.
 - 6) A statement that the request is in conformity with the provisions of this Convention.

Article 32.

In accordance with the provisions of the previous Article, the requested State is under the obligation to extradite the requested person if he has confessed to the criminal act with which he has been charged and the State has concluded that the crime is within the category for which extradition is obligatory in conformity with the provisions of this Convention.

Article 33.

With due consideration to the provisions of this Convention,

- A) The competent authority in each member State shall deal with requests for extradition in accordance with the Laws and Regulations in effect at the time of the request.
- B) The competent authority in the requested State shall inform the competent authority in the requesting State of the decision taken in respect of the extradition whether negative or positive, with the proviso that reasons shall be given in the case of the negative reply within a period of not more than two months from the date of receiving the request for the extradition.

Article 34.

- A) If the requested State receives a number of requests from different States in respect of a particular person and the same particular crime, priority in the extradition shall be given to the State whose interests have been more harmed by the crime, and thereafter to the State in whose territory the crime has been committed.
- B) If the requests relate to different crimes, the priority shall be determined by the facts and circumstances and facts, and particularly to the seriousness of the crime and the place of its commission as well as to the date of receipt of the requests and to any commitment which has been given to a requesting State to extradite the requested person.

Article 35.

If the requested person is being tried or sentenced in respect of other crimes in the requested State, this State shall take a decision concerning his extradition which shall be postponed until the end of his trial, or a decision is taken not to adjudicate, or the accused is found innocent or irresponsible, or the sentence is completed, or he is exempted from the sentence or his detention is terminated owing to the omission of necessary grounds. Nonetheless, it is permitted to deliver the requested person temporarily to the requesting State to appear before its competent authorities, provided that the said authorities are committed to deliver

him back after interrogation or sentence with regard to the crime which is the subject of the extradition request and that his liberty is suspended in conformity with the judgment or decision issued by the authorities of the State which extradited him.

Article 36.

It is not permitted to extend the period of detention of a person whose extradition is requested as a precaution in the requested State for more than thirty days after which he must be released, particularly if his file of extradition has not been received during this period, or for another thirty days at most where the requesting State requests a renewal with the proviso that the period of precautionary detention shall be deducted from any custodial sentence that might be imposed by the requesting State.

It is permitted for the competent authority in the requested State to receive the request for the renewal of the detention by telex, or telegram, or by telephone, the genuineness of which must be certified from the competent authority in the requesting State.

Article 37.

There shall be delivery to the requesting State of all items in the possession of the requested person at the time of the arrest which are pertinent to the crime within the provisions of the Laws or Regulations of the requested State.

Article 38.

No person shall be tried in the requesting State except in respect of the crime for which he has been extradited and associated activities as well as any subsequent crimes committed after the extradition. It is also permissible to adjudicate in respect of other crimes not subject to the extradition request and their associated activities where he consents, or where, within thirty days, he has not taken advantage of permission to leave the territory of the requesting State.

Article 39.

The requesting State shall pay all the expenses which are necessary to implement the extradition request as well as all expenses of returning the requested person to the place where he was at the time of the extradition if he is found irresponsible or innocent of the crime.

Article 40.

The requesting State is obliged to collect the requested person within thirty days from the date of dispatch of the telegram to it confirming the positive decision for the extradition. If the requesting State fails in this obligation, the requested State may release the requested person and it is not permitted to arrest him again or to take any measures against him except only in the case of a renewed request.

CHAPTER SIX: CONCLUDING PROVISIONS.

Article 41.

Without prejudice to bilateral Conventions that have been concluded between some of the member States, in case of conflict between this Convention and the provisions of any bilateral Convention, the two States shall apply in their reciprocal relationship the provisions which are most beneficial to comprehensive security Co-operation.

Article 42.

This Convention shall be ratified by the signatory States, in conformity with their constitutional Laws in effect, within four months from the date of signature, and they shall deposit the instruments of ratification with the Secretariat-General of the G.C.C. which shall prepare a report on the deposit of instruments of ratification of each State and notify the member States.

Article 43.

This Convention shall come into effect after the expiry of one month from the date of the deposit of the instruments of ratification of two thirds of the Signatory States.

Article 44.

It is permitted to amend this Convention by the consent of the Supreme Council.

Article 45.

Each Contracting Party to this Convention shall have the right to withdraw from it by a declaration to be sent to the Secretary-General of G.C.C., and such withdrawal shall not have any effect until the expiry of six months from the date of intimation, and this Convention shall be in effect in respect of requests of extradition which are delivered before the end of the said period.

And in conformity with the mandate of the Supreme Council, in its 14th session held in Riyadh in RAGHAB 1414 H. corresponding to DECEMBER 1993, to the Ministers of the Interior in order to revise the drafting of the security Convention and to sign it, therefore, the signing of this Convention took place in Riyadh on Monday 25th of JUMAD AL-AKHRA 1415 H. corresponding to NOVEMBER 28th, 1994, by:

THE MINISTER OF INTERIOR OF U.A.E..	Signed.
THE MINISTER OF INTERIOR OF BAHRAIN.	Signed.
THE MINISTER OF INTERIOR OF K.S.A..	Signed.
THE MINISTER OF INTERIOR OF SULTANATE OF OMAN.	Signed.
THE MINISTER OF INTERIOR OF QATAR.	No signature.
THE MINISTER OF INTERIOR OF KUWAIT.	No signature.

NB. THE TRANSLATION OF THE DOCUMENT IS ONLY A GUIDELINE FOR EASE OF REFERENCE. THE AVAILING IS THE ARABIC VERSION IN THE CUSTODY OF THE G.C.C. SECRETARIAT-GENERAL, IN RIYADH, K.S.A.

**CO-OPERATION COUNCIL FOR THE ARAB STATES
OF THE GULF.**

The United Arab Emirates

The State of Bahrain

The Kingdom of Saudi Arabia

The Sultanate of Oman

The State of Qatar and

The State of Kuwait

Being fully aware of the ties of special relations, common characteristics and similar systems founded on the creed of Islam which bind them; and Believing in the common destiny and the unity of aim which link their peoples; and Desiring to effect co-ordination, integration and interconnection between them in all fields; and Having the conviction that co-ordination, Co-operation, and integration between them serve the sublime objectives of the Arab Nation; and, In pursuit of the goal of strengthening Co-operation and reinforcement of the links between them; and In an endeavor to complement efforts already begun in all essential areas that concern their peoples and realize their hopes for a better future on the path to unity of their States; and In conformity with the Charter of the League of Arab States which calls for the realization of closer relations and stronger bonds; and In order to channel their efforts to reinforce and serve Arab and Islamic causes, Have agreed as follows:

ARTICLE ONE

The Establishment of the Council

A Council shall be established hereby to be named the Co-operation Council for the Arab States of the Gulf hereinafter referred to as the Co-operation Council (G.C.C.).

ARTICLE TWO

Headquarters

The Co-operation Council shall have its headquarters in Riyadh, Saudi Arabia.

ARTICLE THREE

Co-operation Council Meetings

The Council shall hold its meetings in the State where it has its headquarters, and may convene in any member State.

ARTICLE FOUR

Objectives

The basic Objectives of the Co-operation Council are:

1. To effect co-ordination, 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 Co-operation now prevailing between their peoples in various fields.
3. To formulate similar regulations in various fields including the following:
 - 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; to establish joint ventures and encourage Co-operation by the private sector for the good of their peoples.

ARTICLE FIVE

Council Membership

The Co-operation Council shall be formed of the six States that participated in the Foreign Ministers' meeting held at Riyadh on 4 February 1981.

ARTICLE SIX

Organizations of the Co-operation Council

The Co-operation Council shall have the following main organizations:

1. The Supreme Council to which shall be attached the commission for Settlement of disputes.
2. The Ministerial Council.
3. The Secretariat-General.

Each of these organizations may establish sub-agencies as may be necessary.

ARTICLE SEVEN

Supreme Council

1. The Supreme Council is the highest authority of the Co-operation Council and shall be formed of heads of member States. Its presidency shall be rotatory based on the alphabetical order of the names of the member States.
2. The Supreme Council shall hold one regular session every year. Extraordinary sessions may be convened at the request of any member seconded by another member.
3. The Supreme Council shall hold its sessions in the territories of member States.
4. A Supreme Council's meeting shall be considered valid if attended by two-thirds of the member States.

ARTICLE EIGHT

The Functions of the Supreme Council

The Supreme Council shall endeavour to realize the objectives of the Co-operation Council, particularly as concerns the following:

1. Review matters of interest to the member States.
2. Lay down the higher policy for the Co-operation Council and the basic lines it should follow.
3. Review the recommendations, reports, studies and joint ventures submitted by the Ministerial Council for approval.
4. Review reports and studies which the Secretary-General is charged to prepare.
5. Approve the bases for dealing with other States and international organizations.
6. Approve the rules of procedure of the commission for the settlement of disputes and nominate its members.
7. Appoint the Secretary-General.
8. Amend the Charter of the Co-operation Council.
9. Approve the Council's internal rules of procedure.
10. Approve the budget of the Secretariat-General.

ARTICLE NINE

Voting in the Supreme Council

1. Each member of the Supreme Council shall have one vote.
2. Resolutions of the Supreme Council in substantive matters shall be carried by unanimous approval of the member States participating in the voting, while resolutions on procedural matters shall be carried by majority vote.

ARTICLE TEN

Commission for the Settlement of Disputes.

1. The Co-operation Council shall have a commission called "The Commission for the Settlement of Disputes" which shall be attached to the Supreme Council.
2. The Supreme Council shall establish the composition of the Commission for every case on an "ad hoc" basis in accordance with the nature of the dispute.
3. If a dispute arises over interpretation or implementation of the Charter and such dispute is not resolved within the Ministerial Council or the Supreme Council, the

Supreme Council may refer such dispute to the Commission for the Settlement of Disputes.

4. The Commission shall submit its recommendations or opinions applicable to the Supreme Council for such action as the Supreme Council deems appropriate.

ARTICLE ELEVEN

Ministerial Council

1. The Ministerial Council shall be formed of the Foreign Ministers of the member States or other delegated Ministers. The Council presidency shall be for the member State which presided the last ordinary session of the Supreme Council, or if necessary, for the State which is next to preside the Supreme Council.

2. The Ministerial Council shall convene every three months and may hold extraordinary sessions at the invitation of any member seconded by another member.

3. The Ministerial Council shall determine the venue of its next session.

4. A Council's meeting shall be deemed valid if attended by two-thirds of the member States.

ARTICLE TWELVE

Functions of the Ministerial Council

1. Propose policies, prepare recommendations, studies and projects aimed at developing Co-operation and co-ordination between member States in various fields and adopt the resolutions or recommendations required in this regard.

2. Endeavour to encourage, develop and co-ordinate activities existing between member States in all fields. Resolutions adopted in such matters shall be referred to the Ministerial Council for further submission, with recommendations, to the Supreme Council for appropriate action.

3. Submit recommendations to the Ministers concerned to formulate policies whereby the Co-operation Council's resolutions may be put into effect.

4. Encourage means of Co-operation and co-ordination between the various private sector activities, develop existing Co-operation between the member States' Chamber of Commerce and Industry, and encourage the movement within the G.C.C. of workers who are citizens of the member States.
5. Refer any of the various aspects of Co-operation to one or more technical or specialized committee for study and presentation of appropriate recommendations.
6. Review proposals related to amendments to this Charter and submit appropriate recommendations to the Supreme Council.
7. Approve Rules of Procedure of both the Ministerial Council and the Secretariat-General.
8. Appoint the Assistant Secretaries-General, as nominated by the Secretary-General, for a period of three years, renewable.
9. Approve periodic reports as well as internal rules and regulations relating to administrative and financial affairs proposed by the Secretary-General, and submit recommendations to the Supreme Council for approval of the budget of the Secretariat-General.
10. Make arrangements for meetings of the Supreme Council and prepare its agenda.
11. Review matters referred to it by the Supreme Council.

ARTICLE THIRTEEN

Voting in the Ministerial Council

1. Every member of the Ministerial Council shall have one vote.
2. Resolutions of the Ministerial Council in substantive matters shall be carried by unanimous vote, and in procedural matters by majority vote.

ARTICLE FOURTEEN

The Secretariat-General

1. The Secretariat-General shall be composed of a Secretary-General who shall be assisted by assistants and a number of staff as required.

2. The Supreme Council shall appoint the Secretary-General, who shall be a citizen of one of the Co-operation Council States, for a period of three years which may be renewed once only.
3. The Secretary-General shall nominate the assistant Secretaries-General.
4. The Secretary-General shall appoint the Secretary-General's staff from among the citizens of member States, and may not make exceptions without the approval of the Ministerial Council.
5. The Secretary-General shall be directly responsible for the work of the Secretariat-General and the smooth flow of work in its various organizations. He shall represent the Co-operation Council with other parties within the limits of the authority vested in him.

ARTICLE FIFTEEN

Functions of the Secretariat-General

The Secretariat-General shall:

1. Prepare studies related to Co-operation and co-ordination, and to integrated plans and programmes for member States' action.
2. Prepare periodic reports on the work of the Co-operation Council.
3. Follow up the implementation by the member States of the resolutions and recommendations of the Supreme Council and Ministerial Council.
4. Prepare reports and studies requested by the Supreme Council or Ministerial Council.
5. Prepare the draft of administrative and financial regulations commensurate with the growth of the Co-operation Council and its expanding responsibilities.
6. Prepare the budgets and closing accounts of the Co-operation Council.
7. Make preparations for meetings and prepare agendas and draft resolutions for the Ministerial Council.
8. Recommend to the Chairman of the Ministerial Council the convening of an extraordinary session of the Council when necessary.
9. Any other tasks entrusted to it by the Supreme Council or Ministerial council.

ARTICLE SIXTEEN

The Secretary-General and the assistant Secretaries-General and all the Secretariat-General's staff shall carry out their duties in complete independence and for the joint benefit of the member States.

They shall refrain from any action or behaviour that is incompatible with their duties and from divulging confidential matters relating to their appointments either during or after their tenure of office.

ARTICLE SEVENTEEN

Privileges and Immunities

1. The Co-operation Council and its organizations shall enjoy on the territories of all member States such legal competence, privileges and immunities as are required to realize their objectives and carry out their functions.
2. Representatives of the member States on the Council, and the Council's employees, shall enjoy such privileges and immunities as are specified in agreements to be concluded for this purpose between the member States. A special agreement shall organize the relation between the Council and the State in which it has its headquarters.
3. Until such time as the two agreements mentioned in item 2 above are prepared and put into effect, the representatives of the member States in the Co-operation Council and its Staff shall enjoy the diplomatic privileges and immunities established for similar organizations.

ARTICLE EIGHTEEN

Budget of the Secretariat-General

The Secretariat-General shall have a budget to which the member States shall contribute in equal amount.

ARTICLE NINETEEN

The Implementation of the Charter

1. This Charter shall go into effect as of the date it is signed by the Heads of States of the six member States named in this Charter's preamble.
2. The original copy of this Charter shall be deposited with the Ministry of Foreign Affairs of the Kingdom of Saudi Arabia which shall act as custodian and shall deliver a true copy thereof to every member State, pending the establishment of the Secretariat-General, at which time the latter shall become depository.

ARTICLE TWENTY

Amendments to the Charter

1. Any member State may request an amendment of this Charter.
2. Request for Charter amendments shall be submitted to the Secretary-General who shall refer them to the member States at least four months prior to submission to the Ministerial Council.
3. An amendment shall become effective if unanimously approved by the Supreme Council.

ARTICLE TWENTY-ONE

Closing Provisions

No reservations may be voiced in respect to the provisions of this Charter.

ARTICLE TWENTY-TWO

The Secretariat-General shall arrange to deposit and register copies of this Charter with the League of Arab States and the United Nations, by resolution of the Ministerial Council

This Charter is signed on one copy in the Arabic Language at Abu Dhabi City, United Arab Emirates, on 21 Rajab 1401 corresponding to 25 May 1981.

The United Arab Emirates

The State of Bahrain

The Kingdom of Saudi Arabia

The Sultanate of Oman

The State of Qatar, The State of Kuwait

THE CO-OPERATION COUNCIL
For The Arab States of the Gulf Rules of Procedure
of the Supreme Council

ARTICLE ONE

Definitions

These regulations shall be called Rules of procedure of the Supreme Council of the Gulf Arab States Co-operation Council and shall encompass the rules that govern procedures for convening the Council and the exercise of its functions.

ARTICLE TWO

Membership

1. The Supreme Council shall be composed of the Heads of State of the member States of the Co-operation Council. The presidency shall rotate on the basis of the alphabetical order of the names of the member States.
2. Each member State shall notify the Secretary-General of the names of the members of its delegation to the Council meeting, at least seven days prior to the date set for opening the meeting.

ARTICLE THREE

With due regard to the objectives of the Co-operation Council and the jurisdiction of the Supreme Council as specified in Articles 4 and 8 of the Charter, the Supreme Council may:

1. Form technical committees and select their members from member States' nominees who specialize in the committees' respective fields.
2. Call upon one or more of its members to study a specific subject and submit a report thereon to be distributed to the members sufficiently in advance of the meeting arranged to discuss that subject.

ARTICLE FOUR

Convening the Supreme Council

1.a. The Supreme Council shall hold one regular session every year, and may hold extraordinary sessions at the request of any one member seconded by another member.

b. The Supreme Council shall hold its sessions at the level of Heads of States.

c. The Supreme Council shall hold its sessions in the member States' territories.

d. Prior to convening the Supreme Council, the Secretary-General shall hold a meeting to be attended by delegates of the member States for consultation on matters related to the agenda of the said meeting.

2.a. The Secretary-General shall set the opening date of the Council's session and suggest a closing date.

b. The secretary-General shall issue the invitations for convening a regular session no less than thirty days in advance, and for convening an extraordinary session, within no more than five days.

ARTICLE FIVE

1. The Supreme Council shall at the start of every session decide whether the meetings shall be in closed or open session.

2. A meeting shall be considered valid if attended by the Heads of State of two-thirds of the member States. Its resolutions in substantive matters shall be carried by unanimous agreement of the member States present and participating in the vote, while resolutions in procedural matters shall be carried by majority vote. Any member abstaining shall record that he is not bound by the resolution.

ARTICLE SIX

1. The Council shall hold an extraordinary session in the event of:

a. A resolution passed in a previous session.

b. A request by a member State seconded by another State. In this case, the Council shall convene within no more than five days from the date of issue of the invitation for holding the extraordinary session.

2. No matters may be placed on the agenda for the extraordinary session other than those which the session was convened to discuss.

ARTICLE SEVEN

1. Presidency of the Supreme Council shall, at the opening of each regular session, go to a Head of State by rotation based on the alphabetical order of the member States' names. The President shall continue to exercise the functions of the Presidency until such functions are entrusted to his successor at the beginning of the next regular session.

2. The Head of State of a country which is party to a dispute outstanding may not preside over a session or meeting called to discuss the subject of the dispute. In such case, the Council shall designate a temporary president.

3. The President shall declare the opening and closing of sessions and meetings, the suspension of meetings, and closures, and shall see that the Co-operation Council Charter and these rules of procedure are duly complied with. He shall give the floor to speakers based on the order of their requests, submit suggestions for acceptance by the membership, direct voting procedures, give final decisions on points of order, announce resolutions, follow up on the activities of committees, and inform the Council of all incoming correspondence.

4. The President may take part in deliberations and submit suggestions in the name of the State which he represents and may, for this purpose, assign a member of his State's delegation to act on his behalf in such instances.

ARTICLE EIGHT

Supreme Council Agenda

1. The Ministerial Council shall prepare a draft agenda shall be conveyed by the Secretary-General, together with explanatory notes and documentation, to the member States under cover of the letter of convocation at least thirty days before the date set for the meeting.

2. The draft agenda shall include the following:

- a. A report by the Secretary-General on the activities of the Supreme Council between the two sessions, and actions taken to carry out its resolutions.
 - b. Reports and matters received from the Ministerial Council and the Secretariat-General.
 - c. Matters which the Supreme Council had previously decided to include on the agenda.
 - d. Matters suggested by a member State as being in need of review by the Supreme Council.
3. Every member State may request inclusion of additional items on the draft agenda provided such request is tabled at least fifteen days prior to the date set for opening the session. Such matters shall be listed in an additional agenda which shall be sent, along with relevant documentation, to the member States, at least five days before the date set for the session.
 - . Any member State may request inclusion of extra items on the draft agenda as late as the date set for opening a session, if such matters are considered both important and urgent.
 5. The Council shall approve its agenda at the start of every session.
 6. The Council may, during the session, add new items that are considered urgent.
 7. The ordinary session shall be adjourned after completion of discussions of the items placed on the agenda. The Supreme Council may decide to suspend the session's meetings before completion of discussions on agenda items, and resume such meetings at a later date.

ARTICLE NINE

Office and Committees of the Supreme Council

1. The Supreme Council Office shall comprise, in every session, the Council President, the Chairman of the Ministerial Council and the Secretary-General. The Office shall be headed by the Supreme Council President.
2. The Office shall carry out the following functions:

- a. Review the form of resolutions passed by the Supreme Council without affecting their contents.
- b. Assist the President of the Supreme Council in directing the activities of the session in general.
- c. Other tasks indicated in these Rules of Procedure or other matters entrusted to it by the Supreme Council.

ARTICLE TEN

1. The Council may, at the start of every session, create any committees that it deems necessary to allow adequate study of matters listed on the agenda. Delegates of member States shall take part in the activities of such committees.
2. Meetings of committees shall continue until they complete their tasks, with due regard for the date set for closing the session. Their resolutions shall be carried by majority vote.
3. Every committee shall start its work by selecting a chairman and a reporter from among its members. The reporter of the committee shall act for the chairman in directing the meeting in the absence of the chairman. The chairman, or the reporter in the chairman's absence, shall submit to the Council all explanations that it requests on the committee's reports. The chairman may, with the approval of the session's President, take part in the discussions, without voting, so long as he is not a member of the Supreme Council.
4. The Council may refer any of the matters included in the agenda to the committees, based on their specialization for study and reporting. Any one item may be referred to more than one committee.
5. Committee may neither discuss any matter not referred to them by the Council, nor adopt any recommendation which, if approved by the Council, may entail a financial obligation, before the committee receives a report from the Secretary-General regarding the financial and administrative results that may ensue from adopting the resolution.

ARTICLE ELEVEN

The Process of Deliberation and Putting Forward Proposals

1. Every member State may participate in the deliberation of the Supreme Council and its committees in the manner provided for in these Rules of Procedure.
2. The president shall direct discussion of items as presented in order on the agenda of the meeting and may, when necessary, call upon the Secretary-General or his representative in the meeting to provide such clarification as he sees fit.
3. The President shall give the floor to speakers in the order of their requests. He may give priority to the Chairman or reporter of a committee to submit a report or explain specific points.
4. Every member may, during deliberations, raise points of order on which the president shall pronounce immediately and his decisions shall have effect unless voted by a majority of the Supreme Council member States.

ARTICLE TWELVE

1. Every member may, during the discussion of any subject, request suspension or adjournment of the meeting or discussion of the subject, or closure. Such requests may not be discussed but the President shall put them to the vote, if duly seconded, and decision shall be by majority of the member States.
2. With due regard to provisions of item 4 of the preceding Article, suggestions indicated in item 1 of this Article shall be given priority over all others based on the following order:
 - a. Suspension of the meeting.
 - b. Adjournment of the meeting.
 - c. Postponement of discussion of the matter in hand.
 - d. Closure of discussion of the matter in hand.
3. Apart from suggestions on formulation or procedural matters, draft resolutions and substantive amendments shall be submitted in writing to the Secretary-General or his representative who shall distribute them as soon as possible to the

delegations. No draft resolution may be submitted for discussion or voting before the next thereof is distributed to all the delegations.

4. A proposal on which a decision has been taken may not be reconsidered in the same session unless the Council decides otherwise.

ARTICLE THIRTEEN

The President shall follow up on the activities of the committees, inform the Supreme Council of correspondence received, and formally announce before members all the resolutions and recommendations arrived at.

ARTICLE FOURTEEN

Voting

Every member State shall have one vote and no State may represent another State or vote on its behalf.

ARTICLE FIFTEEN

1. Voting shall be by calling the names in the alphabetical order of the States' names, or by raising hands. Voting shall be secret if so requested by a member or by decision of the President.

The Supreme Council may decide otherwise. The vote of every member shall be documented in the minutes of the meeting if voting is effected by calling the names. The minutes shall indicate the result of voting, if the vote is secret or by show of hands.

2. A member may abstain from vote or express reservations over a procedural matter or part thereof, in which case the reservation shall be read at the time the resolution is announced and shall be duly documented in writing. Members may present explanations about their stand in the voting after voting is completed.

3. Once the President announces that voting has started, no interruption may be made unless the matter relates to a point of order relevant to the vote.

ARTICLE SIXTEEN

1. If a member request amendment of a proposal, voting on the amendment shall be carried out first. If there is more than one amendment, voting shall first be made on the amendment which in the President's opinion is farthest from the original proposal, then on the next farthest, and so on until voting is completed on all proposed amendments. If one or more such amendments is passed, then voting shall be made on the original proposal as amended.

2. Any new proposal shall be deemed to be an amendment to the original proposal if it merely entails an addition to, omission or change to a part of the original proposal.

ARTICLE SEVENTEEN

1. The Supreme Council may create technical committees charged with giving advice on the design and implementation of Supreme Council programmes in specific fields.

2. The Supreme Council shall appoint the members of the technical committees from specialists who are citizens of the member States.

3 The technical committees shall meet at the invitation of the Secretary-General and shall draw up their work plans in consultation with him.

4. The Secretary-General shall prepare the agenda of the committees after consultation with the chairman of the committee concerned.

ARTICLE EIGHTEEN

Amendment of the Rules of Procedure

1. Any member State may propose amendments to the Rules of Procedure.

2. No proposed amendments may be considered unless the relevant proposal has been circulated to the member States by the Secretariat-General at least thirty days prior to submission to the Ministerial Council.

3 No basic changes may be introduced to the proposed amendment mentioned in the preceding paragraph unless the text of such proposed changes has been

circulated to the member States by the Secretary-General at least fifteen days before submission to the Ministerial Council.

4. Except for items based on the provisions of the Charter, and with due regard to the provisions of preceding paragraphs these Rules of Procedure shall be amended by a resolution of the Supreme Council approved by a majority of the members.

ARTICLE NINETEEN

Effective Date

These Rules of Procedure shall go into effect as of the date of approval by the Supreme Council and may not be amended except in accordance with procedures set forth in the preceding Article.

These Rules of Procedure are signed at Abu Dhabi City, United Arab Emirates on 31 Raghab 1401 AH Corresponding to 25 May 1981 AD.

The United Arab Emirates

The State of Bahrain

The Kingdom of Saudi Arabia

The Sultanate of Oman

The State of Qatar

The State of Kuwait.

THE CO-OPERATION COUNCIL
For The Arab States of the Gulf Rules of Procedure
of the Ministerial Council

ARTICLE ONE

1. These regulations shall be called Rules of procedure of the Ministerial Council of the Gulf Arab States Co-operation Council and shall encompass rules governing meetings of the Council and the exercise of its functions.

2. The following terms as used herein shall have the meanings indicated opposite each:

Co-operation Council :The Gulf Arab States Co-operation Council.

Charter :Statute establishing the Gulf Arab States Co-operation Council.

Supreme Council :The highest body of the Gulf Arab States Co-operation Council.

Council :Ministerial Council of the Gulf Arab States Co-operation Council.

Secretary-General :The Secretary-General of the Gulf Arab States Co-operation Council.

Chairman :The Chairman of the Ministerial Council of the Gulf Arab States Co-operation Council.

ARTICLE TWO

States Representation

1. The Ministerial Council shall be composed of the member States' Foreign Ministers or other delegated Ministers.

2. Every member State shall, at least one week prior to the convening of every ordinary session of the Ministerial Council convey to the Secretary-General a list of the name of the members of its delegation. For extraordinary sessions, the list shall be submitted three days before the date set for the session.

ARTICLE THREE

Convening the Sessions

1. The Ministerial Council shall decide in every meeting the venue of its next regular session .
2. The Secretary-General shall decide, in consultation with the member States, the venues of extraordinary sessions.
3. If circumstances should arise that preclude the convening of an ordinary or extraordinary session at the place set for it, the Secretary-General shall so inform the member States and shall set another place for the meeting after consultation with them.

ARTICLE FOUR

Ordinary Sessions

1. The Council shall convene in ordinary session once every three months.
2. The Secretary-General shall set the date for opening the session and suggest the date of its closing.
- 3 The Secretary-General shall address the invitation to attend a Council ordinary session at least fifteen days in advance, and shall indicate therein the date and place set for the meeting, as well as attaching thereto the agenda of the session, explanatory notes and other documentation.

ARTICLE FIVE

Extraordinary Sessions

1. The Council shall hold an extraordinary session at the request of any member State seconded by another member.
2. The Secretary-General shall address the invitation to the Council's extraordinary session and attach a memorandum containing the request of the member State which has requested the meeting.
3. The Secretary-General shall specify in the invitation the place, date and agenda of the session.

ARTICLE SIX

1. The Council may itself decide to hold extraordinary sessions, in which case it shall specify the agenda, time and place of the session.
2. The Secretary-General shall send out to the member States the invitation to attend the extraordinary meeting of the Council along with a memorandum containing the resolution of the Council to this effect, and specifying the date and agenda of the session.
3. The extraordinary session shall be convened within a maximum of five days from the date of issue of the invitation.

ARTICLE SEVEN

No matters, other than those for which the extraordinary session was called, may be included on its agenda.

ARTICLE EIGHT

Agenda

The Secretary-General shall prepare a draft agenda for a council's ordinary session and such draft shall include the following:

1. The report of the Secretary-General on the work of the Co-operation Council.
2. Matters referred to him by the Supreme Council.
3. Matters which the Council had previously decided to include on the agenda.
4. Matters which the Secretary-General believes should be reviewed by the Council.
5. Matters suggested by a member State.

ARTICLE NINE

Member States shall convey to the Secretary-General their suggestions on matters they wish to include on the Council's agenda at least thirty days prior to the date of the Council's ordinary session.

ARTICLE TEN

Member States or the Secretary-General may request the inclusion of additional items on the Council's draft agenda at least ten days prior to the date set for opening an ordinary session. Such items shall be listed on an additional schedule which shall be conveyed along with relevant documentation to the member States at least five days prior to the date of the session.

ARTICLE ELEVEN

Member States or the Secretary-General may request inclusion of additional items on the agenda for the Council's ordinary session up to the date set for opening the session if such matters are both important and urgent.

ARTICLE TWELVE

The Council shall approve its agenda at the beginning of every session.

ARTICLE THIRTEEN

A Council's ordinary session shall end upon completion of discussion of matters listed on the agenda. The Council may, when necessary, decide to suspend its meetings temporarily before discussion of agenda items is completed and resume at a later date.

ARTICLE FOURTEEN

The Council may defer discussion of certain items on its agenda and decide to include them with the others, when necessary, on the agenda of a subsequent session.

ARTICLE FIFTEEN

Chairmanship of the Council

1. Chairmanship of the Council shall be entrusted to the member State which presided the last ordinary session of the Supreme Council, or, if necessary, to the State which is next to preside the Supreme Council.

2. The Chairman shall exercise his functions until he passes his post on to his successor.
3. The Chairman shall also preside over extraordinary sessions.
4. The representative of a State that is party to an outstanding dispute may not chair the session or meeting assigned for discussing such dispute, in which case the Council shall name a temporary Chairman.

ARTICLE SIXTEEN

1. The Chairman shall announce the opening and closing of sessions and meetings, the suspension of meetings and closure of discussions, and shall ensure respect for the provisions of the Charter and these Rules of Procedure.
2. The Chairman may participate in the Council's deliberations and vote in the name of the State he represents. He may, for such purpose, delegate another member of his delegation to act on his behalf.

ARTICLE SEVENTEEN

Office of the Council

1. The office of the Council shall include the Chairman, Secretary-General, and heads of working sub-committees which the Council has resolved to set up.
2. The Chairman of the Council shall preside over the Office.

ARTICLE EIGHTEEN

The Office shall carry out the following tasks:

1. Assist the Chairman to direct the proceeding of the session.
2. Co-ordinate the work of the Council and the sub-committees.
3. Supervise the drafting of the resolutions passed by the Council.
4. Other tasks indicated in these Rules of Procedure or entrusted to it by the Council.

ARTICLE NINETEEN

Sub-committees

1. The Council shall call upon preparatory and working committees to assist in accomplishing its tasks.
2. The Secretariat-General shall participate in the work of the committees.

ARTICLE TWENTY

1. The Secretary-General may, in consultation with the Chairman of the session, form preparatory committees charged with the study of matters listed on the agenda.
2. Preparatory committees shall be composed of delegates of member States and may, when necessary, seek the help of such experts as they may deem appropriate.
3. Each preparatory committee shall meet at least three days prior to the opening of the session by invitation of the Secretary-General. The work of the committee shall end at the close of the session.

ARTICLE TWENTY- ONE

1. The Council may, at the start of each session, form working committees and charge them with specific tasks.
2. The work of the working committees shall continue until the date set for closing the session.

ARTICLE TWENTY-TWO

1. Each sub-committee shall start its work by electing a chairman and a reporter from among its members. When the chairman is absent, the reporter shall act for him in directing the meetings.
2. The chairman or reporter of each sub-committee shall submit a report on its work to the Council.

- 3 The chairman or reporter of a sub-committee shall present to the Council all explanations required regarding the contents of the sub-committee's report.

ARTICLE TWENTY-THREE

1. The Secretariat-General shall organize the technical secretariat and sub-committees of the Council.
2. The Secretariat-General shall prepare minutes of meetings documenting discussions, resolutions and recommendations. Such minutes shall be prepared for all meetings of the Council and its sub-committees.
3. The Secretary-General shall supervise the organization of the Council's relations with the information media.
4. The Secretary-General shall convey the Council's resolutions and recommendations and relevant documentation to the member States within fifteen days after the end of the session.

ARTICLE TWENTY-FOUR

The Council's Secretariat and sub-committees shall receive and distribute documents, reports, resolutions and recommendations of the Council and its sub-committees and shall draw up and distribute minutes and daily bulletins in addition to safeguarding documents and performing other tasks required by the Council's work.

ARTICLE TWENTY-FIVE

Texts of resolutions or recommendations made by the Council may not be announced or published except by resolution of the Council.

ARTICLE TWENTY-SIX

Deliberations

Every member State may take part in the deliberations of the Council and its sub-committees in the manner prescribed in these Rules of procedure.

ARTICLE TWENTY-SEVEN

1. The Chairman shall direct deliberations on matters on hand in the order they are listed on the Council's agenda.
2. The Chairman shall give floor to speakers in the order of their requests. Priority may be given to the chairman or reporter of a particular committee to present its report or explain certain points therein. The floor shall be given to the Secretary-General or his representative whenever it is necessary.
3. The Council Chairman may, during deliberations, read the list of the names or members who have requested the floor, and with the approval of the Council, close the list. The only exception is exercise of the right of reply.

ARTICLE TWENTY-EIGHT

The Council shall decide whether the meetings shall be held in open or close session.

ARTICLE TWENTY-NINE

1. Every member state may raise a point of order, on which the chairman shall pronounce immediately and his decision shall take effect unless vetoed by a majority of the member states.
2. A member who raises point of order may not go beyond the point he has raised.

ARTICLE THIRTY

1. Every member may, during discussion of any matter, propose the suspension or adjournment of the meeting, or discussion of the matter on hand, or closure. The Chairman shall in such cases put the proposal to the vote directly, if the proposal is seconded by another member. Such proposal requires the approval of the majority of the member States to pass.
2. With due regard to the provisions of the preceding paragraph proposals indicated therein shall be submitted to the vote in the following order:
 - i) Suspension of meeting.
 - ii) Adjournment of meeting.

iii) Postponement of discussion of the matter in hand.

iv) Closure of discussion of the matter in hand.

ARTICLE THIRTY-ONE

1. Member states may suggest draft resolutions or recommendations, or amendments thereto, and may withdraw all such unless they are voted upon.
2. Draft indicated in the preceding item shall be submitted in writing to the Secretariat-General for distribution to delegations as soon as possible.
3. Except for proposals concerning formulation or procedures, drafts indicated in this Article may not be discussed or voted upon before their texts are distributed to all delegations.
4. A proposal already decided upon may not be reconsidered in the same session unless the Council decides otherwise.

ARTICLE THIRTY-TWO

The Chairman shall follow up the work of the committees, inform the Council of incoming correspondence, and formally announce before members the resolutions and recommendations arrived at.

ARTICLE THIRTY-THREE

Voting

1. The Council shall pass its resolutions with the unanimous approval of the member states present and participating in the vote, while decisions in procedural matters shall be passed by majority vote. Any member abstaining from voting shall record the fact that he is not bound by the vote.
2. If members of the Council should disagree on the definition of the matter being put to the vote, the matter shall be settled by majority vote of the member states present.

ARTICLE THIRTY-FOUR

1. Every member state shall have one vote.
2. No member state may represent another state or vote on its behalf.

ARTICLE THIRTY-FIVE

1. Voting shall be by the names in the alphabetical order of the states' names, or by show of hands.
2. Voting shall be by secret ballot if so requested by a member or by decision of the chairman. The Council, however, may decide otherwise.
3. The vote of every member shall be recorded in the minutes of the meeting if voting is by calling the names. The minutes shall indicate the result of voting if the vote is secret or by show of hands.
4. Member states may explain their positions after the vote and such explanations shall be recorded in the minutes of the meeting.
5. Once the Chairman announces that voting has started, no interruption may be made except for a point of order relating to the vote or its postponement in accordance with the provisions of this Article and the next.

ARTICLE THIRTY-SIX

1. The Council Chairman with the help of the Secretary-General shall endeavour to reconcile the positions of member states on disputed matters and obtain their agreement to a draft resolution before submitting it to the vote.
2. The Council Chairman, the Secretary-General or any member state may request postponement of a vote for a specific period during which further negotiations may take place on the item submitted to the vote.

ARTICLE THIRTY-SEVEN

1. If a member requests amendment of a proposal, voting on the amendment shall be carried out first. If there is more than one amendment, voting shall first be made on the amendment which the Chairman considers to be farthest from the original proposal, then on the next farthest, and so on until all proposed amendments have been voted upon. If one or more amendments have been voted upon. If one or more amendments is passed, then voting shall be made on the original proposal as amended.

2. A new proposal shall be deemed to be an amendment to the original proposal if it merely entails an addition to, omission from, or change to a part of the original proposal.

ARTICLE THIRTY-EIGHT

1. Any member state or the Secretary-General may propose amending these Rules of Procedure.
2. No proposed amendment to these Rules of Procedure may be considered unless the relevant proposal is circulated to the member states by the Secretariat-General at least thirty days before submission to the Council.
3. No basic changes may be introduced to the proposed amendment mentioned in the preceding item unless the texts of such proposed change have been circulated to the member states at least fifteen days prior to submission to the Council.
4. Except for items based on provisions of the Charter, and with due regard to preceding items, these Rules of Procedure shall be amended by a resolution of the Council approved by a majority of its members.

ARTICLE THIRTY-NINE

Effective date

These Rules of Procedure shall go into effect as of the date of approval by the Council and may not be amended except in accordance with procedures set forth in the preceding article.

Thus, these Rules of Procedure are signed at Abu Dhabi City, United Arab Emirates, on 21 Rajab 1401 H. corresponding to 25 May 1981 AD.

The United Arab Emirates

The State of Bahrain

The Kingdom of Saudi Arabia

The Sultanate of Oman

The State of Qatar

The State of Kuwait.

CO-OPERATION COUNCIL
For the Arab States of Gulf Rules of Procedure
Commission for Settlement of disputes

Preamble

In accordance with the provisions of Article Six of the Charter of the Gulf Arab States Co-operation Council; and

In implementation of the Provisions of Article Ten of the Co-operation Council Charter,

A commission for Settlement of Disputes, hereinafter referred to as Commission, shall be set up and its jurisdiction and rules for its proceeding shall be as follows:

ARTICLE ONE

Terminology

Terms used in these Rules of Procedure shall have the same meanings as those established in the Charter of the Gulf Arab States Co-operation Council.

ARTICLE TWO

The Location and Session of the Commission

The commission shall have its headquarters at Riyadh, Saudi Arabia, and shall hold its meetings on the territory of the state where its headquarters is located, but may hold its meetings elsewhere, when necessary.

ARTICLE THREE

Jurisdiction

The Commission shall, once installed, have jurisdiction to consider the following matters referred to it by the Supreme Council:

- i) disputes between member States.
- ii) Differences of opinion as to the interpretation or implementation of the Co-operation Council Charter.

ARTICLE FOUR

Membership of the Commission

- i) The Commission shall be formed of an appropriate number of citizens of the member states not involved in the dispute. The Council shall select members of the commission in every case separately depending on the nature of the dispute, provided that the number shall be no less than three.
- ii) The Commission may seek the advice of such experts and consultants as it may deem necessary.
- ii) Unless the Supreme Council resolves otherwise, the Commission's task shall end with the submission of its recommendations or opinion to the Supreme Council which, after the conclusion of the Commission's task, may summon it at any time to explain or elaborate on its recommendations or opinions.

ARTICLE FIVE

Meetings and Internal Procedures

- i) A meeting of the Commission shall be valid if attended by all members.
- ii) The Secretariat-General of the Co-operation Council shall prepare procedures required to conduct the Commission's affairs, and such procedures shall go into effect as of the date of approval by the Ministerial Council.
- iii) Each party to the dispute shall send representatives to the Commission who shall be entitled to follow proceedings and present their defense.

ARTICLE SIX

Chairmanship

The Commission shall select a chairman from among its members.

ARTICLE SEVEN

Voting

Every member of the Commission shall have one vote, and shall issue its recommendations or opinions on matters referred to it by a majority of the

members. In the event of an indecisive vote the party with whom the Chairman has voted shall prevail.

ARTICLE EIGHT

The Secretariat of the Commission

- i) The Secretariat-General shall appoint a Secretary for the Commission, and a sufficient number of officials to carry out the work of the Commission's Secretariat.
- ii) The Supreme Council may if necessary create an independent organization to carry out the work of the Secretariat of the Commission.

ARTICLE NINE

Recommendations and Opinions

- i) The Commission shall issue its recommendations or opinions in accordance with the Co-operation Council's Charter, with international laws and practices, and the principles of Islamic Shari'ah. The Commission shall submit its findings on the case in hand to the Supreme Council for appropriate action.
- ii) The Commission may, while considering any dispute referred to it and pending the issue of its final recommendations thereon, ask the Supreme Council to take interim action called for by necessity or circumstances.
- iii) The Commission's recommendations or opinions shall specify the reasons on which they were based and shall be signed by the Chairman and secretary.
- iv) If an opinion is not passed wholly or partially by unanimous vote of the members, the dissenting members shall be entitled to record their dissenting opinion.

ARTICLE TEN

Immunities and Privileges

The Commission and its members shall enjoy such immunities and privileges in the territories of the member states as are required to realize its objectives in accordance with Article Seventeen of the Co-operation Council Charter.

ARTICLE ELEVEN

The Budget of the Commission

The commission's budget shall be considered part of the Secretariat-General's budget. Remuneration of the Commission's members shall be established by the Supreme Council.

ARTICLE TWELVE

Amendments

- i) Any member state may request for amendments to these Rules of Procedure.
- ii) Requests for amendments shall be submitted to the Secretary-General who shall relay them to the member states at least four months before submission to the Ministerial Council.
- i i) An amendment shall be effective if approved unanimously by the Supreme Council.

ARTICLE THIRTEEN

Effective Date

These Rules of Procedure shall go into effect as of the date of approval by the Supreme Council.

These Rules of Procedure were signed at Abu Dhabi City, United Arab Emirates on 21 Rajab 1401 H. corresponding to 25 May 1981 AD.

The United Arab Emirates

The State of Bahrain

The Kingdom of Saudi Arabia

The Sultanate of Oman

The State of Qatar

The State of Kuwait.

EUROPEAN CONVENTION ON EXTRADITION.

The governments signatory hereto, being Members of the Council of Europe,
Considering that the aim of the Council of Europe is to achieve a greater unity
between its Members;
Considering that this purpose can be attained by the conclusion of agreements and
by common action in legal matters;
Considering that the acceptance of uniform rules with regard to extradition is
likely to assist this work of unification,
Have agreed as follows:

ARTICLE 1

Obligation to extradite

The Contracting Parties undertake to surrender to each, subject to the provisions
and conditions laid down in this Convention, all persons against whom the
competent authorities of the requesting Party are proceeding for an offense or who
are wanted by the said authorities for the carrying out of a sentence or detention
order.

ARTICLE 2

Extraditable offences

1. Extradition shall be granted in respect of offences punishable under the laws of
the requesting Party and the requested Party by deprivation of liberty or under a
detention order for a maximum period of at least one year or by a more severe
penalty. Where a conviction and prison sentence have occurred or detention
order has been made in the territory of the requesting Party, the punishment
awarded must have been for a period of at least four months.
2. If the request for extradition includes several separate offences each of which is
punishable under the laws of the requesting Party and the requested Party by
deprivation of liberty or under the detention order, but of which some do not

fulfill the condition with regard to the amount of punishment which may be awarded, the requested Party shall also have the right to grant extradition for the latter offences.

3. Any Contracting Party whose law does not allow extradition for certain of the offences referred to in paragraph 1 of this article may, in so far as it is concerned, exclude such offences from the application of this Convention.
4. Any Convention Party which wishes to avail itself of the right provided for in paragraph 3 of this article shall, at the time of the deposit of its instrument of ratification or accession, transmit to the Secretary General of the Council of Europe either a list of the offences for which extradition is allowed or a list of those for which it is excluded and shall at the same time indicate the legal provisions which allow or exclude extradition. The Secretary General of the Council shall forward these lists to the other Signatories.
5. If extradition is subsequently excluded in respect of other offences by the law of a Contracting Party, that Party shall notify the Secretary General. The Secretary General shall inform the other Signatories. Such notification shall not take effect until three months from the date of its receipt by the Secretary General.
6. Any Party which avails itself of the right provided for in paragraphs 4 or 5 of this article may at any time apply this Convention to offences which have been excluded from it. It shall inform the Secretary General of the Council of such changes, and the Secretary General shall inform the other Signatories.
7. Any Party may apply reciprocity in respect of any offences excluded from the application of the Convention under this article.

ARTICLE 3

Political offences

1. Extradition shall not be granted if the offence in respect of which it is requested is regarded by the requested Party as a political offence or as an offence connected with a political offence.

2. The same rule shall apply if the requested Party has substantial grounds for believing that a request for extradition for an ordinary criminal offence has been made for the purpose of prosecuting or punishing a person on account of his race, religion, nationality or political opinion, or that that person's position may be prejudiced for any of these reasons.
3. The taking or attempted taking of the life of a Head of State or a member of his family shall not be deemed to be a political offence for the purposes of this Convention.
4. This article shall not affect any obligations which the Contracting Parties may have undertaken or may undertake under any other international convention of a multilateral character.

ARTICLE 4

Military offences

Extradition for offences under military law which are not offences under ordinary criminal law is excluded from the application of this Convention.

ARTICLE 5

Fiscal offences

Extradition shall be granted, in accordance with the provisions of this Convention, for offences in connection with taxes, duties, customs and exchange only of the Contracting Parties have so decided in respect of any such offence or category of offences.

ARTICLE 6

Extradition of nationals

1. a) A Contracting Party shall have the right to refuse extradition of its nationals.
- b) Each Contracting Party may, by a declaration made at the time of signature or of deposit of its instrument of ratification or accession, define as far as it is concerned the term "nationals" within the meaning of this Convention.

- c) Nationality shall be determined as at the time of the decision concerning extradition. If, however, the person claimed is first recognised as a national of the requested Party during the period between the time of the decision and the time contemplated for the surrender, the requested Party may avail itself of the provision contained in sub-paragraph (a) of this article.
2. If the requested Party does not extradite its national, it shall at the request of the requesting Party submit the case to its competent authorities in order that proceedings may be taken if they are considered appropriate. For this purpose, the files, information and exhibits relating to the offence shall be transmitted without charge by the means provided for in Article 12, paragraph 1. The requesting Party shall be informed of the result of its request.

ARTICLE 7

Place of Commission

1. The requested Party may refuse to extradite a person claimed for an offence which is regarded by its law as having been committed in whole or in part in its territory or in place treated as its territory.
2. When the offence for which extradition is requested has been committed outside the territory of the requesting Party, extradition may only be refused if the law of the requested Party does not allow prosecution for the same category of offence when committed outside the latter Party's territory or does not allow extradition for the offence concerned.

ARTICLE 8

Pending proceedings for the same offences

The requested Party may refuse to extradite the person claimed if the competent authorities of such Party are proceeding against him in respect of the offence or offences for which extradition is requested.

ARTICLE 9

Non bis in idem

Extradition shall not be granted if final judgment has been passed by the competent authorities of the requested Party upon the person claimed in respect of the offence or offences for which extradition is requested. Extradition may be refused if the competent authorities of the requested Party have decided either not to institute or to terminate proceedings in respect of the same offence or offences.

ARTICLE 10

Lapse of time

Extradition shall not be granted when the person claimed has, according to the law of either the requesting or the requested Party, become immune by reason of lapse of time from prosecution or punishment.

ARTICLE 11

Capital punishment

If the offence for which extradition is requested is punishable by death under the law of the requesting Party, and if in respect of such offence the death-penalty is not provided for by the law of the requested Party or is not normally carried out, extradition may be refused unless the requesting Party gives such assurance as the requested Party considers sufficient that the death-penalty will not be carried out.

ARTICLE 12

The request and supporting documents

1. The request shall be in writing and shall be communicated through the diplomatic channel. Other means of communication may be arranged by direct agreement between two or more Parties.
2. The request shall be supported by:
 - a) the original or an authenticated copy of the conviction and sentence or detention order immediately enforceable or of the warrant of arrest or other order having

the same effect and issued in accordance with the procedure laid down in the law of the requesting Party;

- b) a statement of the offences for which extradition is requested. The time and place of their commission, their legal descriptions and a reference to the relevant legal provisions shall be sent out as accurately as possible; and
- c) a copy of the relevant enactments or, where this is not possible, a statement of the relevant law and as accurate a description as possible of the person claimed, together with any other information which help to establish his identity and nationality.

ARTICLE 13

Supplementary information

If the information communicated by the requesting Party is found to be insufficient to allow the requested Party to make a decision in pursuance of this Convention, the latter Party shall request the necessary supplementary information and may fix a time-limit for the receipt thereof.

ARTICLE 14

Rule of speciality

1. A person who has been extradited shall not be proceeded against, sentenced or detained with a view to the carrying out of a sentence or detention order for any offence committed prior to his surrender other than that for which he was extradited, nor shall he be for any other reason restricted in his personal freedom, except in the following cases:
 - a) When the Party which surrendered him consents. A request for consent shall be submitted, accompanied by the documents mentioned in Article 12 and a legal record of any statement made by the extradited person in respect of the offence concerned. Consent shall be given when the offence for which it is requested is itself subject to extradition in accordance with the provisions of this Convention;

- b) When that person, having had an opportunity to leave the territory of the Party to which he has been surrendered, has not done so within 45 days of his final discharge, or has returned to that territory after leaving it.
2. The requesting Party may, however, take any measures necessary to remove the person from its territory, or any measures necessary under its law, including proceedings by default, to prevent any legal effects of lapse of time.
 3. When the description of the offence charged is altered in the course of proceedings, the extradited person shall only be proceeded against or sentenced in so far as the offence under its new description is shown by its constituent elements to be an offence which would allow extradition.

ARTICLE 15

Re-extradition to a third State

Except as provided for in Article 14, paragraph 1(b), the requesting Party shall not, without the consent of the requested Party, surrender to another Party or to a third State a person surrendered to the requesting Party and sought by the said other Party or third State in respect of offences committed before his surrender. The requested Party may request the production of the documents mentioned in Article 12, paragraph 2.

ARTICLE 16

Provisional arrest

1. In case of urgency the competent authorities of the requesting Party may request the provisional arrest of the person sought. The competent authorities of the requested Party shall decide the matter in accordance with its law.
2. The request for provisional arrest shall state that one of the documents mentioned in Article 12, paragraph 2(a), exists and that it is intended to send a request for extradition. It shall also state for what offence extradition will be requested and when and where such offence was committed and shall so far as possible give a description of the person sought.

3. A request for provisional arrest shall be sent to the competent authorities of the requested Party either through the diplomatic channel or direct by post or telegraph or through the International Criminal Police Organization (Interpol) or by any other means affording evidence in writing or accepted by the requested Party. The requesting authority shall be informed without delay of the result of its request.
4. Provisional arrest may be terminated if, within a period of 18 days after arrest, the requested Party has not received the request for extradition and the documents mentioned in Article 12. It shall not, in any event, exceed 40 days from the date of such arrest. The possibility of provisional release at any time is not excluded, but the requested Party shall take any measures which it considers necessary to prevent the escape of the person sought.
5. Release shall not prejudice re-arrest and extradition if a request for extradition is received subsequently.

ARTICLE 17

Conflicting requests

If extradition is requested concurrently by more than one State, either for the same offence or for different offences, the requested Party shall make its decision having regard to all the circumstances and especially the relative seriousness and place of commission of the offences, the respective dates of the requests, the nationality of the person claimed and the possibility of subsequent extradition to another State.

ARTICLE 18

Surrender of the person to be extradited

1. The requested Party shall inform the requesting Party by the means mentioned in Article 12, paragraph 1, of its decision with regard to the extradition.
2. Reasons shall be given for any complete or partial rejection.

3. If the request is agreed to, the requesting Party shall be informed of the place and date of surrender and of the length of time for which the person claimed was detained with a view to surrender.
4. Subject to the provisions of paragraph 5 of this article, if the person claimed has not been taken over on the appointed date, he may be released after the expiry of 15 days and shall in any case be released after the expiry of 30 days. The requested Party may refuse to extradite him for the same offence.
5. If circumstances beyond its control prevent a Party from surrendering or taking over the person to be extradited, it shall notify the other Party. The two Parties shall agree a new date for surrender and the provisions of paragraph 4 of this article shall apply.

ARTICLE 19

Postponed or conditional surrender

1. The requested Party may, after making its decision on the request for extradition, postpone the surrender of the person claimed in order that he may be proceeded against by that Party or, if he has already been convicted, in order that he may serve his sentence in the territory of that Party for an offence other than that for which extradition is requested.
2. The requested Party may, instead of postponing surrender, temporarily surrender the person claimed to the requesting Party in accordance with conditions to be determined by mutual agreement between the Parties.

ARTICLE 20

Handing over of property

1. The requested Party shall, in so far as its law permits and at the request of the requesting Party, seize and hand over property:
 - a) which may be required as evidence or

- b) which has been acquired as a result of the offence and which, at the time of the arrest, is found in the possession of the person claimed or is discovered subsequently.
2. The property mentioned in paragraph 1 of this article shall be handed over even if extradition, having been agreed to, cannot be carried out owing to the death or escape of the person claimed.
 3. When the said property is liable to seizure or confiscation in the territory of the requested Party, the latter may, in connection with pending criminal proceedings, temporarily retain it or hand it over on condition that it is returned.
 4. Any rights which the requested Party or third parties may have acquired in the said property shall be preserved. Where these rights exist, the property shall be returned without charge to the requested Party as soon as possible after the trial.

ARTICLE 21

Transit

1. Transit through the territory of one of the Contracting Parties shall be granted on submission of a request by means mentioned in Article 12, paragraph 1, provided that the offence concerned is not considered by the Party requested to grant transit as an offence of a political or purely military character having regard to Articles 3 and 4 of this Convention.
2. Transit of a national, within the meaning of Article 6, of a country requested to grant transit may be refused.
3. Subject to the provisions of paragraph 4 of this article, it shall be necessary to produce the documents mentioned in Article 12, paragraph 2.
4. If air transport is used, the following provisions shall apply:
 - a) when it is not intended to land, the requesting Party shall notify the Party over whose territory the flight is to be made and shall certify that one of the documents mentioned in Article 12, paragraph 2(a) exists. In the case of an unscheduled landing, such notification shall have the effect of a request for

provisional arrest as provided for in Article 16, and the requesting Party shall submit a formal request for transit;

- b) when it is intended to land, the requesting Party shall submit a formal request for transit.
5. A Party may, however, at the time of signature or of the deposit of its instrument of ratification of, accession to, this Convention, declare that it will only grant transit of a person on some or all of the conditions on which it grants extradition. In that event, reciprocity may be applied.
6. The transit of the extradited person shall not be carried out through any territory where there is reason to believe that his life or his freedom may be threatened by reason of his race, religion, nationality or political opinion.

ARTICLE 22

Procedure

Except where this Convention otherwise provides, the procedure with regard to extradition and provisional arrest shall be governed solely by the law of the requested Party.

ARTICLE 23

Language to be used

The documents to be produced shall be in the language of the requesting or requested Party. The requested Party may require a translation into one of the official languages of the Council of Europe to be chosen by it.

ARTICLE 24

Expenses

1. Expenses incurred in the territory of the requested Party by reason of extradition shall be borne by that Party.
2. Expenses incurred by reason of transit through the territory of a Party requested to grant transit shall be borne by the requesting Party.

3. In the event of extradition from a non-metropolitan territory of the requested Party, the expenses occasioned by travel between that territory and the metropolitan territory of the requesting Party shall be borne by the latter. The same rule shall apply to expenses occasioned by travel between the non-metropolitan territory of the requested Party and its metropolitan territory.

ARTICLE 25

Definition of "detention order"

For the purposes of this Convention, the expression "detention order" means any order involving deprivation of liberty which has been made by a criminal court in addition to or instead of a prison sentence.

ARTICLE 26

Reservations

1. Any Contracting Party may, when signing this Convention or when depositing its instrument of ratification or accession, make a reservation in respect of any provision or provisions of the Convention.
2. Any Contracting Party which has made a reservation shall withdraw it as soon as circumstances permit. Such withdrawal shall be made by notification to the Secretary General of the Council of Europe.
3. A Contracting Party which has made a reservation in respect of a provision of the Convention may not claim application of the said provision by another Party save in so far as it has itself accepted the provision.

ARTICLE 27

Territorial application

1. This Convention shall apply to the metropolitan territories of the Contracting Parties.

2. In respect of France, it shall also apply to Algeria and to the overseas Departments and, in respect of the United Kingdom of Great Britain and Northern Ireland, to the Channel Islands and to the Isle of Man.
3. The Federal Republic of Germany may extend the application of this Convention to the Land of Berlin by notice addressed to the Secretary General of the Council of Europe, who shall notify the other Parties of such declaration.
4. By direct arrangement between two or more Contracting Parties, the application of this Convention may be extended, subject to the conditions laid down in the arrangement, to any territory of such Parties, other than the territories mentioned in paragraphs 1, 2 and 3 of this article, for whose international relations any such Party is responsible.

ARTICLE 28

Relations between this Convention and bilateral Agreements

1. This Convention shall, in respect to those countries to which it applies, supersede the provisions of any bilateral treaties, conventions or agreements governing extradition between any two Contracting Parties.
2. The Contracting Parties may conclude between themselves bilateral or multilateral agreements only in order to supplement the provisions of this Convention or to facilitate the application of the principles contained therein.
3. Where, as between two or more Contracting Parties, extradition takes place on the basis of a uniform law, the Parties shall be free to regulate their mutual relations in respect of extradition exclusively in accordance with such a system notwithstanding the provisions of this Convention. The same principle shall apply as between two or more Contracting Parties each of which has in force a law providing for the execution in its territory of warrants of arrest issued in the territory of the other Party or Parties. Contracting Parties which exclude or may in the future exclude the application of this Convention as between themselves in accordance with this paragraph shall notify the Secretary General of the Council of

Europe accordingly. The Secretary General shall inform the other Contracting Parties of any notification received in accordance with this paragraph.

ARTICLE 29

Signature, ratification and entry into force

1. This Convention shall be open to signature by the Members of the Council of Europe. It shall be ratified. The instruments of ratification shall be deposited with the Secretary General of the Council.
2. The Convention shall come into force 90 days after the date of deposit of the third instrument of ratification.
3. As regards any signatory ratifying subsequently, the Convention shall come into force 90 days after the date of deposit of its instrument of ratification.

ARTICLE 30

Accession

1. The Committee of Ministers of the Council of Europe may invite any State not a Member of the Council to accede to this Convention, provided that the resolution containing such invitation receives the unanimous agreement of the Members of the Council who have ratified the Convention.
2. Accession shall be by deposit with the Secretary General of the Council of an instrument of accession, which shall take effect 90 days after the date of its deposit.

ARTICLE 31

Denunciation

Any Contracting Party may denounce this Convention in so far as it is concerned by giving notice to the Secretary General of the Council of Europe. Denunciation shall take effect six months after the date when the Secretary General of the Council received such notification.

ARTICLE 32

Notifications

The Secretary General of the Council of Europe shall notify the Members of the Council and the government of any State which has acceded to this Convention of:

- a) the deposit of any instrument of ratification or accession;
- b) the date of entry into force of this Convention;
- c) any declaration made in accordance with the provisions of Article 6, paragraph 1, and of Article 21 paragraph 5;
- d) any reservation made in accordance with Article 26, paragraph 1;
- e) the withdrawal of any reservation in accordance with Article 26, paragraph 2;
- f) any notification of denunciation received in accordance with the provisions of Article 31 and by the date on which such denunciation will take effect.

In witness whereof the undersigned, being duly authorised thereto, have signed this Convention.

Done at Paris, this 13th day of December 1957, in English and French, both texts being equally authentic, in a single copy which shall remain deposited in the archives of the Council of Europe. The Secretary General of the Council of Europe shall transmit certified copies to the signatory governments.

**TEXT OF THE ADDITIONAL PROTOCOL
TO THE
EUROPEAN CONVENTION ON EXTRADITION**

The member States of the Council of Europe, signatory to this Protocol,
Having regard to the provisions of the European Convention on Extradition
opened for signature in Paris on 13 December 1957 (hereinafter referred to as "the
Convention") and in particular Articles 3 and 9 thereof;
Considering that it is desirable to supplement these articles with a view to
strengthening the protection of humanity and of individuals,
Have agreed as follows:

CHAPTER I

Article 1

For the application of Article 3 of the Convention, political offences shall not be
considered to include the following:

- a) the crimes against humanity specified in the Convention on the Prevention and
Punishment of the Crime of Genocide adopted on 9 December 1948 by the
General Assembly of the United Nations;
- b) the violations specified in Article 50 of the 1949 Geneva Convention for the
Amelioration of the Condition of the Wounded and Sick in Armed Forces in
the Field, Article 51 of the 1949 Geneva Convention for the Amelioration of
the Condition of Wounded, Sick and Shipwrecked Members of Armed Forces
at Sea, Article 130 of the 1949 Geneva Convention relative to the Treatment of
Prisoners of War and Article 147 of the 1949 Geneva Convention relative to
the Protection of Civilian Persons in Time of War;
- c) any comparable violations of the laws of war having effect at the time when this
Protocol enters into force and of customs of war existing at that time, which are
not already provided for in the above-mentioned provisions of the Geneva
Conventions.

CHAPTER II

Article 2

Article 9 of the Convention shall be supplemented by the following text, the original Article 9 of the Convention becoming paragraph 1 and the under-mentioned provisions becoming paragraphs 2, 3 and 4:

- “2. The extradition of a person against whom a final judgment has been rendered in a third State, Contracting Party to the Convention, for the offence or offences in respect of which the claim was made, shall not be granted:
 - a. if the afore-mentioned judgment resulted in his acquittal;
 - b. if the term of imprisonment or other measure to which he was sentenced:
 - i. has been completely enforced;
 - ii. has been wholly, or with respect to the part not enforced, the subject of a pardon or an amnesty;
 - c. if the court convicted the offender without imposing a sanction.
3. However, in the cases referred to in paragraph 2, extradition may be granted:
 - a. if the offence in respect of which judgment has been rendered was committed against a person, an institution or any thing having public status in the requesting State;
 - b. if the person on whom judgment was passed had himself a public status in the requesting State;
 - c. if the offence in respect of which judgment was passed was committed completely or partly in the territory of the requesting State or in a place treated as its territory.
4. The provisions of paragraphs 2 and 3 shall not prevent the application of wider domestic provisions relating to the effect of *ne bis in idem* attached to foreign criminal judgments.”

CHAPTER III

Article 3

1. This Protocol shall be open to signature by the member States of the Council of Europe which have signed the Convention. It shall be subject to ratification, acceptance or approval. Instruments of ratification, acceptance or approval shall be deposited with the Secretary General of the Council of Europe.
2. The protocol shall enter into force 90 days after the date of the deposit of the third instrument of ratification, acceptance or approval.
3. In respect of a signatory State ratifying, accepting or approving subsequently, the protocol shall enter into force 90 days after the date of the deposit of its instrument of ratification, acceptance or approval.
4. A member State of the Council of Europe may not ratify, accept or approve this protocol without having, simultaneously or previously, ratified the Convention.

Article 4

1. Any State has acceded to the Convention may accede to this Protocol after the Protocol has entered into force.
2. Such accession shall be effected by depositing with the Secretary General of the Council of Europe an instrument of accession which shall take effect 90 days after the date of its deposit.

Article 5

1. Any State may, at the time of signature or when depositing its instrument of ratification, acceptance or accession, specify the territory or territories to which this Protocol shall apply.
2. Any State may, when depositing its instrument of ratification, acceptance, approval or accession or at any later date, by declaration addressed to the Secretary General of the Council of Europe, extend this Protocol to any other territory or territories specified in the declaration and for whose international

relations it is responsible or on whose behalf it is authorised to give undertakings.

3. Any declaration made in pursuance of the preceding paragraph may, in respect of any territory mentioned in such declaration, be withdrawn according to the procedure laid down in Article 8 of this Protocol.

Article 6

1. Any State may, at the time of signature or when depositing its instrument of ratification, acceptance, approval or accession, declare that it does not accept one or the other of Chapters I or II.
2. Any Contracting Party may withdraw a declaration it has made in accordance with the foregoing paragraph by means of a declaration addressed to the Secretary General of the Council of Europe which shall become effective as from the date of its receipt.
3. No reservation may be made to the provisions of this Protocol.

Article 7

The European Committee on Crime Problems of the Council of Europe shall be kept informed regarding the application of this Protocol and shall do whatever is needful to facilitate a friendly settlement of any difficulty which may arise out of its execution.

Article 8

1. Any Contracting Party may, in so far as it is concerned, denounce this Protocol by means of a notification addressed to the Secretary General of the Council of Europe.
2. Such denunciation shall take effect six months after the date of receipt by the Secretary General of such notification.
3. Denunciation of the Convention entails automatically denunciation of this Protocol.

Article 9

The Secretary General of the Council of Europe shall notify the member States of the Council and any State which has acceded to the Convention of:

- a) any signature;
- b) any deposit of an instrument of ratification, acceptance, approval or accession;
- c) any date of entry into force of this Protocol in accordance with Article 3 thereof;
- d) any declaration received in pursuance of the provisions of Article 5 and any withdrawal of such a declaration;
- e) any declaration made in pursuance of the provisions of Article 6, paragraph 1;
- f) the withdrawal of any declaration carried out in pursuance of the provisions of Article 6, paragraph 2;
- g) any notification received in pursuance of the provisions of Article 8 and the date on which denunciation takes effect.

In witness whereof, the undersigned, being duly authorised thereto, have signed this Protocol.

Done at Strasbourg, this 15th day of October 1957, in English and in French, both texts being equally authoritative, in a single copy which shall remain deposited in the archives of the Council of Europe. The Secretary General of the Council of Europe shall transmit certified copies to each of the signatory and acceding States.

**TEXT OF THE SECOND ADDITIONAL PROTOCOL
TO THE EUROPEAN CONVENTION ON EXTRADITION**

The member States of the Council of Europe, signatory to this Protocol,
Desirous of facilitating the application of the European Convention on Extradition
opened for signature in Paris on 13 December 1977 (hereinafter referred to as "the
Convention") in the field of fiscal offences;

Considering it also desirable to supplement the Convention in certain other
respects,

Have agreed as follows:

CHAPTER I

Article 1

Paragraph 2 of Article 2 of the Convention shall be supplemented by the following
provision:

"This right shall also apply to offences which are subject only to pecuniary
sanctions."

CHAPTER II

Article 2

Article 5 of the Convention shall be replaced by the following provisions:

"Fiscal offences

1. For offences in connection with taxes, duties, customs and exchange, extradition shall take place between the Contracting Parties in accordance with the provisions of the Convention if the offence, under the law of the requested Party, corresponds to an offence of the same nature.
2. Extradition may not be refused on the ground that the law of the requested Party does not impose the same kind of tax or duty or does not contain a tax, duty, customs or exchange regulation of the same kind as the law of the requesting Party."

CHAPTER III

Article 3

The Convention shall be supplemented by the following provisions:

"Judgments in Absentia

1. When a Contracting Party requests from another Contracting Party the extradition of a person for the purpose of carrying out a sentence or detention order imposed by a decision rendered against him *in absentia*, the requested Party may refuse to extradite for this purpose if, in its opinion, the proceedings leading to the judgment did not satisfy the minimum rights of defence recognised as due to everyone charged with criminal offence. However, extradition shall be granted if the requesting Party gives an assurance considered sufficient to guarantee to the person claimed the right to a retrial which safeguards the rights of defence. This decision will authorise the requesting Party either to enforce the judgment in question if the convicted person does not make an opposition or, if he does, to take proceedings against the person extradited
2. When the requested Party informs the person whose extradition has been requested of the judgment rendered against him *in absentia*, the requesting Party shall not regard this communication as a formal notification for the purposes of the criminal procedure in that State."

CHAPTER IV

Article 4

The Convention shall be supplemented by the following provisions:

"Amnesty

Extradition shall not be granted for an offence in respect of which an amnesty has been declared in the requested State and which that State had competence to prosecute under its own criminal law."

CHAPTER V

Article 5

Paragraph 1 of Article 12 of the Convention shall be replaced by the following provisions:

"The request shall be in writing and shall be addressed by the Ministry of Justice of the requesting Party to the Ministry of Justice of the requested Party; however, use of diplomatic channel is not excluded. Other means of communication may be arranged by direct agreement between two or more Parties."

CHAPTER VI

Article 6

1. This Protocol shall be open to signature by the member States of the Council of Europe which have signed the Convention. It shall be subject to ratification, acceptance or approval. Instruments of ratification, acceptance or approval shall be deposited with the Secretary General of the Council of Europe.
2. The Protocol shall enter into force 90 days after the date of the deposit of the third instrument of ratification, acceptance or approval.
3. In respect of a signatory State ratifying, accepting or approving subsequently, the Protocol shall enter into force 90 days after the date of the deposit of its instrument of ratification, acceptance or approval.
4. A member State of the Council of Europe may not ratify, accept or approve this Protocol without having, simultaneously or previously, ratified the Convention.

Article 7

1. Any State which has acceded to the Convention may accede to this Protocol after the Protocol has entered into force.
2. Such accession shall be effected by depositing with the Secretary General of the Council of Europe an instrument of accession which shall take effect 90 days after the date of its deposit.

Article 8

1. Any State may, at the time of signature or when depositing its instrument of ratification, acceptance, approval or accession, specify the territory or territories to which this Protocol shall apply.
2. Any State may, when depositing its instrument of ratification, acceptance, approval or accession or at any later date, by declaration addressed to the Secretary General of the Council of Europe, extend this Protocol to any other territory or territories specified in the declaration and for whose international relations it is responsible or on whose behalf it is authorised to give undertakings.
3. Any declaration made in pursuance of the preceding paragraph may, in respect of any territory mentioned in such declaration, be withdrawn by means of a notification addressed to the Secretary General of the Council of Europe. Such withdrawal shall take effect six months after the date of receipt by the Secretary General of the Council of Europe of the notification.

Article 9

1. Reservations made by a State to a provision of the Convention shall be applicable also to this Protocol, unless that State otherwise declares at the time of signature or when depositing its instrument of ratification, acceptance, approval or accession.
2. Any State may, at the time of signature or when depositing its instrument of ratification, acceptance, approval or accession, declare that it reserves the right:
 - a) not to accept Chapter I;
 - b) not to accept Chapter II, or to accept it only in respect of certain offences or certain categories of the offences referred to in Article 2;
 - c) not to accept Chapter III, or to accept only paragraph 1 of Article 3;
 - d) not to accept Chapter IV;
 - e) not to accept Chapter V.
3. Any Contracting Party may withdraw a reservation it has made in accordance with the foregoing paragraph by means of a declaration addressed to the Secretary

General of the Council of Europe which shall become effective as from the date of its receipt.

4. A Contracting Party which has applied to this Protocol a reservation made in respect of a provision of the Convention or which has made a reservation in respect of a provision of this Protocol may not claim the application of that provision by another Contracting Party; it may, however, if its reservation is partial or conditional, claim the application of that provision in so far as it has itself accepted it.
5. No other reservation may be made to the provisions of this Protocol.

Article 10

The European Committee on Crime Problems of the Council of Europe shall be kept informed regarding the application of this Protocol and shall do whatever is needful to facilitate a friendly settlement of any difficulty which may arise out of its execution.

Article 11

1. Any Contracting Party may, in so far as it is concerned, denounce this Protocol by means of a notification addressed to the Secretary General of the Council of Europe.
2. Such denunciation shall take effect six months after the date of receipt by the Secretary General of such notification.
3. Denunciation of the Convention entails automatically denunciation of this Protocol.

Article 12

The Secretary General of the Council of Europe shall notify the member States of the Council and any State which has acceded to the Convention of:

- a) any signature of this Protocol;
- b) any deposit of an instrument of ratification, acceptance, approval or accession;

- c) any date of entry into force of this Protocol in accordance with Articles 6 and 7;
- d) any declaration received in pursuance of the provisions of paragraphs 2 and 3 of Article 8;
- e) any declaration received in pursuance of the provisions of paragraph 1 of Article 9;
- f) any reservation made in pursuance of the provisions of paragraphs 2 of Article 9;
- g) the withdrawal of any reservation carried out in pursuance of the provisions of paragraph 3 of Article 9
- h) any notification received in pursuance of the provisions of Article 11 and the date on which denunciation takes effect.

In witness whereof the undersigned, being duly authorised thereto, have signed this Protocol.

Done at Strasbourg this 17th day of March 1978, in English and in French, both texts being equally authoritative, in a single copy which shall remain deposited in the archives of the Council of Europe. The Secretary General of the Council of Europe. Shall transmit certified copies to each of the signatory and acceding States.

UN MODEL TREATY ON EXTRADITION.

The----- and the-----

Desirous of making more effective the co-operation of the two countries in the control of crime by concluding a treaty on extradition,

Have agreed as follows:

ARTICLE 1.

Obligation to extradite

Each Party agrees to extradite to the other, upon request and subject to the provisions of the present Treaty, any person who is wanted in the requesting State for prosecution for an extraditable offence or for the imposition or enforcement of a sentence in respect of such an offence.

ARTICLE 2

Extraditable offences

1. For the purposes of the present Treaty, extraditable offences are offences that are punishable under the laws of both Parties by imprisonment or other deprivation of liberty for a maximum period of at least [one/two] years(s), or by a more severe penalty. Where the request for extradition relates to a person who is wanted for the enforcement of a sentence of imprisonment or other deprivation of liberty imposed for such an offence, extradition shall be granted only if a period of at least [four/six] months of such sentence remains to be served.
2. In determining whether an offence is an offence punishable under the laws of both Parties, it shall not matter whether:
 - a) The laws of the Parties place the acts or omissions constituting the offence within the same category of offence or denominate the offence by the same terminology;

- b) Under the laws of the Parties the constituent elements of the offence differ, it being understood that the totality of the acts or omissions as presented the requesting State shall be taken into account.
3. Where extradition of a person is sought for an offence against a law relating to taxation, customs duties, exchange control or other revenue matters, extradition shall not be refused on the ground that the law of the requested State does not impose the same kind of tax or duty or does not contain a tax, customs duty or exchange regulation of the same kind as the law of the requesting State.
4. If the request for extradition includes several separate offences each of which is punishable under the laws of both Parties, but some of which do not fulfill other condition set out in paragraph 1 of the present article, the requested Party may grant extradition for the latter offences provided that the person is to be extradited for at least one extraditable offence.

ARTICLE 3

Mandatory grounds for refusal

Extradition shall not be granted in any of the following circumstances:

- a) If the offence for which extradition is requested is regarded by the requested State as an offence of a political nature;
- b) If the requested State has substantial grounds for believing that the request for extradition has been made for the purpose of prosecuting or punishing a person on account of that person's race, religion, nationality, ethnic origin, political opinions, sex or status, or that that person's position may be prejudiced for any of those reasons;
- c) If the offence for which extradition is requested is an offence under military law, which is not also an offence under ordinary criminal law;
- d) If there has been a final judgment rendered against the person in the requested State in respect of the offence for which the person's extradition is requested;

- e) If the person whose extradition is requested has, under the law of either Party, become immune from prosecution or punishment for any reason, including lapse of time or amnesty;
- f) If the person whose extradition is requested has been or would be subjected in the requesting State to torture or cruel, inhuman or degrading treatment or punishment or if that person has not received or would not receive the minimum guarantees in criminal proceedings, as contained in the International Covenant on Civil and Political Rights, Article 14;
- g) If the judgment of the requesting State has been rendered in absentia, the convicted person has not had sufficient notice of the trial or the opportunity to arrange for his or her defence and he has not had or will not have the opportunity to have the case retried in his or her presence.

ARTICLE 4

Optional grounds for refusal

Extradition may be refused in any of the following circumstances:

- a) If the person whose extradition is requested is a national of the requested State. Where extradition is refused on this ground, the requested State shall, if the other State so requests, submit the case to its competent authorities with a view to taking appropriate action against the person in respect of the offence for which extradition had been requested;
- b) If the competent authorities of the requested State have decided either not to institute or to terminate proceedings against the person for the offence in respect of which extradition is requested;
- c) If a prosecution in respect of the offence for which extradition is requested is pending in the requested State against the person whose extradition is requested;
- d) If the offence for which extradition is requested carries the death penalty under the law of the requesting State, unless that State gives such assurance as the

- requested State considers sufficient that the death penalty will not be imposed or, if imposed, will not be carried out;
- e) If the offence for which extradition is requested has been committed outside the territory of either Party and the law of the requested State does not provide for jurisdiction over such an offence committed outside its territory in comparable circumstances;
- f) If the offence for which extradition is requested is regarded under the law of the requested State as having been committed in whole or in part within that State. Where extradition is refused on this ground, the requested State shall, if the other State so requests, submit the case to its competent authorities with a view to taking appropriate action against the person for the offence for which extradition has been requested;
- g) If the person whose extradition is requested has been sentenced or would be liable to be tried or sentenced in the requesting State by an extraordinary or ad hoc court or tribunal;
- h) If the requested State, while also taking into account the nature of the offence and the interests of the requesting State, considers that, in the circumstances of the case, the extradition of that person would be incompatible with humanitarian considerations in view of age, health or other personal circumstances of that person.

ARTICLE 5

Channels of communication and required documents

1. A request for extradition shall be made in writing. The request, supporting documents and subsequent communications shall be transmitted through the diplomatic channel, directly between the ministries of justice or any other authorities designated by the Parties.
2. A request for extradition shall be accompanied by the following:

-
-
- a) In all cases,
 - i) As accurate a description as possible of the person sought, together with any other information that may help to establish that person's identity, nationality and location;
 - ii) The text of the relevant provision of the law creating the offence or, where necessary, a statement of the law relevant to the offence and a statement of the penalty that can be imposed for the offence;
 - b) If the person is accused of an offence, by a warrant issued by a court or other competent judicial authority for the arrest of the person or a certified copy of that warrant, a statement of the offence for which extradition is requested and a description of the acts or omissions constituting the alleged offence, including an indication of the time and place of its commission;
 - c) If the person has been convicted of an offence, by a statement of the offence for which extradition is requested and a description of the acts or omissions constituting the offence and by the original or certified copy of the judgment or any other document setting out the convicted and the sentence imposed, the fact that the sentence is enforceable, and the extent to which the sentence remains to be served;
 - d) If the person has been convicted of an offence in his or her absence, in addition to the documents set out in paragraph 2(c) of the present article, by a statement as to the legal means available to the person to prepare his or her defence or to have the case retried in his or her presence;
 - e) If the person has been convicted of an offence but no sentence has been imposed, by a statement of the offence for which extradition is requested and a description of the acts or omissions constituting the offence and by a document setting out the convicted and a statement affirming that there is an intention to impose a sentence.
3. The documents submitted in support of a request for extradition shall be accompanied by a translation into the language of the requested State or in another language acceptable to that State.

ARTICLE 6

Simplified extradition procedure

The requested State, if not precluded by its law, may grant extradition after receipt of a request for provisional arrest, provided that the person sought explicitly consents before a competent authority.

ARTICLE 7

Certification and authentication

Except as provided by the present Treaty, a request for extradition and the documents in support thereof, as well as documents or other material supplied in response to such a request, shall not require certification or authentication.

ARTICLE 8

Additional information

If the requested State considers that the information provided in support of a request for extradition is not sufficient, it may request that additional information be furnished within such reasonable time as it specifies.

ARTICLE 9

Provisional arrest

1. In case of urgency the requesting State may apply for the provisional arrest of the person sought pending the presentation of the request for extradition. The application shall be transmitted by means of the facilities of the International Criminal Police Organization, by post or telegraph or by any other means affording a record in writing.

2. The application shall contain a description of the person sought, a statement that extradition is to be requested, a statement of the existence of one of the documents mentioned in paragraph 2 of article 5 of the present Treaty, authorizing the apprehension of the person, including the time left to be served and a concise statement of the facts of the case, and a statement of the location, where known, of the person.
3. The requested State shall decide on the application in accordance with its law and communicate its decision to the requesting State without delay.
4. The person arrested upon such an application shall be set at liberty upon the expiration of [40] days from the date of arrest if a request for extradition, supported by the relevant documents specified in paragraph 2 of article 5 of the present Treaty, has not been received. The present paragraph does not preclude the possibility of conditional release of the person prior to the expiration of the [40] days.
5. The release of the person pursuant to paragraph 4 of the present article shall not prevent re-arrest and institution of proceedings with a view to extraditing the person sought if the request and supporting documents are subsequently received.

ARTICLE 10

Decision on the request

The requested State shall deal with the request for extradition pursuant to the procedures provided by its own law, and shall promptly communicate its decision to the requesting State.

Reasons shall be given for any complete or partial refusal of the request.

ARTICLE 11

Surrender of the person

1. Upon being informed that extradition has been granted, the Parties shall, without undue delay, arrange for the surrender of the person sought and the requested State

shall inform the requesting State of the length of time for which the person sought was detained with a view to surrender.

2. The person shall be removed from the territory of the requested State within as a reasonable period as the requested State specifies and, if the person is not moved within that period, the requested State may release the person and may refuse to extradite that person for the same offence.
3. If circumstances beyond its control prevent a Party from surrendering or removing the person to be extradited, it shall notify the other Party. The two Parties shall mutually decide upon a new date of surrender, and the provisions of paragraph 2 of the present article shall apply.

ARTICLE 12

Postponed or conditional surrender

1. The requested State may, after making its decision on the request for extradition, postpone the surrender of a person sought, in order to proceed against that person, or, if that person has already been convicted, in order to enforce a sentence imposed for an offence other than that for which extradition is sought. In such a case the requested State shall advise the requesting State accordingly.
2. The requested State may, instead of postponing surrender, temporarily surrender the person sought to the requesting State in accordance with conditions to be determined between the Parties.

ARTICLE 13

Surrender of property

1. To the extent permitted under the law of the requested State and subject to the rights of third parties, which shall be duly respected, all property found in the requested State that has been acquired as a result of the offence or that may be required as evidence shall, if the requesting State so requests, be surrendered if extradition is granted.

2. The said property may, if the requesting State so requests, be surrendered to the requesting State even if the extradition agreed to cannot be carried out.
3. When the said property is liable to seizure or confiscation in the requested State, it may retain it or temporarily hand it over.
4. Where the law of the requested State or the protection of the rights of third parties so require, any property so surrendered shall be returned to the requested State free of charge after the completion of the proceedings, if that State so requests.

ARTICLE 14

Rule of specialty

1. A person extradited under the present Treaty shall not be proceeded against, sentenced, detained, re-extradited to a third State, or subjected to any other restriction of personal liberty in the territory of the requesting State for any offence committed before surrender other than:
 - a) An offence for which extradition was granted;
 - b) Any other offence in respect of which the requested State consents. Consent shall be given if the offence for which it is requested is itself subject to extradition in accordance with the present Treaty.
2. A request for the consent of the requested State under the present article shall be accompanied by the documents mentioned in paragraph 2 of article 5 of the present Treaty and a legal record of any statement made by the extradited person with respect to the offence.
3. Paragraph 1 of the present article shall not apply if the person has had an opportunity to leave the requesting State and has not done so within [30/45]days of final discharge in respect of the offence for which that person was extradited or if the person has voluntarily returned to the territory of the requesting State after leaving it.

ARTICLE 15

Transit

1. Where a person is to be extradited to a Party from a third State through the territory of the other Party, the Party to which the person is to be extradited shall request the other Party to permit the transit of that person through its territory. This does not apply where air transport is used and no landing in the territory of the other Party is scheduled.
2. Upon receipt of such a request, which shall contain relevant information, the requested State shall deal with this request pursuant to procedures provided by its own law. The requested State shall grant the request expeditiously unless its essential interests would be prejudiced thereby.
3. The State of transit shall ensure that legal provisions exist that would enable detaining the person in custody during transit.
4. In the event of an unscheduled landing, the Party to be requested to permit transit may, at the request of the escorting officer, hold the person in custody for [48] hours, pending receipt of the transit request to be made in accordance with paragraph 1 of the present article.

ARTICLE 16

Concurrent requests

If a Party receives requests for extradition for the same person from both the other Party and a third State it shall, at its discretion, determine to which of those States the person is to be extradited.

ARTICLE 17

Costs

1. The requested State shall meet the cost of any proceedings in its jurisdiction arising out of a request for extradition.
2. The requested State shall also bear the costs incurred in its territory in connection with the seizure and handing over of property, or the arrest and detention of the person whose extradition is sought.
3. The requesting State shall bear the costs incurred in conveying the person from the territory of the requested State, including transit costs.

ARTICLE 18

Final provisions

1. The present Treaty is subject to [ratification, acceptance or approval]. The instruments of [ratification, acceptance or approval] shall be exchanged as soon as possible.
2. The present Treaty shall enter into force on the thirtieth day after the day on which the instruments of [ratification, acceptance or approval] are exchanged.
3. The present Treaty shall apply to requests made after its entry into force even if the relevant acts or omissions occurred prior to that date.
4. Either Contracting Party may denounce the present Treaty by giving notice in writing to the other Party. Such denunciation shall take effect six months following the date on which such notice is received by the other Party.

IN WITNESS WHEREOF the undersigned, being duly authorized thereto by their respective Governments, have signed the present Treaty.

DONE at _____ on _____ in the _____
and _____ languages, [both/all] texts being equally authentic.

BIBLIOGRAPHY AND REFERENCES

MEETINGS AND INTERVIEWS.

From UAE:

- 1)-Lieutenant Adjutant General Dr. Mohammed Said Al-Badi, the UAE Minister of the Interior(30 March 1996).
- 2)-Saker Ghobash, the UAE Under-Secretary of the Interior (30 March 1996).
- 3)-Mr. Saleh Mohammed Al-Ghafali, the Saudi ambassador in UAE(30 March 1996).

From Bahrain:

- 4)-H.H. Sheikh Mohammed Ben Khalifa Al-Khalifa, the Bahrain Minister of the Interior(16, 18 March 1996).
- 5)-H.H. Sheikh Abdel-Aziz Al-Khalifa, the president of Bahrain border guards(28 November 1995, 17 March 1996).
- 6)-Lieutenant General Abdullah Al-Sheikh, the Saudi Ambassador in Bahrain and the ex-director of Saudi general security(16, 18 March 1996).

From Saudi Arabia:

- 7)-H.R.H. Prince Naif Ben Abdel-Aziz, the Saudi Minister of the Interior(2 October 1996).
- 8)-H.R.H. Prince Ahmed Ben Abdel-Aziz, the Saudi Under-Secretary of the Interior(3 April 1996).
- 9)-Dr. Matlab Neffissa, constitutional law reader, Minister of State and member of the Ministerial Council(5 October 1996).
- 10)-Dr. Mossaed Al-Aiban, international law reader, Minister of State and member of the Ministerial Council(7 September 1996).
- 11)-Dr. Saad Assediri, the Secretary-general of Saudi national security Council, the Saudi Under-Secretary of the Interior in charge(2 January, 7 April 1996).
- 12)-Dr. Ibrahim Al-Owaji, the ex-Under-Secretary of the Interior(6 April 1996).

13)-Dr. Bashir, director of the legal sector in the Ministry of the Interior(7 April 1996).

From Kuwait:

14)-H.H. Sheikh Saad Al-Abdullah Assabah, the Crown Prince and President of the Ministerial Council (6 December 1995, 26 March 1996).

15)-H.H. Sheikh Ali Assabah, the Kuwait Minister of the Interior(27 March 1996).

16)-Ahmed As-saadoun, President of the Kuwait Parliament(4 December 1995; 26 March 1996).

17)-Jamal Chihab, the under-secretary of Justice(5 December 1995).

18)-Tarrat Mohammed Al-Hariti, the Saudi Ambassador in Kuwait(27 March 1996).

From Qatar:

19)-H.H. Sheikh Abdullah Al-Thani, Qatar Prime Minister and Minister of the Interior(25 March 1996).

20)-Dr. Najib Anaimi, Qatar Minister of Justice(10 December 1995).

21)-Abdul-Rahman Al-Hamad Al-Shobaili, the Saudi Ambassador in Qatar (25 March 1996).

From Oman Sultanate:

22)-Badr Saud Hareb, the Oman Minister of the Interior(24 March 1996).

23)-Mohammed Al-Fahd Al-aissa, the Saudi ambassador in Oman(24 March 1996).

From the G.C.C. Secretariat-General:

24)-His Excellency Jamil Al-Hojailan, the actual G.C.C. Secretary-General(25 March 1996).

25)-Sheikh Fahem Al-Kassimi, the former G.C.C. Secretary-General(23 December 1995; 3 March 1996).

26)-Dr. Mohammed Assayari, Director General of legal affairs(23 December 1995; 9,12 March 1996; 25 December 1996).

- 27)-Mohammed Ad-dossari, vice-director of security department in the G.C.C. Secretariat-General(8 April 1996, 18 September 1996).
- 28)-Dr. Ismaat Abdelmajid, the Secretary-General of the League of Arab States(10 April 1996) .
- 29)-Dr. Ahmed Mohammed Assalem, the Secretary-General of the Council of Arab Ministers of the Interior, in Tunis(8 July 1996)
- 30)-Saleh Bakr Attayar, the director of the Euro-Arab studies centre, in Paris(7 May 1996).

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