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تعنى بالدراسات الشرعية والقانونية والقضائية

تصدرها
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جميع الآراء الواردة في هذه المجلة تعبر عن وجهة نظر أصحابها،
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**The Role of International Organizations and Bodies in
Settling the States International Environmental Disputes**

**دور المنظمات والهيئات الدولية
في تسوية المنازعات البيئية الدولية بين الدول**

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The Role Of International Organizations And Bodies In Settling The States International Environmental Disputes

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Abstract:

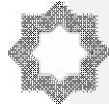
The phenomenon of international organizations is one of the relatively recent phenomena in the history of the international law and international relations, which is a phenomenon that, despite its novelty, has been able in the form and in the way it desired to occupy its place and to play its assigned role, regardless of the negatives which erode its performance from time to time¹.

As for what is meant by the resolution of the conflict through international organizations, it is the ability of the organization to Crystallize a set of rules, agreed upon by the member states to settle what may arise between them from disputes peacefully, with the effective application of those rules as far as possible in what might be resulted from disputes².

In this context, we emphasize an important point, which is not only new the role of international organizations in settling international disputes in general or their existence as an important factor in the framework of international relations, the evidence, is the text of the covenant of the League of Nations on this role, but what

¹ Dr. MAMOUN ELMANAN, the principles of the public international law, the general theory and the laws of charters and the international organizations, Dar Alkottob Alkanonyia, Dar Shatat for publishing and programming, Egypt, 2010 P.213.

² Dr. OMAR SAAD ALLAH, the international law for solving disputes, P. 81.



is new to it is also that this kind of the disputes in which the environment is the main component.

It should be noted that most of the international organizations were established at a time when there were not in it, environmental protection issues receive official and popular attention, and for this came most of the charters of these organizations devoid of any text or texts include the protection of the environment as one of the goals that the international organizations operate on its achievement¹.

International organizations of all kinds contribute an ample share of the resolving of the environmental disputes, whether by establishing new subsidiary authorities or by issuing many recommendations, declarations, and decisions that contribute by one way or another in preventing and settling these disputes, whether with the aim of preventing the environmental damages before they occur or with the aim of settling disputes arising from these damages after their occurrence².

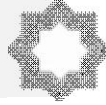
There are also some regional judicial bodies in general or specialized in the field of human rights; their role in the field of dispute settlement began to emerge concerning the depletion of the natural resources or related to claiming the right in the environment.

Our study of this topic will be from two aspects: (first) the role of international in settling States international environmental disputes, and (second) the role of regional organizations and the agencies specialized settling States environmental international dispute.

Keywords: International Organisation, States, Environmental Disputes, Regional Organisations .

¹ Dr. ABDELAZIZ MEKHAIMAR, The role of the international organizations in protecting the environment, Dar Elnahda Elarabia, Cairo, 1986, P. 75.

² Dr. RIYADH ABOELATTA, the role of the public international law in protecting the environment, P. 156.



دور المنظمات والهيئات الدولية في تسوية المنازعات البيئية الدولية بين الدول

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القاهرة، جمهورية مصر العربية.

قسم القانون، الأكاديمية العربية للعلوم والتكنولوجيا والنقل البحري، جمهورية
مصر العربية.

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ملخص البحث:

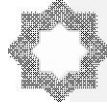
تعد ظاهرة المنظمات الدولية من الظواهر الحديثة نسبيًا في تاريخ القانون
الدولي والعلاقات الدولية، وهي الظاهرة التي، وعلى الرغم من حداثة،
استطاعت بالشكل والأسلوب الذي أرادت أن تحتل مكانها وتقوم بالدور المنوط بها؛
وذلك بغض النظر عن السلبات التي تعيق أدائها من وقت لآخر.^١

وأما بالنسبة لما هو مقصود بتسوية المنازعات عن طريق المنظمات الدولية فهو
قدرة المنظمة على بلورة مجموعة من القواعد تتفق عليها الدول الأعضاء لحل ما
قد ينشأ بينها من منازعات على نحوٍ سلمي، مع التطبيق الفعال لتلك القواعد قدر
الإمكان فيما قد يثور من منازعات.^٢

وفي إطار هذا السياق نؤكد على نقطة مهمة، وهي ليس الجديد فقط دور
المنظمات الدولية في تسوية المنازعات الدولية بشكل عام أو وجودها كعامل مهم
في إطار العلاقات الدولية، والدليل هو نص ميثاق عصبة الأمم على هذا الدور،
ولكن الجديد فيها أيضا أن هذا النوع من النزاعات تكون البيئة العنصر الرئيسي
فيه.

١ د. مأمون المنان، مبادئ القانون الدولي العام والنظرية العامة وقوانين المواثيق والمنظمات
الدولية، دار الكتب القانونية، دار شتات للنشر والبرمجة، مصر، ٢٠١٠ ص ٢١٣.

٢ د. عمر سعد الله، القانون الدولي لحل النزاعات، ص ٨١.



وإنه لمن الجدير بالذكر أن أغلب المنظمات الدولية قد أنشئت في وقت لم يكن فيه قضايا حماية البيئة تحظى باهتمام رسمي وشعبي، ولهذا جاءت أغلب مواثيق هذه المنظمات خالية من أي نص أو نصوص تتضمن حماية البيئة كأحد الأهداف التي تعمل المنظمات الدولية على تحقيقها.^١

وتساهم المنظمات الدولية على اختلاف أنواعها بنصيب وافر في حل المنازعات البيئية، سواء من خلال إنشاء هيئات فرعية جديدة، أو من خلال إصدار العديد من التوصيات والإعلانات والقرارات التي تساهم بشكل أو بآخر في منع وتسوية هذه المنازعات، سواء بهدف منع الأضرار البيئية قبل وقوعها، أو بهدف تسوية المنازعات الناشئة عن هذه الأضرار بعد وقوعها.^٢

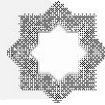
كما أن هناك بعض الهيئات القضائية الإقليمية بشكل عام أو تلك المتخصصة في مجال حقوق الإنسان، قد بدأ يبرز دورها في مجال تسوية المنازعات المتعلقة باستنزاف الموارد الطبيعية أو المتعلقة بالمطالبة بالحق في البيئة.

وسوف تكون دراستنا لهذا الموضوع من جانبين: (أولاً) دور المنظمات الدولية في تسوية المنازعات البيئية الدولية للدول، و(ثانياً) دور المنظمات الإقليمية والهيئات المتخصصة في تسوية المنازعات البيئية الدولية للدول.

الكلمات المفتاحية: المنظمة الدولية؛ الدول؛ النزاعات البيئية؛ المنظمات الإقليمية.

١ د. عبد العزيز مخيمر، دور المنظمات الدولية في حماية البيئة، دار النهضة العربية، القاهرة، ١٩٨٦، ص ٧٥.

٢ د. رياض أبو العطا، دور القانون الدولي العام في حماية البيئة، ص ١٥٦.



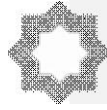
1. Introduction

The history of the prominence of the studies and researches that handled the connections between the environment and the disputes goes back to the year 1990, as the vanishing of the cold war led to the appearance of the calls for expanding the security concepts to comprehend most of the security cases, and the environmental issues are considered one of them, and they are summarized in the styles and researching studies, among which the Neo-Malthusianism studies that depended in their analyses on studying the cases on a wide scale with concentrating on the connections between the renewable environmental resources and the population growth and the fierce conflicts.

The environmental disputes are a special and renewable kind of the international disputes and I am solely taking its specialization because of some several issues that we will process in another point in this study and it has the advantage of renewing owing to the subduing of this kind of disputes for the scientific and the technological developments, however the most important in what distinguish it from the others is the nature of the disputed right so we should check the nature of the right in the environment

The main purpose of this paper is to know **the effectiveness of traditional international mechanisms in settling states international environmental disputes. Is it possible to talk about signs of the emergence of modern mechanisms in performing this task?**

Following the outbreak of international environmental disputes for this purpose, the paper examines the **The mechanisms of settling international environmental** disputes.



The second section is the paper's methodological framework, which is a critical literature review. The third section definition of international environmental disputes. The fourth section Defining the right to the environment.

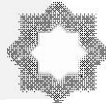
The Fifth Section: The Role of International & Regional organizations and Bodies in settling the International Environmental disputes.

The Sixth section the Conclusion and discussion are presented Then Section seventh, while the Recommendations is provided.

2. Methodology

This paper represents a critical literature review. the nature of the international environmental dispute from being a legal dispute or a political dispute or a dispute of another nature, we indicate that the international environmental dispute are disputes with technical or sensitive nature in addition that the majority of them have a legal nature with the lack of neglecting of the existence of some conflicts related to the environment but it has a political nature ,we can classify the international environmental dispute in the category of international technical disputes of a legal nature, given that it affects one of the rights protected by law, to be more specific it is the right in the environment.

And the solution of this kind of dispute is supposed to be subjected to the international judicial associations to investigate it according to the international law rules, as the international environmental disputes can't be classified within the political international disputes.

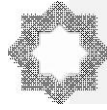


3. International Environmental Disputes Back Ground:

The history of the prominence of the studies and researches that handled the connections between the environment and the disputes goes back to the year of 1990 as the vanishing of the cold war led to the appearance of the calls for expanding the security concepts to comprehend most of the security cases and the environmental issues are considered one of -Them- and they are summarized in the styles and researching studies, among which the Neo-Malthusianism studies that depended in their analyses on studying the cases in a wide scale by concentrating on the connections between the renewable environmental resources and the population growth and the fierce conflicts.

The environmental disputes are a special and renewable kind of international disputes, and I am solely taking their specialization because of several issues that we will analyze at another point in this study, and it has the advantage of renewing owing to the subduing of this kind of dispute for the scientific and technological developments, However, the most important thing that distinguishes it from the others is the nature of the disputed right, so we should check the nature of the right in the environment.

The environment is one unified entity, despite being divided by political borders, and any action that harms it will inevitably cause damage, either partially or completely. The right to a healthy environment is a fundamental human right, belonging to the third generation of human rights. This right is intrinsically linked to other human rights and reflects the idea of global human unity, transcending differences. The protection of human rights represents a significant advancement in the development of international



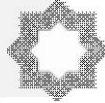
relations, marking a shift from traditional principles of international law, such as non-interference in the internal affairs of states. This evolution demonstrates the expanding scope of international law, which now extends beyond its traditional focus on states to include individuals.

It is evident that human rights issues have increasingly entered the realm of international relations, becoming a significant part of international legal frameworks. The global push for the universal recognition of human rights has moved beyond the idea that these issues are solely within the domain of state sovereignty. As a result, human rights are being addressed internationally, challenging the traditional principles of non-interference and state sovereignty.

In light of this, we define international environmental disputes as disagreements between international law actors concerning environmental issues and human rights, particularly those related to violations of international environmental laws, breaches of environmental treaties, or actions that cause harm to the environment—whether it involves land, marine, or air pollution.

4. Defining the right to the environment

Attempting the elements of the environment forms a harm that can be retreated by nature to the human, and so handling a right of his rights is right in a safe environment, as relying on this right justifies the right in filing a compensation lawsuit for the environmental damages, and that's what obligates us to search in the nature of this right or in other form on what the two parties of the environmental international dispute struggle for?

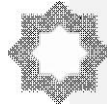


In this situation, it's a must to indicate that till a very recent time, the speech was about what is called the environmental rights¹, which is known as apparent retardance under what the matter of taking care of rights is. Of the human witness in the environmental field, there is a remarkable shortage in comparing with the other human rights, as by using the term of "rights", whether on the procedural or objective side, that gives the sued persons the ability on founding for environmental demands². However, the reality is in a remarkable change as the international society started to define judicial demands on the basis of the right in the environment.

And we have discussed the right in the environment as through this point, we will reach that the right of a safe environment, is among the human rights. These rights have become related to some cases known as globalization and scheduling in recent times.

¹ The tenth principle of the Rio Declaration of 1992 enshrined some environmental rights, such as the right to obtain environmental information the right to address environmental issues and to make decisions in the environmental field at the national level, of course, as it also enshrined it the agreement of the United Nations Economic Commission for Europe as this (UNECE) is concerned with and which is known as the "Aarhus Agreement", The Convention provides opportunities for access to information, public participation in decision-making regarding it, and resorting to the courts in the environmental issues. The agreement aims to expand public participation in matters related to the environment, and thus make it provided the opportunity to better and more effectively participate in preserving and protecting the environment. This agreement has been approved in 06/25/1998 in Aarhus, Denmark, and entered into force on October 30, 2001. Available for viewing on the website: <https://www.informea.org/ar/treaties/aarhus/text>, Access date is 03/5/2023.

² ERBHI KOUIDER, International Environmental Jurisdiction, PhD thesis, Faculty of Law, University of Telmisan, 2016, p. 71.

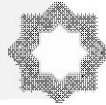


We exclude that the core of right in an intact environment gathers between the personal side represented in the human as an individual or a group and the objective one represented in the nature's elements, and the production of the nature's elements, including water, air, soil, and biological diversity, is considered real protection and conservation of the environmental balance that will guarantee in turn a life for the man in health and safety.

The right in an intact environment is emerged, which is being considered as a right and a duty at the same time and that's because the creditors for it who are the beneficiaries from it and the debtors of it who are committed to perform it, they are the same persons as most of the constitutions and internal laws state that the man has a right to live in a health environment that's clear from the pollution and in the same time, it's a duty to preserve it and the same thing for the countries and the peoples¹ as the international legal rules that are related to the protection of the environment include a legal commitment for protecting the environment from the pollution and using the natural resources for the various countries in addition to that one which is considered a mutual tradition for the humanity. And on the other side, the freedom of the countries has been made in exploiting their region and enjoying their natural fortunes, restricted by the lack of damaging the environment of the other countries, their regions, their rights, and their benefits.

What can be concluded is that the environment is one even if the political borders divide it, and any action attaching to it will absolutely cause damage to some parts of it if we don't say all of it.

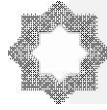
¹ Dr. RIYAD SALEH ABU AL-ATA, Environmental Protection in Light of International Law, p. 66.



And the right in an intact environment is from the human's rights—the third generation. And there is a connection between this right and the others of the man's rights that call for the idea of the unity of humanity regardless of any differences, and as the protection of the human rights is considered really a new stage in developing the international group, it's considered one of the most important innovative phenomena to face the traditional principles of the international law, starting with the principle of the lack of interference in the internal affairs of the countries. All of that clarifies the extent of the expansion of the general international law's scope by the lack of its focusing on its traditional persons only, but also its extension to include the human as well.¹

It is an undeniable fact that numerous human rights issues have recently emerged in the sphere of international relations, becoming a key focus of international legal frameworks. This shift is part of a broader movement towards the globalization of human rights, which has gained substantial support in recent years, challenging the traditional view that human rights fall exclusively within the domain of state sovereignty. This development signifies a growing recognition of the need to address human rights concerns at the international level, moving progressively toward the erosion of the principles of non-interference in the internal affairs of states and the concept of state sovereignty as it pertains to human rights issues.

¹ Dr. SAMEH ABD AL-QAWI AL-SAYYID, international environmental disputes, p. 14. 43 The same reference, p. 15.



5. The role of International & regional organizations and bodies in settling the States international environmental.

The phenomenon of international organizations is one of the relatively recent phenomena in the history of international law and international relations, which is a phenomenon that, despite its novelty, has been able in the form and in the way it disputes desired to occupy its place and to play its assigned role, regardless of the negatives that erode its performance from time to time.¹

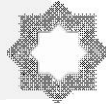
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In this context, we emphasize an important point, which is not only the role of international organizations in settling international disputes in general or their existence as an important factor in the framework of international relations; the evidence, as previously mentioned, is the text of the covenant of the League of Nations on this role, but what is new to it is also that this kind of the dispute in which the environment is the main component.

It should be noted that most of the international organizations were established at a time when there were none. Environmental

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International organizations of all kinds contribute an ample share of the resolving of the environmental disputes, whether by establishing new subsidiary authorities or by issuing many recommendations, declarations, and decisions that contribute by one way or another in preventing and settling these disputes, whether with the aim of preventing the environmental damages before they occur or with the aim of settling disputes arising from these damages after their occurrence².

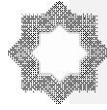
There are also some regional judicial bodies in general or specialized in the field of human rights; their role in the field of dispute settlement began to emerge concerning the depletion of the natural resources or related to claiming the right in the environment.

First: The role of the international organizations and agencies in the States international environmental dispute settlement

An international organization is defined as an entity established by a group of states as a legal framework to achieve the objectives of cooperation between them, giving it the status of international legal personality to enable it to carry out its duties and to grant it an independent determination of the revenues of states that are members and establish permanent authorities for it that operate on the legal basis of an international multilateral agreement (charter-

¹ Dr. ABDELAZIZ MEKHAIMAR, The role of the international organizations in protecting the environment, Dar Elnahda Elarabia, Cairo, 1986, P. 75.

² Dr. RIYADH ABOELATTA, the role of the public international law in protecting the environment, P. 156



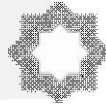
constitution), which defines the basic aspects of the activities of this entity in accordance with the provisions of contemporary international law¹.

Resorting to international organizations is a modern way of amicable settlement of the international disputes stipulated in the covenant of the League of Nations after the First World War as a means of preventing wars, and then the specialization of the League of Nations after the Second World War moved to the United Nations in the position that fulfilled the purpose and enabled the new international organization to carry out its mission regarding the settlement of international disputes².

The activity of an international organization appears more important in the international environmental law where this organization contributes to form a new international base in it, whether by establishing an international agreement or by adopting it or by adopting an obligatory decision, which is called "soft law", or by adopting statements, recommendations, etc. There are even those who say that control over the transboundary damage is more through the environmental regulation that the international organizations do.

¹ Dr. MAMOUN AL-MANAN, international organizations role, p. 182. The charter of an international organization is defined as the multilateral international treaty that plays the role of the legal basis for the emergence and formation of the international organization and it usually contains objectives and the principles of the organization, it defines its main and subsidiary authorities, the voting system, and decision-making, and includes a variation of its foreign affairs activities, and all the other details of it, so the charter is an agreement that contains an explicit official expression issued .

² Dr. KHALIL HUSSEIN, previous reference, p. 558-559, and for more details, see also: Dr. ABDULAZIZ AL-ASHAWI, Dr. ALI ABU HANI, previous reference, p. 86 et seq., also Chapter Six of the Charter of the United Nations.



The effective role of international organizations in preserving and protecting the environment is confirmed by the twenty-fifth principle of the Stockholm Declaration in 1972, as well as many environmental international conventions¹. International organizations are different, and with their differences, they have a role to play regarding the environmental issue. We decided to highlight the role of some organizations in settling the international environmental disputes, so our study will discuss three points, beginning with the emergence of a prominent:

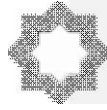
by member States, to express their complete satisfaction with their presentation of agreement on the limits of relations under jurisdiction of the organization, and he adds that the charter has several names, including a constitution, a document covenant, or a basic system, which is in the legal nature, a legitimate and established treaty. .See the same reference, P183 .

- (A) the role of the United Nations Organization
- (B) the role of regional organizations

A- The role of the United Nations in settling States international environmental disputes

The United Nations is the most important international body to which problems and disputes are raised that arise between members

¹ Among the international environmental agreements that stipulate the reliance on international organizations as a mechanism for settling the international environmental disputes: the Convention on the Law of the Sea of 1982 adopting the mechanisms provided for in Article 33 of the Charter of the United Nations, which international organizations are among them, also stipulated the Helsinki Convention for the Protection of the Baltic Sea for the year on the possibility for an international organization to play the role of mediator if the parties jointly request it, provided that the dispute is not settled by way of negotiations, and it was not possible to reach an agreement, also Article 26 of the Helsinki Convention for the Protection of the Baltic Sea for the year 1992.



of the international community; it is the basic framework for the settlement of any international dispute that might threaten international peace and security, which includes more than 30 international governmental organizations¹ as well as international non-governmental organizations.

The United Nations and its affiliated organizations and agencies work to protect the environment, promoting human rights, combating diseases and reducing poverty, setting standards for safety and efficiency in air transport, helping improve telecommunications and consumer protection. The United Nations also handles the leading of the international campaigns to combat illicit drug trafficking and terrorism, helping refugees around the world, and setting up programs for land bombing-mine clearance, as it helps in the expansion of food production and others.

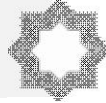
The Charter of the United Nations requires its member states to settle disputes that erupt between them by peaceful means, and the issue of settling disputes remains secondary in comparison as the organization's primary preoccupation with achieving peace, that is, the entry into conflict, is the compulsory jurisdiction of the organization hinges on the condition of threatening international peace and security and endangering them, and the parties can resort to it voluntarily to settle their disputes in other than those cases.

The United Nations played a prominent role that contributed to the formulation

of international law for the environment, as the United Nations General Assembly is the one who called for a conference of the

¹ See the guide of the international organizations on the site:

<https://www.mandint.org/ar/guide-IO> , the access date is 18/5/2023.

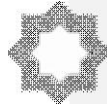


United Nations on the environment, and the United Nations program plays a major role in the environmental protection at multiple levels and in multiple areas, and the legal aspect occupies an important area of it, where the attention of the United Nations program is devoted to putting the Stockholm Principles into practice, especially those related to the principle of the state's responsibility for damages to the environment, and urge states to conclude international treaties aiming to protect the environment¹.

Among the legal aspects of environmental protection is the resolution and settlement of disputes according to mechanisms that guarantee this protection, and the inclusion of the role of the United Nations² in these mechanisms was based on some international environmental treaties, among which we mention the International Liability Convention about the damage caused by space activities of 1972, in particular Article 9 among them, which stipulated that the dispute related to the claim for compensation be referred to the authority of the United Nations in the event that it is not settled through diplomatic means, in any case, if both countries are members of the United Nations. Regarding the applications of adopting this mechanism in the settlement of international environmental disputes, we refer to the Chernobyl accident, which we will discuss later. As for the second issue, it is related to the Torrey Canyon incident, in which the United Nations played by one of its specialized agencies, namely the Maritime Consultative Organization.

¹ Dr. MOHSEN A FIKRIN, the international environmental law, P. 414

² The settlement of disputes by the United Nations is through some of its authorities: - The Security Council - The General Assembly.

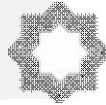


For the governments (OMCI)¹ has a prominent role in settling disputes arising because of this accident and the incidents of the accident of "Torry Canyon"² are represented in the collision of the giant ship "Tori Canyon", which can carry a cargo estimated at (120) thousand tons of crude oil, due to a navigational error with coral stones off the shores of England between Kernow and the Isles of Scilly and that was on 18 March 1967, and while of processes of rescuing of the ship is under way, an explosion occurred in the machinery rooms, which made a large hole in the hull of the ship and an estimated (21) million gallons or (50) thousand tons of oil leaks through it, and it was not possible to control this situation, so England took a decision to destroy the ship despite being outside its legal guardian borders .

And on 24/03/1967, the British Air Force struck what was left of the ship with bombs, until it split into three parts, and that blow was aimed to burn the remainder of its cargo. This accident caused pollution of the French coast for about 50 miles and pollution for about 90 miles. About 15 thousand birds were killed by the "Kernow" coast and marine organisms, as England and France

¹ The Maritime Consultative Organization for Governments (OMCI) it is an international organization, established in 1948, under the name of the advisory International Maritime Organization, headquartered in London, among its objectives: work to improve safety in seas, combating marine pollution, establishing a system to compensate people who suffer financial losses due to Marine Pollution See Wikipedia: <https://en.wikipedia.org/wiki/> access date is 18/5/2023.

² Regarding this accident, revise Dr. MOHAMED ADEL ASKR, the previous reference, margin P. 922-224, also Dr. ABDELSALAM MANSOUR ELSHEWY, the previous reference, P. 196-206. Aussi: VINCENT, Droit de la mer, Larcier, Bruxelles, 2008, p 18Philippe.



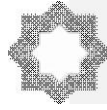
incurred large sums of money to re-clean their waters from pollution as the oil slick reached the coast of Britain in April 1967, and nearly a cost of 20 million was spent to clear it. Some scholars have gone to say that the damage to the animal, plant, and aquatic wealth is due to the accident, which is equivalent to what may result from the effects of an explosion of an atomic bomb.

And England had justified its intervention and use of force to sink the ship by saying that it was aiming to protect its shores from the pollution of the oils that were carried by the aforementioned ship. And that the theory of self-protection of the state allows it to do so, and the international jurisprudence did not denounce the act of the British government, it argued, it was based on a case of necessity. This is the same view taken by the International Law Commission during its session No. 22, which was held from 5 May to 25 July 1980, where it thought that the action of the British government was based on a state of necessity, so it is considered a legal action¹

The British government has called for an emergency session of the advisory organization's council (OMCI) to consider taking a number of government measures for maritime navigation that involve developing the rules of international law to allow the intervention of the coastal state on the high seas in the event of any accident that would threaten or even any possibility of threatening the interests of the state with marine oil pollution.

Indeed, an international conference was held under the auspices of this organization in the Belgian capital, Bruxel, whose work

¹ Dr. MAMOUN ELMANAN, the principles of the public international law, the general theory and the laws of charters and the international organizations, Dar Alkottob Alkanonyia, Dar Shatat for publishing and programming, Egypt, 2010 P.213



extended from the 10th to the 29th of November 1969, when the work of the conference resulted in the conclusion of two international agreements: the first is the international agreement relating to intervention on the high seas in the event of an accident that has caused or may result in pollution by hydrocarbons, as the latter gives every coastal state the right of the intervention against ships in emergency situations by taking the necessary measures to protect.

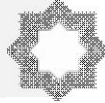
Its interests are threatened by pollution. The second is the agreement related to the civil responsibility for fuel pollution damage, which was concluded with the aim of guaranteeing fair and equitable compensation for those affected by the consequences of pollution resulting from leakage or dumping fuel from oil tankers.

Second: The role of regional organizations in settling States international environmental disputes

Regional organizations are defined as regional groupings include neighboring and solidarity countries that are working together to maintain international peace and security and to support cooperation in the economic, social, and cultural fields.¹

Regional organizations have become one of the most important contemporary mechanisms in the peaceful settlement of international disputes by inviting the parties to the dispute to resort to the previously mentioned peaceful means, such as investigation and

¹ Dr. OMAR SAAD ALLAH, the international law for solving disputes, P. 105, and it should be noted that with the developments taking place in the international society, the objectives of these organizations have evolved into other issues such as scientific, technological, humanitarian and environmental issues.



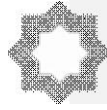
conciliation, mediation, and negotiations, and that is by issuing recommendations addressed to the conflicting parties.

The Charter of the United Nations enshrined this through its text in the eighth chapter thereof, specifically in Article 52 on the settlement of international disputes by regional organizations, as stipulated in the charters of the majority of regional political organizations on the terms of reference that allow it to apply the various mechanisms of peaceful settlement on the local disputes: negotiation, good offices, mediation, and conciliation.

In the environmental framework, we find regional organizations that have a role in settling the environmental disputes. Organization for the field of economic cooperation and development¹. As this organization was established in 1970 by the establishment of the environment committee, which among its interests is the study of common problems or the anticipated common problems related to environmental protection and environmental enhancement in order to provide proposals for effective means to prevent or reduce the occurrence of these problems to a minimum and resolved them, taking into account all relevant factors, including considerations related to the economy and energy, in order to avoid disputes that may arise among member countries in the field of common environmental resource use or as a result of collisions between national environmental policies.

Among the accomplishments of this committee was the establishment of a group concerned with Transboundary pollution in

¹ Organization for Economic Cooperation and Development: It is the successor organization to the Organization for the European Economic Cooperation (O.E.C.E) which includes all the major industrial powers in the world, see, Dr. MOHSEN AFKERIN, The International Law of the Environment, p. 422.

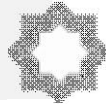


1975 and also established in 1982 the transboundary movement of hazardous waste¹. The two agencies have contributed within the framework of many of the tasks assigned to them in urging the consultation on transboundary pollution problems, transportation of hazardous waste across the borders, and the establishment of procedures for settling disputes.

For environmental disputes settled by relying on the role of regional organizations, we find that some regional organizations have played a prominent role in settling environmental disputes that have been presented to them, and among the applications of that we mention:

(1) The industrial waste dumping incident in the South Atlantic: its facts are summarized in March of 1975; the Brazilian press reported that the Finnish ship, FONISH.TANKER.ESKRI, is a ship that is affiliated to one of Finnish oil companies and intends to dump large quantities of industrial waste that contain arsenic in the international waters in the southern Atlantic region; it had previously dumped such waste without Finnish government approval, on the grounds that dumping is not in breach of the international conventions at that time, which prompted the State of Brazil to ask the Organization of American States for intervention before the State of Finland in order not to allow the dumping of such waste, in addition to its declaration that (Stream) Bay became contaminated with wastes coming from the South Atlantic.

¹ Organization for Economic Cooperation and Development: It is the successor organization to the Organization for the European Economic Cooperation (O.E.C.E) which includes all the major industrial powers in the world, see, Dr. MOHSEN AFKERIN, The International Law of the Environment, p. 422



On March 24, 1975, the organization convened the permanent council, as

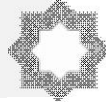
Brazil and a number of Latin American countries demanded in it from the Secretary General of the United Nations to ask Finland to refrain from dumping waste, which "Waldheim", which in return responded immediately to this request, and then announced that the ship belonging to it was at its disposal of throwing waste into the sea out of ignorance of the need to obtain a permission. In this manner, it breached the 1972 London Convention on the Dumping of Wastes in the Ocean, as well as the agreements associated with it, and with this declaration, Finland was considered recognized by its responsibility for the damages that befell this region in its various countries.

But what is interesting about this case is that the dispute settlement is from the side of the authorities of the international organization, which was not to issue any decisions or recommendations; however, it was influenced by public opinion and diplomatic pressure within the international organization - Organization of American States - which prompted Finland to admit its responsibility for dumping its ship for trash in the ocean. The registrant in this case is the emergence of the role of the Permanent Council of the Organization of American States¹.

(2) incident of "Seveso" in Italy which was settled by the European Economic

Group: In July 1976, there was an explosion in a factory "Lemesa", at the village "Seveso" in Italy, in which the pesticides (2, 4, 5T) are

¹ Organization for Economic Cooperation and Development: It is the successor organization to the Organization for the European Economic Cooperation (O.E.C.E) which includes all the major industrial powers in the world, see, Dr. MOHSEN AFKERIN, The International Law of the Environment, p. 422.



On the one hand, solving problems and settling disputes arising between them in various areas of which the environment is the most important, and we find that many specialized international organizations and agencies play their role in the field of the settlement of the international environmental disputes, but we only touch on two international bodies, which are specialized for highlighting their role in settling environmental disputes between persons under international law, and they are: the World Trade Organization and the International Atomic Energy Agency.

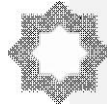
Fourth: The role of the World Trade Organization in settling international environmental disputes:

The World Trade Organization is considered an international organization specialized in regulating and controlling international trade at the global level. It was established in 1995 to replace the GATT organization and contains today more than one hundred and thirty-five countries under its wing.¹

The new dispute settlement mechanism established under the organization of the global trade is an augmentation and complement to the previous procedures that were followed to settle disputes under the GATT of 1947, which aim to make the trade system more secure and predictable in a way that ensures the stability of international and economic commercial relations.

The commercial nature of the organization did not prevent some environmental issues from being raised for settlement at the level of its own dispute system, initially; the World Trade Organization is not competent to resolve such disputes related to the environment.

¹ Dr. FAWZI ISMAIL ISSA - "Environmental Pollutants and Their Side Effects", Dar Al-Kutub AlAlamia, without a printed city, 2018. p. 30.



However, with the complexity and overlapping of the relations between trade and the environment and the sharpening of the differences between the rules of international trade and international law of the environment, the international trading system was forced to have these issues initially resolved marginally under the GATT agreement of 1947. Then it will develop in a more tangible way within the framework of an organization, World trade¹.

However, this led to the emergence of the phenomenon of jurisdictional conflict between the settlement agency of this organization's dispute and dispute resolution mechanisms set forth in the multilateral environmental agreements, as a number of disputes involved in specializations of the dispute settlement body of the World Trade Organization are also located within the jurisdiction of the dispute resolution mechanisms established by these agreements, and on the other side may include certain international agreements, such as the United Nations Convention on the Law of Seas in 1982 or the treaty establishing the European Law that expresses clear reference to the old mechanism that was in force within the GATT framework and to create at the same time its own dispute settlement mechanism.

It is also a criticism of the dispute settlement body of the World Trade Organization Universality, limiting this mechanism to the persons of international law. In this context, there are those who demand the introduction of private law persons into the scope of this mechanism. Moreover, it even goes on to say that one of the most important features of the desired change is to work to establish an independent mechanism within the World Trade Organization that

¹ Dr. FAWZI ISMAIL ISSA - "the previous reference. p. 30.



specializes in considering the allegations of non-governmental persons against members of the World Trade Organization.¹

Fifth: The role of the International Atomic Energy Agency in settling the international environmental disputes:

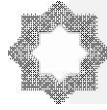
The International Atomic Energy Agency is the center of nuclear cooperation in the world. Created in 1957, the agency contributes as an intergovernmental organization under the slogan - Atoms for Peace - within the framework of the United Nations system for realizing peace, development, and security in the world in important ways such as working to prevent the spread of nuclear weapons and ensuring the peaceful use of useful nuclear technologies for the sake of the human evolution².

One of the most important achievements of this agency is the directives it proposed in 1984 to reach some measures between member states for mutual emergency assistance in the event of nuclear accidents or radiological disaster³, specifically with regard to damage assessment of the transboundary radiation. The International

¹ Dr. FAWZI ISMAIL ISSA - "Environmental Pollutants and Their Side Effects", Dar Al-Kutub AlAlamia, without a printed city, 2018. p. 30.

² Global trade in the commercial field will not prevent it from standing one day in front of the inevitability of preserving the environment for the sake of Continuing to achieve the commercial interests of its members. The second issue relates to acknowledging the success of the dispute settlement body of the World Trade Organization and its effectiveness, due to the obligation of this mechanism that is supervised by the member states of the organization, as well as the full

³ For more information about this agency, see Dr. Suhair A. A. Rahim Hajim Al-Hiti, the International Responsibility for Environmental Damage, Dar Raslan Foundation for Printing, Publishing and Distribution, Damascus, Syria, 2016, p. 118-119. Dr. BASHIR JUMA ABD AL-JABBAR ALKUBAISI, international environmental disputes, p. 136.



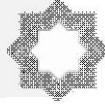
Energy Agency has sponsored research targeting determining the minimum value of radioactive damage, which has gained international recognition, and this helped overcome the use of different values for estimating transboundary damages compared to the damages that occur in the country in which they originate.

Since the peaceful activities of atomic energy are among the dangerous activities that might have potential and dangerous cross-border effects, the IAEA had to do so for the atomic energy, which in turn, treats these damages through what it certifies from recommendations, agreements, or standards¹.

The organization is credited with making great efforts to participate in international cooperation for the purpose of preserving the environment and its protection from radioactive contamination, as well as through its relentless endeavors in the settlement of disputes that arise regarding the uses of this energy and its negative impact on the environment, the organization played a prominent role in settling the dispute related to the accident of Chernobyl in 1996 that made the international community see the risk extent of the nuclear accidents and their comprehensive impact on the entire world². Since it is in April of the year 1986, a fire broke out at commitment to the implementation of the decisions issued by it, which prompts us to say that it is a model that requires it to be followed by the international authorities and the environmental organizations.

¹ Dr. BASHIR JUMA ABD AL-JABBAR AL-KUBAISI, previous reference, p. 135.

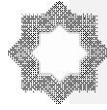
² Regarding this case, the failure of the affected country to file diplomatic claims against the Soviet Union was recorded to compensate for the damages resulting from the case, given the lack of



Nuclear Reactor No. 4 in Chernobyl in the former Soviet Union (Kiev city), and the fire was only brought under control in the month of May of the same year, and from the effects of this fire, a large amount of smoke was released containing radioactive materials, which pose a danger to the region and its inhabitants, and the most dangerous is that it forms a radioactive cloud moved by the wind, carrying with it its danger to a group from the European countries.

What is prominent in this case is the active role played by the IAEA for atomic energy, which led to the conclusion of the two Vienna Conventions, the first related to the early warning about nuclear accidents, and the second one is related to the nuclear accident or sudden nuclear radiation.

The role of the International Atomic Energy Agency has also emerged through the security council case with Iraq regarding the development of its nuclear weapons program and the case of the security council with North Korea regarding the diversion of the nuclear material.



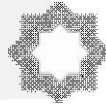
6. Conclusion

As a conclusion of international cooperation and solidarity with all available capabilities among the members of the international community, each according to his capabilities to deal with problems, and disputes. Environmental conditions, whether by predicting them or containing them in their infancy, are the most effective methods and mechanisms for the settlement of international environmental disputes. International cooperation in this context has become an international commitment that must be thought of before thinking about judicial mechanisms, which is embodied in the trend towards mechanisms that are not humane, similar to the system of compliance with multilateral environmental agreements.¹

Because in fact, even if it appears on the surface that the international environmental dispute is between two parties, or even international parties, its results will inevitably be long-term or short-term, affecting the globe. and its surroundings and those in it, regardless of its generations, even if you did not participate in the dispute or be a party to it. Because the negative effects will follow with varying degrees of severity.

A) The goal of international environmental law is to achieve the common interest of humanity, so it is the duty of states to cooperate to serve that interest.” This interest is based on the principle of cooperation International in general, which means coordinating the efforts of states and solidarity among them in order to preserve the environment and protect it from various

¹ <https://www.presidency.eg/ar/ data entry 10/7/2023>



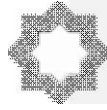
attacks and damages that threaten them. Moreover, this principle has been stipulated in many international texts, as it is an international principle that is more firmly rooted than the principles of public law.

B) The environment is one of the new “3” aspects of international relations that require international solidarity and cooperation, as the transboundary nature of environmental problems pushes countries to cooperate in order to reach solutions on environmental matters, and for the management of shared resources.

C) The principle of cooperation on information and exchanges, which is a translation of the principle of good faith.

The Egyptian Constitution was a pioneer in keeping pace with international trends and climate treaties, as it included explicit constitutional texts to protect the climate. The Egyptian Constitution of 2014, amended in 2019, obligated the state to implement a population program aimed at achieving a balance between population growth rates and available resources, maximizing investment in human energy, and improving its characteristics. Within the framework of achieving sustainable development, it also obligated the state to protect the Nile River, preserve Egypt’s historical rights related to it, rationalize and maximize its use, and not waste or pollute its water. It also obligated the state to protect its groundwater, take the necessary means to achieve water security, and support scientific research in this matter. the field.

Article 44 stipulates: The right of every citizen to enjoy the Nile River is guaranteed, and encroachment on its sanctuary or harm to



the river environment is prohibited, and the state is obligated to remove any encroachments on it in the manner regulated by law.

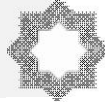
The Constitution also stipulates in Article 45: The state is committed to protecting its seas, beaches, lakes, waterways, and natural reserves, and prohibiting encroachment upon them, polluting them, or using them in ways that are inconsistent with their nature, and guaranteeing the right of every citizen to enjoy them. The state also guarantees the protection and development of urban green space. Preserving plant, animal, and fish resources, protecting those that are at risk of extinction or danger, and being kind to animals.

Article 46: Every person has the right to a healthy and sound environment, and protecting it is a national duty. The state is committed to taking the necessary measures to preserve it, not harm it, and the rational use of natural resources to ensure sustainable development and guarantee the rights of future generations in it.¹

Article 79 stipulates: the right of every citizen to healthy and adequate food and clean water, and the state's obligation to secure food resources for all citizens. It also guarantees food sovereignty in a sustainable manner and ensures the preservation of agricultural biological diversity and local plant species to preserve the rights of generations.

The Constitution also guarantees, in Article 93, the state's commitment to international human rights agreements that Egypt ratifies and which have the force of law. These agreements include the United Nations Framework Convention on Climate Change, the

¹ <https://www.presidency.eg/ar/> data entry 10/7/2023



Paris Climate Change Agreement, and the International Convention for the Prevention of Pollution from Ships.

In 22-23 June 2023 "President El-Sisi stressed at the "New Global Finance Charter" Summit in Paris:

President Abdel Fattah El-Sisi stressed the importance of the international community's response to ways to confront the challenges resulting from international crises and climate change.

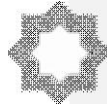
He said: Egypt hosted the summit of states parties to the United Nations Convention on Climate Change (COP27) in Sharm El-Sheikh and aimed to highlight the scale of the problem and the necessity of securing the necessary funding to confront it so that we can move at the national and international levels to achieve the sustainable development goals.

This came in an intervention by President Sisi during his participation in the round table "A New Way - Green Growth Partnerships" within the activities of the International Summit on the New Global Finance Charter held in the French capital, Paris.

The efforts that Egypt is making in the context of confronting climate change, including the serious steps it has taken in implementing several programs related to the transition to renewable energy until 2030, and he said: Egypt has implemented many programs that target sustainable development at the same time that work to protect the environment.¹

President El-Sisi noted that Egypt has spent a lot of money to implement plans aimed at protecting the environment, pointing to the successful Egyptian experience that was able to transform the

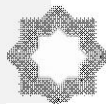
¹ <https://www.presidency.eg/ar/>. data entry 10/7/2023



lakes located on the Mediterranean Sea from their condition, which he described as "difficult," to environmentally friendly lakes.

He added, "Among the Egyptian plans that have been implemented towards protecting the environment is working to benefit from agricultural wastewater as an additional share alongside the Nile River and to recycle it so that it is not polluting the environment, stressing Egypt's success during the past three years in managing the debt plan for financing special programs." By protecting the environment, including working on the transition to renewable energy, water treatment, improving the road network, and using electric transportation.

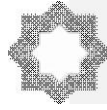
President El-Sisi called on development partners and the International Finance Corporation to understand Egypt's position in implementing all programs and plans for sustainable development while preserving environmental protection, following the challenges it faced during the past three years.



7. Recommendations

In summary of all of the above, my study culminated in a number of suggestions represented in:

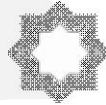
1. The establishment of international litigation is consistent with the specificity of international environmental disputes.
2. Establishing an institute to train international judges and arbitrators specialized in settling international environmental disputes according to specific terms of reference, for example, judges specialists in climate change, judges specializing in transboundary waste similar to nuclear waste, judges specializing in the field of space... With, the researcher's scientific expertise is used in the fields. and scholars specialized in this matter.
3. Filing environmental lawsuits based on the violation of human rights because it gives individuals the right to litigate before international and regional courts on human rights.
4. The judicial need for countries to develop their national legislation and systems (at the level of procedures and qualifications) and human capacities in line with claims for compensation for damages. Cross-border environmental issues, and make it easier for the affected foreign parties to resort to them to settle their claims.
5. Establishing a global fund to compensate for environmental damages that affect the global commons, funded by the contributions of the major industrialized countries, as they are the largest contributors to environmental pollution.
6. The establishment of an international body specialized in the affairs of the United Nations within the framework of the United Nations, whose mission is to receive complaints related to



the infringement of the global commons and to ensure the transfer to the future. Have the necessary papers, with the issuance of records regarding this type of damage and the initiation of the lawsuit before the competent judicial authority.

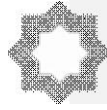
Finally, we come to the conclusion that the search for modern or appropriate mechanisms to settle this type of dispute does not necessarily mean abandoning the role of international bodies.

The judiciary is in charge of settling international disputes in general; rather, it requires reconsidering certain matters and adopting development in other matters, whether with regard to human structures or capabilities experience. The expertise of these bodies, as well as the adoption of more appropriate procedures for the specificity of this type of dispute, as the international judiciary must adapt quickly and effectively to international developments, especially the environment.



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1. Among the international environmental agreements that stipulate the reliance on international organizations as a mechanism for settling the international environmental disputes: the Convention on the Law of the Sea of 1982 adopting the mechanisms provided for in Article 33 of the Charter of the United Nations, which international organizations are among them, also stipulated the Helsinki Convention for the Protection of the Baltic Sea for the year on the possibility for an international organization to play the role of mediator if the parties jointly request it, provided that the dispute is not settled by way of negotiations, and it was not possible to reach an agreement, also Article 26 of the Helsinki Convention for the Protection of the Baltic Sea for the year 1992.
2. Dr. FAWZI ISMAIL ISSA - "Environmental Pollutants and Their Side Effects," Dar Al-Kutub AlAlamia, without a printed city, 2018. p. 30.
3. Dr. FAWZI ISMAIL ISSA - "Environmental Pollutants and Their Side Effects," Dar Al-Kutub AlAlamia, without a printed city, 2018. p. 30.
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5. Dr. ABDELAZIZ MEKHAIMAR, The Role of the International Organizations in Protecting the Environment, Dar Elnahda Elarabia, Cairo, 1986, P. 75.



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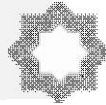
8. Dr. FAWZI ISMAIL ISSA - "the previous reference. p. 30.

9. Dr. KHALIL HUSSEIN, previous reference, p. 558-559, and for more details, see also: Dr. ABDULAZIZ AL-ASHAWI, Dr. ALI ABU HANI, previous reference, p. 86 et seq., also Chapter Six of the Charter of the United Nations.

10. Dr. MAMOUN AL-MANAN, International Organization Role, p. 182. The charter of an international organization is defined as the multilateral international treaty that plays the role of the legal basis for the emergence and formation of the international organization, and it usually contains objectives and the principles of the organization; it defines its main and subsidiary authorities, the voting system, and decision-making; and it includes a variation of its foreign affairs activities and all the other details of it. So the charter is an agreement that contains an explicit official expression issued.

11. Dr. MAMOUN ELMANAN, the principles of the public international law, the general theory, and the laws of charters and international organizations, Dar Alkottob Alkanonyia, Dar Shatat for Publishing and Programming, Egypt, 2010 P. 213.

12. Dr. MAMOUN ELMANAN, the principles of the public international law, the general theory, and the laws of charters and international organizations, Dar Alkottob Alkanonyia, Dar Shatat for Publishing and Programming, Egypt, 2010 P. 213.



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14. Dr. MOHSEN A FIKRIN, The International Environmental Law, P. 414

15. Dr. OMAR SAAD ALLAH, the international law for solving disputes, P. 105, and it should be noted that with the developments taking place in international society, the objectives of these organizations have evolved into other issues such as scientific, technological, humanitarian, and environmental issues.

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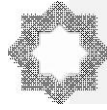
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25. Global trade in the commercial field will not prevent it from standing one day in front of the inevitability of preserving the environment for the sake of continuing to achieve the commercial interests of its members. The second issue relates to acknowledging the success of the dispute settlement body of the World Trade Organization and its effectiveness, due to the obligation of this mechanism that is supervised by the member states of the organization, as well as the full

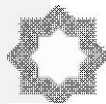
26. <https://www.presidency.eg/ar/> data entry 10/7/2023

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29. Organization for Economic Cooperation and Development: It is the successor organization to the Organization for European Economic Cooperation (O.E.C.E.), which includes all the major industrial powers in the world; see Dr. MOHSEN AFKERIN, The International Law of the Environment, p. 422.

30. Organization for Economic Cooperation and Development: It is the successor organization to the Organization for European Economic Cooperation (O.E.C.E.), which includes all the major



industrial powers in the world; see Dr. MOHSEN AFKERIN, The International Law of the Environment, p. 422.

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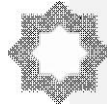
32. Regarding this accident, revise Dr. MOHAMED ADEL ASKR, the previous reference, margin P. 922-224, and also Dr. ABDELSALAM MANSOUR ELSHEWY, the previous reference, P. 196-206. Aussi: VINCENT, Droit de la Mer, Larcier, Bruxelles, 2008, p. 18 Philippe.

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<https://arabianchemistry.com/%D9%83%> Date of entry: 02/5/2023.

35. See the guide of the international organizations on the site:
<https://www.mandint.org/ar/guide-IO> , the access date is 18/5/2023.

36. The Maritime Consultative Organization for Governments (OMCI) it is an international organization, established in 1948, under the name of the advisory International Maritime Organization, headquartered in London, among its objectives: work to improve safety in seas, combating marine pollution, establishing a system to compensate people who suffer financial losses due to



Marine Pollution See Wikipedia: <https://en.wikipedia.org/wiki/> access date is 18/5/2023.

37. The settlement of disputes by the United Nations is through some of its authorities: - The Security Council - The General Assembly.

38. The tenth principle of the Rio Declaration of 1992 enshrined some environmental rights, such as the right to obtain environmental information the right to address environmental issues and to make decisions in the environmental field at the national level, of course, as it also enshrined it the agreement of the United Nations Economic Commission for Europe as this (UNECE) is concerned with and which is known as the "Aarhus Agreement", The Convention provides opportunities for access to information, public participation in decision-making regarding it, and resorting to the courts in the environmental issues. The agreement aims to expand public participation in matters related to the environment, and thus make it provided the opportunity to better and more effectively participate in preserving and protecting the environment. This agreement has been approved in 06/25/1998 in Aarhus, Denmark, and entered into force on October 30, 2001. Available for viewing on the website: <https://www.informea.org/ar/treaties/aarhus/text>, Access date is 03/5/2023.

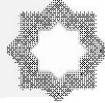


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