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**A Critical Analysis of the Legal Role and
Functions of the Gulf Cooperation Council
(GCC)**

by

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Thesis submitted for the degree of Doctor of Philosophy of Law in the
University of Sussex

2014

I hereby declare that this thesis has not been and will not be, submitted in whole or in part to another University for the award of any other degree.

Signature.....

Abstract

The Gulf Cooperation Council (GCC) is an international organisation established in 1981 between six Gulf countries, Bahrain,¹ the United Arab Emirates (UAE), Kuwait, Oman, Qatar and the Kingdom of Saudi Arabia (KSA). According to the GCC Supreme Council, it was established to foster and manage cooperation between these countries and to serve their common interests.² This thesis explores another factor, that it was established in response to specific security concerns in the context of the energy crisis that arose after the 1970's war between Egypt and Israel,³ the Soviet attack on Afghanistan and the Iranian revolution which was followed by the Iran-Iraq war.⁴

It is a doctrinal study that aims to determine where the GCC fits as an international institution within the framework of international law and international institutions particularly. Accordingly, the aim of this thesis is to analyse critically what the GCC is and does exactly. More specifically, it examines the type of organisation the GCC is, its relationship with member states and other international organisations and considers its future role as a key regional organisation.

This thesis analyses the reason for its establishment, leaders' opinions about its nature, the GCC's methods for producing collective political attitudes and economic cooperation. It also assesses the kinds of laws the GCC produces, their status, whether hard and soft law, as well as their enforcement. This analysis is conducted from a combined legal positivist and international relations framework.

From Nasserism to the Arab Spring, the GCC has withstood the waves of political movements in the Middle East. This thesis provide a critical analysis of the GCC's overall achievements and aims, with a particular focus on its response to key political developments such as these. This thesis argues that GCC members have been using the GCC as means to achieve their own ends. Due to the nature of their governing systems – absolute monarchy – they are using the GCC to maintain the security and stability of their own ruling systems. However, while the GCC has always focused on security and economic cooperation, its achievements are stronger in the latter because security is linked to external factors.

¹ Now the Kingdom of Bahrain

²The Supreme Council, First Meeting (1981).

³ Anthony, J. D. (1982)

⁴ Peterson, E. R. (1988)

Acknowledgements

My thanks and appreciation are due to many individuals and institutions who have helped and advised me in throughout the course of this thesis. My deep thanks and appreciation are due to my main supervisor Professor Craig Barker as well as to my second supervisor Dr Elizabeth Craig for guiding me towards the quick and right direction for researching, for teaching me tremendously and for their valuable advice, and strong support and encouragement during the period of my research. Without their determined and excellent suggestions this work could not have been completed.

This work would not have been possible without the financial support of King Fahad Naval Academy in Aljubail, Saudi Arabia. Special thanks are due to the Head of the Employee Department Mr. Diakan Al-Marry, to the Deputy of the Head of the Academy for Education Rear Admiral AbdulWahhap Almosa, as well as to the previous Head of the Academy Vice Admiral Khalid Alhamdan.

My deep appreciation and thanks are due to many individuals in the Department of Legal Affairs in the GCC Secretariat General, especially to Abdulmajeed Alsady who made himself available to give me a personal interview. Also, thanks are due to the head of the Library of the GCC Secretariat General, Dr. Yakoob, for allowing me access their public literature.

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Abbreviations

AJIL	The American Journal of International Law
BICI	Bahrain Independent Commission of Inquiry
CMLR	Common Market Law Report
EC	European Commission
EEIC	The English East Indian Company
EU	European Union
FS	Fundamental Statute
GCC	Gulf Cooperation Council
GDP	Gross Domestic Product
Int'l Affairs	International Affairs (An electronic Journal)
ICC	International Criminal Court
ICJ	International Court of Justice
IR	International Relations
IO	International Organisations
KSA	Kingdom of Saudi Arabia
POWs	Kuwaiti Prisoners of War
OAS	Organization of American States
OIC	Organization of the Islamic Conference
PCIJ	Permanent Court of International Justice
UAE	United Arab Emirates
UK	United Kingdom
UKTS	United Kingdom Treaty Series
UN	United Nations
UNIIMOG	The UN Iran-Iraq Military Observer Group
US	The United States of America
VCLT	The Vienna Convention on the Law of Treaties
WTO	World Trade Organization

Chapter One - Introduction

The Gulf Cooperation Council (GCC) is an international organisation established in 1981 between six Gulf countries, Bahrain (now the Kingdom of Bahrain), the United Arab Emirates (UAE), Kuwait, Oman, Qatar and the Kingdom of Saudi Arabia. These countries are, according to the GCC, "fully aware of the ties of special relations, common characteristics and similar systems."⁵ They desire "to effect coordination, cooperation, and integration between them in all fields,"⁶ in order to "pursu[e] the goal of strengthening cooperation and reinforcement of links between them."⁷ It is "an endeavour 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."⁸ It is important to note that the GCC was established in response to particular security concerns within the context of the energy crisis that arose after the 1970's war between Egypt and Israel,⁹ the Soviet attack on Afghanistan and the Iranian Revolution which was followed by the Iran-Iraq war.¹⁰

This thesis argues that since its creation, the GCC has withstood the waves of political movements in the Middle East: Nasserism, the Western push for democracy and, more recently, the Arab Spring. A lot of media and political attention has focused on the role of the GCC in the 21st Century in light of its response to the Arab Spring¹¹ and significant political changes in the political climate in a number of Middle Eastern States.¹² This thesis aims to provide a critical analysis of the GCC's overall achievements and aims, focusing in particular on its response to key political developments. It is a doctrinal study that aims to determine where, as an international

⁵ The introduction of the GCC Charter (1981)

⁶ Ibid.

⁷ Ibid.

⁸ Ibid.

⁹ Anthony, J. D. (1982)

¹⁰ Peterson, E. R. (1988)

¹¹ The phrase "Arab Spring" refers to the 2011 public revolutions in several Arab countries like Tunisia and Egypt against their dictatorial government. The phrase is commonly used nowadays although its authorship is unknown.

¹² See *Asharq Alawsat* newspapers (15 Feb 2011), (27 Apr 2011), 11838, (7 Oct 2011), 12001, (1 Dec 2011), 12068, and (2 Jan 2012), 12088 (All in Arabic). Reuters News (15 April 2011) available on <http://ara.reuters.com>; See *The Economist* (19 May 2011).

institution, the GCC fits within the framework of international law generally and international institutions particularly. Accordingly, the aim of this thesis is to analyse critically what the GCC is and what it does exactly. More specifically, it analyses the existence of the GCC as an international organisation to examine the type of organisation it is, to assess critically its relationship with its member states and other international organisations and to consider its future role as a key regional organisation.

1.1 Why focus on the GCC?

In general, international organisations should be studied because they are major entities and their procedures and progression are not straightforward, which makes it difficult to evaluate them.¹³ Keohane asserts the importance of international organisations to states: “International institutions have the *potential* to facilitate cooperation, and without international cooperation, [...] the prospects for our species will be very poor indeed. Cooperation is not always benign; but without cooperation, we will be lost. Without institutions there will be little cooperation. And without knowledge of how institutions work – and what makes them work well – there are likely to be fewer, and worse, institutions than if such knowledge is widespread.”¹⁴ International organisations have become a crucial element for helping nations govern themselves and helping explain why they fail, at times, to properly govern their relationship. Studying international organisations provides a better understanding of how international rules are made, altered and function, as they have a significant role in creating and implementing law on both the international and national level.¹⁵

There is a general scarcity of literature on the GCC: apart from what the GCC has published itself,¹⁶ the few pieces of literature on the GCC are now very dated.¹⁷ This

¹³ Keohane, R. O., Ed. (1996), p. 203.

¹⁴ Ibid.

¹⁵ Alvarez, J. E. (2005)

¹⁶ Such as Abd-Alrahman Alatiyah, The Secretary-General (July 2010) *Almaseera*. 29 The GCC Process and Achievement (2009) GCC Secretariat-General (2009) The GCC : Process and Achievement (1992), pp. 117-119, News Section-Media Department (2006) Achievement of the GCC. Secretariat General (2003) The procedure and steps for adopting the GCC Custom Union. The Achievement of Cooperation, External Policy. Available on www.gcc-sg.org, The GCC Process and Achievements (2009). The GCC Record of Regular and Extraordinary sessions. Available on www.gcc-sg.org [Accessed on 25-11-2010].

¹⁷ Such as Alashal, A. (1983); Hawley, D. (1970) Hay, R. (1959) Heard-Bey, F. (1982) Husain M. Albaharna (1968) Peterson, J.E. (1987); Christie, J. (1987); Twinam, J. (1987); Joseph, K. (1988);

thesis therefore aims to address this gap by offering an analysis of the GCC from a legal standpoint, rooted in international relations (IR) theory. By combining the legal analysis with IR theory, this thesis provides the existing literature with a new unequalled study. It also contributes to the growing literature on the significance of the Arab Spring itself and the global community's response.¹⁸

As there is little written material either in English or in Arabic, directly on the GCC, this thesis draws upon the wealth of secondary literature dealing with international institutions generally, both from a practical and theoretical perspective.

1.2 Approach

In focusing on the GCC, an important aim of this thesis is to discover the real reasons, aims and motives behind the establishment of the GCC. This thesis reviews the political environment of the Gulf region at the time of its establishment in 1980 when the countries involved were looking to have a stronger army for their defence. This appears to be a strong reason for its establishment through what was published in newspapers at the time and especially in the speeches of the leaders of member countries.¹⁹ While there were discussions of security in the Gulf, of combining forces and having a strong shared army, there were no references to a single market, single currency and similar economic issues; in fact, this only happened later. This raises questions as to whether the GCC was created for a specific function and each member country found it more beneficial to join this organisation to achieve their own individual interests rather than attempting to reach them alone, or whether it was created to set up an institutional framework that could develop independently to shape a common new interest that would not exist if each member was working alone towards its own interests. Whichever the case, is it still the same situation today or has it changed? After these countries established the GCC, they may have felt more secure and considered that the threat they had felt did not exist anymore, or perhaps having achieved a high standard of military cooperation, it was then time to consider other aspects of cooperation. The aim could

Nakhleh, E. A. (1986); Peterson, E. R. (1988). Sandwick, J. A., Ed. (1987) Twinam, J. W. (1987); Ziade, M. G. (1987).

¹⁸ Such as Mair, J., Keeble, R.L. (2011), Manhire, T. (ed) (2012), Hamid Dabashi (2012), Bradley, J.R. (2012).

¹⁹ See *Alriyadh* Newspapers, 334 (3 Dec 1981).

still be military cooperation while economic issues are merely a smokescreen to hide this military alliance.

Secretary General Abdurrahman Al-Attiyah has argued that:

Coordination and cooperation in the field of external policy aim at adopting common positions towards political issues that are of common concern to the GCC States within Arab, regional, and international contexts, as well as behaving as a single group vis-à-vis rest of the world within a framework of principles based on mutual respect, non-intervention in internal affairs and the observance of common interests, in such a manner that maintains the common interests of the GCC Member States, enhances their stability and meets the approval of their peoples.²⁰

By examining both the GCC aims and its achievements, it can be observed that what is believed to be the required level of cooperation and the achieved cooperation do not match so far.

This thesis aims to find this missing link, or perhaps, the missing next step. Accordingly, in the closing statement of its third meeting in November 1982, the Supreme Council encouraged all the bodies under its umbrella to move to the next step of cooperation and take the required steps towards implementation, stressing the need to take part in the common interest. It seems that this 'next step' has not been taken yet, though the leaders of the GCC have recognised that the GCC has to move in this direction. In 2011, King Abdullah, the Saudi King, argued for member states to move from cooperation to unity.²¹ Taking into account that achieving unity among member countries is one of the aims set out in the GCC Charter,²² the problem is that the GCC is not able to take this step, because it has not been given enough independence and there is no GCC court of law.

With regards to this last point, there is a need to analyse the framework of the GCC. If it is viewed mainly from a realist position that member states joined to cooperate when cooperation appears beneficial and opt not to cooperate when it appears not to be, then the required next step may be to move towards giving the GCC more independence without worrying too much about the sovereignty of member countries. By doing that,

²⁰ The Secretary General Abdurrahman Al-Attiyah (2009), p. 13.

²¹ King Abdullah statement in the 32nd meeting of the GCC Supreme Council in Riyadh, December 2011. *Alsharq* Newspaper (8 December 2011) available on www.alsharq.net.sa (in Arabic) [Accessed on 5 May 2012]

²² See the introduction of the GCC Charter (1981).

the GCC could have the ability to grow by itself and work towards shaping the common interest of member countries.

The GCC bodies, roles and procedures are similar to what they were at the time of its establishment 30 years ago, in contrast to an institution like the European Union (EU) which has undergone many developments since its establishment in 1951. It started as the Coal and Steel Community in 1951 and developed to three communities in 1970. In 1993, it expanded to what is known today as the EU.²³ The EU started with only six members but has expanded to 27 members today, while the GCC membership remains limited to six members. This thesis will demonstrate how the GCC did not really comply with the rules set up by international institution lawyers that an international organisation has to have clear membership rules.²⁴

The main purpose for establishing international institutions is to facilitate the process of making agreements between member countries.²⁵ This thesis criticises the role of the GCC in facilitating agreements between member countries, taking into account the fact that the main agreement between GCC members, the Unified Economic Agreement (UEA), had been drafted before the first meeting of the GCC Supreme Council. The GCC had therefore not really facilitated the ratification of this agreement, as it was drafted before the GCC's existence. In addition, although GCC leaders had ratified this agreement, it has still not completely been applied by GCC members, which raises the question of the capacity of the GCC in implementing its own rules.²⁶

One of the expected roles of international institutions is to help states create a new equilibrium as a natural result of interaction. An international institution is then expected to keep this equilibrium stable by creating common expectations. The first important aspect of cooperation for each member is the expectation that the other members will apply a rule or agreement in their internal laws, and the second is to be sure that this rule or agreement is beneficial.²⁷ This leads to question the role of the GCC in creating common expectations, which has not yet been addressed in the

²³ Eder, K. , Spohn, W. (2005).

²⁴ See Alvarez (2005); Klein, P. S. a. P. (2001).

²⁵ Beck et al (1996), p.166.

²⁶ See Alnoaimi A. (2006) available on www.emasc.co [Accessed 20 Feb 2009]

²⁷ Abbott, K. W. (1999) International Relation Theory, International Law, and the Regime Governing Atrocities in Internal Conflicts. *American Journal of International Law*, Vol. 93,P. 361.

literature. In this regard, the first GCC announcement stressed that member states have a similar culture, a common religion and economic system and that they all faced the same fears and challenges.²⁸ This announcement assumed that these similarities shared by member countries would facilitate cooperation between them, but in fact, that would not help if there were no common expectations of how the GCC rules would be implemented in each member country.²⁹ This thesis uses the case of Bahrain breaking the Gulf Economic Agreement (EA) as a case study to analyse the importance of common expectation for cooperation.³⁰

Before the end of the Iran-Iraq war of 1980-1988, detractors stressed that the GCC was no more than a smokescreen whose identity depended on the end result of that war.³¹ Others argued that the GCC was not only misunderstood but had also become an object of misinformation. Interestingly, neither the words “union” and “unity” nor any similar words were mentioned in the first GCC meeting of 1981.³² The main criticisms about the GCC, mentioned above, were in books predating the end of the Iran-Iraq war in 1988, however, after 1988, the literature written about the GCC has not openly attempted to critically identify its nature and question the reason behind its existence.³³ There is therefore a need for a more recent analysis of the existence of the GCC and an evaluation of whether or not that has changed since its establishment.

This thesis argues that the GCC was created in 1981 in an attempt to maintain the security of member countries from the surrounding danger. That danger was two-fold, danger threatening their countries posed by some conflict in the region (e.g. Iraq-Iran war, Afghanistan war) and the designs of Iraq and Iran on some of the members’ lands. The second danger was the threat to their political royal system – absolute monarchy – posed by Nasserism. In the present time, both kinds of dangers still exist: Iran still poses a major threat to Bahrain and the Arab Spring (2011) is challenging a number of Middle Eastern political systems. The GCC is a chosen path for these countries to strengthen their security and economy in order to be capable to stand up against these

²⁸ (2008). *البيانات الختامية لدورات المجلس الأعلى (من الدورة الأولى إلى الدورة السابعة والعشرون)*.

²⁹ Keohane, R. O., Ed. (1996)

³⁰ *Asharq Al-Awsat* newspaper, 9534, 4 January 2005.

³¹ Joseph, K. (1988)

³² Anthony, J. D. (1982)

³³ See Anthony, J. D. (1982) Anthony, J. D. (1986). Joseph, K. (1988). Nakhleh, E. A. (1986). Peterson, E. R. (1988).

dangers. This thesis argues that the GCC has always focused on security and economic cooperation, but because security is linked to external factors, its achievements are better in economic matters. Although the GCC has achieved more in terms of economic cooperation, it is still not at the expected level. Due to the nature of the governing systems in member countries, they are not willing or, maybe not able to, take the required step by giving the GCC more room for independence as well as creating a GCC court of law.

1.3 Methodology

In undertaking the analysis of this thesis, reference is made to primary source material, including historical documents detailing the creation of the organisation, as well as secondary sources including books, articles, reports and websites. In other words, a qualitative research methodology is used in this thesis. In many parts, the analysis relies on the material published by the GCC Press,³⁴ which is regarded as the public gateway for the GCC to publicise achievements and the closing statements of the Supreme Council, the Council of Ministers, etc... The Supreme Council meets once per year and after each meeting the Printing Press publishes the Council's closing statements. A review and analysis of these closing statements enables this thesis to explore the direction and the framework of the GCC and to determine whether the GCC's interest in politics, security, economy and social cooperation, has changed or not. Also, this thesis critiques the GCC's own news about its achievements³⁵ and compares these achievements to the GCC's declared principles and aims.

A significant amount of literature on the GCC is published by GCC Printing Press, written by the Secretariat General Media Department or by the Information Centre Statistical Department. Until now, this literature has been published primarily in Arabic (142 in Arabic and 41 in English) and much of this literature is available as electronic books on the GCC website under the "Digital Library" link.³⁶ This literature addresses comprehensive matters about the GCC: agreements, customs, economics, education, environment, industrial law, patents, plants, population, statistics, transit and youth and

³⁴ Many of them are available on: <http://library.gcc-sg.org/English>.

³⁵ See GCC (2006).

³⁶ Available on <http://library.gcc-sg.org/English> [Accessed on 7 May 2011]

sports. This easily accessible literature gives this thesis a good number of resources about the GCC.

The materials written by the Secretariat General Media Department or by the Information Centre Statistical Department are subject to critique due to their lack of objectivity as they are what the GCC publishes about itself. The core of this material is on three subjects. The first subject contains an official record of the GCC, such as the statements of the Supreme Council and the Council of Ministers and the laws created by the GCC.³⁷ These Councils' statements can be analysed in order to find out what the GCC common interests are. The second subject relates to GCC achievements, which are subject to critique and can also be the object of studies, relating achievements to comparable organisations, namely the EU.³⁸ The third subject of the material is research about common issues in the Gulf area. This research material, although not from an independent body, still substantiates this thesis with valuable data.

The analysis within this thesis is based on three sub-disciplines of international law and international relations: international institutional law, international law theory and international relations theory. International institutional law scholars have empirically studied international organisations to discover the common rules that the majority of international organisations recognise.³⁹ That provides a framework for this thesis to analyse some topics such as the GCC structure, its bodies, its Charter, law-making system, creating treaties, the voting system and membership system. Some of the key literature in international institutional law analysed in the development of this thesis are: Alvarez, J. (2005) *International Organization as Law-makers*, Sands, Philippe and Klein, Pierre (2009) *Bowett's Law of International Institutions*, White, D. Nigel (2005) *The Law of International Organizations*.

In terms of international legal theory, legal positivism as well as legalisation theories allows this thesis to measure the strengths and weaknesses of the laws created by the

³⁷ These statements of both Councils, all in Arabic some of them are in English, are available on the GCC official website on www.gcc.sg.org. [Accessed on 15 June 2012].

³⁸ See for example, *GCC Process and Achievement* (2009) and the *Common Market*. Secretariat (2007)

³⁹ Alvarez (2006), p. 61.

GCC, situated between hard and soft law.⁴⁰ The key literatures here are: Hart, Herbert L.A. (1961) *The Concept of Law* and Abbott, Keohane, Moravcsil, Slaughter and Snidal (2001) *The Concept of Legalization. Legalization and World Politics*.

Meanwhile, in terms of international relations theory, particularly in analysing the overlap between international law and international relations, this thesis draws mainly on J. Craig Barker (2000) *International Law and International Relations*. One of the main sources for this thesis on international relations theory is Beck, et al. (1996) *International Rules: Approaches from International Law and International Relations*, a book which gathers the significant works of many great writers on international law and international relation theory. The first part of this thesis will focus in particular upon realist and neorealist theory. This thesis relies on some authors on neorealist approach; mainly Kenneth N. Waltz (1988) *The Origins of War in Neorealist Theory*. The concept of the balance of the power is a realist concept which allows this thesis to analyse why the GCC exists in the first place. Neorealist theory helps understanding the GCC's creation because it is a theory of security and survival.⁴¹ The second part looks at the future of the GCC and the required development. In this regard, institutionalism is the applicable theory because institutionalist scholars believe that although states are the main international actors, international organisations are still significant because states have various international economic interests and therefore need international organisations as agents to help states cooperate internationally.⁴²

Each one of these disciplines has different roles in this thesis: international institutional law is used to reveal when the GCC is not in line with the majority of international organisations. By examining the GCC upon these roles, this thesis reveals when the GCC has to give explanation; for example why it has unequal systems such as its membership system - this will be analysed in chapter seven. Legal theory is used here to break down the process as to how the GCC's laws pass from being soft to hard law. The distinction between hard and soft law is particularly important when looking at the GCC and the impact of its law making. Realists, with their concept of the balance of

⁴⁰See chapter two of this thesis for more detail.

⁴¹Waltz (1988), p.618.

⁴²Beck, et al. (1996), p. 166.

power, as well as the neorealist, with their survival theory, are central in analysing why the GCC exist and why it functions this way. Institutional theory is important in channelling the way for more development by demonstrating the vitality of giving the GCC more independence in order to be able to develop better.

The thesis draws upon a range of primary and secondary documentation. Inevitably, it relies heavily on a lot of materials produced by the GCC itself. It was however recognised that the materials written by the Secretariat General Media Department or by the Information Centre Statistical Department lack objectivity. It proved difficult or impossible to obtain information from the GCC beyond what the GCC already published. Nakhleh argues that “[m]ost Gulf countries regard population statistics as vital information. In some countries, population figures are almost a state secret; therefore population data can vary from one source to another.”⁴³ This research has noticed that information nowadays is much available than the time of Mr. Nakhleh, yet, there is still a lot of information which is kept secret without a clear reason.

Three examples can perhaps illustrate the difficulty I faced. Firstly, I went to the Secretariat General headquarters many times to speak with senior officials and several employees in the Legal Department in order to gain access to a wider range of material on the GCC such as: more detail about the debate between the member countries before creating the GCC, the debate of the drafters of the GCC Charter, the Security Agreement and the Economic Agreement. Yet, they refuse my request and kindly provided me with a lot of material already published by the GCC.

A second example is that I sent a formal letter to the GCC Secretary General Abdurrahman Al-Attiyah asking him to accept that I volunteer for the GCC (without salary) for a few months for the purpose of my PhD research as other organisations sometimes offer internship programmes to researchers. A few months after, I received a letter from the Secretary General saying that he was sorry to refuse my request because the GCC does not have any internship programmes. Therefore, I was unable to get an internal insight of the GCC.

⁴³ Nakhleh (1986), p.vii.

The third example is that I needed to have a copy of the Security Agreement which remains unpublished by the GCC, unlike the Economic Agreement. I asked the director of the Legal Department in the Secretariat General to provide me with one copy of the GCC Security Agreement but he responded to say that I should write a formal letter to the Secretary General. I then sent the letter per his instructions and followed up with a phone call to the Office of the Secretary General after few days. They told me that my letter had been transferred to the Military Department in the Secretary General. I phoned the Military Department several times, over several days, but each time they asked me to phone them back the next day. After a few days, I phoned again and they told me that they are sorry to refuse my request because they only give copies of the Security Agreement to a formal governmental body but not to an individual researcher. It is not a secret agreement but all these difficulties are because of the bureaucratic system. Even though I thought there would be no way to obtain a copy, I fortunately found a copy of the GCC Security Agreement in an unpublished research.

The hidden information may be important to this thesis or not, however, the available information is still considerably rich. Such information includes the full text of the GCC treaties, the Supreme and Ministerial Council statements, the GCC publications about its achievement, the statements of the leaders of the membership etc. Also, it was necessary to draw upon other sources secondary literature, newspaper, journals, reports etc. All such information gives this thesis rich material which is subject to analysis and criticism. One example of going over the problem of the hidden information is that there is no recorded debate about Kuwaiti's objections about the Security Agreement. But this thesis goes over that by examining the articles of the GCC Security Agreement on light of the Kuwaiti Constitutional law. By this analysis this thesis has recognised the conflict between the Kuwaiti Constitutional law and the Security Agreement this conflict should be the reason behind the Kuwaiti objections.

1.4 Outline

The second chapter is a theoretical chapter which provides the framework for the analysis in the following chapters. This chapter starts by giving a brief introduction

about international institutional law to illustrate where it fits within the field of international law. It also classifies different types of international organisations in order to specify to which type the GCC belongs and to direct the focus of this thesis. This chapter outlines the theoretical foundations of this thesis in two parts. The first part reviews, analyses and criticises the theories presented by scholars of international law. The main focus is given to legal positivism and to the theory of legalisation. The second part discusses, analyses and evaluates international relations theories.

This chapter applies IR theories focusing in particular on idealism, realism, institutionalism and constructivism. Though this thesis uses a doctrinal analysis of the rules that govern the GCC, the analysis is enriched by applying a variety of schools of thought from IR theory,⁴⁴ that add the dimension of political factors behind legal rules. This way of studying the GCC rules has not yet been undertaken in the literature, and this thesis therefore aims to contribute to studies of the GCC by adding the broader scope of IR theory to link the doctrinal analysis with political motive according to which the rules governing the GCC have been established.

In measuring GCC strengths and weaknesses, the thesis draws directly on regime/institutionalist theory, an IR theory which places international institutions at the centre of international interaction and argues that cooperation is best achieved through such institutions.⁴⁵ The study of regimes has produced an enormous amount of original literature that seeks to describe the emergence and determination of cooperation and the foundations of state uniqueness and interests,⁴⁶ but this type of explanation has not yet been applied to any study of the GCC.

This chapter contributes to the growing tendency in the literature to blur the borders between international law and IR theory.⁴⁷ During the last 20 years, IR theory has generated some enthusiastic studies in international law.⁴⁸ Similarly, this thesis aims to give the reader a different way of looking at the GCC, a way that sheds light on what has been in the shadows, inspired by institutionalist approaches to international law. Although this is first and foremost a doctrinal study, IR theory helps to lessen the

⁴⁴ See Abbott (1999), Barker, J. C. (2000), Beck et al (1996), Brown, C. (1992) and Jahn, B. (2006).

⁴⁵ Beck et al (1996).

⁴⁶ Ibid.

⁴⁷ See Ibid p 3.

⁴⁸ Abbott (1999).

abstract and autonomous nature of a doctrinal analysis by considering the political motives behind the legal rules and institutions. So, IR theory enriches this doctrinal thesis which examines the role of the GCC in its political context and predicts the ways for GCC ideals to become a reality.

The third and fourth chapter of this thesis examine the history of GCC member countries and of the GCC itself. One crucial part of this history is the history of the governing systems and the history of the ruling families which based their governing style on Islamic and Arab tradition. This thesis does not aim to give a complete history of GCC countries but rather to address the parts that help better understand the aims of establishing the GCC. Nigel White states “For a fuller understanding of how the law relating to international organisations has been shaped, such institutions need to be examined in their wider context”.⁴⁹

The head of the Kuwaiti Parliament Ahmad Al-Sadon states that cooperation between GCC countries is a vital goal, and GCC countries have to develop this cooperation more quickly to become a stronger union. However, he continues, unity cannot exist between countries with different political systems. There cannot be a union between a country like Kuwait where there is freedom of speech and the right to local and national political participation and other countries where there are many prisoners who were imprisoned for having expressed their opinions.⁵⁰ The similarities and differences between the differing governing systems of member countries therefore require close examination. This evaluation is also relevant to current debates surrounding the recent invitations extended to Jordan and Morocco to join the GCC in 2011.⁵¹

The fifth chapter critically examines the GCC’s political, economic and security achievements and argues that its political achievements are questionable, as the GCC was ineffective during the most dangerous period of the region, when Iraq occupied Kuwait in 1990. It further argues that the GCC had no active role in all the assumed political achievements, which were actually achievements of the individual member states. It was not until 2011, with the Arab Spring, that member countries succeeded in

⁴⁹ White, Nigel (2005), p. 2.

⁵⁰ Ahmad A-Sadon, The Head of the Kuwaiti Parliament. *Al-Arabia TV* 20 Feb 2012.

⁵¹ See, for example, the Club Fit for Kings (19 May 2011), *The Economist* Available on www.economist.com [Accessed on 21 April 2012].

allowing the GCC to take an important role in helping revolutions, especially in Yemen. As, this time, the Secretary General of the GCC was more in charge of leading the direction of the Yemeni revolution than individual members countries.

In terms of economic cooperation, this chapter considers that the GCC had initiated the process from the outset starting with the free trade area, followed by the Customs Union and the Common Market. People in these countries can now travel, live, work, do business, buy property, etc... in any member country: all member countries treat any person from another member country as if they were nationals.

In terms of security cooperation, one of the objectives for creating the GCC was to let these countries achieve their independence on their terms without the intervention of international powers and to keep the Arabian Gulf free from Western military bases. This chapter will show how the GCC has not met this aim, considering that there are now some American military bases in Kuwait and Qatar.

The sixth chapter deals with the law-making role of international organisations generally and of the GCC especially. International organisations have the ability to create international law; in fact they remain the main producers and implementers of international law today.⁵² Generally, the issue of the binding force of international law is well addressed in the literature,⁵³ yet in this context, what is not analytically addressed is the binding nature of the laws created by the GCC, regarded as a part of international law, nor their enforcement and how that would affect the GCC's role and reputation. Moreover, it examines how the GCC's law-making process could hinder its ability to act as an international organisation and to sign treaties with other countries or organisations.

This chapter provides significant analysis, comparison and examination of the laws and rules that govern the GCC, especially the Charter which is regarded as the first ratified agreement under the umbrella of the GCC. The aim is to determine what member states agreed on in the Charter, comparing to other organisations, when appropriate, to analyse why the Charter is written in this particular way and to speculate about what would happen if it were written in a different way.

⁵² See Alvarez, J. E. (2005)

⁵³ See Barker, J. C. (2000); Brownlie, I. (1999).

Key GCC laws and rules are analysed, evaluated and compared with rules of other organisations where appropriate, relying on the rich literature written about international organisations⁵⁴ and international law⁵⁵ more generally as well the existing literature on the GCC itself.⁵⁶ Focus is given to the key GCC treaties, especially the Unified Economic Agreement (UEA), which is regarded as the second ratified GCC agreement of 1981, and the Economic Agreement (EA).⁵⁷ On this point the binding nature of GCC laws is analysed in light of the extensive discussion about the binding nature of international law.⁵⁸

Chapter Seven analyses several recent GCC actions in order to get to the bottom of its identity and interests. Taking a neorealist perspective,⁵⁹ this section argues that one major goal of the leaders of the GCC countries was to establish the means to ensure the survival of their royal political systems. There have been three different kinds of pressures on the governments of GCC countries since the GCC was established to date. Firstly, the older Arab revolution known as Nasserism⁶⁰, when there was a serious influential political movement in the Arab world in the 1980s which led to the collapse of several Arab monarchies (Egypt, Yemen, Iraq and Libya). Secondly, there has been the continuing pressure of the influence of democracy. This part explores how the GCC helps its member countries stand up against the international push towards democratisation. Thirdly, there are the newer pressures in the form of the recent Arab revolutions (the Arab Spring). The GCC's 2011 decision to extend membership to two additional countries and its unique decision to intervene militarily in Bahrain was a direct response to the Arab Spring. This chapter will explore how in the GCC reaction to these three kinds of pressures, one of the main concerns of GCC countries has been the survival of their royal political systems.

⁵⁴ See Archer, C. (1992); Klein, P. S. a. P. (2001); Alvarez, J. E. (2005)... غ. الجندي, (1990); ع. ع. ا. الطيار, (2004).

⁵⁵ See Brownlie, I. (1999); Hart, H. L. A. (1996). Beck, Arend, and Vander Lugt (1996); Lowe, V. (2007); Rajagopal, B. (2003); Shaw, M. N. (2003); ع. م. س. ع. (1977); الحמיד, م. س. ع. (1992); باخشب, ع. أ. ب. (1992).

⁵⁶ See Anthony, J. D. (1982); Anthony, J. D. (1986); Houlahan, T. (1999); Ismael, T. Y. I. J. S. (1994).; Nakhleh, E. A. (1986); Peterson, E. R. (1988).; Sandwick, J. A. (1987); Snider, L. W. (1988); أبو الوفا, أ. (1996); الأشعل, ع. أ. (1983).

⁵⁷ See the full text of EA in Annex.

⁵⁸ Barker, J. C. (2000); Beck, A. C. A. R. J. (1993).

⁵⁹ This theory argues that states do cooperate in order to ensure their survival. See detailed analyses of this theory in the last chapter.

⁶⁰ As discussed below, Nasserism is an Arab nationalism and anti-Western political movement.

1.5 Conclusion

This thesis provides new insights into the GCC contributing to the development of a better understanding of the GCC as an organisation. It takes readers beyond the image that the GCC is trying to portray about itself by examining the factors contributing to its establishment and offering a critical analysis of the GCC's achievements and aims. It also contributes to debates on the future of the GCC as it evaluates how the GCC can become a more effective organisation. It suggests that enabling the GCC to be more independent, as well as establishing a GCC court of law, could give the GCC the ability to be more effective and to be in a better position to shape the common interests of the member countries.

The analysis presented in this thesis is based on a legal framework and is rooted in IR theory. It focuses on the GCC law-making process and analyses the main laws and treaties created by the GCC, mainly the GCC Charter and the UEA. In addition to the legal analysis, this thesis applies IR theory to the GCC, focusing on idealism, realism, institutionalism and constructivism. IR theory allows this thesis to provide greater insight into the political factors influencing the legal rules. For example, the thesis argues that one chief aim of the GCC is to ensure the survival of the existing political system of GCC member countries, which is absolute monarchy. This argument is based on a realist analysis of the GCC's responses to several key political movements, namely: Nasserism, the Western push for democracy and, more recently, the Arab Spring.

Finally, when criticising the GCC, this thesis does not ignore its significant achievements but provides an academic analysis that may help contribute to the development of more creative role for the GCC. As an Arabic proverb states, "Your friend is the one who tells you the truth about yourself, not the one who believes everything you say". Thus, by illuminating these criticisms, it suggests ways of solving the issues raised here. Although the thesis evaluates the strengths and weaknesses of the GCC, it does not purport to provide the perfect solution.

Chapter Two –Theories of International Law and International Relations

2.1 Introduction

This chapter is the basis for the analysis presented in the following chapters, providing the theoretical foundations of this thesis. This chapter reviews, analyses and criticises the theories presented by scholars of international law in the first part, and those presented by international relations scholars in a second.

2.2 International Law Theories

It is important to analyse the difference between what is law and what is international law. There are many methods to analyse this, but the one used here is legal positivism, which focuses mainly on what the law is and not what the law should be. This approach has been selected for this thesis because it is the best way to examine what the law is or if there is actually a law on a given matter. This chapter therefore applies a legal positivist approach to analyse the laws that the GCC is creating, by which it governs itself and governs the cooperation between the member countries. This chapter focuses on the development of Hart's legal positivist theory, which states that a legal system has to have two kinds of rules: primary rules which tell what individuals have or do not have to do, and secondary rules which consist of three elements: rules of recognition, rules of change and rule of adjudication.¹ Hart's theory is further developed by the legalisation theory established by Abbott, Keohane, Moravcsil, Slaughter and Snidal.² This theory states that legal rules are measured based on three elements: obligation, delegation and precision, in order to classify them accordingly between hard and soft law.³

¹ Hart, Herbert L. (1961) *The Concept of Law*. Oxford, Clarendon Press.

² Abbott et al (2001) *The Concept of Legalization. Legalization and World Politics*. Cambridge, The MIT Press.

³ See *ibid* p. 19.

2.2.1 Legal Positivism

Legal positivism is a general approach to law which focuses on what the law is, and not on what it should be.⁴ The root of this approach goes back more than 300 years even though it is still a main legal approach today. Arend highlights the importance of this approach in the contemporary legal analysis of international law, stating “Modern international law is founded largely on positivist principles.”⁵ Legal positivism pushes legal analyses of international law to become more systematic and scientific.⁶

Positivism comprises a number of approaches where the main focus is describing the existing law; additionally, for positivists, law is free from morals.⁷ In other words, morals can be taken into account when creating law, but should not be taken into account when determining what is law. Positivism views international law and international organisations as forming real legislation only if they are backed by states’ will. However, when the will of states is absent, positivists would argue that states have the freedom to do what they like as long as they do not restrict themselves. State consent can be explicit, such as by signing a treaty, or implicit, for example, through state practice.⁸ Positivism tends to limit the subject of international law to include only states and only organisations that are recognised by states.

Some positivists, such as Austin, disregard not only international organisations but also the whole system of international law; in fact, they do not consider it as a part of a legal system at all. With his ‘command theory,’ John Austin (1790-1859) identifies law as “the command of the sovereign backed by the threat of punishment,”⁹ which means that there is no law without the formal enforcement by the relevant authority. In this traditional view, international law is not real law because it lacks a formal authority

⁴ Beck et al (1996) *International Rules: Approaches from International Law and International Relations*. US, Oxford University Press. p.56.

⁵ Ibid.

⁶ Ibid.

⁷ See Mccoubrey & Wight (1996), p. 293.

⁸ Beck et al (1996), p. 56.

⁹ Austin (1995), p. 125.

capable of enforcing it; he sees international law as mere 'positive morality.'¹⁰ Austin disregarded international law as law stating, "The body by whose opinion the law is said to be set, does not command, expressly or tacitly that conduct of the given kind shall be forborne or pursued. For, since it is not a body precisely determined or certain, it cannot, as a body, express or intimate a wish. As a body, it cannot signify a wish by oral or written words, or by positive or negative deportment. The so-called rule which is opinion is said to impose, is merely the sentiment which it feels, or the opinion which it holds, in regard to a kind of conduct."¹¹ For Austin, international agreements are not law because states cannot be subject to international law; it is only morality which restrict states from breaking international agreements. When states follow international law it is because they *want* to do so not because there are legal obligations.¹²

This chapter briefly presents this traditional positivist theory because it is considered the basis of legal positivism. However, throughout, this thesis relies more on recent positivist theory including Hart and the founders of the legalisation theory, Abbott et al., who provide an analysis of legal systems more apt for this type of analysis than the limited 'command theory' which does not recognise international law as law because it is not backed by sanction.

2.2.2 The Concept of Law

Hart illuminates that a legal system has to have two kinds of rules: primary rules, which set what to do and what not to do, and secondary rules, which are the sub-rules that place the conditions by which primary rules are recognised, changed and applied.¹³ For Hart, international law is a set of rules rather than a complete legal system because it does not have the required secondary rules.¹⁴

¹⁰ Ibid.

¹¹ Austin (1995), p. 124.

¹² See Barker, p. 8.

¹³ Hart (1961), p. 208.

¹⁴ Ibid, p. 231.

A very important development of legal positivist theory came from Hart who is commonly perceived as the key modern positivist.¹⁵ Hart explains Austin's command theory:

On this simple account of the matter ... there must, wherever there is legal system, be some person or body of persons issuing general orders backed by threats which are generally obeyed, and it must be genuinely believed that these threats are likely to be implemented in the event of disobedience. This person or body must be internally supreme and externally independent. If, following Austin we call such a supreme and independent person or body of persons the sovereign, the laws of any country will be the general orders backed by threats which are issued whether by the sovereign or subordinates in obedience to the sovereign.¹⁶

According to this, Hart challenges Austin's 'command theory', in a separate chapter about international law: his analysis of obligation challenges the assumption that international actors are led by force, arguing that actors obey international law not only when they are forced to do so but also when they feel there is a duty to do so. Explaining that legal systems have to have both primary and secondary rules,¹⁷ Hart says, "Most systems have, after some delay, seen the advantages of further centralisation of social pressure; and have partially prohibited the use of physical punishments or violent self-help by private individuals. Instead they have supplemented the primary rules of obligations by further secondary rules, specifying or at least limiting the penalties for violation, and have conferred upon judges, where they have application of penalties by other officials. These secondary rules provide the centralised official sanction of the system."¹⁸

This paragraph sums up Hart's view on international law, while the following paragraphs go into detail on his theory. According to Hart, international law does not encompass the rule of recognition which is defined as "a general agreement among those to whom the law is addressed that the law is binding them."¹⁹ International law, for Hart, is a set of rules but not a complete legal system because it does not have the

¹⁵ Beck, et al. (1996), p. 58

¹⁶ Hart (1961), p. 212.

¹⁷ Ibid p. 208.

¹⁸ Ibid (1961), p. 95.

¹⁹ Barker (2000), p. 17.

required secondary rules: “What is the actual character of the rules as they function in the relations between states? Different interpretations of the phenomena to be observed are of course possible; but it is submitted that there is no basic rule providing general criteria of validity for the rules of international law, and that the rules which are in fact operative constitute not a system but a set of rules...”²⁰ This analysis requires more explanation, as is provided below.

2.2.2.1 Three defects

Hart states that in any small society, there are primary rules which set community obligations, but these primary rules have three defects: they are uncertain, static and inefficient. Primary rules therefore need three secondary rules to solve the defects: the rules of recognition, the rules of change and the rules of adjudication. Hart illustrates his analysis of primary and secondary rules by giving an example of a basic community strongly united by ties of association, common attitudes and ideology in a secure situation.²¹ Members of this society could not have a successful social life without authorised rules. Without any rules, such society would be out of order. In fact, in this type of society, there are rules but there is no system: there are only some accepted standards without any clearly outlined rules. In such a situation, if any member of the society questions what the rules are or what they mean, there is no authority to respond to such an enquiry, there are no authorised texts to refer to and no procedures for resolving issues. These rules that identify such authorities, procedures or texts are different than the primary rules that set out the obligations. Hart call this defect ‘uncertainty.’²²

Secondly, in such a society, rules are changed through a process that will naturally take place over a long period, but the second defect is referred to as ‘static.’ In this society, rules change over a very long time, any social rule will start as routine then become usual habit, then become obligatory and so on. Individuals have no means of modifying

²⁰ Hart (1961), p. 231.

²¹ Due to the depth of Hart’s analysis, this section gives it considerable attention.

²² Hart (1961), p. 212.

the rules: there would be a permanent responsibility for each individual to do or not to do something, including individuals from a different society. Individuals can choose neither to opt out of these obligations nor to prevent others benefiting from them.

Thirdly, Hart has characterised the third defect as ‘inefficiency’ because he believes that in this context, the social pressures on an offender that assure that rules last would not be effective. When a dispute occurs about whether or not a rule has been violated, there would be no authority to decide this. There is also no authority that has the right to decide the punishment of the offender; instead this job is left to the individuals, which could lead to a dangerous situation where individuals are not organised and where sanctions are not controlled.

2.2.2.2 Three remedies

After exposing these three defects, Hart also provides the solutions, which are rooted in the distinction between primary and secondary rules: “The remedy for each of these three main defects in this simplest form of social structure consists in supplementing the *primary* rules of obligation with *secondary* rules which are rules of a different kind. The introduction of the remedy for each defect might, in itself, be considered a step from the pre-legal into the legal world; since each remedy brings with it many elements that permeate law: certainly all three remedies together are enough to convert the regime of primary rules into what is indisputably a legal system.”²³ He then explained why the union of primary rules with secondary rules is required for creating a legal system.

According to Hart, the remedy for the first defect, ‘uncertainty,’ is what he calls the ‘rule of recognition.’ Rules of recognition are elements that identify which rules are supported by societal pressure and clarify the kinds of pressure. There are many forms of rules of recognition, for example, a traditional form is an authoritative written document. However, Hart specifies that writing the unwritten rules is not the main step towards recognition though it is a very significant step. What is most important is the

²³ Hart (1961), p. 91.

acceptance of these written documents as authoritative and when there is such acceptance, there is a basic rule of recognition according to which it is easy to identify the primary rule of obligation. In a developed legal system, the rules of recognition are not only written documents, but there are also specific authorised bodies, customary law and precedents, which can all contribute to the rule of recognition and decide whether the primary rules of obligation exist in a given area or not.²⁴

The remedy for the second defect of being ‘static’ is what Hart calls ‘the rule of change.’ Rules of change refer to the rules that give individuals the power to add new rules to existing primary rules of obligations or to alter them. The third remedy for ‘inefficiency’ are ‘the rules of adjudication.’ Rules of adjudication empower the community to decide whether a particular action is regarded as breaking a primary rule. The rules of adjudication identify the individuals to be adjudicated and the adjudication procedure.²⁵ In national law this remedy would be provided by the courts of law. For this thesis, Hart’s theory provides international law with much better means to be analysed and evaluated and to measure its strength and weakness. Having explained Hart’s theory, this thesis applies this theory to the role of international organisations.

2.2.2.3 International Organisations and the Concept of Law

Having reviewed Hart’s distinction between primary and secondary rules, it is now time to analyse international organisations in light of this, to examine the role of international organisations in the development of international law. Recalling Hart’s explanation that “primary rules are concerned with the action that individuals must or must not do,”²⁶ it should be noted here that in terms of international law, ‘individuals’ refers to states. Therefore, international law has primary rules of obligation that outline what states must and must not do. However, the question remains as to whether international law also consists of secondary rules and whether international organisations can replace these secondary rules?

²⁴ Ibid, p. 92.

²⁵ Ibid.

²⁶ Hart (1961), p. 92.

In terms of the rule of recognition, there is a basic level and a complex level of this rule. At the basic level, as mentioned earlier, these rules can involve putting into writing previously unwritten rules. The International Law Commission (ILC), which is an organ of the UN, has played a great role in formally writing the unwritten international law. The role of this commission is to develop international law “through the restatement of existing rules or through the formulation of new rules.”²⁷ This notion of codification is based on the idea that “written international law would remove the uncertainties of customary international law by filling existing gaps in the law as well as by giving precision to abstract general principles whose practical application is not settled.”²⁸ The General Assembly of the UN also “plays a significant role in the process of standard-setting and the codification of international law.”²⁹ Both bodies are serving the same end which is writing up the unwritten international law.

In this context, international organisations play an important role, for example, they are often established by a written document, which usually takes the form of a charter, a constitution or a fundamental statute.³⁰ These charters could be the reference, authoritative text that provides accepted and recognised secondary rules as all member states of a given organisation have usually already accepted the obligations and responsibilities that the organisation’s founding document imposes upon them.

In a developed legal system, according to Hart, there is a specific authorised body, customary law and precedents, which can all act as rules of recognition, deciding whether the primary rules of obligation exist in a given area or not. International organisations usually have an organ that can make decisions about whether a primary international rule has been broken, as does the UN Security Council. An example of a primary international law that illustrates this point relates to international peace and security, which has to be maintained by the international community that has “to take

²⁷ See the ILC official website, available on www.un.org/law. [Accessed on 13 Jan 2012]

²⁸ See *ibid*.

²⁹ Article 13, the UN Charter and see the official website of the General Assembly, available on www.un.org/en/ga.

³⁰ For example, the UN Charter and the GCC Fundamental Statute.

effective collective measure for the prevention and removal of threats to the peace.”³¹ This aspect of international law would not be a law if there was no authority to recognise whether this law was broken or not, namely the Security Council. When a state considers an action by another state as a threat to peace, it can bring its concern before the Council,³² which then has the authority “to determine the existence of a threat to the peace or act of aggression and to recommend what action should be taken.”³³

Secondly, the rules of change provide a framework that gives power to individuals to add new rules to the existing primary rules of obligations or to alter them. International organisations have contributed to international law by allowing for such secondary rules of change and they usually have a supreme council through which member states can propose to change or create new rules. One example is the Supreme Council of the GCC, which has the power to amend the GCC Charter;³⁴ another example is the General Assembly of the United Nations, through which states can propose new laws or propose to change existing rules.³⁵ Although the GA Resolutions are not binding, it is a means of change when the member countries accept the change. One example of such a change to international law is that the General Assembly has amended Articles 23, 27 and 61 of the UN Charter.³⁶

Thirdly, in terms of the rules of adjudication, there are many international courts that can produce precedents which can be regarded as secondary rules of recognition, the main examples being the International Court of Justice (ICJ) and the International Criminal Court (ICC). The ICJ was established in 1945, with functions designed in accordance with international law. States can raise their disputes to be settled in front of the Court and they can ask the Court for an advisory opinion.³⁷ The ICJ “continues to provide in-depth legal expertise to back its efforts in the development, promotion and clarification of international standards. It continues to advocate with governments, the

³¹ Article 1, UN Charter.

³² See the Security Council official website, available on www.un.org/docs/sc.

³³ See Ibid.

³⁴ Article 20, the GCC Charter.

³⁵ Article 108, the UN Charter.

³⁶ The Introduction of the UN Charter.

³⁷ See the official website of the Court, available on www.icj.org/court.

legal profession, and civil society in order to insure implementation of these standards at the international and national levels”.³⁸ The ICC is an independent international criminal court; it is the first stable one “establish[ed] to help end impunity for the perpetrators of the most serious crimes of the concern of the international community.”³⁹

It is worth mentioning that the application of Hart’s analysis still requires additional empirical research to clarify further the rightful place of international organisations within this legal system outlined by Hart. However, it is shown here that international organisations play an important role in developing international law to become a stronger legal system. Hart states that each one of the three remedies is “a step from pre-legal into the legal words.”⁴⁰ This section shows the role of international organisations in pushing international law ahead towards becoming a legal system. This thesis finds that Hart’s theory is rich and helpful for understanding international law and international organisations. This theory helps frame this thesis in analysing the GCC as lawmaker as well as analysing the laws created by the GCC. Following from Hart’s theory, Abbott et al. further developed this positivist theory.

2.2.3 The Concept of Legalisation

In 2001, Abbott et al developed Hart's theory⁴¹ in order for it to apply to the legal analysis of the work of international organisations.⁴² They developed the legalisation theory which states that legal rules are measured based on three elements: obligation, delegation and precision, to classify them appropriately as either hard or soft law.⁴³ One can argue that when politicians start managing their relations under an international institution, they are moving toward legalisation, because they are allowing their

³⁸ See the official website of the Court, available on www.icj.org/court.

³⁹ The official website of the ICC, available on www.icc-cpi.int.

⁴⁰ Hart (1961), p. 90.

⁴¹ Which states that a legal system has to have two kinds of rules: primary rules which tell what individuals have or have not to do, and secondary rules which is three elements: rules of recognition, rules of change and rule of adjudication. See Hart (1961), p.212.

⁴² See. Abbott et al (2001), p. 19

⁴³ Ibid

relations to be governed under certain legal rules. Their movements will then be measured, based on the above three elements.⁴⁴

“The Concept of Legalization” is an important study on international organisations written by Kenneth W. Abbott, Robert O. Keohane, Andrew Moravcsik, Anne-Marie Slaughter and Duncan Snidal. Basing their conception of legalisation on an empirical analysis of international organisations, their article introduced a series of articles applying and developing this same concept in the Summer 2000 special issue of the *International Organization Journal (IO)*.

According to their explanation, *obligation* means that states are bound by rules and commitments which put their behaviour under examination by international law. *Precision* refers to the rules that clearly outline the required implementation of these obligations while *delegation* means that the implementation, interpretation and application of these rules have to take place under the examination of a third party, which should also carry out the duty of dispute settlement and have the ability to make further rules.⁴⁵

In their conceptualisation, a legalising institution is an institution that has the ability not only to make decisions but also to impress them on governments. One advantage of legalisation is that its function in the world of politics changes the processes of political decision-making.⁴⁶ The primary reason discouraging international leaders from choosing to join a legalised institution is usually that they do not want to have long-term obligations. There is no clear line demarcating legalised from non-legalised institutions; there is a wide range of legalised institutions from those that produce hard law to those that create soft law. There is nonetheless, also a separation between legalisation and effects. In other words, it is not necessary for a legalisation institution to be more effective than a non-legalised one because the function of international organisation is

⁴⁴Abbott, et al. (2001), p. 19.

⁴⁵Abbott, et al. (2001), p. 18.

⁴⁶Ibid

not only to create law.⁴⁷ Some scholars describe a kind of cooperation based on political partnership and the growth of international norms to illustrate enhanced obedience in the absence of more highly legalised institutions.⁴⁸

Abbott et al.'s conceptualisation offers guidance to researchers of international organisations and provides the means for measuring their strengths and weaknesses. It provides international law with a new discipline which is needed, especially in the absence of centralised coercion. It generates a common base for scholars in both politics and law to let them move away from Austin's constricted vision of law which considers that there is no law without the enforcement by a supreme authority.⁴⁹

2.2.3.1 Criticising the Concept of Legalisation

This next part now analyses the opposition to Abbott et al expressed by Finnemore and Toope in the article entitled "Alternative to "Legalization": Richer Views of Law and Politics."⁵⁰ The main conflict between the two positions is in their differing perspectives in approaching the subject: Finnemore and Toope write from an international relations perspective while Abbott et al. take a predominantly legal perspective. Finnemore and Toope aim to widen the understanding of law compared to the view of Abbott and others.

Finnemore and Toope claim that the authors contributing to "Legalization and World Politics" attempt to connect a legal positivist theory of international law expressed by Hart in *The Concept of Law* to the theory of neoliberal institutionalism. However, the authors of "The Concept of Legalization" make no reference to neoliberal institutionalism. In fact, their work is to develop their own theory based on Hart's theory and they attempt to explain the implications of their theory on the study of international politics.

⁴⁷Abbott et al (2001), p. 18

⁴⁸ Goldstein et al (2001). p 11

⁴⁹ See Hart (1961), p. 212.

⁵⁰Finnemore and Toope (2001)

Finnemore and Toope argue that this work proposes that law is a narrow compilation of dignified and institutionalised characters. This conceptualisation, which is an attempt to link international law to international relations, does not cover the entire role of law.⁵¹ Without an exhaustive overview of law that leads to a plain understanding of legitimacy, the three components – obligation, precision and delegation – raise more problems than they provide solutions. Abbott et al.’s conceptualisation depends mainly on courts and cases or treaty negotiations to decide what the law is in a given matter.⁵² Finnemore and Toope, stressing the limitation of the theory, argue that “a fuller understanding of law is not simply a pleasing accessory to the framework proposed in” Abbott et al.’s theory.⁵³

The question raised here is therefore why these three dimensions are more important than other legal features and what other dimensions might be significant. Criticising these three elements of legalisation, Finnemore and Toope stress one missing feature that is more important than these three: that is legitimacy, which lawyers believe is a crucial source of obligation. Finnemore and Toope claim that “Law is legitimate only to the extent that it produces rules that are generally applicable, exhibit clarity or determinacy, are coherent with other rules, are publicized (so that people know what they are), seek to avoid retroactivity, are relatively constant over time, are possible to perform, and are congruent with official action.”⁵⁴ This thesis agrees that legitimacy, which stresses the importance of coherence with other rules, is an important element. Yet, the second element of Abbott et al.’s theory, that is precision, includes coherence with other rules.

Finnemore and Toope argue that “The Concept of Legalization” does not apply to customary international law.⁵⁵ At this stage, a short explanation of customary international law is required. Danilenko provides this explanation by comparing customary international law to international treaties, stating “By contrast to the elaboration of [an] international treaty, which requires formal negotiations, custom is

⁵¹ Toope (2001).

⁵² Ibid, p. 750.

⁵³ Ibid, p. 751.

⁵⁴ Ibid, p. 749.

⁵⁵ Toope (2001), p. 753.

created by conduct of members of the international community which constantly ‘negotiate’ with each other by means of actual deeds, statements and other acts.”⁵⁶ Customary international law is therefore the law recognised by states in their international practice but that have not been highlighted or codified as international treaty law. Based on this explanation of customary international law, this thesis agrees with Finnemore and Toope’s assessment that customary international law is not included in “The Concept of Legalization” theory. However, it does explain the process that customary law can undergo in order to become hard law.

This chapter’s response to Finnemore and Toope here is that they are criticising Abbott et al. for following the provision of legal positivism. They criticise Abbott et al. for the fact that their conceptualisation depends mainly on courts and cases or treaty negotiations. Yet, this is a legal positivist approach which only focuses on what the law is not on what the law should be. With respect to Finnemore and Toope’s main criticisms, Abbott et al. have never claimed that their conceptualisation is comprehensive but instead admit its limitations. Although legitimacy is very important, Abbott et al. do not claim that their conceptualisation is the final word in the long-standing debates on international law or that it needs further development. However, there is a need for a standard to measure international organisations in terms of their legal bases and their legal effect on international law. According to the mechanisms for measuring international organisations outlined in “The Concept of Legalization,” any international organisation can at least be somewhat identified as either a hard lawmaker or just a soft lawmaker, can be located within the framework of international law and can be compared to other organisations or states.⁵⁷

Although “The Concept of Legalization” can be criticised, it is useful to determine the GCC’s place within this conceptual study of legalisation, as this thesis can benefit from this joint work of both political and international legal scientists that have developed the new standpoint that international law is significant even though it is affected by

⁵⁶ Danilenko (1993), cited in Byers, Michael (1999) p. 37.

⁵⁷ Abbott et al. (2001), p. 18

politics.⁵⁸ In this regard, the literature and studies on legalisation among international relations scholars is still narrow and needs more addressing.⁵⁹ Having analysed theories of international law in this section, the following section now turns to international relation theories.

2.3 Insights from International Relations Theories

2.3.1 Introduction

It is suggested that one should look not only to the positive law, its creation and its interpretation. The concepts of role and function cannot be fully understood without being considered in a broader context of the existence of the GCC as an international institution that may be expected and may seek to participate in the process of international law making and application as well as international politics more generally, International Relations (IR) theory helps give a more realistic take on the place of international rules and organisations within the wider picture of international politics. IR theories comprise a variety of schools of thought that attempt to explain the political factors behind the legal rules. IR scholars focus on political behaviour, relations between international actors and international affairs and the factors that influence international institutions. They might regard the establishment of international institutions as incidents that can be explained.⁶⁰

According to Nardin, the key question for IR theory is "whether a body of rules governing the relation of states can exist in the absence of authoritative central institutions, not whether these rules are 'really rules'."⁶¹ While international law theories can advise on what the law is or what the law should be, IR theories can advise on why

⁵⁸ Goldstein et al (2001).

⁵⁹ Goldstein et al (2001).

⁶⁰ Abbott (1999).

⁶¹ Nardin, T. (1983), p. 120, cited in Barker (2003), p.14.

the law is as it is. Theories of international law consist of legal methods which can be used as a means of responding to a doctrine question,⁶² like the response of legal positivists to the questions of whether GCC laws are soft or hard laws and whether the GCC has any legal means of enforcing them, presented in the previous chapter. Although they provide a better way of describing and explaining, theories of International Relations are not legal methods.⁶³ This chapter therefore aims to enrich the study of the GCC by adding the broader scope of IR theory to link the doctrinal analysis to the political motives behind the establishment and functions of the GCC.

This first part of the chapter discusses a variety of key IR theories – idealism, realism, institutionalism, constructivism – each of which has a different view on international organisations. While idealists are more enthusiastic about the key role of international organisations, realists perceive international organisations as merely tools in the hands of states, considered to be the main international actors. Institutional scholars believe that although states are the main international actors, international organisations are still significant because states have various international economic interests and therefore need international organisations as agents to help states cooperate internationally. Finally, constructivist scholars turn the argument the other way, claiming that international organisations shape state interests. Before dealing with these theories, the interdisciplinary link between international law and international relations scholars needs to be discussed.

2.3.2 Interdisciplinarity Between International Relations and International Law

Historically, neither international law scholars nor international relations scholars have been willing to complement the others discipline. In fact, international relations scholars used to see international law as epiphenomenal or beside the point, law only

⁶² Abbott (1999), p. 361.

⁶³ Ibid.

perceived as an elaborate matter for lawyers.⁶⁴ At the same time, international law scholars generally ignored the work of international relations specialists in international law and international cooperation.⁶⁵ Craig Barker explains this beginning of interdisciplinarity: “Indeed, international law was seen by the organizers of the earliest courses on international relations as being the ‘best integrated root discipline’ of international relations.”⁶⁶ Particularly in the United States, early international relations writing was dominated by legal approaches and indeed ‘may be said to have sprung from law.’⁶⁷ Yet within the short time of the creation of the discipline, international law had come to be regarded as, at best, a necessary evil, at worst, a ‘blind alley.’⁶⁸ Overlap between the two disciplines started 20 years ago when scholars from each discipline began to enrich their field by adding elements from the other discipline to their work. When this overlap started, international relations scholars did some very interesting work on international law⁶⁹ and the value of interdisciplinary work became clear for scholars on both sides.⁷⁰

One example of this interdisciplinarity comes from Byers, who states “[Regime theorists and institutionalists] clearly sense that normal state behaviour does give rise to legal obligation, that some regimes and institutions represent a transformation of power of the kind that they have traditionally studied, into another kind of power – and that this other kind of power, ‘the power of rules’, subsequently what states say and do.”⁷¹ Regime theory and institutionalist theory are IR theories which will be discussed in greater detail later in this chapter. On the other side, Barker states, “in some area at least, international lawyers are already drawing on institutionalists approaches.”⁷² Hurrell explains this point, noting:

[M]any international lawyers have come to view international treaties and convention over such matter as the environment, not as a definitive and unchanging set of rules, but as a means of creating law-making framework.

⁶⁴ Beck, R. J. (1996), p. 3.

⁶⁵ Ibid.

⁶⁶ Wight (1955), p. 27, cited in Barker (2003), p.70.

⁶⁷ Ibid.

⁶⁸ Barker (2003), p.70.

⁶⁹ See Abbott (1992), Proc. 167

⁷⁰ Abbott (1999) p. 361.

⁷¹ Byers (1999), cited by Barker (2003), p. 78.

⁷² Barker (2003), p. 78.

Their purpose is to provide a framework for negotiation in which the techniques and the principles of international law can be employed, first to negotiate and formalise accepted but very general principles, and second to create means of facilitating ongoing negotiations from which more specific, harder rules may subsequently emerge.⁷³

Both disciplines are comprised of a number of different theoretical approaches. This diversity of approaches, though it enriches the disciplines, makes them difficult to be investigated as theories.⁷⁴ Koskeniemi states that there are no clear distinctions between legal methods and criticises “the suggested shopping-mall approach to 'method', the assumption that styles of legal writing are like brands of detergent that can be put on display alongside one another to be picked up by the customer in accordance with his/her idiosyncratic preferences.”⁷⁵ Even for this thesis it is not easy to stick to only one IR theory as many aspects of these theories overlap in many ways.

Although IR theories enrich the study of international cooperation, this enrichment is still limited. Keohane highlights this limitation when stating that “It makes sense to seek to develop cumulative verifiable knowledge, but we must understand that we can aspire only to formulate conditional, context-specific generalizations rather than to discover universal laws, and that our understanding of world politics will always be incomplete.”⁷⁶ There is no single theory that broadly explains the function, success and failure of international organisations.⁷⁷ However, these theories can provide a better understanding of international organisations as they explore the reasons behind the behaviour of international actors. Although the focus of this thesis is on institutionalism and constructivism, other international theories – namely idealism and realism – are discussed because these theories build upon one another.⁷⁸

⁷³ Hurrell (1993), cited by Barker (2003), 79.

⁷⁴ Abbott (1999), p. 361.

⁷⁵ Koskeniemi, M.(2000), p.352.

⁷⁶ Keohane (1996), p. 187.

⁷⁷ Alvarez (2006), p 17.

⁷⁸ Beck, et al. (1996), p. viii.

2.3.3 International Relations Theories

2.3.3.1 Idealism

Idealists assume that international rules by themselves would facilitate cooperation among states to live collectively in a peaceful style.⁷⁹ Idealist IR scholars – or functionalists⁸⁰ – believe that international institutions can drive the world to obey international rules which will lead to the creation of a less anarchic world and a stronger international legal system. Functionalists present a variety of approaches but their main argument in relation to this topic is that changing states require the creation of more international organisations and their enlargement.⁸¹ Antonio Cassese explains that idealists were very enthusiastic about the expected revolution that would result from the creation of the Permanent Court of International Justice (PCIJ) (1922-1946) which initiated a new resource of international law, particularly general principles.⁸² Explaining the concept of general principles, Barker states that they were “originally conceived as a mechanism for restricting state sovereignty in the absence of treaties or customary international law.”⁸³ This original consideration of the implication of the general principles was the reason behind the idealist excitement. However, general principles have had a more procedural implication, as Barker explains: “the category has, perhaps not surprisingly, given rise primarily to procedural rules aimed at assisting the court in the exercise of its functions.”⁸⁴ The PCIJ emphasised the importance of general principles as a resource for international law.⁸⁵ Article 38 of the ICJ mentions that “The Court, whose function is to decide in accordance with international law such disputes as are submitted to it, shall apply [...] the general principles of law recognized by civilized nations.”⁸⁶ From the idealist perspective, the aim of this new development perspective is limiting state sovereignty:

⁷⁹Hurrell (1996), p. 208.

⁸⁰ It is might be fairer terming them 'functionalist' as Alvarez (2006) did. He is not happy, either, about the term 'realist' (pp 17-29). The sense of unfairness is due to the fact that these terms, 'idealist' and 'realist', give the impression at the outset that the work of idealists is fiction while that of realists is real.

⁸¹ Alvarez (2006), p. 17.

⁸²Cassese (1986), p. 169; More information is available in the ICJ website, www.icj.cij.org

⁸³ Cassese (1986), cited in Barker (2003), p. 68.

⁸⁴ Barker (2003), p. 68.

⁸⁵Cassese (1986), p. 170.

⁸⁶ Article 38, the ICJ Statute.

[T]he supporters of the new source were politically motivated. They intended to go beyond the traditional limitation of the international legal system by broadening the existing legal network through the addition of principles reflecting Western legal philosophy... However modest the scope of the principles, the attempt was revolutionary, because for the first time an international heteronomous law (that is, rules imposed from outside and not resting on the free will of States) was to be created ... the role of the new law was self-evident: it was meant to restrict State sovereignty as much as possible whenever the absence of treaties or custom left States free to behave as they liked.⁸⁷

Many functionalists perceive the development of the international community as moving towards global governance in a sort of international federalism.⁸⁸ In their view, international organisations have the ability to learn from their experiences and develop step by step.⁸⁹ For example, after its failure, the League of Nations was replaced by the United Nations. Gordenker explains these developments stating, “the most important embodiment of the experience during the nineteenth century with intentional cooperation was the League of Nations. It was equally the direct forerunner of the United Nations, whose Charter borrowed heavily from the League Covenant.”⁹⁰ The creation of the UN came after four years of discussing the strengths and weaknesses of the League of Nations and discussing how to create a better international organisation.⁹¹

In response to idealists, the realist approach shows a disregard for the importance of international organisations as genuine international actors. They believe in the state's centrality, and to them, international organisations are only the agents of states. Realists consider an idealist anyone who believes that international institutions are key actors.

⁸⁷ Barker (2003), p. 68.

⁸⁸ Mitrany, D. (1948), p. 153.

⁸⁹ Alvarez (2006), p. 26.

⁹⁰ Gordenker & Baehr (1999) *The United Nations at the end of the 1990s*. New York, St. Martin's Press.

⁹¹ Available on <http://www.nationsencyclopedia.com/United-Nations/index.html> [accessed on 20 May 2011].

2.3.3.2 Classical Realism

The classical realist approach has mainly been developed by E. H. Carr, Hans Morgenthau, George Kennan and others.⁹² Realists argue that foreign policies of states are guided by national interests, not by international rules, and that international affairs are determined by power relationships.⁹³ The main arguments of realists are that states are the main actors, that they act mainly in their own interests and that the international system is anarchic.⁹⁴ The term 'classical realist' is used to distinguish them from the 'neorealists' whose approach is closer to institutionalism, as discussed below. For classical realists, state interests guide international politics, while international legal rules cannot be the guide.⁹⁵ They do not believe that international institutions actually matter; rather, they are only tools while power relationships have the final say in international affairs.⁹⁶ Even international law is not a real concern for them, although they agree that it should be observed.⁹⁷

Some very important work on the realist approach comes from E. H. Carr, who blames the international political community for all the critique that has emerged on international law:

International law is a function of the political community of nations. Its defects are due, not to any technical shortcoming, but to the embryonic character of the community in which it functions ... Rules, however general in form, will be constantly found to be aimed at a particular state or group of states; and for this reason, if for no other, the power element is more obvious in international than in municipal law, whose subjects are a large body of anonymous individuals.

⁹² Available on <http://www.nationsencyclopedia.com/United-Nations/index.html> [accessed on 20 May 2011].

⁹³ Beck, et al. (1996)

⁹⁴ See Barker, (2000), p. 82.

⁹⁵ Morgenthau (1948).

⁹⁶ Ibid, p. 277.

⁹⁷ Ibid.

The same consideration makes international law more frankly political than other branches of the law.⁹⁸

Another key realist scholar is Hans Morgenthau who sees the role of international law as embodied in international relations.⁹⁹ He believes in state centrality and therefore, for him, international law, including any international organisation, is merely the concern of states. He concludes, “The great majority of the rules of international law are generally observed by all nations without actual compulsion, for it is generally in the interests of all nations concerned to honour their obligations under international law.”¹⁰⁰ Morgenthau's work influenced some classical realists to ignore the insight of international law as a whole. Classical realists have challenged international lawyers in searching for the significance of international law.¹⁰¹ Slaughter Burly explains:

International legal theories had long grappled with the theoretical conundrum of the source of international legal obligation – of law being simultaneously ‘of’ and ‘above’ the state. Yet endless debates on this question nevertheless assumed that international law rules, however derived, had some effect on state behaviour, that law and power interacted in some way rather than marking opposite ends of the domestic-international spectrum.¹⁰²

Realism emphasises that states are the main actors in an anarchic world where there is no central authority capable of enforcing international law. Security is states' principal goal and acting in their own interests is their leading attitude. The varying types of state power can explain many international issues. Realists believe that states do cooperate but only when this cooperation serves their interest.

This realist approach developed during World War II and was the dominant approach in IR for three decades.¹⁰³ However, this thesis suggests that international developments at the time may have shifted the concern of states to security rather than international trade. Though realists consider that foreign policies of states are guided by national interests,

⁹⁸ Carr (1939), pp. 228-9.

⁹⁹ Barker (2000), p. 73

¹⁰⁰ Morgenthau (1948), p. 277.

¹⁰¹ Barker (2000), p. 74.

¹⁰² Slaughter (1993), p. 208.

¹⁰³ Beck, et al. (1996), p.94.

the question here is whether states are aware of the benefits of meeting international obligations and the benefits of international institutions. How keen are they not to face the consequences of breaking international obligations? More engagement with the criticism of the realist approach is provided below with the critique of neorealism as both approaches face the same criticisms. Building on the classical realist perspective, neorealists emerged to develop the realist theory to add value to the institutionalist explanation of cooperation among nations.

2.3.3.3 Neorealism

One of the main founders of neorealism (or structural realism) is Kenneth N. Waltz,¹⁰⁴ who states that it “presents a systematic portrait of international politics depicting component units according to the manner of their arrangement.”¹⁰⁵ Neorealism can be summarised as the perspective that “States, which are deemed the major actors in world affairs, are conceived as unitary actors motivated primarily by the will to survive. Anarchy – the absence of a central monopoly of legitimate force- is the essential structural quality of the system. This structural quality provides an adequate explanation both for competition of states and for the observable though severely limited instances of states cooperation. International regimes, institutions, rules, and norms are not independent causal factors ... and affect the prospects for international cooperation only at the margins.”¹⁰⁶

In other words, neorealism makes five proposals: First, states are the main international actors. Second, if states fail to defend their resources, the international environment strictly disciplines the states; therefore, states behave as rational bodies and are “sensitive to costs.” Third, the behaviour of states is mainly shaped by international anarchy. Fourth, in this anarchy, states are concerned about power and security, which makes them subject to conflict and competition. Fifth, international organisations have no real impact on state cooperation. Indeed, states usually cooperate successfully even

¹⁰⁴ Beck, et al. (1996), p. 144.

¹⁰⁵ Ibid.

¹⁰⁶ Ibid.

if they do not have common interests.¹⁰⁷ In their studies of international relations, neorealists basically “did not discuss law as such,”¹⁰⁸ and just like classical realists, they basically ignored international law as a whole.¹⁰⁹

Many other IR theories might not conflict with some neorealist beliefs. These shared beliefs are, according to Jackson, that “there is a strain in human nature that is self-interested and combative. They share a focus on analysis in which states loom large. They operate with a conception of international relations as anarchical. They agree that power is important and that international relations consist significantly of power politics. They also agree that international theory is, in some fundamental respects, a theory of security and survival. They recognize that the national interest is an important value in world politics.”¹¹⁰ A better understanding of the neorealist approach is achieved by comparing it with the most similar approach, namely classical realism.

2.3.3.3.1 The Differences Between Classical Realism and Neorealism

Neorealists did not modify the essential beliefs of classical realists but they did develop a theory of international relations that takes into account the basic insights of classical realism, that states are the main international actors.¹¹¹ Waltz highlights the main differences between neorealism and classical realism. According to him, neorealists are more interested in deepening the theoretical study of international politics while classical realists trust that “little systematic theory concerning international relations was possible.”¹¹² Additionally, classical realists conceive power as the main purpose of states’ international actions: for classical realists, states are constantly aiming to maximise their power while neorealists assert that survival and security are the main goals of states and that states use power as means for achieving these goals.¹¹³ They also believe that maximising power is sometimes harmful as it can lead to potentially

¹⁰⁷ See Grieco (1996), p. 149.

¹⁰⁸ See Barker (2000), p. 74.

¹⁰⁹ Arend (1998), p. 114.

¹¹⁰ Jackson & Sorensen (2003) p. 96.

¹¹¹ See Grieco (1996), p. 149.

¹¹² Beck, et al. (1996), p. 144

¹¹³ Waltz (1988), p.618.

dangerous events such as the arms race.¹¹⁴ Neorealists believe that “the international system lacks a common power and is thus anarchic. As a consequence, states are insecure. A state can never be certain that a fellow state will not use military force against it. Accordingly, states must engage in self-help measures to attempt to survive in the international system. They do this by attempting to enhance their power within the system.”¹¹⁵ This neorealist perspective is the best way to explain the GCC reaction to the Arab Spring, as will be comprehensively analysed in the next chapter.

Neorealists do take into account the structural aspects of the international system that may lead to international conflict, such as the security of resources (e.g. oil wells). On the other hand, classical realists are only concerned about the structural causes that come from inside states (e.g. power) but not those that come from the international system.¹¹⁶

2.3.3.3.2 Critique of Neorealism

One of the main critiques of the neorealist approach is about their denial of the significant role of international organisations. For neorealists, international regimes, institutions, rules, and norms, are not 'independent causal factors,' in other words, they can only be effective international actors if states want them to be, and their effect on international cooperation is seen as very limited.¹¹⁷ The neorealist disregard of the significance of international institutions is therefore two-fold: international institutions are not seen to be stand-alone influencing factors and they have little effect on international cooperation. Taking this point into account, this thesis questions whether these two elements are linked in this perspective and which element impacts the other. If the latter were seen to be a consequence of the former, it would follow that the latter would not be true if the former were not true. More precisely, if an institution were not an independent causal factor, it would not be able to affect international cooperation. Conversely, if the institution were an independent causal factor, it would be an effective one. This thesis argues that if this is the neorealist argument, then there is little

¹¹⁴ Beck, et al. (1996), p. 145.

¹¹⁵ Arend (1998), p. 114.

¹¹⁶ Beck, et al. (1996), p. 145.

¹¹⁷ Beck, et al. (1996), p. 144.

difference between them and institutionalists. As will be discussed below, institutionalists have stressed the importance of the independence of an international institution in order to be really effective. Institutionalists may therefore have no problem with the fact that many international institutions are not independent actors because the states that form these institutions did not want them to be independent, as was the case with the GCC. To sum up, if the neorealist problem with international institutions is that they are not independent and as a consequence not effective, they should discuss the significance of institutions when they are independent.

The neorealists may say that international institutions are not important actors even if they are given a good level of independence. This thesis argues that institutionalists can challenge this assumption, as there are many facts that prove the effective role of international institutions in international cooperation: from trade agreements to treaties of war and peace.¹¹⁸ The role of international organisations such as the UN's in maintaining international peace cannot be ignored. For example, states were not interested in dealing with the issue of climate change until a UN report declared that human activity is responsible for climate change and that it can be reduced.¹¹⁹ This UN report helped support international treaty negotiations to deal with climate change. Additionally, during the Second Iraqi War, the Security Council declared its final warning that Iraq had breached UN obligations, which led the US to claim it had the right to wage war against Iraq. A number of similar examples can be listed here.¹²⁰

Keohane analyses the significance of international institutions and his argument is presented here as a challenge to both classical and structural realists. He argues that if states do not need agreements to manage their international relations and that all international agreements are useless, there would be no point for the existence of any international institutions.¹²¹ He then makes the opposite point: if cooperation was too easy to be achieved, in other words, if all international agreements could be achieved

¹¹⁸ See Keohane (1996), p. 195.

¹¹⁹ See United Nation, Framework Convention on Climate Change, available on www.unfccc.int [Accessed on 3 Apr 2012]

¹²⁰ See more examples in Alvarez (2005), p. iii.

¹²¹ Keohane (1996), p. 195.

without costs, there would be no need for non-state actors to help states create agreements. However, he responds that the two conclusions are as wrong as saying that states would not gain any benefit from agreements.¹²² He continues "It is the combination of the potential *value* of agreements and the *difficulty* of making them that renders international regimes significant. In order to cooperate in world politics on more than a sporadic basis, human beings have to use institutions."¹²³

Neorealists as well as classical realists are criticised and, according to Jackson and Sorensen, realism does not "capture all of IR or even its most important aspects ... realism overlooks, ignores, or plays down many important faces of international life. It overlooks the cooperative strain in human nature."¹²⁴ In response to the question of whether states recognise the importance of international cooperation, they state that "States are not only in conflict, they also share common interests and observe common rules which confer mutual rights and duties."¹²⁵ They are criticised for ignoring the significance of international law on the relations of states. Neorealists are also criticised, according to them, in playing down "the extent to which international politics are progressive, i. g. cooperation instead of conflict can prevail."¹²⁶

Finally, with respect to all the criticism about neorealists theory, their perspective that survival is the main aim of states at the international level is a key idea in explaining the GCC reaction to the Arab Spring explored in the next part of this chapter. However, the next theory is institutionalism, which is largely regarded as a response to the realist approach.¹²⁷ In war times, realist theory becomes more applicable than during times of peace, when the theory of institutionalism becomes more applicable. The international conflicts during the 1970s highlighted the importance of the realist perspective and, at the same time, undervalued the importance of institutionalist theory.¹²⁸ Nevertheless, the international system did not fail; rather, intergovernmental cooperation continued,

¹²² Ibid.

¹²³ Ibid

¹²⁴ Jackson & Sorensen (2003), p. 96.

¹²⁵ Ibid.

¹²⁶ Ibid.

¹²⁷ See Beck, et al. (1996), p. 165.

¹²⁸ Grieco (1996), p. 147.

giving institutionalists more motivation to develop their theory and to challenge realist thinking in the 1980s.¹²⁹

2.3.3.4 Institutionalism

According to Beck et al., institutionalists “seek to explain the emergence of cooperation by discussing the functional benefit that rules and institutions provide to states [...] Institutionalists have extensively explored the formation of international regimes and institutions, increasingly turning their attention to the implementation of regimes and institutionalized rules. For these scholars, the primary concern is the role of institutions in affecting state behaviour.”¹³⁰ Unlike realists, institutionalists carefully examine international institutions and analyse the history of their functions and effects to develop their theory and to respond to realists. That is why some scholars have referred to institutionalists and idealists as “functionalists.”¹³¹ Institutionalism can actually be regarded as a development of the idealist approach.¹³² Some institutionalists, like Alvarez, consider international institutions not only to be key for international cooperation but also a source of international law,¹³³ just like the other traditional sources mentioned in Article 38 of the Statute of the ICJ.¹³⁴ Neorealists agree that institutionalist theory is the main challenge to realism as institutionalism does not accept the realist argument about state centrality in the international system and has a different understanding of world politics. Institutionalists emphasise the importance of international institutions, regarding them as secondary main actors in the international system.¹³⁵ Although institutionalists agree with realists that the anarchy of the international system – being without a central authority – restrains international cooperation, states can nonetheless achieve intergovernmental cooperation within this anarchy and states cooperate better through international institutions.¹³⁶

¹²⁹ Ibid.

¹³⁰ Beck, et al. (1996), p. 166.

¹³¹ See, for example, Alvarez (2006), pp 17-29, and Grieco (1996), p.147.

¹³² See Beck, et al. (1996), p. 165.

¹³³ Alvarez (2006), p. 20.

¹³⁴ These sources are: international conventions, international custom, the general principle of law and judicial decisions.

¹³⁵ Grieco (1996), p. 147.

¹³⁶ Keohane (1996), p. 191.

This thesis argues that applying institutionalism to an organisation that has been given very limited power and independence is comparable to applying classical idealist thought to an independent and powerful organisation. In other words, even when institutionalists sometimes appear idealist, their approach is still capable of channelling the means to achieve greater international cooperation. Without the inspiration of institutionalism we perhaps would have seen the existing effective role of key international organisations such as the UN and the EU. Institutional theory is thus more developed than idealist theory and institutionalists have challenged the realists by emphasising the real function of international institutions in ensuring international cooperation. For a better understanding of institutionalism, this chapter provides the definition of institutions and how to categorise them below.

2.3.3.4.1 Categorising Institutions

International lawyers regard institutions as formal organisations, most often constituted by some form of constitutional framework. The international legal literature consequently refers to both institutions and organisations as indicating a constitutional structure within states operate to a greater or lesser extent. The terms “institution” and “organisation” are used interchangeably. International relations scholars take a broader view of institutions as constituting not only organisations but also regimes. Regimes are defined by Stephen Krasner as "institutions possessing norms, decision rules, and procedures which facilitate a convergence of expectations"¹³⁷, and need not be formally constituted as formal international organisations. The study of international institutions has created a rich literature by both political scientists and lawyers.¹³⁸ As this thesis examines the GCC as an organisation, both international law insights and international relations insights are relevant in terms of classification.

¹³⁷ Krasner (1983), p. 1

¹³⁸ Alvarez (2006), p. xii. Some of the important work in international institutional law are: White, D. Nigel (2005) *The law of international organizations*. Manchester, Manchester University Press, Amerasinghe, C. F. (2003) *Principles of the institutional law of international organizations*. New York, Cambridge University Press, Sands & Klein (2009) *Bowett's Law of International Institutions*. London, Sweet & Maxwell and Klabbers, Jan (2007) *An Introduction to International Institutional Law*. New York, Cambridge University Press.

International institutional law is part of public international law.¹³⁹ As Alvarez describes, “International law as a system is commonly distinguished from the national rule of law because of the absence of a legislature or parliament with authority to make the law for all states, the lack of a police or executive power capable of enforcing it, and the want of a judiciary with the compulsory jurisdiction to interpret the law”.¹⁴⁰ International institutional law sets the norms (or “rules” or “standards”) that emerge directly from the work of international institutions.¹⁴¹ Scholars of international institutional law study international institutions “by way of example, to illustrate how different they can be, but also to show how it is possible to talk of a set of legal principles that transcend each institution.”¹⁴²

International institutional law is not clear-cut. Nigel White summarizes the debate between international institutional lawyers and politicians, explaining that “international lawyers have not yet fully converted political debate and ideas into legal concepts and principles. These, though, have become the law of international organisations.”¹⁴³ This thesis examines the clearer and more established rules of international institutional law, but avoids engaging in the more controversial ones as the latter would require considerably longer debate. These established rules of international institutions are examined throughout this thesis, particularly in the analysis of topics relating to the GCC Charter, the GCC membership rules and issues relating to its independence.

In reviewing the development of international institutional law, Nigel White states “a law of international institutions has developed in certain well-trodden areas such as international legal personality, legal powers, membership, finance, and decision-making.”¹⁴⁴ He explains how international institutional law is still controversial in many ways, “for example on the issue of the existence of legal personality and the extent of

¹³⁹ Sands & Pierre (2009) *Bowett’s Law of International Institutions*. London, Sweet & Maxwell, p. 16.

¹⁴⁰ Alvarez (2006), p. 61.

¹⁴¹ Ibid.

¹⁴² White, Nigel (2005), p. vi.

¹⁴³ Ibid.

¹⁴⁴ White, Nigel (2005), p. vii.

institutional powers, or more profoundly the existence and extent of an organisation's separate will. Though the terms of the legal debate have become much clearer, there remains plenty to argue about, given that these issues are heavily dependent upon political choices, and those political choices are themselves a product of the different ideologies or approaches to organisations.”¹⁴⁵ Taking this into account, this thesis addresses the GCC from a broader perspective that includes the political will of the leaders of the GCC member countries, the GCC's power and ways of making law.

It is important to classify the different types of international institutions in order to find out where the GCC fits within this typology. It has been argued that international institutions “are too complex to be reduced to typologies.”¹⁴⁶ There have nonetheless been many attempts to classify international institutions, although the different purposes in classifying international organisations inevitably generates different results.¹⁴⁷ First, in term of their structure and function, there are inter-governmental and non-governmental institutions or public and private international institutions.¹⁴⁸ Second, there are those institutions that function globally (open or universal institutions)¹⁴⁹ and regional (or closed) institutions.¹⁵⁰ Third, there are general institutions and technical or functional institutions,¹⁵¹ and fourth, there are supra-national institutions and non supra-national institutions.¹⁵²

Inter-governmental institutions are created by states and consist of states while states are not involved as much in non-governmental organisations,¹⁵³ The distinction between open and closed institutions is that open institutions have a universal membership open to all states, while closed institutions are restricted to “a closed group of States” where

¹⁴⁵ Ibid.

¹⁴⁶ Alvarez (2005), p. 12.

¹⁴⁷ Amerasinghe, C. F. (2003) *Principles of the institutional law of international organizations*. New York, Cambridge University Press, p. 9.

¹⁴⁸ Ibid, p. 9.

¹⁴⁹ Global organisations are such as the UN and regional organisations are such as the EU and the GCC.

¹⁵⁰ Alvarez (2006), p. Xii. And see Amerasinghe (2003), p.11.

¹⁵¹ Amerasinghe (2003), p. 9.

¹⁵² Ibid, p. 12.

¹⁵³ White, Nigel (2005), p. 1. See also, Alvarez (2006), p. xii. One example of non-governmental organisation is Save the Children-UK.

“no Members are admitted from outside the group.”¹⁵⁴ According to Schermers, “There are three types of closed organizations: regional organizations, organizations of States with a common background, such as common language or common political system, and closed functional organisations.”¹⁵⁵ In terms of the distinction between a supra-national institution and a non-supra-national organisation, the main example of a supra-national organisation is the European Union.¹⁵⁶ As will be examined in the coming chapters, the GCC is a regional or closed, inter-governmental institution, not supra-national or general.

With regard to the last point about (supra and non-supra institutions), this discussion is important because it goes to the heart of this thesis’ criticisms of the limitation of the GCC. The only supranational union in the world is the European Union.¹⁵⁷ In such system, the member states “have transferred part of their legislative, executive, and judicial sovereignty to the supranational level.”¹⁵⁸ The norms of a Supra-national legal system should have direct legal impact on all the member countries.¹⁵⁹ In contrast with this, the member states in a non-supra-national institution, such as the GCC, do not give up any of their sovereignty to their institution.

It is significant to mention that actors when they decide to establish an international institution do not pick up one pre-existent class of institution. Klabbers argues that international institutions “are social constructs, created by people in order, presumably, to help them achieve some purpose, whatever that purpose may be. It is important to realize, indeed, that international actors do not purposely set out to create an international organisation following some eternally valid blueprint. Instead, their aim will be to create an entity that allows them to meet their ends, endow those entities with some of the characteristics they think those entities might need (certain organs, certain

¹⁵⁴ Schermers (1980), p. 167.

¹⁵⁵ Ibid.

¹⁵⁶ See some more explanation about the EC in chapter four.

¹⁵⁷ Kiljunen, Kimmo (2004) *European Constitution in the Making*. Centre for European Policy Studies. Brussels, p. 21.

¹⁵⁸ Ibid, p.20.

¹⁵⁹ Ibid, p. 23.

powers), and then hope that their creation can do what they set it up for.”¹⁶⁰ It will be analysed in this thesis that the GCC leaders’ established aims are incommensurable with the power and organs that they endow the GCC with. This thesis argues that it is not fair to expect a supra-national achievement to come out of an institution that was created to be a non-supra-national institutions namely the GCC. In chapter five about the GCC achievement, this thesis stresses that the GCC cannot be a supra-national institutions unless the GCC leaders give up some of their powers and their countries’ sovereignties to the GCC. It argues, also, the GCC cannot jump a lot of steps to become a supra-national institution unless the member states give up at least minimum level of their sovereignty to the GCC.

Within international relations theory, the term 'institution' is not a clear-cut concept.¹⁶¹ Defining institutions is an important aspect of studies such as this because it discusses institutions from two disciplines: international law and international relations. This thesis explores the differing views on institutions found in the two disciplines, which highlights how scholars from either discipline are not necessarily discussing the same thing, and even within international relations, the term 'institution' does not always have the same meaning. This thesis agrees with Keohane, who stresses the importance of defining 'institutions,' and critiques other writers for not defining the subject they are writing about.¹⁶²

Some have defined institutions as “rules, enforcement characteristics of rules, and norms of behaviour that structure repeated human interaction.”¹⁶³ It is largely accepted to define institutions as a “sort of establishment of relative permanence of a distinctly social sort.”¹⁶⁴ A short definition of institutions is “frozen decisions,” or “history encoded into rules.”¹⁶⁵ Yet, codification is not an issue, and the rules of an institution do not have to be codified, as evidenced by the fact that the British constitution is a very

¹⁶⁰ Klabbers (2007), pp. 7-8.

¹⁶¹ Ibid.

¹⁶² Ibid.

¹⁶³ Douglass (1987), p. 6, quoted in Keohane (1996), p 192.

¹⁶⁴ Hughes (1936), p 191.

¹⁶⁵ March & Olson (1984), p.741, quoted in Keohane (1996), p. 192.

strong institution though it is built on unwritten rules.¹⁶⁶ To identify whether there is an institution or not, the following question has to be asked: “whether patterns of behaviour are indeed differentiated by role. When we ask whether X is an institution, we ask whether we can identify persistent sets of rules that constrain activity, shape expectations, and prescribe roles.”¹⁶⁷ Institutions can be formal, such as international institutions, or informal, such as an international regime for money and trade, which combines rules and institutions.¹⁶⁸

Keohane analyses 'institution' as a concept that could refer to any of three meanings, two of which are: a 'general pattern' of activity and a 'particular human-constructed arrangement.'¹⁶⁹ Examples of the first include "the balance of power, international law, diplomatic mechanism ... and war," as well as "the institutions of international society."¹⁷⁰ More examples include several individual activities like marriage and religion as well as some state activities like sovereignty and diplomacy.¹⁷¹ Examples of the second meaning – particular human-constructed arrangement – are, for instance: the United Nations, the General Agreement on Traffic and Trade, the World Bank and the Roman Catholic Church.¹⁷² However, it is considered here that all international institutions, such as the EU, EC, GCC, and the WTO can be examples of this.

The preference of this thesis is to employ the simpler conceptualisation of institutions to facilitate the understanding of differences between institutions. Therefore, instead of Keohane's terminology of 'general pattern' or 'particular human-constructed arrangement,' this thesis uses the term 'general institutions' for the former and 'specific institutions' for the latter.¹⁷³ This terminology reflects the reality of each kind, as

¹⁶⁶ Keohane (1996), p. 191.

¹⁶⁷ Ibid, p. 193.

¹⁶⁸ Ibid.

¹⁶⁹ The third meaning has been ignored here as it is, according to Keohane, often not regarded as 'institution'. (See Keohane (1996), p. 191)

¹⁷⁰ See Bull (1977), p74, quoted by Hurrell (1996), p. 191.

¹⁷¹ Hurrell (1996), 191.

¹⁷² Keohane (1996), p. 192.

¹⁷³ Keohane, in the rest of his article, he turns his terminology from 'particular human-constructed arrangement' to 'specific institution'. (Keohane (1996), p. 191-192.)

general ones usually have no body, but reflects a kind of behaviour or principle more, while the more specific ones usually have a body, such as an international institution.

What general institutions share with specific institutions is that they both, according to Keohane, “meet the criteria for a broad definition of institutions: both involve persistent and connected sets of rules (formal or informal) that prescribe behaviour roles, constrain activity, and shape expectations.”¹⁷⁴ What divides the two kinds of institutions is that “specific institutions have unique life-histories, which depend on the decisions of particular individuals,”¹⁷⁵ while general institutions do not depend on individuals, whether individual persons or states.¹⁷⁶

Having highlighted the varying understandings of institutions, it is time to draw attention to the different focus of institutionalists and constructivists. Almost all institutionalist work is focused on specific institutions¹⁷⁷ while constructivists usually focus on general institutions. This point is extremely significant because it helps clarify the difference between the two approaches: it shows that many conflicting arguments between institutionalists and constructivists were perhaps due to a misunderstanding because they actually focus on different institutions. For example, constructivists criticise institutionalists for only examining the utilitarian benefit of cooperation and not analysing how institutions can develop out of human hands and state actions.¹⁷⁸ Obviously, such critique is no longer relevant or applicable if we take into account that the two approaches deal with a different kind of institution.

The concept of state sovereignty, for example, has been created for a long time by the practice of the standard of sovereignty rather than created by agreement.¹⁷⁹ Keohane explains that “Sovereignty seems to be *prior* to the kind of calculations of which rationalistic theory focus: governments’ strategies assume the principle of sovereignty,

¹⁷⁴ Keohane (1996), p. 191-192.

¹⁷⁵ Ibid p.192.

¹⁷⁶ Ibid.

¹⁷⁷ Ibid, p. 195.

¹⁷⁸ See Ibid, p 199.

¹⁷⁹ Ibid, p 201.

and the practice of sovereignty statehood, as givens. Some argue, according to him that “sovereignty is of even more far-reaching significance, since it defines the very nature of the actors in world politics.”¹⁸⁰ Finally, as Young argues, “there are three paths to regime formation: spontaneous, in which regimes emerge from the converging expectations of many individual actions; negotiated, in which regime are formed by explicit agreements; and imposed, in which regimes are initially forced upon actors by external imposition.”¹⁸¹ It is worth noting here that the third one he mentions is what constructivists advocate, as will be discussed later. This does, however, turn the focus to one of the primary contributions of institutionalism, namely regime theory.

2.3.3.4.2 *Regime Theory*

One of the main institutionalist outputs is regime theory.¹⁸² Yet some scholars, such as Hurrell, reject the idea that regime theory is a development of idealism: he states, “there was the need to achieve maximum distance from such perceived formalism and from anything tainted by the sins of idealism.”¹⁸³ Regime/institutionalist theory is an international relations theory which places international institutions at the centre of international interaction and argues that cooperation is best achieved through such institutions. The study of regimes has produced an enormous amount of original literature that seeks to describe the emergence and determination of cooperation and the foundations of state uniqueness and interests.¹⁸⁴ International regimes are “principles, norms, rules and decision-making procedures around which actors' expectations converge in a given issue-area.”¹⁸⁵ Principles are a “basic generalisation that is accepted as true and that can be used as a basis for reasoning or conduct;”¹⁸⁶ thus although ‘principles’ are accepted as true, the practice of complying with them is not necessarily as accepted as the principles themselves.¹⁸⁷ Norms are “standards of behaviour defined in terms of rights and obligations,”¹⁸⁸ while rules are “specific prescriptions or

¹⁸⁰ Ibid.

¹⁸¹ Beck, et al. (1996), p. 177.

¹⁸² Ibid, p. 165.

¹⁸³ Hurrell (1996), p 201.

¹⁸⁴ Ibid..

¹⁸⁵ Krasner (1996), p.167.

¹⁸⁶ Hyper Dictionary.

¹⁸⁷ See Cambridge Dictionary.

¹⁸⁸ Krasner (1996), p. 167.

proscriptions for action."¹⁸⁹ Decision-making procedures are established practice for creating and applying choosing conclusions.¹⁹⁰

2.3.3.4.3 Regime is Broader than Agreement

Agreements can refer to short-term arrangements that appear and disappear with every change in power unlike regimes, which cannot be based on a temporary shift of power or interests because they are comprised of principles and norms which are commonly accepted as a source of obligations.¹⁹¹ When states accept these obligations, which are based on principles and norms, they have to give up some of their temporary interests, expecting that other states will do the same, even if there are no binding rules in line with these principles and norms.¹⁹² Can friendly relations between states also be considered a regime? Fred Hirsch answers this question, stating that "Friendship contains an element of direct mutual exchange and to this extent is akin to private economic good. But it is often much more than that. Over time, the friendship 'transaction' can be presumed, by its permanence, to be a net benefit on both sides. At any moment of time, though, the exchange is very unlikely to be reciprocally balanced."¹⁹³ So, the difference between regime practice and agreement practice is that state behaviour governed by a regime is a mixture of principle and norms while its behaviour under an agreement is led by short-term interests.¹⁹⁴

To sum up, institutionalists believe that regimes might lead to agreement, though they are not the same thing.¹⁹⁵ Regime is different than agreement as Young explains, "Some writers have fallen into the habit of equating regimes with the agreement in terms of which regimes vary greatly in the extent to which they are expressed in formal agreements, treaties or conventions [...] Though it may be helpful, formalization is

¹⁸⁹ Ibid.

¹⁹⁰ Ibid.

¹⁹¹ Krasner (1996), p. 168.

¹⁹² Ibid, p. 169.

¹⁹³ Hirsch (1976), 78.

¹⁹⁴ Krasner (1996), p. 169.

¹⁹⁵ Barker (2000), p. 77.

clearly not a necessary condition for the effective operation of [an] international regime".¹⁹⁶

2.3.3.4.4 *Regime Theory and International Law*

Barker has analysed the similarity between regime theory and international law.¹⁹⁷ He supports Slaughter Burley in the assessment that institutionalists had been isolating law from their study of International Relations for 20 years before they developed their analysis to include the new concept of regime.¹⁹⁸ After highlighting the institutionalist differentiation between regime and agreement, Barker states that the view of international lawyers on international law is similar to the view of international relations scholars on regime; international lawyers do not only focus on formal agreement, but they also focus on the broader picture by underlining the importance of "soft law."¹⁹⁹ The previous chapter therefore provided a legal analysis of international law taking a wider understanding than agreement.

So, International Relations scholars were not interested in examining international law since for them, international law "continues to be viewed as peripheral, if not inconsequential."²⁰⁰ Accordingly, in analysing regime theory, Stephen Krasner concludes that "Fundamental political arguments are more concerned with norms and principles than with rules and procedures."²⁰¹ He believes that to identify a regime and understand how it changes, it is crucial to distinguish between principles and norms, which are the first main characteristics of a regime. The second set of characteristics is rules and procedures for decision-making.²⁰² Krasner states that "Changing in rules and decision-making procedures are changing within regime" while "Changing in principles

¹⁹⁶ Young (1989), p. 24.

¹⁹⁷ Barker (2000), p. 76-78.

¹⁹⁸ Slaughter (1993), p217.

¹⁹⁹ Slaughter (1993), p. 77. More detail about "soft law" is found in the third chapter of this thesis.

²⁰⁰ Ibid.

²⁰¹ Krasner (1996), p. 169.

²⁰² Ibid.

and norms are changing of the regime itself."²⁰³ Barker explains that Krasner's division puts international law at the level of rules and decision-making procedures but not at the level of principles and norms.²⁰⁴ However, Young states that without taking international law into account, our understanding of international regimes would be limited.²⁰⁵ Slaughter Burley makes it clear that international law has been rediscovered by political scientists,²⁰⁶ but they are unwilling to express that.²⁰⁷ In this context, Byers states "[Regime theories and institutionalists] clearly sense that normal state behaviour does give rise to legal obligation, that some regimes and institutions represent a transformation of power of the kind that they have traditionally studied, into another kind of power – and that this other kind of power, 'the power of rules', subsequently affects what states say and do."²⁰⁸

2.3.3.4.5 *Regime Changing*

It has been mentioned that a regime is comprised of four elements: principles, norms, rules and decision-making procedures. A further analysis of the distinctions between these elements is significant for the following section. Krasner stresses that these four elements are not on the same level, placing principles and norms on the one hand and rules and decision-making procedures on the other hand.²⁰⁹ A regime cannot remain the same if principles or norms have been abandoned; rather, the regime is changed to a new one or the old regime has already finished in a specific area.²¹⁰ Two things can weaken a regime: the weakening of the rationale connecting the four elements composing the regime (principles, norms, rules, and decision-making procedures) and an inconsistency between the practice of a regime and its principles, norms, rules and decision-making procedures.²¹¹

²⁰³ Ibid..

²⁰⁴ Barker (2000), p. 77.

²⁰⁵ Young (1986), p. 122, cited in Barker (2003), p.77-78.

²⁰⁶ Slaughter (1993), p.220, cited in Barker (2003), p. 78.

²⁰⁷ Barker (2003), p. 78.

²⁰⁸ Byers (1999), p.31, cited in Barker (2003), p. 78.

²⁰⁹ Krasner (1996), p. 169.

²¹⁰ Ibid.

²¹¹ Ibid.

With regards to international principles, institutionalists believe that sovereignty is the main principle in international relations.²¹² While realists perceive sovereignty as anarchic, institutionalists perceive it as the principle that organises the behaviour of international actors and so it is the "constitutive principle of the present international system."²¹³ If this principle changed, the regime (states) would be changed or come to an end.²¹⁴

2.3.3.4.6 Critiques of Institutionalism

Institutionalist theory does have some limitations. Institutionalists are not able to clarify why international institutions exist in some specific international relations and do not exist in other international relations.²¹⁵ Also, in international cooperation, states are concerned with two elements. First, they worry about the other parties complying with the agreed rules of cooperation,²¹⁶ and second, states are concerned about the absolute benefit of cooperation: they do not only focus on what they gain but also on what the other parties gain, comparing their gain to that of the others. If the other parties gain more than they do, states could stop cooperating even if the other parties are perfectly within the rules of the cooperative arrangement.²¹⁷ Neorealists criticise the institutionalists for focusing on only the first element, while neorealists focus on both of the above elements.²¹⁸

Some scholars such as Beck et. al. distinguish between two types of institutionalists: rationalist institutionalists and sociological institutionalists, which are constructivists.²¹⁹ As this first part has already discussed the former, this next part now turns to constructivists.

²¹² Ibid p. 181.

²¹³ See Krasner (1996), p. 181.

²¹⁴ Ibid.

²¹⁵ Keohane (1996), p. 196.

²¹⁶ Grieco (1996), p. 148.

²¹⁷ Ibid.

²¹⁸ Ibid.

²¹⁹ Beck, et al. (1996), p. 166.

2.3.3.5 Constructivism²²⁰

Constructivists strive to answer the following question: “how is cooperation possible between states claiming sovereignty but competing for power and influence in a situation of anarchy?”²²¹ Hurrell explains that when constructivists state that their approach is searching for the origin of regime, they are not looking for the past use of the concept of 'regime' but to trace “similarities and differences between the multiple answers that have been given to this basic question.”²²² It can be inferred from Hurrell's position that constructivism is not a single theory that can easily be distinguished from all other international relations theories but rather it is a mix of theories. He explains, “the structuralist turn in the overall direction of international relations theory, and the need to achieve as much theoretical rigour as the other social sciences had purportedly been able to do.”²²³

Constructivists, or members of the English School of International Relations, are interested “in the comparative analysis of ‘international systems’ over time and space, particularly in terms of diplomatic practice and culture”.²²⁴ They analyse the so-called ‘society of states’ which Alan James explains, “[a] society [...] is subject to and expressive of the wishes and whims of those who [...] make it up. It reflects the actions and reactions of its constituents, or members. And those members [...] will be influenced by their element of human condition [...] this is why the term society, with its voluntaristic connotations, is so much more apt than system to sum up the

²²⁰ It has been mentioned that some scholars give the term 'Rationalist Institutionalists' to the Institutionalists and the term 'Sociological Institutionalists' to the Constructivists. (See Beck, R. J., Arend, A.C. & Vander Lugt, R.D., Eds. (1996), p. 166). And some term the Institutionalists the 'Rationalistic Study of International Institutions' and term the Constructivists the 'Reflective Approach' (See Keohane (1996), p. 187).

²²¹ Hurrell (1996), p 206.

²²² Ibid.

²²³ Hurrell (1996), p. 208.

²²⁴ Griffiths, et al. (1999), p.233.

collectivity of states.”²²⁵ Keohane states that only by understanding how people think, can we understand international relations.²²⁶

However, the main work of constructivists, according to Alexander Wendt, focuses on “the extent to which a state's action is influenced by “structure” (anarchy and the distribution of power) versus “process” (interaction and learning) and institutions.”²²⁷ Constructivists “focus on the social construction of subjectivity and minimize their image problem.”²²⁸ In other words, it is a social theory “which seek[s] to explain identities and interests.”²²⁹

2.3.3.5.1 The Similarities between Constructivism and Institutionalism

Constructivism and institutionalism share the belief that international institutions are important.²³⁰ For both approaches, the norms, rules and decision-making procedures that constitute international institutions exert a significant influence – at least under certain circumstances. The challenge to discover and to describe these circumstances undoubtedly will continue to animate Institutional scholar for some time to come.”²³¹ Also, both approaches agree with the neorealist belief that states are the main actors, that the international system is anarchic (unlike the national system where there is a central authority) and that international cooperation is better understood through International Relations theories.²³²

2.3.3.5.3 The Differences between Constructivism and Institutionalism

Constructivism differs from other approaches in believing that “understanding how people think about institutional norms and rules and the discourse they engage in, is as important in evaluating the significance of these norms as measuring the behavior that

²²⁵ Ibid

²²⁶ Keohane (1996), p 201.

²²⁷ Wendt (1992), p. 391.

²²⁸ Beck, et al. (1996), p. 166.

²²⁹ Ibid., p. 393.

²³⁰ Ibid, p. 166.

²³¹ Ibid.

²³² Barker (2000), p. 82.

changes in response to their invocation.”²³³ For constructivists, international institutions play an important role in constituting and reflecting the way that states use their power to cooperate with each other, and they focus on the ‘intersubjective meaning’ of this role of international institutions.²³⁴ More plainly, while institutionalists believe that international institutions only change the behaviour of states but not their identities and interests, constructivists believe that international institutions change both the behaviour of states as well as their identities and interests.²³⁵

2.3.3.5.4 *The Effect of Institutions*

Constructivists argue that with respect to the importance of the interests of states to realism and the interests of international institutions to institutionalism, there are some guides that emerge from interactions between international actors which leads states and international institutions to follow them although it was not initiated by them. Constructivists emphasise that "institutions are often not created consciously by human beings but rather emerge slowly through a less deliberative process, and that they are frequently taken for granted by the people who are affected by them."²³⁶ Constructivists focus on "institutions that are not plausibly viewed as the product of human calculation."²³⁷ Obviously, the institutions that constructivists focus on are what was termed earlier as *general institutions*; which reveals that many of the arguments between institutionalists and constructivists should not exist because they are not actually talking about the same kind of institutions. For example, Keohane's critique of institutionalists is that their theory is not complete because they do not discuss change consciously happening, they do not discuss how interests change and they ignore the significance of historical processes.²³⁸ The response to this critique can be that institutionalists are actually not focusing on general institutions but rather on 'specific institutions' such as the GCC.

²³³ Keohane (1996), p 166.

²³⁴ Beck, et al. (1996), p. 166.

²³⁵ See Wendt (1992), p. 391.

²³⁶ Keohane (1996), p 199.

²³⁷ Ibid., p 201.

²³⁸ Ibid, p 200.

2.3.3.5.4 *International Lawyers & Constructivism*

International lawyers, constructivists, and institutionalists face the same challenges from realists that international institutions and international law are merely a reflection of political interests.²³⁹ In order for international lawyers, constructivists and institutionalists, to challenge this, they have to establish that international law and institutions are, at least to some extent, independent of the states which created and supported them. The challenge is not just to establish this independence but also to establish that states follow international rules even when these do not match their interests.²⁴⁰ Both international lawyers and constructivists believe that the international system is a social construct which means that it can be affected like any society.²⁴¹ The work of constructivists, such as Arend,²⁴² has enriched lawyers' explanations of the role of international rules.²⁴³

There are elements without which a social construct would not be able to develop. These elements are "first, shared understanding, expectations or knowledge; second, material resources; and third, practice."²⁴⁴ Legal rules help construct the functional environment for a social system by creating a legal body under which these elements are more likely to gather. An international institution is a body under which member countries build up their understanding and expectations by practicing cooperation. Legal rules generate other legal rules within the framework of a society of states. First, legal rules create the environment in which state cooperation and expectations are developed; second, these practices and expectations create the perfect environment for new legal rules to emerge. Arend states that without the shared expectations of states, legal rules cannot exist.²⁴⁵ A charter of an international institution is the legal rule that creates the environment for member states to develop their social practice and understanding. In this developed understanding of expectations, new legal rules

²³⁹ Hurrell (1996), 208-209.

²⁴⁰ Hurrell (1996), 208-209.

²⁴¹ Barker, C. (2000), p. 94.

²⁴² Arend, A. (1998)

²⁴³ Barker, C. (2000), p. 94.

²⁴⁴ Ibid., p. 83.

²⁴⁵ Arend (1998), p. 142.

emerge. Constructivists provide a better explanation for the existence of international institutions, highlighting the importance of state practices which leads to the creation of norms.²⁴⁶

Describing the constructivist approach, Koh explains that “far from being novel, domestic obedience to internalized global law has venerable historical roots and sound theoretical footing. Participation in transnational legal process creates a normative and constitutive dynamic. By interpreting global norms, and internalizing them into domestic law, that process leads to reconstruction of national interests, and eventually national identities. In a post-ontological age, characterized by the “new sovereignty,” the richness of transnational legal process can provide the key to unlocking the ancient puzzle of why nations obey.”²⁴⁷

2.3.3.5.5 Why Constructivism is Able to Give More Answers than Institutionalism

The theory of institutionalism is built on the assumption that states are interested in maximising their utility, and this assumption makes it hard to understand the origin of institutions and to understand how international institutions vary according to the culture and political interest of their surroundings.²⁴⁸ Constructivists do not share the commonly accepted belief held by institutionalists that “‘man’ is a hard-nosed short-run profit-maximizer suspicious of everyone he deals with.”²⁴⁹ Unlike constructivism, “[Institutionalism] does not take in account the impact of social process of reflection or learning on the preferences of individuals or on the organizations that they direct.”²⁵⁰ Institutionalism cannot explain why change happens, while constructivism can.²⁵¹

²⁴⁶ Koh, H. (1997) p. 2646.

²⁴⁷ Ibid, p. 2659.

²⁴⁸ Keohane (1996), p 199.

²⁴⁹ Dore, (1983), p. 469.

²⁵⁰ Keohane (1996), p 201.

²⁵¹ Ibid.

2.3.4 Conclusion

This chapter brings this theoretical discussion by briefly introducing international institutional law to illustrate where it fits within the field of international law. It also outlined the different types of international institutions to place the GCC within current typologies and to situate the focus of this thesis. It argued that the GCC is a regional or closed, inter-governmental institution, not supra-national or general.

This theoretical chapter then discussed, analysed and evaluated various related theories in international law and international relations. These theories are the basis of the analysis in the following chapters. There are many methods to analyse what constitutes law, but this chapter argues that legal positivism, which mainly focuses on what the law is and not what the law should be, is the best way to determine what the law is or if a law actually exists. It focuses on the development of Hart's legal positivist theory, which states that a legal system has to have two kinds of rules: primary rules which tell what individuals have or do not have to do, and secondary rules which consist of three elements: rules of recognition, rules of change and rule of adjudication.²⁵² Hart's theory is further developed by the legalisation theory established by Abbott, Keohane, Moravcsil, Slaughter and Snidal.²⁵³ This theory states that legal rules are measured based on three elements: obligation, delegation and precision, in order to classify them accordingly between hard and soft law.²⁵⁴ This chapter discusses this approach to analyse the laws that the GCC is creating, by which it governs itself and governs the cooperation between member countries. This approach will be applied throughout this thesis but mainly in chapter six (the GCC law making process). This chapter will use Hart's positivist theory and Abbott et al's legalisation theory to analyse the GCC's gradual process of law creation. It will argue that the GCC's process of law creation is by creating soft law first then, after the member countries have got used to the new proposals, the GCC would encourage the member countries to adopt this soft law as a

²⁵² Hart (1961).

²⁵³ Abbott (2001), p. 18.

²⁵⁴ See Abbott (2001), p. 19.

hard law. It will highlight the fact that many soft laws were created by the GCC and then adopted in the national laws of each member country with their full will and without any enforcement by the GCC upon them.

This chapter has, also, discussed a variety of key IR theories including idealism, realism, institutionalism and constructivism. This provides the theoretical framework for chapter seven (pressure and identity: the future of the GCC) which applies neorealism, institutionalism and constructivism to this study of the GCC to enrich the positivist analysis outlined in chapter six (the GCC law making process). This chapter adopts a neorealist perspective to argue that the main motivation of states' international action is their survival and to analyse the GCC response to the Arab Spring. It also uses the constructivist theory of change to analyse the reason behind the Arab Spring. The emphasis on the importance of international institutions and the importance of their independence throughout this thesis is mainly inspired by institutionalist theory and the belief that international institutions have a key role in contemporary international relations. The fourth chapter of this thesis (the establishment of the GCC) uses a realist concept to analyse the reason behind the existence of the GCC, namely the concept of the balance of power. Before moving on to consider these issues, it is first necessary to start with an historic overview of the development of GCC states and the cooperation between them as this provides the background to the establishment of the GCC and addresses the balance of power.

Chapter Three - The History and Development of the Gulf States and Cooperation between Them

3.1 Introduction

In order to achieve a better understanding of the Gulf Cooperation Council (GCC), this chapter briefly traces the history of GCC member countries. This history helps outline the reasons that led the leaders of the member countries to set up the GCC in the first place. Even before member countries were established as individual states, there were political entities governed by powerful families on the west side of the Gulf.¹ Each family governed its area; namely, Al-Nahyan in Abu Dhabi, Al-Khalifa in Bahrain, Al-Sabah in Kuwait, Al-Bu Said in Oman, Al-Thani in Qatar and Al-Saud in Saudi Arabia.² Before the end of World War I in 1918, these ruling families, apart from Al-Saud, had been ruling their areas with different levels of political independence under Ottoman Suzerainty.³ After the end of the war, these ruling families, apart from Al-Saud, came under the protection of Britain.⁴ Tracing this history reveals the reason behind the division in political systems between GCC members and the rest of the Arab world. This history also reveals the background of the GCC membership system which is more open to Arab royal systems. It reveals, as well, the similarity and differences between member countries, which are divided on the expected role of the GCC. When the leaders decided to launch the GCC they had different opinions about what kind of organisation the GCC should be: some were more focused on security cooperation (Bahrain, Saudi Arabia and Oman) and others more on economic cooperation (Kuwait).

This chapter discusses several key historical events that raised the significance of creating the GCC including the British withdrawal from the Gulf (1961-1971) and the Soviet Union's invasion of Afghanistan in 1970. Also in 1970, an energy crisis arose

¹ Albaharna (1973), p.40.

² Yapp, M. (1980), p. 41 & Albaharna (1973), p.40.

³ Albaharna (1968), p. 2.

⁴ It may be worth mentioning that the background of these royal families reveals that their power did not start from being tribe leaders but as royal leaders with different Arabic terminology such as: King, Amir, Imam or Sultan. The difference between this kind of leadership and a tribe leader is that the latter would lead only his tribe wherever they go while the former would lead the people in a given area no matter their tribe.

after the war between Egypt and Israel: there was a rise in the cost of petrol and in the demand for it in industrialised countries, which was problematic considering that two thirds of the world's oil comes from the Gulf. Additionally, there was the 1979 Iranian Revolution and the Iran-Iraq War of 1980. These events muddled the balance of power between opposing countries in the Gulf which raised the threat facing the area and the West worried about the safety of the Gulf because there was no balance of power in the region. On the other hand, GCC leaders, concerned about the safety of their countries, debated the potential of creating a very strong economic block.

This chapter relies on resource material written about the history of the region as well as the material published by the GCC and the statements of GCC leaders. This resource material provides this chapter with the needed information to analyse the background of the motivation of creation the GCC as well as the way this organisation functions. The analysis of this chapter is built on examining the statements of GCC bodies as well as the statements of the leaders of member countries in the light of these historical facts. In this historical study, more focus is given to the ruling system of the member countries, the British influence and the effect of that on the GCC.

3.2 The Ruling System in GCC Countries

Rulers of GCC countries have in their own right, exclusive legislative, executive and judiciary powers.⁵ There is a key link between the way the GCC functions and the governing system of GCC countries. While the governing systems of these countries are discussed in greater detail throughout, a common overview about these governing systems in all these countries is first given here.

Some Western scholars have been concerned about the impact of this movement towards organised cooperation on the legal system of the member countries. For example, Nicholas Angell comments, "Although it is very likely that the GCC will have an increasing influence on the future development of the legal system of the member states, the shape of this influence cannot be predicted right now."⁶ Angell appears to

⁵Albaharna (1968), p. 11.

⁶ Angell (1987), p 107.

have no doubt that the GCC would positively affect the legal system of the member countries. Perhaps the effect he was thinking about was more a movement towards adopting democracy, while one aim of the creation of the GCC was perhaps to give the legal system of these countries more legitimacy as is, without any vital movement toward democracy. In the last chapter of this thesis, the link between the governing systems of these countries to the way the GCC functions as well as to the influence of international demand for democracy on the GCC will be discussed.

The heads of these countries are commonly chosen by a key member of their royal families.⁷ In many GCC countries, the King or the Amir will appoint his oldest son to inherit the position of heading the country (e.g. Bahrain, Qatar and the UAE), while in other countries the succession goes from brother to brother by age order (e.g. Saudi Arabia). However, there has been a tendency in some of these countries to appoint the most suitable successor from the royal family no matter his age. In other words, a suitable successor could be appointed even if he has older brothers if he is more suitable than the others.⁸

The aim of this study is to illustrate how the creation of the GCC can help stabilise existing governments and give them a smooth, quiet and non-revolutionary way towards more public participation in politics, to create a model of Arab reproduced government system. The governing systems in GCC countries are built on giving the head of the country immense comprehensive power. The constitution of three countries, Kuwait, Qatar and Bahrain, mention that the governmental system is a democracy; however, only Kuwait has an elected parliament.⁹ More details about the history and ruling systems in each member country now follow.

⁷ Albaharna (1968), p. 11.

⁸ Ibid, pp. 10-11.

⁹ Nakhleh (1986), p. 17.

3.3 The History of GCC Member States

3.3.1 The Kingdom of Bahrain¹⁰

Bahrain is a country of islands without any land borders with any of its neighbouring countries, aside from a bridge over the sea to Saudi Arabia. It is an archipelagic country with one main and 32 small islands, and its nearest neighbours are Qatar and Saudi Arabia which are about 14 miles off the coast of Bahrain. The whole land area of Bahrain is only 650 sq. km., making Bahrain one of the smallest countries in the world.¹¹ The total population of Bahrain is estimated at 527,433 (51%) national and 511,864 (49%) non-national inhabitants.¹² Two thirds of the Bahraini population are Shi'ah Muslims and only one third is Sunni Muslims.¹³ This sectarian division between the Bahraini people has been the cause of some problems as will be discussed in the last chapter of this thesis.

Bahrain was under the control of the Portuguese until they were replaced by the Persians in the early 16th Century.¹⁴ However, the modern history of Bahrain goes back to an Arab tribe called Utub. At the beginning of the 17th Century, the Utub tribe moved from Najd to Kuwait.¹⁵ The Utub tribe consists of two main families: Al Sobah, Kuwait's Royal Family, and Al-Khalifah, Bahrain's Royal Family.¹⁶ After the Al Sobah family became the rulers of Kuwait, their cousins Al-Khalifah, preferred to be the rulers of another place rather than being under the rule of their cousins, so they moved to the north west of Qatar where they created the al Zubarah State.¹⁷ In 1782 Al-Khalifah

¹⁰ The Kingdom of Bahrain used to be called the State of Bahrain, and the head of state used to be called the Amir. In 2002, the Amir of Bahrain, Sheikh Hamad Bin Khalifah, declared a resolution that the State of Bahrain shall be transferred to become the Kingdom of Bahrain and that the head of Bahrain shall be called the King of Bahrain instead of the Amir of Bahrain. See Bahrain News Agency (14 Feb 2002) available on www.bna.bh [Accessed on 21 August 2011].

¹¹ Lawson (1989), p. 1.

¹² See the official website of the Government of Bahrain, available on www.bahrain.bh. [Accessed on 23 August 2011].

¹³ Belgrave (1965), p.16.

¹⁴ Sadik & Snavely (1972), p.5.

¹⁵ Najd is a large area in the middle of Saudi Arabia.

¹⁶ Albaharna (1968), p. 2.

¹⁷ See Sadik & Snavely (1972), p.5

decided to move from Qatar and to attack Bahrain with the help of their cousins Al Sobah. They succeeded in occupying Bahraini land and became the rulers of Bahrain.¹⁸

From 1870 to 1905, many serious attempts were made to occupy Bahrain by the Ottoman Sultan of Muscat and by Al Saud. None of them succeeded and Al-Khalifah survived to continue as rulers of Bahrain.¹⁹ That is maybe the reason why Bahrain sought British help during that period. In 1880 and 1892 Bahrain concluded treaties of protection with Britain allowing Britain to protect Bahrain from external dangers and to become more involved in Bahraini affairs.²⁰ All these dangers facing Bahrain were from the past, but old and new Bahraini worries came from Iran. This danger shaped the Bahraini view of what the GCC should be about as will be discussed below.

Since Bahrain was ruled by the Persian Empire when Al-Khalifah took over in 1782,²¹ it may be the reason that some Iranians regard Bahrain as their land which was taken by the Al-Khalifah. Iran used to claim sovereignty over Bahrain but in 1970 the Shah of Iran and Bahrain agreed to adopt the decision of Mr Winspeare Guiccardi on who had claims to the land. Mr Guiccardi was appointed by the UN Secretary-General to be an independent one-man commission to find out whether the Bahraini people wanted their country to be an independent state or a part of Iran.²² He found out that the Bahraini people wanted their independence with full freedoms to establish their country's own international relations, which was supported by the UN Security Council.²³ However, in 1971 Bahrain was going through some changes as the provision of the British protection agreement came to an end, transforming the relationship between Britain and Bahrain with Bahrain becoming recognised as a fully independent state.²⁴

Since then, Iran has not formally claimed sovereignty over Bahrain but there are still Iranian officials who claim Iranian sovereignty over Bahrain and regard Bahrain as part of Iran.²⁵ Iran continues to constitute a direct threat to Bahrain. For example, an announcement by Ali Akbar, the Special Inspector General in the Office of the General

¹⁸ See Sadik & Snaveley (1972), p.5.

¹⁹ See Albaharna (1968), p. 310.

²⁰ See all these agreements in Albaharna (1968), p. 313.

²¹ Hay (1963), p. 14.

²² Hawley (1970), p. 24.

²³ Ibid.

²⁴ See UKTS, No 78 (1971), 4827.

²⁵ Alkhawildy (2011) *Asharq al-awsat*, Newspaper, 11796 (16 March 2011).

Guide Head of the Iranian Republic, claimed in 2009 that Bahrain is not an Arab country, but rather it is a Persian island and consequently a part of Iran.²⁶ Though Iran has formally declared that it does not support Akbar's announcement and that it recognises Bahrain as an independent country, Bahrain still regards Akbar's announcement as an Iranian threat.²⁷ This threat which predated the creation of the GCC was perhaps the reason why Bahrain is the only GCC country that states the importance of the GCC to Bahrain in its constitution.²⁸ Also, it is clear that this threat affected the Bahraini view about what the GCC should be about when they proposed to create a mobile force and to keep this force at the disposal of any member country to request for help. It will be discussed later that the GCC created GCC military forces²⁹ and that Bahrain asked the GCC to send this force to Bahrain to help the Bahraini government face public demonstrations during the Arab Spring.³⁰

Since the Al-Khalifah occupied Bahrain in 1782, they have ruled Bahrain in a traditional tribal way, but in 1956 the Al-Khalifah established the Council of Administration. The role of that council was to control the interaction of a variety of governmental bodies and to identify the main interests of the country. This council was completely under the authority of the head of the country and all ten members of the council were chosen by the head of state. The President and six members of the Council were members of the Al-Khalifah Royal Family, and the three remaining members were government administrators. Nonetheless, all of the members, whether from the royal family or not, were chiefs of some of the government bodies.³¹

The council was established in 1956 when the head of the country Sheikh Khalifah ibn Salman ordered the creation of the Council.³² This order stated that half of the members of the Council should be elected and the other half should be nominated by the Bahraini Government.³³ Albaharna explains that by mentioning this election in his order, the Sheikh was trying to satisfy public hope for an elected council even if it was only half of

²⁶*Al-Quds Al-Arab*, newspaper (23 February 2009).

²⁷ Ibid.

²⁸ The Foreword of the Bahraini Constitution.

²⁹ See Chapter Two.

³⁰ See Chapter Three.

³¹ See Bahrain Government, Annual Reports, years 1950-65.

³² Sheikh Khalifah ibn Salman is the grandfather of the present of Bahrain Sheikh Hamad ibn Esa ibn Salman.

³³ See Bahrain Government, Annual Reports, years 1950-65.

the Council.³⁴ However, the Bahraini people enjoyed their partly elected Council for 20 years until August 1975 when Sheikh Isa bin Salman Al-Khalifa declared his decision to dissolve the National Assembly. Since then, the limited practice of democracy in Bahrain has been suspended,³⁵ because the Bahraini people boycotted the elections.³⁶ They probably did that to request more participation in deciding their government but the result was less than what they already had. The Bahraini Government's attitude about democracy is perhaps due to the fact that the majority of Bahraini people are Shi'ah while the government is Sunni, as will be discussed in the last chapter.

In 1972, Bahrain established a new constitution, which states that Bahrain is a democratic country and that the Bahraini people are the source of all laws.³⁷ Although this constitutional law opens the door for the Bahraini people to partly participate in their government, it maintains greater power in the hand of the King.³⁸ This historical account reveals both the security threat experienced by Bahrain and Bahrain's ambiguous attitude towards democracy. The lack of security would be their main drive in support of the creation of the GCC.

3.3.2 The United Arab Emirates

The United Arab Emirates is the only federal country in the area, consisting of seven emirates; Abu Dhabi, Dubai, Sharjah, Ras Al Khaimah, Ajman, Umm Al Quwain and Fujairh. Its total area, including islands, is 83600 km² and its population is 8,200,000 (2009 estimates).³⁹ The UAE used to be seven small Sheikhdoms, known as the Trucial Coast of Oman.⁴⁰ The founder of the UAE was Sheikh Zayed Al Nahyan (1918-2004) and before he become the ruler of the UAE, he was the ruler of Abu Dhabi, the biggest state of the Trucial States.⁴¹ After the British declared their withdrawal from the area in

³⁴Albaharna (1968), p. 14.

³⁵Al-shamlan (1997), p. 54.

³⁶ Alhaharnah (1968), pp. 14-5.

³⁷ Article 4, Bahrain Constitution.

³⁸ See Article 2, Bahrain Constitution.

³⁹The UAE official website, available on www.government.ae.

⁴⁰ Hawley (1970), p. 18.

⁴¹See the official website of the UAE's government. Available on: www.government.ae [Accessed on 28 August 2011].

1968, he took the lead in persuading the rest of the leaders of the Trucial States to unify under a single federal state.⁴²

The family lineage of all the rulers of the seven Trucial States goes back to the al Qwasim and Bani Yas tribes.⁴³ The Bani Yas tribe migrated from the middle of the Arabian Peninsula to the coast of Oman in the late 17th Century.⁴⁴ The rulers of Sharjah and Ras al-Khaimah are from the al Qwasim tribe. Many of these tribes were seafaring and had influence on a larger area than the present territories of their states. At times, they used to influence the west side of the Arabian Gulf. This extension of their power led to conflict with the British since the British Government had an interest in all the important seas from the Trucial States to India and had an artificial alliance with the rulers of Oman, the al Bu Sa'id tribe. The aim of this British-Omani alliance was to protect the Arabian Gulf. The British Government needed Al Bu Sa'id to keep the French away from the coast of Oman and the Trucial States. Al Qawasim perceived the British-Al Bu Sa'id alliance as a betrayal to the region with Al Bu Sa'id seeming to have given up the sovereignty of the region to the British Government.⁴⁵ Al Qawasim initiated attacks on British ships and the British Government responded by raiding Al Qawasim in 1805, 1809 and 1811. As a result, the British Government named the area 'Pirate Coast'.⁴⁶

In 1820, the British navy launched a major attack, during which they damaged and arrested all the ships belonging to Al Qawasim. After that attack, British ships were travelling peacefully in the Arabian Gulf, leading to the Maritime Truce Treaty of 1833 which established, to a great extent, British influence in the area. This treaty was modified in 1853 and renamed the Treaty of Peace in Perpetuity, which was the reason the area came to be known as the Trucial States. In the following decades, all the leaders of the Trucial States ratified the protection agreement with the British Government.⁴⁷

⁴² See the official website of the UAE's government. Available on: www.government.ae [Accessed on 28 August 2011].

⁴³ Walker (2010), p. 365.

⁴⁴ Rumaihi (1986), p. 27.

⁴⁵ Walker (2010), p. 365.

⁴⁶ Albaharna (1968), p. 25, see also Walker (2010), p. 365.

⁴⁷ Walker (2010), p. 365.

Jenny Walker states that without the British help and encouragement for the Trucial States to unite, some of the Trucial States would now be under the sovereignty of Saudi Arabia.⁴⁸ This is because the Al Qwasim – rulers of Sharjah and Ras al-Khaimah – are influenced by the Wahhabi movement, an Islamic movement implemented by the Saudi Government.⁴⁹ Walker's opinion may be true but not because Saudi Arabia had any ambitions in occupying UAE lands; Saudi Arabia was more interested in the stability of the area regardless of whether some of the Trucial States were under its sovereignty or an independent country. For example, when the UAE declared its independence, Saudi Arabia did not try to prevent or reject this independence. Albaharba stresses that the leaders of the Trucial States were independent for a long time before the British Government became interested in the area,⁵⁰ meaning that although the British Government helped these Trucial States unite as a federal country, each State was individually independent before the British became involved in the area. Though it is true that Britain did not initially help in the creation of these Sheikhdoms, it cannot be denied that the Britain Government did help create the union between these Sheikhdoms that led to the creation of the UAE.

Before the UAE became an independent country, the seven small Sheikhdoms in the area were governed by the Trucial States Council, in which the seven Sheikhdoms had a representative. This council was initially set up by the British Government to ease discussions between the British Government and the leaders of the Trucial States. The British Political Agent at Dubai used to chair the Council annual meetings and cooperation between Trucial state leaders through the Council was only limited to administrative cooperation for years. The British Government encouraged these rulers to develop their cooperation, particularly in economic and administrative matters. As a response, the leaders of the Trucial States created another Council, at a lower level than the Trucial States Council. The main role of this Council was to implement the decisions of the Trucial States Council. In 1965, the leaders of the Trucial States held a conference sponsored by the British Government in Dubai where the leaders agreed to create the Trucial States Development Office.⁵¹ Also, the rulers of the Trucial States

⁴⁸ Walker (2010), p. 365.

⁴⁹ See Albaharna (1968), p. 25.

⁵⁰ Ibid, p.5.

⁵¹ The Economist Intelligence Unit (1966), pp. 60-2, 8-19

and the rulers of Qatar and Bahrain⁵² initiated an economic cooperation by agreeing on a strategy for channelling the wealth of the richer states to the poorer states through the Trucial States Development Office.⁵³ At the time of that agreement, oil had only been discovered in Abu Dhabi while the rest of the Trucial States were not yet producing oil.⁵⁴ At this point the Trucial States were not yet united, and each Sheikhdom was regarded as an independent state, however, the British Government dealt with them as one block through the British Political Agency which was directly linked to the British Political Resident in Bahrain. Also, in 1946 the British Government appointed a British legal advisor specialised in local administration to help the six Trucial States, excluding Abu Dhabi, in governing their relationships.⁵⁵ These British activities in the Gulf reveal how Britain wanted states under its sovereignty to become independent states and not to be taken under the sovereignty of any larger neighbouring countries.

The English East Indian Company (EEIC), which the British Government used to rely on in deciding its policy in the Gulf, wanted to control the trade and politics of the Trucial Coast.⁵⁶ Beforehand, Britain had signed a treaty with the Sheikhdoms of the Trucial States in 1820,⁵⁷ according to which these Sheikhdoms agreed to keep peace in the land and sea and to stop war and piracy. This area was important to Britain because it was a strategic point for shipping between Britain and India.⁵⁸

However, when Britain withdrew from India in the mid-19th Century, its interest switched to the Trucial Coast as oil was discovered there,⁵⁹ leading Britain to become more involved in the internal affairs of the Trucial Coast.⁶⁰ Previously, Western countries had never been interested in the Trucial States before oil was discovered.⁶¹ Britain concluded the treaty of protection with all the Trucial States in 1892 and encouraged the leaders of these Sheikhdoms to unite under a single government. These leaders then took the first step towards their union by establishing a Council of the

⁵² As already mentioned, there was intention to include Qatar and Bahrain in the UAE to become a single country but that did not succeed.

⁵³ The Economist Intelligence Unit (1966), pp. 60-2, 8-19.

⁵⁴ Ibid

⁵⁵ Hay (1959), p.115.

⁵⁶ Ibid, p. 32.

⁵⁷ Aitchison (1933), p. 245.

⁵⁸ Hawley (1970), p. 19.

⁵⁹ Luce (1970), p. 7.

⁶⁰ Ibid.

⁶¹ Hawley (1970), p. 17.

Trucial States in 1951. The aim of this council was to integrate the internal policies of each State by creating common laws for all their internal affairs.⁶² This was the first step towards creating a federal state made up of these seven Sheikhdoms. The protection agreement with the British remained valid until the British Government agreed to withdraw from the area in 1971.⁶³

The United Arab Emirates was also supposed to include Qatar and Bahrain. In 1971, the nine Sheikhdoms: the seven Trucial States plus Bahrain and Qatar were not recognised as countries yet.⁶⁴ These nine Sheikhdoms signed the Dubai Agreement in 1971, a treaty by which Bahrain and Qatar were included within the United Arab Emirates,⁶⁵ but after this agreement, these nine Sheikhdoms spent three years negotiating their federal system.⁶⁶ The idea was for the nine Sheikhdoms to create a council, where the nine states would have equal power with one voice for each. Bahrain did not think this was a fair federal system, as they did not want to be on an equal level with a much smaller Sheikhdom like Umm Al Quwain or Fujairh. At that time, Bahrain had a much larger population than some of the smaller countries and so they thought the fairer system would be to give the bigger Sheikhdoms two votes and only one to the smaller ones. However, the small Sheikhdoms did not agree so Bahrain and Qatar decided not join the federal union and to become independent countries.

3.3.3 Kuwait

The whole area of Kuwait is 17,800 km², a small state in the north-west of the Arabian Gulf.⁶⁷ Although the majority of Kuwaiti people have Arab roots, there is a considerable number of Kuwaitis with Persians roots.⁶⁸

⁶² Hay (1959), p. 32.

⁶³ See all these agreements in Albaharna (1968), p. 313.

⁶⁴ Albaharna (1973), p. 62.

⁶⁵ Sandwick (1987), p. 8.

⁶⁶ Ibid.

⁶⁷ Berger (1978), p. 19.

⁶⁸ Ibid; It is claimed that the Kuwaitis with Persian roots did not always agree with the common attitude of GCC members, for example, the Kuwaiti refusal to participate in the GCC force that entered Bahrain to help the Government face the demonstrations in 2011. More focus on this is given in the last chapter of this thesis.

The modern history of Kuwait, which has been governed by rulers from the Al-Sabah family, dates back to the beginning of the 17th Century when the al-Utub tribe arrived in Kuwait from the middle of the Arab Peninsula (Najid).⁶⁹ It has already been mentioned that the history of the royal family in Kuwait is connected to the history of the royal family in Bahrain. Indeed, Al-Sabah was faster than Al-Khalifah in taking the lead toward strengthening their position as the hereditary rulers of Kuwait in 1756 when their first leader, Sheikh Sabah, moved from an area called Umm Qasr to permanently inhabit a place called Kuwait, which is now the capital city of Kuwait.⁷⁰

Compared to the other GCC countries, Kuwait has a unique governing system, which has gone through two key stages. Before independence, the Kuwaiti Government was very badly organised, as Sir Rupert Hay describes:

The system of Government is patriarchal and the high offices of State are held by members of the ruling family, each of whom conducts the affairs of the department entrusted to him with the minimum of financial or any other control by any central authority. In fact, each of these Sheikhdoms is a law unto himself, and there is much in the administration which depends on their relations with each other, their presence or absence from the State or the willingness of the Ruler to control their activities...⁷¹

Hay focuses on the approximate period between 1940 and 1961. The Kuwaiti governing system completely changed in 1961 when Kuwait became an independent country. According to Hay, Kuwait has had an elected parliament, as well as an excellent administrative structure, constitutional system and an effective Council of Ministers.⁷² The Council has the executive authority. Some of the members of this Council are from the Kuwaiti Ruling Family and some are commoners,⁷³ but the National Assembly cannot vote for “no confidence” against the Prime Minister or his government. Consequently, there are no means to force the resignation of the Prime Minister. The person who has the supreme executive power over the Prime Minister and the National Assembly is the Amir,⁷⁴ and the only means for the National Assembly to force the resignation of the Prime Minister is to approach the Amir. In this case, the

⁶⁹ Albaharna (1868), p. 3.

⁷⁰ Ibid

⁷¹ Hay (1959), p. 170.

⁷² Europa Publications Limited (1966), pp. 135-6.

⁷³ Ibid.

⁷⁴ The word "Amir" in Kuwait and Qatar is fairly the same as the word "King" in Saudi Arabia and Bahrain,

Amir has two options: to dissolve the National Assembly or to dismiss the Prime Minister. In this context, Kuwait's Constitution does not allow the creation of political parties so all the candidates for the National Assembly have to be individuals.⁷⁵

It is clear that this kind of democracy is the closest one in the area to the general Western democracy yet there is a key difference between the two kinds of democracy. In Kuwait, people are participating in their government by elected Parliament, but the Amir still has the main power. Those who support the Kuwaiti style of democracy criticise the absence of “intelligent opposition.”⁷⁶ Others argue that Kuwait's political system opens the door for the National Assembly to approach the Amir, only to find a way to release the public anger against the government without real ability to change it. Yet, the real power is still in the hands of the Amir and the powerful figures of Al-Sobah family.⁷⁷ In this regard, the Kuwaiti system of government is closer to that of other GCC members in the way that supreme power still resides with the Amir and his family.

According to the Kuwaiti Constitution, Kuwait is a sovereign, Islamic, hereditary Emirate and democratic country, but although it is a democratic country, the Amir, as head of state, still has substantial governing power as he keeps his position for his whole life and he is the only one who has the power to choose the Crown Prince which has to include a son of Mubarak al-Sobah or one of his grandsons. The decision-making is quite a simple process: the decision is first made on the Amir's order, which then needs to be approved by the Kuwaiti National Assembly. If the Assembly refuses the Amir's order, the Amir has to propose three sons or son of sons of the late Mubarak al-Sabah. Then this order passes to the National Assembly which has no power except to choose one of these three chosen by the Amir to be the Crown Prince.⁷⁸ Kuwaiti constitutional law gives more power to the people of its country than all other GCC countries do, as the Amir shares power with his cabinet, the National Assembly and the courts.⁷⁹

⁷⁵ Europa Publications Limited (1966), pp. 135-6.

⁷⁶ *The Economist*, 21 January 1967, p. 217.

⁷⁷ Kelly (1966), p. 633.

⁷⁸ Article 4, Kuwaiti Constitution.

⁷⁹ Ibid.

The relationship between Kuwait and Britain was primarily one of protection but also linked to very old trade relations. In 1899, Britain signed the first political treaty with the head of Kuwait, but this treaty was secret because Kuwait was still under Turkish rule.⁸⁰ Turkish authority over Kuwait ended in 1914 as a result of Turkey joining the First World War to support Germany.⁸¹ Afterwards, Britain started to control Kuwait's external affairs and became responsible for protecting Kuwait from external threats.⁸²

The dangers facing Kuwait mostly came from Iraq as Iraq claimed Kuwait as a part of Iraqi lands which had been unfairly taken from Iraq to form an independent country.⁸³ Some contend that this claim was not only supported by the Iraqi Government but also by the Iraqi people. In 1962, as Kuwait was declaring its independence after British withdrawal, then Iraqi President Abdul Kareem Qasim resurrected the claim that Kuwait is actually a part of Iraq.⁸⁴ This claim was based on the fact that Kuwait was part of the administrative region of Basra⁸⁵ at the time of the Ottoman Empire before it came under British protection in 1913. Soon after he declared Kuwait's independent, Kuwaiti Amir Abdullah al-Sobah applied for membership in the Arab League and the United Nations, as he wanted to confirm Kuwaiti independence through membership to these international organisations. However, Qasim did not accept Kuwait as a sovereign country and asserted that Kuwait had to merge territories with Iraq. As a response, Britain and Saudi Arabia both sent troops into Kuwait to face any Iraqi attacks. It is worth mentioning that, Iraq was nearly left without an effective access to the deep-water in the Arabian Gulf, a geographical status which made Iraqis feel that their country deserved a larger access area to deep-water and there is no way to have that only through Kuwait lands.⁸⁶ These historical and geographical facts highlight Kuwait's insecure location, which was one of the motivations behind the Kuwaitis seeking more security through the creation of the GCC.

⁸⁰ Albaharna (1968), p 3.

⁸¹ Dickson (1956), p. 26.

⁸² Ibid, p. 27.

⁸³ Sicker (2001), p.209.

⁸⁴ Ibid.

⁸⁵ Basra is one of the largest cities in the south of Iraq.

⁸⁶ Sicker (2001), p.209.

3.3.4 Sultanate of Oman

The total area of Oman is 309,500 km², located on the Southeast coast of the Arabian Peninsula and with a population of 3.2 million.⁸⁷ Oman has a curious geographic division: in the north of Oman there is one separate land (the Musandam peninsula) which is a small enclave on the Strait of Hormuz, pointing toward Iran.⁸⁸ This location has strategic significance as all Gulf oil is exported through the Strait of Hormuz. This particular location of Oman affected its perception of what the GCC should consist of, as will be discussed later, taking into account that since the Iraqi occupation of Kuwait in 1990, the United States (US) keeps some of its military force there to protect the Strait.⁸⁹

The modern history of Oman started with the first powerful ruler (Ahmad ibn Sa'id) from the dynasty of Al Bu Sa'id in 1744. Since then, all the rulers of Oman have come from the Al Bu Sa'id family.⁹⁰ Ahmad ibn Sa'id was chosen by the Omanis to be their leader and was the first Imam from the Al Bu Sa'id family. He gained the trust of the Omani people because he was successful in forcing the Persians off the coast of Badi.⁹¹ The second elected Imam from Al Bu Sa'id family was Sa'id ibn Sultan.⁹² Before 1797, the head of Oman used to be entitled "Imam," a term linked to the Islamic tradition.⁹³ The Imam would be a member of the Omani Ibadi scholars and would be chosen by them to be the Imam.⁹⁴ It is a very old position in Oman but the Al Bu Sa'id family made the Imam the head of State. This history reveals that as a state, Oman was set up according to Islamic rules.

The third ruler of Oman was Sultan ibn Ahmad Al Bu Sa'id who is highlighted here because he made a significant change to the ruling system in Oman in 1797. He put an end to the traditional Omani governing system: seizing the authority from the elected

⁸⁷ See the GCC official website, available on www.gcc-sg.org [Accessed on 13 Jan 2012]

⁸⁸ King, D. (2009), p.8.

⁸⁹ Ibid.

⁹⁰ Hay (1963), p. 130.

⁹¹ See Ibid. Batinah is an important area on the coast of Oman.

⁹² This Arabic word (Sultan) is used as a man's name and can be used as adjective to mean the head of state.

⁹³ Townsend (1977), p. 24.

⁹⁴ Ibadi is the main Islamic sect in Oman. See Albaharna (1968), p. 2.

Imam, he changed the title of the head of the country from Imam to Sultan, weakening the role of the Ibadi Scholars and declaring himself the secular leader. Since then, the Ibadi Scholars have had no authority to elect the head of the country.⁹⁵ That led to conflict between the two authorities of the Ibadi Scholars and the Sultan of Oman.⁹⁶ Although Sultan ibn Ahmad led the process that weakened the Ibadi Scholars, it remains a considerable authority, similar to the Saudi Arabian high Islamic Scholars authority.

The main external influence on Oman came from Britain. The British-Omani relationship dates back to 1643, when there was contact between the EEIC and the Omani rulers.⁹⁷ Unlike the rest of the GCC countries, with the exception of Saudi Arabia, Oman had a long history as an independent country controlling both its own internal and external affairs.⁹⁸ In 1798, Britain, represented by the East India Company, signed the first treaty for trade and navigation with the Omani leader.⁹⁹ This agreement was not directly a protection treaty like those concluded between Britain and the other Gulf countries, but rather it was for adopting friendship and economic relations. It was renewed in 1951 and is still active.¹⁰⁰

Until today, all the rulers of Oman have enjoyed a special position which gives them a considerable power over all other authorities, even the Ibadi Scholars. Although all the rulers of the GCC countries are at the head of their political system, Sultan Qabus, the present ruler of Oman, has a more powerful position than in the rest of the Gulf countries,¹⁰¹ thanks to Sultan Sultan bin Ahmad (1797)¹⁰² who was the first to challenge the Ibadi Scholars.

The Omani government consist of two main Councils: the Council of Ministers and Mjlis A'Shora (the Parliament) and the Sultan has great governing power over both Councils. He appoints the head of the Ministers as well as all the Ministers. In 1991,

⁹⁵ See Albaharna (1968), p. 3.

⁹⁶ Owtram (2004), p. 36.

⁹⁷ Ibid, p.34.

⁹⁸ See Arabian Gulf Intelligence (1985), p170.

⁹⁹ Albaharna (1968), p 3.

¹⁰⁰ Ibid, p.42.

¹⁰¹ Owtram (2004) p. 2.

¹⁰² Two same words (Sultan) are used but the first one is an adjective while the second one is a name.

Sultan Qabus, decided to create the A'Shura Council.¹⁰³ This Council consists of 59 members, all of whom used to be appointed by the Sultan. In 2000, Sultan Qabus, decided to allow the Omani people to participate in the government by creating a new law that states that all members should be elected by the Omani people and not appointed by the Sultan anymore. However, the president of Majlis A'Shura still has to be appointed by the Sultan.¹⁰⁴ The role of this Council is to participate in law-making and to question the ministers when needed, yet, any decision of this Council is not binding unless approved by the Sutan.¹⁰⁵

Studying the GCC member countries government systems reveals that the Oman Council, which was created in 2007, is unlike the rest of the GCC government bodies. This Council consists of two councils: the Council of Ministers and Majlis A'Shura ,while in the rest of the GCC countries such councils are separated.¹⁰⁶ The role of both councils is to help the Sultan in governing the country¹⁰⁷ with more power given to the Council of Ministers than Majlis A'Shura as the role of the latter is to provide consultation to the former.¹⁰⁸ In comparing Omani history to that of other GCC countries, it reveals that Oman is similar to Saudi Arabia in that they were both established according to Islamic rules.

3.3.5 State of Qatar

Qatar is a peninsula extending from the western shoreline of the Arabian gulf, with some small islands, and its territory comprises of 11,850 km². Qatar's land border is only in the south-west, with Saudi Arabia.¹⁰⁹ According to 2009 statistics, the total population of Qatar is 1.6 million and the gross domestic product (GDP) of Qatar is \$ 98 billion.¹¹⁰

¹⁰³ See the official website of the Sultanate of Oman Majlis A'Shura. Available on www.shura.om [Accessed on 14 Jan 2012].

¹⁰⁴ Ibid and see article 58 of the Omani Constitution Law.

¹⁰⁵ See Article 42 of the Omani Constitution Law.

¹⁰⁶ See Ibid, Article 58,

¹⁰⁷ See Ibid, Article 44.

¹⁰⁸ See the official website of the Sultanate of Oman Majlis A'Shura.

¹⁰⁹ See the official website of the Amir of Qatar Amiri Diwan, available on www.diwan.gov.qa [Accessed on 17 Feb 2012].

¹¹⁰ See the GCC website on www.gcc-sg-org [Accessed on 20 Feb 2011]

Qatar's modern history started at the beginning of the 18th Century when the Al-Thani family moved from Najd¹¹¹ to settle in Qatar. The first ruler from the Al-Thani family was Mohammad bin Thani who extended his ruling throughout Qatar and then in 1851, he forged an alliance with the Saudi ruler Faisal bin Turki Al-Saud, the ruler of the second Saudi Arabian State. In 1867, he signed an agreement with Britain according to which Britain recognised Qatar as an independent state. In 1871, he asked Turkey for protection against any external attack, leading to Qatar coming under the suzerainty of the Ottoman Empire.¹¹² However, even if the external affairs of Qatar were under Turkish rule, Qatar was internally governed by Al-Thani.¹¹³

Qatar relations with Britain started in 1867 when Mohammad Al-Thani signed an agreement with Britain recognising Qatari as an independent state.¹¹⁴ British influence began in 1868, when the ruler of Qatar concluded an informal agreement with the British Government which stated that the Rulers of Qatar would not allow any attack on British ships in the Arabian Gulf.¹¹⁵ Later, in 1916, Qatar signed a treaty of protection with Britain,¹¹⁶ but as with other Gulf countries, Britain and Qatar decided to end these protection agreements and therefore signed the withdrawal agreements in 1971.¹¹⁷

Qatar was governed by the Al-Thani in a traditional way without administrative bodies for their government. In 1950, the Qatari Government started to develop by creating different levels of administrative bodies. At that stage, the Qatari Government created a financial department and employed a British financial advisor who helped in preparing Qatar's budget, and a few years after that, the financial department became a Financial Ministry.¹¹⁸

At the time of Sheikh Ahmad ibn Ali Al-Thani (1960-1972), the first governmental council was established. He established an Advisory Council to help him lead all the

¹¹¹ Najd is an area in the middle of Saudi Arabia.

¹¹² See Amiri Diwan website

¹¹³ Albaharna (1973), p 4.

¹¹⁴ See Amiri Diwan website

¹¹⁵ Albaharna (1968), p 4.

¹¹⁶ See Amiri Diwan website

¹¹⁷ Albaharna (1973), p. 41.

¹¹⁸ Hay (1963), pp. 109-10.

country affairs, selecting all the members of that Council, which later became the Council of Monitors.¹¹⁹ At that stage, it was obvious that the Al-Thani were not willing to allow any kind of public participation in their government.¹²⁰ More developments happened under the present ruler Amir Hamad Al-Thani, as he established a new Constitution but called on the Qatari people to vote for it before he ratified it.¹²¹ It was the first time in the history of Qatar for the Qatari people to participate in such a way. He also created Majlis A'shora, a consultative Assembly which is a legislative body, and he issued a decree stating that by 2013, 15 members of Majlis A'shora will be elected and 15 appointed.¹²²

3.3.6 Kingdom of Saudi Arabia

The Kingdom of Saudi Arabia occupies four-fifths of the Arab Peninsula and spreads over an area of 2,240,000 km², between the Arabian Gulf in the West and the Red Sea in the East. According to 2009 statistics, the total population of Saudi Arabia is 27 million,¹²³ and the gross domestic product (GDP) is \$ 372 billion.¹²⁴

The current Saudi Arabia is the third Saudi state. The first Saudi state was founded in the early 18th Century when a Muslim scholar Mohammad bin Abdul Wahhab decided to renew Islam in the Arab peninsula.¹²⁵ He was very disappointed that the Arabs in the peninsula were losing their religion and respecting their tribal tradition even if it was against Islamic rules.¹²⁶ In the Arab peninsula there were many tribes, each with their own ruler, but bin Abdul Wahhab had the Islamic knowledge and bin Saud had the power to enforce this knowledge. Bin Abdul Wahhab sought the help of Bin Saud, the ruler of a small town called Diriyah, to help him achieve his dream of reforming Islamic rules.¹²⁷ Bin Saud then started to challenge all the tribes in the Arab peninsula, taking them under his rule and applied bin Abdul Wahhab instructions about Islam.¹²⁸ The Ottoman

¹¹⁹ Europa Publications Limited (1966), pp. 536-8.

¹²⁰ Albaharna (1968), p. 13.

¹²¹ See Amiri Diwan.

¹²² See BBC News (1 Nov. 2011).

¹²³ See the official website of the government of Saudi Arabia, available on www.saudi.gov.sa

¹²⁴ See the GCC website on www.gcc-sg-org [Accessed on 20 Feb 2011]

¹²⁵ See Bowen, (1986) p. 68.

¹²⁶ See Ibid, p.69.

¹²⁷ Ibid, p. 70

¹²⁸ See Madawi Al-Rasheed (2002) p.15.

Empire was not happy with this development, so they decided to destroy it. In 1818, Ottoman sent a large army force to the headquarters of Al-Saud (Diriyah), destroying the town and killing many of the Al-Saud family.¹²⁹

The second Saudi state was established in 1824, this time by the Saudi leader Turki Al-Saud. He succeeded in taking almost the whole peninsula under his rule by early 19th Century. This second Saudi State adopted the same Islamic instructions of Bin Abdul Wahhab, but it was also destroyed, this time by a tribe ruler named Bin Rasheed with the support of the Ottoman Empire (1891).¹³⁰ The Al-Saud family then travelled to Kuwait where Abdul Aziz grew up under the protection of the rulers of Kuwait (Al-Sobah family), which, was under the rule of the Ottoman Empire at that time.¹³¹ In 1902, Abdul Aziz Al-Saud decided to go back to re-establish Saudi Arabia and he did not face great difficulties as the Al-Saud family was popular among the tribes in the Arab peninsula. He first succeeded in taking Riyadh before gathering his army to fight all the other tribes in the Arabian Peninsula.¹³²

At that time, the rest of the Arabian Gulf countries came under the protection of Britain as a result of the end of the First World War.¹³³ Britain was worried that King Abdul Aziz may extend his ruling over these protected countries.¹³⁴ In 1915, Britain concluded an agreement with King Abdul Aziz, which stated that Britain recognised King Abdul Aziz as the Ruler of Saudi Arabia and that King Abdul Aziz agreed not to extend his authority over the Arabian Gulf states protected by Britain.¹³⁵ In turn, Britain would support King Abdul Aziz against any external attack.¹³⁶ King Abdul Aziz was focused on the safety of Saudi Arabia and on keeping a good balance in the relations between Saudi Arabia and the international supreme powers, especially the UK and the US.¹³⁷

Compared to other GCC countries, two aspects make Saudi Arabia more conservative towards Islamic tradition. First, the history of Saudi Arabia reveals that there has been a

¹²⁹ See Bowen (1986), p.70.

¹³⁰ Al-Rasheed (2002), p.26.

¹³¹ Ibid, p.27.

¹³² Bowen (1986), p.72.

¹³³ See Bronson, R. (2006) p. 34.

¹³⁴ Al-Saud, Khalid bin Sultan (1995) p. 45.

¹³⁵ These countries are now members of the GCC.

¹³⁶ See more detail about this agreement in Al-Saud, p. 45.

¹³⁷ El-Tahri and Smith (8 Feb 2005) The House of Saud. WGBH, Boston. Alarabia TV.

situation of coexistence between the two main parties: the Al-Saud ruling family and the Wahhabi scholars. The former needs the latter to persuade Saudi people that the ruling of the Al-Saud is legitimate, while the latter needs the former to support them in implementing Wahhabi instructions.¹³⁸ Second, in Saudi Arabia there are the two Holy Mosques: Makah and Almadinah, which allow Saudi Arabia to be at the heart of the Islamic world, where millions of Muslims travel every year to visit these two mosques. In 1986, former King Fahad of Saudi Arabia pronounced that he changed his title from His Highness the King of Saudi Arabia to Custodian of the Two Holy Mosques. This decision stresses the importance of Islam to the position of the King of Saudi Arabia.

The system of governance in Saudi Arabia is a monarchy, according to Article 5a of the Constitution which states that "Rule passes to the sons of the founding King, Abd al-Aziz bin Abd al-Rahman al-Faysal Al Sa'ud, and to their children's children,"¹³⁹ and more vaguely states, "The most upright among them is to receive allegiance in accordance with the principles of the Holy Koran and the Tradition of the Venerable Prophet."¹⁴⁰ This sentence assumes that "the upright among them" is known or, at least, that it is easy to determine who he is, and it assumes, as well, that the means of deciding this is clear, whereas it is actually difficult to determine who is the most upright one or how to make that key decision. The Saudi Constitution's uniqueness in relation to other constitutions is that it states that Islamic law is the main source not only for the laws but also for political powers.¹⁴¹

Today, all the sons of the founder of Saudi Arabia King Abd al-Aziz Al-Saud are old so it is time for the rule to pass to the younger generation of the Al-Saud family. To avoid any trouble inside the Al-Saud family, King Abdullah created the Saudi Allegiance Council in 2007, which is a council for the royal family. The members of this council are all the sons or the sons of the sons of the founder King Abd al-Aziz. The main job of this Council is to choose the King.¹⁴² The King has the power of law-making and to

¹³⁸ See Commins, D. D. (2006) p. 104.

¹³⁹ Article 5a, Saudi Constitution.

¹⁴⁰ Ibid

¹⁴¹ Ibid Articles 48 & 67.

¹⁴² See more detail about this Council in Cordesman, A. (2009) p. 322.

choose all the ministers, deputies and the higher ranked government jobs. Since he has the power to appoint them, he also has the power to relieve them of their posts.¹⁴³

3.4 British Influence in the Region

The Arabian Gulf has international importance from its location, as it is a necessary trade passage between the East and the West. In the 19th Century, the main British need in the area was to protect the trade to India, so before 1947, all British policy on the Arabian Gulf area came from India rather than from Britain. However, after oil was discovered there and it became an important element in world economics at the time of the First World War, the Gulf area interested the British for more than as a way to India.¹⁴⁴ After the 1956 Suez Crisis, the influence in the Middle East became more American than European.¹⁴⁵

Hawley identifies three stages in the history of relations between Britain and the Arabian Gulf countries, especially the Trucial States including Bahrain and Qatar.¹⁴⁶ First, in the early 19th Century, British concern was to keep British shipping safe from piracy. Second, in the mid-19th Century the British involvement in the area was to make sure that there would be no piracy between the states in the Arabian Gulf also known as the Pirate Coast. Third, the British involvement increased at the end of the 19th Century with the 'Exclusive Agreement' which stated that these countries should not be involved with any other international power except Britain.¹⁴⁷ Some might add a fourth stage: British withdrawal from the area between 1961 and 1971, whilst maintaining friendship and trade relations. More focus is given to the third stage of the relations between the UK and the Arabian Gulf countries in this thesis because the creation of the GCC is probably linked to this period.

British influence on the Gulf countries was on different levels: the relation of Saudi Arabia and Oman with Britain was not like the relationship Britain had with the rest of the Gulf countries. When Britain had influence in the region in the 19th Century, Saudi

¹⁴³ Saudi Constitution, Article 58.

¹⁴⁴ Owtram (2004), p. 33

¹⁴⁵ Ibid, p. 9.

¹⁴⁶ Hawley (1970), p. 18.

¹⁴⁷ Ibid.

Arabia and Oman were independent countries, while the rest of GCC member countries were under the protection of Britain.¹⁴⁸ As a result of the protection agreements mentioned above, these states which were to be protected by the UK had lost much of their sovereignty because they were administered by Britain. However, the local tribal governments did not completely lose their sovereignty as they were in charge of their states' internal affairs and the British government recognised them as the internal government of their states.¹⁴⁹ These governments were, however, prevented from having full sovereignty during the time of British protection.¹⁵⁰ As soon as Britain withdrew from the Gulf, the governments of these states had their full sovereignty reinstated.¹⁵¹ Though these countries had lost some of their sovereignty under the protection of the UK, their existence would have been in serious danger without this protection, as evidenced by Iraq's attempt to occupy Kuwait as soon as Britain had declared its withdrawal from Kuwait in 1961,¹⁵² and the Iranian occupation of the UAE islands as soon as Britain withdrew from the UAE in 1971.¹⁵³

To sum up, Kuwait and Bahrain became democracies mainly because of British influence as they were affected by Britain while under British protection while Saudi Arabia and Oman were more influenced by Islamic rule. Bahrain would be just as or more democratic as Kuwait if the majority of its population were Sunni. Some Kuwaitis argue that Kuwait cannot unite with Saudi Arabia because they have different governing systems. In this context, all the Gulf countries have a good relationship with a Western power, mainly with the UK and later with the US.

3.5 Key Events

3.5.1 Iran and the GCC

The Arabian Gulf or Persian Gulf are two terms that refer to the same Gulf, but since about 1969, all the Arab countries situated on the Gulf have adopted the term 'Arabian

¹⁴⁸ Albaharna (1968), p. 45.

¹⁴⁹ Ibid, p.41.

¹⁵⁰ Ibid.

¹⁵¹ Albaharna (1973), p. 57.

¹⁵² For more information about this attempt, see Bismarck (2009), p.1.

¹⁵³ For more information about this occupation, see Albaharna (1973). p 76.

Gulf' rather than 'Persian Gulf' which is internationally recognised.¹⁵⁴ All the Arab countries whether from the Gulf or not and including the GCC countries enacted laws to enforce the use of 'Arabian Gulf' in all their political communication with all countries.¹⁵⁵ Iranians have adopted the same attitude, making the use of the term 'Persian Gulf' compulsory in their internal and external communications.¹⁵⁶ Since this thesis focuses on the Arab Gulf Countries, it employs the term 'Arabian Gulf' throughout.

After Britain withdrew from the Gulf area, Iran immediately invaded three of the Emirates islands: the Greater Tunb, the Lesser Tunb, and Abu Musa.¹⁵⁷ This took place on 30 November 1971, just two days before the UAE's declaration of independence and only one day after the end of the Protection Agreement between the Emirates and the UK.¹⁵⁸ As mentioned earlier, this was not the only Iranian threat to the Gulf countries: some key Iranian actors have from time to time claimed Bahrain as an Iranian island even though the Iranian government has reassured the Bahraini government that Iran recognises Bahrain as an independent country.¹⁵⁹

The 1979 Iranian Revolution and the collapse of the Shah's regime shifted the balance of power in the area and the Iranian revolution spread to surrounding areas.¹⁶⁰ The Iranian attempt to spread the revolution to surrounding states could have been a motive to gain control over the Gulf area, by obtaining more supporters from among those countries. The threat posed by Iranian foreign policy appeared again in the issue of the American hostages in Tehran, which added more fears about Gulf security.¹⁶¹ These unpredictable Iranian policies led GCC countries to think about creating a form of permanent cooperation as a way of rebalancing the power in the area.¹⁶²

More events raised the level of danger in the area and threatened security. One of them was the Iran-Iraq war, which started in 1980 just one year before the establishment of

¹⁵⁴ Albaharna (1973), p.40.

¹⁵⁵ Ibid.

¹⁵⁶ Albaharna (1968), p. 1.

¹⁵⁷ Albaharna (1973), p 76.

¹⁵⁸ Ibid.

¹⁵⁹ *Alriyadh* newspapers. 14858, (27 February 2009).

¹⁶⁰ Alashal (1983), p. 18.

¹⁶¹ Ibid.

¹⁶² See more discussion of the concept of the balance of power below.

the GCC and had a significant effect on the security of the area.¹⁶³ In 1983, several GCC countries were driven to become partly involved in the Iran-Iraq war: in April 1983, Iraq increased its targeting of Iranian tankers and in May, Iran responded to this attack by targeting Saudi and Kuwaiti tankers. In June, Saudi Arabia organised air patrols to secure the oil tankers and declared that Saudi fighter jets would intercept any Iranian ones.¹⁶⁴ The UN Security Council passed Resolution 598 in 1987 which helped bring an end to this war.¹⁶⁵

3.5.2 Iraq and the GCC

Kuwait and Iraq have had a long history of dispute, even before Kuwait became independent. As soon as Iraq became independent in 1932, it started to claim that Kuwait was part of Iraq, arguing that when Kuwait was under Ottoman Suzerainty, it was regarded as a district of Basra and since Iraq is the successor of the Ottomans, Kuwait is therefore a part of Iraq. The first Iraqi attempt to occupy Kuwait was under the reign of King Ghazi in 1930, when he declared his intention to unify Kuwait with Iraq but he died in 1939 before taking any action against Kuwait.¹⁶⁶

After the British withdrawal from Kuwait in 1961, Kuwait became an independent country, and immediately recognised as such by Britain.¹⁶⁷ In that same year, Iraqi President General Abdul-Karim Qasim attempted to occupy Kuwait.¹⁶⁸ The Security Council had a meeting about this matter, and Iraq and Kuwait brought their dispute to the United Nations (UN).¹⁶⁹ The Security Council failed to pass any resolution because the Soviet Union used its veto. The Soviet Union agreed with Iraq that the UN should try to ensure the withdrawal of British troops from Kuwait since even after Kuwaiti independence, Britain kept some of its military forces in Kuwait.¹⁷⁰ Then British Prime Minister, Harold Macmillan, sent the largest mobilisation force to the area since the

¹⁶³ More details about this war are available on <http://www.globalsecurity.org/military/world/war/iran-iraq.htm> [Accessed on 14 October 2010].

¹⁶⁴ BBC Arabic available on www.bbc.co.uk/arabic/ [Accessed on 20 Feb 2011].

¹⁶⁵ For more discussion about this war, see the next chapter.

¹⁶⁶ Iraqi Fairs (2010).

¹⁶⁷ Dickson (1956), p. 28.

¹⁶⁸ Iraqi Fairs (2010).

¹⁶⁹ See the UN Charter, Article 35.

¹⁷⁰ Security Council Official Records (SCOR), 16th year, 958th meeting, 5 July 1961, paras 55, 65.

Suez crisis to stop Iraq's attempts to occupy Kuwait.¹⁷¹ The Arab League declared that they recognised Kuwait as an independent country and therefore it had to be protected from any external threat.¹⁷² However, Iraq never recognised Kuwait as an independent country,¹⁷³ and in 1990 it successfully managed a complete occupation, which led to the Second Gulf War.¹⁷⁴

3.5.3 War in Afghanistan

Another event that threatened security in the Gulf was the Soviet Union's invasion of Afghanistan, which raised the need for security solutions. This invasion has been regarded by some political analysts as the Soviet reply to rising American interest in the Gulf and a part of the Cold War.¹⁷⁵ The Soviet Union did not deny the link between the invasion of Afghanistan and their interest in the Gulf area, as a response to the American claim of a 'vital interest' in the Gulf.¹⁷⁶ As a result, a NATO meeting discussed establishing rapid deployment forces in the Gulf, which would require NATO to send a large number of military forces to the Gulf and to have some military bases there. This claimed 'vital interest' in the Gulf made the Gulf countries look ahead to find a local alternative solution. People and governments in the Gulf were looking to the Gulf countries to take control of their own security matters, thereby taking the Gulf away from international conflicts and establishing a kind of institutionalised cooperation. The more international conflicts around the Gulf increased, the more people's demands for institutionalised cooperation increased too.¹⁷⁷

3.6 Moving Towards the GCC

Having explored the lack of security in the Gulf and the historical reasons behind that, it is time to address and analyse the views of the creators of the GCC: what they were planning, what their goals were and how they wanted to achieve their goals. They were

¹⁷¹Bismarck (2009), p.1.

¹⁷² See the Arab League Official Website available on www.arableagueonline.org.

¹⁷³Iraqi Fairs (2010).

¹⁷⁴ This war is discussed in the following chapter.

¹⁷⁵Alashal (1983), p18.

¹⁷⁶Ibid, p.19.

¹⁷⁷Ibid, p.18.

mainly divided between two main views: to focus mainly on security, as proposed by Bahrain, Oman and Saudi Arabia, while Kuwait proposed to create comprehensive cooperation focused mainly on economics.

The first attempt at cooperation between all the countries in the Gulf, which contained an implied proposal, was by the head of Oman, Sultan Qaboos, when he called for a meeting in Muscat in 1976. It seems that Sultan Qaboos had a wider idea for the membership of this cooperation in the Arabian Gulf which included Iraq and Iran along with the rest of the Gulf countries. His idea was to create a harmonised regional security and to define a strategy for the Gulf, but the countries at this meeting were not able to agree and the meeting ended without any result.¹⁷⁸ That same year, there was a better received proposal by Kuwaiti leader Sheikh Jaber Al Subaha, who proposed the creation of an institution for cooperation among Gulf countries excluding Iran and Iraq in politics, economics and security, in order to face the challenges in all these fields and to protect the region.¹⁷⁹ After that, more discussions took place between the six countries, pushing towards the creation of an institution for cooperation. From the beginning, they agreed to keep the membership closed to only those six countries, but they had different opinions on what to focus on, with some preferring to focus on economic cooperation and others on security cooperation.¹⁸⁰ Four proposals were put forward for consideration by the leaders of the Gulf countries before the GCC was established.

3.6.1 The Bahraini Proposal

The Bahrain proposal was to create a rapid deployment force in the Gulf, which would be a mobile force that could effectively and quickly respond to any threat that might face the GCC countries. The leadership of this force would alternate and the force would be provided with the most modern weapons.¹⁸¹ In other words, the Bahraini proposal meant creating a military alliance, rather than an international organisation. The reason behind this proposal is clear: that the member countries should rely on

¹⁷⁸ Christie (1987), p. 9.

¹⁷⁹ Ibid, p 4.

¹⁸⁰ Ibid, p. 9.

¹⁸¹ *Bahrain Journal* (18 Dec 1980).

themselves in defending their countries and not on Western powers, mainly the UK and US. Some might suggest that at that time, Bahrain was not interested in other kinds of cooperation because they needed to protect themselves from the threat posed by Iran first and foremost, while economic cooperation was left as a long term goal since the member countries were already in a good degree of economic cooperation even before the establishment of the GCC.¹⁸²

3.6.2 The Omani Proposal

Oman proposed that the GCC countries should establish naval forces to defend the Strait of Hormuz, as an important route for importing and exporting.¹⁸³ The Omani proposal was similar to the Bahraini one: to create a military alliance, but the focus was on the Strait of Hormuz which is the only path for exporting Gulf oil beside the Saudi pipeline spanning from the Gulf to Jeddah on the Red Sea to use in case of war in the Gulf. The Omani worry about the Strait was reasonable considering Iran – which borders the Strait from the west side – had declared many times that it commands the Strait and that it may close it if it is faced with any threat.¹⁸⁴

The leaders of the member countries did not base the GCC on the Bahraini proposal or on the Omani one because these proposals were about creating a military alliance while the rest of the leaders wanted it to be an organisation for a more comprehensive cooperation. However, the Bahraini proposal was not completely ignored.

In 2006, 24 years after its creation, the GCC responded to the Bahraini proposal, in developing the Peninsula Shield Force and in 2009 this force became stronger by adding the Gulf Rapid Deployment Forces Brigade.¹⁸⁵ Creating this GCC military force should satisfy the Bahrainis as that was what their proposal was about.¹⁸⁶ The Omani proposal

¹⁸²See Sandwick (1987), p. 8.

¹⁸³Alashal (1983), p. 24.

¹⁸⁴ See the Safawi's speech, available on www.sheemapress.com.

¹⁸⁵*Asharq Al-Awsat* Newspaper (7 Dec 2010) Al-Atiyah stresses the important of the security cooperation. 11697.

¹⁸⁶ The last chapter of this thesis demonstrates that the reasons behind the Bahraini Proposal did not become clear until 2011, that it aimed to use this force to help the Bahraini government cope with the internal trouble caused by Bahraini Shi'ah people.

has still not been met to date, as there is no sign that the GCC is heading towards creating a joint naval force only to protect the Strait of Hormuz.

3.6.3 The Saudi Proposal

Saudi Arabia proposed unifying a weapons source by facilitating training on new weapons and establishing a wide cooperation between internal security forces instead of making a military alliance. They wanted to avoid any military alliance with any external country and encourage the national military force in each country to support sovereignty and internal affairs and systems, to ensure that their independence was on their own terms.¹⁸⁷

It is worth noting that the Saudi proposal did not divert much from other proposals: its focus was still on military cooperation but rather than making a direct alliance, the proposal tried to express it as a kind of international cooperation. Saudi Arabia knew that creating a military alliance at the time of the Iran-Iraq war would be seen as an alliance against Iran and while the Gulf countries were keen not to overtly support either country, they were asking both Iraq and Iran to stop the war immediately.¹⁸⁸

3.6.4 The Kuwaiti Proposal

Instead of focusing on military cooperation, the Kuwaiti proposal focused on economic and cultural cooperation (oil, factories, culture, etc...) to achieve greater and stronger unity. Kuwait was not interested in security cooperation,¹⁸⁹ even though its existence was facing a close and serious danger. As mentioned above, Iraq has never recognised Kuwait as an independent country but claimed Kuwait as a part of Iraq which needed to be re-conquered. It is not clear why Kuwait was not interested in military and security cooperation as the Kuwaiti Government gave no explanations; however, this thesis suggests that Kuwait was not interested in security cooperation because it was relying

¹⁸⁷ Sandwick (1987), p. 11.

¹⁸⁸ See the first, second, third, fourth, fifth, sixth and seventh closing statements of the Supreme Council of the GCC.

¹⁸⁹ The fact that Kuwait has not been interested in security cooperation is discussed in the GCC Political Achievements chapter.

on the UN and international powers.¹⁹⁰ Kuwait certainly recognised the importance of security and the danger facing the Gulf countries though Kuwait might have believed that economic cooperation was more likely to succeed and that the security matter should be one focus of the GCC but not the main one.

Finally, at the Islamic Summit in Al-Ta'if, in Saudi Arabia in 1980, the leaders of the Gulf countries met on the sidelines of the Summit. The Kuwaiti proposal was ready to be announced to the rest of the Gulf countries and when the Prince of Kuwait announced the idea of establishing the GCC, all the Gulf countries were happy with this idea of institutionalised cooperation.¹⁹¹ This thesis argues that, perhaps Kuwait recognised the fact that the GCC states were weak in terms of their military forces and that a union between weak states does not make them strong militarily. Many politics scholars agree that an alliance between small states does not really help them define themselves as a strong military union.¹⁹² For a richer discussion about these different proposals, this chapter draws on the international relations concepts of 'small states'¹⁹³ and of 'the balance of power.'¹⁹⁴

3.7 The Issue of Small States

Apart from Saudi Arabia, all the GCC countries are small. E. Spence believes that small countries cannot govern their own foreign policies and instead have to be governed by other stronger powers.¹⁹⁵ It is argued that small countries cannot ensure the status of their existence without the help of a greater power. Although Saudi Arabia is a very large country in terms of its size, it is weak in terms of its military capability when compared to Iran or Iraq (before the Third Gulf War of 2003).¹⁹⁶ Some argue that states should be judged not only by their size or military capability but also by their power in the international system.¹⁹⁷

¹⁹⁰ The second Gulf War proved that international powers, especially the US and the UK did the main job of liberating Kuwait through the UN.

¹⁹¹ See the speech of the Kuwaiti Minister of Defence in *Algabas* Newspaper (4 Apr 1981).

¹⁹² Handel (1981), p. 120.

¹⁹³ See Ingebritsen, Neumann et Al. (2006).

¹⁹⁴ See Bull (1995).

¹⁹⁵ Spence, J. E. (1967), p. 6.

¹⁹⁶ Al-Rasheed, Madawi (2002), 54.

¹⁹⁷ Keohane (1969), p. 295.

However, many IR scholars emphasise that the crucial condition for a state to be regarded as a small or great state is its military capability, thus a small country is one which cannot defend itself.¹⁹⁸ Some maintain that a small country is one that cannot achieve its security through only its own power and consequently has to rely on other states or institutions.¹⁹⁹ Keohane defines a small or middle power state as "a state whose leaders consider that it cannot act effectively by itself, but may have a systemic impact in a small group or through an international institution."²⁰⁰ Some may argue that Keohane's definition of a small state is applicable to any of the GCC members.

3.8 The Concept of the Balance of Power

For a better explanation of the motive behind the existence of the GCC, especially considering member states were more interested in security cooperation, it is helpful to analyse it in light of the concept of 'the balance of power' used primarily by realist international relations scholars. Waltz, a neorealist scholar, states that "if there is any distinctively political theory of international politics, balance-of-power theory is it."²⁰¹ International relations scholars believe that the principle of the balance of power is one of the oldest and most important concepts.²⁰² This concept guides the European Union, and many scholars have used it to explain key aspects of states' behaviour.²⁰³ The literature on the concept of the balance of power has accepted that this concept consists of key central features. Firstly, the concept explains that the main interest of states is to have their safety and to be secure. Secondly, the aim of self-defence leads states to equilibrium, and to achieve this equilibrium, states are keen to prevent the supremacy of a single awkward state. If one state is gathering too much power compared to other states, those other states will join their powers until they achieve equilibrium with the greater power state.²⁰⁴

Lawyers view this equilibrium between international powers, which shapes the 'family of nations,' as very important to the creation of international law in this world of

¹⁹⁸ Masaryk (1966), p. 23.

¹⁹⁹ Rothstein (1968), p. 29.

²⁰⁰ Keohane (1969), p. 296.

²⁰¹ Waltz, Kenneth N. (1979), p. 98.

²⁰² Elistrup-Sangiovanni (Jan 2009), p. 1.

²⁰³ Chatterjee (1972), p. 53.

²⁰⁴ Ibid, p. 51.

anarchy. In international law, sanction is based on the competence of powers to stand over each other, but if this balance collapses, nothing will stop powerful states from ignoring international law and only acting in their own interest and to their own benefit. International law scholars view the just equilibrium between international actors as a reflection of the doctrine of historical international demands not to allow a single powerful state to be free from being challenged by other powers, in order to prevent it from solely being able to enforce its will upon the rest of the world. Some argue that the status of equilibrium is established when states follow the provision of the concept of the balance of power, and that states do so by adopting particular rational rules in their actions towards each other; in other words, by following international law.²⁰⁵

International relations scholars view the concept of balance of power as a tool that "describes a state of affairs in the international system and explains the behaviour of states in that system."²⁰⁶ Balance of power emerges, according to international relations scholars, when there is equal stability between two or more powerful actors challenging each other. These scholars believe that states, within the balance of power system, choose to enter an existing balancing block or to be a central actor. It is a vital decision a state may take, whether to balance or to be a central actor, especially in times of war, when such a decision may direct the future of its existence.²⁰⁷

Some argue that the balance does not mean that there are two equal actors which have a similar level of power; rather, it is international actors working for more dominance and in response, other actors will do the same.²⁰⁸ States in a certain situation are driven to raise their capability to somewhat achieve a balance of power, which leads to a certain degree of equilibrium.²⁰⁹ When states formulate their political and military policies, they take into account the capability of other states, and although states have different perceptions about capability, the capability of a union of states represents the capability of its member states.²¹⁰

²⁰⁵ Oppenheim (1992), p. 158.

²⁰⁶ Fry et al (2004), p. 3.

²⁰⁷ Ibid.

²⁰⁸ Haas, E. (1953), p. 224.

²⁰⁹ Spykman (1942), p. 21.

²¹⁰ Chatterjee (1972), p. 53.

Chatterjee explains that if there is a capability gap between two nations, they have two ways to achieve equilibrium and to balance power. Firstly, the weaker nation can raise its power by increasing its national capability, which includes military power, armaments, etc... If armament is raised on one side, it will be increased on the other, and there will be an arms race as a result. Secondly, the other way of achieving balance is through alliances. So the other option for the weaker side to balance the power is to form a union with another state or group of states, raising the sum capability of the union members. Chatterjee goes on to say that the main goal that drives a nation to balance the power with another nation is the security of their national territories and their sovereignty. What is needed to achieve such an aim, he explains, is sufficient ability for securing territories against the other nation.²¹¹ Some believe that the security of nations is granted according to the rule of the balance of power and that this rule has been the cause of many wars.²¹² IR scholars state that although this rule exists, it is up to governments “to act in accordance with this rule in order to preserve the balance.”²¹³

3.9 GCC Countries and the Balance of Power

It is commonly believed that achieving a balance of power in the Gulf is the key to guarantee the Gulf’s continued security and stability. This belief is widely accepted by Western powers, especially by the US, as well as in the Arab world.²¹⁴ According to Bull, the balance of power functions in two areas: the *general* balance of power which prevents a single international actor from being the only supreme international power, and the *local* balance of power which protects the sovereignty of countries from any external aggression.²¹⁵ In other words, the general balance of power takes place between the world's most powerful actors while the local balance of power functions in any region between the countries in that region, for example the balance in the Gulf between the GCC members and Iran. Some may apply these two kinds of balance of power to the different views of the member countries about the extent to which Western powers should be permitted to become involved in helping the GCC countries secure the Gulf. While some GCC countries are interested in security cooperation view the balance of

²¹¹ Chatterjee (1972), p. 53.

²¹² Haas, E (1953), p.224.

²¹³ Chatterjee (1972), p. 55.

²¹⁴ Barzegar (2010), p. 1.

²¹⁵ Bull (1995), p. 98.

power locally in the Gulf area, between the GCC countries and Iran and Iraq, others, mainly Kuwait, view the balance of power as a universal matter in which the GCC countries have no direct role and it is instead left to powerful international actors.

This chapter suggests that some leaders of GCC countries were focused on the importance of balancing the power in the Gulf and it proposes that one reason why there was such a variety in the proposals was perhaps because they had different perspectives on the principle of the balance of power. The countries interested in military cooperation possibly believed that the balance of power between GCC members and non-member countries in the area, namely Iran and Iraq, would maintain stability and safety in the Gulf. In other words, there was a balance between the GCC countries as a block and Iran, as well as a balance between the GCC countries as a block and Iraq. Iran and Iraq (before the 2003 Third Gulf War) were powerful countries in the region in terms of their military forces. The Iranian and Iraqi avidity for having sovereignty over some of the GCC countries and the comparative individual weakness of GCC countries has already been mentioned, but according to the concept of the balance of power, there needed to be a balance between these powers as this imbalance led the Gulf region on the verge of war.

As seen in the proposals, Saudi Arabia, Bahrain and Oman were focused on security and military cooperation. Moreover, the first statement of the Supreme Council pronounced that the security and stability of the area was the responsibility of their own people and governments. It declared that the GCC represented the sum of the will of the member countries and they expressed their right to define their sovereignty and independence.²¹⁶ The GCC leaders declared their refusal to allow any foreign intervention in the area and their willingness to keep the Gulf out of international disputes and also to keep it clear of any foreign military fleets and bases.²¹⁷ This declaration by GCC leaders shows that they recognised Western worries about the security of the Gulf, mainly due to power imbalance in the Gulf, which could lead Western powers to build arms bases in the area. The Gulf is a key area for the international economy generally and for Western countries specifically, as more than half of the world's oil comes from the Gulf. The

²¹⁶ The Supreme Council, Session 1, (1981).

²¹⁷ Ibid

GCC leaders recognised that if they did not resolve this matter, some Western countries would have to send their military forces to secure the Gulf.

This thesis argues that Kuwait seems to have a different perspective about the concept of the balance of power than the rest of the member countries, as evidenced by the more economics-focused Kuwaiti proposal and by Kuwait's continuing unwillingness to adopt security cooperation.²¹⁸ While the majority of the member countries were interested in balancing the military power in the Gulf (as discussed earlier), Kuwait had been interested in the economic balance of power, not between the member countries and non-member countries in the Gulf, but rather between the GCC and international economic powers in the World Trade Organization (WTO). For this reason, some may argue that GCC countries can create a powerful economic block.

The reason for this Kuwaiti position is perhaps because security and military cooperation between GCC countries is unlikely to be beneficial. Some political scholars such as Cobban argue that if some weak countries make an alliance, they would not necessarily have a stronger status than before the alliance.²¹⁹ Many political scholars believe that if small states form an alliance aiming to face a major threat posed by a powerful actor, they are likely to be unable to face this challenge.²²⁰ However, some may argue that the GCC countries were not aiming for balance with a powerful state such as the US; instead, they could be aiming for a balance with countries in the Gulf like Iran and Iraq which is an achievable aim. Nevertheless, some may argue that history has shown that the GCC cannot prevent a Western presence in Gulf, since the US has built several permanent US military bases in some of the GCC countries since the Third Gulf War.²²¹

The assumption made by some GCC members, which was clear in the first meeting of the Supreme Council, was that one aim of establishing the GCC was to show that GCC countries were able to keep the power in the Gulf balanced in order to keep the Gulf secure and stable. It has been mentioned that the Supreme Council asked all the foreign powers to keep their military bases out of the Gulf, yet the Second Gulf War (1990)

²¹⁸ The security and economic cooperation are discussed in detail in the Achievements chapter.

²¹⁹ Cobban (1969), p. 300.

²²⁰ Ibid.

²²¹ See Mohammad Abdul Salam (2005) Available on www.aljazeera.net [Accessed on 2011 Feb 23]

proved that the GCC did not achieve any balance of power in the Gulf, as evidenced by the fact that Kuwait was occupied in one day and that Saudi Arabia and the rest of the GCC had to ask for international help.²²² The GCC attempt to balance the power had failed, as they could not create a force that could stand up to Iraq, and surely they were not able to stand up against any expected Iranian attack because Iran was a competing power to Iraq. This weak situation of the GCC countries revealed that the Gulf is not secure or stable and that it would not be secure without balancing the power between the GCC countries on the one hand and Iraq and Iran on the other hand. As the GCC failed to balance the power, Western powers, mainly the US, as well as some GCC countries had come to the conclusion that there had to be some international military bases in some GCC countries. Therefore, the US created some military bases in Bahrain, Kuwait and Qatar.²²³

3.10 The Iranian Perspective

The above has explored the GCC perspective that Iran posed a threat to GCC countries, but this section examines the Iranian perspective about the balance of power in the Gulf. The balance of the power in the Gulf has proved to be a permanent issue. Some Iranians believe that the balance of power in the Gulf is a balance between the US and Iran, and that these are now the only two powers that are able to carry out armed operations in the Gulf.²²⁴ Especially after the Third Gulf War, Iran has become the supreme military power in the Gulf because Iraq's military power has been destroyed. Iran stood up to Iraq for eight years while Kuwait could not resist for more than 24 hours when Iraq occupied Kuwait in 1990.²²⁵ It is therefore not surprising that they view the balance of power in the Gulf as a matter between Iran and the US. Surely, what is meant here is not the balance of power between Iran and the US as a country but it is the balance of power between Iran and the US forces based in the Gulf. This is not only the Iranian view as even some of the GCC countries have come to see the balance of power in the Gulf as a matter between Iran and the US, especially after the Kuwaiti crisis in 1990. It has been mentioned that some GCC countries have agreed for the US to build military

²²² See *Asharq Al-Awsat* newspapers (5 Jun 1991).

²²³ Some documents revealed by Wikileaks claim that Qatar agreed to pay 60% of the US military base in Qatar, Available on www.wikileaks.org [Accessed on 21 Feb 2011].

²²⁴ See Barzegar (2010), p. 1.

²²⁵ See more detail about that in the section on GCC security achievement.

bases on their land such as Al Udeid Air Base in Qatar.²²⁶ These GCC countries would not allow the US to build military bases on their land if they believed that the GCC were capable of balancing the power in the area.

3.11 Conclusion

This chapter has set the background to the establishment of the GCC. Many crucial points have been explored, highlighted and analysed. The history of the member countries is worth addressing as it explores many things. There is a significant similarity between these countries as they are all governed by royal families that used to be tribal leaders. All the member countries have a good relationship with Western powers, particularly with the UK and later with the US. They do not have the same bad perception of colonialism that other Arab countries may have as they had fully agreed to the protection treaties with the UK. Also, at the time of these protection treaties, these countries were governing their internal affairs independently without any British intervention. Some of these countries are more affected by Islamic rules than others, namely Saudi Arabia and Oman. This chapter reveals the reasons behind the establishment of the GCC in the first place. Tracing this history helps outline the factors leading to the division in political systems between GCC members and the rest of the Arab world. This history also reveals the background of the GCC membership system which is more open to Arab royal systems. The last chapter of this thesis will discuss these points further.

This chapter discusses several key historical events that raised the threats these countries were facing, including the British withdrawal from the Gulf (1961-1971) and increasing threats from Iran, Iraq and Afghanistan. Nowadays, Iraq and Afghanistan do not pose serious threats to GCC countries, but Iran still does. The most recent expression of an Iranian threat was a statement by the former Iranian Ambassador to France, Sadeq Kharazy, who stated on 18 June 2012 that Iranian military forces need only a few hours to occupy Bahrain.²²⁷ These events affected the balance of power between opposing countries in the Gulf which raised the threat facing the region. This led the West to worry about the safety of the Gulf because there was not a stable balance of power in the region. Conversely, GCC leaders, concerned about the safety of their countries,

²²⁶ See Al Udeid Air Base, Qatar. Available on www.globalsecurity.org [Accessed on 23 Feb 23]

²²⁷ *AsharqAlawsat* Newspaper, (18 June 2012).

debated the potential of creating a very strong economic block. Although Kuwait was quick to suggest economic cooperation, the rest of the members soon agreed on its importance. Thus, it appears that instead of focusing on military cooperation, the GCC members focused on economic and cultural cooperation (oil, factories, culture, etc) to create a body of institutionalised cooperation. Having provided the background of the GCC and the history of its member countries, it is now time to move on to the establishment of the GCC in the next chapter.

Chapter Four - The Establishment of the GCC

4.1 Introduction

Having discussed and analysed the history of the member countries, the importance of the area as the main oil producer, the international worries about the security of the area, the dangers facing Gulf countries and the different proposals, this chapter now discusses the establishment of the GCC. This part explores and analyses the establishment of the GCC, the view of the rest of the Arab countries, the misunderstanding about the nature of the GCC natural, the GCC objectives, principles and structure. The resource material on the establishment of the GCC as well as the views and misunderstandings of other countries about the GCC relies on GCC publications, statements made by leaders of member countries and on media publications from that time. The discussion on GCC objectives, principles and structure also relies on these resources as well as the resource material written about international institution law.

In all these circumstances there was a common understanding that urgent action was needed in order to form a unified, systematic Gulf position. Saudi Arabia took the lead and Minister of the Interior Prince Naif was the Saudi envoy to the rest of the Gulf countries. In November 1980, he went to Kuwait, UAE, Qatar, Oman and Bahrain to discuss Saudi ideas about Gulf security. This action came as a result of the meeting of the Arab Interior Ministers in Alta'yf, Saudi Arabia in August 1980 in which they agreed to work towards more cooperation among the Arab security institutions. In Kuwait, Prince Naif declared that an agreement on security cooperation had been signed between Saudi Arabia and Kuwait, which would be followed by the same agreement with the rest of the Gulf countries.¹ In order to continue these good efforts, the Saudi Foreign Minister, Prince Saud Al-faisal, went to the five Gulf countries, as well as then Undersecretary of the Saudi Foreign Ministry, Abd-Allateef Al-Thniyan, to discuss the Saudi ideas for the cooperation between the Gulf countries.²

¹ *Alblad & AlArab* newspapers, 27 Nov 1980.

² *Almojtama* Journal, 27 Jan 1981.

Kuwait made the same effort to encourage Gulf countries to establish the GCC. The Kuwaiti Foreign Minister made a similar journey to the other five countries to give their leaders a letter from Kuwait's Prince Jaber Al-Sobah. These letters from the Prince of Kuwait to the Gulf countries were, according to the Kuwaiti Crown Prince, to introduce a Kuwaiti proposal for creating an organisation for cooperation among the Gulf countries. This Kuwaiti proposal had been prepared for a long time but was kept secret from the public. Kuwait declared its proposal for the first time when the Kuwaiti Prince proposed it to the leaders of the Gulf countries at the Omani meeting in 1976.³

Following these preliminary steps, the leaders of the member states signed the GCC Charter on 25 May 1981. There is not much information recorded about the drafters' debate before the GCC Fundamental Statute (FS) was declared.⁴ However, there were some meetings with experts from member countries before the announcement of the GCC FS. One of these meetings was held in Muscat between the 6th and 10th March 1981 where experts dealt with, inter alia, what the title of the GCC Constitution should be: Qatar and Kuwait suggested 'treaty,' as was more common in other international organisations, Oman chose 'charter,' and Saudi Arabia preferred 'the fundamental statute.' Saudi Arabia chose this title to avoid the speculation that the GCC was created to replace the Arab League.⁵ The experts' discussion resulted in the choice of the Saudi proposal. Then, in the United Arab Emirates on 25 May 1981, the leaders of the member countries ratified the GCC Fundamental Statute.⁶ The next chapter will discuss the FS in greater detail.

At the time of the GCC's establishment in 1981, the UAE, Bahrain and Qatar had been independent for less than ten years. Kuwait was a little older, with 20 years since its independence and for Saudi Arabia, 49 years had gone since it had been founded in 1932. Examining these periods of independence of the five young Gulf countries, Kuwait, UAE, Bahrain and Qatar, can explain a possible motive why these countries moved smoothly towards forming the GCC. The five young countries were under the

³ See this text in *Al-Qabas* newspaper (28 Dec 1980.)

⁴ In a meeting between the author and the Director General of Legal Affairs at the GCC headquarters (20 September 2009), the latter mentioned that their department is a place where such records should be held but they do not have any such recorded debate.

⁵ A report by the Head of the Qatari delegation to the experts' committee on 14 March 1981, Doha, Qatar. The Palace of the Amir Archives, Unpublished (in Arabic).

⁶ Alashal (1983), p. 45.

protection of the UK for about 50 years and after the British withdrawal, the tribal governments of these countries were left weak compared to surrounding countries such as Iran and Iraq.⁷ After being independent for nearly 10 years or more, the idea of creating an institutionalised cooperation among the six countries emerged. Saudi Arabia is the biggest country among the Gulf countries and has a much larger population and a stronger army, but the GCC was not a protection agreement between the five Gulf countries and Saudi Arabia replacing the protection agreement between them and Britain.⁸ However, the GCC certainly involved a commitment of common security that might fulfil the protection gap that the five Gulf countries found themselves in after the British withdrawal from the region.⁹ Sandwick states that it is understood that the GCC enabled the crucial cooperation and integration between member states to secure their countries from any external threat.¹⁰ While Western countries have different opinions about the source of the threat facing Gulf countries,¹¹ the obvious threat facing the GCC at the time of its establishment was the Iran-Iraq war, as discussed earlier.

4.2 - The GCC Structure

The Fundamental Statute outlines the structure of the three main GCC bodies: the Supreme Council, to which the Commission of the Settlement of Disputes is linked, the Council of Ministers and the Secretariat General.¹² The Fundamental Statute gives the right to each one of these bodies to create any subsidiary bodies when needed, but the power given to these bodies in the Fundamental Statute is not precise. Schermers explains that when the capability of an international organisation is only to give recommendations without having much power, it will not precisely define the competence of its organs. However, when an international organisation is powerful, it will specify precisely the power given to each of its bodies.¹³ Some may argue that the GCC has not precisely identified the competence of its bodies because there is not

⁷ See Albaharna (1973), p 76.

⁸ See the GCC Charter.

⁹ As evidenced by the fact that in 1987 the GCC members signed the General Strategic Security Agreement.

¹⁰ Sandwick (1987), p. 3.

¹¹ Ibid.

¹² Article 6 of the Fundamental Statute.

¹³ Schermers & Blokker (2004), p.202.

actually much power given to them. On the other hand, the EU is an example of an international organisation that identifies the power given to each of its organs.¹⁴

4.2.1 The Supreme Council

The Supreme Council is the highest authority of the GCC, composed of the heads of state of the member countries.¹⁵ Its leadership is rotated in alphabetical order of member states' names,¹⁶ unlike the European Council president who is elected by a competent majority.¹⁷ Some argue that this is one criterion that an international organisation has to meet, that the leadership of an international organisation cannot be subjugated to a single country.¹⁸ The body in the EU that resembles the Supreme Council is the European Council as it is composed of the leaders of member countries. The leadership of the Supreme Council switches every year, and the annual Supreme Council meeting is held in the country of the President while leadership in the Europe Council switches every two and a half years and it can be renewed for one term.¹⁹

The Supreme Councils' ordinary meetings are held twice a year, but an extraordinary meeting can be held in response to a request by any member state,²⁰ while the European Council meets four times a year.²¹ The Supreme Council meetings are held in any of the member countries, and the Secretary-General determines the start and end time of these meetings.²² The meetings of the Supreme Council are regarded as completed only when two thirds of the membership attend, meaning four out of six countries.²³

¹⁴ It has been mentioned that the EU is a supra-national organisation while the GCC is a non-supra-national organisation. Also, that the aim of the EU leaders is to take steps towards the union of its member states, therefore they give the EU the power and independence it needs to function as a supra-national organisation. Whereas the GCC's intended aim was to create an organisation that can move the member countries to become a union, they did not give the GCC the minimum level of power or independence required to be able to achieve such aim.

¹⁵ Article 7, Fundamental Statute.

¹⁶ Ibid

¹⁷ Available on www.european-council.europa.eu [Accessed on 10 Feb 2011].

¹⁸ Alvarez (2006), p. 4.

¹⁹ Available on www.european-council.europa.eu

²⁰ Article 7, the Fundamental Statute.

²¹ Available on www.european-council.europa.eu

²² Article 7, the Fundamental Statute.

²³ Ibid

The Supreme Council decisions on substantive matters are passed by a unanimous vote and by a majority vote in procedural matters.²⁴ If one member has waived their vote this has to be recorded, so the objector is not bound by this decision's obligations.²⁵ The European Council decisions are passed by consensus vote and sometimes by unanimous vote or by a competent majority; the European Council decides whether a decision needs a consensus or unanimous vote with regard to the provision of the Treaty.²⁶

4.2.1.1 Supreme Council Power

The most powerful body in the GCC is the Supreme Council. According to Article 8 of the GCC FS, the power of this Council includes reviewing the common interest of the governments of member countries, identifying the top policy of the GCC and the methods for achieving this policy. The European Council's role is to help the Union with the needed movement for its progress and another role is to recognise the main concerns according to the broad political guidelines.²⁷ Its power is also to review the work submitted by the Council of Ministers, the Secretariat General or any other GCC body. The Council nominates the Secretary-General and the members of the Commission for the Settlement of Dispute. It is also the Council's job to adopt the internal rules and procedures of the GCC and of the Commission for the Settlement of Disputes. This Council is the only authority capable to amend the Fundamental Statute and to adopt the GCC budget,²⁸ while the European Council has no legislative role.²⁹ Lastly, the Supreme Council controls the policy of the GCC in relation to non-member countries and organisations.³⁰

According to Article 8 of the Fundamental Statute, explained above, the Supreme Council is the highest authority on the internal and external affairs of the GCC. In other words, the Supreme Council controls the GCC in governing itself and controls the GCC in dealing with member states. Internally, the executive, legislative and judicial role of the GCC are led by the Supreme Council as well as external affairs, such as

²⁴ More discussion about the GCC voting system in the GCC Principles section of this thesis.

²⁵ Article 9, Fundamental Statute.

²⁶ Available on www.european-council.europa.eu [access on 10 Feb 2011].

²⁷ Ibid.

²⁸ Article 8, Fundamental Statute.

²⁹ Available on www.european-council.europa.eu

³⁰ Article 8, Fundamental Statute.

pronouncing GCC positions and statements, making decisions on common policy and agreeing on treaties between member countries or between the GCC and other countries or organisations.

4.2.1.2 Voting

Each member state has one vote in the Supreme Council regardless of the huge difference between some of the member countries in economics, geographical areas or population size.³¹ This system is a reflection of the principle that independent states have equal sovereignty, which emerged at the time of the League of Nations and then became a recognised principle in the UN.³² Bowett critiques this principle, stating that giving unequal states equal power in terms of voting within an international institution is too idealistic. According to him, the problems of this principle appear in the way that international organisations make decisions. Each member country within a given international organisation seeks to be better able to affect the decision-making of the organisation; some of these members could be powerful states if such states could not affect the decision-making of the organisation while a powerless country can do so, which means that there is a distorted reflection of the real world in that organisation. The decision that such an idealistic organisation may make is unlikely to be implemented if it is rejected by powerful member states because they are the ones who have the power to apply it.³³

Some international organisations do not give equal power to all its member states in terms of voting.³⁴ There are different systems for applying unequal voting in order to reflect the real power of the member states in organisations such as the International Monetary Fund and the International Bank for Reconstruction Development. The unanimous voting system may prevent a fluid decision-making process and may cause too long discussions for any decision to pass. Yet, states usually prefer the unanimous system because it gives them the confidence that their interests would not be ignored, and also, a decision is easier to apply when it is unanimous.³⁵

³¹ Article 9, Fundamental Statute.

³² Williams (1965), p. 475.

³³ Bowett (1984), p.44.

³⁴ Schermers (2004), p.395

³⁵ Ibid

Article 9 of the Fundamental Statute states that a “resolution of the Supreme Council in substantive matters shall be carried by unanimous approval of the member states participating in the voting.”³⁶ This article means that the decision of the Supreme Council is valid even if not all member countries agree or if a member is absent, that results in its vote not being counted. Article 5 (2) of the rules of procedure of the Supreme Council states that: "a meeting shall be considered valid if attended by heads of states of two-thirds of the member states."³⁷ This means that four out of six member states can make a valid decision. Some may argue that the GCC rules, already approved by the member countries,³⁸ state that voting in the GCC is according to a unanimous system, but at the same time GCC rules state that the vote of two-thirds of the members participating in the voting is unanimous because all six countries are member in the GCC so they are bound by what the GCC states as binding law. Still, absent members can argue that according to the GCC unanimous voting system, member states which were absent are not bound by the GCC decision as they did not vote for it, as evidenced by Article 5 of the rules of procedure of the Supreme Council which state that "any member abstaining shall **record that he is not** bound by the resolution."³⁹ So, if a member country does not agree with a decision, it has the right to vote against it but as long as it keeps silent, it is still bound by the decision.

While Article 9 of the FS distinguishes between substantive matters and procedural matters, Article 5 of the rules of procedures of the Supreme Council does not. Similarly, in the experience of the UN even with the abstention of some members, unanimity would not be prevented.⁴⁰ In some cases the UN Charter states that permanent members of the Security Council have to have concurring votes, but the abstention of some members still does not prevent unanimity.⁴¹

³⁶ Article 9, Fundamental Statute.

³⁷ Article 5 (2) of the Rules of Procedure of the Supreme Council.

³⁸ Such as the GCC Fundamental Statute and the Rules of Procedure of the Supreme Council.

³⁹ Article 5 of the Rules of procedure of the Supreme Council.

⁴⁰ Schermers (2004), p. 460.

⁴¹ Ibid.

3.2.1.3 *The Commission for the Settlement of Disputes*⁴²

Since the establishment of the UN, international organisations have tried to act in response to the UN Charter⁴³ which urges member states to solve their "international dispute by peaceful means in such manner that international peace and security, and justice, are not endangered."⁴⁴ The heads of the GCC countries have been keen to form a practical mechanism for resolving any kind of disagreement that may arise between member states which is why they set up the Commission.⁴⁵

By tracing the Commission's functions, it is clear that it has never played an important role. Some argue that this commission is attached to the Supreme Council, as a sign of its importance,⁴⁶ while others claim that its attachment to the Council is evidence of its weakness and dependence on the Council.⁴⁷ Its function is to look into matters of disputes that have been submitted by the Supreme Council, which could be about any dispute that may have arisen between member states or about the interpretation or application of the Charter in a given case. The Supreme Council could transfer such a dispute, which has not been resolved by the Supreme Council nor by the Council of Ministers to the Commission. It makes a recommendation to the Supreme Council, which will then produce an appropriate decision based on the Commission's recommendation. At this point, the role of the Commission is finished.⁴⁸

This Commission has its seat in Riyadh although its meetings can be held anywhere. It has no regular members; instead the Supreme Council sets up the Commission and appoints its members for each case separately, according to the nature of the dispute.⁴⁹ Its members have to be no fewer than three and all of them have to be a resident of any member state which is not part of the dispute. The Commission can counsel those who require it when needed.⁵⁰

⁴² The order of these subjects here, with this Commission after the Supreme Council, is because this Commission is linked to the Council, it is not because this Commission is the second most important body. The second most important body is the Council of Ministers which comes after.

⁴³ Schermers (2004) p. 403.

⁴⁴ Article 2 (3), UN Charter.

⁴⁵ Alashal (1983), p. 53.

⁴⁶ Ibid.

⁴⁷ More critic on this Commission is in Chapter three of this thesis.

⁴⁸ Article 10, Fundamental Statute.

⁴⁹ Article 8, Ibid.

⁵⁰ Alashal (1983), p. 53.

Such a commission should have a mechanism for creating, explaining and developing the laws of the GCC but it has not been doing any of these roles. Alvarez illuminates the importance of such a commission for creating laws, stating “in some cases [international organisations] have used other power conferred on them, including the residual power to establish subsidiary organs, to create forms for international adjudication of some dispute ... such institutionalized dispute settlement makes law in the course of settling such dispute.”⁵¹ More discussion about this Commission can be found in the next chapter of this thesis.

4.2.2 The Council of Ministers⁵²

The Council of Ministers consists of the Foreign Ministers of member countries or those who represent them. Its leadership rotates in alphabetical order of the member countries' names and leadership is replaced every six months. Its regular meetings take place every three months, but an extraordinary meeting can be held in response to a request of one member that is agreed to by another member. The Council has a right to decide where its meetings will be held and these meetings are not valid unless two thirds of the members attend, which means four out of six.⁵³ Each member has one vote, and their resolutions are produced by unanimous votes of the attendants in substantive matters and by majority votes in procedural matters.⁵⁴ This resembles the mechanisms for voting in the Supreme Council, except that in the Supreme Council a state which has not voted for a resolution in a procedural matter is not bound by that resolution. In contrast, such resolutions in the Council of Ministers seem to be binding upon all member states, even those who did not vote in favour. As evidence of this, the GCC Charter asserts that a member that does not accept a resolution in a procedural matter is not bound by its obligations, on condition that this objection is declared at the time of pronouncing the resolution. Nevertheless, such exemption has not been mentioned for

⁵¹ Alvarez (2006), p. 8-9.

⁵² In the GCC literatures this Council termed whether the Ministerial Council or the Council of Ministers, this thesis adopt the latter term.

⁵³ Article 11, the Fundamental Statute.

⁵⁴ Ibid Article 13

the Council of Ministers, which means that all the members in the Council of Ministers are bound by its resolutions in procedural matters, even objectors.⁵⁵

4.2.2.1 Specialisation of the Council of Ministers

The Council of Ministers proposes policies and puts forward recommendations, designs and projects that aim to develop the cooperation and coordination between member states in various fields, and to produce decisions and recommendations required for the achievement of these aims. Also, the Council of Ministers works in encouraging and developing the existing activity between member states on various grounds and then brings its conclusions to the Supreme Council to make the appropriate decision.⁵⁶ Another function of the Council of Ministers is to present comments to the Ministers in charge in order to put GCC decisions into action.⁵⁷ According to Article 12 of the Fundamental Statute, the main role of the Council of Ministers is execution.

4.2.3 The Secretariat General

The Secretariat General consists of the Secretary-General, who has to be a citizen of one of the member countries and who is nominated by the Supreme Council.⁵⁸ It also consists of the Assistants to the Secretary-General, who should be appointed by the Council of Ministers, based on a recommendation by the Secretariat General.⁵⁹ In this role, the Secretary-General is directly in charge of all the Secretariat General work and he represents the GCC to other countries and organisations. He, his Assistants and employees are completely independent from any authority of all members.⁶⁰ They are all recognised as international employees, under the authority of only the GCC.⁶¹

⁵⁵ Abo-Alwafa (1996), p. 87.

⁵⁶ Article 12, the Fundamental Statute.

⁵⁷ Ibid.

⁵⁸ Article 14, Ibid.

⁵⁹ Ibid.

⁶⁰ Article 16, Ibid.

⁶¹ On 22 Dec 2010, in a meeting between the author and Abd-Almajeed Al-Sadi the representative of the Legal Affairs Department in the Secretariat General in Riyadh, the author asked him about the retirement system for the employees in the Security-General. He answered that the Secretariat General does not have its own retirement system therefore, the Saudi King had to make a decree that all Saudi employees in the Secretariat General came under the Saudi retirement system. Some of the other employees from the rest of the member countries, he continued, are still not sure under which retirement system they will be.

According to Article 14 of the FS, the Secretary-General remains in his job for a period of three years and his term can be renewed for another three years only.⁶² The GCC has failed to comply with this Article as shown by the fact that some Secretary-Generals have stayed in their position for more than six years. The first Secretary-General Abd-Alla Bsharah remained in his position for 12 years (1981-1993) and Abd-Alrahman Al-Atiyah for nine years (2002-2010). In these cases, the Supreme Council found a loophole to Article 14 of the FS: rather than renewing the Secretary-General's employment at the end of his sixth year, the Supreme Council instructed him to continue in his position. The explicit meaning of the article is that the Secretary-General should not stay in his job more than six years, but the Supreme Council just ignored the GCC laws or assumed that instructing is something different than renewing. Whether it was renewing or instructing, the end result is the same: that the Secretary-General stayed in his position. It is not the first time that the political leaders of the GCC ignored GCC laws without excuse, as will be discussed in the last chapter of this thesis.

4.2.3.1 The Independence of the Secretariat General

Article 16 of the Fundamental Statute states that the Secretary-General and all the employees of the Secretariat General, who are citizens of the member states, must not be affected by their own nationality but have to work as independent international employees; their focus has to be on the general interest of all the members of Gulf countries. They “shall carry out their duties in complete independence and for the joint benefit of the member states.”⁶³ Alashal assumes that member states have given the Secretariat General the required level of independence to allow it to focus on the interests of the GCC as an international organisation and not on the interests of the member countries.⁶⁴ However, this thesis criticises this as an artificial independence. Alvarez, having criticised many of the suggested criteria that an international organisation should meet, establishes that the majority of lawyers agree that three

However, the Bahraini Government did the same by a decree, stating that all Bahraini employees in the Secretariat General are under the provision of the Bahraini retirement system. See Legal Bulletin (1992), 41 Riyadh, GCC Secretariat Publications. pp. 117-119.

⁶² Article 14, Fundamental Statute.

⁶³ Article 16, Ibid.

⁶⁴ Alashal (1983), p. 103.

elements are crucial.⁶⁵ One of these crucial criteria is “requiring a legally autonomous entity... ensures that treaty parties have entrusted somebody other than themselves with developing and maintaining their common will.”⁶⁶ This body, which should be distinct from the government of member countries cannot be the Supreme Council nor the Council of Ministers because these Councils represent the governments of member countries. The Secretariat General is the only body which claims to be independent from the governments of member countries. By underlining the power and provisions given to the Secretariat General, it is revealed that the claimed independence is not real: as shown above in relation to the GCC structure, the Supreme Council has not being given room to function independently.

4.2.3.2 The Power of the Secretariat General

First of all, the Secretary-General is nominated by the Supreme Council and the budget of the Secretariat General is approved by the Council.⁶⁷ All the roles given to the Secretariat General is to do the secretarial work of the Councils. Its role is mostly to prepare the work that the Supreme Council and the Council of Ministers need, such as studies, programmes and reports on the development of cooperation whether by request from the Councils or without. Its role is also to evaluate the efforts of member countries to apply the Councils' resolutions. The Councils can ask the Secretariat General to do any other task.⁶⁸ It can be noted, from the list of functions that Article 15 of the Fundamental Statute has limited the Secretariat General from within, that the only role the Secretariat General can do independently is to recommend the president of the Council of Ministers to hold an extraordinary meeting of the Council, only when needed.

4.2.4 The Proposed GCC Parliament

There is not yet a GCC Parliament so there is no body to represent the people. Through its bodies, the GCC always mentioned that the GCC is working for the interest of the

⁶⁵ The GCC met the other two elements which are to be between states by international agreement and to be under international law.

⁶⁶ Alvarez (2006), p.6.

⁶⁷ Article 8, Fundamental Statute.

⁶⁸ See Article 15, Fundamental Statute.

people. The Fundamental Statute refers to the interests of the people and their “hopes for a better future on the path to unity of their states.”⁶⁹ The Supreme Council mentioned that the GCC was a respond to the will and hope of the people for more cooperation and a better future.⁷⁰ The Secretary-General states that the GCC is now tighter than ever before because there are now inter-interests between people and governments and the links between people and government have become stronger, which has brought the GCC news to become the daily focus of people and governments.⁷¹ Though the GCC leaders propose that they are working to achieve the hopes and interests of the governments and the people, the GCC has not created a body to represent the people.

4.2.4.1 The Consultation Committee

The Consultation Committee has taken the role of a GCC parliament and the mission of this committee is to represent the people’s interest. The idea of creating this committee was from a Kuwaiti proposal from 1996 to create a consultation body from the people of member countries; in 1997 the Supreme Council declared its satisfaction with the Kuwaiti proposal and established it the following year.⁷² The role of this committee is to provide consultation to the Supreme Council and to help the Council face future challenges.⁷³ This Committee consists of 30 members, five from each member country. This Committee is not allowed to discuss any subject except what has been submitted by the Supreme Council.⁷⁴

Alnoimi argues that this Committee is not an active body: it has no power to be able to actively function in a way that would benefit the GCC and that there should be a parliament instead of this Committee.⁷⁵ He sees this Committee as just a superficial body and believes that the leaders of the GCC should, instead, take steps towards establishing an elected Gulf parliament that has the power to reflect the interests of the

⁶⁹ The the preamble of the Fundamental Statute.

⁷⁰ The Supreme Council, First Session (1981).

⁷¹ Alatiyah, the Secretary-General (July 2010), p. 4.

⁷² The Secretariat-General. The Consultation Committee.

⁷³ Ibid.

⁷⁴ Ibid.

⁷⁵ Alnoaimi (3 Feb 2004) *Alwasat* Newspapers, 515

people similar to the European Parliament.⁷⁶ Some argue that the Committee has done nothing valuable since it was established until now and the people in the Gulf have not even noticed the existence of this Committee which is supposed to represent them.⁷⁷ On the other hand, the Saudi leader Prince Sultan commends the excellent job the Committee is in helping the leaders of the member countries.⁷⁸

4.3 The Objectives of the GCC

According to Al-Attiyah (2010) the GCC aims to achieve "the objectives set forth in the Charter,"⁷⁹ and that it is the normal function of any international organisation to aim to achieve the goals set up in its charter. Therefore, focus is given here to analyse the GCC objectives mentioned in the Charter, which is important as it indicates the direction in which the organisation has to move forward. In the scope of an international organisation, the goals that an organisation seeks to achieve are significant because they help identify the reasons behind creating such an organisation and show its direction. It is also a way of presenting its obligations, limitations and scope.⁸⁰ It can play an important role in explaining its laws and its acts as it is bound not to go outside its goals and it can use any legitimate act that leads to its goals even if this act is not mentioned in its laws. An example is when Judge Spiropoulos justifies the General Assembly resolution that approved establishing UN actions in the Congo and the Middle East based on, inter alia, that this resolution fulfilled UN purposes.⁸¹

According to its Charter, the GCC objectives are first to achieve coordination, **integration**, complementarity and interrelations between all state members in all fields moving towards unity. Second, they are to deepen and strengthen the attachment, the commerce and existing aspects of corporation between the people of member countries

⁷⁶ Alnoaimi (3 Feb 2004) *Alwasat* Newspapers, 515.

⁷⁷ Able (3 Feb 2004) *Alwasat* Newspapers, 515

⁷⁸ *Asharq Al-Awsat*, Newspaper (30 Apr 2007)

⁷⁹ The GCC Secretary General (2002-2010).

⁸⁰ Abo-Alwafa (1996), p. 28

⁸¹ Judge Spiropoulos, Advisory Opinion of 20 July 1962 : I.C. J. Reports 1962, p. I-I."

in all extent and third, to create similar rules in all fields, to encourage joint scientific research, technical development and joint enterprises.⁸²

According to Article 5 of the GCC Charter, the main reason why the GCC exists is to lead member countries to 'unity' in all fields. Abdullah Bsharah, the first GCC leader, explains what the word 'unity' mentioned in the GCC charter is refereeing to.⁸³ He states that the GCC exists to facilitate cooperation between member countries so it is neither an alliance, nor a block. It is a very wide idea about cooperation that has the end goal of achieving unity among member countries. He believes member countries should avoid theorising their cooperation and should avoid the traditional political measures that prevent the flexibility of cooperation. It is neither a federal nor a confederation system, but is rather a very flexible way of cooperating which interacts with the on-going development and dynamic achievements, a way of cooperation which has no strict rules and no limitations.

Bsharah's explanation of 'unity' was very vague. He may mean that the cooperation the GCC is adopting is a natural cooperation in the sense that the GCC is an organisation that creates the right environment for natural cooperation to grow and strengthen. That appears from the way that the GCC has been trying to create model laws and then asking member countries to keep these laws in mind whenever they develop their own rules. These model laws are not enforced by the GCC but any member country has the right to implement them in their national law or not to. The GCC then asks member countries to report whenever they adopt these model laws into their national laws. Every three years, the GCC measures the popularity of these model laws based on whether member countries adopt them. According to this process, the GCC can determine which laws are more accepted by member countries to become a more effective lawmaker.⁸⁴ In other words, Bsharah believes that there are laws out there suitable for all member countries which have yet to be discovered, and the role of the GCC is to discover these laws. When these laws will have been discovered, member countries would adopt them without any enforcement from the GCC, as will be analysed in chapter four.

⁸² Article 5, the GCC Charter.

⁸³ Bsharah (1985)

⁸⁴ More discussion about GCC model laws are found in the next chapter.

But in the same way that the GCC has objective for its member countries, it has objectives beyond its members. The GCC, Bsharah claims, will not only serve the Gulf countries but will end up serving the wider goals of all Arab nations. He was referring to the introduction of the GCC Charter which states that the GCC will assist in the goals of the Arab Nation. Until the beginning of 2011, anyone reading this opinion would likely think that Bsharah was only attempting to satisfy the leaders of the GCC countries by saying some complimentary words. However, 2011 revealed that the GCC has contributed to solving vital Arab issues, more so than the Arab League. The last chapter of this thesis is about the GCC's role in the Arab revolutions of 2011, but for the time being, this discussion about GCC objectives would not be complete without discussing its principles.

4.4 The GCC Principles

International organisations (IO) tend to share characteristics that make legal generalisation possible.⁸⁵ While each IO has its own legal order and faces distinct problems, IOs share a certain "unity in diversity" including common principles (and unresolved difficulties) within a speciality of public international law, namely, "international institutional law," as well as "common law-making techniques."⁸⁶

4.4.1 The Significance of Studying the GCC Principles

Principles are directives that provide instructions that an organisation should concede and respect while working towards its goals.⁸⁷ In other words, the principles are the rules of decorum that create the appropriate environment for achieving goals. Sometimes, principles temporarily blend with the goals, making it difficult to recognise the distinction between them.⁸⁸ In the Masqat Declaration during its 10th cycle, the GCC declared its principles that should be followed by all the member states in their relations with each other and with the world. These principles have also been mentioned in the

⁸⁵ Alvarez (2006), p. 3.

⁸⁶ Ibid, p. 4.

⁸⁷ Abo-Alwafa (1996), p. 31.

⁸⁸ Ibid.

final statement of the GCC's 11th cycle and the Council of Ministers' declaration in Riyadh in 1982 (its 3rd cycle) mentioned the contention between Qatar and Bahrain, indicating that what had happened between the two countries was not in line with the principles embodied by the GCC.

There is no clear indication as to what the GCC principles are but these could be indirectly found in the rules that govern the GCC, especially its charter. Firstly, the principle of cooperation, that can be identified from the very name of the GCC, the Gulf Cooperation Council, from the preamble of its charter and from Article 8.5. Secondly, one can identify the principle of solving disputes between the member countries in peaceful ways in the functions of the Commission for the Settlement of Disputes which are set out in Article 10 of the Charter, stating that the use of violence is not an acceptable way for solving disputes. Thirdly, there is an idealist principle that the sovereignty of every member has to be equal. Every single member is given a single vote and unanimous approval is needed to vote in the Supreme and Council of Ministers. Equal amounts are contributed to the Secretariat General Budget.⁸⁹

This thesis argues that this third principle hinders the effectiveness of the GCC as it does not reflect the different capacity of the member countries. It would be more realistic if the GCC gave each member countries a number of votes according to some characteristics such as its population number, its economic strength and so on. For example, the member states in the EU have a different number of votes according to each country's population and economy.⁹⁰

4.5 Membership

Right from the beginning, the GCC appeared to be a closed membership organisation. As Article 5 states, "The Cooperation Council shall be formed of the six states that participated in the Foreign Ministers' meeting held in Riyadh on 4 February 1981."⁹¹ The name of this organisation starts with the word 'Gulf' which means that the geographical location of the member countries has been considered, as all member

⁸⁹ Article 15, the GCC Charter.

⁹⁰ See the EU official website, available on www.europa.eu. [Accessed on 13 Aug 2011].

⁹¹ Article 5, the Fundamental Statute.

countries are Gulf littoral states. It was mentioned earlier that the first proposal about creating a system of cooperation in the Arabian Gulf was at an Omani conference in 1976 and included GCC members as well as Iran and Iraq, but this conference did not come to any result. Three neighbouring countries share some elements with the member countries: Iraq is an Arab state and a Gulf littoral country, Iran is a Gulf littoral state but not an Arab country and Yemen is an Arab but not a Gulf littoral country though it is in the Arabian Peninsula and it shares borders with two member countries (Saudi Arabia and Oman). Iran is excluded as it is not Arab and the GCC is for Arab countries. Iraq is excluded because it was in a war with Iran and including Iraq would be considered by Iran as an alliance against Iran.⁹²

Yemen has been continually requesting to join the GCC and even asked the US in 2010 to mediate between Yemen and the GCC after years of the GCC refusing to give Yemen full membership.⁹³ Some believe that the main reason behind the GCC refusal of Yemeni membership was the Yemeni attitude at the time of the Second Gulf War (1990) when Yemen supported the Iraqi occupation of Kuwait.⁹⁴ In a December 2010 survey with the following question: “do you think Yemen membership in the GCC will effects the GCC positively or negatively,” a million people responded; 71% of them believed that Yemen membership would badly affect the GCC while 28% of them believed it would have positively effects.⁹⁵ Some commentators of this survey explain that people of the member countries worry about the instability in Yemeni politics and the continuing intertribal fighting within Yemen.⁹⁶ This matter is still an issue since although the GCC has given Yemen membership in many of its organs, Yemen is still looking for full membership.

There has to be an amendment to the GCC Fundamental Statute before adding any new members and as long as it has not been changed, it indicates that GCC members are not willing to accept any new members yet. Some argue that it is a condition for an international organisation not to completely close its membership to only some pointed countries. Alvarez states that the membership of any international organisation must be

⁹² *Alssiyasa* Newspaper (28 Jan 1981).

⁹³ See *Kuwait Times* Newspapers (23 Jan 2010).

⁹⁴ *Foreign Policy Journal* 23 Jan 2010.

⁹⁵ This survey was conducted by Al Arabia News Channel (16 Dec 2010).

⁹⁶ Al Arabia News Channel (16 Dec 2010).

open to states appropriately qualified in the organisations 'area of operating.'⁹⁷ He then criticises this condition because it requires artificial restrictions on the right of an organisation to make a decision on its membership, proposing that non-member countries in an organisation have the right to membership regardless of what the charter of that organisation provides for. He gives the example that such a condition would mean that the Organization of American States (OAS) has no right to stop Cuba from being a member as it is geographically and politically similar to the member states of the OAS. He explains that the reason behind this condition is to be certain that a particular organisation is not a smoke-screen for the 'ego of a nation state.' Unlike the GCC, many other international organisations do not close their membership to only a specific number of members but open their membership to any country which meets certain criteria. For example, the EU opens its membership to any European country if the European Council unanimously agrees to add a new member.⁹⁸

The six member countries of the GCC have strong historical links, sharing the same social and cultural reality even before the establishment of the GCC, and therefore the GCC has been created to be the institutional embodiment of these existing relations. On many occasions, the GCC has asserted that member countries have similar economic and political systems.⁹⁹ Braibanti has noted the depth in the homogeneity of the people of the member countries which no other group of nations shares which explains the use of the expression 'Arabians' to distinguish them from 'Arab.' He also notes that the sect of Islam existing in the member countries is transported in varying levels from Saudi Arabia though there are remarkable differences in social customs in many member countries, and particularly in Kuwait and Bahrain. He also noted that there is no other state than these in the Arab world where people and leaders proudly wear traditional dress in normal life.¹⁰⁰

A charter establishing an international organisation usually cites the countries that created it and opens the door to new members. For instance, the League of Arab States, established in 22 March 1945, opens the door to new membership on the condition that they are Arab and independent. The League of Arab States Council has a right to

⁹⁷ Alvarez (2006), p. 4.

⁹⁸ See Article 237, Treaty establishing the European Economic Community, EEC Treaty.

⁹⁹ See the Supreme Council, session 1 (1981).

¹⁰⁰ Braibanti (1987), p. 206

produce a consenting decision as to whether or not a new member fulfils these conditions when applying to become a member.

4.6 The GCC in the Eyes of Arab Countries

The Arab Nation is mentioned in the introduction of the Charter which means that GCC member countries were very keen to tell the rest of the Arab countries that GCC members were not turning their backs on the rest of the Arab world by creating the GCC. The GCC Charter states that member countries “[have] the conviction that coordination, cooperation, and integration between them serve the sublime objectives of the Arab Nation.”¹⁰¹

Due to a misunderstanding of the GCC, the rest of the Arab world was unhappy about this new institution. In the Arab world it was interpreted as the GCC countries turning their backs on the Arab world, moving away from the issues that interested the Arab world and only focusing on regional issues. This worried some Arab commentators because they felt that the Gulf countries were cutting themselves off from the rest of the Arab world. Since these Gulf countries are rich, exporters of capital and have a stronger political voice as oil exporters, the rest of the Arab world did not want to lose this strength. They worried that the Gulf countries would work on the international level as a unit, dealing with the international community according to their own interests and not those of the whole Arab world. This voice was clear in Fatema Alhababy's speech at the conference about the GCC, held in Riyadh in 1984.¹⁰² The Saudi Foreign Minister was aware of this Arab concern so he assured delegates that by creating the GCC, the Gulf countries would not be separating themselves from the Arab world, just as the members of the Arab League were not separating themselves from the Islamic world.¹⁰³

In the first conference on the GCC held in Amman in 1982, the first leader of the GCC Abdullah Bsharah stressed that the GCC had learnt a lesson from previous attempts to

¹⁰¹ GCC Charter.

¹⁰² Alhababy (1983) p 136.

¹⁰³ Ibid, p. 137.

unify Egypt and Syria.¹⁰⁴ This attempt for integration in 1958 was at the golden age of the Arab Nationalism movement led by Egyptian president Jamal Abdul Nasser.¹⁰⁵ The two leaders: Nasser and Syrian President Hafeth al-Asad decided to unify their countries to become one single country. The two countries were not ready for this unification and did not let things take their proper time.¹⁰⁶ The two countries and the whole Arab world were excited for the unification of Egypt and Syria but this excitement did not last long, as the unification failed. Nonetheless, Bsharah said that although it was a failure, it gave Arab leaders some experience about the kind of cooperation that could happen between Arab countries.

There is no clear link between the Egypt-Syria unification and the creation of the GCC, but it seems that Abdullah Bsharah wanted to tell the Arab world that the GCC was not turning its back on the Arab world but that its existence is in line with other Arab attempts at a union. The GCC is not a new phenomenon in the Arab world as there had been other similar unions.¹⁰⁷ GCC countries were not trying to divide the Arab world but trying to work towards greater Arab unity similar to the attempt of unifying Egypt and Syria.

Abdullah Bsharah argued that the unification had failed because the leaders of the two countries had centralised all the power in their hands, without public participation.¹⁰⁸ This can imply that the GCC is unlike the Egypt-Syria union because the leaders of GCC countries were publishing their material. He could also have implied and warned that if there was no public participation from member countries in GCC decision-making, the GCC will similarly fail as a union.

GCC leader Al-Attiyah (2002-2010) has mentioned that one of the GCC strategies is to avoid the failed cooperation attempts that previously occurred in the area, likely referring to the Egypt-Syria attempt.¹⁰⁹ Alattiyah's statement is opposed to the aforementioned Bsharah statement which stated that the GCC was inspired by the

¹⁰⁴ Bsharah (1982), p 32.

¹⁰⁵ More detail about this movement can be found in the last chapter of this thesis.

¹⁰⁶ See Awny Farshakh (2008 March 1) Available on www.alquds.com [Accessed on 23 Feb 2012].

¹⁰⁷ Bsharah (1982), p. 32.

¹⁰⁸ Bsharah (1982), p. 33.

¹⁰⁹ Abdulrahman bin Hamad Al-Attiyah the Secretary General (2009), p. 7.

Egypt-Syria attempt for union.¹¹⁰ However, while it was probably clear to GCC leaders what they were attempting to do by creating the GCC, it was not as clear to the rest of the world, which was the reason why the GCC was misunderstood.

4.7 Misunderstanding the Nature of the GCC

Some scholars had the right impression about the GCC from its early years. Twinam defines the GCC as an organisation for “political harmony through economic cooperation.”¹¹¹ There is, he continues, no such attempt for inter-governmental cooperation in the Arab World but the GCC may be inspired by the European Community.¹¹² However, others misunderstood what the GCC was about, thinking that the GCC is a federal union or a military alliance.¹¹³

4.7.1 The GCC as a Federal Union

'Unity' means 'the state of being one; oneness'¹¹⁴ while 'union' means 'the state of being united.'¹¹⁵ Whether they have the same or a slightly different meaning, it is clear that these words refer to a much more developed integration than 'cooperation' does. McGovern explains that the concept of unity has a more powerful meaning, as used by the founders of the United States of America. This US unity started as a revolution and then faced a hard painful test with the civil war. According to him, the US is therefore an example of a country in which the heart of its historical foundation is based on the concept of unity. In his book on the GCC, McGovern emphasises the importance of unity and the possible success that could take place between the GCC countries.¹¹⁶ However, it would have been more realistic if he had started his introduction with some inspired words about the European Union (EU), which, as an international organisation, exhibits a cooperation that is closer to the GCC than the US, as a nation-state. He is probably referring to some of the GCC documents such as the Preamble of the GCC

¹¹⁰ See Bsharah (1982), p 32.

¹¹¹ Twinam (1987), p. 30.

¹¹² Ibid., pp. 30-31

¹¹³ See McGovern (1987), p. ix, and see Anthony, J. D. (1982), p. 4.

¹¹⁴ Oxford Dictionary.

¹¹⁵ Ibid.

¹¹⁶ McGovern (1987), p. ix.

Charter which states that the people of the member countries are hoping “for a better future on the path to unity of their states.”¹¹⁷ Also, according to the Charter, one of the GCC objectives is achieving coordination, complementarily and interrelations between all member states in all areas moving towards unity.¹¹⁸

Some GCC countries had tried to unite under a single federal country, as mentioned earlier, and although this federal country failed to include Bahrain and Qatar, the seven Trucial States succeeded in forming a federal country: the UAE. Abdullah Bsharah explains that the GCC is neither a federal nor a confederation system; rather, it is a very flexible form of cooperation which reacts to changing developments and dynamic achievements, a kind of cooperation which has no strict rules and no limitations.¹¹⁹

Although it is mentioned in the GCC Charter that member countries are working through the GCC to achieve unity between them, the history of the GCC reveals that unity is a far dream and that member countries were not willing to go that far. In 2011, when several GCC member country, particularly Bahrain, realised that their governance system dominated by a royal family was in danger, they started discussing unity and federation more seriously. This will be examined in the last chapter of the thesis.

4.7.2 The GCC as an Alliance

Some observers thought that the GCC was mainly a military alliance. Iran was not happy with the establishment of the GCC when it was at war with Iraq, perceiving this cooperation as an alliance that aimed to gather more military force to support Iraq against Iran. To avoid such assumptions, the leaders of the GCC made it clear in the first announcement of the Supreme Council that the aim of the GCC was to achieve comprehensive cooperation among its members, that the Iran-Iraq war was posing a threat to the region, and that the GCC supported efforts to put an end to this war.¹²⁰ Additionally, it did not serve Iranian interests to have a strong country or inter-country

¹¹⁷ The preamble of the GCC Charter (1982).

¹¹⁸ More discussion about the GCC objectives is below.

¹¹⁹ Bsharah (1985).

¹²⁰ The closing statement of the Supreme Council of the GCC, First Session (1981).

cooperation on the other side of the Gulf, as they wanted to have the supreme power in the area.¹²¹

Not only Iranians were sceptical about the motivations behind the establishment of the GCC, believing that the GCC was more a military alliance than a means for economic cooperation. Scholars like John Anthony noticed that neither the words 'union' nor 'unity' or any similar words were mentioned in the first GCC meeting in 1981,¹²² but notes that the word 'cooperation' was stressed, ignoring the fact that the word 'unity' is mentioned in some GCC documents such as the Charter.¹²³ The point he wanted to make was that the GCC was not an international organisation that aimed to unite the Gulf countries, but rather that it was a military alliance. He states:

Despite the initial and ongoing emphasis on economic, social, informational, and educational cooperation that was envisioned and enshrined in the earliest GCC communiqués, it is increasingly apparent that security concerns are uppermost in the minds of many of those in a position to prioritize the GCC's mandate. The need to find a more credible and effective means to deal with the pressing problem of security was, indeed, one of the most compelling reasons for establishing the GCC.¹²⁴

He stresses that any other purpose for creating the GCC was a supplementary one but that the heads of the member states were focused on security matters.¹²⁵

It may be right that the security issue was a major concern for some GCC leaders, as evidenced by member countries' proposals prior to establishing the GCC.¹²⁶ Unlike Anthony who assumes that the GCC is a kind of military alliance, Twinam explains how member countries had differing opinions about security cooperation after 1970, diverging on the extent to which they should rely on Western countries, especially the UK and the US, in relation to security of the Gulf; their cooperation in security "was strewn with political landmines."¹²⁷ However, although some GCC member states were concerned about security or military cooperation, none of the member countries, as mentioned earlier, wanted the GCC to appear like a military alliance.¹²⁸

¹²¹ See Abduljaleel Marhon (2010).

¹²² Anthony, J. (1982), p. 4.

¹²³ See the preamble of the GCC Charter.

¹²⁴ Anthony, J. (1982), p. 4.

¹²⁵ Ibid.

¹²⁶ These proposals are discussed below.

¹²⁷ Twinam (1987), p. 30.

¹²⁸ See the Supreme Council, first session.

4.8 The GCC - Important in the Eyes of the Media but not for Politicians

Some have characterised the establishment of the GCC as one of the most significant events of the period between 1972 and 1981, emerging as a unique form of cooperation in the Middle East. In the first year of its establishment, Johan Anthony criticised the American media for not showing enough interest in the GCC. Even though its establishment was vital to the United States' foreign policies, American politicians were hardly aware of its existence. Anthony predicted that the GCC would become much more important in the future than at the time of its establishment. For Anthony, the GCC is like the Organization of Petroleum Exporting Countries (OPEC) which was not viewed by American politicians as a serious organisation when it was first established as well. Examining the GCC today, 30 years after that prediction, Anthony would find his prediction to be wrong. From its establishment until today, the GCC has largely remained the same organisation: although it has passed many key steps towards coordination, it has not taken a key international role as OPEC has done.¹²⁹

Organisations like OPEC were created to play an important role in international economics. Therefore, its achievement is pronounced loudly while the achievement of the GCC remains silent.¹³⁰ The silent achievement refers to the fact that the GCC has maintained the existing system and not formed a new system, particularly relating to the surrounding political environment in the Gulf area. The general political status of the Arab world, from the time of the GCC's creation in 1981 to date, and its impact on different functions of the GCC will be analysed in the last chapter of this thesis.

4.9 Conclusion

This chapter has considered the structure of the GCC, which illustrates that the main GCC bodies are: the Supreme Council, to which the Commission of the Settlement of

¹²⁹ See Anthony J. (1982), p. 3

¹³⁰ This chapter is about the establishment of the GCC, whereas its achievements are assessed in the next chapter.

Disputes is linked, the Council of Ministers and the Secretariat General.¹³¹ It has revealed that the GCC leaders have given to these bodies the powers that make them able to facilitate the leaders' lead towards more cooperation among their states. Yet, this chapter has argued that the powers that these bodies have do not match with some of the GCC's declared objectives. It has explained that the objectives of the GCC can be categorised into two kinds. First, the objectives that the GCC is able to achieve with its existing structure. These objectives are, in particular, to facilitate cooperation between its member countries in many fields: security, economic, social, information, education etc. and to strengthen the existing forms of cooperation between the people of member countries. Second, the objectives that the GCC is not able to achieve within the limitations of its current structure. These include achieving unity between its member countries and creating similar rules in all fields. With regards to achieving unity, this thesis argues in the coming chapters, particularly in the last chapter, that the GCC would not be able to achieve unity unless the GCC's bodies are given the power and independence they need to function without the full control of the states' leaders. Also, it will be argued in the next chapter that the GCC is doing well in creating similar rules, however, that the GCC is not be able to create binding common rules as long as there is no GCC court of law.

This chapter has also considered the GCC's closed membership system. It has argued that the GCC's system is not in line with the rules mentioned by international institutional lawyers. The membership of any international organisation must be open to states appropriately qualified in the organisation's 'area of operations.'¹³² Although the GCC has a closed membership system, it offers its membership to those Arabic countries which have a monarchy. This point will be addressed in more depth in the last chapter of this thesis.

The chapter then considered responses of other states to the establishment of the GCC, which contribute to the overall impression that the aims were not clear or consistent. It has addressed misunderstandings about the GCC in the Arab world and internationally. The Arab world was worried that the GCC would take a role which was not in line with the interests of the Arab world. The response came as an article in the GCC Charter that

¹³¹ Article 6 of the Fundamental Statute.

¹³² Alvarez (2006), p. 4.

the GCC is aiming to support not only the goals of its member countries but also to support all the common interests of the Arab world.¹³³ The confusion about the GCC is because member countries have different views about the GCC. The previous chapter noted that some member states were more interested in security cooperation while some were more interested in trade cooperation. So, the GCC struggles to help its member states in all these kind of corporation. This is a struggle also because the GCC has not been given a good level of independence. Therefore it has not formed a clear identity because its identity depends on what the leaders of the member countries want the GCC to do. In the next chapter the achievements of the GCC will be evaluated in accordance with the objectives and principles explained here.

¹³³ See the introduction of the GCC charter.

Chapter Five - The Achievements of the GCC

5.1 Introduction

This chapter evaluates and analyses the GCC achievements in the main fields of political, security and economic achievements. This chapter is crucial to this thesis as it reveals the strengths and weaknesses of the GCC in order to evaluate the GCC as an international organisation. Two kinds of source materials are reviewed in this chapter. Firstly, this chapter refers to primary sources, including the literature published by the GCC, the common laws it has created, the agreements ratified under the umbrella of the GCC and the statements made by GCC bodies, by GCC officers or by leaders of member country. Secondly, this chapter refers to secondary sources including books, journal articles and newspaper articles written in Arabic or in English directly on the GCC, as well as to secondary sources written generally on international organisations or international institutional law.

There is, in both the primary and secondary sources relating to the work of the GCC, considerable confusion over or ambiguity between the achievements of the GCC and those of the member countries, whereby some achievements are pushed to be considered under the umbrella of the GCC when they are in fact due to the efforts of one or more member countries. An example of this is the mediation for solving the border dispute between Oman and Yemen, as will be explained further below. Some authors contributed to this confusion; for example, Ali Shafiq has listed the role of Saudi Arabia in solving the dispute between Algeria and Morocco as a GCC achievement,¹ but neither the Supreme Council, the Council of Ministers, nor the Secretariat General have counted this effort as a GCC achievement.

Some authors write about GCC achievements by paraphrasing the GCC Supreme Council's statements,² and therefore have a very positive view about the GCC peace efforts. The GCC has been trying, according to Ali Safiq, to peacefully settle any dispute between member countries and to reduce tensions and resolve disputes between

¹ Shafiq (1989), p. 253.

² See for instance, Shafiq (1989), pp. 121-135.

the countries of the region, as well as to bring about peace in the Arab world. He argues that by observing the GCC functions and the role of its various bodies, it can be noted that one of the main goals of the GCC is to achieve stability and security for the Arabian Gulf and the Arab world. He concludes that it is clear from statements made by the Supreme Council and the Council of Ministers, that this organisation is keen on making great efforts to keep peace in the area.³

Twinam points towards more of a silent achievement, which is likely to be true.⁴ He states that the GCC has created a forum for the leaders where they would be confident enough to pronounce their opinions. Many of the GCC members are the smaller countries of the Arab world and according to Twinam, the GCC members may not easily be able to contribute to a bigger organisation like the Arab League. The GCC therefore creates the right environment for the smaller countries to learn from other countries that have more experience, as it allows for a closer consultation between the leaders. The GCC, he believes, opens a new possibility for understanding, learning and problem-solving for the member countries' government.⁵

There are a number of sources that show the GCC's own views of its achievements. The views held by the leaders of the member countries can be traced through the closing statements of the Supreme Council.⁶ At the end of each Supreme Council meeting, the leaders of member countries publish a joint statement in which they evaluate the achievements to date and their attitudes towards current internal and international issues. Another source is the statements of the Council of Ministers, which meets every three months. At the end of every meeting, the Council of Ministers also declares its view about the GCC progress and attitudes.⁷ The third and most important source, for the purpose of this chapter, is the Secretary-General's views. One of the roles that the Secretary-General is required to perform is to write regular reports about the progress of the GCC and to show to what extent member countries are implementing the resolutions of the Supreme Council and the Council of Ministers as well as drafting the resolutions

³ Shafiq (1989), p. 253.

⁴ Twinam (1987), p 41.

⁵ Ibid

⁶ All these statements are available in Arabic and in English starting from the 18th statement on www.gcc-sg.org

⁷ These statements are available only in Arabic on www.gcc-sg.org.

of the Council of Ministers.⁸ This chapter uses the information coming out of these three GCC bodies as the main resource for the GCC's view about the GCC. After examining the GCC's views on itself, this chapter analyses and discusses these views in relation to other sources of information and from alternative opinions.

This chapter examines the achievements declared by the GCC. The general view of the GCC about its achievements is, according to the Secretariat General, that the GCC has made great achievements in all fields.⁹ The Secretariat General is very proud that the GCC is developing very well and is a practical institution.¹⁰ The achievements of the GCC will now be examined according to the themes of politics, security and economics.

5.2 - The Political Achievements of the GCC

By tracing the GCC function in external politics, it can be noted that the GCC sometimes functions as a discussion forum. Many of the collective political attitudes adopted by the member countries are not necessarily the work of the GCC, but it is more the case that member countries already have similar policies. This is supported by Christie who states that in external policy, the GCC sometimes has “an easier task.”¹¹ He points out that the GCC is usually unable to present itself as an independent international institution and that often, the international relations of the member countries are dealt with by member states individually.

This section starts by highlighting the GCC's external policies, as its political achievements are based on these. It then discusses how member countries have managed to produce a collective attitude and general consensus on all the important political issues.¹² This section also identifies key disputes that the GCC has been involved in and has had a major part in resolving.

⁸ See article 15, GCC Charter.

⁹ See Secretariat-General (2009).

¹⁰ Secretariat General (2006), p. 4.

¹¹ Christie (1987), p. 15.

¹² Secretariat-General (2009), p. 12.

5.2.1 GCC Principles for External Policy

Before dealing with the achievements, it is first important to discuss the principles that these achievements are based on. In covering the GCC's political achievements, the Secretariat General lists three political principles that are adopted by the GCC: the first is non-intervention in any other country's domestic affairs, the second is that each member country should respect the sovereignty of other members over their territories and resources and the third is that any dispute has to be settled peacefully.¹³ It is worth mentioning that these principles are also stated in the UN Charter.¹⁴ However, from reviewing the constitution of member countries concerning external policy and by tracing the statements of their leaders, it can be noted that these principles mentioned by the Secretariat General as GCC principles are actually those of member countries from before the creation of the GCC.¹⁵

It is worth discussing the second and third principles in greater detail. On the second principle about respecting the territory of other countries it can be said that allowing territorial disputes to continue without being settled is not a healthy situation and does not result in an appropriate settlement. For instance, the dispute between Saudi Arabia and the UAE over the Buraimi area between the two countries has been left without settlement; in fact this dispute was discussed between Britain and Saudi Arabia but unfortunately Britain withdrew from the UAE without the matter being settled.¹⁶ Negotiations continued between Saudi Arabia and the UAE afterwards, resulting in the Jeddah agreement of 1974.¹⁷ In this agreement Sheikh Zayed, the ruler of the UAE, agreed with Saudi Arabian King Faisal that the Buraimi is a Saudi land,¹⁸ but the current UAE Government appears unhappy with this agreement and wants to change it. After the death of Sheikh Zayed, several UAE leaders argued that Sheikh Zayed had no choice but to agree with King Faisal because he desperately needed his help even though he knew that Buraimi should not be a Saudi land.¹⁹ They have expressed their rejection of the agreement by printing a map of the UAE that includes Buraimi on the

¹³ Al-Attiah (2009), p. 13.

¹⁴ Article 2, UN Charter. 1945.

¹⁵ Al-Ashal (1983), p.179.

¹⁶ See the report of her Britannic Majesty's Government. C. (54) 59 (16 February 1954)

¹⁷ See1 خالد الفيصل بن عبدالعزيز آل سعود : مسرد تاريخ الفيصل ، تاريخ الوقائع والأحداث في حياة الملك فيصل بن عبدالعزيز ، ص 1

¹⁸ Ibid.

¹⁹ See خالد الفيصل بن عبدالعزيز آل سعود : مسرد تاريخ الفيصل ، تاريخ الوقائع والأحداث في حياة الملك فيصل بن عبدالعزيز

national identification cards of its citizens. In response, Saudi Arabia has refused to allow UAE citizens to enter Saudi Arabia with these cards; they can only enter with their passports.²⁰ In terms of the respect of territories mentioned in the GCC principles it is important to examine how these two countries practice 'respect' and what the role of the GCC has been in such matters. This chapter argues that, the Jeddah Agreement was mainly reached based on the decisions of the two leaders as they both had the full power to decide on behalf of their countries and people. This kind of settlement can be quick but it can also simply be a way of covering up the problem but not settling it as with this example of Buraimi land. This chapter suggests that the role of the GCC here is to lead the dispute settlement in the GCC to a more developed way whether by creating a GCC court of law or by implementing an institutionalised way of settling problems. This leads to the third principle about the mechanism of dispute settlement.

Regarding the third principle about the peaceful settlement of disputes, the mechanism that the GCC created for this role is through the Commission for the Settlement of Disputes, which is neither a judicial body nor an arbitration commission but an advisory body.²¹ Therefore, its decisions are not binding even if two parties choose to bring their dispute to the Commission,²² which is usually the way that regional organisations deal with disputes.²³ For example, in 1931, a Germano-Lithuanian Commission settled the dispute about the expulsion of five Germans from Memel, and in 1934, a Belgium-Luxembourg Commission settled the dispute about contraband traffic. These two disputes were settled by a consultation Commission.²⁴

Although the GCC Commission has established a peaceful means for dispute settlement in line with the UN principle²⁵ that countries should look for peaceful ways for settling their disputes,²⁶ one could argue that it is not capable of solving big issues and this is not only because it cannot make binding decisions but also because the Commission is not composed of judges.

²⁰ See BBC Arabic (14 August 2009)

²¹ More detail about this Commission can be found in the previous chapter.

²² Shafiq (1989), p. 250.

²³ Ibid.

²⁴ Merrills, J. G. (2011) p. 60.

²⁵ See Article 52.3, UK Charter.

²⁶ Shafiq (1989), p. 251.

5.2.2 Institutional or Individual Achievements

It is explained throughout this chapter that the GCC often confuses achievements of member countries and achievements of the GCC as an institution. In this context the GCC members, as explained, did two types of work. In the first instance, they worked individually to push for the passing of UN and Arab League resolutions, and in the second, they held Supreme Council meetings to pronounce their decision which was based on the previous resolutions of the UN and Arab League. So, what is the different between these two kinds of work? The answer can be that the achievement of the latter can only be reached through institutional work. When member countries work through the GCC, they are actually adding to the practice of their institutional experience; such experience is likely to grow and develop by such institutional practice. In the former, when the leaders of the member countries work individually, there is a common individual initiative. Such initiatives mainly exist between leaders that have being given all the power and can make key decisions without needing a green light from their people or from their ministers. Initiatives like this may succeed because there is a good extent of understanding between leaders. Yet, as soon as those individuals change, that understanding is likely to disappear so they need to build up their understanding which may take a long time. If they were to work through the GCC, the institutional experience would not disappear with the change of one or more actors: the institutional experience can be passed onto the next generation, it can be built on that, and thereby continuing the institutional development. As already mentioned in the case of the Saudi-UAE dispute over Buraimi, the leaders settled the dispute but this settlement was not transfered to the next generation.

5.2.3 Has the GCC Changed its Goals?

The aim here is to liken this discussion about the Second Gulf War to the analysis in the previous chapter about the principle of balancing power. It was mentioned earlier that one of the main aims of GCC leaders in creating the GCC was to be independent from international powers in handling the security of the Gulf. The main aim of creating the GCC is balancing the power in the Gulf. In the first meeting of the Supreme Council, the GCC leaders had pronounced that by creating the GCC, member countries were showing their ability to secure the Gulf and that they do not want any foreign armed

forces to play a role in the Gulf. However, the Kuwaiti crisis of 1990 has shown that this claimed capability and balance of power are not true. The GCC countries that were asking international powers not to have military bases in the Gulf have changed their opinion and asked international powers, namely the US, to have some military bases in the Gulf. For example, as mentioned earlier, Qatar, has agreed to pay 60% of the cost of the US military bases on its land. This is a crisis for the GCC, especially for those members who thought the GCC would balance the power in the Gulf and it shows that the Kuwaiti proposal which focuses more on economic cooperation and leaves security matters to international powers was closer to reality.

The political achievements discussed above have been listed in chronological order while the political achievements that follow did not necessarily start in this century. They are continuing issues which have lasted many centuries and which continue to occur throughout the GCC's existence.

5.3 An Overview of the GCC's Political Achievements

5.3.1 The Iraq-Iran War and the Stability of the GCC

According to the Secretariat General, the main political focus of the GCC was the stability and security of the GCC during the first decade of the GCC's existence in the 1980s.²⁷ The main threat facing the GCC was caused by the Iraq-Iran war. In June 1986, the Kuwaiti Foreign Minister said "There has never been a meeting at which the Iran-Iraq war has not figured on the agenda."²⁸ Considering that Iran was posing a threat to the area even before the Iraq-Iran war started, McGovern states that when the Iranian revolution started, many observers thought that this revolution would extend to the entire Middle East.²⁹ The threat of the war, according to the Secretariat General, required 'collective action' to avoid any extension of the war and to find solutions to end the war.³⁰ This statement by the Secretariat General further explains what the previous chapter has already argued, that one purpose of establishing the GCC was to maintain the status quo, more than to change things. It could be argued that many scenarios could

²⁷ Al-Attiyah (2009), p. 13.

²⁸ Christie (1987), p. 17.

²⁹ McGovern (1987), p. ix.

³⁰ Secretariat General (2009), p. 13

have taken place if the GCC did not exist. One scenario, some may argue, is that each of the fighting countries in the Gulf – namely, Iran and Iraq – would try to have some of the GCC countries on their side which could divide the area into two alliances. Another scenario is that several Gulf Countries could feel threatened and ask for international protection, which would bring a large number of international forces to the area.

When the GCC was established, the Iraq-Iran war had already started.³¹ Starting from the first meeting of the GCC Supreme Council, this war was the main concern, and the GCC States made a great effort to end this war peacefully.³² In a conference of the Non-Aligned States in 1983, GCC member states proposed a joint initiative that Iraq and Iran should call a cease-fire and the GCC countries would pay for both parties' compensation for the cost of the war,³³ both parties would go back to their borders, and a UN peace-keeping force would create a free area between the two countries. Iraq agreed to this initiative but Iran refused it.³⁴

The Security Council issued Resolution 598 in 1987 which required the two parties to call a cease-fire.³⁵ This resolution is under Chapter VII of the UN Charter which gives the Security Council the power to “determine the existence of any threat to the peace” and “to decide what measures shall be taken.”³⁶ Resolution 598 required Iran and Iraq to discontinue their war, requested the Security-General to send a group of UN observers to oversee the cease-fire, and stated that the Security Council “recognizes the magnitude of the damage inflicted during the conflict and the need for reconstruction efforts, with appropriate international assistance.”³⁷

Alashal mentions that the GCC and its member countries put pressure on the Security Council to reach this solution,³⁸ but there is no direct evidence to support Alashal's

³¹ In the previous chapter, it was established that one motive behind establishing the GCC was the threat that this war posed to the area.

³² Secretariat General (2009), p. 14.

³³ This point about GCC countries paying the cost of the war is raised by Alashal (1983) p. 202, but he has not specified his source. No other sources reviewed for this thesis have mentioned such a thing.

³⁴ Alashal (1983), p. 202. The Fourth Session of the Supreme Council (1983).

³⁵ Resolution 598, Security Council.

³⁶ Article 39, UN Charter.

³⁷ Point Number 7 of Security Council Resolution 598 (1987).

³⁸ Safiq, p. 254.

statement that the GCC was behind Security Council Resolution 598. The UN states that Resolution 598 was adopted after extensive consultations, but does not specify with whom these consultations took place. The GCC could have played a crucial role in pushing the Security Council to pass this resolution. He could also be referring to the Supreme Council urging the Security Council to take responsibility in implementing its resolutions to stop the Iran-Iraq war – since Iran delayed in obeying the Security Council's Resolution – and any military aggression in the Gulf.³⁹

This thesis agrees with the Secretariat General and other commentators that the GCC did well in this issue,⁴⁰ perhaps because the member states had the same interest in avoiding the damaging consequences if the war continued and because member countries knew that they would not be able to achieve an effective response if they worked individually. It can be noted that the GCC helped member countries to produce some vital initiatives on this issue and put effective pressure on the Security Council, because when individual action fails to achieve the desired outcome, international institutions could play a crucial role even in an anarchic world.⁴¹ International institutions can exercise important power at least under specific circumstances,⁴² and it is demonstrated here in the way that the GCC dealt with the Iraq-Iran war, that this is one circumstance when an international institution can become powerful.

5.3.2 The Settlement of the Bahrain-Qatar Border Dispute

Some GCC political achievements relate to wars that happened in the region such as the First and Second Gulf Wars while other political achievements refer to the prevention of wars or conflicts such as the Bahrain-Qatar dispute and Omani-Yemen dispute. One of the biggest disputes between member countries was the border dispute between Bahrain and Qatar, especially about Hawar Island. The dispute reached a point where Bahraini gunboats opened fire and some Bahrainis were taken prisoners for a short time by Qatari forces.⁴³ The Council of Ministers expressed its regret over this dispute and its worry about the effect this dispute might have on the Gulf area; it also noted that this dispute

³⁹ See the Supreme Council, Session 8 (1987).

⁴⁰ See Secretariat General (2009), p. 14; See for example, Shafiq, p. 255, and Alashal (1983), p 202.

⁴¹ Krasner (1996), p.167.

⁴² Robert, J. et al. (1996), p.166.

⁴³ The Estimate (2010) available on www.theestimate.com [Accessed on 25-11-2010].

was not in accordance with the principles established in the GCC Charter.⁴⁴ The Council of Ministers stressed that the GCC has created the constitutional means for dispute settlement by creating the GCC Commission for the Settlement of Disputes.⁴⁵ However, this case shows that neither the Saudi mediation nor the Commission could resolve the problem; instead Bahrain and Qatar had to settle their dispute at the International Court of Justice (ICJ) in 1991. This case was too complicated to be settled by the Commission; as the ICJ mentioned, the case was the longest in the Court's history and the decision in *Qatar v. Bahrain* was very complex.⁴⁶

In 1991, Qatar raised the dispute against Bahrain in front of the International Court of Justice. The dispute was mainly about “sovereignty over the Hawar islands, sovereign rights over the shoals of Dibal and Qit’ at Jaradah, and the delimitation of the maritime areas of the two States.”⁴⁷ Although the dispute was about many different lands, the main dispute was about the biggest island, namely Hawar.⁴⁸ The ICJ gave Hawar Island to Bahrain, based on the 1939 report of Mr. H. Weightman, written as a response to Qatari claims over Hawar Island. After examining the parties’ arguments and evidence, he reported:

The Shaikh of Qatar has produced no evidence whatsoever. He relies solely on an uncorroborated assertion of sovereignty, on geographical propinquity and on the alleged statements of certain unidentified persons. On the Bahrain side there is evidence that the original occupation of Hawar by the Dawasir was effected under the authority of the Al Khalifah, that the Zellaq Dawasir have frequented these islands for a great number of years, that the courts established by the Shaikhs of Bahrain have promulgated decisions in regard to disputes over property there, that questions of ownership of fish tram have been submitted to the decision of the Bahrain Sharia Court, that seven years ago Bahrain processes were served in Hawar, that the boats owned by the Dawasir of Hawar are registered in Bahrain and that gypsum or juss is excavated from Hawar under licence from the Bahrain Government. I am not able to stated definitely that these Dawasir have for the past 150 years occupied Hawar at all seasons of the year, though those now in residence there claim that this is so. On the other hand the cemeteries, the water cisterns, the ruins of the old fort which I have myself seen and the type of house in use all provide evidence of consistent occupation for at least the greater part of the year. And finally in the absence of any indication of occupation or of the exercise of jurisdiction by the Shaikh of Qatar, the construction of a police post by the Bahrain Government there some 18 months ago, the building of a mosque in the northern village

⁴⁴ The Ministers Council, 3, (1982).

⁴⁵ Ibid.

⁴⁶ Joint dissenting opinion of Judges Bedjaoui, Ranjeva and Koroma, ICJ, the Hague (2001) *Qatar v. Bahrain*. Available on www.icj-cij.org, p. 114, Paragraph 8.

⁴⁷ See the introduction of the judgment ICJ, (16 March 2001), report of judgments, advisory opinion and orders case concerning maritime delimitation between Qatar and Bahrain (*Qatar v. Bahrain*), p. 8.

⁴⁸ See Guo, (2007) p. 135.

under the orders of His Highness the Shaikh of Bahrain and the efforts made to drive an artesian well constitute, in the light of older history, a valid and proper assumption of constitutional authority on the part of the Bahrain Government. The small barren and uninhabited islands and rocky islets which form the complete Hawar group presumably fall to the authority of the Ruler establishing himself in the Hawar main island, particularly since marks have been erected on all of them by the Bahrain Government.⁴⁹

Although the GCC Secretariat General has not recorded the GCC's efforts in this case as a GCC achievement,⁵⁰ this thesis agrees with the view that the GCC did well in ensuring that the dispute was resolved in a peaceful manner when seeking solutions.⁵¹ For instance, in 1982, the Council of Ministers passed a resolution requesting Saudi Arabia to continue its mediation between Bahrain and Qatar. The resolution requested that the two countries register their agreement with the Secretariat General, that they freeze the dispute without taking any further aggressive action and that they stop media campaigns between the two countries and not increase the dispute, stressing the brotherhood between the two countries.⁵² Also, military observers from the other four countries supervised Qatari and Bahraini activity in the disputed area.⁵³

However, the GCC's failure in this case was due to the fact that the Council of Ministers showed that it did not make the right assessment of the Commission for the Settlement of Disputes. They thought they had created the required body that would be able to resolve such a dispute by creating this commission, but even the ICJ itself found this case to be very complicated.⁵⁴ If the judges in the ICJ, with all their experience in international dispute settlement, found this case difficult, surely the GCC Commission would find it impossible because the Commission members are not judges and have no experience.

5.3.3 The Settlement of the Oman-Yemen Border Dispute

There is little information about the 1975 border dispute between Oman and Yemen, perhaps because it was not very complicated. There was a dispute because each country

⁴⁹ ICJ, (16 March 2001), (Qatar v. Bahrain), Paragraph 128.

⁵⁰ See Secretariat General (2009).

⁵¹ See, for example, Shafiq (1989), p. 251 and Alashal (1983), p 202.

⁵² The Council of Ministers, 3 (1982).

⁵³ Peterson (1987), p. 194.

⁵⁴ Joint dissenting opinion of Judges Bedjaoui, Ranjeva and Koroma, ICJ, the Hague (2001) Qatar v. Bahrain. Available on www.icj-cij.org, p. 114, Paragraph 8.

claimed the sovereignty over lands located between the two countries. It is, however, important as it is regarded by some as a GCC political achievement.⁵⁵ Kuwait and the UAE were mediating between Oman and Yemen prior to the establishment of the GCC, and continued to do so afterwards, but as members of the GCC.⁵⁶ The Supreme Council, though it does not deny that the effort was largely a Kuwaiti-Emirati one, states that the success of these efforts is practical proof that the GCC is very successful in maintaining peace in the area and supporting the brotherhood relations between all the countries in the Gulf.⁵⁷ The Supreme Council and others consider this effort to be a GCC achievement while the Secretariat General does not list this effort as a GCC achievement.⁵⁸ It can be argued that in this case, it was clearly Kuwait and the UAE's efforts that resulted in solving the dispute as they started these efforts before the GCC came into existence and continued after becoming members of the GCC. In fact, Kuwait and the UAE spent two years on this negotiation until the two countries agreed on settlement,⁵⁹ it is therefore accurate as some may argue, to attribute this achievement to Kuwait and the UAE and not to the GCC.

5.3.4 The Occupation of Kuwait

The Iraqi occupation of Kuwait on 2 August 1990 was, according to the Secretariat General, the most serious and dangerous challenge that had ever faced the GCC since its establishment and Kuwait's freedom was the GCC's main focus during that period.⁶⁰ However, the occupation of Kuwait was not the only danger, as the Iraqi regime gathered its forces on the border of Saudi Arabia, posing more danger to the rest of the Gulf Countries.⁶¹ On the same day that the occupation happened, the UN Security Council declared Resolution 660, which states that, inter alia, the invasion of Kuwait was a breach of international peace and condemned the invasion, demanding that Iraq withdraw from Kuwait. Four days later, on 6 August 1990, the Security Council declared Resolution 661, reaffirming the previous Resolution, determined to bring the Iraqi occupation of Kuwait to an end. On 9 August 1990, the Security Council declared

⁵⁵ See the Supreme Council, 3 (1982).

⁵⁶ Shafiq (1986), p. 253.

⁵⁷ The Supreme Council, 3 (1982).

⁵⁸ See Algarni (1996), p. 145 and Shafiq (1986), p 252.

⁵⁹ Christie (1987), p. 14.

⁶⁰ Secretariat General (2009), pp. 13-14.

⁶¹ See Resolution 195, the Arab League, (2010).

its third Resolution (662) reaffirming, *inter alia*, its two previous resolutions.⁶² On 9-10 August, the Arab League held an extraordinary meeting – all the GCC member countries were present, including Kuwait – and declared Resolution 195 in which, *inter alia*, they condemned the Iraqi invasion of Kuwait.⁶³

GCC member countries turned to other international organisations, first to the Arab League in Cairo, then to the UN, while the GCC, as an institution, was ignored by its member states. The GCC headquarters in Riyadh was left empty while GCC ministers were meeting in other international organisations. After all these resolutions made by other international organisations, the Council of Ministers of the GCC held its regular meeting on 6 September 1990 in Jeddah and declared, *inter alia*, its support for the liberation of Kuwait and its condemnation of the Iraqi occupation of Kuwait.⁶⁴ It was not until 22-25 December 1990, when the Supreme Council held its regular meeting in Doha, that it declared, *inter alia*, that all GCC member countries had discussed the dangerous situation in the area caused by the Iraqi occupation of Kuwait which posed a direct threat to member countries and which was causing the killing and displacement of Kuwaiti people.⁶⁵ Moreover, the Supreme Council reiterated its strong condemnation of the Iraqi regime for its blatant aggression and brutal attack on Kuwait and its continued refusal to comply with the principles of the Charter of the Arab League, the decision of the Arab Summit Conference (No. 195), and the UN Charter and Security Council resolutions concerning its aggression against Kuwait. The Supreme Council affirmed and supported absolute and full solidarity with the Kuwaiti Government and people in fighting until full liberation. The Supreme Council then issued a statement demanding that Iraq withdraw from Kuwait before 15 January to avoid war,⁶⁶ referring to the Security Council Resolution 668 deadline.⁶⁷

⁶² Resolutions 660-661-662, Security Council.

⁶³ Resolution 195 the Arab League.

⁶⁴ The Council of Ministers, 36, (1990)

⁶⁵ The Supreme Council, 11 (1990)

⁶⁶ *Ibid*

⁶⁷ It was not the first time that GCC members ranked the GCC last as an organisation able to handle the regional issues that directly affect the member states. For issues like the Iran-Iraq war (1980-1988) the GCC always based its statements on the decisions of other international organisations, mainly the Arab League and the UN. See the closing statements of the Supreme Council (1984-1988).

That statement by the GCC Supreme Council, also confirmed that member countries were determined to stand up against Iraq's aggression and resist it on the basis that any attack against any member state is an attack on all member states, that the security of the GCC countries is indivisible and that the aggression on Kuwait was therefore regarded as an attack on all GCC countries.⁶⁸ The UN addresses this type of pronouncement, where a group of states declare that any attack on one of them is regarded as an attack on all of them: according to the UN Charter, countries have a right, both individually and collectively, to self-defence.⁶⁹ There is nothing in the UN Charter to prevent any region from making an agreement to keep the peace and secure the region.⁷⁰

The Secretariat General explains the achievement of the GCC in this way, stressing that member countries started to respond to the Iraqi occupation within a few hours.⁷¹ The GCC Secretariat General also explains that GCC members successfully held the Arab League Leaders Summit on 10 August 1990 and member countries significantly contributed to the efforts to pass all the Security Council resolutions relating to Iraq's occupation of Kuwait.⁷² The Secretariat General proudly extols its success in responding to the Iraqi occupation of Kuwait while the GCC response actually failed. Member countries responded quickly, but the GCC did not. Neither council used its right to convene an extraordinary session;⁷³ instead they waited until their regularly scheduled session.⁷⁴ Even if the GCC response had been acceptable, other international organisations were able to respond more quickly.

The question arises as to who should be blamed for this slow response by the GCC to one of the most dangerous situations facing member countries. The GCC's slow response reveals the important standard provided by international institution lawyers such as Alvarez who states, as mentioned earlier, that one criterion which an international organisation must meet, is that it must prove that it can survive independently.⁷⁵ However, the GCC's failure to respond in the right time is proof that it

⁶⁸ The Supreme Council, 11 (1990)

⁶⁹ Article 51, UN Charter.

⁷⁰ Ibid, Article 52.

⁷¹ Secretariat General (2009), pp.13-14.

⁷² Ibid.

⁷³ For more details about extraordinary sessions, see Articles 7 & 11 of the GCC Charter.

⁷⁴ See GCC records of regular and extraordinary sessions. Available on www.gcc-sg.org.

⁷⁵ Alvarez (2006), p. 4.

is unable to exist independently. It has been addressed throughout this thesis that the GCC has completely been controlled by the leaders of the member states and that the GCC is not given an acceptable level of independence in terms of making binding decisions, limited to being able take position on issues that directly affect GCC members.

The other question is why GCC member countries rely on other organisations to pass their resolutions first, which they support and then ask the UN or the US to implement them, rather than holding a GCC meeting to loudly pronounce itself. Even when the GCC was trying to threaten Iraq of the consequences of not withdrawing from Kuwait, the GCC based this order to Iraq on the UN resolution. It is not clear why the GCC members would make all these efforts to pass resolutions from the Arab League and the UN before pronouncing the GCC decision on the matter. Why would the member countries work hard, but let the GCC decision be minimised, following the decision of other international organisations, especially in matters that directly affect its member countries? The answer could be that they were perhaps not worried about the GCC decision since they already knew what it was while they were not sure what other key international organisations would decide. Or maybe they sought to move from the bigger circle to the more local one, starting from the UN as it is global, to the Arab League, which covers the Arab world. The GCC would be at the inner most circle, as it covers only the six Gulf countries. However, if member countries minimise the importance of the GCC, others will likely do so as well.⁷⁶

5.3.5 The UAE's Islands

The Secretariat General states that one of the GCC's political achievements is its support for the UAE in trying to regain its right over its islands: Greater Tunb, the Lesser Tunb and Abu Musa.⁷⁷ This thesis provides some facts to assess the support that the GCC has provided to the UAE in this regard. The Emirati islands have been occupied by Iran since 1971,⁷⁸ but it was not until the 13th Supreme Council regular meeting in 1992 that

⁷⁷ Charney, J. (1985), pp. 35-37.

⁷⁸ See Secretariat General (2009), p 13-14.

the GCC pronounced its support for the Emirati right over its occupied islands.⁷⁹ The GCC remained silent over this occupation for about 10 years, but since 1992, the Supreme Council has regularly stated its support for the UAE's rights over its islands. The Secretariat General states that the Iranian occupation of the UAE islands since 1971 has been a major factor that has hindered the improvement of GCC-Iran relations.⁸⁰ It states, as well, that starting from 1992 the GCC has regularly pronounced its support for the Emirati right over its islands.⁸¹ Nevertheless, the Secretariat General has not given any reason why the GCC kept silent about this issue from its establishment in 1981 until 1992.⁸² People in the Gulf have no right of access to any unpublished information, unlike the EU which gives the right to EU citizens to have access to the European Parliament, Council and Commission.⁸³ Therefore, it is not clear why the GCC kept silent for the first ten years.

The other question is why the GCC has kept declaring its support for the UAE's right over the islands. Some may argue that the answer is that the Iranians are creating a situation whereby the islands are under their sovereignty. If the GCC were not a persistent objector to this existing situation it could be regarded as implicitly being in agreement with the current situation.⁸⁴ However, pronouncing support is not the only role the GCC has played. The Secretariat General includes among the crucial steps that the GCC took over this matter the Council of Ministers Resolution of 3 July 1999 that formed a Ministers' Committee, including Saudi Arabia, Oman, Qatar and the Secretary-General of the GCC, to start negotiations with the Iranians. However, Iran refused to receive that committee.⁸⁵

⁷⁹The Supreme Council, 13 (1992).

⁸⁰ See Secretariat General (2009), p. 18.

⁸¹ Ibid, p. 17.

⁸² In a meeting between the head of the Saudi Cultural Bureau in London and the author, his advice to the author was that one can access information that is already published, but there is no access to unpublished information until 30 years have passed.

⁸³ Article 42, Charter of Fundamental Rights of the European Union (2000/C 364/01)

⁸⁴ For more detail about the role of persistent objector see Charney, J. (1985), pp. 35-37.

⁸⁵ See *Asharq Al-Awsat* (20 July 1999).

5.3.6 Supporting Iraq

Iraq's issues are discussed many times throughout this thesis: the First Gulf War (Iran-Iraq), the Second Gulf War (International Forces - Iraq), the Third Gulf War (US & UK - Iraq). However, in this part the discussion is about the GCC support to Iraq throughout these periods. The GCC's role in supporting Iraq has gone through many stages. First, at the time of the Iraq-Iran war, the GCC saw this war as a threat to the whole region and believed that if it did not stop, it would likely lead to international intervention in the region.⁸⁶ From the onset, the GCC pushed and called for more efforts to stop this war, such as those by the Organization of the Islamic Conference (OIC) and the UN.⁸⁷ During the Iran-Iraq war, the GCC never claimed that any of its member countries faced any direct attack from Iraq but there was an attack from Iran.⁸⁸ This was one of the reasons that the GCC countries were secretly supporting Iraq against Iran. Another reason was that Iraq has a closer relationship with the GCC countries because it is an Arab country governed by a Sunni government.⁸⁹ However, the GCC countries did not declare their support for Iraq during the Iran-Iraq war but kept it secret until Iraq occupied Kuwait in 1990.

The second stage was during the Second Gulf War, when the ally became an enemy, and the GCC supported Kuwait against Iraq. All the GCC countries participated with forces in this war against Iraq and after the liberation of Kuwait, the GCC kept demanding that Iraq obey the UN resolution.⁹⁰ The GCC urged Iraq to effectively cooperate with the UN Commission on Kuwaiti Prisoners of War (POWs).⁹¹ The GCC insisted Iraq respect Kuwait's territory, security and independence and to demonstrate that Iraq had no intention of launching any other attacks on Kuwait.⁹²

⁸⁶ The closing statement of the first meeting of the Supreme Council (26 May 1981).

⁸⁷ Ibid.

⁸⁸ See Security Council Resolution 552, 1 Jun 1984.

⁸⁹ The main two Muslim sects are Sunni and Shi'ah.

⁹⁰ The Supreme Council, 21 (2000).

⁹¹ Ibid.

⁹² Ibid.

The third stage was the Third Gulf War: in the few years before the Third Gulf War started, the GCC was very keen to prevent such a war and to prevent any suffering of the Iraqi people.⁹³ The Supreme Council also called on the international community to work and do what they could to help both Iraq and UN inspectors finish the task as soon as possible to ensure the lifting of the embargo on Iraq, to end the suffering of its people and to return Iraq to the international community.⁹⁴ When there were more signs that the war would be happening soon, the GCC explicitly pronounced its disagreement with the US led intervention in Iraq and its subsequent occupation. The GCC stressed the importance of respecting Iraqi independence which meant that no international power should be allowed to intervene in Iraqi internal affairs.⁹⁵ Kuwait pronounced its help to the US/UK occupation of Iraq in order to destroy Saddam Hussein's regime, while the rest of the GCC countries outwardly expressed support of Iraq, although many argue that they were also secretly supporting the US/UK forces.⁹⁶

After the war ended, the Secretariat General stated that GCC member countries expressed their support to the Iraqi people for the hard situation they were facing and it urged the Iraqi parties to form a united government.⁹⁷ This government should represent Iraqi people and be stable enough to become an active member of the Arab and international communities.⁹⁸ The GCC states participated in the conference of donor countries to help the Iraqi economy.⁹⁹ Moreover, the GCC expressed its worry and rejected all kinds of violence and terrorist activities that had been happening in Iraq.¹⁰⁰ The GCC respects Iraqi sovereignty and independence and rejects any attempt at division.¹⁰¹

⁹³ Ibid, 23 (2002).

⁹⁴ The Supreme Council, 23 (2002).

⁹⁵ Ibid, 22 (2001).

⁹⁶ See the speech of the Qatari Minister of Foreign Affair, Sheikh Hamad bin Jasem. (12 Jan 2007). *Aljazeera* TV.

⁹⁷ See Secretariat General (2009), p. 16.

⁹⁸ The Council of Ministers, 94, (13 March 2005).

⁹⁹ See Secretariat General (2009), p. 16.

¹⁰⁰ Secretariat General. The Achievement of Cooperation, External Policy. (2009).

¹⁰¹ The Supreme Council, 25 (2004)

5.3.7 The Palestinian Issue

Since the first session of the Supreme Council in 1981 to its most recent session in 2010, the Palestinian issue has always been mentioned. The GCC has, according to the Secretariat General, an obvious position on the Palestinian issue,¹⁰² which is that the stability in the Gulf requires an enforced peace process in Palestine and that there has to be a fair solution. This fair solution, according to the Supreme Council, is to give Palestinian people their rights, especially their right to return to Palestine and to establish their country; and that Israel has to withdraw from all occupied Palestinian lands.¹⁰³ This idea originated from Saudi Arabia, which proposed two initiatives to resolve the problem, one in 1981 and another in 2002.¹⁰⁴ The GCC adopted the Saudi initiatives,¹⁰⁵ but they are nevertheless still known as the Saudi initiative, some specifying that it was the idea of King Fahad, the previous Saudi King.¹⁰⁶

Although there appears to be nothing written comparing the GCC to the Arab League, by tracing the function of the two organisations, it can be noted that with regards to the Palestinian issue, the Arab League is more active and effective than the GCC. The Arab League has held many sessions simply to discuss the Palestinian issue,¹⁰⁷ while in GCC sessions, the Palestinian issue is raised among other issues but there has been no session held specifically on the Palestinian matter apart from the Council of Ministers session No. 110 on 1 March 2009.¹⁰⁸ This session of the Council of Ministers was about the reconstruction of Gaza after the significant Israeli attack on Gaza, during which member countries declared their donation to the people in Gaza of \$1,646,000 USD. It can be argued that this is because Palestine is a Member in the Arab League but not a member of the GCC and so the Palestinian issue is in the interest of all Arab countries and because GCC member countries do not want to appear as if they are separating themselves from the broader Arab world. The last point is evidenced by the fact that Saudi King Abdullah declared a Saudi Arabian donation of \$1 billion USD to rebuild

¹⁰² See Secretariat General (2009), p. 19.

¹⁰³ The Supreme Council, I (May 1981).

¹⁰⁴ See Secretariat General (2009), p. 19.

¹⁰⁵ Shafiq, p. 253.

¹⁰⁶ See Christie (1987), p. 40.

¹⁰⁷ See, for instance, the Arab League session on 8 October 2009 and decision No. 547.

¹⁰⁸ See the list of all the GCC sessions, on www.gcc-sg.org.

Gaza at the Arab Economic Summit on 19 January 2009.¹⁰⁹ King Abdullah could have declared this Saudi donation at the GCC session, so it would have been considered a GCC matter, but instead he decided to declare it at the Arab Summit, under the umbrella of the Arab League.

5.3.8 Supporting Syria

Since it was established in 1981 the GCC has asserted its support for Syria's rights on its occupied land Golan and has called on Israel to withdraw from Golan back to the 1967 line in accordance with the Madrid Conference that outlined the basic "land for peace" principle.¹¹⁰ Furthermore, the GCC has called on Israel to implement Security Council Resolution 242 which states that Israel should withdraw from the occupied land.¹¹¹ More discussion about Syria is found in the last chapter of this thesis, in relation to the GCC response to the 2011 Syrian revolution.

5.3.9 Supporting Lebanon

Lebanon has been of concern to the GCC since its creation in 1981.¹¹² The GCC declared its members' concern over the sovereignty, independence and stability of Lebanon,¹¹³ has continued to support Lebanon politically and economically, and has condemned the Israeli attack on Lebanon.¹¹⁴ One of the main attacks against Lebanon was by Israel in July 2006, whereupon the Security Council issued its Resolution No. 1701 calling for an immediate end to the Israeli military intervention in Lebanon.¹¹⁵ The GCC expressed its deep concern over and rejection of that war and welcomed this resolution. Security Council Resolution No. 425 (1978) called on Israel to withdraw from Sheb'aa farms,¹¹⁶ and the GCC called on Israel to implement the Security Council resolution and withdraw from Sheb'aa farms.¹¹⁷

¹⁰⁹ *Asharq Al-Awsat* Newspaper, 11011 (Jan 20, 2009).

¹¹⁰ See Secretariat General (2009), p. 22.

¹¹¹ Resolution 242, Security Council (1967)

¹¹² See Secretariat General (2009), p. 22.

¹¹³ Supreme Council, 1 (1981).

¹¹⁴ See Secretariat General (2009), p. 22.

¹¹⁵ Resolution 1701, Security Council (2006).

¹¹⁶ Resolution 425, Security Council (1978).

¹¹⁷ See Secretariat General (2009), p. 22.

In May 2008, Lebanon's political parties could not form a government and Qatar called all Lebanese political parties to a dialogue conference in Doha. The conference resulted in an agreement between the Lebanese parties, known as the "Doha Agreement."¹¹⁸ The Secretariat General agreed that this agreement was brought about by the effort of Sheikh Hamad Al-Thani, the Emir of Qatar. This time the Secretariat General did claim this agreement as a GCC achievement, but only by stressing that Sheikh Hamad was the chairman of the GCC Supreme Council.¹¹⁹

5.3.10 Conclusion

This section has shown a range of what is regarded as the GCC's best political achievements. It has highlighted the fact that some of these achievements are pushed to be covered by the GCC umbrella while they are not really GCC achievements but achievements of the member countries. The section has also shown that the best GCC political functions have come when the matter has required a joint action. In addition, when individual action is likely to succeed, the member countries will delegate the matter to one or more of the members. It also underlines the fact that when member countries need to legitimise a matter, they will seek another international organisation, namely the UN. Although the GCC has been trying to cooperate with Arab issues, it has been trying, as well, not to resonate more loudly than the Arab League.

5.4 The Security Achievements of the GCC

It is not surprising that the one crucial priority of the GCC has been the matter of security.¹²⁰ This section aims to show that trying to achieve unity between countries is a remarkable undertaking and that it requires a long time of continued efforts. McGovern states that trying to achieve close cooperation between countries is a huge and difficult project as the problems are usually undefeatable.¹²¹ Peterson notes that there is a possibility of national security threats inside GCC member countries,¹²² but that since

¹¹⁸ *Asharq Al-Awsat* newspaper (25 May 2008) available on www.aawsat.com

¹¹⁹ Secretariat General (2009), p. 23.

¹²⁰ Peterson (1987), p. 194.

¹²¹ McGovern (1987), p. ix.

¹²² Peterson (1987), p. 173.

such a threat is not obvious, it is very challenging as it is very tricky to defend against it. He believes that the internal society of the member countries does not support stability and that public order is endangered by a remarkable division in the internal society and the large immigrant populations.¹²³ Early in 1987, Peterson noted that while the GCC mainly focused on external threats in its early years the threat was mainly internal. According to Peterson, two kinds of internal threats exist: divisions in the national society and the large immigration population. The GCC countries do not face serious security trouble from the latter but from the former. While he did specify what he meant by national division, his statement came true in February 2011 when Bahrain faced a serious intensification of threats because of the ideological division between Sunni and Shi'ah. The GCC responded in accordance with the GCC security agreement and sent some of the GCC forces (the Peninsula Shield Forces) to help the Bahraini Government keep Bahrain secure after the huge demonstrations by Bahraini people.¹²⁴

In the first year of the GCC's establishment, the security of member countries was a major concern of GCC leaders. The Interior Ministers of member countries met in Riyadh (23-24 Feb 1982), the first of other similar meetings to follow.¹²⁵ This meeting stated the aims and principles of security cooperation, and that the member countries aimed to sign a binding security agreement.¹²⁶ This meeting stated that "the GCC security is an integral whole, and any attack on any Member State means an attack on all other states, and the responsibility for confronting an attack on any Member State is a collective one" and that "the interference by any entity whatsoever in the internal affairs of any Member State means an interference in the internal affairs of all Member States."¹²⁷ On 9 March 1982, the Interior Ministers held their third regular meeting in which they recommended that the member countries should sign a security agreement and that the Secretariat General should start drafting this agreement. Another meeting was held in Riyadh on 17 Oct 1982 at which the Interior Ministers had requested the Supreme Council to continue studying a GCC security agreement.¹²⁸ The meetings regarding GCC security continued, with an annual meeting for the Interior Ministers as well as meetings of a committee including one for the Deputy Interior Ministers. The

¹²³ Ibid.

¹²⁴ A further discussion about this GCC military action is in the last chapter of this thesis.

¹²⁵ Secretariat-General (2009), p. 31.

¹²⁶ Ibid.

¹²⁷ GCC Ministers Council, (23-24 Feb 2012).

¹²⁸ The Supreme Council, 3 (1982).

role of this committee was to prepare for the Interior Ministers' meetings. The Security Agreement continued to be inactive until 2004 until some of the member countries ratified it. More details are found below about further developments of this Security Agreement.¹²⁹

It can be noted that from the first years of the GCC's establishment, Saudi Arabia was interested in a security agreement while Kuwait was not. There was an attempt to force an inclusive internal security agreement in 1982 but this agreement was not approved by the member countries. Instead, bilateral security agreements were signed between Saudi Arabia and all the other member states apart from Kuwait. Some argue that Kuwait did not sign a bilateral security agreement with Saudi Arabia so as to avoid Saudi influence in this respect.¹³⁰ This section analyses the reason behind the Kuwaiti rejections of the Agreement.

5.4.1 The Comprehensive Security Strategy

The Supreme Council approved the Comprehensive Security Strategy in 1987, and this was adopted by the Interior Ministers at their meeting in Muscat on 15 Feb 1987.¹³¹ This strategy is a broad structure for inclusive security cooperation; it summarises the main goals and the way for implementing them.¹³² It was updated in 2008 due to the Secretariat General's concern over growing transnational crime.¹³³ In December 2008, the Supreme Council approved the proposal by the Interior Ministers for the amendment of the Comprehensive Security Strategy.¹³⁴ It can be noted that the process of signing this strategy was a smooth one, perhaps because it was a general outline of security in member countries and not a binding agreement like the Security Agreement.

¹²⁹ See the full text of this Agreement in Annex 1.

¹³⁰ Peterson (1987), p. 194.

¹³¹ Supreme Council, 8 (1987).

¹³² Secretariat General (2009), p. 33.

¹³³ Ibid.

¹³⁴ Supreme Council, 29 (2008).

5.4.2 The Security Agreement¹³⁵

According to its articles, this Agreement is a binding on any country that has signed and ratified it. As mentioned earlier, the discussion about this agreement started from the first year of the GCC's establishment and perhaps member countries took a while before ratifying it because this agreement is binding. It was not until 2004, in the Interior Ministers' 13th meeting, that the Interior Ministers of the UAE, Bahrain, Saudi Arabia and Oman signed the agreement. The Supreme Council appreciated this achievement and stated that this agreement would strengthen existing cooperation and would achieve what the people of the member countries were looking for: to facilitate the movement of people and goods between member countries.¹³⁶ In the next year (1995), the Supreme Council stressed the importance of security cooperation and the importance of bringing the Security Agreement into effect after it had been ratified by all the member countries.¹³⁷ The Supreme Council was referring to Kuwait, as it was the one member country which had not ratified the Agreement.

On 5 May 2010, in a regular meeting of the Interior Ministers, the Kuwaiti government stated that the Security Agreement, which Kuwait had not yet ratified, needed some amendments. The rest of the member countries did not reject the Kuwaiti proposal,¹³⁸ but there is no information yet as to what the Kuwaiti proposal was. In this context, the GCC does not appear to be an influential institution in this matter. It has been mentioned that the main purpose of establishing international institutions is to facilitate the process of making agreements between member countries.¹³⁹ This thesis critiques the role of the GCC in facilitating agreements made between the member countries, taking into account that the security issue is one of the major concerns of the member countries. The core issue regarding the GCC having an effective role relates to the nature of the ruling system of member countries. These absolute monarchies are not willing to move quickly towards changing their ruling systems especially if that requires them to sacrifice some of their sovereignty. This agreement was likely a huge pressure

¹³⁵ This agreement can be found in the Annex.

¹³⁶ See Ibid, 15, (1994).

¹³⁷ Supreme Council, 16 (1995).

¹³⁸ *Asharq Al-Awsat* Newspaper, 11482 (6 May 2010).

¹³⁹ Beck, Arend, & Vander Lugt, Eds. (1996), p.166.

on Kuwait, as the GCC were pushing Kuwait to sign this Security Agreement but Kuwait refused for many years until the GCC accepted to make some amendments.

In the same context, the member countries did better with regards to counter-terrorism cooperation. In 2002, member countries adopted a security strategy for fighting terrorism-related radicalism and in 2004, member countries signed the GCC Counter-Terrorism Agreement.¹⁴⁰ In addition, the GCC formed a Permanent Anti-Terrorism Committee in 2006,¹⁴¹ while the Supreme Council urged international cooperation in this regard.¹⁴² However, the Security Agreement was more controversial than this counter-terrorism agreement.

5.4.2.1 - Kuwait's objections

This chapter analyses that an implicit reason behind the Security Agreement was to protect the ruling systems in member countries to be strong enough to face internal and external challenges. The preamble of this agreement states that the aim is "to defend the Islamic faith and idealistic views from destructive views and party activities."¹⁴³ The first part of this article refers to a specific Islamic doctrine namely Al-Salafiyah. The political Islamic view, according to the Al-Salafiyah perspective, advises that people have to obey their king or ruler and not challenge him by demonstrating. Instead, any public rejections of the ruler's policy have to be presented to him directly. One of the main leaders of this school in the Islamic world is the Saudi Council of Senior Islamic Scholars, declaring that demonstrations are prohibited in Saudi Arabia and warning that such political activities are likely to be linked to intellectual deviance influenced from a foreign political party.¹⁴⁴

The GCC Security Agreement requires member countries to take all the necessary actions in order to "prevent its citizens from interfering in the internal affairs of other member countries."¹⁴⁵ In the Saudi official perspective, this means that every member

¹⁴⁰ Secretariat General (2009),p. 35.

¹⁴¹ Ibid p. 36.

¹⁴² Supreme Council, 30 (2009).

¹⁴³ The GCC Security Agreement (1982).

¹⁴⁴ See *AsharqAl-awsat* Newspaper, 11787, 7 March 2011.

¹⁴⁵ Article 3, the GCC Security Agreement.

country has to prevent its citizen from doing any political activities such as demonstrating against any of the ruling regimes in other member countries.

It has been mentioned in the Gulf media that Kuwait is rejecting some aspects of the GCC Security Agreement,¹⁴⁶ but no specific information has been released about what these rejections are.¹⁴⁷ Therefore, this part analyse the articles of the GCC Security Agreement in light of Kuwaiti Constitutional law in order to understand the Kuwaiti rejections.

The Saudi position mentioned above limiting the public freedom to engage in political activities is not in line with the Kuwaiti Constitution. The Kuwaiti Constitution gives people the right to initiate “private assembly without permission or prior notification, and the police may not attend such private meetings.”¹⁴⁸ Kuwaiti constitutional law states more precisely that “Public meetings, demonstrations, and gatherings are permitted in accordance with the conditions and manner specified by law, provided that their purpose and means are peaceful and not contrary to morals.”¹⁴⁹

However, Article Two of the Security Agreement states more specifically, "Abstaining from allowing the circulation or transfer of pamphlets, printed material or posters that are antagonistic to the Islamic faith or that harm morality, or those directed against the ruling regimes of the GCC member Countries."¹⁵⁰ It is worth mentioning that this agreement does not protect the rulers of the member countries personally but rather it protects the regimes in these countries, meaning that it is not legal to criticise the political system of these countries. It has been mentioned that Kuwait is the most liberal country of the area and therefore the freedom in Kuwait can be regarded as the top level of freedom in the area, as evidenced by the Kuwaiti Constitution which gives more freedom to the Kuwaiti citizens than that given to the rest of the GCC countries.

¹⁴⁶ See *Al-Shamary*, Mansor (23 May 2012) *Alrai* Newspaper. Kuwait.

¹⁴⁷ Many efforts have been made by the author of this thesis to get to the bottom of the Kuwaiti objection on the GCC Security Agreement. I have personally asked the Department of Legal Affairs in the Secretariat General of the GCC for some information and they directed me to the Department of Security Affairs in the Secretariat General. I did request some information from them but they responded that this information is not for the public.

¹⁴⁸ Article 44, Kuwait Constitution.

¹⁴⁹ *Ibid*

¹⁵⁰ Article 2, GCC Security Agreement (1982).

Article 54 of the Kuwaiti Constitution states that the Amir is the head of Kuwait, and "his person is immune and inviolable,"¹⁵¹ which means that it is legal to criticise the government but not the Amir, while even other key members of the ruling family, such as the head of the Council of Ministers, do not have immunity against criticism. The head of the Kuwaiti Council of Ministers Prince Nasser Al-Sobah has faced hard criticism during the last few years to his mismanagement of the government by the Kuwaiti press.¹⁵² Some members of the Kuwaiti Parliament have criticised Prince Nasser for his unprofessional conduct in his position and asked the Government to withdraw trust. The Amir then dissolved the government and, surprisingly, asked Prince Nasser himself to instruct the government again while all the criticism that the government had faced was about the work of Prince Nasser personally and not the government.¹⁵³

The Kuwaiti Constitution guarantees freedom of opinion and expression as well as the freedom of press: Article 36 states that "Freedom of opinion and of scientific research is guaranteed. Every person has the right to express and propagate his opinion verbally, in writing, or otherwise, in accordance with the conditions and procedures specified by law."¹⁵⁴ Also, Article 37 States that "Freedom of the press, printing, and publishing is guaranteed in accordance with the conditions and manner specified by law."¹⁵⁵ The GCC Security Agreement means that the people and the press in Kuwait who are free to publish their objections on the work of their own government are not free to publicly criticise the government of other GCC countries. If the Kuwaiti Government signed up to the GCC Security Agreement as is, that would lead to a legal conflict between the Kuwaiti Constitution and the GCC Security Agreement.

5.4.3 Facilitating the Movement of People and Goods

This thesis argues that one of the practical and significant achievements of the GCC is facilitating the movement of people and goods between member countries. This was

¹⁵¹ Article 54, Kuwaiti Constitution.

¹⁵² See, for example, Sky News, Arabic. (6 May 2012) Available on <http://www.skynewsarabia.com>. [Accessed on 15 May 2012].

¹⁵³ See Sky News, Arabic. (6 May 2012)

¹⁵⁴ Article 36, Kuwaiti Constitution.

¹⁵⁵ Ibid, Article 37.

one of the main goals of the Interior Minister from when the GCC was first established,¹⁵⁶ and now citizens can move between member countries without a passport, although they still have to carry their I.D. cards to cross the borders.¹⁵⁷ In this respect the Interior Ministers have adopted several resolutions, as follows:¹⁵⁸ allowing citizens to drive using their national driving licence in all member countries, allowing citizens to cross into any member countries in their own car or in a hired car, allowing taxis to pass into any member countries just to drop passengers but not to work in another member country and allowing freight cars to pass through any member country.

Who is responsible for this achievement? One has to admit that the GCC has played a key role in achieving this. However, the study of other GCC achievements reveals that the GCC is not that effective in facilitating cooperation among its member countries. With respect to the role of the GCC, this thesis argues that the similarity between member countries in economic, culture and even populations, are the same as many families and tribes are divided among these countries. This plays a significant role in simplifying cooperation in this particular matter. So, the GCC has actually not had much to do as the people and governments in these countries were willing to go ahead on these matters.

5.4.4 Conclusion on security achievements

This section shows that the different opinions about what the GCC should be, from the outset in 1981, may still be affecting decision-making in the GCC today. There is more cooperation among member countries in other fields, though it is not the aim of this section to highlight every single one. Rather, this section is an attempt to give a sense of what the GCC has been doing with regards to security cooperation.

¹⁵⁶ Secretariat General (2009), p. 33.

¹⁵⁷ *Alriyadh* Newspaper, Saudi Arabia, 14799 (30 Dec 2008).

¹⁵⁸ The Interior Ministers, 3 (Nov 1983).

5.5 GCC Economic Cooperation

In 2011, the Secretary-General, Abd Al-Rahman Al-Atiyah proudly pronounced that the GCC is a key international economic block and that it survived the international economic recession. He continues to state that in less than 30 years, the GCC became one of the most important economic blocks in the area and the world and is now able to control several key international markets especially the international oil market.¹⁵⁹ Examining and analysing these achievements, this chapter supports this view that the GCC did well in terms of economic cooperation.

The GCC Common Market is the best achievement of the GCC, as it is a quantum leap in the integration work of the GCC.¹⁶⁰ Economic cooperation started with the establishment of the GCC, then developed in four stages: the free trade area (1983), the customs union (2003), the common market (2007) and now, the development of a single currency. Nowadays, there are many common markets in the world, such as the European Union (EU),¹⁶¹ the Common Market of South American Countries (MERCOSUR),¹⁶² the Caribbean Common Market (CARICOM),¹⁶³ the Central American Common Market (CACM)¹⁶⁴ and the Common Market for Eastern and Southern Africa (COMESA).¹⁶⁵ The GCC Common Market is less developed than the EU's but more developed than the rest of the world's common markets.¹⁶⁶ The GCC Fundamental Statute set forth the basic economic goal, which is to achieve coordination, integration and harmonisation among member countries in order to achieve unity,¹⁶⁷ but it did not set forth stages for achieving the desired unity. In contrast, the European Economic Community (EEC)¹⁶⁸ defined 12 years as the period of time for the common market to be set up.¹⁶⁹

¹⁵⁹ The GCC news (1 March 2011), available on www.gcc-sg.org [Accessed on 18 May 2012].

¹⁶⁰ Alshamsy (2008), p. 12.

¹⁶¹ Ibid.

¹⁶² More information available on www.mercosurtc.com

¹⁶³ More information available on www.caricom.org

¹⁶⁴ More information available on www.sice.oas.org

¹⁶⁵ More information available on www.comesa.int

¹⁶⁶ Alshamsy (2008), p. 17.

¹⁶⁷ GCC Fundamental Status (1981).

¹⁶⁸ The aim of this thesis is to provide a better understanding of what the GCC is but it is not, however, a comparative study between the GCC and the EU. Therefore, this thesis only gives brief details about the EU when it is necessary to clarify the reality of the GCC.

¹⁶⁹ Article 8, EEC treaty.

In the first session of the Supreme Council in 1981, the leaders of member countries declared that they recognised the inevitability of economic integration between their countries and the incorporation of their people in other member countries.¹⁷⁰ The first action that the GCC took to set up economic cooperation was to create several committees: the Committee for Economic Planning, the Committee for Finance Cooperation, the Committee for Industrial Cooperation and the Oil Committee.¹⁷¹ These are consultation committees, composed of experienced ministers. All the power these committees have is to give recommendations, which the Supreme Council has the power to adopt or to ignore. If the Supreme Council decides to ignore the committees' recommendations, the Council is not legally required to give reasons as to why these recommendations are rejected;¹⁷² in other words, these committees are not effective, unlike the European Economic and Social Committee (EESC).

Although the EESC is a consultative committee, it represents 'civil society' at every level, and is the link between the people and the Union.¹⁷³ Though each member of this committee is selected by their national government, they work in the committee independently from their national governments.¹⁷⁴ In contrast to this, members of these GCC committees represent their own country, not the citizens, and have no independence from their national government.¹⁷⁵ The head of the Federation of GCC Chambers of Commerce, Essam Phakhro, states that the Chambers have been trying to participate in the GCC committees for a long time, which would allow the private businesses in the GCC countries to share their opinions with these committees.¹⁷⁶

The EESC plays a compulsory role in the EU decision-making process and no legislation in the field of economics and social affairs can be adopted by the EU without being approved by the EESC.¹⁷⁷ Moreover, it not only gives opinions at the request of EU bodies but can also initiate matters.¹⁷⁸ The role of GCC committees, on the other

¹⁷⁰ Supreme Council, First Session (1981).

¹⁷¹ Ibid.

¹⁷² See Article 8 of the Fundamental Status.

¹⁷³ The EESC. Available on www.europa.eu

¹⁷⁴ Ibid.

¹⁷⁵ See the introduction of the EA (2001).

¹⁷⁶ *Almadinah* Newspaper (2 Jun 2009)

¹⁷⁷ The EESC. Available on www.europa.eu

¹⁷⁸ Ibid.

hand, is restricted to making non-binding recommendations and only at the request of the Supreme or Ministers Councils.¹⁷⁹

5.5.1 The 1981 Unified Economic Agreement (UEA) and the 2001 Economic Agreement (EA)

There are two main economic agreements: the UEA, established in 1981 and the EA, established in 2001. As might be expected, the EA is a development of the UEA. In this section there is an unavoidable overlap in the discussion of these two agreements, as they overlap in their provisions. First, on 11 November 1981, in the first year of the GCC's existence, the Supreme Council adopted the first economic agreement. This section will show how the GCC had no clear view about where it should contribute to the existing cooperation among the member countries. This section answers the question about whether it is a binding agreement and then traces the development of this GCC economic cooperation, including the Free Trade Area and the Customs Union Common Market.

5.5.1.1 Are the Economic Agreements Binding Agreements?

At the time of ratifying the first agreement, the GCC was in its first year. As a new institution, there was no clear expectation of its ability to lead its member countries to adopt a comprehensive economic agreement. This agreement was based on the thought that the member countries would sacrifice some of their sovereignty to the GCC. Article 26 of this agreement states, “This agreement enters into force four months after its approval by the Supreme Council.”¹⁸⁰ Clearly, this Article means that the agreement is binding by reason of its adoption by the Supreme Council, without mentioning that there is a need for ratification from the member countries, which each country does according to its internal laws.

There was only about six months between the establishment of the GCC and the first economic agreement, therefore, it is possible that the leaders of the member countries

¹⁷⁹ See the introduction of the EA (2001).

¹⁸⁰ Article 27, the EA (1981)

did not accurately evaluate the power of the Supreme Council, thinking that its adoption of the agreement would be enough to render an agreement enforceable without ratification by each member country. However, tracing all the agreements that member countries have ratified under the umbrella of the GCC reveals that no other agreement states that its power of enforcement is based only on its adoption by the Supreme Council. Even the second economic agreement based its enforcement on its adoption by all the member countries, and not on that of the Supreme Council alone.¹⁸¹ The Second Economic Agreement mentions in its preamble that it does not come into force until all member countries have ratified it and that the member countries should do what is necessary in order to ratify it.¹⁸²

5.5.1.2 Free Trade Area (1983)

There are three stages for achieving complete economic cooperation and the free trade area is the first step followed by the Customs Union then by the Common Market.¹⁸³ The Free Trade Area set up by the UEA (1981) was initiated by the Ministers of Finance and Economy of the member countries in Riyadh, on 8 June 1981.¹⁸⁴ Then on 1 November 1981 in Taif, Saudi Arabia, the Council of Ministers ratified the Economic Agreement and decided to report it to the Supreme Council.¹⁸⁵ On 10 November 1981, the Supreme Council adopted the Unified Economic Agreement in Riyadh.¹⁸⁶ This agreement allows all member countries to import and export all national products from each other, treating those from other member countries as their own products. Products to be regarded as national have to have no less than 40% national value added of their final value. In addition, the ownership of these factories or the companies producing these products has to be shared by citizens from member states who make up no less than 51% of its ownership. The member countries should apply a uniform customs tariff to all products from non-member countries, with the aim of protecting national products. As this uniformity in a customs tariff needed some time to be agreed and applied by member countries, this agreement allowed member countries to implement

¹⁸¹ Article 28, the EA.

¹⁸² Ibid; more discussion about the way member countries ratify international treaties is found in Chapter Three on the GCC law-making process.

¹⁸³ Alshmary (2008), p.12.

¹⁸⁴ The Council of Ministers, First Session (1981).

¹⁸⁵ Ibid.

¹⁸⁶ The Supreme Council, First Session (1981).

the uniform customs tariff within five years, provided that all member countries allow the passing of any product from one member country to another member country (transit) without any charges or taxes. It also called for member countries to coordinate their policies and relationship with other countries and economic groups in order to form a single voice so as to have a comparable strength to other economic groups. In order to achieve this, members countries should, as the agreement states, coordinate their import and export policies, building strategic food stocks. When the member countries have done that, they will be able to create joint economic agreements with non-member countries when there are joint benefits. The agreement adds that member countries should work to create a bargaining power to be able to face challenges from foreign parties.¹⁸⁷

Furthermore, it states that each member country should gradually work to grant citizens from other member countries the right to be treated the same as their own citizens. This equal treatment of citizens should be in four fields: freedom of movement, working and living, freedom of ownership, freedom of trading and freedom of capital movement. The member countries should encourage private businesses to establish joint businesses. Member countries should coordinate their oil policies and form a unified attitude vis-à-vis non-member countries and international organisations. Moreover, they should coordinate their industrial activities and allocate their manufacturing in integral ways. They should also focus on establishing joint projects.¹⁸⁸

Though this agreement was ratified in 1981, it did not come into force until 1983.¹⁸⁹ In 1985 the Supreme Council discussed extending the economic activities that citizens from all member countries could perform.¹⁹⁰ In 1986, the Supreme Council decided to allow citizen investors in the Gulf countries to have equal rights in receiving loans from the Industrial Development Banks in all member countries that give loans without any interest. In addition, it decided to allow GCC citizens to practice retail and wholesale

¹⁸⁷ The Introduction of the UEA.

¹⁸⁸ Article 8, UEA.

¹⁸⁹ The GCC: Process and Achievement (2009), p. 58.

¹⁹⁰ Supreme Council, Session six (6 Nov 1985).

trades in any member states on an equal basis with national citizens,¹⁹¹ and in 1988, the GCC allowed citizens to own shares in joint stock companies.¹⁹²

5.5.1.3 Customs Union (2003)

The UEA (1981) allows the national products of member countries to move between these countries without any customs,¹⁹³ but that was not enough to create a customs union. Therefore, the EA (2001) regulates the Customs Union, stating that trade exchange between member countries is subject to a unified customs union. This agreement gives the member countries two years to prepare what is required to implement the customs union. The member countries did not meet the deadline set forth by the UEA (1981) which was five years from the date of the agreement; in other words, 1986. Therefore, the EA (2001) set a new deadline for applying the customs union, which was 1 January 2003.¹⁹⁴ The Saudi Finance Minister stated that GCC member states spent 10 years negotiating a uniform customs tariff.¹⁹⁵ The Supreme Council believed that the GCC countries had taken a long time to adopt the Customs Union.¹⁹⁶ Clearly, this delay in adopting the customs union reveals the divisions between member countries' views about economic cooperation.

After this long process, on 1 January 2003, GCC member states adopted a common external customs tariff, which was agreed to be 5%, with a single entry point and a uniform single procedure for importing and exporting; in other words, the geographical territory of the six member States was to be treated as a single customs territory.¹⁹⁷ I have observed the territorial borders between the GCC States and those between the EU States, and noticed that those between GCC states vary in their procedures, like those between some of the EU states where people are stopped to have their passports checked before they are allowed to pass, unlike other territories between other EU states where people pass without having their passports being checked if they were EU citizens or Schengen visa holders.

¹⁹¹ The Supreme Council, Session seven (5 Nov 1986).

¹⁹² Ibid, Session nine (22 Dec 1988).

¹⁹³ Article 3, the UEA (1981).

¹⁹⁴ Article 1, the EA (2001).

¹⁹⁵ Ibrahim Al-Assaf, Saudi Minister of Finance, *Alaswag Alarbiah* (3 Jan 2005).

¹⁹⁶ The Supreme Council (2001), Session 22.

¹⁹⁷ See GCC Process and Achievements (2009), p 65.

A single entry point, where customs duties are collected, is a crucial element of creating a customs union.¹⁹⁸ A single entry point means that any land or maritime port of any GCC country is regarded as a port for the whole area of the customs union.¹⁹⁹ In other words, any products entering through any port of all the GCC countries has the right to move anywhere within the GCC countries without paying customs duty other than at the first port. The GCC Unified Custom collects all the customs and then distributes them to the member countries according to the final destination of the products.²⁰⁰

5.5.1.4 Common Market (2008)

In 2002, the Supreme Council decided that GCC member countries would establish the Common Market on 1 Jan 2008,²⁰¹ and on 4 December 2007, the GCC declared the establishment of the Common Market on 1 January 2008, known as the Al-Doha Declaration.²⁰² According to this declaration, each member country grants the citizens of the other member countries the same treatment as they give to their national citizens in the following fields: practicing all kinds of businesses and investments, working in governmental and non-governmental jobs, working in all professions and crafts, access to all social services, education, health, etc..., owning stock and real estate, capital movement and tax treatment.²⁰³

The application of this agreement is the individual duty of each member state according to its internal laws.²⁰⁴ All member countries nominate a coordinator to help citizens from the member countries by providing them with all the information they may need about their rights in the Common Market.²⁰⁵

¹⁹⁸ Secretariat General (2003) *The procedure and steps for adopting the GCC Customs Union*.

¹⁹⁹ Ibid.

²⁰⁰ Secretariat General (2003) *The procedure and steps for adopting the GCC Customs Union*.

²⁰¹ The Supreme Council, Session 23 (2002).

²⁰² Ibid, 28 (2007).

²⁰³ The Secretariat General (2007) *The Common Market*. Available on www.gcc-sg.org

²⁰⁴ Alshmary (2009), p. 36.

²⁰⁵ Ibid, p. 29.

5.5.1.5 Single Currency

Four GCC member states have signed the Single Currency Agreement (2009): Bahrain, Kuwait, Qatar and Saudi Arabia. The GCC member countries are now about to establish the GCC Central Bank. For the first time, they are about to sacrifice some of their sovereignty. The creation of a single currency requires the creation of a central bank, which needs some independence in order to be able to function. The GCC Single Currency Agreement states that governments are prohibited from instructing either the GCC Central Bank or their National Central Banks.²⁰⁶ It is clear that the reason behind this order is to keep the GCC Central Bank independent from the government of member countries, which is why some may argue that this is the reason why the UAE and Oman refused to join the single currency. According to media reports, it is said that the UAE refused to join the single currency because some member countries refused to allow the Central Bank to have its headquarters in Abu-Dhabi but did allow it to be in Riyadh.²⁰⁷ Hamzah states that the UAE should not join the single currency because it has different financial agendas and does not want to lose its complete sovereignty over its own currency. He believes that it is better for the rest of the member countries that the UAE refuses to join, because the UAE has huge international loans, which mean its economy is in danger of collapsing.²⁰⁸

5.5.1.6 Strengthening the Negotiation Power

Pascal Lamy, the Director General of the World Trade Organization, recommends that the GCC countries should move away from internal disagreements about the single currency and the headquarters of their Central Bank, though these are important issues, and focus on working together in a unified and collective effort to appear as a single body in international forums like the WTO.²⁰⁹ He believes that GCC member countries cannot yet unite under the GCC as a single body. However, GCC member countries are recognising the importance of uniform collective positions in dealing with the outside world but have taken no effective means to reach this goal.

²⁰⁶ The Single Currency Agreement (2009).

²⁰⁷ *Alri* Newspaper, 10916 (on 21 May 2009).

²⁰⁸ Hamzah Al-Salem, CNBC TV (7 Jan 2009). International Market.

²⁰⁹ *Asharq Al-Awsat* newspapers, 11136, (25 May 2009).

GCC leaders stress that strengthening their negotiating power is actually an important goal that led to the creating of the GCC.²¹⁰ The 1981 UEA asserts that member states should create a joint negotiation power for their negotiation powers to have a stronger position in relation to other countries or organisations in the field of importing and exporting basic needs.²¹¹ Regarding oil policy, the UEA asserts that member countries should try to establish a united policy and to formulate their position so that they have a single position vis-à-vis third countries or organisations in all oil-related decisions, marketing, prices, etc...²¹² Regarding the transfer of technology, the UEA stresses that member states should try to unify their agreements with third countries or organisations as much as possible.²¹³ The 2001 EA confirms that member states need to achieve more integration in order to have a stronger negotiation power which will make them more able to compete in international markets.²¹⁴ The EA states that member countries will not gain a better position with foreign international powers until they join and unify their economic international relations in dealing with third countries or international bodies.²¹⁵ The EA confirms that the UEA in laying down key actions that member countries should take: to strengthen their negotiation position through collective negotiation, for their economic agreements with foreign partners to be collective agreements, and to have a joint trade policy with foreign economic powers.²¹⁶

Having traced the GCC perspective on negotiation power, it is clear that this matter is a crucial goal that member countries are working to achieve through the GCC. It is a goal of the European Union (UE) as well, but their perspective and, as a result, the process to achieve this “stronger negotiation power,” at the international level is different. As the previous paragraph shows, the GCC's methods for achieving a stronger negotiation power is through urging and instructing member countries to act collectively with the outside world. It can be noted that the GCC has been working to create a norm that states that “the GCC member countries should work collectively” among its each other. Tracing GCC activities shows that the GCC means to create this norm through gathering

²¹⁰ See the Supreme Council, Session 28.

²¹¹ Article 7- 4, UEA (1981).

²¹² Article 11, Ibid.

²¹³ Article 15, UEA.

²¹⁴ The preamble of EA (2001)

²¹⁵ Article 2, EA (2001).

²¹⁶ Ibid.

member countries in regular meetings at all levels, such as the meetings of the Supreme Council, the Councils of Ministers, and the Commissions. It can be observed that these GCC bodies are searching for the best mutually acceptable way for cooperation, integration and coordination but without encroaching on the sovereignty of the member countries. These bodies are collectively producing decisions, recommendations and statements, and creating laws and agreements. It seems that all the GCC bodies have mechanisms for producing collective work. Through such processes, it seems that the GCC is working to create a norm by which “GCC members are unified when they deal with the outside world.”²¹⁷

Having highlighted what the GCC is doing, it is now time to focus on what the GCC is not doing. The GCC leaders are preventing any chances of GCC bodies becoming independent. The government of member countries dominate all GCC bodies so, in other words, any law or agreement produced within any GCC body is not valid even if the heads of the member countries have ratified it, until it has been ratified by every single member country according to its internal laws. The EU has a different perspective on the strengthening of negotiation power; namely, that it can be achieved by giving the Union more independence and by each EU country giving up more of its sovereignty for the Union to create a stronger legal personality. A single legal personality for the Union will strengthen the Union's negotiating power, making it more effective on the world stage and a more visible partner for third countries and international organisations.²¹⁸

This difference in perspective explains the halt in economic negotiations between the EU and the GCC.²¹⁹ While EU members gave the EU a high level of independence, the GCC does not enjoy this privilege, which makes the EU a better organisation. Also, this GCC perspective of collective negotiation explains why the US refused to have economic negotiations with the GCC but preferred to deal with each member state individually, as they did with Bahrain in 2004, which led Bahrain to breach the second GCC Economic Agreement.

²¹⁷ Ibid.

²¹⁸ See Treaty of Lisbon, The Treaty at a Glance. Available on http://europa.eu/Lisbon_treaty/glance.

²¹⁹ The EU-GCC relations are discussed in the next chapter.

5.5.1.7 Bilateral Agreements

According to Article 28 of the UEA (1981), the UEA has priority in application over all bilateral agreements existing between member countries. The EA (2001) has the same priority over the UEA and any bilateral agreement between member states.²²⁰ This means that any bilateral treaty is still valid as long as it does not conflict with this agreement. This provision is in line with Article 30-3 of the Vienna Convention on the Law of Treaties which states that "When all parties to the earlier treaty are parties also to the later treaty but the earlier treaty is not terminated or suspended ..., the earlier treaty applies only to the extent that its provisions are compatible with those of the later treaty."²²¹

5.5.1.8 Treaties with Third Countries

It is possible that a dispute may arise about the GCC economic agreements with regards to bilateral treaties between any GCC member states and a third country. The UEA states that member countries should not grant any bigger privilege to any country or blocs than that granted in this agreement to the member countries.²²² Moreover, the EA (2001) states that member states should not grant any non-member body or country any better treatment than that agreed by member states to have between themselves. Furthermore, no member states should conclude an agreement that breaches the provision of this one.²²³ Both agreements prevent the member states from concluding agreements outside the GCC that are not in line with the UEA and EA, however, if a member country signs a bilateral agreement with a third country, it would have priority over the EA. When the parties to the latter treaty do not include all the parties to the earlier one – as between a state party to both treaties and a state party to only one of the treaties – the treaty to which both states are party to governs their mutual rights and obligations.²²⁴ Therefore the Bahrain-US agreement, analysed below, has priority in application over the GCC Economic Agreement.

²²⁰ Article 32.2 the EA (2001).

²²¹ Article 30.3 Vienna Convention on the Law of Treaties. (1969).

²²² Article 25, UEA (1981).

²²³ Article 31, EA (2001).

²²⁴ Article 30, 4, b Vienna Convention on the Law of Treaties. (1969).

5.5.1.9 The Bahraini Brokering of the Gulf Economic Agreement

In 2004, Bahrain broke the EA by signing a bilateral economic agreement with the US which imposed a customs tariff of less than 5%, ignoring the GCC economic agreement which states that the customs tariff on products from outside GCC countries is 5% and that no single member can sign a bilateral economic agreement without having permission from the rest of the member states.²²⁵ Tracing the Secretariat General's statements shows that it is the only time that it has declared that a member country has breached a GCC law. The Secretariat General has declared that the Bahrain-US agreement to be an obvious breach of the EA and it will badly affect the ongoing economic integration among the member countries.²²⁶

According to the Secretariat General, the Bahrain-US agreement gives US products better customs exemptions than those set forth in the GCC Common Customs Tariff. The Secretariat General highlights that the Bahrain-US agreement is inconsistent with the requirements of the customs union established by the Supreme Council, especially the Common Customs Tariff and the single entry point, and obstructs the flow of goods in the Customs Union. In addition, the Bahrain-US agreement is incompatible with the negotiating strategy adopted by the Supreme Council, which affirms the need for collective negotiation with non-member countries.²²⁷

This statement by the Secretariat General was the main reaction to this Bahraini breach. Moreover, Saudi Arabia has declared, through the Saudi Minister of Finance that the rejection of the Bahrain-US agreement is not a Saudi-Bahraini dispute; rather, the Bahrain-US agreement is a clash with the EA and GCC decisions. This declaration by the Saudi Minister came as a response to what was referred to in the media as the Saudi-Bahraini dispute.²²⁸ However, tracing the newspapers at that time reveals that the rejection came only from Saudi Arabia which is not surprising as Saudi Arabia is the only country that shares a land border with Bahrain through the Sea Bridge, making it very easy to import and export goods between the two countries. Some Saudi officers have declared that Saudi Arabia may take legal action in response to any member

²²⁵ Article 31, the EA (2001).

²²⁶ *Asharq Al-Awsat* Newspapers, 9534, 4 January 2005.

²²⁷ See the GCC news, 12 June 2005. Available on www.gcc.

²²⁸ Ibid

country that signs a bilateral agreement.²²⁹ Another Saudi response was by Abdurrahman Alzamil, the Head of the Saudi Export Development Centre, who suggested that Saudi Arabia should impose customs on products coming from any GCC member country that signs a bilateral agreement with a non-member country. He added that any bilateral agreement with a non-member country would in fact be valid if it agreed to impose no less than a 5% customs tariff.²³⁰

The Saudi Finance Minister asserted that Saudi Arabia has not asked Bahrain to cancel its agreement with the US or with any other country; instead, Saudi Arabia encourages GCC countries to create free trade agreements with the US and others but in a joint agreement with all the member countries, not through a bilateral agreement. It is one of the basic rules of a customs union, he continues, that there has to be a single customs tariff on products from any foreign country. The GCC member states spent 10 years negotiating a uniform customs tariff, and if signing a bilateral agreement with foreign countries involving customs exemption does not conflict with the GCC uniform customs tariff, there would not have been any need for these ten years of negotiation between the GCC member countries²³¹.

The Bahraini Manager of Economic Planning declared that Bahrain had not faced pressure neither from member countries nor from the GCC regarding the matter of the Bahrain-US agreement.²³² In addition, in response to the Secretariat General statement, a Bahraini official declared that five of the member countries regard the Bahrain-US agreement as an exemption, as the US refused to negotiate with the GCC member countries collectively.²³³ The Bahrain News Agency (BNA) states that the Bahrain-US agreement serves GCC-US relationships as it forms a good step towards signing a GCC-US free trade agreement.²³⁴ The GCC countries were collectively trying to sign a free trade agreement with the US since 1985 but they did not succeed, which led the US to reject collective negotiation and to attempt to negotiate with each country individually. The GCC countries agreed and the BNA continued to negotiate with the US

²²⁹ *Alaswag Alarbiah* (3 Jan 2005) Saudi Arabia May Impose Customs on Products from GCC Members.

²³⁰ Conference of the First Saudi Businessmen Meeting (28 Dec 2004) Chamber of Commerce and Industry in Riyadh.

²³¹ *Alaswag Alarbiah* (3 Jan 2005) Saudi Arabia may impose customs on products from GCC members.

²³² *Asharq Al-Awsat* Newspapers, 9493, (24 Nov 2004).

²³³ Bahrain News Agency (2004).

²³⁴ *Ibid*, (12 Dec 2007).

individually. Oman was the second country to sign an economic agreement with the US, in 2006.²³⁵ The BNA states that all GCC member countries are members of the World Trade Organization (WTO), and as a result, they adhere to the requirements of international free trade. The BNA goes on to say that Bahrain was the first country to apply the GCC Customs Union before the due date of its application in 2003.²³⁶

This Bahraini action and the following response reveal that there is division between GCC members on the principle of “collective work,” whether it is a goal itself or a means for achieving goals. It seems that, from the Saudi Arabian point of view, “collective work” is a goal itself as evidenced by the previously mentioned speech of the Saudi Finance Minister. He states that Saudi Arabia encouraged signing a free trade agreement with the US but in a collective way between all member countries, not individually.²³⁷ On the other hand, Bahrain seems to view the principle of “collective work” as a means to achieving goals but not a goal in and of itself. As long as it is the goal of the GCC to achieve a free trade agreement with the US, it is fairly the same to achieve that individually if member countries cannot achieve it jointly. So, when Bahrain signed the agreement with the US, it was not turning its back on the rest of the GCC member countries; rather, it viewed the agreement with the US as not just a Bahraini goal but also a GCC goal.²³⁸

5.5.1.10 The EU-GCC Cooperation Agreement

The GCC is the EU’s fifth chief export market while the EU is the first trade associate for the GCC countries.²³⁹ The relationship between the EU and the GCC first started in 1988 when the two organisations signed a Cooperation Agreement.²⁴⁰ The general aims of this agreement were “to contribute towards strengthening stability in a region of strategic importance and to facilitate political, trade and economic relations.”²⁴¹ This agreement included commitment from the two organisations to enter into negotiation to pave the path for ratifying a suggested free trade agreement. So, the main goal for the

²³⁵ Ibid.

²³⁶ Ibid.

²³⁷ *Alaswag Alarbiah* (3 Jan 2005) Saudi Arabia may impose customs on products from GCC members.

²³⁸ Bahrain News Agency (12 Dec 2007).

²³⁹ See the EU website, available on [www.http://eeas.europa.eu](http://eeas.europa.eu).

²⁴⁰ See the full text of this Agreement in Annex (4).

²⁴¹ Ibid.

1988 Agreement was to set the ground for negotiation between the two blocks in order to conclude a free trade agreement.

After the ratification of the 1988 Agreement, the two blocs began negotiations but these were suspended in 1990 and restarted in 2002, but then suspended again, by the GCC, in 2010.²⁴² The EU and the GCC have not yet succeeded in agreeing the Free Trade Agreement even though they have been negotiating for more than 20 years. The obstacles to authorisation of the suggested Free Trade Agreement are of two kinds. First, some elements related to systemising the trade between the two blocks. One main issue was that the EU asked the GCC members to have custom union.²⁴³ The GCC members achieved the custom union in 2003, an achievement that push the negotiation between the two blocks many steps ahead.²⁴⁴ Yet, some issues related to the exports duties are still subject to debates.²⁴⁵

Second, the EU have some concerns about the human right situations in the GCC countries, whilst on the other hand, from the GCC's perspective, the proposed Agreement contains elements which interfere with the internal affairs of GCC countries and go against their sovereignty.²⁴⁶ The main example is an article in the suggested Free Trade Agreement which states that if human right violations occur in a member country signatory to the Agreement, it is permissible for other member countries to raise the issue before the Security Council.²⁴⁷

Recently, it seems that the GCC countries have been paying more attention to human rights issues, as evidenced by the recent announcements by the EU which reveals some satisfaction with human rights developments in the GCC countries. For example, the Joint Declaration in 2011 mentioned that the EU and the GCC “agreed to identify possible ways to forge cooperation in [the area of human rights]”.²⁴⁸ Although the Free Trade Agreement has not yet been ratified, the Bahraini Minister of Foreign Affairs Sheikh Khalid Al-Khalifah, in a joint press conference with Catherine Ashton High Representative of the Union for Foreign Affairs & Security Policy/Vice-president of the

²⁴² See the EU website, available on [www.http://eeas.europa.eu](http://eeas.europa.eu).

²⁴³ See the EU website available (on Arabic) on <http://eeas.europa.eu>.

²⁴⁴ Ibid.

²⁴⁵ Okaz, newspapers, 4397, (1 July 2013).

²⁴⁶ Asharq Awsat Newspapers, 19 March 2010, 11434.

²⁴⁷ Ibid.

²⁴⁸ 21st EU-GCC Joint Council and Ministerial Meeting, Abu Dhabi, Joint Communiqué, 20 April 2011. Available at www.consilium.europa.eu.

EU, stated that he believes the two blocks have agreed on 99% of the suggested agreement and that very soon the agreement will be ratified.²⁴⁹

5.5.2 Conclusion on economic cooperation

Although there were many reasons that delayed the GCC push for economic cooperation from the time it was established until now, the GCC has now achieved a high level of economic cooperation. The Bahrain-US trade agreement (2004), in the view of Saudi Arabia, was a breach of the GCC's EA which negatively affected economic cooperation,²⁵⁰ while the Bahraini view was much more positive.²⁵¹ However, this chapter has argued that the real problem here is that there is no independent authority to decide whether the Bahrain-US agreement is good or bad for the GCC.

5.7 Conclusion

This chapter has evaluated the achievements in the main fields of politics, security and economics that the Secretariat General has publicly declared. In terms of the political achievements, it cannot be denied that the GCC has played a key role in resolving several political disputes. These include the GCC role in putting an end to the Iran-Iraq war, supporting many Arab countries, the issue of UAE's islands and helping the government and people of Kuwait at the time of the Iraqi occupation. Sometimes it failed in solving some political disputes, mainly the Bahrain-Qatar border dispute. However, this chapter has revealed that the existence of the GCC has not had a massive influence on the political attitudes of member countries because many of these attitudes already existed in the member countries before the existence of the GCC.²⁵² This chapter has agreed that the GCC is a good dialogue body, which aims the attitudes of the member countries appear united as a single attitude, yet there does not appear to be any independent affection on the attitudes of the member states.

²⁴⁹ Okaz, newspapers, 4397, (1 July 2013).

²⁵⁰ *Asharq Al-Awsat* Newspapers, 9534, 4 January 2005.

²⁵¹ Ibid, (12 Dec 2007).

²⁵² More detail about the member countries attitudes before the existence of the GCC is in chapter three.

In term of the security achievements, particularly significant was the creation by the GCC of the Security Agreement. This agreement states that the security of any GCC members is the common concern of all the members. It also was the legal basis for the GCC's military assistance to the government of Bahrain (2011), as will be highlighted in the last chapter of this thesis. However, this chapter has also demonstrated that the GCC failed to achieve one of the main goals, that the GCC was created to achieve, which is to make the Gulf reign secure without the need of western military bases.²⁵³

In terms of economic achievements, the GCC is now a key international economic block, which is a significant achievement. The GCC has developed economic cooperation in four stages: the free trade area (1983), the customs union (2003), the common market (2007) and now, the development of a single currency. It is fair to say that the GCC Common Market is less developed than the EU's but more developed than other common markets across the globe.²⁵⁴ This chapter has argued that, although the GCC has failed to conclude a free trade agreement with the EU in the last 20 years, the negotiations with the EU have helped the GCC towards its goal of achieving a customs union and common market.

This chapter has furthermore revealed that there is sometimes confusion between the achievements of the GCC as an international organisation and the achievements of member countries. This is problematic because the leaders of the GCC have to declare when and why they have succeeded or failed, but with greater clarity the needed development and changes would be understood and the path for success should be brighter. It is submitted that this is key to understanding the limits of its achievements to date and to speculating on its future role. This chapter has further argued that it is not beneficial to the GCC to always focus on its successes and positive achievements, and that there is a problem with the lack of powers given to the GCC by Member States. Having examined, evaluated and discussed the GCC achievements, the next chapter explores the GCC as law-maker, between hard and soft law.

²⁵³ See chapter three of this thesis for more detail about this GCC's security goal.

²⁵⁴ Alshamsy (2008), p. 17.

Chapter six – The GCC Law-Making Process

6.1 Introduction

This chapter argues that while the GCC is not able to create any hard, binding law, it is nonetheless able to create soft law, an ability that has given the GCC an important role in the law making system of member countries. It affects the process of the law making system between member countries as well as national laws of member countries. In the first case, the GCC is able to create treaties, decisions, and resolutions, and make announcements which are sometimes the first step in creating a new law. In the second, one of the main GCC functions is to harmonise national laws of member countries to achieve consistent regulation in all member countries.¹

The GCC is a key feature in creating the majority of agreements between its member countries, of which the GCC Economic Agreement and the Security Agreement are main examples. One of the GCC objectives mentioned in the Charter is to work towards creating similar laws in various fields.² The GCC has helped its member states in drafting common laws to achieve similarity among them in the legislative coordination between judicial and legal bodies.³ Many common laws were created by the GCC and then adopted in the national laws of each member country with their full will and without any enforcement by the GCC upon them.

The GCC has been affecting the national laws of its member countries in two main ways. First, it creates model or reference laws, which are adopted by the Supreme Council as reference laws so the member countries keep it in mind when developing their laws and try as much as they can to adopt these reference laws as their own national laws. Second, the GCC sometimes transforms a model law into a binding law, which is then adopted by the Supreme Council – not as a reference law but as a binding law, which the member countries are asked to adopt as part of their national laws.

This thesis is generally about international law, which is why this chapter is crucial. It explores and analyses how the GCC produces laws and the nature of these rules. Such

¹ See the GCC Charter, Article 4.

² Introduction of the GCC Fundamental Statute. YEAR?

³ GCC Secretariat General (2009) The GCC Process and Achievement. Riyadh, Secretariat General Publishing, p. 195.

analysis needs the theoretical ground to build on; therefore, this chapter follows from chapter two which exposes the legal theory that is capable of determining exactly what is law, namely legal positivism. Hart developed a theory, stating that a legal system has to have two kinds of rules: primary rules which set what individuals have or do not have to do, and secondary rules which consists of three elements: rules of recognition, rules of change and rule of adjudication.⁴ This theory was further developed by Abbott et al.⁵ This theory states that legal rules are measured based on three elements: obligation, delegation and precision, in order to classify them accordingly between hard and soft law.⁶ This provided a way to analyse the importance of international organisation in creating law.

6.2 The Important Role of International Organisations in Creating Law

For a better analysis of the role of the GCC as a lawmaker, this chapter provides a brief examination of the general role of international organisations as lawmakers. By creating laws, international organisations play a significant role because they are creating and changing international law.⁷ As Alvarez emphasises, "A large portion of the rules that we have to govern nations, both those that are formally legally binding and those that are not, are now initiated, formulated, negotiated, interpreted and often implemented through the efforts of international organisations."⁸

International organisations have changed international law in two ways: 'substantially' and 'structurally.'⁹ Firstly, international organisations have made a substantial change to international law by limiting the territorial jurisdiction of states. States are now handing over some issues that used to be exclusively under the jurisdiction of the states to international organisations. Issues like human rights, the protection of the environment, international trade and so on are now not only governed by states but also

⁴ Hart, Herbert L. (1961) *The Concept of Law*. Oxford, Clarendon Press.

⁵ Abbott et al (2001), p.18.

⁶ See *ibid* p. 19.

⁷ See a list of important examples of the impact of international organisations on the international system in Alvarez (2006), p. iii.

⁸ *Ibid* p. x.

⁹ Schermers, H.G. & Blokker, N.M.(2004), p. 4.

extremely influenced by international organisations like the UN, the EU, the World Trade Organization, the Human Rights Council and other international organisations.¹⁰

The notion of ‘state sovereignty’ clarifies the substantial difference between national law and international law.¹¹ Max Huber has traditionally identified state sovereignty as “Sovereignty in the relation between states signifies independence. Independence in regard to portion of the globe is the right to exercise therein, to the exclusion of any other state, the functions of a state.”¹² However, since about 1945, the practice of international organisations has changed the meaning of state sovereignty, from an absolute, traditional meaning towards a relative meaning.¹³ Contemporary state sovereignty can be characterised as “basic international legal status of a state that is not subject, within its territorial jurisdiction, to the governmental, executive, legislative or judicial jurisdiction of a foreign law other than public international law.”¹⁴

International organisations have therefore helped to relax the notion of state sovereignty in order to strengthen the role of international law. International organisations are created by states to cope with rising international interdependence and states increasingly structure their international cooperation within international organisations.¹⁵ International organisations carry out a significant role assisting in this process; in fact, modern international life cannot function without them.¹⁶ The question arises as to whether a state would be more sovereign if it did not limit its freedoms by international regulation. To answer this question, J. Craig Barker analyses the sovereignty of the United Kingdom within the Europe Union, and explains, “The fact of the matter is that European legislation is passed on daily basis. Much of that legislation is directly applicable in the United Kingdom, meaning that it does not have to be enacted separately into UK law to have effect within it. This applies often to legislation to which the United Kingdom has not only not given its direct consent but which, in many cases, it has actually opposed. Furthermore, such legislation is enforceable not only by the UK authorities but also, in many cases, directly by European institutions.”¹⁷

¹⁰ Ibid.

¹¹ Ibid, p. 5.

¹² The Islands of Palmas Case, Permanent Court of Arbitration. Published in 22 AJIL 875 (1928).

¹³ Schermers, H.G. & Blokker, N.M. (2004), p. 4.

¹⁴ Steinberger, H. (2000) Sovereignty. 105 EPIL 4, 511-512.

¹⁵ Abbott & Snidal (2001). p. 9-43

¹⁶ Schermers, H.G. & Blokker, N.M. (2004). P 3

¹⁷ Barker, J. C. (2000), p. 42.

It is worth mentioning that the EU is, however, a unique organisation in its ability to impose on its member countries, as the Europe Commission is able not only to draft but also to implement EU rules.¹⁸ EU regulation applies just as national legislation does in member countries without needing to be transferred into member countries as national law.¹⁹

Although international organisations may pose some limitations upon their member countries, international organisations can sometimes extend a state's freedom of action by limiting the sovereignty of other member countries. It is obvious that the EU has given its member countries the ability to intervene, through the EU, in the domestic affairs of some member countries that may negatively affect others. In other words, international organisations can extend state sovereignty to reach international interest. As the German Constitutional Court has stated about the Treaty on European Union, "The member states have established the European Union in order to exercise a part of their functions in common and to that extent to exercise their sovereignty in common."²⁰

States are very protective of their sovereignty and do not easily give up some of their sovereignty to another state even if the other states want to apply international law. However, in the last few decades, because of the rise of international interdependence, states find themselves driven to give up some of their traditional sovereignty to international organisations for international law to be more functional. At least, giving up sovereignty – in the traditional meaning of sovereignty - to international organisations that have collective power is less harmful than giving up sovereignty to a single state. States allow some international organisations to take the lead in creating, enforcing and interpreting international law because they are actually a part of these organisations and contribute to their activities. Yet, some scholars such as Woolf do not believe there is a real independent country, as he states, "it cannot carry on the work of internal government, legislative or administrative, which modern conditions of life require, without continual cooperation [...]; complete independence today is merely a legal fiction."²¹

¹⁸ See the official website of the EU on www.europa.eu [accessed on 2 Dec 2011].

¹⁹ Available on <http://europa.eu>

²⁰ For the English translation of this judgment see CMLR 57-109 (1994), p. 90.

²¹ Woolf, L. S. (1916), p. 345-346.

International organisations have also helped change the structure of international law. While lawmaking at the national level is centralised, lawmaking in international law is horizontal and while courts in domestic law have comprehensive and regular jurisdiction where the court's judgment is compulsory, international law jurisdiction is a wider concept which is not limited to time or place because there is no centralised structure.²² Nevertheless, the world is moving towards a more centralised legal structure as a whole and for some block of states as well, as evidenced by the increasingly significant role of the UN in centralising international action and the considerable role of the EU in giving Western Europe a centralised structure.

International organisations embody international law in an organised structure which has led international law to become more uniform rather than being spread out between treaties, customs and principles, localised in specific regions of the world. International organisations bridge the gap between domestic law and international law by allowing international law to become more vertical rather than horizontal.²³ In the modern domestic legal system, the law is well served; there is separation between three authorities: the legislative, administrative or executive, and judicial authorities. Each one of these authorities serves the law according to their function and the collection of these three authorities makes a complete and structured legal system. Though international law does not have to be like domestic law to be regarded as a legal system, some international organisations give international law the possibility to take on similar functions as these authorities. For example, the UN has partially become the international legislative authority while the Security Council has taken on the role of the executive authority and the international judicial bodies have taken on the role of the judicial authority, e.g. the International Court of Justice, the European Court, and the International Criminal Tribunal for the Former Yugoslavia.

²² See Decision in Prosecutor v. DuskoTadic. International Criminal Tribunal for the Former Yugoslavia. 2 October 1995, 35 International Legal Materials 32 (1996); Schermers, H.G. & Blokker, N.M. (2004), p. 5.

²³ See Decision in Prosecutor v. DuskoTadic. International Criminal Tribunal for the Former Yugoslavia. 2 October 1995, 35 International Legal Materials 32 (1996); Schermers, H.G. & Blokker, N.M. (2004), p. 5.

6.3 The Importance of the GCC's Role in Creating Law

International issues are changing fast while public international law is not keeping up with this pace because creating new international rules is a slow process. Even if the rules are already established, states need a consensus about the application of these rules on any particular matter, which is also a slow process. On the other hand, international law is very flexible and provides some alternative ways through which nations can respond faster to international affairs. These alternative ways of legitimate lawmaking are mostly through the framework of international organisations.²⁴

Generally, international organisations have the capacity to make law;²⁵ however, this thesis questions the capacity of the GCC specifically as a lawmaker? Does the GCC merely draft laws or does the GCC enact 'real' legislation? The GCC is one of these organisations that work to cope with the fast changing international challenges by creating the necessary rules to open the door for member countries to respond faster to any crisis the region may face. The rules that the GCC is creating do not focus on giving the GCC, as an independent international organisation, the ability to function but, rather, it gives the leaders of member countries the legitimate means to respond swiftly to any crisis they may face as leaders of their countries.

How does the GCC create new laws to enable its member countries to react swiftly to common issues? The rules that govern the relation between the six member countries can be affected by international organisation. For example, the UN Charter states that regional arrangement can act to maintain international peace.²⁶ The GCC has played an important role in effectively leading to the creation of rules that govern these relations; these rules are interpreted and modified by the GCC and not by other international organisation like the UN, the Arab League or the Organization of the Islamic Conference. It has been mentioned earlier that one reason for creating the GCC was to counter the proposed international tutelage upon the Gulf. One can argue that such international legal rules governing the relations between member countries of the GCC

²⁴ See Kirchner, Stefan (2010), p. 269.

²⁵ See Ibid.

²⁶ Article 52, the UN Charter.

is still one form of this proposed international tutelage. However, without the GCC it was likely that more international rules from international organisations like the UN would determine the relationship between member countries. A recent example for that is the GCC, mainly Saudi Arabian, military force entering Bahrain in February 2011 to help the Bahraini Government face the challenge posed by the demonstrating Bahraini people. Without the legal rules that the GCC had created – namely the GCC Security Agreement – this action would face international rejection.²⁷ Without the GCC Security Agreement, many countries would regard this action as a Saudi military intervention in Bahrain.

6.4 Laws Created by the GCC

As asserted in the above discussion, legalisation theory provides this thesis with a tool to evaluate the laws created by the GCC. This chapter argues that in the laws created by the GCC, the chief missing element from those outlined in “The Concept of Legalization” theory is delegation. This chapter asserts that the absence of this feature is the main obstacle prohibiting the GCC from achieving unity in addition to cooperation.²⁸ In this context, one of the GCC objectives mentioned in the Charter is the creation of similar laws in various fields,²⁹ and the GCC has indeed helped its member states draft common laws to achieve similarity between them in the legislative coordination of judicial and legal bodies.³⁰ The GCC is the key feature in creating the majority of the agreements between its member countries; the GCC Charter, Economic Agreement and Security Agreement are good examples of this. Many common laws were created by the GCC and then adopted in the national law of each member countries, with the full will of member countries and without any enforcement by the GCC upon them.

²⁷ More detail on this military action by the GCC can be found in the last chapter of this thesis.

²⁸ More discussion will be found in the last chapter on the GCC attempt to move towards unity between its member states.

²⁹ The Introduction of the GCC Fundamental Statute.

³⁰ GCC Secretariat General (2009) The GCC Process and Achievements. p.195.

6.4.1 The GCC Fundamental Statute (FS)

International organisations are established by an international agreement. More focus is given to the GCC Charter because it is both an international agreement and a constitutional law of the GCC.³¹ A treaty that has established an international organisation is regarded as an international treaty,³² yet an IO charter differs from most other international treaties in that it constitutes a stable and self-governing body.³³ To a certain extent, when GCC members signed the Charter, they made themselves obligated to the laws created by the GCC. As explained earlier, obligations do not necessarily mean binding rules but that member countries recognise that they are required to be in line with these rules even if they are not binding. The GCC Charter, like charters of other international organisation, is distinct from other international treaties in three ways: who has the authority to interpret charters, the way in which they are interpreted and the significance of that interpretation.³⁴

GCC constitutional law, or charter, is composed of 22 articles enclosing the background, the present and the prospective future of the GCC including its aims, establishment, objectives, membership, bodies, privileges, immunities and implementation, amendments and registration of the charter. Similarly to the charters of other international organisations, the GCC Charter has two characteristics: its content renders it constitutional law and an international treaty. It is constitutional law in that it constitutes an organisation with its own bodies with clearly defined functions and that it is the supreme law of all the authorities in the GCC. It is also an international treaty because the six countries have ratified it in order to be bound by its obligations. The first article of the GCC Charter states that “a council shall be establish hereby”³⁵ and the fifth article of the Vienna Convention on the Law of Treaties (hereinafter VCLT) states that a treaty establishing an international organisation is regarded as an international treaty.³⁶

³¹See Abo Alwafa, M. (1996).

³²Article 50, Vienna Convention on the Law of Treaties (1969).

³³See Alvarez (2005), p. 65.

³⁴The author is thankful to Alvarez for this division into three elements.

³⁵Article One, the GCC FS.

³⁶Article 5, VCLT.

6.4.1.1 Drafting the Fundamental Statute

There is little recorded information about the drafters' debate before the GCC Fundamental Statute was declared,³⁷ but knowing the details could help identify the intent and interests of the drafters in using some words instead of others, in clarifying some points while keeping others vague, and so on... Knowing the drafters' purpose would make the mission of interpreting the charter easier for coming generations. The GCC's FS has not been modified since it was first ratified in 1981, which means that it is more similar to charters of international organisations that are supposed to remain for years, decades or more without major change similarly to the constitutional law of states. Over the years, interests may change from what they were at the time when the charter was drafted, thus the drafters' interests may differ from the interpreters' interests. Article 32 of VCLT gives the green light to the interpreters of international treaties to consider preparatory work and the circumstance surrounding the establishment of a treaty when the application of Article 31 of VCLT leads to an ambiguous or unreasonable result. It opens the gate to those who want to go beyond the profession of legal positivism that focuses on what the law is. This article allows those who want to explain the law in more detail what the capacity of the text can provide.

It has been mentioned in the first chapter of this thesis that there were some meetings of experts from GCC member countries before the announcement of the GCC's FS, one of which was held in Muscat between the 6th and 10th March 1981. In this meeting the experts dealt with, inter alia, what the title of the GCC constitution should be: Qatar and Kuwait suggested 'treaty,' since it is more common in other international organisations, Oman opted for 'charter' and Saudi Arabia for 'fundamental statute.' Saudi Arabia chose the latter to avoid speculation that the GCC was brought into existence in order to replace the Arab League.³⁸ The experts' discussion resulted in the Saudi proposal being chosen and in the United Arab Emirates on 25 May 1981, leaders of the member countries ratified the GCC Fundamental Statute. In interpreting treaties, the VCLT has

³⁷ In a meeting between the author and the Director General of Legal Affairs at the GCC headquarters (20 September 2009), the latter mentioned that their department is a place where such records should be held but they do not have any such recorded debate.

³⁸ A Report by the Head of the Qatari delegation to the experts' committee on 14 March 1981, Doha, Qatar. The Palace of the Amir Archives, Unpublished (in Arabic).

taken into account the ‘ordinary meaning’ of their terms in their ‘context.’ Knowing the drafters’ debates helps identify the ordinary meaning. While a treaty that has established an international organisation is regarded as an international treaty,³⁹ an IO charter differs from most other international treaties in that it constitutes a stable and self-governing body.⁴⁰

6.4.1.2 Who Interprets the GCC Fundamental Statute?

The GCC Charter does not delegate the job of interpreting its terms to a judicial body. The GCC has three main bodies: the Supreme Council, the Ministerial Council and the Secretarial-General, but if a dispute arises about the meaning of the FS, the only way of interpreting it is either through the Supreme Council or the Council of Ministers. The two Councils have all the authority for interpreting the Charter, but if they do not succeed in this mission, the Supreme Council has the authority to refer the dispute to the Commission for the Settlement of Disputes.⁴¹ This Commission is not independent, as it is attached to the Supreme Council, and only plays a consultative role. Its decisions are therefore merely recommendations, which the Supreme Council has the right to recognise or ignore. This Commission is a non-judicial, ad hoc arrangement, meaning that it is not capable of producing long-standing legal judgments that can be regarded as a base for a legal doctrinal source for GCC law.

Comparing the GCC with other international organisations may provide a better explanation of the GCC’s way of interpreting its Charter. In this context, it is more useful to compare the GCC’s interpretation of its charter to the UN’s interpretation of its own Charter, for two reasons: firstly, the UN is the most widely known international organisation and comparing the GCC to it will give a better and clearer understanding of the GCC than comparing it to a lesser-known organisation. Secondly, although the legal structure of the EU is much more advanced than that of the GCC,⁴² it is probably more

³⁹ Article 50, Vienna Convention on the Law of Treaties (1969).

⁴⁰ See Alvarez, J. E. (2005). *International Organisations as Law-makers*. Oxford, Oxford University Press. p 65.

⁴¹ Article 10, GCC Charter.

⁴² See more information on the official website of the EU, available on www.europa.eu. [Accessed on 3 Feb 2012].

appropriate since the GCC and the UN are more similar organisations than the GCC and the EU.⁴³

The UN has a permanent judicial body, the International Court of Justice (ICJ),⁴⁴ while the GCC has the Commission for the Settlement of Disputes.⁴⁵ Neither the ICJ nor the Commission for the Settlement of Disputes have the authority to interpret the UN Charter or the GCC Charter, respectively. One may argue that the ICJ can give itself the authority to interpret the UN Charter, however, the ICJ only has jurisdiction over members party to the ICJ or parties that have accepted the ICJ jurisdiction; otherwise the ICJ has no jurisdiction over other UN members.⁴⁶

In theory, a statute such as the Fundamental Statute of the GCC is regarded as law, made by drafters and ratified by the leaders of the member countries, but up to this point, it has not been regarded as law in practice. Yet, when people apply and practice this law, the understanding of it becomes different from when it is only regarded as law in theory. The challenges this law faces, the problems it solves, the services it meets, and so on, all lead to different understandings about what the law should be. The mechanisms through which lawmaking is based on practice can be created by a judicial body, and even when such a judicial body only makes recommendations, it is still capable of creating legal doctrinal sources of law – as mentioned earlier – as judges decisions inform how the law can be understood. The combination of law in theory and law in practice is a good way of developing the law on the ground.

The absence of an interpreting authority and interpretation techniques may lead each member country to create its authority to interpret the GCC's FS, a situation which would function contrarily to the purpose of cooperation that the GCC strives to achieve. Fortunately, the GCC has its own mechanism for interpreting the FS, as mentioned above, but this mechanism nonetheless involves a long process. In addition, this interpreting mechanism lacks any binding judicial system as well as an important element of legalised institutions, namely *delegation*. This requires that the implementation, the interpretation and the application of the rules have to be under the examination of a third party that should carry out the duty of dispute settlement and

⁴³More information about the UN Charter is available on www.un.org.

⁴⁴More information about the ICJ is available on www.icj.cij.org

⁴⁵See Article 7, the GCC Charter.

⁴⁶See article 36 of the GCC status and the ICJ the ICJ official website, available on www.icj.cij.org.

have the ability to make further rules. Without delegation to a third party, an international institution would not be considered to be a legalised institution.⁴⁷

6.4.1.3 How to Interpret the GCC FS?

As discussed earlier, the GCC is an international organisation that aims to achieve comprehensive cooperation in the fields of economics, security and politics and is constituted the GCC Fundamental Statute which provides general guidelines.⁴⁸ This statute has a challenging role guiding such comprehensive aims, which surely results in interpretation disputes when put into practice. For such a statute, it is out of language ability to be clear-cut or to be unambiguous because it always deals with generalisation and leaves all the details to lawyers to explore and analyse.⁴⁹

Respecting specific rules in interpreting charters was established by the ICJ the authoritative World Court's judges used the conventional international customary rules after they were summed up in Article 31-2 of the VCLT which states that treaties that constitute international organisations are included under the profession of VCLT.⁵⁰ Article 31-2 of VCLT states that interpreting treaties should be in “good faith” and in line with the “ordinary meaning,” which should be the applicable meaning of a treaty with regard to ‘context,’ ‘object and purpose.’⁵¹ The contexts of a treaty include any relevant agreement concluded between members linked by the core treaty. The GCC members did not conclude any such agreement that gives specific rules about how to interpret the charter. So as long as there is such an agreement, the practice of the GCC’s FS by its member countries cannot be used as binding way of interpreting the FS, according to Article 31 of the VCLT. In addition, any relevant international rules or specific meanings have been agreed between the parties to be attributed to a word or an expression. Is it therefore best to interpret a charter through a judicial body? Distinguishing between institutional practice and the practice of the parties to a multilateral treaty, Judge Spender has disvalued the practice of interpreting through a

⁴⁷ See Abbott (1999), p. 362.

⁴⁸ See the GCC Process and Achievement (2009), p. 5.

⁴⁹ Alvarez (2005), p. 84.

⁵⁰ Alvarez (2005), p. 83.

⁵¹ Article 31-2, the VCLT.

judicial body.⁵² He states “It seems natural, indeed, that the General Assembly should not have wished that the Court should pronounce on the validity of resolutions which have been applied for several years.”⁵³

The question is whether the intent of GCC founders was to “use institutional practice to determine legality”⁵⁴ or whether the institutional practice was merely to embody the political will by combining all the political efforts for cooperation under a single institution rather than having scattered efforts. It is therefore a debate on whether this type of institutional practice is more political work that becomes legal work or if it is simply more organised political work. This relationship between international law and international relations has been developing over the last few decades.

Realists and idealists both worry that, through institutional practice, a member may not have a mechanism for raising legal enquiries about disputes before going to the responsible judicial body and instead will have to raise it with the institution, thereby putting the matter in the hands of a majority that does not represent the common interest of the members.⁵⁵ However, this concern only applies to international organs represented by a majority and does not apply to the GCC because it is not represented by a majority but by the heads of all member countries.

Not only is there very little recorded information of the GCC FS drafting negotiations but there is also little on the history of FS negotiations and interpretations. The drafters of such statutes usually leave many vague areas to allow further development, but it often makes it difficult to identify the “ordinary meaning.”⁵⁶ Taking all of this into account increases the importance of having more information on the negotiation history of the interpretation of the FS.

Alvarez’s worries about creating international law through majority are not applicable to the GCC,⁵⁷ because the laws created by the GCC are not created by a majority of members and instead have to be agreed by all the leaders of member countries. In this respect, some could still argue that these leaders of member countries are a majority in

⁵² Judge Percy Spender. Separate Opinion. Certain expenses of the United Nations (Article 17, paragraph 2, of the Charter), Advisory Opinion of 20 July 1962: I.C. J. Reports 1962, p. 151.

⁵³ Ibid.

⁵⁴ Alvarez (2005), p.90

⁵⁵ Ibid p. 90-91.

⁵⁶ Alvarez (2005), p. 84.

⁵⁷ Ibid, p. 90.

their one country, as they are not elected by their people. However, the answer to this potential argument is that, in this regard, there is no difference between GCC laws and national laws in member countries as the latter are also created by majority and imposed upon citizens. One important distinction is that when a member does not agree on a law, it is not bound by that decision.

6.4.1.4 Why Interpret the GCC FS?

Why is interpretation a concern of other international organisations and not with the GCC and why does this issue require considerable discussions in other international organisations while there is hardly any debate about it in the GCC? It may be because of the kind of organisation that the GCC is. Similar organisations may have not given much concern about such interpretation. Why is there no debate about interpreting the GCC FS? Is it because everything is running perfectly and everything is clearly understood so there is no reason for any interpretation dispute to take place? Or have the member countries not taken the GCC seriously so no one worries about this interpretation? Alternatively, is it the case that there are interpretation disputes, but that these are kept secret?

Regarding the last hypothesis, such silence could have a significant effect in terms of how that may conflict with the Vienna Convention of international treaty making which requires any international treaty to be registered with it because international diplomacy should not be kept secret, especially issues that are not supposed to be secret such as the function of international organisations. This is especially important when they are meant to operate on an international level and cooperate with other international actors.

6.5 Making Agreements in the GCC

It has been mentioned that the traditional way of creating international law is through international agreements and one of the main sources of international law is

international treaties.⁵⁸ Nowadays, the negotiation and drafting of international agreements is not only dominated by states but also includes international organisations in its process.⁵⁹

The GCC has two mechanisms for creating agreements; the first is making and implementing agreements that regulate the relationship between member countries. These kinds of agreements are like the main GCC treaties: the Security Agreement, the Economic Agreement and the FS, which have already been discussed and analysed above. This next section focuses on the treaties created by the GCC to be adopted by the member countries into their national laws. These agreements established under the umbrella of the GCC are of two types. The first type is those ratified by the Supreme Council as ‘reference laws’ or ‘model laws,’ which member countries are to consider as the appropriate way of harmonising the internal laws of member countries. The second type of agreements is those adopted by the Supreme Council and then by member countries, to become part of their national laws.

6.5.1 Non-Binding Agreements

Many non-binding agreements have been concluded between member countries through the GCC without difficulty or long debate.⁶⁰ It is worth noting that GCC members have no problems ratifying non-binding agreements; all of these agreements have been processed smoothly without lasting debates or serious objections from some of the member countries. Surely, member states would not find these agreements challenging even if they were not exactly in line with their national laws as there is no real need for objections as long as member countries are not bound to adopt them. These agreements are first adopted by the Supreme Council, which then sends copies to all the member countries as “reference laws or model laws.”⁶¹

Based on the elements outlined in “The Concept of Legalization,” it is clear that such treaties are closer to being soft law than hard law because the aspect of obligations is

⁵⁸ Article 38, ICJ Statute.

⁵⁹ Alvarez (2005), p 273.

⁶⁰ These difficulties are discussed above several times.

⁶¹ See the Secretariat-General (2009) *The GCC in its Third Decade: Integration and Unity*. p. 205.

missing. Not only does the GCC not enforce these treaties upon the member countries, but it is also agreed that the rules outlined in these treaties do not have to be adopted by the member countries.

Over time, the GCC has adopted a new method of creating soft law which sometimes leads to hard law. Many model laws have been created by the GCC as it aims to develop similar laws in the member countries in various fields.⁶² When a model law is created, it is left for four years during which the GCC encourages member countries to adopt this model law into their national law. After four years, the GCC evaluates the extent to which member countries have been able to adopt the model law and based on this experience, they will agree to either adopt the model law into their national laws or to leave it as a model law for another four. There are some examples below of some model or reference laws listed by the Secretariat General.

The GCC Common Law of Personal Status is a law that deals with matters relating to family, guardianship, wills and inheritance. The Supreme Council adopted this law as a reference law in 1996⁶³ and extended its implementation as a reference law for four years in 2000,⁶⁴ to give member states more time to benefit from the law whilst amending their national law to be in line with the model law. The Secretariat General states that some member states have considered this law while preparing their own laws.⁶⁵ Some of these laws become binding law but the member countries need enough time testing these laws so when the time comes for the GCC to adopt them as binding law, member country will be confident enough to accept or reject the law. The Supreme Council has adopted many other reference laws: the GCC Common Civil Law, which “incorporates jurisprudence rules, provisions and sources of obligations, contracts, ownership and the rights thereof;”⁶⁶ the GCC Common Penal Law that “incorporates the general rules for punishments, precautions, castigation, blood money, and chastisements;” and the GCC Common Juvenile Law, which “deals with issues of corrupted or corruptible juveniles and prescribes the necessary measures for correcting and taking care of them. The law also specifies the judicial entity responsible for trying

⁶² See the Secretariat-General (2009) *The GCC in its Third Decade: Integration and Unity*. p. 195.

⁶³ The Supreme Council 17th session, Muscat, December 1996

⁶⁴ Ibid, 21st session, Manama, December 2000.

⁶⁵ The GCC Progress and Achievements (2012), p. 292.

⁶⁶ Ibid.

their issues, and the punishments to be issued in the committed crimes that are different from those committed by adults.”⁶⁷

Other reference laws include the Attorneys' Law which “regulates the practicing of law at the GCC States based on convergence or unification. The Law incorporates the conditions for attorney registration, description of the rights and duties of attorneys, the relevant discipline rules and other general provisions for practicing this profession.”⁶⁸ There is also the Common Law of Civil Procedure that “incorporates the general provisions of procedure, prosecuting procedures in civil and commercial actions, including the manners for bringing a claim, attendance/absence of opponents, rules of the session, defence, admission and intervention, contingent claims, methods of appeal, arbitration and execution of court judgments.”⁶⁹ Additionally, there is the Common Evidence Law, which “incorporates the rules of evidence in civil claims, including written proof, witness testimonies, oath, inspection and expert reports.”⁷⁰ Finally, there are agreements such as: the GCC Common Traffic Law, a guide for formulating the national plan to respond to nuclear radiation emergencies and the Unified Law for Volunteering and Volunteers.⁷¹

According to Kirchner, the GCC has undertaken creation of soft law in such a way that “although relatively fast to create, is non-binding, raising doubts as to its effectiveness for regulation in times of crisis.”⁷² The GCC is first creating soft law, keeping it as soft law for a number of years until member countries develop a common understanding and acceptance about the law before the GCC moves on to the next step by passing the law to the member countries to adopt it in their national laws.

6.5.2 Binding Agreements

The implementation of treaties that are binding but deal with internal matters, is through the domestic law of each member country; in other words, each member country adopt

⁶⁷ Ibid.

⁶⁸ The GCC Progress and Achievements (2012), p. 292.

⁶⁹ Ibid.

⁷⁰ Ibid p. 199.

⁷¹ The full text of this agreement is available on the official website of the GCC, available on www.gcc.sg.org.

⁷² Kirchner, Stefan (2010), p. 269.

such an agreement internally to include it as part of its domestic laws.⁷³ The GCC has not faced much difficulty from member countries in ratifying these types of agreements, perhaps because such agreements are usually binding as long as they do not conflict with the domestic law of the member country.⁷⁴ Many agreements have been developed through the GCC and then adopted by member countries to become part of their national law. When a case has been raised in front of a court in any member country to deal with a matter falling under laws created by the GCC, the court mentions in its decision that it is under the provision of the GCC laws. For example, the Saudi Court of the Ombudsman has based all of its decision on disputes relating to customs on the GCC Unified Custom System.⁷⁵

6.6 The Concept of Law, the Concept of Legalisation and the GCC as Lawmaker

It has been analysed above how the GCC is moving the process of law making from soft law to hard law. Without the three elements outlined in “The Concept of Legalization,” especially obligations, laws are easy to be implemented by the member countries. After years pass during which member countries observe who responds to this model or reference law, they can understand what to expect from the other members and become closer to ratifying the agreement or the law. In other words, the GCC is creating a greater equilibrium. The main purpose of establishing international institutions is to facilitate the process of making agreements between member countries⁷⁶ and one of the expected roles of international institutions is to help states create greater equilibrium which naturally results from interacting. The next role of an international institution is to keep this equilibrium stable by creating common expectations and the first important point of cooperation for every member is to expect that the other members will apply a rule or agreement in their internal laws. To create common expectations, the second important point is to ensure that this rule or agreement is beneficial and very precise.⁷⁷

⁷³ Such as the GCC Agreement for the Executing of Judicial Decisions (1997).

⁷⁴ See, for example, Article 2 of the GCC Agreement for the Executing of Judicial Decisions (1997).

⁷⁵ See cases: 865 (2002) and 3302 (2004), the Saudi Court of the Ombudsman.

⁷⁶ Beck, et al. (1996), p. 166.

⁷⁷ Abbott (1999), p. 361.

At the point where a law has passed the period of being model law and member countries have adopted it into their national law, these laws carry high obligations and high delegations (independent judicial third parties) at the national courts of law are authorised to deal with any dispute regarding these laws. In terms of precision, however, these laws are precise in the form of national law in each member country but not as GCC laws. That is because of the process whereby even if laws were vague at the first stage, meanings can be clarified by a national court decision. However, if the courts of law in member countries give different explanations and meanings to the same law when applied at the national level, there is no mechanism to determine what the GCC means by this law. Even if the matter was brought to the Supreme Council, the Council can decide to clarify the meaning in dispute, but national courts are not bound to follow the Council's explanation. To sum up, the GCC is therefore successfully leading member countries to harmonise their national laws, but it remains limited in its inability to develop GCC laws from soft laws to hard laws. Agreements made between member countries such as the Security Agreement or the economic agreements have high obligations as member countries have agreed to ratify them as binding laws, but if a dispute is raised about their meaning or implementation, no GCC court can make a decision about them. Therefore, focus is now given to the application of the concept of *delegation* as this thesis believes that in the context of the GCC, by creating a GCC court of law is an achievable and critical step to achieve delegation, which will impact the development of the GCC to make member countries more able to form stronger union.

6.6.1 Delegation

With reference to Hart's third defect and related remedy (inefficiency and the rule of adjudication) and to the third element of legalisation (delegation), this chapter shows how the GCC has an achievable step to become a more legalised institution which will support its ability to create hard laws. The GCC leaders can delegate the authority of deciding the right interpretation and application of GCC rules to a specific judicial body.

Such a body would not affect state sovereignty as these rules are actually created by member countries and not by an external power.⁷⁸

Since the establishment of the UN, international organisations have tried to act in accordance with the UN Charter,⁷⁹ which urges member states to solve their "international disputes by peaceful means in such manner that international peace and security, and justice, are not endangered."⁸⁰ The judicial aspect of international relations cannot be separated from the general functions of international organisations: international courts, tribunals and dispute settlement commissions are always organs of and created by international organisations. The development of the rule of international law in international relations started at the end of the 19th Century when international judicial bodies started to emerge, in an attempt to strengthen the role of international law.⁸¹ This thesis criticises the GCC for lagging behind this wider movement of international organisations. Alvarez notes that "in some cases international organisations have used other powers conferred on them, including the residual power to establish subsidiary organs, to create forms for international adjudication of some dispute,"⁸² and that "such institutionalized dispute settlement makes law in the course of settling such dispute, International organisations are responsible for that law as well."⁸³ A crucial element of any legal system is judicial precedent, which means that GCC member countries have lost a great deal of legal development because they did not create a GCC court. Lauterpacht stresses the significance of international judicial precedent:

The Court follows its own decisions for the same reason for which all courts – whether bound by the doctrine of precedent or not- do so, namely, because such decisions are a repository of legal experience to which it is convenient to adhere; because they embody what the Court has considered in the past to be good law; because respect for decisions given in the past makes for certainty and stability, which are of the essence of the orderly administration of justice; and (a minor and not invariably accurate consideration) because judges are naturally reluctant,

⁷⁸ See Nakhleh, E. A. (1986). *The Gulf Cooperation Council*. New York, Praeger Publishers.

⁷⁹ Alvarez (2006), p. 403.

⁸⁰ Article 2 (3), UN Charter.

⁸¹ Barker, (2000), p. 8.

⁸² Alvarez (2006), p. 8-9.

⁸³ Alvarez (2006), p. 8-9.

in the absence of compelling reason to the contrary, to admit that they were previously in the wrong.⁸⁴

The GCC countries have not gained any of this legal experience which would give them more certainty, stability and similar expectations about the GCC legal rules. This would be especially relevant for such an organisation that is aiming to achieve unity among its member countries.

6.6.2 The Commission for the Settlement of Disputes

The heads of the GCC countries were keen to form a practical mechanism for resolving any kind of disagreement that may arise between member states, which is why they established this Commission.⁸⁵ This Commission is outlined in chapter four of this thesis in relation to the GCC structure. Some argue that this Commission is attached to the supreme Council as a sign of its importance,⁸⁶ while others see this attachment as evidence of its weakness and dependence on the Council.⁸⁷ Its function is to look into matters of disputes that have been submitted by the Supreme Council, which could be about any dispute that may have arisen between member states or about the interpretation or application of the Charter in a given case.⁸⁸

6.6.2.1 The Commission for the Settlement of Disputes on the GCC's EA

The first agreement (UEA 1981) does not point out any ways of settling any dispute raised about the implementation or interpretation of this agreement. Yet the preamble of this agreement states that it is under the umbrella of the GCC Fundamental Statute, which regulates a commission for dispute settlement. On the other hand, the second Economic Agreement outlines three steps for dispute settlement. First, any dispute raised by any authoritative body or by any citizen in the GCC countries about the

⁸⁴ Lauterpacht, H (1996) , p. 14.

⁸⁵ Alashal (1983), p. 53.

⁸⁶ Ibid..

⁸⁷ More critic on this Commission is in Chapter three of this thesis.

⁸⁸ Article 10, the Fundamental Statute.

implication of this agreement should be heard by the Secretariat General, which should try to amicably resolve the dispute. Second, if the Secretariat General fails to resolve the dispute, the disputing parties can refer to the GCC Commercial Arbitration Centre.⁸⁹ If the two parties still cannot reach a settlement after these two steps, the dispute then goes to an ad hoc judicial commission which is set up as and when needed. The Economic and Financial Commission should propose a charter for this judicial commission, however, until this charter is ratified, disputes which are not amicably settled through the first steps should be referred to one of the existing GCC commissions and preferably to one more experienced in settling the raised dispute.⁹⁰ It can be noted that this judicial commission is different from the Commission for the Settlement of Disputes mentioned in the GCC Charter which is linked to the Supreme Council. It is a commission that specify examines only disputes about the EA while the former commission considers any kind of dispute between the member countries. This may be because what is significant about the EA is that it has a different dispute settlement procedure to the one mentioned in the GCC Charter.⁹¹

It is clear that the GCC Commission for the Settlement of Disputes is not a court of law. It cannot make important judicial precedents, it has not made any important settlements and its members are not even judges. The question here is whether the member countries realise that they will not be able to develop cooperation to achieve unity without a GCC court of law.

6.7 Conclusion

Despite its limits in creating hard law, this chapter has argued that the ability of the GCC to create soft law has given it an important role in the law-making systems of member countries and in relation to the regulating of legal relations between member countries. This chapter has demonstrated how the GCC is able to create treaties, laws, decisions, and resolutions. The GCC Fundamental Status then the GCC Economic Agreement and the Security Agreement are the main examples.

⁸⁹ Article 27, GCC, EA.

⁹⁰ Ibid.

⁹¹ See Article 10, the GCC Charter (1981).

This chapter has explored and analysed how the GCC produces laws and the nature of these rules by applying Hart theory, which states that a legal system has to have two kinds of rules: primary rules which set what individuals have or do not have to do, and secondary rules which consists of three elements: rules of recognition, rules of change and rule of adjudication.⁹² As well as Abbott et al's theory which states that legal rules are measured based on three elements: obligation, delegation and precision, in order to classify them accordingly between hard and soft law.⁹³

This chapter has demonstrated the important of creating a GCC court of law. It has been analysed that without the three elements outlined in Abbott et al's theory especially obligations, the GCC work in harmonising the member states laws would not work in the long term. Because if the courts of law in member countries give different explanations and meanings to the same law when applied at the national level, there is no mechanism to determine what the GCC means by this law. With regard to the EA, this chapter has also argued that it is not the solution for the dispute system in the GCC to create a separate commission of settlement for the EA rather it would be by creating a GCC court of law.

This chapter has discussed the GCC Charter and has criticised the GCC because there is only little record about the drafters' debate and there is no recorded debate about interpreting dispute of the Charter. Such record would be very helpful for research such as this thesis. Also, it has criticised that there is no independent authority to interpret the Charter. This chapter suggest that if there was a GCC court of law authorised to interpret the Charter, that should strength the role of the GCC as an international organisation.

One of the GCC's main roles is to harmonise national laws of member countries to achieve reliable common regulation.⁹⁴ The GCC has been affecting the national law-making of its member countries in two chief ways. First, through model or reference laws, which are ratified by the Supreme Council as reference laws which member countries keep in mind when developing their national laws and try to implement them

⁹² Hart, Herbert L. (1961) *The Concept of Law*. Oxford, Clarendon Press.

⁹³ See *ibid* p. 19.

⁹⁴ See the GCC Charter, Article 4.

as their own national laws. Second, the GCC sometimes transforms a model law into a binding law, which is then adopted by the Supreme Council – not as a reference law but as a binding law, which the member countries are asked to implement as part of their national laws. For example, the GCC Common Law of Personal Status which was adopted by the Supreme Council as a reference law from 1996⁹⁵ until 2004. The Secretariat General states that some member states have considered this law while preparing their own laws.⁹⁶ The Supreme Council has adopted many other reference laws: the GCC Common Civil Law,⁹⁷ the GCC Common Penal Law and the GCC Common Juvenile Law.⁹⁸ This chapter has shown how GCC has helped its member states in drafting common laws to achieve similarity among them in the legislative coordination between judicial and legal bodies.⁹⁹ This chapter has argued that these common laws are likely to be interpreted and explained differently by national courts in each member countries. Therefore, the GCC should create a GCC court of law which can be responsible for explaining common laws.

Having covered the theories of international law and international relations in the second chapter, the historical context of member countries and the establishment of the GCC in the third and fourth chapters, its achievements in the fifth and its legal work in this chapter, it is now time to analyse the GCC in relation to several key international relations theories in the next chapter to reveal its identity and its real goals.

⁹⁵ The Supreme Council 17th session, Muscat, December 1996

⁹⁶ The GCC Progress and Achievements (2012), p. 292.

⁹⁷ Ibid.

⁹⁸ Ibid.

⁹⁹ GCC Secretariat General (2009) The GCC Process and Achievement. Riyadh, Secretariat General Publishing, p. 195.

Chapter Seven – Pressures and Identity: The Future of the GCC

7.1 Introduction

Having examined key theoretical international relations theories in the second chapter of this thesis, this section will now examine some of the GCC outputs and actions in order to ascertain its identity and interests as an international institution. This section presents three blocks which are built on each other to bring forward a better image of the GCC's identity. Taking a neorealist approach,¹ this section argues that a major goal of the leaders of GCC member countries is to create a mechanism that supports the survival of their royal political systems. This argument will be developed according to three key issues, relating to three different kinds of pressures facing these governments the establishment of the GCC to date. In a first instance, there is an older pressure – the Arab revolution known as Nasserism² – which was a serious influential political movement in the Arab World leading to the collapse of several Arab monarchies that emerged in 1980. Secondly, the influence of democracy continues to apply pressure on GCC member countries. This part explores how the GCC helps its member countries stand up against the international push towards democratisation. The third, more recent pressure is brought about by the new Arab revolution (the Arab Spring).³ The GCC's 2011 decision to extend its membership to two more countries and its unique decision to intervene militarily in Bahrain were a direct result of the Arab Spring. Throughout, the GCC reaction to all these kinds of pressures has been fuelled by a chief concern for the survival of the royal political system of GCC member countries.

¹ This theory argues that states do cooperate in order to ensure their survival. See detailed analyses of this theory in the previous chapter.

² As discussed below, Nasserism is an Arabic nationalism and anti-western political movement.

³ Below is more analysis of the Arab Spring.

7.2 Old Pressures: Nasserism

7.2.1 Introduction

While the first chapter of this thesis contextualised the GCC within key historical developments which cover the era of Nasserism, this chapter conducts a more in depth analysis of the former Arab revolution in order to juxtapose it with the more recent developments in the Middle East which have resulted in the 2011 Arab Spring. This enables a more precise examination and comparison of their impact on the GCC. For the purpose of this study, greater attention is given to Arab countries that used to have monarchical system because there were revolutionary movements in the Arab World that led to the switch from monarchies to republics. Apart from GCC member countries, there were six monarchies in the Middle East, four of which have already collapsed (Libya, Egypt, Yemen and Iraq) and two still surviving (Jordan and Morocco). Particular focus is given to the Egyptian context because the collapse of the Egyptian Monarchy was followed by Nasserism, a political movement that spread around the Arab World.⁴

7.2.2- The Kingdom of Egypt

In the 1940s, Egypt was not yet completely independent so the British ambassador directly intervened in Egyptian domestic affairs. There was partial political participation as the Egyptian King – King Farouk at the time – appointed the head of Wafd, the most popular party, to be Prime Minister.⁵ In 1936, the Egyptian Government ratified a treaty with the British Government, granting full independence to Egypt. However, even after independence, the Egyptian political system was shaped around the struggle of three powers: the King, the Wafd party and the British Government.⁶

⁴ See Mansfield (1973).

⁵ Choueiri (2000),p. 180.

⁶ Ibid.

7.2.3 Nasserism

In 1952, a military coup in Egypt signalled the end of the Egyptian Monarchy. This military coup was led by the founder of the Free Officers Movement: Gamal Abdul Nasser. Nasser became the Egyptian President from 1952 until 1970 with complete control over Egyptian internal and external affairs.⁷ According to Mahgoub, Nasser's main achievement was to end the monarchy and shift sovereignty from King Farouk to the Egyptian people.⁸ It would be more precise to say that power actually shifted from the monarchy to the Egyptian army rather than to the Egyptian people, however, Nasser was hailed by Egyptians and many people in the Arab World for fighting for the complete independence of Egypt.⁹

When Nasser led the overthrow of the Egyptian monarchy, it was not merely a military coup but part of a larger political movement that was about to impact the Middle East.¹⁰ Nasserism had no clear political ideology although it was influenced by Marxism as well as by the ideology of the Muslim Brotherhood Party.¹¹ Throughout Nasser's leadership, Arab Socialism grew out of a series of inspirations from European Socialists as well as from various practices.¹² Nasser led a revolutionary movement against Western intervention in the Arab world and encouraged the collapse of all Arab monarchies; it was this revolutionary movement that came to be known as Nasserism. The Egyptian Revolution of 1952 affected not only Egypt but the entire Arab world, as well as many other states in the Third World.¹³ Nasserism was the main reason for the collapse of many other Arab monarchies such as in Libya, Yemen and Iraq. Even after Nasser's death in 1970, his movement continued to be seen as a popular political movement in the Arab world. After the death of Gamal Abdul Nasser, Alqathafy, the former Libyan president, took the lead in supporting Nasserism.¹⁴

⁷ Ibid.

⁸ Mahgoub (1974), p66.

⁹ Ibid.

¹⁰ Choueiri (2000), p. 180.

¹¹ Mansfield (1973), p. 113.

¹² Ibid p. 114.

¹³ Ibid

¹⁴ Alqathafy was called by Libyan revolutionists in 20 October 2011, see *Alriyadh* newspapers, 15823, 20 October 2011.

The Nasserist dream was to free the Arab world from any foreign intervention, especially Western influenced interventions and to unite the Arab World.¹⁵ Nasserism strived to unite the entire Arab world under a one single state, under the belief that unity, liberty and socialism were three interdependent and crucial elements to building a new Arab World.¹⁶

7.2.4 The Influence of Nasserism on Libya

Libya became an independent country in 1951 when it was a Kingdom under the rule of the Al-Adrisy Royal Family. The Free Officers movement in Egypt had an impact on the Libyan army, which led a pressure group from within the army to prepare a military coup from 1961. In 1969, Moammar Algathafy (Gaddafi) successfully led this military coup, thereby bringing an end to the Al-Adrisy royal government. Algathafy was highly influenced by Nasserism and regarded himself as one of the main leaders of the Nasserist movement and the successor to Gamal Abdul Nasser.¹⁷

Coming from this political perspective, Algathafy condemned and humiliated the leaders of GCC countries, claiming that these countries were under the control of Western powers and that they are not truly independent countries. One of his last statements on this issue was at the Arab Leaders Summit in Qatar on 30 March 2009 when Algathafy started talking without the permission of the head of Qatar who was chairing the meeting. Even though the Chairman tried to stop Algathafy, stressing that it was not his turn to speak, Algathafy continued to attack Saudi King Abdullah, stating that Saudi Arabia is a country created by the UK and now protected by the US.¹⁸ This demonstrates how the pressures of Nasserism did not end with the death of Abdul Nasser in 1970, but continued to directly affect the leaders of the GCC at least until the death of Algathafy on 20 October 2011 after the Arab Spring revolution in Libya.

¹⁵ See Sicker (2001), p. 205.

¹⁶ See Ibid.

¹⁷ Husain, Zohair (2003) *Global Islamic politics*. Longman, p. 203.

¹⁸ BBC Arabic, (30 March 2009).

7.2.5 The Influence of Nasserism on Yemen

Between 1962 and 1970, there was a war in the north of Yemen between supporters of the Yemeni Monarchy and supporters of a new republic. During this war, Saudi Arabia was supporting the Royal Yemeni Government while Egypt sent the Egyptian army to support the republicans. At the end of the war the republicans won the war and the Royal Yemeni Government escaped to Saudi Arabia.¹⁹ Said Saif states that when the Yemeni people were victorious in managing to bring down the royal government and starting the first republic in the Arabian Peninsula on 26 September 1962, it was such a dramatic political change that it even threatened the royal family in Saudi Arabia.²⁰ This is obvious evidence that Nasser's commitment to political change was so important and that he supported the republican push throughout the Arabic world, so much so that he was ready to send military support.

7.2.6 The Influence of Nasserism on Iraq

After the First World War, Iraq came under British control.²¹ In 1930, British Commissioner Francis Humphrys and Iraqi Prime Minister Nuri as-Said agreed on a Britain-Iraq alliance treaty setting the independence of Iraq to 1932.²² Following in the steps of the Egyptian Free Officers movement, the Iraqi Free Officers movement was determined to lead to the collapse of the Iraqi monarchy.²³ Some civilian opposition, also inspired by Nasserism, was acting against King Faisal of Iraq and Prime Minister Nuri as-Said, strongly rejecting the pro-Western policy of the Iraqi Government.²⁴ On 14 July 1958, the Iraqi army led a successful coup under the command of Colonel Abd al-Karim Qasim, putting an end to monarchy in Iraq and killing both King Faisal and the Prime Minister.²⁵

¹⁹ Chatterji (1973) p. 262

²⁰ Said Saif (1987), p10.

²¹ See Sicker (2001), p. 82.

²² See Ibid.

²³ Ibid, p. 207.

²⁴ Sicker (2001), p. 107.

²⁵ See Ibid.

7.2.7 Nasserism: a Root of Division in Arab Countries

The rise of Nasserism's popularity worried Arab monarchies including in GCC countries which were regarded as pro-Western by supporters of this movement. What added to the power of Nasserism was Egypt's strong media, as Cairo's radio and press were very influential and powerful. That increased under the power of Nasserism and was seen as a serious threat to Arab Royal governments.²⁶ In 1957, the US encouraged countries opposed to Nasserism: just as the Cold War divided the World into two blocks, the Middle East was also divided, with Nasserism leaning more towards the Soviet Union. As Nasserism was becoming more powerful and gaining more followers, the US and the UK were pushing to create and support pro-Western countries in the Middle East.²⁷

These Arab revolutions overthrew monarchies to create republican countries that eventually became worse than the monarchical systems themselves, in terms of what they provide their own citizens.²⁸ The main failure of the governments of Arab republican countries is that through these transitions from monarchies to republics, the result was to transfer their countries to systems that remained similar to monarchies, in terms of creating an inheritance-based political system. In other words, not only does a president remain president for his entire life, but his son is also likely to inherit the presidency after him.²⁹ The Arab republican countries could not eschew the problems of the monarchy system whereby an incapable person, incapable of ruling a country, might become the head of said country due to his position in his royal family or party. Also, a king and his surrounding consultants may use the government to serve their personal ends which may be not compatible with the interests of their country.³⁰ The republican Arab countries could not get rid of these monarchical problems, which this chapter predicts was because their focus was only on the collapsing of the monarchy without being prepared to form better governments.

²⁶ Mansfield (1973), p. 123.

²⁷ Ibid. p. 127

²⁸ Albiyati (2007).

²⁹ Ibid

³⁰ Ibid.

7.2.8 Anti-Nasserism

Some Arab monarchies were perhaps pro-Western because they were created under the protection of Western countries. As was explained in Chapter One, without the protection of Britain, some GCC countries would perhaps not have survived. Nasser challenged all the Arab monarchies by leading the anti-Western movement calling for Arab nationalism. Nasserism relied on the belief that being a pro-Western government implied being a non-nationalist government, which does not care about Arab rights and the independence of their countries.³¹ Based on this, a pro-Western country would also be perceived as supporting Israel as a country created and supported by Western countries and a country that perhaps would not exist without these Western powers.³² Said Saif, like other Nasserists, asserts that the US is happy with the political system in GCC countries and that it prefers to maintain these systems rather than to change them into republics or democracies.³³ Like many Arabs, he was influenced by Nasserist notions that GCC countries prefer to support Western powers rather than support Arab interests. Arab monarchical countries were challenged by the fact that even their own citizens were beginning to perceive them as non-nationalist, with all the associated negative connotations. As a result, the governance systems of GCC countries faced two opposing challenges. On the one hand, there was the Nasserist push towards nationalism in order to replace monarchy governments by republics. And on the other, there was the Western push towards democracy that wanted to see a large part of power given to the people. At the end of the day, both challenges are pushing for the collapse of the style of monarchy governments of GCC countries. Before examining why GCC countries do not want to move towards democracy, this next section will first address the GCC response to Nasserism.

³¹ See Owen (1992), p 21.

³² See Ibid.

³³ See Saif (1987), p5-6.

7.2.9 The Creation of the GCC as a Response to Nasserism

It is a kind of natural reaction, for these six countries to come together in order to be more capable of protecting their political systems since they were surrounded by republican countries that were built on the ruins of collapsed kingdoms. Through Nasserism emerged the notion that the Arab world should be moving towards greater unity under the framework of nationalism by which Arabs should be united and powerful enough to stand up to Western avidity and intervention. The previously mentioned example of the attempt to unify Egypt and Syria in 1958 is a prime example of this: at the time, the two countries and the whole Arab world were excited about this unification. Nasserism spread the idea that monarchies were restraining the Nasserist movement towards Arab unity and freedom throughout the Arab world. A counter argument to this could be brought forward in a discourse explaining how the GCC was supporting Arab unity by bringing together six Arab countries under the umbrella of one organisation which should lead to their complete unity.³⁴ Also, the GCC has been taking the lead for the independence of the Arab Gulf from Western powers by taking on the responsibility of Gulf security.³⁵ The creation of the GCC was a practical response to the claim that monarchies were obstructing any kind of Arab unity and freedom. First, the GCC created a union between six Arab countries and, second, the GCC was an attempt to undertake the security of the Arabic Gulf in order to free the Gulf from any international powers.

In their first meeting, GCC leaders declared that the region's security and stability is the responsibility of their people and their states,³⁶ and that the creation of the GCC expressed the will of these countries and their right to defend their security and maintain their independence.³⁷ Also, they confirmed their total refusal of any foreign interventions in the region, no matter where from, and emphasised the importance of keeping the entire region out of any international conflicts and preventing the presence

³⁴ See the introduction of the GCC Fundamental Statute.

³⁵ See the Supreme Council, first statement (1981).

³⁶ Ibid.

³⁷ Ibid.

of any foreign military fleets or military bases. Such independence of the region is for the interest of the GCC and the interest of the world.³⁸ This voice of the GCC was very much in line with the strong voice of Arab nationalism as expressed through Nasserism, a voice that talks about working towards Arab unity and calls for the freedom of the region from Western powers. However, it has nonetheless been shown how GCC countries are also pro-Western as there has always been a Western military presence in all or several of the GCC countries.³⁹ That suggests that when anti-Western sentiment is expressed by the GCC, it is probably just to satisfy Nasserists.

7.2.10 The Effect of Nasserism on the GCC

This part argues that while more than one reason led to the creation of the GCC, the GCC's strict decision to restrict its membership to the six countries was mainly in response to Nasserism. The closed membership system of the GCC is enshrined in Article 5 of the GCC Fundamental Statute, referred to by GCC leaders as a hard law that they have to obey.⁴⁰ As this thesis remains first and foremost a law thesis, this next section therefore examines how the political context affects law. Specifically, this section brings to light how the leaders of the GCC suddenly ignored this article when they felt that their political systems faced a serious danger.

The GCC position towards Article 5 is explained through the framework put forward by neorealist scholars. Neorealists, as explained earlier, assert that survival and security are the main goals of states and that states use power as a means for achieving these goals.⁴¹ Waltz states that "States, which are deemed the major actors in the world affairs, are conceived as unitary actors motivated primarily by the will to survive."⁴² As politicians and not lawyers, the concern of GCC leaders, according to the neorealist position, is survival. Even though neorealists mean the survival of countries when using the term 'survival,' the same analysis can be applied here to the survival of the political system rather than countries. The GCC leaders control GCC membership only in as far

³⁸ Ibid.

³⁹ See in more detail the Western military present in the GCC countries in Said Saif (1987)

⁴⁰ See *Al-Arabiya* news, 1st Feb 2011.

⁴¹ Waltz (1988), p.618. .

⁴² Ibid.

as it supports the survival of their political systems, as will be shown through the following discussion which analyses the Arab Spring.

7.3 The Influence of Democracy

7.3.1 Introduction

Democracy is a global phenomenon and for some scholars, democracy has brought a global culture to the world.⁴³ A democratic political system is likely to lead to more justice and better conditions of human rights, but from the GCC perspective, the movement towards democracy should be smooth and gradual rather than dramatic. The Saudi Minister of Foreign Affairs Prince Saud Al Saud has stressed many times that moving towards democracy has to take its proper time.⁴⁴ This thesis argues that just as the GCC stood up to Nasserist pressures for transforming monarchies to republics at the time of its establishment, it also stands up to the Western push towards democracy. This unwillingness is not because they deny the importance of democracy but because they want the movement towards democracy to take its proper time.⁴⁵

7.3.2 Why Western Powers Push Towards Democracy

After the Cold War, the main concern of international politics was to transition all governments towards democracy and to push for greater democratisation. This push towards democracy has been a major concern of the policies of the chief Western international actors and it has been a main concern of several international institutions.⁴⁶ One of the principal reasons for the Western pressure towards democracy and liberalism may be that democracy is likely to cause stability and justice. Liberals propose that democratic states do not go to war with each other.⁴⁷ If this proposal were right, it

⁴³ Blaney and Pasha (1993), p. 26.

⁴⁴ The Saudi Minister of Foreign Affairs Prince Saud Al Saud, *Asharq Al-Awsat*, newspapers, 9586, 25 Feb 2005.

⁴⁵ The Saudi Minister of Foreign Affairs Prince Saud Al Saud, *Asharq Al-Awsat*, newspapers, 9586, 25 Feb 2005.

⁴⁶ Smith (2000), p.1.

⁴⁷ Burley (1993), p 237.

would imply that if Arab countries became democratic, there would be more stability in the Middle East and there would not be a threat of war. Democracy is seen as the better means towards development and high standard of justice and human right.⁴⁸ Many Western scholars have a very negative point of view about the political systems in the “third world” of which Arab countries, including GCC countries, are a part. Writers like former diplomat Jean-Marie Guehenno believe that the traditional governance system which exists in many third world countries are the expressions of a society where state institutions have not yet become stable. He claims that in this kind of system, the ruler has all the power to make vital decisions which could be affected by corruption and that decision-makers are few and known. This situation makes it easy for corruption to grow, not because it is difficult to control since decision-makers are already known, but because there is a political refusal to control corruption. In short, there is actually no state.⁴⁹

For a very long time, the Arab world has not been influenced by the international movement towards democratisation, and even the few Arab countries which are perceived as democratic countries, are characterized as "poor cousins" of Western democracies.⁵⁰ Some argue that the region will not accept democratisation due to the political culture in the Arab world where the leaders have a tendency to lean towards authoritarianism. In the Middle East's political culture, "personalities rather than ideas determine the line of government" and "where personalism is the rule, democracy does not correspond to twentieth-century conceptions."⁵¹ Others blame the people of these countries, arguing that people in the region always rely upon their government to bring about political change, development or reform.⁵²

7.3.4 Why the GCC Countries Are Not Rushing Towards Democracy

GCC leaders are in no rush to apply democracy in their domestic systems not only because they would like to keep enjoying the benefits of being the permanent high authority in their countries but also because they are, perhaps, influenced by some ideas

⁴⁸ Smith (2000), p.22.

⁴⁹ Guehenno (1998), p 151.

⁵⁰ Browsers, Michaelle (2006) p. 1.

⁵¹ Tutsch (1958), p. 2. Cited in Browsers, Michaelle (2006) p, 1.

⁵² Browsers, Michaelle (2006) p, 1.

like those of Bernard Lewis. In 1964, Lewis wrote about democracy in the Middle East, claiming that this is due to the way that it was applied and not to Arab political theology.⁵³ It is easy for Western countries to merely transfer their own kind of democracy to the Middle East but it is not a useful way of achieving their goals for democracy.⁵⁴ Lewis explains "We of the West no doubt all share the belief that liberal democracy, with all its weakness, is the best instrument that any section of the human race has yet devised for the conduct of its political affairs. At the same time we should remain aware of its local origin and character, and try to avoid the primitive arrogance of making our own way of life the universal standard of political morality." Democracy is a good political system but it is not 'the law of nature.'⁵⁵

7.3.4.1 Enforced Democracy

Historically, there have been some serious attempts to export the Western democratic system to the Middle East. Britain tried to create democracies in the Arab countries that used to be under its control before they got their independence, for example in Egypt and Iraq. But soon after independence, there were military coups in these countries, as explained earlier. These countries were introduced to democracy by introducing the main democratic elements such as a written constitution, independent parliaments, elections, the freedom of creating political parties and free media. These attempts of democratising these countries failed resulting in the search for alternative systems.⁵⁶ For Lewis the reason of the failure of democracy in the Arab World is very clear.

A political system taken over ready-made not merely from another country but from another civilization, imposed by Western or westernized rules from above and from without, could not respond adequately to the strains and stresses of Islamic, Middle Eastern society. Democracy was installed by autocratic decree; parliament sat in the capital, operated and supported by minute minority, whose happy immersion in the new game of parties, programmes and politicians was ignored, or else watched with baffled incomprehension, by the great mass of the people. The result was a political order unrelated to the past or present of the country, and profoundly irrelevant to the need of its future.⁵⁷

⁵³ Lewis (1964), p. 58.

⁵⁴ Ibid.

⁵⁵ Ibid.

⁵⁶ Lewis (1964), p. 58.

⁵⁷ Ibid p. 58-59.

Lewis highlights how Western democracy was created to meet the needs of Western countries, and criticises the way democracy was introduced to the Arab world. Lewis explains: "The parliament at Westminster is the result of centuries of history, with its roots in the Anglo-Saxon *witenagemot*; it is the apex of a pyramid of self-governing institutions, with its base at the parish pump. It was evolved by Englishmen, on the basis of English experience, to meet English needs. The parliament of Cairo was imported in a box, assembled and ready for use, without even a set of do-it-yourself instructions. It responded to no need or demand of the Egyptian people; it enjoyed the backing of no powerful interest or body of opinion."⁵⁸ Having highlighted the problem, Lewis offers a solution for this dilemma of democracy in the Arab World. For him, the main problem is that not enough time was given to Arab societies to adjust to the Western democratic system in their own situations and needs.⁵⁹ The Saudi Minister of Foreign Affairs has already mentioned that he shares Lewis' opinion that the main solution for the dilemma of democracy in the Middle East is time: processes have to take their proper time.

7.3.5 The GCC and Western Pressures for Democracy

How can the existence of the GCC be one of the means of responding to Western pressures for democracy? In a speech about democracy in Saudi Arabia, Minister of Foreign Affairs Prince Saud Al Saud stated that democracy is a means but it is not itself a goal.⁶⁰ King Abdullah, the Saudi King, says that he believes that Saudi Arabia, is in a sense a democracy as it is.⁶¹ Ahmad Al-Jar' Allah explains the Saudi perspective of democracy, stating that the fact that the Arab Spring did not really affect Saudi Arabia and the rest of the GCC countries is due to a justice that prevails in the country, adding that the citizens in the Kingdom have easy and direct access to all the top leaders in government. Citizens can go and raise their voices and speak to these leaders, even without titles.⁶² According to Al-Jar-Allah, if there is justice, but realised in another way and within the concept of privacy, religion, traditions and customs of Gulf states, then

⁵⁸ Lewis (1964), p. 59.

⁵⁹ Ibid, p. 58

⁶⁰ *Asharq Al-Awsat*, newspapers, 9586, 25 Feb 2005.

⁶¹ EI-Tahri and Smith (8 Feb 2005).

⁶² See Ahmad Al-Jar-Allah (4 March 2012) *Al-seyassah* newspapers.

the values of democracy are present.⁶³ According to King Abdullah, Western democracy is still too distant from this and the time has not come for Saudi people to switch to democracy.⁶⁴

Some GCC leaders claim that it is more important to reach the objectives of democracy such as human dignity and justice than to have democracy as a system. This vision of GCC leaders is supported by some international relation scholars. McDougal and Lasswell, for example, after discussing the reactions of dictatorships to international moves towards more human rights, state that the final goal is achieving human dignity no matter by which system.⁶⁵ They state that there is a variety of political systems which "differ in many details of the institutionalised patterns of practice by which they seek to achieve such goals in specific areas and in the world as a whole. The important point is that varying detailed practices by which overriding goals are sought need not necessarily be fatal to the future of mankind but can be made creative in promoting and expending freedom, security, and abundance. The modern world is a cauldron of aspiration for a better life on the part of millions of human being hitherto devoid of any expectation of receiving serious consideration. Unless the institutional details of all system of public order are open to reconsideration in the light of the contribution that they make to the realization of human dignity in theory and fact, the plight of the world community will remain as precarious as we knew it to be today."⁶⁶

Some may argue that these types of claims from GCC leaders, that they are closer to the values of democracy than others in the Middle East are, is merely resistance to change. GCC leaders argue that the values of democracy such as justice and the well-being of citizens are more important than the techniques for achieving democracy such as elections and the right of demonstrating. In many supposedly democratic Arab countries, such as Egypt and Syria,⁶⁷ presidential elections take place, even though the president never changes but always wins the election by nearly 99%. Such governing

⁶³ See Ibid.

⁶⁴ See Ibid.

⁶⁵ McDougal and Lasswell (1996), p. 116-117.

⁶⁶ Ibid.

⁶⁷ In June 2012, Egypt people enjoyed the first real election after the Egyptian revolution 2011 which is discussed below.

systems are nonetheless perceived as closer to democracy than the royal systems of the Gulf countries.⁶⁸

GCC leaders think that they are likely to succeed in convincing their people and the world that they are able to function and succeed in creating an effective international institution to prove their ability to achieve good governance as long as the rest of Arab countries cannot achieve a better governing system. Many Arab countries failed to do so under Nasserism and no one knows yet if they will successfully become democratic or whether they will actually become real or vague democracies. If other Arab countries become real democratic countries and succeed in achieving well-being for their people and succeed in economic cooperation then the GCC countries will face a real challenge and their political system will be in serious danger. As this has not happened yet, it seems that GCC countries are doing well in protecting their governing systems.

Together, the GCC countries have succeeded in standing together against the pressures of Nasserism and against the imposition of a Western democratic model. However, since early 2011 the GCC has been facing different kinds of pressures, this time, emerging internally from their citizens, who are influenced by the people of other Arab countries demanding freedom and democracy.

7.4 Recent Challenges (The Arab Spring)

7.4.1 Introduction

The first part of this chapter has analysed how the GCC has attempted to ensure the survival of the political system of monarchy in its member countries, particularly in facing the external challenges posed by Nasserism and Western demands for democracy. This part now examines how the GCC assists member countries in protecting national political systems from internal challenges from some GCC citizens demanding democracy. More focus is given to this third type of pressure than the two previous ones because it reflects current events while the previous ones are more historical. It analyses several key events which took place in 2011, as well as the GCC

⁶⁸*Al-Ahram*, news paper. 11/7/2003.

response to them. It therefore explores the Arab Spring and how the GCC extended its membership as a response; it also analyses how the GCC has been prepared to resist any internal challenges to the political systems of member countries even through military intervention, such as the GCC military intervention in Bahrain.

7.4.2 The Arab Spring (2011)

The modern revolutions in the Arab world that started in Tunisia (11 December 2010), Egypt (25 January 2011), Yemen (11 February 2011), Libya (17 February 2011)⁶⁹ have led to the dramatic collapse, in each case, of a dictator's decades-long rule. However, in some Arab countries, this domino effect on Arab dictators has not ensued without bloody conflict.⁷⁰ Other revolutions are taking place in Bahrain (14 February 2011), which seems to end without real political change and in Syria (15 March 2011) which is still on going on.⁷¹

7.4.2.1 Arab Frustration

The President of Algeria Abdul Aziz Bouteflika states that the lesser development of Arab countries is due to the absence of: freedom of speech, obtaining knowledge, and women's rights. Nations other than Arab, the president continues, have developed much more than the Arab ones.⁷² He believes that the majority of Arab people are not happy with existing Arabic policies and the rest of the world has come to see Arab countries as a threat to world security and reflecting a culture which does not accept the values of democracy. He asks why Arab countries have not done anything right in anything that they do, since they have achieved independence. His response is that Arab ideas that have the same background and are influenced by the same factors sometimes lead to making bad decisions in matters of politics, economics and international relations.⁷³

Bouteflika is talking about two failures in Arab policies: the first is in the governmental systems that led to bad political and economic decisions and the second is not having

⁶⁹ See *Asharq Alawsat*, newspaper (18 April 2011), 11829. (in Arabic).

⁷⁰ See Hardy (15 April 2011)

⁷¹ See *Asharq Alawsat*, newspaper (18 April 2011), 11829. (in Arabic).

⁷² Bouteflika (2003), p.791.

⁷³ Ibid.

succeeded in international relations. He believes that Arab policies have not achieved a minimum of success; indeed, it is not only his belief, but rather it is likely that the majority of Arab people share the same feeling, as evidence by the Arab Spring.

7.4.2.2 The Tunisian Revolution

Tunisia was governed by the Ben Ali regime which had been in power for 24 years (1987-2011), though Ben Ali used to claim that he was the one who got rid of the principle of "presidency forever" that the governing system of Tunisia was built on before him.⁷⁴ The first Tunisian presidential election was in 1989, and Ben Ali won the first election and all the presidential elections thereafter.⁷⁵ While he may be right that the previous Tunisian government was worse, the situation did not seem to improve much during his presidency. The final moments of his presidency started when the police mistreated Mohamed Bouazizi on 11 December 2010, the moment regarded as the first spark of the Arab Spring or the modern Arab revolutions. The police took Bouazizi's vegetable carriage, his only source to feed himself and his family, claiming that it was illegal to do this job. He was a young man who immolated himself in the street as a reflection of the unjust treatment he faced by the police when a policewoman slapped him on the face when he was asking them to return his carriage and they refused.⁷⁶ After this tragic event, millions of people went to the streets to demonstrate against Ben Ali's Government and the demonstrations continued, requesting freedom and democracy until Ben Ali escaped Tunisia for Saudi Arabia on 14 January 2011.⁷⁷ The Tunisian army lived by their duty and never accepted to be used by their government to kill their own people; instead they advised Ben Ali escape Tunisia. The Chairman of the House of Representatives then became interim president until the earliest presidential elections, for a duration of 45 to 60 days.⁷⁸ Now in 2012, thanks to the Tunisian revolution, Tunisia is governed by an elected government and the Tunisian president is from the Al-Nahthah Party which was banned for three decades.⁷⁹

⁷⁴ See *Asharq Alawsat*, newspaper (31 Oct 2011)

⁷⁵ See *Ibid*.

⁷⁶ See the *Washington Post* (27 March 2011).

⁷⁷ *AsharqAl-Awsat* newspapers (15 April 2011) 11728.

⁷⁸ See *Ibid*, (31 Jan 2011), 11752. (in Arabic).

⁷⁹ See *Ibid*, (20 Nov 2011), 12045. (in Arabic).

7.4.2.3 *The Egyptian Revolution*

It was not long before the Tunisian revolution influenced the Egyptian people and on 25 January 2011 they started to demonstrate in millions. The most effective Egyptian demonstration was the one in Tahrir Square in Cairo and it was against Mubarak's regime, who had ruled the country for 30 years (1981-2011), asking for freedom and democracy. The demonstrations were led by young people communicating through the social networking website *Facebook* and some opposition groups including the Muslim Brotherhood and Kifaya. This led President Mubarak to abandon his position as the President of Egypt on 11 February 2011 and instructing the Egyptian Supreme Council of the Armed Forces to take control of the country.⁸⁰ In June 2012, there was for the first time in Egypt, a real presidential election. The main candidates were: Mohammad Morsi, the head of the Brotherhood Party and Ahmed Shafiq, the previous Egyptian Prime Minister. Nearly half of Egyptians voted for Morsi and the other half for Shafiq, the official results of the election have not been declared, as of the writing of this thesis.⁸¹

7.4.2.4 *Revolution in Libya*

The Libyan Revolution has been a bloody modern Arab revolution, and in fact, it turned into a war between revolutionaries and Al Qaddafi's regime took the lives of many Libyan people. Libyans surely wanted it to be like the revolutions in Tunisia and Egypt and they may not have known it would turn into a civil war, but they were determined to continue their revolutionary war until the Al Qaddafi regime was dismantled.⁸² It started as a peaceful demonstration until Al Qaddafi opened fire and carried out heavy aerial bombardment to suppress unarmed demonstrators. Consequently, the peaceful demonstration developed into an armed revolution aiming to bring down Al Qaddafi who was determined to fight until the last moment.⁸³

The UN passed Resolution 1970 criticising the use of aggressive violence against civilians in Libya and welcomed the expression of grave criticism by the Arab League, the African Union and the Organization of the Islamic Conference in relation to Libya's

⁸⁰ See Ibid, (11 Dec 2011), 12066. (in Arabic).

⁸¹ See Ibid (20 June 2012).

⁸² See *Alriyad* Newspaper (21 Sep 2011), 15794. (in Arabic).

⁸³ See Ibid, (17 July 2011), 15728.

grave breaches of human rights and international humanitarian law.⁸⁴ On 12 March 2011, the Council of the Arab League called for the imposition of a no-fly zone on Libya, which was actually a proposal from the GCC transferred through the Arab League.⁸⁵ The UN passed its second resolution on Libya, recognising the situation in Libya as a threat to international security, which required the UN to act under Chapter VII of its Charter.⁸⁶ This resolution led to the decision to start enforcing a no-fly zone on Libya to protect civilians from the Al Qaddafi regime,⁸⁷ and NATO started to apply a military no-fly zone on all flights in the airspace of Libya.⁸⁸ At the end of this civil war, Al Qaddafi was killed signalling the end of the Libyan civil war.⁸⁹

7.4.2.5 Revolution in Yemen

On the same day that the Egyptian revolution successfully removed President Mubarak from the presidency of Egypt, 11 February 2011, the Yemeni revolution started.⁹⁰ Just as in the other Arab revolutions, the Yemenis demonstrated against their President, Ali Abdullah Saleh, who had ruled the country for 33 years.⁹¹ The Yemeni people were also asking for freedom and democracy. This revolution was clearly influenced by the Tunisian and Egyptian revolutions that succeeded in removing their relative presidents and, as a result, in changing the governmental systems. President Saleh has often warned that if the demonstrations did not stop, there would be a civil war in Yemen,⁹² trying to say that the Libyan example is likely to be reproduced in Yemen rather than the Tunisian or Egyptian ones.

One of the key tribal leaders in Yemen is Ali Sadiq Al-Ahmar who declared his support to the Yemeni revolution against Ali Saleh's Government.⁹³ On 24-25 May 2011, the Yemeni army – under the command of Ali Saleh – initiated rockets attacks on Al-Ahmar's house, during which some of his guards were killed.⁹⁴ Al-Ahmar declared this

⁸⁴ Security General resolution 1970 (26 February 2011).

⁸⁵ See Arab League resolution (12 March 2011).

⁸⁶ Security General resolution 1973 (17 March 2011).

⁸⁷ Ibid.

⁸⁸ See *Alriyad Newspaper* (21 Sep 2011), 15794. (in Arabic).

⁸⁹ See *Asharq Alawsat*, newspaper (26 Oct 2011), 12020. (in Arabic).

⁹⁰ *Alriyadh Newspaper* (14 Dec 2012), 15878.

⁹¹ See *AsharqAlawsat*, newspaper (1 Dec 2011), 12068. (in Arabic).

⁹² See Ibid, (2 Jan 2012), 12088. (in Arabic).

⁹³ See Ibid, (22 Mar 2011), 11802. (in Arabic).

⁹⁴ See Ibid, (1 Dec 2011), 12068. (in Arabic).

attack to be an attempt by Ali Saleh to draw the country into a civil war.⁹⁵ Fortunately, the Yemeni situation has not developed into a civil war and was resolved peacefully thanks to the GCC initiative.⁹⁶

The GCC played a key role in finding a peaceful way for the Yemeni revolution not to end but to peacefully succeed in achieving its goals for freedom and democracy. The GCC initiative was the main international help for Yemen. It proposed a way of transferring the power from the Yemeni government to the Yemeni people in a gradual pace over a period of two years.⁹⁷ First, the Secretary-General discussed the initiative with key Yemeni parties, and after they agreed on it, the GCC passed the initiative to the UN Security Council.⁹⁸ All the members of the Security Council supported the GCC initiative and released their Resolution number 2014 which adopted the GCC initiative.⁹⁹ After a lot of effort done by the GCC Secretary-General, Abdul Larif Al Zayani, the Yemeni President as well as the opposition parties agree to come to Riyadh to sign the agreement in front of the Saudi King Abdullah on November 2011.¹⁰⁰ Then in the Yemeni House of the President, there was ceremony for the transfer from the Yemeni previous President Ali Saleh to the new President Abed Rabboh Hadi.¹⁰¹ It would have likely resulted in a civil war if the GCC had not directed the revolution to its peaceful gate.

This thesis sees a unique development in this GCC effort, not only in the success in resolving the matter but the clear role of the Secretary-General, Abdul Larif Al Zayani. He was acting more freely and independently, he travelled to Yemen several times. There are no authorised resources that confirm that he was given room to lead the GCC Secretariat General especially in this matter. Yet, it was obvious that he was given the trust of the GCC leaders with a good level of independence. It may be one of the reason for this GCC success and may lead to the GCC enjoying a better level of independence in the future.

⁹⁵ Aljazeera TV (25 May 2011).

⁹⁶ See the Closing Statement of session 33 of the GCC Supreme Council (20 Dec 2012).

⁹⁷ The GCC Progress and Achievement (2012), p.27. (in Arabic)

⁹⁸ Ibid.

⁹⁹ Resolution 2014, the UN Security Council.

¹⁰⁰ *Asharq Al-Awsat* newspaper (31 Dec 2012), 12086.

¹⁰¹ Ibid, (28 Feb 2012), 12145.

7.4.2.6 Syria

The effects of the Arab Spring began to impact Syria on 15 March 2011. The Syrian people started to demonstrate in many Syrian cities, demonstrating against President Bashar Al-Assad, who has ruled the country for 11 years since 2000 when he inherited the presidency from his father, Hafeth Al-Assad, who had himself ruled Syria for 30 years (1970-2000).¹⁰² The Syrian police and army forced the people to stop their peaceful demonstrations and as a consequence, thousands of civilian people have been killed and even more arrested.¹⁰³

It has become the bloodiest revolution in the Arab Spring. Since this revolution started, the media show killed men, women and children every day. The GCC shows a strong support to Syrian people. Saudi Arabia and Qatar are more willing to support Syria, they suggest supporting the Syrian people with weapons so they can defend themselves. It is actually unusual for the Saudi external policy to be this strong. For Saudi Arabia, the matter is not only Syrian revolution but it is a cold war between Saudi Arabia and Iran. Iran, Russia and China are the main supporters of Syrian government. Saudi Arabia does not want Iran to have more influence in the Middle East. Iran supporters in the area are all Muslim Shi'ah, while the Syrian President, Bashar Al-Asad and all the key people in the Syrian government are Muslim Alawi which is very close to the Muslim Shi'ah. This is maybe the reason Bahrain and Kuwait are not as strong as Saudi Arabia and Qatar in this matter because there is a considerable number of Muslim Shi'ah citizens in these two countries who would likely support the Syrian government because they are Alawi.

This chapter highlights the point that, although Saudi Arabia and Qatar strongly pronounced their will to support the Syrian people, they could not do anything, while in the Yemeni case they GCC was very successful. This reveals the power of institutionalised work and the lesser power of states working individually. This supports the institutionalist theory that international institutions can sometimes function better than states and that they are not mainly some tools in the hands of states as the realist claim.

¹⁰² See *AsharqAlawsat*, newspaper (7 Dec 2011), 12062. (in Arabic).

¹⁰³ See *AsharqAlawsat*, newspaper (7 Dec 2011), 12062. (in Arabic).

7.4.3 Analysis of the Motivations Behind the Arab Spring

Over the course of the 20th Century many changes have taken place and the main focus of constructivists is on how these changes happened nationally and internationally and whether these changes occur within the framework of institutions or not.¹⁰⁴ There is a relationship between history and structure which forces change in society, and this relationship facilitates the clarification of the nature of this change.¹⁰⁵ Constructivists assert the importance of studying change, examples of change being the end of the Roman Empire and the collapse of the Soviet Union.¹⁰⁶ What has happened in the Middle East is a recent serious change, which is applicable for analysis from a constructivist framework. This section attempts to analyse the modern Arab revolutions (the Arab Spring) using the perspective of the work of constructivists in order to analyse the GCC response to this revolution.

Constructivists assert that knowledge and learning can lead to some significant change in society. They explain that people hold some beliefs about society and politics in their minds.¹⁰⁷ Their belief guides their behaviour: “the world is in the eye of the beholder.”¹⁰⁸ The question here is where these beliefs come from and how they affect behaviour. 'Social reality' is what people believe to be real social life, as people construct and constitute society, society constructs and constitutes people in turn.¹⁰⁹ So, there is continuing interactive process of constructing and being constructed in any society which, individually and collectively, form people's awareness of reality; their understanding of reality forms the decisions they make.¹¹⁰ Arab people's beliefs about the reality of their political systems and the way they can be modified have changed. As a result, Arab people's behaviour has changed as well.

¹⁰⁴ Dougherty & Pfaltzgraff (2001), p. 167.

¹⁰⁵ Adler cited in Dougherty & Pfaltzgraff (2001), p. 167.

¹⁰⁶ Dougherty & Pfaltzgraff (2001), p. 106.

¹⁰⁷ Dougherty & Pfaltzgraff (2001), p. 166

¹⁰⁸ Ibid, p. 166

¹⁰⁹ Onuf (1989), pp. 37.

¹¹⁰ Dougherty & Pfaltzgraff (2001), p. 167.

In any society, impressive and revolutionary changes in collective opinions about key values, behaviour and political practice can take place.¹¹¹ Different societies learn from each other and beliefs, opinions and behaviours can be transferred from one society to the next. These translations of knowledge can only happen if the transmitting society is able to transmit their experiences to the receiver society.¹¹² Today, technologies have facilitated these transmissions, especially with new social media tools that aide in the translation of knowledge, such as Facebook and Twitter, which played a significant role in helping the Arab Spring intensify.¹¹³

Dougherty and Pfaltzgraff explain that in this sense, ‘Learning’ means the capacity of actors to implement a “new interpretation of reality” in order to make this ‘new reality’ internally and externally accepted as a new political system.¹¹⁴ The actors that initiated the Arab Spring were not the leaders of their countries or parties; rather they were just average young people. Their movement was massive and effective, gathering millions of demonstrators into their cause.¹¹⁵ This chapter argues that all of this took place because people had already realised that there is a better government system that is able to provide them with a better life than a dictatorship is. They had already observed other democratic nations being guided by an elected government that has led their countries to increased development, welfare, human rights and justice.

7.4.3.1 The Importance of Knowledge

Ernst Haas defines knowledge as “the sum of technical information and of theories about that information which commands sufficient consensus as a given time among interested actors to serve as guide to public policy designed to achieve some social goal.”¹¹⁶ Knowledge involves 'scientific notion' which is tied to social aim; this notion is usually influenced by ideology and by the interest of its supporters.¹¹⁷ Haas stresses

¹¹¹ Ibid, p. 168.

¹¹² Ibid, p. 167.

¹¹³ See *Asharq Alawsat*, newspaper (7 Oct 2011), 12001. (in Arabic).

¹¹⁴ Dougherty & Pfaltzgraff (2001), p. 168.

¹¹⁵ See *Asharq Alawsat*, newspaper (27 Apr 2011), 11838. (in Arabic).

¹¹⁶ Haas (1980), pp. 367-368

¹¹⁷ Ibid, p. 368.

that new knowledge can lead to revolutionary change.¹¹⁸ Krasner differentiates between two kinds of change: evolutionary change which leads to the creation of new rules and procedures within the same old principles and norms and revolutionary change, which leads to the creation of new principles and norms and, consequently, new rules and procedures.¹¹⁹ Considering these points by Krasner and Haas, importance is placed here on knowledge as it relates to regime theory: their breakdown of knowledge is useful in its application to the discussion about the Arab Spring.

Haas disagrees that extraordinary changes in society occur when there is change in 'national power position,' Stating, "the reappraisal of national power is itself partly the result of changing knowledge about capabilities to act meaningfully. The old national interest is questioned when a new claim to truth is generally accepted and when this claim is thought to contain a remedy for some generally experienced social ill."¹²⁰ This is what has happened in the Arab world: knowledge is what affects society not national power, it was neither liberal nor Islamic parties that led to this revolutionary change, but rather new knowledge. This new knowledge came from Western experiences of democracy that led Western countries to become more developed while Arab countries remained underdeveloped, due to their poor political system. What adds vital experience to this knowledge is the success of the first modern Arab revolution in Tunisia; the lesson Arab people learnt from the Tunisian Revolution is that people can lead to political change for better by themselves.

When leading groups and individuals begin to believe in some key new knowledge, this knowledge may result in a reconstruction of the political regime.¹²¹ People in the Arab world are aware of three different kinds of political systems. First, there are monarchies: in this system all the power is held by the king; many examples of this system are found in the GCC countries. In a second instance, there are republics similar to monarchies, based on a system in which the president remains in his position for his entire life. This second example manifests itself in the majority of non-GCC Arab countries. Finally, the third system is the Western democracy.¹²² While the first two

¹¹⁸ Ibid, p. 368.

¹¹⁹ Krasner (1996), p. 183.

¹²⁰ Haas (1980), p. 369.

¹²¹ Haas (1980), p. 369.

¹²² See more on the influence of democracy in the Arab world at the beginning of this chapter.

systems exist in the Arab World, the third one is hardly found in this region.¹²³ It is not uncommon for people to compare their political system to the system of other nations and as a result, they may blame their political system for their poor and underdeveloped lives in economic justice systems, human rights and political rights. Having been confronted with these changes in the Arab world, the GCC had to take action.

7.5 Extending Membership to Jordan and Morocco

One of the GCC responses to the Arab Spring was to declare its will to extend membership to the remaining Arab monarchies. Considering that GCC membership has been a controversial issue since the GCC was first established, this section examines why the GCC decided to limit its membership to six members, refusing to extend it for thirty years only to suddenly decide to extend it in 2011. It was not until 10 May 2011, when the Supreme Council held an irregular meeting in Riyadh, at which member countries declared their acceptance of Jordan's request to become a member of the GCC. In addition to this, existing GCC member countries also offered GCC membership to Morocco.¹²⁴ This declaration led several commentators to discuss the link between the GCC and the Arab monarchical governing system.¹²⁵ This extension of membership raises several important points which need to be highlighted.

Morocco had not requested to become a member of the GCC; the offer came as a surprise to the Moroccan Government and people. The GCC had never mentioned a membership for Morocco and had never notified the Moroccan Government about a possible membership.¹²⁶ While the GCC had previously only held irregular meetings when there was an urgent and serious situation,¹²⁷ but the Supreme Council held such a meeting in Riyadh only to declare the offer of its membership to Jordan and Morocco.¹²⁸

¹²³ Although Lebanon and Kuwait can be regarded as democratic countries, their government rarely become stable.

¹²⁴ The Supreme Council thirteenth irregular meeting (10 May 2011) Riyadh, Saudi Arabia.

¹²⁵ See for example, The Club Fit for Kings (19 May 2011), the *Economist* Available on www.economist.com [accessed on 21 April 2012].

¹²⁶ *Asharq Al-Awsat* (11 May 2011), 11852.

¹²⁷ Supreme Council irregular meeting (15 Jan 2009).

¹²⁸ Ibid, No. 13 (10 May 2011).

Geographically, Morocco is the furthest Arab country from the Gulf while the GCC, as an organisation, has linked itself to a geographic region, namely the Arab Gulf. It can be noted that the formal name of the GCC, the Cooperation Council for the Arab States of the Gulf, outlined some criteria for its membership. The words *Arab Gulf* links this organisation to countries which have territory within the Gulf and the word *Arab* excludes Iran as it is not an Arab country, even though it has territory on the Gulf. However, the key excuse that the GCC has been using in the face of country asking for a membership is Article 5 of the Fundamental Statute. This article states that the GCC members are only six members without giving any explanation.¹²⁹

This section argues that the reason for which the GCC restricted its membership to six countries in 1981 is the same reason why the GCC decided to extend its membership in 2011. In the 1980s, many of the GCC countries, as mentioned earlier, were not strong enough to stand up alone to the threat of Nasserism, while Jordan and Morocco, were perhaps strong enough to handle such a threat to their existing political systems. The 2011 powerful internal pressures emerging from inside several Arab countries, with their own citizens demanding freedom and change – the Arab Spring – pose one of the most serious challenges to the political system of these countries. Observing this internal threat facing the remaining monarchies of the Arab world (Jordan and Morocco), GCC countries decided to help the survival of these monarchies by offering them membership to the GCC. This chapter argues that the rationale behind this is may be that a greater number of monarchies provide a greater opportunity for such systems to be accepted and to survive.

Some may question why the GCC did not invite Jordan and Morocco from the beginning if their goal was the survival of Arab monarchies. This question can be answered in several ways. Firstly, the GCC would not like to appear as a grouping of monarchies but as an international organisation. Secondly, at the time of its establishment, GCC member countries were weaker, compared to now when they have become much stronger in many aspects: politics, economic, media, etc... They are politically strong as they have been playing a significant role in the Arab Spring, by supporting the Libyan people against Al Qaddafi's regime. They also helped Yemen

¹²⁹ Article 5, the GCC FS.

put an end to its revolution by signing an agreement between the Yemeni Government and the Yemeni people, helped Bahrain stand up against its domestic problems and now are leading the effort to help the Syrian people against the Bashar regime. Economically, they are very wealthy and strong due to the high price of oil. They have also helped Bahrain and Oman economically for them to solve domestic problems. All GCC countries have raised the salary of their citizen employees by 50% –by 100% in some – and government spending on citizens has considerably increased in response to the Arab Spring. In terms of the media, GCC countries have the most effective media in the Middle East: Al Jazeera and Al Arabiya are the two strongest and most influential TV channels in the Arab World, both owned by GCC countries and both playing a significant role in covering the Arab Spring.

All of these are strengths of GCC countries while Jordan and Morocco have no such strengths. Also, the people in these two countries have been more inspired by the Arab Spring and demonstrated more seriously against their government, but the two countries are not able to increase government spending significantly. They need the GCC's support to survive while at the same time, GCC leaders would like these governments to survive to ensure the survival of monarchies as an accepted system of governance.

7.5.1 The Rules of GCC Membership: Between Law and Politics

It has already been mentioned that GCC membership is closed, with only six existing members, explicitly expressed in Article 5 of the Fundamental Statute. Article 8 of the Fundamental Statute states that only the Supreme Council has the authority to amend the Fundamental Statute, however, the Supreme Council did not try to change Article 5 to open the door to more flexible rules about GCC membership and the dilemma that the GCC now faces is how to define the conditions that a state needs to meet to become eligible for membership of the GCC. Nonetheless, the GCC has been referring to Article 5 as the legal basis for rejecting any request for membership. The GCC just suddenly express its willingness to extend membership to Jordan and Morocco. It did not justify why especially these two countries among the Arab World should have this privilege, nor did it justify the timing of this decision. However, the one different thing

between these two countries and the rest of the Arab countries is that they have monarchy political system. In this context, Morocco had not asked the GCC for membership before while Jordan had.

This action by the GCC is likely to negatively affect its reputation and strength as an international organisation. From a legal positivist perspective, Jordan and Morocco's membership to the GCC are not legitimate, because an international organisation cannot simply ignore its rules or create laws that they disregard without any explanation. There is an existing GCC law that states that GCC membership is limited to the existing six members only. This law is enshrined in Article 5 of the GCC FS and has often been used to refuse numerous requests to join the GCC. This law is very precise and there is no doubt about its meaning. In addition, there is a delegation for dispute settlement in the GCC which could provide advice about any dispute that may arise regarding this law. The delegation here is weak because, as discussed in Chapter Three, it is part of a body (the GCC Commission for the Dispute settlement) that is already part of the GCC while the delegation should be linked to a third independent party. However, the GCC membership law is highly recognised and highly precise which makes it hard law from a legal positivist perspective. The extension of GCC membership would satisfy legal positivism if the GCC Supreme Council had first amended Article 5 to allow more membership as the FS gives the Supreme Council the authority to change the FS. Only after the Supreme Council has done this, can the GCC declare its willingness to extend its membership.

This chapter perceives from this GCC action that the GCC is under the full control of politicians and that these politicians may decide at a certain point to ignore the instructions of international lawyers. As in chapter four of this thesis, international lawyers or legal positivists have clarified the difference between hard and soft law and that hard law should not be ignored. Doing so would not serve the goals of the GCC countries in developing their cooperation. The GCC has recognised Article 5 of its charter as hard law and legal positivists have explained how a charter can be changed as analysed in chapter four of this thesis. All that the GCC needs to do, if they are willing to extend their membership, is to change Article 5 of the GCC charter.

When law is contrary to political will in a given issue such as this, law should be taken, according to Koh, as "means of authority and social control."¹³⁰ Law is a normative factor, as Koh explains: "legal rules generated by interactions among transnational actors shape and guide future transnational interactions."¹³¹ Koh also explains that one role of law is being "constitutive, in the sense of operating to reconstitute national interests."¹³² Therefore, when politicians obey and ignore laws only when and as they want, they are actually obstructing a law's function to be constitutive, normative and to guide future interactions between actors.

7.5.2 Conclusion

It has been mentioned that at the time of the GCC's establishment there was a collapse of some Arab monarchies, namely the monarchies of Egypt, Iraq and Yemen. These countries became republics, in a kind of dramatic revolutionary movement initiated by their armies. Alsdairy characterises the old Arab revolutions the "madness revolution," arguing that the Saudi King Faisal Al-Saud succeeded in protecting Saudi Arabia from the 'mad' revolutions in the Arab world.¹³³ Alsdairy noted that not only was King Faisal the only ruler standing up for their monarchy system against surrounding revolutions but also that it was one reason for closing the GCC membership since 1981. In 2011, history repeated itself with revolutions going on in several Arab countries, but this time they were not led by armies against monarchs but by the people against their dictatorial governments. The GCC is simultaneously standing up to limit the influence of these Arab revolutions in GCC member countries and playing a key role in these revolutions in non-GCC countries.

7.6 The GCC's Intervention in Bahrain

¹³⁰ Koh, Harold Hongju (Nun, 1997) Why do nations obey international law?. The Yale Law Journal, Vol. 106, No. 8., p 2627

¹³¹ Ibid.

¹³² Ibid.

¹³³ Alsdairy (16 October 2010).

The Bahraini people started their demonstrations on 14 February 2011. If this chapter would list these Arab revolutions in chronological order, the Bahrain revolution should come before Syria. However, this Bahraini case is the second case study of this chapter, which focuses more on this example because it is a member of the GCC and because the GCC took a historical action in this regard. Thus, it needs more room than the previous ones and here is a better place as it can be expanded on more.

Demonstrations in Bahrain have already briefly been mentioned, but the matter is analysed in more depth here. This part starts by giving details about the Bahraini issue before analysing the two dominant views. On the one hand, Iran holds the perspective that the people of Bahrain are influenced by the Arab Spring and as a result are demonstrating against their government to seek more freedoms and democracy. On the other hand, the GCC deems that Iran is directing the demonstrations, in order to remove authority from the Bahraini royal family and replace them by Shi'ah people.¹³⁴ Subsequently, the King of Bahrain Sheikh Hamad Ben Isa Al Khalifa asked for help from the GCC through the Peninsula Shield Force, which is the military part of the GCC. Some of the GCC countries responded to the King's request and sent their forces within the Shield Force to Bahrain. The main part of this force was Saudi.¹³⁵ This case study is very important, as it is the first time in its history that the GCC led this type of action and it shows how the GCC has become a more effective organisation when the matter involves a threat to the governing system in a member country.

7.6.1 Bahrain Issue

While the revolution in Egypt was still active and after the collapse of Mubarak, the previous President of Egypt, some Bahraini activists urged the Bahraini people through the internet to start mass demonstrations on Monday 14 November 2010 to call on the Bahraini government for reform and more freedom.¹³⁶ Two days before the determined date, the King of Bahrain Sheikh Hamad Al-Khalifa declared that Bahrain government will give every Bahraini family 100 BD (about 2652 \$). However, anti-government

¹³⁴ Iran is mostly Muslim Shi'ah while the people of the GCC countries are mostly Muslim Sunni apart from Bahrain where the majority are Shi'ah while the Bahraini Royal Family is Sunni.

¹³⁵ See GCC news (15 March 2011).

¹³⁶ [BBC Arabic \(14 November 2011\)](#).

protests went ahead on the date (14 February 2011), mainly in the capital city Al-Manama and especially in Al-Lozayh Circle¹³⁷ to make it as a centre place for their demonstrating as same as the Tahrir Square in Cairo. The Bahrain government responded seriously and there were police checkpoints everywhere in Bahrain.¹³⁸ Bahraini Police fired tear gas and rubber bullets to disperse the demonstration; one man was killed.¹³⁹ Then after that date, the demonstrations happened from time to time, especially on Fridays. There was some violence sometimes from the police against the demonstrators and sometimes vice versa and a number of people from both sides were killed or injured. After weeks of these demonstrations, the King of Bahrain asked the GCC leaders to help Bahrain by sending in the Peninsula Shield Force. More than a thousand Saudi military men and five hundreds from UAE with their military vehicles entered Bahrain as part of the Peninsula Shield Force to help the Bahraini government.¹⁴⁰

In Bahrain there is a Shi'ah majority and the Bahraini government perhaps did not consider that it would be safe to raise its army from a Shi'ah population as that could open the door to a military coup at any point. So, the Bahraini government found a solution through the GCC, rather than asking Saudi Arabia to help the Bahraini royal government with Saudi Sunni forces against Bahraini Shi'ah people. It appears that Bahrain used the force of the GCC because it is an international organisation that Bahrain has signed a security agreement with. What supports this argument more is that the Bahraini proposal at the time of the GCC's establishment was to create a mobile force to respond to any threat. That proposal, in 1981, reveals that Bahrain was always interested in using the GCC force in a first place to handle domestic problems, as it knew there was a demographic problem in terms of the ideological differences among its population.

¹³⁷ See *AsharqAlawsat* newspapers (15 Feb 2011).

¹³⁸ See *Ibid.* (19 Mar 2011), 11910.

¹³⁹ [BBC Arabic \(14 November 2011\)](#).

¹⁴⁰ *Ibid.*, (15 March 2011).

7. 6. 2 Bahrain View

Bahrain claimed that the protests were controlled by Iran. Accordingly, Bahraini protesters were raising the photo of Khaminey, the Iranian religious leader.¹⁴¹ The Bahraini government's view is that considering the context of the Arab Spring where many Arab countries had similar anti-government demonstrations, one may think that what happened in Bahrain is the same as in other Arab countries where people were demanding freedom and democracy. There is however evidence to suggest that what happened in Bahrain was not in fact revolution but rather an Iranian attempt to conduct a coup against the governance of Al-Khalefa because Iran want Bahrain to be like Iraq to be able to exert control over Bahrain. This is supported by some Iranian announcements such as a statement by the Special Inspector General for the Supreme Leader of Iran, Ali Akbar, claimed in 2009 that Bahrain is not an Arab country, but that it is a Persian island and therefore a part of Iran.¹⁴² Meanwhile The Bahraini Minister of Foreign Affairs Khanem AL-Boayneen stated that the Bahraini Police found a lot of evidence that Iran was involved and led the Bahraini revolutions and that even Iran cannot deny their involvement.¹⁴³ The Bahraini Foreign Minister Sheikh Khalid Al-Khalefa states that the Bahraini request for the Shield Force was to help the Bahraini government protect construction, government and public building against any external threats, but that they did not ask for help in controlling the national demonstration.¹⁴⁴

7.6.3 Iranian view

The Iranian Minister of Foreign Affairs Ali Abbar Salehy meanwhile denied any Iranian intervention in Bahrain¹⁴⁵ and the Supreme Leader Ayatollah Ali Khamenei refused the entry of the Peninsula Shield Forces into Bahrain.¹⁴⁶ Iran declared that they would

¹⁴¹ See Ibid. (19 Mar 2011), 11910.

¹⁴² *Al-Quds Al-Arab*, newspaper (23 February 2009).

¹⁴³ See *Al-wasat*. Online News. (23 January 2013), 3791.

¹⁴⁴ See Ibid, (12 April 2013), 8370.

¹⁴⁵ *Ashaeq Alawsat Newspapers*, 23 March 2013, 11803.

¹⁴⁶ Ibid..

respond to the Saudi intervention in Bahrain;¹⁴⁷ Iran views what happened in Bahrain as a Saudi occupation of Bahrain because the Shield Force that entered Bahrain was mainly a Saudi force. Accordingly, Iran requested that the UN Secretary General protect the protesters in Bahrain.¹⁴⁸ Iran also criticised the Bahraini royal family in the way they dealt with the protests.¹⁴⁹ This chapter is not arguing that the Bahraini government has not done anything wrong in the way it handled the demonstrating, however, the Bahraini government has shown some responsibility. The Bahraini government instructed an independence committee to investigate if the Bahraini police men had used unnecessary violence against the demonstrators. The Committee, which was headed by the American/Egyptian law Professor, Cherif Bassiouni, issued a report revealing that there were a number of violations of human rights and systematic torture of detainees at the hands of the Bahraini Police. The Bahraini government has confessed that there was unnecessary violence by the Police and stated that it will refer twenty accusing police men for investigation.¹⁵⁰

7.6.4 The GCC action

Before the GCC took any action, the Council of Ministers held a meeting in Riyadh on 10 March 2011 and declared that the GCC rejects any foreign interference in the national affairs of any member country. If any such intervention takes place the GCC members will strongly oppose that. The Council also considers any harm to the security of a member state harmful to the security of all member states and will be confronted immediately and without any hesitation.¹⁵¹

In response to a Bahraini request, the GCC decided to send several groups of the Peninsula Shield Force to help the Bahrain government control the country and protect their economic assets and governmental buildings without engaging with the anti-government protesters. Armed forces from Saudi Arabia, the UAE and Qatar participated in the force that entered Bahrain under the flag of the Peninsula Shield Force, though the main part of this force was Saudi. That may be the reason the King of

¹⁴⁷ Reuters news (15 April 2011) available on <http://ara.reuters.com> [in Arabic].

¹⁴⁸ Ibid.

¹⁴⁹ Ibid.

¹⁵⁰ Ibid.

¹⁵¹ The Ministers Council, session 118, 10 March 2011

Bahrain and the GCC Secretary General especially thanked Saudi Arabia in helping Bahrain.¹⁵² The Bahraini Foreign Minister Sheikh Khalid Al-Khalefa expresses the Bahraini government thankful to all the GCC members especially Saudi Arabia for their military help and explains that the Bahraini request for the Shield Force was to help the Bahraini government protect construction, government and public building against any external threats, but that they did not ask for help in controlling the national demonstration.¹⁵³

This military action is in line with the GCC Security Agreement. The GCC Security Agreement states that “out of the a spirit of the sincere brotherhood, stressing the bases and principles set by the GCC countries, adhering to the principle that preservation of the security and stability of the GCC countries is the joint responsibility of the GCC countries, counting on one's own capabilities and the available powers to protect security and stability.”¹⁵⁴ This chapter considers this GCC action as a sign of the importance of the GCC for security cooperation among its member states. In this regard, the GCC was a crucial body for ensuring the security and stability of the GCC countries but as a key tool in the hands of the leaders of the member countries rather than as an independent organisation. In this matter, the GCC was used by its member countries as a smokescreen to shape the intervention in Bahrain in an internationally acceptable way, a way that is legitimate because it comes under an international organisation through which member countries have signed a security agreement giving any member country the right to use the GCC force when needed.

7.6.5 Kuwait View

There was debate in the Kuwaiti Parliament between two parties opposing those who agree that the Shield Force should support the Bahraini Government to control the national demonstrations to ensure Bahrain stability and safety and those who are against such an intervention because the Shield Force was created by the GCC to defend

¹⁵² See GCC news (15 March 2011).

¹⁵³ See *Al-wasat*. Online News. (12 April 2013), 8370.

¹⁵⁴ The introduction of the GCC Security Agreement.

member countries against external threats, but not to assist governments against their people.¹⁵⁵

Therefore, Kuwait refused to participate in this force and declared that it would take a political and social role in helping Bahrain face the challenge.¹⁵⁶ This position is in line with Kuwait's original position that the GCC should not focus on security cooperation, as seen in the first chapter. However, this Kuwaiti position did not last long. Due to significant public demands, the Kuwaiti Government agreed to send military ships to help Bahrain. This chapter argues that this variety of views amongst the member states perhaps does not reveal the weakness of the GCC as an independent organisation but rather reveals that the main weakness was that there was no independent decision by the GCC to use the force which is under the flag of the GCC, rather it was the decision of each member state separately.

7.6.6 Conclusion

Unlike the rest of the Arabic Spring countries, Bahrain got military support by the GCC. Another different was that, as this chapter has argued, there was evidence that the demonstration in Bahrain was controlled, to some extent, by Iran. Without GCC help, Bahrain would be in unstable situation. However, this chapter criticises that the GCC, as an organisation represented by the Secretary General, has no real role in this action. It was the decision of the member countries, mainly Saudi Arabia. This chapter demonstrates that the member countries were able to decide whether they should participate or not and how many of their military men should help Bahrain, yet the GCC should have had a decision making role on this matter, especially as the Peninsula Shield is the military part of the GCC.

7.7 Conclusion

This chapter has used the neorealist approach to analyse the identity of the GCC because it is a helpful approach in revealing the identity and nature of the GCC. Neorealism is,

¹⁵⁵ Sameer Khothar. *Al-Youm 7 Online News*. 15 March 2011.

¹⁵⁶ See *AsharqAlawsat* newspaper (19 Mar 2011), 11910.

as was discussed in chapter two, a theory of security and survival.¹⁵⁷ This chapter has revealed that the key concern of the member countries is the survival of their countries and of their Royal governing systems. This chapter has analysed three main pressures which have faced the GCC from 1981 until the present and how the GCC responded to these pressures, exploring what this reveals about the identity of the GCC.

Firstly, the Nasserism movement which started in the second half of the twentieth century was a real threat to the Arabic monarchies as it involved the call to collapse all of the monarchic governments and was a key reason for the collapse of the monarchies in Libya, Egypt, Yemen and Iraq. One of the main Nasserism movement's goals was to free the Arab world from any foreign intervention, especially Western influenced. This chapter has revealed that this political movement (Nasserism) was the main reason that the GCC at the outset confirmed its total refusal of any foreign interventions in the region, no matter where from, and its commitment to preventing the presence of any foreign military fleets or military bases. It has revealed also that one main reason the GCC countries kept their membership closed was because the other Arabic countries were more affected by Nasserism.

Secondly, the role of democracy. The GCC countries tend to stand up for democracy because it should lessen the power of the Royal Families. The leaders of the member countries agreed the potential impact of democracy in changing their political systems but they keen to slow down this change as much as they can. This chapter has revealed that by the creation of the GCC, the member states leaders are saying "we can" achieve stability even without democracy. This chapter has argued that the leaders of the GCC states have succeeded so far in maintaining stability as evidence by the relative stability of these countries, apart from Bahrain, during the period of the Arab Spring.

This chapter has considered the Arab Spring as a real test for the GCC. It has argued that the GCC has appeared as an effective tool which was used by the member countries to respond to the demonstrations in Bahrain. This chapter has demonstrated that the GCC is an effective organisation but only when the member states want it to be such; it

¹⁵⁷Waltz (1988), p.618.

has asserted that the problem here is that the GCC states are keen to present the GCC as an independent organisation in public, while in reality it is not.

Regarding the GCC membership system, this thesis has criticised the way that GCC leaders declared their offer of membership to Jordan and Morocco, as this could lead to an unwanted reputation that will diminish the position of the GCC as an authentic international organisation. This unwanted reputation could imply that GCC leaders do not seriously regard the GCC as a genuine regional or international organisation as they ignore the GCC Charter, its history and laws, favouring their political decisions in the management of the GCC. Considering that for the first time, GCC leaders declared their willingness to transition from cooperation to union in 2012, as long as the GCC is completely controlled by the personal opinions of GCC leaders, the GCC will not be able to create the required legal doctrine on which the GCC can develop the structure of its cooperation between member countries. The future generation of GCC leaders will find the GCC to be an organisation that was built on the reaction of its leaders in accordance with the political environment and not based on legal rules.

Chapter 8 - Conclusions

The Gulf Cooperation Council is a significantly under-analysed and under critiqued organisation in world affairs. This thesis is an attempt in some way to fill that gap. The thesis has explained the development of the GCC, as a response to the threats and challenges facing the Gulf region after the Second World War, including the rise of Nasserism. It has been asserted that the primary motivation of the GCC states was to protect their political structures. The structure and operation of the GCC has been examined and critiqued highlighting that, while the achievements of the GCC have been somewhat limited, they are most apparent in the economic field. Turning to the question of law and law-making, it has been argued that the GCC operates primarily through a process of soft law making, supported by the incorporation of GCC laws within the domestic law of member states. Throughout this analysis and particularly evidenced in the final two chapters of this thesis, the purpose has been to consider the role of the GCC in a broader, global and political perspective, to look not only at its past but also at its future and to identify what role, if any, the GCC has in the modern globalised world.

After World War II “Arab leaders were euphoric at winning independence for their countries from colonial powers. However, their euphoria was dampened by the challenge of nation-building”.¹ Since then, development has been a primary concern for Arab leaders and with development comes change in its different aspects: political, social, economic, education etc. “Although Arab leaders were concerned primarily about staying in power, they also spent significant amounts of time, energy, and money to promote socio-economic and political development in their countries, they expanded educational opportunities for their citizens.”² While the rest of the Arab world, governments and people, were more able to change in response to political movement, the GCC countries have remained with their traditional Arabic custom in dealing with politics. This thesis perceives that the GCC countries, when standing up to political change, are not afraid of change but they are afraid of leaving the system they know and which functions well for them, to an imported new political system. This unwillingness

¹ Jabbra (1989) p. 1.

² Ibid.

for political change did not affect their willingness to improve economically. Jabbara highlights this point, he explains “In the oil-producing countries of the Arab World, the political leadership continues to consider comprehensive development as its major challenge and diversification of the economy as one of its major goals.”³ Many Arab countries switched their political systems from monarchies into republics influenced by Nasserism. They then came under the rule of their armies, but in the last few years, they have been switching to democracy, but that transformation has not been an easy one, as evidenced by the on-going conflict in Syria and the recent civil conflict and unrest in Egypt. This thesis argues that it is not yet time to judge whether the Arab Spring countries have succeeded or failed. However, if they do succeed in becoming stronger countries, the GCC countries would face real challenges and pressures to move toward democratisation.

The GCC is a realist organisation, mainly a tool in the hands of the leaders of the GCC. Realists can explain the primary motivation behind the establishment of the GCC: that the leaders of the GCC gathered under this organisation to balance their power against opposition countries (Iraq and Iran). Thus, realists may be better able to tell why such an organisation was initially established. They can explain that the GCC is dominated by member countries because, as an international organisation, it is not a real actor and cannot be unless member countries want it to be. They analyse how the small weak states would seek to gather together in order to form a stronger union. The neorealists can analyse why the GCC has closed membership and why, at the time of the Arab Spring, the GCC decided to extend its membership. They can argue that the concern of GCC leaders is not really about the laws that the GCC creates but rather their concerns are about their political survival. Many of these IR scholars are from democratic countries. Therefore, they do not analyse how countries ruled by absolute monarchies can be motivated in their international actions by their concern for the survival of their existence as rulers of their countries. This thesis applied neorealist explanations that states act internationally in order to ensure their survival, on the actions of the GCC countries.

³ Ibid.

All this can be examined and analysed by the realists, but what the realist cannot explain is why the GCC was very successful in resolving the Yemeni Revolution that would have likely become a civil war while the GCC countries have not succeeded in resolving the Syrian revolution. With respect to the different nature of the two cases and two countries, the GCC appears different in the Yemen case. By tracing the GCC Secretary-Generals, this thesis can assume that Al-Ziyani was given more power to freely function. While in the Syrian case the GCC countries worked individually mainly with Saudi Arabia expressing its will to support the Syrian people and trying all possible means to support them but they could not. The institutionalists can explain here that an international organisation can function effectively if it were independent. In term of politics, the GCC has to have some level of independence to be able to function better and in term of legal framework, the GCC needs to be able to create law. The legal system of the GCC would not be really developed without complying with Hart's theory, especially delegation, which is creating a GCC court of law. The leaders of the GCC seem either to be unwilling or unable to do so. It is clear that the GCC Commission for the Settlement of Disputes is not a court of law and the GCC therefore needs a long time to practice judicial precedents.

Recently, the leaders of the GCC became more active and expressed their need to unite. In the Supreme Council meeting number 32 in December 2011, King Abdullah proposed to the member countries that they should move to the next step of cooperation to become a union. However, the leaders of the GCC are uninterested or unwilling to take this next step. On the other hand, it is fair to conclude this thesis by mentioning that the GCC itself and the governments of member states wish to be seen internationally as more legitimate taking into account their positive and effective role in the Arab Spring, especially with the case of Yemen. Nowadays, the international powers are discussing how to deal with the Syrian revolution utilising a similar initiative as the GCC did for Yemen.⁴ That means this recent political work of the GCC can become an example other countries may follow. If this engagement continues there is hope for the future that there may develop a more important international role for the GCC in the future.

⁴See *AsharqAlawsat* newspaper (19 Mar 2011), 11910.

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Annex (1)

The Gulf Co-operation Council's (GCC)

Security Agreement

The Agreement Reviewed at the GCC Summit in Bahrain, 9-11 November 1982.

Out of the a spirit of the sincere brotherhood, stressing the bases and principles set by the GCC countries, adhering to the principle that preservation of the security and stability of the GCC countries is the joint responsibility of the GCC countries, counting on one's own capabilities and the available powers to protect security and stability and moreover to defend the Islamic faith and idealistic views from destructive atheistic views and party activities, and in order to make the current security cooperation among the GCC countries reach a desirable and comprehensive standard, the GCC members countries have agreed on the following:

Chapter 1: General Views

Article I: Abstaining from giving refuge to criminals and opponents of the regimes whether they be citizens of the GCC countries or other countries, in addition to combating their activities harming the security of any of the GCC countries.

Article 2: Abstaining from allowing the circulation or transfer of pamphlets, printed material or posters that are antagonistic to the Islamic faith or that harm morality, or those directed against the ruling regimes of the GCC member Countries.

Article 3: Every country which signs [this agreement] undertakes to adopt the necessary measures to prevent its citizens from interfering in the internal affairs of other member countries.

Article 4: Exchange of information and expertise that helps developing the means to fight crime in its various forms, in addition to exchange of laws and regulations dealing with activities of the Interior Ministries besides exchanging of books, magazines and printed material issued by these ministries, in addition to explanatory method and training films that are available

Article 5: Providing the necessary facilities in the field of education and training for those who work in the GCC Interior Ministries and in the specialized institutes and colleges.

Article 6: All the countries will inform the member countries of scheduled conferences, educational sessions and cultural seminars and those dealing with the fields of specialization of the Interior Ministries, particularly those dealing with crime fighting, traffic, education and training, so that the information can be passed on in enough time to those who would be most likely to attend.

Article 7: The Interior Ministries of the member countries should hold consultations. Moreover, their representatives should cooperate in order to coordinate and unify their stands on issues on the agenda of Arab and international conferences.

Article 8: Work in the direction of unifying the laws and regulations dealing with emigration, passports, residency, nationality and other matters included within the responsibilities of the Interior Ministries of the member countries.

Article 9: The member countries should cooperate and provide the necessary facilities for the concerned authorities in these countries in order to put this agreement in to effect.

Chapter 2: Combating of Infiltration and Smuggling

Article 10 : the member countries should exert the necessary efforts to combat infiltration through the common borders and undertake legal or suitable disciplinary measures against those who carry out such acts or play a role in these activities.

Article 11 : The infiltrators will be arrested by the concerned authorities of the member countries and legal or disciplinary measures will be taken against them. They will be arrested in accordance with the following:

A. Those who infiltrate the territories of one of the member countries illegally will be returned to the border post of the country from which they entered illegally.

B. Those with unknown identities and infiltrators who cross the border of a country after infiltrating another country's border or even making several infiltrations will be subject to the laws of the country that arrests them in regard to dealing with their cases.

Article 12 : Pursuit patrols belonging to any of the members countries have no right to cross the border of a neighbouring country, except for a distance not to exceed 20 km in

order to arrest those being pursued. Those pursued and all they have with them, including their vehicles, are to be handed over to the nearest post belonging to the country in whose territory the chase began, if they were arrested within the said distance. The principle of the immediate handing over of [those pursued] will be applicable if said persons were arrested at a farther distance by patrols belonging to the sovereign country, in the event they took part in the pursuit operation.

Article 13 : The following should be observed during pursuit:

- A. Pursuit vehicles should bear official marks and should be distinctive.
- B. The number of pursuit vehicles must not exceed three.
- C. The squad of pursuit must not exceed 13 persons.
- D. Vehicles and individuals are to be armed lightly in accordance with what the Interior Ministers will later agree upon.
- E. Pursuit operations should stop as soon as the patrols reach the nearest city, village or a group of bedouin camps.

The rules of this article apply to sea pursuit provided the means listed in the above points are made applicable.

Article 14 : Security authorities at the borders are to be informed of the pursuit whenever possible and pursuit patrols should inform the nearest official body at the site where an arrest is made as soon as the pursuit operation is concluded in the territory of the neighbouring country, whether the result is positive or negative. This should be in accordance with an official report signed by both sides.

Article 15 : Patrol meetings and joint patrols can be organized at the adjacent border regions of the member countries when there is a need to do so. Regular meetings are to be held between the officials of border post of the member countries for this purpose.

Chapter 3: Crime Prevention

Article 16 : The names of dangerous ex-convicts and suspects are to be exchanged and the movements of such persons are to be reported. They are to be prevented from travelling whenever possible. Names of personae non grata are also to be exchanged.

Article 17 : Contacts among specialized bodies are to be consolidated through criminal detection and search in the member countries in order to report any information

available to these bodies on criminal operations that took place or that are being planned in the territories of these countries or abroad.

Article 18 : The special body in each member country shall inform counterparts in the other countries of what they have in regard to new crimes, the methods by which they were adopted to pursue them and eliminate them.

Article 19 : The specialized bodies in each of the member countries shall search for suspects, criminals and escapees, place them under observation or even under detention pending investigation when necessary, prior to their extradition in accordance with the rules of this agreement. In order to achieve cooperation in this field, official contacts through post, cable, telephone or other means will be approved.

Article 20: The specialized authorities in each member country shall offer-in accordance with the laws and systems enacted therein-the required help with regard to crimes that are to be pursued by one of the member countries particularly as pertains to delivering extradition or present memoranda, implementing authorization to question suspects or witnesses and carrying out other services such as examining, searching and arresting.

Article 21 : The member countries shall adopt the necessary measures to preserve the secrecy of information and materials exchanged between them whenever such things are characterized as secret by the country that delivers them. It is not allowed to hand the information and material delivered in accordance with this agreement over to any other country that is not a GCC member except upon the approval of the country that delivers them.

Chapter 4: Extraditing Criminals

Article 22: Extraditing criminals among the member countries becomes mandatory if the following two conditions exist in the request:

- A. If, according to its classification by the specialized body of the requesting country and in accordance with the rules enacted therein, the crime represents an offense whose penalty is not less than a 6-month imprisonment.
- B. If the crime is committed in the territory of the requesting country or outside the territories of both countries provided that both countries' laws allow punishment for an offense perpetrated outside their territories.

Article 23: The country that requested to extradite criminals has the right to refuse to do so in the following situations:

A. If the person to be extradited held its nationality at the time of perpetrating the crime, provided that it will in this case prosecute him according to its laws and systems and in accordance with a report to be prepared by the authorities concerned in the requesting country. It also has to inform the requesting country of the result of its judgment.

B. If the crime took place in the territory of the requesting country by the person to be extradited is not one of its nationals provided that the offense he is charged with is an indictable offense according to the law of the system of the country requested to extradite him.

C. If the crime took place outside the territories of both countries, provided that the laws or systems of the country requested to extradite the offender do not consider his offense indictable if committed outside its territory if the indicated person is not a citizen of the requesting country.

D. If the crime or penalty had already dropped when the extradition requested was received, in case the crime was committed in the territories of the requested country, provided the wanted person is not a citizen of the requesting country and provided the crime is not murder.

Article 24: Extradition is not allowed in the following cases:

1. If it is a political crime. The following are not regarded as political crimes:

A. Sabotage, terrorism, murder, robbery and theft accompanied by acts of force whether committed by one person or a number of persons.

B. Any financial assault against the leaders of the member countries, their assets, branches or wives.

C. Assaulting the heirs apparent, royal family members. ministers and those ruling in the member countries.

D. Military crimes.

E. punishment for the above-mentioned crimes in Articles A, B, C D, if the laws of rules of the two countries cover such acts.

2. If the crime was committed in the territories of a country which is requested to extradite.

3. If the individual in question is a member of the diplomatic corps and has diplomatic immunity or any other individual with immunity according to international law or any other treaties and characters.

4. If the person to be extradited has been tried or was under investigation or on trial for crime for which his extradition is requested, whether it was in the country which is

requested to extradite or in the other in which the crime was committed. the latter is duty-bound to the country requesting extradition.

Article 25:

A. If the country which receives the extradition request has a number of requests from other countries regarding the same person for the same crime, the deciding factor will be which country's interests were harmed by the crime rather than where the crime was committed.

b. If the requests for extradition are for various crimes, the deciding factor will be the dates the extradition requests were made.

Article 26: If the wanted person is being prosecuted legally or has been sentenced for another crime in the country which received the extradition request, the decision on this request will be postponed until his prosecution ends, or it has been decided not to try him, or he is declared innocent or not responsible, or he is sentenced for punishment or exempted, or his detention has ended due to the dropping of the charges. It is possible to send the wanted person temporarily to the country requesting him so that he may appear before the authorities concerned on the condition that these authorities guarantee to send him back after his questioning or trial for which his extradition was demanded, and keep him detained according to the sentence or decision issued by the authorities of the country which extradited him.

Article 27:

A. The extradition request from the concerned side in the requesting country must be presented to the concerned side in the country which is requested to extradite.

B. The file of the requested must include:

1. a detailed statement on the identity of the wanted person and his description, with an accompanying photograph if possible.
2. Memorandum of arrest or request for appearance from the concerned authority if the person has been sentenced.
3. Certified copy of the texts that demand punishment for the deed and a detailed statement from the concerned side which includes relevant correspondence and evidences proving the responsibility of the wanted person.
4. A certified copy of the sentence whether the wanted person has been sentenced or not.
5. A statement from the authorities concerned with the case not to drop the charges in accordance to the laws of the rules of their country.

6. Confirmation that the request corresponds to the rules of this agreement.

Article 28: An exception to the above-mentioned articles is that the country which is requested to extradite can extradite the wanted person, if he admits that he committed the crime he is charged with, the crime is one of those which requires extradition according to the articles of this agreement, and the wanted person agrees to be extradited without a file requesting his extradition, then the concerned authorities can order his extradition.

Article 29:

A. The authorities concerned in the country requesting extradition and the country being asked to extradite will decide according to the laws or pertinent rules of each during the presentation of the request.

B. The concerned side in the country which is requested to extradite will inform the concerned side in the country requesting extradition about the decision issued on the extradition request whether negative or positive, and explanation will be provided when an extradition request is denied.

Article 30: The detention of an individual who has been requested for extradition should not exceed 30 days in the country which has received the extradition request. The individual should be released if during the above-mentioned period a request file does not arrive or the concerned country does not ask for the renewal of his detention for a maximum of 30 more days, on condition that the period of temporary imprisonment will be deducted from the sentence imposed by the country which requested the extradition.

The authorities concerned, which are requested to extradite by post, cable or telephone, can ascertain the validity of this request by asking for further information from the authorities concerned in the country which made the request.

Article 31: The country which is requested to extradite turns over everything related to the crime in the possession of the wanted person when arrested in accordance with the rules or laws of the country which has received the extradition request.

Article 32: The wanted person is to be tried in the country requesting his extradition for the crimes he was extradited for and any deeds related to it, as well as any crimes he committed after his extradition. It is also possible to try him for crimes which were not listed in the extradition request as long as the statute of limitations has not run out in accordance to the laws or rules of the two countries.

Article 33: The country requesting extradition pays all the expenses required for the execution of the extradition request. It also Pays all the expenses of the individual

involved, including those incurred in returning to the place he was extradited from if his not responsibility or innocence is proved.

Article 34: The country requesting extradition must come forward to receive the wanted person within 30 days after the date the notification cable was sent regarding the issuance of extradition decision, or else the country which requested the extradite can release the wanted person. He cannot be detained for extradition again for the same crime.

Article 35: This agreement does not impair the bilateral agreements made between countries. In the event that the rules of this agreement contradict the rules of any of these bilateral agreements, the two countries should apply the more applicable rules in extraditing criminals.

Article 36: This agreement will be ratified by the signing countries in accordance to their legal systems within 4 months after its signing. The ratification documents will be kept at the CCC General Secretariat, which will prepare a file on the ratification documents of each country and will notify all other member countries upon receipt of said documents.

Article 37: This agreement becomes valid after 1 month from the date that all ratification documents are received from the signatory countries.

Article 38: Agreement among one-third of the signatory countries is required to revise or cancel the terms of this agreement.

Article 39: Any member country party to this agreement can withdraw from it by announcing its intention to do so to the GCC General Secretariat. The withdrawal becomes effective 6 months after notification of the intention. This agreement remains valid regarding extradition requests until the end of the 6-month period.

Annex (2)

The Economic Agreement

Between the GCC States

Adopted by the GCC Supreme Council
(22nd Session; 31 December 2001)
in the City of Muscat, Sultanate of Oman
Introduction

This publication contains the text of the Economic Agreement Between the Gulf Cooperation Council States (the “Economic Agreement”) signed by their Majesties and Highnesses GCC leaders, on December 31, 2001 (Shawwal 16, 1422 AH) during the 22nd Session of the Supreme Council in Muscat, Sultanate of Oman.

The new Economic Agreement contains a comprehensive revision of the original Economic Agreement that was signed in November 1981 (Muharram 1402 AH), which laid down the ground for the economic relationship among Member States and established the GCC Free Trade Area. The 1981 agreement emerged from the economic circumstances prevailing at the time it was drawn up, just a few months after the establishment of the GCC. Similarly, the new agreement is a reflection of the current circumstances of the GCC Member States. The new Economic Agreement furthers the objectives achieved by the 1981 agreement, enhancing and strengthening economic ties among Member States, and harmonizing their economic, financial and monetary policies, their commercial and industrial laws, as well as their customs regulations.

During the first two decades of the GCC existence, Member States succeeded in developing their economic ties to bring them closer to full economic integration and economic unity. The Supreme Council, during its annual meetings, adopted several vital resolutions in the economic field that pushed joint economic action great steps ahead. The most important resolutions have been those relating to the GCC customs union, the common market, development integration, and the economic and monetary union.

To provide the legal environment required to cope with these developments, the Supreme Council, in its 20th Session (Riyadh, November 1999), ordered a revision of the 1981 economic agreement to bring it into line with the new developments in GCC joint economic action and to complete the requirements of economic integration among the Member States, taking into account the new global economic environment.

To carry out the Supreme Council's instructions, the Secretariat General was instructed to prepare a draft revised economic agreement and submit it to Member States to propose any addition, deletion or amendment to the provisions of the agreement, after which it was required to submit the revised draft to GCC competent committees. After the preliminary draft was prepared and submitted to Member States for consideration, a technical team was formed from Member States and the Secretariat General to examine the draft agreement in light of Member States' comments. The team held intensive meetings in February and March 2001 where the proposals and comments of Member States were discussed and the draft agreement was amended accordingly. A Committee of the GCC Deputy Ministers of Finance and Economy was convened in two meetings in April and September 2001 to study the new revised draft. The Financial and Economic Committee (FEC) in its 55th meeting (May 2001), and 56th meeting (October 2001) reviewed the draft agreement as amended by the deputy ministers' committee. In its extraordinary meeting held in December 2001, the FEC adopted the final draft agreement, which the Ministerial Council (in its 81st Session, December 2001) then submitted to the Supreme Council for approval. Their Majesties and Highnesses GCC leaders signed the Economic Agreement between the GCC States on 31 December 2001 during the 22nd Session (the Muscat Summit). The agreement is now in the process of being ratified by the Member States and will come into force thereafter.

The preparation of the new Economic Agreement was an excellent example of joint work, as a large number of experts from various GCC governmental agencies and the Secretariat General contributed over two years to the preparation and revision of the draft treaty. The technical team assigned to this task and the other committees made great efforts in updating the original agreement, to come up with a text that reflects the achievements of GCC joint economic action in the past two decades and future aspirations of GCC citizens.

The new agreement contains new provisions or substantially revised ones that reflect Supreme Council resolutions and directives, as well as new developments in GCC joint work, such as provisions relating to the Customs Union (Chapter I), Common Market (Chapter II), Economic and Monetary Union (Chapter III), Development Integration (Chapter IV), Human Resources Development (Chapter V), Cooperation in the Fields of Scientific and Technical Research (Chapter VI), Transportation, Communications and Infrastructure (Chapter VII).

The new agreement represents a new style of GCC joint work as it does not only call for cooperation and coordination among Member States, but goes beyond that to expressly provide for the economic integration among Member States through the adoption of specific programs and workable mechanisms. The GCC working committees and the Secretariat General will follow up the implementation of the agreement according to specific timetables. Chapter VIII contains mechanisms for implementation and follow-up, as well as settlement of disputes that might arise during implementation of the treaty.

January 2002

**The Economic Agreement
Between the Gulf Cooperation Council States
(The Economic Agreement)**

The GCC Member States,

Pursuant to the GCC Charter which calls for closer ties and stronger links among Member States; and

In the light of reviewing the economic achievements attained since the inception of the Council, including accomplishments attained by the Economic Agreement signed in 1981 in developing, which include enhancing and strengthening economic ties among Member States, and harmonizing their economic, financial and monetary policies, their commercial and industrial legislation and customs laws applicable therein, including the agreement on the customs union; and

Seeking to achieve advanced stages of economic integration that would lead to a Common Market and an Economic and Monetary Union among Member States according to a specific timetable, while enhancing market mechanisms and fostering the role of the private sector; and

Desiring to enhance the economy of the GCC Member States in the light of recent global economic developments, which require further integration among the Member States to strengthen their negotiating position and competitive capacity in international markets; and

Responding to the aspirations and expectations of GCC citizens towards achieving Gulf citizenship, including equality of treatment in the exercise of their rights to movement, residence, work, investment, education, health and social services,

Have hereby agreed as follows:

Chapter I

Trade

Article One: The Customs Union

Trade between the GCC member States will be conducted within the framework of a customs union that will be implemented no later than the first of January 2003. It shall include, at a minimum, the following:

- i. A common external customs tariff (CET).
- ii. Common customs regulations and procedures.
- iii. Single entry point where customs duties are collected.
- iv. Elimination of all tariff and non-tariff barriers, while taking into consideration laws of agricultural and veterinarian quarantine, as well as rules regarding prohibited and restricted goods.
- v. Goods produced in any Member State shall be accorded the same treatment as national products.

Article Two: International Economic Relations

To secure better terms and more favorable conditions in their international economic relationships, Member States shall draw their policies and conduct economic relations in a collective fashion in dealing with other countries, blocs and regional groupings, as well as other regional and international organizations.

Member States shall take the necessary measures to achieve this objective, including the following:

- i. Negotiate collectively in a manner that serves the negotiating position of the Member States.
- ii. Collectively conclude economic agreements with trading partners.
- iii. Unify import and export rules and procedures.
- iv. Unify commercial exchange policies with the outside world.

Chapter II

GCC Common Market

Article Three

GCC natural and legal citizens shall be accorded, in any Member State, the same

treatment accorded to its own citizens, without differentiation or discrimination, in all economic activities, especially the following:

1. Movement and residence
2. Work in private and government jobs
3. Pension and social security.
4. Engagement in all professions and crafts
5. Engagement in all economic, investment and service activities
6. Real estate ownership
7. Capital movement
8. Tax treatment
9. Stock ownership and formation of corporations
10. Education, health and social services

Member States shall agree to complete implementation rules sufficient to carry this out and bring into being the Gulf Common Market.

Chapter III

Economic and Monetary Union

Article Four: Monetary and Economic Union Requirements

For the purpose of achieving a monetary and economic union between Member States, including currency unification, Member States shall undertake, according to a specified timetable, to achieve the requirements of this union. These include the achievement of a high level of harmonization between Member States in all economic policies, especially fiscal and monetary policies, banking legislation, setting criteria to approximate rates of economic performance related to fiscal and monetary stability, such as rates of budgetary deficit, indebtedness, and price levels.

Article Five: Investment Climate

For the purpose of enhancing local, external, and intra-GCC investment levels, and provide an investment climate characterized by transparency and stability, Member States agree to take the following steps:

1. Unify all their investment-related laws and regulations.
2. Accord national treatment to all investments owned by GCC natural and legal citizens.
3. Integrate financial markets in Member States, and unify all related legislation and policies.
4. Adopt unified standards and specifications for all products, according to the Charter of the GCC Standardization and Metrology Organization.

Article Six: Regional and International Aid

Member States shall coordinate their external policies related to international and regional development aid.

Chapter IV Development Integration

Article Seven: Comprehensive Development

Member States shall adopt the policies necessary to achieve an integrated development process in all fields in all GCC states and deepen coordination between all activities contained in their national development plans. These policies shall include the implementation of the Long-term Comprehensive Development Strategy of the GCC Member States.

Article Eight: Industrial Development

- i. Member States shall adopt the policies necessary to enhance the participation of the industrial sector in the economy, coordination of industrial activity on a GCC-wide integrated basis, including the implementation of the Unified Strategy of Industrial Development for the GCC Member States.
- ii. Member States shall unify their industrial legislation and regulations, including rules related to industry promotion, anti-dumping, and precautionary

safeguards.

Article Nine: Oil, Gas, and Natural Resources

For the purpose of achieving integration between Member States in the fields of petroleum and minerals industries, and other natural resources, and enhancing competitive position of Member States,

1. Member States shall adopt integrated policies in all phases of oil, gas, and minerals industries to achieve optimal exploitation of natural resources, while taking into account environmental considerations and the interests of future generations.
2. Member States shall adopt unified policies for oil and gas, and take common positions in this regard towards non-member states and at international and specialized organizations.
3. Member States and oil and gas companies working within them shall cooperate in supporting and developing research in the fields of oil, gas, and natural resources, and enhance cooperation with universities in these fields.

Article Ten: Agricultural Development

Member States shall adopt the policies necessary to achieve agricultural integration between them, and long-term optimal utilization of available resources, especially water, including the implementation of the Common Agricultural Policy of the GCC Member States and related GCC legislation.

Article Eleven: Environmental Protection

Member States shall adopt the policies and mechanisms necessary to protect the environment according to all relevant legislation and resolutions adopted within the GCC framework, as representing the minimum level for national rules and legislation.

Article Twelve: Joint Projects

For the purpose of enhancing ties between Member States in the productive sectors, utilizing economies of scale, achieving economic integration, and improving the distribution of integration benefits among them, Member States shall undertake the measures necessary to support, finance, and form joint projects, both private and public, including the following:

1. Adopt integrated economic policies between the Member States for infrastructure projects and basic services such as transport; communications; electricity; information technology; health, education, and tourism projects; and oil and gas industry.
2. Establish joint projects based on comparative advantages of Member States.
3. Provide additional incentives for the private sector to form joint projects that interlink the economic interests of GCC citizens.
4. Eliminate all procedural obstacles encountering joint projects and according them, at a minimum, the same treatment given to similar national projects.

Chapter Five

Development of Human Resources

Article Thirteen: Population Strategy

Member States shall implement the “General Framework of Population Strategy of the GCC States”, adopt the policies necessary for the development of human resources and their optimal utilization, provision of health care and social services, enhancement of the role of women in development, and the achievement of balance in the demographic structure and labor force to ensure social harmony in Member States, emphasize their Arab and Islamic identity, and maintain their stability and solidarity.

Article Fourteen: Compulsory Basic Education and Eradication of Illiteracy

1. Member States shall adopt the programs required for the total eradication of illiteracy in all GCC states according to a specific timetable, and enact necessary legislation to this effect.
2. Member States shall adopt a timetable for the implementation of compulsory basic education and enact necessary legislation to this effect.

Article fifteen: Education

1. Member States shall cooperate to develop programs and curricula of public, higher, and technical education, to ensure high levels of scientific content and compatibility with the development needs of Member States.
2. Member States shall undertake to achieve integration between GCC universities in all fields.
3. Member States shall adopt appropriate policies and mechanisms to ensure compatibility between the outputs of higher education and scientific and technical research on the one hand, and the needs of the labor market and economic development, on the other.

Article Sixteen: Manpower Nationalization

1. Member States shall undertake the policies necessary to develop and unify their labor rules and legislation, eliminate all obstacles restricting intra-GCC movement of national labor force. GCC citizens working in a member State other than their countries of citizenship shall be included within the percentages set for manpower nationalization.
2. Member States shall adopt unified criteria for job description and classification for all professions and trades in all sectors, and undertake to develop and exchange all information related to their labor markets, including unemployment rates, job opportunities and training programs.

Article Seventeen: Increasing Labor Participation Rates and Training of Nationals

- i. Member States shall adopt effective policies to increase participation rates of nationals in the labor market, especially in high-skill jobs, and adopt effective programs to raise the skill levels of national labor force, develop on-the-job training programs, participate in financing such programs, and provide incentives for job seekers in the private sector. Aid granted to the private sector shall be linked with the adoption of programs intended for the employment and training of national manpower.
- ii. Member States shall adopt the policies necessary for rationalizing the

employment of foreign workers.

Chapter VI

Scientific and Technical Research

Article Eighteen: Scientific and Technical Research

Member States shall adopt, as basic priorities for development, policies to support joint scientific and technical research, and develop their own joint scientific, technical, and information technology databases, including the adoption of the following policies:

1. Increase the funds allocated to scientific and technical research.
2. Encourage and provide the necessary incentives to the private sector to contribute to the funding of specialized scientific and technical research,
3. Ensure that international companies operating in the GCC States sponsor specialized programs for scientific and technical research in the Member States.
4. Establish a native scientific, technical, and information technology base that fully utilizes the expertise of international and regional organizations.
5. Integrate scientific research institutions in the GCC States in order to develop and activate the scientific, technical, and information technology base referred to in this article and work jointly to set up common research centers.

Article Nineteen: Utilization of the Scientific, Technical, and Information Technology Base

For the purposes of developing and fully utilizing their scientific, technical, and information technology base, Member States shall take the following measures, as a minimum:

1. Develop mechanisms for achieving optimal utilization of scientific and technical research in both public and private sectors, and continued coordination between the executive bodies on the one hand and the outputs of the scientific, technical, and information technology base, on the other.
2. Make the outputs of the scientific, technical, and information technology base available to specialists, researchers, businessmen, and investors through simplified

procedures.

3. Support and develop technical information networks, systems and centers in member states, and adopt programs to facilitate information dissemination and exchange among the institutions of scientific and technical research in the GCC States.

Article Twenty: Intellectual Property

Member States shall develop programs encouraging talented individuals and supporting innovation and invention; cooperate in the field of intellectual property and develop regulations and procedures ensuring protection of intellectual property rights; and coordinate their relevant policies towards other countries, regional blocs and international and regional organizations.

Chapter VII

Transportation, Communication, and Infrastructure

Article Twenty-one: Means of Transportation

Member States shall accord all means of passenger and cargo transportation belonging to any Member State, while transiting or entering their territories, the same treatment accorded to their national means of transportation, including the level of duties, taxes and facilities.

Article Twenty-two: Marine Transportation Services

Member States shall accord marine means of transportation belonging to any Member State and cargoes thereof the same preferential treatment they grant to their national counterparts in the use of their facilities, whether during docking or while calling at their ports, including fees and taxes, as well as services of pilotage, docking, freight, loading, unloading, maintenance, repair and storage.

Article Twenty-three: Infrastructure Integration

1. Member States shall adopt integrational policies for the establishment of the infrastructure projects such as seaports, airports, desalination plants, electric power

stations, and roads. These policies should aim to facilitate trade exchange between member states, realize common economic development, and interlink their economic activities.

2. Member States shall take the necessary measures to ensure integration of their aviation and air transport policies.

3. Member States shall develop and integrate the various means of land and marine transportation in order to facilitate the movement of citizens and goods and achieve economies of scale.

Article Twenty-four: Communications

Member States shall take all the necessary measures to ensure the integration of their communication policies, including telecommunication, post and data network services, which would lead to improving their service levels and economic efficiency and to strengthening the ties between GCC citizens as well as private and public institutions.

Article Twenty-five: Electronic Commerce

Member States shall take all necessary actions to facilitate banking and trade exchange through electronic means of communication, and unify their electronic commerce legislation.

Chapter VIII

Mechanisms for Implementation and Follow-up

Article Twenty-six: Implementation of the Agreement

1. Committees working under the framework of the GCC shall implement this Agreement, each within its competence.

2. The Secretariat General shall follow up implementation of the Agreement.

3. Member States shall provide the Secretariat General with periodic reports regarding implementation of the provisions of this Agreement and the applicable resolutions taken

to implement those provisions. In the light of these reports, the Secretary General shall submit a comprehensive periodic report to the Supreme Council. The Secretariat General shall set a mechanism for the preparation of these reports, their contents, and the completion dates thereof.

Article Twenty-seven: Settlement of Disputes

1. The Secretariat General shall hear and seek to amicably settle any claims brought by any GCC citizen or official entity, regarding non-implementation of the provisions of this Agreement or enabled resolutions taken to implement those provisions.
2. If the Secretariat General could not settle a claim amicably, it shall be referred, with the consent of the two parties, to the GCC Commercial Arbitration Center to hear the dispute according to its Charter. Should the two parties not agree to refer the dispute to arbitration, or should the dispute be beyond the competence of the Center, it shall be referred to the judicial body set forth in Paragraph 3 of this Article.
3. A specialized judicial commission shall be formed, when deemed necessary, to adjudicate disputes arising from the implementation of this Agreement or resolutions for its implementation. The Financial and Economic Committee shall propose the charter of this commission.
4. Until the charter of the commission referred to in paragraph (3) above comes into force, all disputes which the two parties do not agree to settle through arbitration and which could not be amicably settled by the Secretariat General, shall be referred to the competent GCC committees for settlement.

Chapter IX

Final Provisions

Article Twenty-eight: Ratification and publication

Member States shall take all measures necessary to ratify this Agreement and the relevant resolutions for its implementation, publish them in the official notification media, and implement them according to their provisions.

Article Twenty-nine: Coming into force

This Agreement shall come into force after being ratified by all Member States. The Secretariat General shall notify member States of the date of its coming into force.

Article Thirty: Exclusion

A Member State may be granted a temporary exclusion from implementing certain provisions of this Agreement as may be necessary due to temporary local situations prevailing in that State or specific circumstances encountered. Such exclusion shall be for only a limited period and shall be authorized only by a resolution from the Supreme Council.

Article Thirty-one: External bilateral agreements

No Member State may grant to a non-Member State any preferential treatment exceeding that granted herein to Member States, nor conclude any agreement that violates provisions of this agreement.

Article Thirty-two: Precedence of the provisions of the Agreement

1. 1. The provisions of this Agreement shall have prevail if found in disagreement with local laws and regulations of the Member States.
2. 2. This Agreement shall supersede the GCC Economic Agreement signed in 1981 AD (1402 AH), and the provisions contained herein shall supersede equivalent provisions set forth in bilateral agreements (between member states).
3. 3. Until the GCC Customs Union is established, the provisions of Article 3 of the GCC Economic Agreement signed in 1981 AD (1402 AH) shall continue to be applied. The percentage of the added value provided for in said Article may be amended by a decision of the Financial and Economic Committee.

Article Thirty-three: Amendment and Interpretation

1. This Agreement may not be amended without approval of the Supreme Council.
2. The Financial and Economic Committee shall be authorized to interpret this Agreement.

Signed in the city of Muscat (Sultanate of Oman) on Monday, 16 Shawwal 1422
AH, corresponding to 31 December 2001 AD.

Annex (3)

EU-GCC Cooperation Agreement

COOPERATION AGREEMENT between the European Economic Community, of the one part, and the countries parties to the Charter of the Cooperation Council for the Arab States of the Gulf (the State of 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) of the other part

PREAMBLE

THE COUNCIL OF THE EUROPEAN COMMUNITIES, hereinafter referred to as 'the Community', of the one part, and

THE GOVERNMENTS OF THE COUNTRIES PARTIES TO THE CHARTER OF THE COOPERATION COUNCIL FOR THE ARAB STATES OF THE GULF (the State of 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), hereinafter referred to as 'the GCC Countries' of the other part,

HAVING REGARD to the traditional bonds of friendship between the Member States of the Gulf Cooperation Council (GCC) and the Member States of Community,

RECOGNIZING that the establishment of contractual relations between the community and the GCC Countries will help to promote overall cooperation between equal partners on mutually advantageous terms in all spheres between the two regions and further their economic development, taking into consideration the differences in levels of development of the parties,

CONFIRMING their political will to establish a new structure for a comprehensive dialogue between the Community and the GCC Countries in order to broaden and consolidate cooperation between the two regions,

EMPHASIZING the fundamental importance attached by the parties to consolidating and strengthening regional integration, a key factor in the development of the GCC Countries and the stability of the Gulf region,

EMPHASIZING the parties' determination to cooperate with a view to improving the world economic and energy situation,

REAFFIRMING that cooperation between the Community and the GCC Countries is complementary to the Euro-Arab dialogue and not a substitute for it,

REAFFIRMING their attachment to the principles of the United Nations Charter,

RECOGNIZING the positive role of the GCC for the preservation of peace, security and stability of the Gulf region,

RESOLVED to provide a sounder basis for cooperation in conformity with international obligations,

HAVE DECIDED to conclude this Agreement and to this end have designated as their plenipotentiaries:

FOR THE COUNCIL OF THE EUROPEAN COMMUNITIES:

Mr Hans-Dietrich GENSCHER

Federal Minister for Foreign Affairs of the Federal Republic of Germany,

President-in-Office of the Council of the European Communities,

Mr Claude CHEYSSON

Member of the Commission of the European Communities,

FOR THE GOVERNMENTS OF COUNTRIES PARTIES TO THE CHARTER OF
THE COOPERATION COUNCIL FOR THE ARAB STATES OF THE GULF:

HRH Prince Saud AL-FAISAL

Minister of Foreign Affairs of the Kingdom of Saudi Arabia, President-in-Office of the
Ministerial

Council of the Cooperation Council for the Arab States of the Gulf,

H. E. ABDULLAH YAKOOB BISHARA

Secretary General of the Cooperation Council for the Arab States of the Gulf

WHO, having exchanged their full powers, found in good and due form,

HAVE AGREED AS FOLLOWS:

General objectives

Article 1

1. The Contracting Parties hereby agree that the main objectives of this Cooperation Agreement are as follows:

(a) to strengthen relations between the European Economic Community, on the one hand, and the GCC countries, on the other, by placing them in an institutional and contractual framework;

(b) to broaden and consolidate their economic and technical cooperation relations and also cooperation in energy, industry, trade and services, agriculture, fisheries, investment, science, technology and environment, on mutually advantageous terms, taking into account the differences in levels of development of the Parties;

(c) to help strengthen the process of economic development and diversification of the GCC countries and so reinforce the role of the GCC in contributing to peace and stability in the region.

2. Cooperation in particular fields will be governed by the provisions hereafter.

Economic cooperation

Article 2

In the light of their mutual interests and in accordance with their long-term economic objectives, the Contracting Parties undertake to establish within the limits of their competence, the broadest possible economic cooperation from which no field shall be excluded in advance.

Article 3

1. In the economic and technical fields, the Contracting Parties shall strive to encourage and facilitate, inter alia:

- the efforts made by the GCC countries to develop their productive sectors and the economic infrastructure in order to diversify the structure of their economies, taking into account the mutual interest of the Parties,
- market surveys and trade promotion by both parties on their respective markets and on other markets,
- the transfer and development of technology, in particular through joint ventures between undertakings and institutions in the two regions (research, production, goods and services), and to this end, and in the framework of their respective legislation, appropriate arrangements between undertakings and institutions within the Community and those of the GCC countries, with a view to protecting patents, trademarks and other intellectual property rights,
- the promotion of cooperation on a long-term basis between undertakings of the two Parties in order to establish more stable and balanced links between the respective economies,
- the promotion of cooperation in the fields of standards and measurements,
- the exchange of available information on short and medium-term prospects and forecasts for production, consumption and trade,
- training.

2. The specific aspects of cooperation will be dealt with by the provisions hereafter.

Article 4

In the field of agriculture, agri-industry and fisheries, the Contracting Parties shall strive to encourage and facilitate, inter alia:

- the stepping-up of exchanges of information on developments in agricultural production and on short and medium-term forecasts of production, consumption and trade on world markets,

- the promotion of contacts between enterprises, research institutions and other agencies in order to stimulate joint projects in agriculture, agri-industry and fisheries.

Article 5

In the industrial field, the Contracting Parties shall strive to encourage and facilitate, inter alia:

- the GCC countries' efforts to develop their industrial production and diversify and expand their economic base, taking into account the mutual interest of the Contracting Parties,
- the organization of contacts and meetings between industrial policy makers, promoters and undertakings in order to encourage the establishment of new relations in the industrial sector in conformity with the objectives of the Agreement,
- the promotion of joint industrial ventures.

Article 6

In the field of energy, the Contracting Parties shall strive to encourage and facilitate, inter alia:

- cooperation in the two regions by energy undertakings of the Community and the GCC countries,
- joint analyses of trade between the two regions in crude oil, gas and petroleum products and its industrial aspects with a view to considering ways and means of improving their trade exchanges,
- exchanges of views and information on matters relating to energy in general and respective energy policies, without prejudice to the parties' international obligations,
- training,
- studies, notably on new and renewable sources of energy.

Article 7

In the field of investments, the Contracting Parties shall strive to take steps for the mutual promotion and protection of investments, in particular through the extension by

the Member States of the Community and the GCC countries of investment promotion and protection agreements with a view to improving reciprocal investment conditions.

Article 8

In the fields of science and technology, the Community and the GCC countries shall strive to encourage and facilitate, *inter alia*:

- cooperation in scientific and technological research and development in the two regions,
- the transfer and adaptation of technology, notably through research activities and appropriate arrangements between economic operators of the two regions,
- the links between the scientific communities in the GCC countries and the Community,
- access to data banks concerning patents.

Article 9

The Contracting Parties shall exchange information on developments in their respective policies on protecting the environment and the protection and development of wildlife. They shall encourage cooperation in these fields.

Article 10

1. The Joint Council referred to in Article 12 shall periodically define the general guidelines of cooperation for the purpose of attaining the aims set out in this Agreement.
2. The Joint Council shall be responsible for seeking ways and means of establishing cooperation in the areas defined by the Agreement.

Trade

Article 11

1. In the field of trade, the objective of this Agreement is to promote the development and diversification of the reciprocal commercial exchanges between the Contracting Parties to the highest possible level, *inter alia* by studying ways and means of

overcoming trade barriers for the access of each Contracting Party's products to the other Contracting Party's market.

2. The Contracting Parties shall enter into discussions concerning the negotiation of an agreement aimed at the expansion of trade in accordance with the provisions of the Joint Declaration annexed hereto.

3. Pending the conclusion of the trade agreement referred to in paragraph 2, the Contracting Parties accord each other most-favoured-nation treatment.

General and final provisions

Article 12

1. A Joint Council for GCC/Community cooperation, hereafter referred to as the 'Joint Council', is hereby established which shall have the power, for the purpose of attaining the objectives set out in the Agreement, to take decisions in the cases provided for in the Agreement.

The decisions taken shall be binding on the Contracting Parties, which shall take such measures as are required to implement them.

2. The Joint Council may also formulate any resolutions, recommendations or opinions which it considers desirable for the attainment of the common objectives and the smooth functioning of the Agreement.

3. The Joint Council shall adopt its own rules of procedure.

Article 13

1. The Joint Council shall be composed of representatives of the Community, on the one hand, and of representatives of the GCC countries, on the other.

2. Members of the Joint Council may be represented as laid down in its rules of procedure.

3. The Joint Council shall act by mutual agreement between the Community, on the one hand, and the GCC countries, on the other.

Article 14

1. The office of President of the Joint Council shall be held alternately by the Community and the GCC countries in accordance with the conditions to be laid down in the rules of procedure.

2. Meetings of the Joint Council shall be called once a year by the President.

The Joint Council shall hold whatever additional meetings may be necessary, at the request of the Community or the GCC countries, as laid down in its rules of procedure.

Article 15

1. The Joint Council shall be assisted in the performance of its duties by a Joint Cooperation Committee.

It may decide to set up any other committee that can assist it in carrying out its duties.

2. The Joint Council shall determine the composition and duties of such committees and how they shall function.

Article 16

1. The Contracting Parties shall take all appropriate measures required to fulfil their obligations under this Agreement. They shall see to it that the objectives of this Agreement are attained.

2. If either Contracting Party considers that the other Contracting Party has failed to fulfil an obligation under this Agreement, it may take appropriate measures. Before so doing, it shall supply the Joint Council with all relevant information required for a thorough examination of the situation with a view to seeking a solution acceptable to the Contracting Parties.

In the selection of measures, priority must be given to those which least disturb the functioning of this Agreement. These measures shall be notified to the Joint Council, which shall hold consultations on them if another Contracting Party so requests.

Article 17

Where, in the course of the exchanges of information provided for in this Agreement, problems arise, or seem likely to arise, in the general functioning of the Agreement or in

the trade field, consultations may take place between the Parties, in the Joint Council, with a view to avoiding market disturbances in so far as possible.

Article 18

Each Contracting Party may request the other Party to provide all relevant information on an agreement which has a direct and specific impact on the functioning of the Agreement. In such cases, appropriate consultation shall be held within the Joint Council at the request of the other Party so that the interests of the Contracting Parties may be taken into consideration.

Article 19

In the fields covered by this Agreement and without prejudice to its provisions:

- the arrangements applied by the GCC countries in respect of the Community shall not give rise to any discrimination between its Member States, their nationals, or their companies or firms,
- the arrangements applied by the Community in respect of the GCC countries shall not give rise to any discrimination between them, their nationals, or their companies or firms.

Article 20

1. Without prejudice to the relevant provisions of the Treaties establishing the European Communities, this Agreement and any action taken thereunder shall in no way affect the power of the Member States of the Communities to undertake bilateral activities with the GCC countries in the field of economic cooperation or to conclude, where appropriate, new economic cooperation agreements with those countries.

2. Without prejudice to the provisions of the GCC Charter and any other agreements on GCC integration, this Agreement and any action taken thereunder shall in no way affect the powers of the GCC countries to undertake bilateral activities with the Member States of the Community in the field of economic cooperation or to conclude, where appropriate, new cooperation agreements with those Member States.

3. Subject to the provisions of Article 11, this Agreement and any action taken thereunder shall in no way affect the power of the GCC countries to undertake bilateral

activities with other Arab League Nations in the field of economic cooperation or to conclude, where appropriate, new economic cooperation agreements with these countries.

Article 21

1. Any dispute which may arise between the Contracting Parties concerning the interpretation of this Agreement may be placed before the Joint Council.

2. If the Joint Council fails to settle the dispute at its next meeting, either Party may notify the other of the appointment of an arbitrator; the other Party must then appoint a second arbitrator within two months. For the purposes of the application of this procedure, the Community shall be deemed to be one Party to the dispute, as shall the GCC countries.

The Joint Council shall appoint a third arbitrator.

The decisions of the arbitrators must be taken by majority vote.

Each party to the dispute must take the measures required for the implementation of the arbitrators' decision.

Article 22

The Declarations and Exchanges of Letters annexed hereto shall form an integral part of this Agreement.

Article 23

This Agreement is concluded for an unlimited period. Each Contracting Party may denounce this Agreement by notifying the other Contracting Party. This Agreement shall cease to apply six months after the date of such notification.

Article 24

This Agreement shall apply, on the one hand, to the territories in which the Treaty establishing the European Economic Community is applied and under the conditions laid down in that Treaty and, on the other hand, to the territories of the GCC countries.

Article 25

This Agreement is drawn up in duplicate in the Danish, Dutch, English, French, German, Greek, Italian, Portuguese, Spanish and Arabic languages, each of these texts being equally authentic.

Article 26

This Agreement will be approved by the Contracting Parties in accordance with their own procedures.

This Agreement shall enter into force on the first day of the second month following notification that the procedures referred to in the first subparagraph have been completed.