



THE ROLE OF INTERNATIONAL ARBITRATION IN RESOLVING OIL
DISPUTES WITH FOREIGN INVESTMENT COMPANIES: CASE STUDY
OF THE NATIONAL COMPANY FOR RESEARCH, PRODUCTION,
TRANSPORT, TRANSFORMATION AND MARKETING OF FUELS
(SONATRACH)

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**Key Words: International Arbitration, Oil Disputes, Foreign Investment Companies,
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ABSTRACT:

This study aims to shed light on the role of international arbitration in resolving disputes with foreign oil companies and what the National Company for Research, Production, Transportation, Transfer and Marketing of Hydrocarbons (Sonatrach) has played in achieving a balance between what Algeria seeks to promote investments by hosting foreign oil companies and not prejudice their rights and create a clear climate to reassure the investor and the movement of his capital.

If the state has the power to issue various legislations within its territory and take whatever measures it deems necessary to cancel or amend its contractual obligations and affect the rights of foreign companies contracting with it, then petroleum agreements have repeatedly included what is known as the condition of international arbitration to resolve oil disputes with foreign companies.

INTRODUCTION:

The importance of the role of oil in monitoring the concepts of world peace through drawing up a policy and strategy that both the industrial consuming countries and the developing countries that produce it seek to achieve, has been embodied in considering the areas of oil extraction among the most important

areas that the major countries put under their sights and seek to control it by various means, Such a matter made practical oil studies advance first from their academic counterparts, of which legal studies are one of them, but it can be said within the framework of the latter (i.e. legal studies) that they are limited to some aspects related to oil wealth, as is the case with regard to disputes that take place within the framework of Oil contracts and the conditions they contain, especially the arbitration clause, and the subject of the law applicable to these disputes (Amar Muhammad Ibn Yunus, 2004, p.7).

The issue of arbitration is one of the most important and accurate issues that are always raised regarding the host countries' relations with foreign oil companies, as it constitutes the legal protection of these companies against the host countries' actions represented in non-commercial risks.

Objectives Of The Study:

- 1- Knowing the protection mechanisms stipulated by the legislature to protect the foreign contractor in oil contracts, in addition to the mechanisms of international law.
- 2- Knowing the effective role of the legal system for oil investments in attracting and protecting foreign companies.
- 3- Evaluating the protection indicators stipulated in legislation and international law with regard to the foreign contractor in oil contracts, and thus assessing the effectiveness of this protection.
- 4- He drew the attention of specialists to the extent of the importance of confirmed legal texts to protect the foreign contractor in the oil law.

Study Methodology:

The study of such a topic in a comprehensive manner for all points calls for the use of a set of approaches, such as the historical curriculum that helped us study the historical development of the various oil legal systems in the country under study, as well as the analytical method for mentioning the characteristics and conditions of the contractual relationship and its legal effects in the hydrocarbon sector, as well as how Facilitating the process of resorting to arbitration as a tool to exercise protection in oil contracts.

In addition to following the comparative approach, which allowed us to identify similarities and differences between the stages of the development of the investment system in the country under study (Algeria) with regard to facilities and methods of settling its disputes through amendments contained in the legal system for oil investments approved by it. This, of course, without forgetting to mention our dependence on the desktop survey method, through our discussion of literature and previous studies that dealt with subjects related to the subject of our study.

Research Problematic:

The research problem revolves around the role of international arbitration in resolving disputes with foreign oil companies and the extent of its effectiveness.

Is there really legal protection for foreign oil investments against non-commercial risks?

Given the importance of the issue of international arbitration in foreign oil investments and its effective role in attracting foreign companies, we decided to address this issue in the following points:

The first requirement: the concept of arbitration as a legal tool for resolving foreign oil investment disputes

First - Definition Of Arbitration:

International arbitration is considered one of the old judicial means used in international relations to resolve disputes peacefully. Arbitration courts can consider all international disputes regardless of their nature, so they may decide on political or legal disputes and other disputes as long as the arbitration agreement gives them this authority (Saleh Yahya Al-Sha'ari, Peaceful Settlement of International Disputes, Cairo, Madbouly Library, year 2006, p.72).

Article 37 of the Hague Convention of 1907, relating to the peaceful settlement of international disputes, defined arbitration as: “a method for settling disputes between states, by judges of their choice on the basis of respecting the right and the law (Muhammad Abu Al-Enein, 1997, p. 114).

Reasons To Resort To Arbitration

The choice and preference of the parties to the dispute to arbitrate over the judiciary is based on Aristotle’s statement: “The arbitrator sees other matters than justice, because in the first instance he seeks to secure conciliation.

These reasons can be mentioned as follows:

- 1- The experience of arbitrators: where distinguished, specialized and competent experts can be used to settle these disputes.
- 2- Lack of costs: Although many believe that arbitration is less expensive than the judiciary, arbitration under the umbrella of the International Chamber of Commerce in Paris is more expensive than resorting to the judiciary itself.
- 3- Speed in procedures: Some assert that arbitration is characterized by the simplicity and speed of its procedures, in the face of the extreme slow pace of litigation procedures before the courts, but this assertion they replied that the practical reality proves otherwise. With the aim of gaining time to prolong the arbitration procedures without justification, we can mention here, for example, the dispute that arose between the government of Saudi Arabia and the American Oil Company (Aramco), as the arbitration decision was not issued until three years after the beginning of the dispute in 1955 (Ahmed Abdel Karim Salama, 2004, p.126).
- 4- Confidentiality: This secrecy may lead to reducing the amplification of the conflict, and may also lead to an amicable settlement, and thus the continuation of the relationship between the conflicting parties (Samiha Qalioubi, 2004, p. 41).

Jurisprudence has reached a division of arbitration in view of the legal system to which it belongs. It has been divided into general international arbitration, private international arbitration, and internal (national) arbitration:

- If the arbitration settles a dispute between two states or more that enjoys sovereignty, then the arbitration shall be international and general, and in this case, it shall be subject to the rules of general international law.

- As for private international arbitration, it takes place when a legal relationship is established between individuals, but of an international character, such as if the parties are of different nationalities or reside in different countries, or that the contract was concluded or executed in a foreign country, or the arbitrator who will settle the dispute is a foreigner.

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As for the real reason for resorting to arbitration in the field of foreign oil investment disputes is the lack of confidence of foreign investors in the national courts in the host country in general and the developing ones in particular, and their failure to easily submit to the jurisdiction of a foreign country, and to a legal system different from that prevailing in their countries, they are afraid of The judge's tendency to understand the point of view of his state and his citizens from the viewpoint of the foreign investor's point of view that his negotiating power is diminishing as soon as the capital enters the foreign country, so he is keen to include provisions in the investment contract that guarantee him greater protection, such as arbitration(Amer Ali Rahim, 1987, p. 45).

Second - The Type Of Arbitration Related To Petroleum Contracts:

It is worth noting that arbitration is intended to settle disputes arising between the host country and foreign oil companies by judges chosen by the parties concerned, and on the basis of respecting the rules of international law, and based on this, many national legislations such as Algeria and other countries have stipulated the possibility of resorting to arbitration regarding settlement. International development contract disputes, which of course include oil contracts, and through extrapolation of oil agreements in many countries, we find that there is an absolute consensus to adopt this method for resolving disputes over oil fields, therefore arbitration is the first means to ensure procedural protection for the foreign private contractor in the field Oil contracts in particular.

Arbitration is the first procedural method that is the most acceptable and a source of reassurance to the foreign oil investor. Therefore, a contract of oil contracts between its parties is not devoid, without making sure to resort to this method as a procedural protection tool, especially for the foreign private contractor. From the judge of the other party to resolve the litigation, as arbitration was merely an alternative to the national judiciary, but later on, the latter became the basis for resolving these disputes and an acceptable way in the event of the failure of peaceful (diplomatic) means such as negotiations between the two parties.

It should be noted here that OPEC has adopted the arbitration system and called for its adoption as a means of settling oil disputes, due to the wide interest that arbitration has received.

At the international level, many international protocols and agreements have been concluded, such as the Geneva Protocol in 1923 AD, the Geneva Convention in 1927 AD, the New York Convention in 1958 AD, the European Convention on International Commercial Arbitration in 1961 AD, and the Agreement on Settlement of Investment Disputes of 1965 AD.

In addition, many permanent arbitration centers of an international character have been established, the most important of which are the Permanent Court of Arbitration at the International Chamber of Commerce in Paris, the American Association for Arbitration and the London Court of Arbitration, and the Afro-Asian Legal Advisory Committee has established two arbitration centers, one of which is in Malaysia (Kuala Lumpur). The other is in Egypt (Cairo) (S.I. Strong, 2012, p.152).

Third - Justifications For Resorting To Arbitration To Settle Oil Disputes:

1- Resorting to arbitration to settle disputes related to oil contracts is due to the fact that arbitration is less expensive and saves time in terms of the speed of taking procedures. Arbitration shortens the degrees and stages of litigation. The arbitration award cannot be challenged by means of appealing against judicial rulings, but this cannot be approved. Absolutely because sometimes the reality proves the opposite, the cost and expenses of arbitration may be very exorbitant, and procedures may continue in some oil disputes for more than two years, such as the dispute between Saudi Arabia and the American Aramco company that started in 1955 and ended in 1958.

2- The adjudication of oil contract disputes requires special scientific and technical qualifications, given their relevance to technical issues, and despite this, jurists have been resorted to in most oil disputes.

3- Lack of confidence in the national judiciary in relation to the host countries of foreign oil companies.

4- The validity of the arbitration also requires that its place be legitimate, and the most important thing necessary for its legality is that the dispute over which the parties have agreed to resort to arbitration is one of the disputes that may be settled by means of arbitration, including oil contract disputes. It may or may not be agreed to settle it by arbitration, and the best evidence of this is the freedom recognized for states in this regard from international agreements related to arbitration (Saleh Muhammad Mahmoud Badr al-Din, 1991, p. 67).

5- The real reason for resorting to arbitration in the field of foreign oil investment disputes is the lack of confidence of foreign investors in the national courts in the host country in general and the developing ones in particular, and their failure to easily submit to the jurisdiction of a foreign country, and to a legal system different from that prevailing in their countries. He understands the viewpoint of his country and its citizens from the viewpoint of the foreign investor that his negotiating power is diminishing just because the capital enters the foreign country, so he is keen to include the investment contract provisions that guarantee him greater protection such as arbitration.

As For The Mechanism For Selecting Arbitrators, There Are Three Methods For Selecting Arbitrators, As Follows:

1. Selection of arbitrators by the authorities of the host country, such as the agreement concluded between the Iraqi National Oil Company and the French company Ayrab in 1968.
2. 2- Selecting the members of the arbitration by foreign authorities in order to avoid the participation of the parties to the dispute, especially those who are expected to be convicted, in forming the arbitration court, by not naming them.
3. An arbitrator of one of the parties is granted the authority to settle the dispute.

The Second Requirement: The Evolution Of The Application Of The International Arbitration System To Settle The Dispute Between Algeria And Foreign Oil Companies

Foreign companies no longer accept investing their capital in any country, especially in third world countries, unless they give guarantees. The first and most important guarantees are arbitration. Therefore, the inclusion of the arbitration clause in the field of investment contracts began since the last century, especially in the absence of national legislation on investment (E. Gaillard, Legal, May 2010, p 23). The parties to the petroleum concession contract, for example, and the work contracts, have accepted the arbitration clause, and the best example of this is the petroleum agreements concluded by Algeria.

The condition of arbitration is found in most bilateral investment agreements that are concluded between the host countries and the country of the foreign investor, and these agreements often give adequate protection to the nationals of other countries, including protection from the host country's exceptional procedures and what may be attached to that of bilateral agreements is the development of a comprehensive system for all private matters. These agreements include conditions such as non-discrimination in treatment, the principle of non-interference in contractual relations, the right to full protection and guarantee, and the allowance for prompt and adequate compensation in the event of decisions to nationalize or expropriate property for the public benefit of the host country (Oliver Ramsbotham, Tom Woodhouse, Hugh Mail, 2009.p. 34).

Arbitration in oil investment disputes achieves the desired balance between the rights of the foreign investor and his guarantees and the requirements of the economic development plans of the Arab countries. And then it became affirming the need to develop international arbitration in line with the nature of investment ties and the specificity of disputes that arise (Al-Khair Qeshi, 1999. P. 56). There is still a need to develop international arbitration in the field of investment disputes and to find an international formula capable of codifying many of the material rules guaranteeing the protection of foreign investor capital in host countries.

After independence, Algeria experienced a great legislative vacuum, so it continued to work according to French laws, except for what contradicts national sovereignty (Official Gazette, Issue 20, dated 01/11/1963, p. 18). If the French law recognized at the time international commercial arbitration, Algeria considered it contrary to sovereignty, and disputes between private foreign countries and persons were the jurisdiction of the internal courts (Bencheneb Ali, 1984, p. 89).

First / The Reservation Phase On The Application Of The Arbitration System In The Algerian Oil Contracts:

The stage of denial of the arbitration system extends from independence to the stage of nationalization, which is a temporary stage in relation to Algeria's position on arbitration, as it appears at the agreement level that arbitration is adopted as a means of settling international economic disputes between Algeria and France through the Evian Agreement. As it was decided according to the Evian Agreement concluded on 03/29/1963 to resort to international arbitration. This method, given the absence of an internal judiciary, would grant sufficient and effective guarantees to foreign investors (Watiki Sherifa, 2006, p. 271).

Ordinance No. 71-24 of 4/12/1971 stipulated methods for settling disputes in the hydrocarbons sector, as follows:

Settlement Of The Dispute Through The Administrative Judiciary:

This method is applied in the event that the dispute is related to matters of public order, which is the area in which the state moves as a public authority, which has unfamiliar privileges, and the matter usually relates to disputes resulting from the agreement protocol and which are subject to the jurisdiction of the Administrative Chamber of the Judicial Council based on the text of the article The seventh of the Civil Procedures Law, but this result may not seem correct if we look at the text of Article 7 of Ordinance No. 71-24 amending the text of Article 41 of Ordinance No. 58/1111, which limits the jurisdiction of the Supreme Judicial Council to disputes related to taxes exclusively.

As for the rest of the disputes, Professor Bin Sheikh believes that other areas are subject to arbitration (Lokmane F, 1975, p 09), while Professor Turki believes that this interpretation is not institutionalized, but rather contradicts some of the rules in force in internal law, such as the text of Article 7 of the Civil Procedures Law, which makes The Supreme Judicial Council degree of appeal (Terki N, 1976, p 83).

Settlement Of Disputes Through The Ordinary Judiciary:

Some researchers believe that this method is possible given that the partnership contract concluded between the two parties is subject to the Algerian law, in terms of the form, which usually takes the form of a commercial company, as defined by the commercial law, or in terms of activity where the sharing

business is considered commercial business. Adjustment: Disputes related to these two sides are subject to the oversight of the ordinary judiciary, but the problem may not be as simple as the mixed nature of participation, which consists of a public person and a foreign private person, which results in a mixed legal system that tends to the rules of public law, and perhaps This is what makes us ask about the possibility of settling the dispute through arbitration (Benchikh M, Paris, 1973, p.30).

The Possibility Of Settling The Dispute Through Arbitration:

The possibility of settling the dispute through arbitration: If we refer to the second paragraph of the text of Article 442, it requires that public legal persons be prevented from resorting to international commercial arbitration. In front of this text, to what extent Sonatrach can conclude an arbitration agreement within the partnership contracts? But by referring to some of the contracts that the company entered into with foreign parties, we find that they did not comply with this attendance, as actual practice has shown that the jurisdiction of the national judiciary is not a compulsory principle to contain some of the agreement protocols on arbitration agreements or arbitration conditions, and such recourse is illegal because of its violation of the text of the article. 442 Paragraph 2 of the Civil Procedure Law To remove this contradiction, the legislator issued Order No. 75/44 dated 06/17/1975 AD relating to compulsory arbitration, which subjects the disputes of companies with a mixed economy to the scope of application of this law. Internal on the one hand and part of state institutions on the other hand, which makes it closer to the national judiciary than to arbitration as it is known in the jurisprudence (Belkacem Bouzana, 1985, P29).

Second / The Stage Of Implementing The International Arbitration System According To The Agreement Between France And Algeria In 1982:

The beginning of the application of arbitration was according to the agreement between France and Algeria in 1982 AD, which led to the emergence of this system for the first time in 1983 (Cola Mohamed, 2008, p. 08). Whereas, within the framework of bilateral treaties, for the purpose of resolving disputes of mixed institutions under this agreement concluded on 03/27/1983 AD, Algeria accepted arbitration within the framework of resolving disputes that arise between Algerian public institutions and their French public or private partners (Mahiou Ahmed, 1989, p 702).

It is noticeable that Algeria for a long time excluded arbitration as a method for settling disputes that arise between them and between foreign parties, which negatively affected the volume of foreign investments in Algeria, and perhaps the reason for this exclusion was related to the idea of sovereignty, especially since Algeria is one of the newly independent countries compared to developed countries, It feels that arbitration is challenging its national jurisdiction (Bin Sahla Thani Bin Ali- Naimi Fawzi, 2007, p. 36).

Article 442/03 of the repealed Civil Procedure Law stipulates the absolute rejection of arbitration. Article 442/03 states: "Neither the state nor public legal

persons may request arbitration.” What is meant by the term state here is the state, local groups, and public bodies of a character, Administrative and public institutions of an economic nature, which is not tolerated by a narrow interpretation of this article.

For this reason, the adoption of the Algerian law for the arbitration system came at a late stage, as the Civil Procedure Law (Ordinance 66-154), amended and supplemented, was rejecting the arbitration system and it can be seen through Article 442 of the old civil procedures law that prohibits public persons from resorting To these parts: “Every person may request arbitration in rights that he absolutely knows about, and arbitration is not permitted in the obligation to spend, nor in inheritance rights, rights related to housing and clothing, nor in matters related to public order or the status of persons and their capacity, and the state may not Public legal persons may not request arbitration. However, the last paragraph of this article was subject to amendment by virtue of Legislative Decree No. 93-09 issued on 04/25/1993, as its new wording became: “..... and no Legal persons affiliated with public law may request arbitration, except in their international commercial relations (Belaid A,1993, p.75).

It is noticeable through this amendment that the Algerian legislator has substantially amended the stance against arbitration against the state and other public law persons, And that when I explicitly announced the possibility of these public persons resorting to the international commercial arbitration system in disputes related to their international commercial relations.

Article 2 (02) of Legislative Decree 93/09 added an entire chapter (fourth text) to Book Eight of Ordinance 66/154 containing the Civil Procedures Law under the title: “On Provisions for International Commercial Arbitration” that includes (29) articles.

Then comes Law 09/08 of 02/23/2008 which includes the Civil Procedure Law, to stipulate in Article 1006 that: “Every person may resort to arbitration in the rights in which he is free to dispose of them. Arbitration in matters related to public order or Status of persons and their eligibility.

Legal persons may not request arbitration except in relation to their international economic relations or within the framework of public deals”.

The Algerian legislator has defined the concept of arbitration through Article 1039 of the Civil and Administrative Procedures Law as: “International arbitration, in the sense of this law, is arbitration that concerns disputes related to the economic interests of at least two countries”.

It is the text that came to cancel the previous text of Article 458 bis, which states: “The concept of this chapter is international arbitration regarding disputes related to international commercial interests in which the headquarters or domicile of at least one of the parties is abroad.

Arbitration has been consecrated through the text Article 17 of the Algerian Investment Law of 2001 amending and supplementing Law 91-21 as an exception to the jurisdiction of courts in the event of bilateral or multilateral agreements concluded by Algeria related to arbitration, as it states: "Every

dispute between The investor, or because of an action taken by the Algerian state against him, to the competent judicial authorities, except in the case of bilateral or multilateral agreements concluded by the Algerian state related to arbitration and reconciliation or in the case of a special agreement stipulating a settlement clause or a clause that allows the parties to reach an agreement based on a special arbitration ".

Arbitration is also enshrined in Law 05-07 amended and supplemented by Law No. 13-01 of 2013 AD, whereby it stipulates in its Article 58 that: "Every dispute between the National Agency for Valuation of Fuel Resources (oil) and the contractor shall be settled, resulting from an interpretation and / or implementation, the contract or on the implementation of this law and / or the texts taken to implement it, through an amicable settlement according to the terms agreed upon in the contract.

If this procedure fails, the dispute can be submitted to international arbitration according to the terms agreed in the contract (Lalive Jean Flavien, 1964, p. 54). The recourse to international arbitration mentioned above concerns only the persons who compose the contract, and the Sonatrach National Corporation does not belong to a company with shares.

In the event that this dispute exists between the national institution Sonatrach, a company with shares, and the persons constituting the contract, then this dispute may be submitted to international arbitration according to the conditions stipulated in the contract.

The Algerian law, especially this law and the texts taken to implement it, shall be applied to settle disputes".

The Third Requirement: Examples Of Arbitration Cases Between The Algerian Company Sonatrach And Foreign Oil Companies

First / Sonatrach's Agreement With The Spain Gas Company:

The dispute between Algerian Sonatrach and the Spanish Gas Company over the issue of raising the price of Algerian gas and the decision issued by the French Arbitration Council in favor of Algeria is related to raising the price of gas by 20 percent starting from the year 2007 AD, and based on this decision, the foreign partner represented by the Spanish Gas Company It is obligated to pay Algeria an amount of 1.5 billion euros retroactively, and it is worth noting that in 2005 AD, the Sonatrach company submitted a request for a price review in line with the increase in the price of oil internationally, in two stages, which led to the refusal of the Spanish company and this made Algeria cancel two contracts with Two Spanish companies ((Gas - Repsol)) in 2007 (Le petrole et le gaz arabe, vol XLII,no 995,01/09/2010, p 12).

According to an arbitration decision issued by the Swiss court regarding the price of gas and the (long gas) project in Geneva, the latter decided that Sonatrach is not obligated to compensate the two Spanish partners, especially

since all this was done in accordance with the terms of the contract. The international verdict between Algeria and Spain was in favor of Algeria.

Second / The Arbitration Case Between Sonatrach And The Italian Edison Company:

The President and General Manager of Sonatrach, Abdul Hamid Zarqin, confirmed the loss of the Italian Edison case before international arbitration. The International Chamber of Commerce has an ongoing dispute over gas prices, and has linked this to a clause called "contract turmoil" which provides for a review of the base price when there is a change in economic conditions.

According to the General Manager of Sonatrach, Mr. Abdul Hamid Zarqin, even if the contracts were well laid down and granted all rights to Sonatrach, they "unfortunately include a conservative clause in the energy market between all partners to reconsider the price upon recording market turmoil." Edison is not the only partner that has requested a review of gas prices, as there is Eni and Fenosa.

Mr. Zarkin did not disclose the rate of reduction demanded by these companies, saying only, "We are about to review the agreements with Eni for the third time in two years," stressing that Sonatrach is doing its best to keep the gas price in its current form. He admitted that maintaining the price of gas exported to Europe during this period is "very difficult" in light of the economic crisis that affects demand and prices.

As for the loss of international arbitration, Mr. Zarqin said, in a statement to the Algerian News Agency, "Sonatrach won times and lost other times," referring to the arbitration it won in 2010 before the Spanish company "Venosa", on the price of gas delivered to Spain through Greater Middle East pipeline. According to experts, the gas prices set on the basis of oil prices, which Russia and Algeria are adopting within the framework of long-term contracts "do not suit European customers in light of the current crisis," which prompted customers to ask Sonatrach to review the price of gas, threatening it to resort to Qatari liquefied gas, As well as the possibility of exploiting shale gas, to avoid Sonatrach's pressure.

Third / The Arbitration Case Between Sonatrach And Anadarko:

Sonatrach had lost its battle with the American Anadarko, which obtained \$ 4.4 billion in compensation after resorting to international arbitration due to the 2006 fuel law, and so did Spain's Marcique for the same reason. As for Spain's Natural Gas, it resorted to international arbitration due to gas prices. For his part, the lawyer specialized in arbitration, Mr. Nasruddin Lazar, noted that many of the disputes in which Algerian companies are parties with foreign ones are conducted with modest efficiency, wondering about the feasibility of entrusting the defense of Algerian interests to foreign offices in disputes of huge interests, Although Algeria possesses competencies capable of defending the interests of national companies.

The repeated losses of national companies that resort to international arbitration are due to three main reasons, which are as follows:

- 1- The formula of the contract with the foreign partner, which usually contains loopholes that do not work in the interest of national institutions.
- 2- Training, where national companies do not have legal advisors capable of defending their interests, and controlling international commercial laws, not just local ones.
- 3- It lies in the criteria for selecting international rulers and lawyers, and the inability to use what are known as international "economic lobbies" that can pressure to give priority to one party over another in the disputed case.

Fourth: Algerian Sonatrach Maintains The "Gazi Twel" Project Without Compensation For Repsol Or Natural Gas.

The arbitration court recognized that the contract of the two Spanish companies, Repsol and Natural Gas, with the Algerian state-owned company Sonatrach, which will keep the gas-toil project, has declared that one of the parties is not obligated to compensate the other, Liquefying gas in the gas-toil project, and paying a similar amount to the company's (joint) treasury.

Regarding the investments that were spent in the project, the decision did not approve their return, which makes Natural Gas overlook the credits related to the project, whose value rises to about 60 million euros (about 90 million dollars), while Repsol waives 105 million euros, equivalent to 156 million dollars. . However, Natural Gas and Repsol made it clear in a statement that the decision will not materially affect its results.

The two companies confirmed that they are looking into the content of the arbitration award to decide whether to take any measures related to this process. The decision issued between Repsol and Natural Gas on the one hand, and Sonatrach on the other hand, resolves the termination of the contract related to the Gas-Toil project. Natural Gas and Repsol had requested two billion and 400 million dollars (one billion and 610 million euros) from Sonatrach to cancel the contracts, while Sonatrach demanded 800 million dollars (about 537 million euros) for the delay in implementing the project.

Sonatrach terminated the contract with the two Spanish companies in September 2007, justifying its decision to delay the implementation of the project, which includes exploration, production and sale of liquefied natural gas in the area of Gazi Twel, in which Repsol and Natural Gas obtained the concession to work in it in November 2004 through an international tender. Natural, by the decision of the Algerian company, "due to its illegality and legality," which led to the subjection of the dispute case to an international arbitration process in Geneva (Cameron (P), 2006, p 34).

It is worth noting that the Paris Arbitration Court has ruled in favor of Sonatrach in the dispute against the Spanish "Gaznatural" company over the prices for delivering natural gas to Spain since 2007, and it is expected that the National Hydrocarbons Company will receive compensation estimated at about 1.5 billion euros, according to a statement. Issued by the Spanish group, the details

of this court ruling have not been determined. However, the economic newspaper "Expensen" indicated that the Spanish company may, according to this ruling, be obliged to compensate the Algerian company about 1.5 billion euros with retroactive effect, and it also intends to initiate the procedures of appeal against the final decision. The turnover of the Spanish "Gaznatural" company, yesterday morning, decreased from 3.38 per cent to 2.12 euros, in a market that generally tends to rise by 0.5%.

The Spanish group confirmed in a statement that it would "analyze" the arbitration decision issued in Paris in order to determine the method of work that should be followed to ensure the defense of its rights. The Spanish "Gasnatural" had objected to the applied increases in natural gas prices as of 2007 by a company. Sonatrach, which supplies about a quarter of the gas consumed in Spain through the transit gas pipeline from the Maghreb to Europe (Chitour chem s eddine, 2000.p 45).

It should be noted that the conflict between Sonatrach and the Spanish complex began in 2007, after Algeria's request to raise the price of gas supplied to Spain through the "Gaznatural" complex, by 20 percent, and the former Minister of Energy and Mines, Chakib Khelil, had confirmed that Sonatrach was incurring a loss of \$ 600 million. Annually due to maintaining the current price of gas supplied to Spain, and the arbitration decision comes in a circumstance that witnesses a decrease in the price of gas on the international market, while gas prices were very high after the increase in the price of oil in 2007.

This ruling is the second decision issued in favor of Sonatrach in its dispute with "Gaznatural"; As the Court of Arbitration in Geneva in Switzerland had previously decided in November 2009 in favor of Sonatrach and decided to pay the Spanish Gas Network 1.5 billion euros in favor of Sonatrach after the dispute between the two companies since 2007 over the price of Algerian gas distributed in Spain was settled due to the disagreement of the two parties, On the financial value that you depend on to market it.

The International Court has decided in the case of the dispute over the pricing of gas between Sonatrach and the Spanish "Gas Net," which spanned over a period of three years, according to a statement by the Spanish Council, which did not include additional details of the ruling, and accordingly, the international arbitration decision obliges the company The Spanish paid 1.5 billion euros for Sonatrach, which was mentioned in the Spanish economic journal "Expense", and the issue of raising the price of Algerian gas marketed in Spain was a matter of dispute between the two parties, while Algeria demanded to reconsider the applicable price, as it is not in line with developments in the oil market Current, Madrid insisted on preserving the price as it is linked to long-term contracts signed between the two sides, which led to the termination of the contract between the two parties and resorting to international arbitration that issued a decision in favor of Sonatrach, and this ruling is the second decision issued in favor of Sonatrach in its dispute with "Gaznatural" The Court of Arbitration in Geneva (Switzerland) had previously decided in November 2009 in favor of Sonatrach and ruled that no compensation be paid to the Spanish oil companies, Repsol and Gaznatural, for their breach in 2007 of the agreement on the

completion of the FASI project. Long to dilute natural gas, and the President of the Enterprise Heads Forum, Mr. Reda Hamiani, has called on economic dealers to adopt the option of alternative methods to settle disputes that may occur between institutions during the implementation of partnership or investment contracts, and indicated that the classic justice system is not compatible with the conditions of economic activity in terms of The speed and costs of adjudication in these cases. On the occasion of a forum hosted by the forum's headquarters, Mr. Hemiani explained that the economic dealers, parties to the dispute, can choose a neutral judgment to help him in resolving the dispute issue without having to resort to the corridors of the administrative or commercial courts specialized at the level of the judiciary, and in this context, he mentioned the method of reconciliation, mediation or arbitration.

In this regard, lawyer and member of the Arbitration Center, Farid Ben Belkacem, said, in the context of defending this approach, that justice is not in many cases qualified to respond to cases related to the economic nature, referring to the weak training in this area as well as the provisions that may be They are not positive in various cases, to insist on the need for economic dealers to adopt these alternative ways to settle potential disputes to gain time and reduce costs, at a time when he said that the international arbitration imposed on some Algerian companies within partnership contracts with foreign institutions costs at least 35 thousand dollars.

Mr. Farid touched upon the opportunities for resolving the dispute by alternative methods, as is the case with the reconciliation, which he considered a negotiation process between the two parties to the dispute mediated by a person whose task is to bring the views of the disputants together, in addition to mediation that may be in the general case or contract or part of it, as well as arbitration In this procedure, the decision of the freely chosen ruling by the parties shall be enforceable, as it has the same power as the judicial ruling, before adding that this way allows the disputants several options about the applicable law, the language used and the venue for the settlement of the dispute, provided that the choice of this method is mentioned in the clauses, Contract or agreement. Mr. Farid Ben Belkacem also indicated, on the other hand, that Sonatrach was forced during its dealings with the major oil companies to go to international arbitration in about 50 cases, while it regrets that this public company chose foreign studies and experts' offices to defend its interests, despite the presence of national competencies in this Specialization.

CONCLUSION:

The principle of resolving international disputes by legal means (especially disputes over joint oil fields) is considered one of the main principles in the field of international law and international relations. The pre-emptive and preventive measures for resolving international disputes over joint oil fields are represented by resorting to legal means. Therefore, the inclusion of the international arbitration clause must be given when concluding international treaties and agreements, especially in the case of disputes that have political and economic dimensions that threaten international peace and security.

It is noticeable that in studying the issue of the role of international arbitration in resolving oil disputes with foreign investment companies, it led to results that can be obtained in the following points:

- The expansion of the benefits and legal protection guarantees granted to foreign oil companies in their contracts with the countries under study have arranged a satisfactory measure of effective protection for these companies, and this has been clearly demonstrated in the effectiveness of the results of arbitration awards (awarding compensation) and the effectiveness of implementing these provisions (obtaining Compensation) in favor of these companies.
- The study confirmed that the text on the tools of international law regarding the law applicable to oil contracts is an effective mechanism of legal protection mechanisms for the foreign investor, especially in the arbitration courts.

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