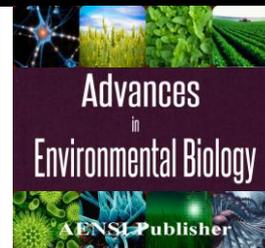




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OPEC and Preparing the Interests of Members in the Globalization Age

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ABSTRACT

World War II saw the beginning of a period of expansion and transformation of the fundamental aspects of the international oil industry. Wide variations occurred in all effective factors of the development of this industry. The demand of oil and its production had risen rapidly. The nationalization of oil in many oil-rich countries and exploitative policies of the major oil companies have led the developing countries which have oil to cooperate. So on September 14, 1960, the representatives of Iran, Iraq, Kuwait, Saudi Arabia and Venezuela met in Baghdad and decided to create the "Organization of Petroleum Exporting Countries" as a permanent intergovernmental organization. Thus, a new critical assembly was created. This international organization that was called "OPEC" has many ups and downs and has faced with many challenges. One of the most important challenges, that this organization has involved with it in last two or three decades, is globalization and its consequences. This challenge lead to that OPEC confronted with the energy international organizations and also world trade. This organization also involve with internal challenges such as the lack of overlap between the interests of members and the influence of external factors.

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INTRODUCTION

The evolution of the oil industry was changed by patents in which the legal nature of contracts is that not only the actual owner of oil gained a little revenue but also they provided the colonialism. In 1960, OPEC was established in the midst of a complex conflict between the two countries, consumer and exporter of oil. It was based on oil trading and also it was successful to reach its primary objective relatively which is the stabilization of oil prices. The legal capacity of the organization in the garb of a trans-regional economic organization has been discussed less due to the domination of obsolete political issues and also it has been not addressed more in theoretical discussions. The main aim of this organization, according to the statute, is "to coordinate and integrate the petroleum policies of Member States and to determine the best way to prepare their collective or individual interests, to design methods to ensure the stabilization of oil prices in the international oil markets in order to eliminate harmful and unnecessary fluctuations; to pay attention to oil-producing countries and the necessity of securing a steady income to oil-producing countries specially; to supply oil for consumer countries efficiently, affordably and permanently and to prepare a fair return for those who invest in the oil industry". OPEC likes other organization has juridical personality that can prepare the interest of the most members by good plans and effecting on international system in juridical framework. Also it considers the rights of consumers. For these reasons, the main questions of the research are: what is the juridical nature of OPEC? How does OPEC prepare the interest of members in international system? What are the threatening factors of OPEC's juridical capacities? What are the effects of the globalization trend of economy on OPEC?

Methodology:

This study has 3 main objectives in relation to OPEC. The first objective is to investigate OPEC as an international organization, to know its structure and juridical capacities. Two other objectives overlap each other. One of them is the effect of globalization of OPEC and another one is its threatening factors.

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Results:

Any changes in demand and supply will change the balance of oil market. In general, two groups of factors affect the price of oil are: the first group is related to price that if price reduces according to the economic principles, the sale opportunity will increase. The second one such as: income, economic growth, the degree of economic development, the level of market competition, population problems and growth, the degree of urbanization, social habits and customs, export and trade policies, weather conditions and seasonal factors, research and development, the number and frequency of transit users and some unpredictable factors are unrelated to the price and effect on the demand of oil.

The main components of OPEC are Conference, Executive Board and Secretariat. The conference is the highest decision-making body composed of the representatives of member state. It holds 2 regular meetings manually (mid-year and end-year). These meetings are held Headquarters in Vienna, Austria or in one of the member states or in any places that it asks. Upon the formation of the preliminary meeting, the conference elects a chairman and also a deputy of chairman. When the chairman is absent or he is not able to perform his duties and responsibilities for some reasons, the deputy of chairman has taken on his duties. The chairman retains his post until next meeting and directs the consultation meetings been hold between 2 conferences and the general secretary serves as the secretary of conference. The executive board has been composed of the nominated members of member states who have been approved by the conferences. Each member country has its representative at all meetings of the Executive Board. Each member has one vote and decisions shall be approved by a majority of the Board and the tenure of each member is 2 years. The executive board forms at least 2 meetings at intervals to be determined by the Chairman of the Board in consultation with the Secretary-General in each year. The secretariat will do executive functions under the management of Executive Board. The secretariat is composed of Secretary General, Deputy Secretary General and required staffs. It was established at Headquarters. According to the statute, the Secretary General is the authorized representative of organization legally and also the head of the OPEC secretariat. In this position, it can select the ministerial conference of Secretary-General for a term of three years and this tenure may be renewed once. This assignment is based on nominations presented by the Member States and the candidate's qualifications will be reviewed and compared. The Secretary-General is selected on the basis of competency and with consensus primarily and if no consensus is achieved for any reason, in 2nd time, selecting the Secretary-General is predicted in an intermittent rotation and for a non-renewal period of two years [2]. The OPEC Special Fund, which was created to assist developing member states, was adopted in the Convention in November 1975. OPEC news agency(OPECTA) is a special unit which collects, prepares and disseminates the news about the organization and member states and energy and related issued to it. In the constitution, which was revised in 1365, the term of "states that the conference had accepted the membership request" was used instead of the term of new member. The decisions are made by the bodied of organization within the Statute. OPEC statute suggests 3 types of decision-making based on: consensus, absolute majority of votes and simple majority of votes. The consensus is resulted from the principle of equality and independence of member states and it has been approved in paragraph (c) of Article 11 of the Statute of OPEC and according to it, the decisions of conference require consensus of all members(except for matters relating to procedures and practices). Another item which requires the consensus is the appointment of Secretary General of the OPEC. Article 28 of the statute knows the consensus necessary to appoint this position after considering the terms of this position.

*International legal personality of OPEC:**A) OPEC's position as an international organization:*

According to the definition of international organizations:" a group of states that are formed according to establishment document and to achieve specific goals and also it has specific bodies with continuous activity", by adjusting properties on OPEC, its existence is established as an international organization to be subject to international law and take its rights through the competent international bodies and in a word, it will be subject to international rights and obligations. However, the resolutions that created OPEC don't refer to the international legal personality of the organization expressly, but its international character can be realized by looking carefully at the founding document of OPEC and its performance and practices. OPEC is an organization with stability. Its objectives and tasks are completely and clearly emphasized in the context of multiple resolutions. This can be said about the powers of its authority that it has authority for the member states, its employees, oil companies and even third countries. OPEC has an independent volition from its members that it can make decisions.

B) The Internal legal personality of OPEC:

About the internal legal personality of OPEC, the agreement between its headquarters and the government of Austria can be considered as criteria. This contract reflects the recognition of OPEC by state party and defines its position against the government of Austria. Above all contains substances that announce the advantages and immunities of the organization and its organs in detail against the government of Austrian. The

Austrian government recognizes the overseas right of installations as well as any building outside the center of the installations which used in the organization with the government's agreement temporarily. OPEC facility is immune. Private property is located in this neighborhood is immune from judicial foreclosures. The entrance of officers or agents of the Republic of Austria or delivering any notice within the facility is prohibited except with the consent of the Secretary-General under the condition that he approved. OPEC can send and receive correspondence by courier or by any other official association with sealed bags that is immune from inspection. OPEC will also be freely available to purchase and take possession, sale and transfer foreign currencies and is allowed for any necessary foreign exchange for bank transaction and accounts. OPEC, its staffs and diplomatic Board composed of the Member States' representatives are exempt from state regulation relating to social welfare. Unless OPEC already requested the regulations is subject to its work force explicitly.

C) Relationships between OPEC and other international organizations:

1. Relationship between OPEC and UN:

Usually, the founders of organizations identify the organization in the world widely to benefit the interest of this identifying. OPEC founders also established the Inter-governmental organization and the resolutions of its establishment were passed by the members. UN will help OPEC in meetings if there are common interests. UN accepted that OPEC's representatives will participate in the meetings held in different parts of organization about common interests. One of these meetings is development and trading that OPEC's representatives participate in it without any votes [5].

2. OPEC and UNCTAD:

UNCTAD commented on many items and expressed the principles that agree with organization's objectives. UNCTAD has emphasized on free trade and the expansion of the trade of the raw materials which developing countries have reliance on them. The new concept of the relationship between developing countries and industrialized countries was established in the framework of UNCTAD's objectives. Finally, in 1974, as a result of activities in developing countries and OPEC, two resolutions relating to the new international economic order was issued by UN whereby:

(1) Each country has the right and is free to have full ownership and permanent sovereignty over its own resources.

(2) Each State has the right to nationalize and export its resources and transfer the ownership of interests.

(3) The countries have duties to try to develop the international trade by necessary tools and set and where necessary, they consider the resources of consumers and producers within the framework of multilateral arrangements.

(4) Each country has the right to try in the framework of organizations for basic goods and raw material to develop the national economy and achieve the financial stability for its economic development in the direction of global economic growth and especially economic development of developing countries.

In general it can be concluded that OPEC and UNCTAD mutually support each other's goals [1].

3. OPEC and AOPEC:

Saudi Arabia, Libya and Kuwait were founding members of the organization in 1968 and later in 1970 in Algeria and other oil-exporting Arab countries such as Abu Dhabi, Bahrain, Qatar, Iraq and joined the organization in 1972. AOPEC's headquarters is in Kuwait and its structure is simple. Its goal is "to establish cooperation among its members in all aspects of the petroleum industry, to supply their interest in the best way, to coordinate the petroleum policies of Member States and their judicial systems as related to oil issues, to facilitate the information exchange, to increase the extracted features of member states nationals in each other member country and to apply the resources and talents of member states to implement common projects in oil exploitation". Establishing this organization has no effects on the union of its members with other members of OPEC and this issue was noted in the statute of AOPEC that the members continue to adhere to their obligations towards OPEC. Given that the most members of AOPEC are the members of OPEC, the AOPEC's tendencies are reflected in the decisions of OPEC. The alignment between these organizations took a more practical form in October 1973 Arab-Israeli War. OPEC agreed with a 25% reduction in oil production in December 1973 and helped Arab countries by using oil as a political weapon against Israel. Obviously, increasing the financial strength of AOPEC can also have a direct impact on OPEC's power [1].

OPEC challenges:

A) OPEC is considered as a cartel:

Oil consumer industrial countries attempted more to undermine OPEC. The media of these countries knew their economic instability due to OPEC's methods used in the adjustment of oil market and called OPEC's ministerial conference "eagles meeting or the most unpopular cartels". A cartel is a formal organization composed of the producers of one kind of goods within a multilateral exclusive industry that reach agreement

about the prices, market share and other key issues. In general, the goals of cartel are to dominate and monitor the terms of sale, to determine and set the common policy about price, to share market and to determine production quotas to maximize their profits by eliminating competition between the members. Cartel policy is based on the principle of collusion. An obvious example of this type of cartel were “redline” and “maintain existing conditions” agreements in 1927 and 1928 respectively that according to them, multinational corporations retained global market quotas and its resource allocations in that year and divided the new points in Middle east and other places same as previous conditions by refraining from violating the privacy of each other and also increased consumption in proportion to their share. Reviewing the performance of OPEC, no agreement has been seen like “maintain existing condition” agreement. The member states of OPEC sale their productions in any markets and to any countries that they like in competition with each other.

B) The IAEA in dealing with OPEC:

In 1973, OPEC increased the price of oil and Arabic countries boycotted the oil exports to Western countries supporting the occupying regime and oil-importing industrial countries found that their economic life relying on imported oil is fragile and they must find ways to deal with OPEC. One of these ways was the establishment of the International Energy Agency.

IAEA aims can be summarized as follows:

- 1) To establish cooperation between Member States in order to reduce dependence on oil (especially OPEC) through energy conservation and research facilities for the development of other energy sources.
- 2) To establish information system on the international market and also provide opportunities for direct communication and consultation with oil companies.
- 3) Work with customers and other oil producing countries in order to stabilize the international trading and establish a proper management to make better use of energy resources according to the interests of other countries.
- 4) Set a fair distribution of oil between Member States in case of emergencies and division strategic reserves (OPEC and global arrogance).

Considering that the member states of the International Energy Agency are far more committed to the collective interest than the member states of OPEC and their determination to reduce dependence on oil demand are evaluated more successful than the member states of OPEC to earn higher oil incomes. It can know International Energy Agency more successful than OPEC in achieving the objectives, because OPEC has never been able to understand its priorities and provide decisive manner to share the load and the distribution of the benefits among its members, but the IAEA has worked tenaciously to implement its identified priorities.

C) Factors threatening the OPEC as an international organization:

Among the various trends and forces within OPEC, which leads to fragmentation and dissolution of the organization, two major trends should be expressed. Some members of the organization such as Nigeria, Indonesia and Algeria have a relatively large population and limited oil resources. In contrast, there are countries that have low population and significant oil resources that Saudi Arabia, Kuwait, United Arabic Emirates and Qatar can be placed in this group [4]. Middle East has been influenced by political development due to having a highest level of oil reserves of world. Therefore, the effect of these changes has influenced directly on the production, supply and oil prices on the world market. Given that the ability of the organization to do some political maneuvers at some point in the life of the organization is mainly due to its more contribution of the oil world market and the conflict and squabbles between members also increased in recent years, the organization's ability to control is threatened. In terms of economic standpoint, OPEC did as an “cartel” composed of producers in the international market, but now, it has become one of the producing and consuming countries and in fact, rising the consumption of member has limited their economic power and performance in the market and increased their needs to use this energy source. This and other factors led that the market controlled by the producers has changed to the market controlled by the consumers, especially industrial countries which consider the interests and coordinate the consumers’ activities to maintain dominance over energy markets.

Given the above, OPEC can be weakened under limiting pressure in the market and other factors and some of its members escape. Certainly, such factors limit its economic power. Hence, the coordination and collusion between members and management and the relationships between them by OPEC will be one of the tools of policy-making.

Discussion and conclusions:

In identifying the international organizations, the relationship between OPEC and other international organizations including the United Nations is more important and help to the stability of OPEC.

Apparent contradiction of members, the weakness of petroleum technology and lack of specialist human resources can be known as the main problems within organization that they are rooted in the structural weakness

of members that all of them are developing countries. OPEC is a community that its members are more different and their similarity is just having oil source. Nevertheless, OPEC has more than 40 years of active life and is concerned as the third world organization which can improve the colonized regions of world.

One of the major challenges of OPEC is that it is considered as a cartel and we found that this charge is empty and unfounded by studying cartels and the performance based on collusion in cartels.

Its other challenge is that the policies have been adopted by the oil consumer countries as an International Energy Agency.

This time, establishing IAEA with its main objective to reduce the dependence on OPEC oil and also its professional programs such as cost savings, efficiency and the use of alternative energies, it has neutralized the decisions of OPEC and it has been successful relatively in it. Member States of the IAEA's success may be due to the members of the agency's commitment to collective interests.

While we saw a solitary member in OPEC and also saw the competition rather than partnership and this is enough to OPEC's inadequacy in achieving its goals. In the cases that the oil consumer countries apply discriminatory actions in the form of environmental issues or tariffs on the imports of petroleum products, the mechanism of fixing dispute in the world trade organization (WTO) can help these countries to take their rights, while WTO considers a more flexible conditions for developing countries, finally, becoming a member of WTO in addition to the membership of OPEC would be an opportunity for these countries that may have an effect on the results of future negotiations by bargaining in multilateral agreements in addition to coalition.

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