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An Analysis of the Legal Dimensions of the Shanghai Cooperation Organization and the Legal Effects of Iran's Accession to the SCO from an International Law Perspective



Abstract: - The focus of this study is to analyze the legal aspects of the Shanghai Cooperation Organization (SCO) and the implications of Iran joining the organization, with a specific focus on international law. The research employs a descriptive-analytical approach, utilizing various library resources to gather information.

The SCO places a high priority on regional security, with all members committed to implementing the SCO treaty's provisions on countering terrorism, separatism, and extremism. Unlike other organizations such as NATO and the Warsaw Pact, the SCO values equal cooperation among its members and does not impose the ideologies of major powers on smaller countries. The organization promotes pluralism in participation and encourages bilateral and multilateral cooperation in areas such as commerce and economics. The Shanghai Declaration emphasizes the need to utilize the extensive potential and opportunities in these fields, with talks on trade and investment facilitation taking place within the SCO framework.

Efforts to create regional security through peaceful resolution of all disputes in accordance with UN resolutions, concerns about the situation in Afghanistan as a serious threat to regional and global peace and stability, and opening political dialogue to promote mutual trust and greater multilateral cooperation are among the principles of the Shanghai Cooperation Organization.

Keywords: Shanghai Cooperation Organization, legal dimensions, efficient regional cooperation, Islamic Republic of Iran's membership.

I. INTRODUCTION

The Central Asian and Caucasus region has become a focal point of international attention due to the presence of oil resources, movements of Islamic extremists, the need for transportation facilities to reach open waters and global markets by Central Asian and Caucasus countries, the geostrategic and geo-economic position, and the clash of interests between global and regional powers. The convergence of these factors has led political observers to potentially liken this region to the Balkans or Asia, and given the multi-faceted developments and issues in the region, as well as the presence of nuclear powers within and around it, predict a major global political confrontation in the future. As a result, the renowned American researcher and strategist Brzezinski referred to Central Asia as the geopolitical center of the world in his book "The Grand Chessboard."

The continuation of the aforementioned security challenges has severely impacted the advancement of social and economic goals and plans in the region's countries, causing difficulties and instability. Therefore, they have prioritized creating or joining security structures on their agenda to ensure security.

In such conducive circumstances, structures like NATO also emerged within the framework of the eastward expansion plan, with the aim of attracting these countries and implementing peace participation plans to lay the groundwork, and perhaps even speculate on the regional conditions for the final acceptance of these countries. However, despite the necessities that led to this action, the political conditions of the region have largely prevented these countries from joining structures like NATO, or the implementation of such an approach has been hampered due to special considerations prevailing in the region. This is because major players in the region, such as China and especially Russia, still consider themselves to be in opposition to NATO and therefore prefer to create regional structures. One of these structures, formed in 1996 and led by Russia and China, is the Shanghai Cooperation Organization. The organization was formed with the primary goal of resolving China's border disputes with its neighboring countries and, in general, the common interests of the member countries. However, since 2001, it has been reorganized as a regional alliance with security and economic objectives.

The history of the establishment of Shanghai Cooperation Organization dates back to border negotiations between China and the former Soviet Union in the early 1990s. The precursor to the formation of the Shanghai Cooperation Organization should be sought in the Shanghai Five group. This group was formed as part of the normalization

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process of China-Russia relations. The formal establishment of this group took place on April 26, 1996, when the leaders of Russia, China, Kazakhstan, Kyrgyzstan, and Tajikistan gathered in Shanghai, China, hence the name Shanghai Five. It should be noted that the initiative to form this group was raised by China. Of the five initial members of the organization, four members, namely Russia, Kazakhstan, Kyrgyzstan, and Tajikistan, had minor disagreements with each other. Furthermore, existing disagreements could be resolved within the framework of a collective security pact or the Commonwealth of Independent States. Considering the above, the purpose of this research is to investigate the legal dimensions of the Shanghai Cooperation Organization and the legal implications of Iran's membership in the organization from the perspective of international law.

According to Article 13 of the Charter of the Shanghai Cooperation Organization, membership in this organization is open to all regional countries that are committed to respecting the principles and objectives of this Charter and at the same time comply with the regulations of other international documents and documents adopted within the framework of the Shanghai Cooperation Organization. Acceptance of membership in the Shanghai Cooperation Organization is made by the Council of Heads of State and on the basis of a proposal and introduction from the foreign ministers. This introduction is made in response to the official request of the desired government submitted to the Chairman of the Council of Foreign Ministers. Therefore, the applicant country must officially request membership from the Secretariat and the rotating Chairman. The matter is put on the agenda of the Foreign Ministers' Meeting and, if approved, will be on the agenda of the Heads of State Meeting. The acceptance of a new member must be confirmed by all members. This membership may be suspended by the decision of the Council of Heads of State and on the basis of a proposal from the Council of Foreign Ministers if the member country violates the provisions of the Charter or fails to fulfill its obligations. If the aforementioned member continues to violate its obligations, the Council of Heads of State may decide to expel it from the organization.²

Regarding the procedure for accepting the membership of observer countries, it should be noted that the Shanghai Cooperation Organization approved the regulations on observer membership for the organization on June 17, 2004, which includes 17 articles, the most important of which are: submitting a request for observer membership signed by the head of state to the Executive Secretary of the organization; the Executive Secretary of the organization informs the National Coordinating Council of the request for observer membership by countries or organizations; representatives of observer membership applicants can participate in the meeting of the Council of Foreign Ministers of the organization, which is held for this purpose; the Council of Heads of the organization decides on observer membership based on the recommendation of the Council of Foreign Ministers; observer members, without the right to vote, must participate in the meeting of Heads and Foreign Ministers, which is at the same level as the participating members.³

To exit the organization, any member can do so if it submits an official note to the secretary of the organization twelve months prior to the intended date of exit. Obligations arising from participation in this charter and other resolutions adopted within the framework of the Shanghai organization are binding for the relevant governments until their full implementation.⁴

Voting in the organization is based on consensus and is not related to the amount of membership fees. Article 16 of the organization's constitution entitled "Decision-making Procedure" states: The decisions of the Shanghai Cooperation Organization are adopted by consensus without voting and are considered adopted unless any of the members object during the consensus process. The only exception to this method is in the case of suspension or expulsion of a member, which is adopted by "consensus minus the vote of the relevant member".⁵ Each member state can present its view on specific aspects or special cases regarding the adopted decisions, which, however, should not prevent decision-making as a whole. The view shall be recorded. If one or more members are not interested in implementing a special cooperation project that some others are interested in, their non-participation

² Article 13 of the Shanghai Cooperation Organization Charter

³ Adopted by the Council of Member States of the Shanghai Cooperation Organization, June 17, 2004, Aftab Online website. www.aftab.ir

⁴ Article 13 of the Shanghai Cooperation Organization Charter

⁵ Article 16 of the Organization Charter

in the mentioned projects should not prevent the implementation of the projects and at the same time should not prevent other interested states from joining the mentioned projects at later stages.

Accession in international law

Accession to treaties is done by sending a unilateral document which is communicated to the countries party to the treaty or deposited with the depositary country of the documents. The accession document states that the treaty has been accepted and ratified. There is no difference in any accession whether the treaty has become binding on the date of accession or not. Nowadays, in the prevailing international practice, even a country that has previously participated in drafting a multilateral convention may only be obliged through accession, which occurs in cases where the time limit foreseen in the treaty for signature and then ratification has expired and accession remains the only way of joining the convention. Also, in cases where a convention has been prepared by one of the organs of the United Nations and, after approval by the General Assembly, is opened for signature by countries, each country can only become obliged to its contents through accession.⁶ Three characteristics can be listed for accession as follows. The first characteristic of accession is that the acceding country is usually not present at the time of drafting the convention. Accordingly, the legal nature of accession has witnessed a significant transformation over the last fifty years and instead of being a bilateral contract (agreement between the original member states of the treaty and the third acceding countries), which was the focus of some Italian jurists, today accession is recognized as a unilateral and one-sided act.

The second characteristic is that accession of third countries to an international treaty is usually possible when this is foreseen in the treaty. The third characteristic of accession is that the acceding country is definitely committed to the contents of the convention from the date of depositing the accession documents, unlike membership in a convention at the time of signature when the countries that participated in drafting it initially obtain non-definitive membership in the convention, although they do not assume any definitive obligation by subsequently refusing to ratify it, but in the accession of the acceding country it is definitely committed to a convention. However, in some conventions, exceptional provisions may have been established in such a way that third countries wishing to accede are initially allowed to sign the treaty and then formally accede to it after the treaty becomes binding and assume obligations. Accession to a convention may also be subject to ratification by the competent authorities of the country, in which case accession is considered an initial signature of the convention until the documents of ratification are deposited.⁷

The legal effects of Iran's accession to the Shanghai Organization from an international law perspective

The establishment of any global or regional international organization will entail rights and duties for its members; that is, countries that establish an organization or later join it will have rights and obligations as members that they are obliged to observe and implement.⁸ The Shanghai Organization is no exception to this rule, and its founding members and observer members have rights and obligations that they are obliged to observe by virtue of their membership.

1. Rights and duties of states in the status of observer member

The Islamic Republic of Iran is currently an observer member of the Shanghai Organization and even in this status of observer membership, it has rights and obligations that have been addressed in the Shanghai Organization's decision on accepting observer members, which are as follows:

These provisions on the observer status for the Shanghai Organization are in accordance with Article 14 of the Shanghai Cooperation Organization Charter concluded on June 7, 2002, which determines the procedure for granting observer status to the Shanghai Cooperation Organization to an interested state or international organization.

⁶ Enayat, Hosseini, "Regulation of International Treaties in Current Iran Law", Legal Magazine, No. 1, Spring 1991, page 94.

⁷ Same, page 98

⁸ Abi Saab, George, The Concept of International Organization, translated by Iraj Rad, Tehran, Publishing Company of Science and Culture, 1994, page 28.

1. A state or organization that wishes to be an observer member of the Shanghai Cooperation Organization, while respecting sovereignty, convergence, territorial integrity and equality of member states, by recognizing the objectives, principles and actions of the organization, sends its request signed by the head of the country or organization through the executive secretary to the Shanghai Cooperation Organization Council of Heads of State.
2. The executive secretary of the Shanghai Cooperation Organization informs the National Coordinators Council about the request of the interested state or organization to obtain observer status. If necessary, the Secretary General of the Shanghai Cooperation Organization may request additional information from the applicant. The National Coordinators Council submits the matter to the Council of Foreign Ministers with relevant recommendations.
3. The representative of the government or organization sending the request can participate in the meeting to consider granting observer status convened by the Council of Ministers.
4. Decision making regarding granting or canceling observer status is made by the Heads of State Council with the recommendation of the Foreign Ministers Council.⁹
5. The decision of the Heads of State Council regarding the granting of observer status is sent by the Secretary General of the organization to the applicant government or organization within 7 days and the applicant must inform the Secretary General in writing within one month of receiving it.
6. The accepted government or organization as an observer may be invited to attend general meetings of the Heads of State Council or the Council of Prime Ministers of the organization.
7. Observer governments and organizations have the right to:
 - a) Attend meetings of the Foreign Ministers Council and conferences of heads of other ministries.
 - b) Without voting rights and with prior consent, participate in discussions related to the competencies of the organization's bodies that are distributed in written statements by the Secretary General and are in some way related to them (observer members) and are within the competence of the Shanghai Cooperation Organization.
8. They have access to the documents and decisions of the organization's bodies stipulated in Article 4 of the Charter, provided that the relevant bodies have not imposed any restrictions on them.
9. The supervisory member does not have the right to participate in the preparation and signing of organizational documents. Supervisory members neither participate in the detailed decision-making of organizational bodies nor have any responsibility for these decisions.¹⁰
10. The government or the supervisory organization must inform the organization's secretariat of their intention to participate in the meetings of organizational bodies, orally or in writing, at least ten working days prior to their holding.
 - The level of participation of government or supervisory organization representatives must be at the same level as the participating organization members.
 - The Secretary-General of the organization must inform the supervisory representatives in advance.
 - As a rule, the presence of supervisory members in meetings is separate, and their names are displayed with the installation of the country or organization they represent.
11. If necessary and with the agreement of the organization's secretariat, the members themselves undertake the translation of exchanged documents with the organization.

⁹ Anvari, Hamidreza, "Structure of the Shanghai Cooperation Organization", Collection of Articles from the Fourteenth International Conference on Central Asia and the Caucasus, Tehran, Office of Political and International Studies, 2007, page 104.

¹⁰ Same, page 106

12. If a country or supervisory organization takes action or makes statements contrary to the organization, the decisions of its bodies, or the principles stated in the charter, it may be removed from the supervisory position in accordance with Clause 4 of these regulations. The decision taken will be communicated to the government or the respective country within one week by the Secretary-General of the organization.

13. If a supervisory government or organization intends to withdraw from its supervisory membership position, similar to the conditions for obtaining supervisory membership, they must submit the relevant note to the Executive Secretary of the organization, and the Secretary-General must inform the Council of Foreign Ministers and the Council of Heads of State through the National Coordinators' Group. The status of the supervisory member is canceled from the date of receiving the above note, unless other conditions arise.

14. In the event of a change in the form of legal relations between a government or an organization and the Shanghai Cooperation Organization, the supervisory membership position automatically becomes invalid.

15. Diplomatic missions of supervisory member states as well as the missions of international organizations that are supervisory members can maintain continuous contact with the organization's secretariat regarding matters related to supervisory membership.¹¹

16. Completion and amendment of the current regulations are carried out by the Council of Heads of State. The decisions made will be in the form of a written protocol and will be effective from the date of signing.

17. The current regulations will be implemented from the date of approval by the Council of Heads of State. It can be observed from this resolution that supervisory members in the Shanghai Cooperation Organization do not have a significant role and are only given the right to attend meetings without having any involvement in decision-making of the Organization.

2. Rights and obligations of Iran as a permanent member

The obligations that members of the Shanghai Cooperation Organization are required to fulfill, and Iran, as a permanent member of this organization, has the same obligation, are as follows:

The first duty is to cooperate in strengthening peace, security and promoting rational international economic and political order. The Islamic Republic of Iran, as a permanent member of this organization, must accept and implement the commitments stipulated in the charter in the field of supporting and promoting international peace and security, and even enact laws in this regard in its legislative body if necessary. However, it seems that there is an area of disagreement between Iran and the organization, and that is the issue of disarmament and arms control, which is emphasized in the organization's charter.

The Islamic Republic of Iran has been faced with challenges in its nuclear case with the international community, especially the United States, for several years to the extent that this issue has been referred to the Security Council and resolutions have been issued against Iran, although Iran insists that these nuclear activities are peaceful in nature and lack military and arms aspects. However, some countries, especially the United States, consider these activities to be military and aimed at building nuclear weapons by Iran. Russia and China have always defended the peaceful nature of Iran's nuclear activities but have sided with those countries in adopting Security Council resolutions against Iran. This shows that Russia and China are also concerned about Iran's nuclear activities and their possible evolution into atomic weapons development by Iran. Now that Iran is a permanent member of the Shanghai Cooperation Organization, it is committed to cooperating in disarmament and arms control, which may mean that Russia and China expect Iran to give up most of its nuclear activities, which will be a major challenge between Iran and the organization.

The second duty is to jointly confront terrorism, separatism and extremism. Terrorism, separatism and extremism are three diabolical plagues in the Eurasian region that bring the member countries of the organization closer together and form the Shanghai Cooperation Organization.¹² It seems that there is no agreement between Iran's

¹¹ Decision of the Council of Member States of the Shanghai Cooperation Organization, June 2004.

¹² Mehri, Reza, "Shanghai Cooperation Organization: Goals and Members", Quarterly Journal of Central Asian and Caucasus Studies, No. 55, 2007, page 74

views on the one hand and China and Russia's on the other in this regard, because the definition that major countries such as China and Russia have of terrorism differs from the definition that countries like Iran have of terrorism. Sometimes the Chinese and Russian definition of terrorism becomes so broad that it may include some of Iran's activities. Prominent examples of this challenge are in the discussion of Iran's support and assistance to Hezbollah in Lebanon and Islamic movements, which, although Iran considers it in the context of supporting oppressed nations of the world and one of the priorities of its foreign policy, it is possible that other countries consider it as Iran's support for terrorism.¹³

The country of China in its Xinjiang province and the country of Russia in its Chechnya autonomous republic face some attempts for autonomy and independence from Muslims, one of the objectives of including this clause in the organization's charter is to counter such autonomist and secessionist movements in these areas. Therefore, if Iran agrees to cooperate with the organization and its members in confronting terrorism and separatism, it should take practical measures to help China and Russia confront Muslims and cooperate in this regard, which is explicitly against Iran's foreign policy and constitution that considers supporting Muslims in any part of the world and backing liberation groups in various regions as one of the priorities of its foreign policy.

The third duty is to jointly confront transnational criminal activities. As a permanent member of this organization, the Islamic Republic of Iran is committed to taking necessary measures to confront transnational crimes alongside other Shanghai Cooperation Organization members and combat crimes such as drug trafficking, arms smuggling, illicit skills and other similar crimes in line with the SCO. The Islamic Republic of Iran must remove any legal obstacles in this regard and enact relevant laws in its parliament to pave the way for fulfilling this commitment and legally prosecute such crimes and criminals. Article 8 of Iran's Islamic Penal Code stipulates that criminals who are prosecuted in any country according to special laws or international conventions will also be prosecuted if arrested in Iran and will be tried and punished according to the laws of the Islamic Republic of Iran."¹⁴

Based on this article, Iran can deal with perpetrators of international and transnational crimes arrested in Iran according to Iranian law. But this article only applies if the criminal is arrested in Iran and does not address Iran's role in confronting these crimes outside Iranian borders. Therefore, it seems that Iran needs new laws to grant it this competence to cooperate with the organization in this regard.¹⁵

The fourth duty is promoting effective regional cooperation in areas such as politics, trade, economy, energy, and transportation. To realize this goal, Russia has proposed establishing an Energy Club within the organization. With the establishment of this club, member countries will extensively cooperate in the energy sector which will have mutual benefits for energy producing and consuming members. Overall, it will also give the organization a special power and prestige in terms of global energy capabilities. By adopting appropriate policies related to its energy interests, the organization can gain doubly important credibility. With its membership in this organization, the Islamic Republic of Iran will automatically join this process. However, it first needs to remove any legal barriers in its domestic laws towards such cooperation by enacting appropriate legislation in its legislative branch.

The fifth duty is improving the human rights situation and fundamental freedoms in compliance with international laws and commitments. One of the most controversial articles of the charter for some members seems to be this clause, because there is almost no consensus on the concept of human rights and the criteria for observing or violating them. The interpretation of this term is usually different among all countries of the world, and each country, according to its own situation and interests, seeks to interpret and define it in its own favor and determine its criteria according to its policies and goals. Therefore, there is no accurate and universally accepted criterion in this regard. For example, the United States accuses Russia and China of human rights violations every year, and

¹³ Mahdavi, Maryam, "Iran's Role in the Shanghai Organization", *Sedaye-Edalat Magazine*, 25 June 2006

¹⁴ Islamic Penal Code of the Islamic Republic of Iran

¹⁵ Foroughi, Fazlollah, Course handout on the course of international criminal law, Faculty of Law and Political Science, Shiraz University, 2009.

in return, China and Russia condemn the U.S. for killing people in Afghanistan, Iraq and so on.¹⁶ Given the above explanation and considering that attention to human rights and fundamental freedoms is one of the commitments of member countries in the charter, it seems that this issue will be another controversial challenge between the Shanghai Cooperation Organization and Iran. Although mostly for political reasons, Iran has always been criticized by most so-called democratic countries around the world for not paying attention to human rights and having an undesirable human rights situation.

The sixth duty is preventing any unlawful action against the interests of the organization. Accordingly, all member countries of the organization have committed in the charter that they will not take any action that is against the interests and benefits of the organization and even consider the organization's position in their own stance.¹⁷ The military, security and economic actions of each member country must be in the interests of the organization. If these actions are unlawful or against other member countries, it will lead to the weakening and decline of the organization's power.¹⁸ Therefore, by joining this organization, Iran will also commit to defining its policies and actions in line with the interests of the organization and refrain from actions that jeopardize the interests of the organization.

The seventh duty is having common positions in foreign policy. If Iran permanently joins this organization, it will have to adopt a united stance along with other member countries in various international and regional developments. Although this will have mutual benefits for Iran and will cause the compatible positions of the two powerful countries of China and Russia in the international arena and in various areas to become an asset for Iran in the foreign policy arena,¹⁹ it may also create problems for Iran. China and Russia are two powerful countries in the international arena that pursue their own interests and sometimes take actions contrary to international principles and commitments. In case of accepting the above point, Iran will have to approve these policies and actions whenever needed, while some of them may contradict Iran's foreign policy principles and be unacceptable to Iran.

The eighth duty is exchanging information to develop legal cooperation. By joining this organization, the Islamic Republic of Iran commits to cooperate with other member countries in this area. Therefore, Iran must enact the necessary laws in its parliament to remove any legal barriers towards such cooperation. Also, the Islamic Republic of Iran can share its decades of legal experience in areas such as combating drug trafficking and arms smuggling with other member countries of the organization.²⁰

The ninth duty is the obligation of states to resolve disputes peacefully. Like other organization members, Iran will be obligated and committed that in case of any disputes with other member countries, it will resolve the dispute through peaceful means. However, it seems that given the emphasis in the preamble and Article 1 of the charter that members are committed to recognize and respect the provisions of the UN Charter, and the UN Charter itself refers to resolving disputes through peaceful means,²¹ there was no need for this article. Or if the intention was to pay special attention to this issue by the organization, it should have included it in a more complete and in-depth manner in its regulations. But it seems that the organization is not very serious about achieving this goal, because the Shanghai Cooperation Organization, which is one of the largest regional international organizations, has not provided any mechanism for resolving potential disputes between members and has just settled for the point that disputes between members should be resolved peacefully.

The tenth duty is the conditions for accepting other countries into the organization. The Shanghai Cooperation Organization has allowed the membership of other countries in this organization but has stated that if a country wants to join this organization, it must respect the principles and objectives of this charter (the SCO charter) and

¹⁶ Bagheri, Siamak, "Iran's Position in the Shanghai Cooperation Organization", Aftab Newspaper, 19 June 2008

¹⁷ Clause six of Article 3 of the Shanghai Cooperation Organization Charter

¹⁸ "The Growing Importance of the Shanghai Cooperation Organization," Iran Magazine, 1 July 2007.

¹⁹ Ghafouri, Qassem, "Iran and the Organization's Mutual Interests," Siasat-e Rooz Magazine, June 2006.

²⁰ Article 1 of the Shanghai Cooperation Organization Charter

²¹ Article 1 of the Shanghai Cooperation Organization Charter

at the same time agree with the provisions of other international commitments and documents approved within the framework of the Shanghai Cooperation Organization. Therefore, the applicant country must be a peace-loving country that accepts and respects all international regulations, treaties and the principles and objectives of the charter.²²

The eleventh duty is the privileges and immunities of the organization. As a powerful international organization, the Shanghai Cooperation Organization has stated in its charter that the organization will enjoy the privileges and immunities in the territory of each member country that are necessary for it to perform its duties. Now we will generally examine international privileges and immunities.

The first immunity of international organizations is judicial immunity. Judicial immunity means that members of representative delegations, unlike other nationals and people, are outside the jurisdiction of the host country's executive power. The duties prescribed by domestic law apply to the person with immunity but are not enforceable against him. Representatives of states to international organizations cannot be detained for their statements in the meetings and sessions of these organizations.²³ Judicial immunity regarding the property and assets of international organizations is recognized wherever they are and in whoever's possession they are; that is, such property is immune from any interference by judicial, executive and administrative authorities of the host country unless the organization itself explicitly waives this immunity in any particular case. This immunity is such that even if a court ruling is issued, it cannot be enforced against the organization. Another aspect of this immunity is that the security agencies of the host country cannot enter the premises of the organizations without the permission of the organization's decision-making authorities, and thus the maintenance and establishment of the organizations' security is provided for and the host government is obliged to implement it. As a result, the organization itself can enact the necessary security regulations. The host country also cannot restrict free access to the organization's meetings.²⁴

The second immunity is the immunity of property and premises of international organizations and diplomatic missions. The headquarters agreement is a bilateral treaty concluded between an international organizations on the one hand and the host state on the other. The rights the organization enjoys and the privileges the host state grants to the organization are usually specified in the headquarters agreement. One such case is the immunity of premises belonging to international organizations. Officials of the host state are usually only able to enter the premises of the organization with the consent and permission of the organization's highest administrative official.²⁵ The situation is similar regarding the premises and property of diplomatic missions, meaning in addition to being immune from inspection, confiscation, attachment or enforcement measures, the host state officials are in principle not allowed to enter without permission from the head of the diplomatic mission.²⁶ Regarding the immunity of diplomatic missions' property at international organizations, similar provisions have been made in the 1975 Vienna Convention. The premises used by a diplomatic mission are immune and officials of the host state will not have the right to enter without consent from the head of the mission.

The third immunity is the inviolability of archives and documents and freedom of communication. Secure communications with the entire world are also a necessity, and organizations have special facilities for this purpose. Regarding freedom of communication, the 1975 Convention states in Article 27 that the host state permits and protects the freedom of communication of the mission for all official purposes. The mission may use all appropriate means of communication, including couriers, messages in code or cipher, to communicate with the government of the sending state as well as its permanent diplomatic missions, consular posts, permanent missions to international organizations and observer missions wherever situated. However, the mission may not install and use a wireless transmitter without the consent of the host state.²⁷ The official correspondence of the mission shall

²² Preamble of the Shanghai Cooperation Organization Charter

²³ Ziyai Bigdeli, Mohammadreza, Public International Law, Tehran, Ganje-Danesh Publications, 2006, page 423.

²⁴ Aghayi, Seyyed Davoud, The Law of International Organizations, Tehran, Payame Noor University Publications, 2010, page 17.

²⁵ Ziyai Bigdeli, previous, page 424.

²⁶ Mousazadeh, previous, page 42.

²⁷ Vienna Convention

be inviolable. The term "official correspondence" means all correspondence relating to the mission and its functions. The diplomatic bag shall not be opened or detained. The packages constituting the diplomatic bag must bear visible external marks of their character and may contain only documents or articles intended for the official use of the mission.

The fourth immunity is the immunity from disturbance. Article 28 of the 1975 Vienna Convention states that heads of mission and members of diplomatic staff of the mission shall be immune from the criminal jurisdiction of the host state and shall not be liable to arrest or detention. The host state shall treat them with due respect and take all appropriate steps to prevent any attack on their persons, freedom or dignity, and shall prosecute and punish perpetrators of such attacks. This convention also grants privileges and immunities to observer missions of member states.

Most privileges of international organizations depend exclusively on the domestic law of the host state, which has full competence to grant them, although some privileges like tax exemptions are rooted in international law.²⁸ According to the 1946 and 1975 Conventions, the head of mission and diplomatic staff are exempt from all personal, municipal, national and regional taxes and charges.

Personal and public services in any form are not enforced on members of diplomatic missions. Article 34 of the 1975 Vienna Convention states: "The host state shall exempt the head of mission, members of diplomatic staff and private staff from all personal and public services, military as well as civil or municipal obligations such as requisitions, contributions and billeting requirements."²⁹ Although the Shanghai Cooperation Organization's Charter refers to the organization's privileges and immunities in the territory of each member state, it does not specifically address these laws, regulations and examples, leaving it unmentioned in the Charter. Therefore, it can be said that in the territory of each member state, the organization enjoys the immunities and privileges necessary to fulfill its duties and objectives. As a permanent member of the Shanghai Cooperation Organization, the Islamic Republic of Iran is not exempt from this rule.

II. CONCLUSION:

The establishment of any global or regional international organization entails rights and obligations for its members. That is, countries that establish an organization or later join it, by virtue of membership, acquire rights and obligations that they are obliged to observe and fulfill. The Shanghai Cooperation Organization is no exception, and its founding members as well as observer members have rights and obligations by virtue of membership that they are obliged to respect.

The Islamic Republic of Iran's permanent membership in the Shanghai Cooperation Organization entails rights and obligations under international law, as outlined in the Organization's Charter, that Iran is obliged to observe. It seems that Iran's legal cooperation with the Shanghai Cooperation Organization on some issues requires the drafting and adoption of relevant laws in Iran's Islamic Consultative Assembly. Therefore, to expand these legal cooperation and fulfill the obligations contained in the Charter, Iran must first remove any obstacles that exist in this regard within its domestic law.

On the other hand, it seems that some of the obligations contained in the Charter, such as member states' obligations regarding the promotion of human rights, democracy, and the fight against terrorism and separatism, may emerge as challenges in cooperation between Iran and the Shanghai Cooperation Organization. With permanent membership in the Shanghai Cooperation Organization, the Islamic Republic of Iran should consider solutions to reconcile these differences of opinion and balance its national interests with the organization's objectives, so that while striving to achieve its national interests, it also respects the organization's goals and principles.

²⁸ Tadayyoni, Abbas, Course handout on the course of international organizations law, Shiraz University Publications, 2008

²⁹ Article 24 of the Vienna Convention

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