

السؤال الأول:

Q1) C) Respecting and protecting envoys (they must not be killed). (2 marks)

Q2) C) A permanent body created by ~~an international treaty~~, established by States, with a separate international legal personality and its own organs. (2 marks)

السؤال الثاني:

أولاً: الجواب باللغة العربية (في حدود صفة)

المنهجية 2 ن

المقدمة 2 ن

تشأ المنظمات الدولية عادة بموجب معاهدة دولية مكتوبة تسمى ميثاقاً أو نظاماً أساسياً، وتخضع - من حيث المبدأ - لقواعد قانون المعاهدات. غير أن هذه المعاهدة لا تقتصر على إنشاء التزامات متبادلة، بل تعد الأساس الذي يقوم عليه بناء المنظمة الدولية من حيث إنشاؤها، والانتماء إليها، وتحديد نظامها العام.

العرض 10 ن

أولاً: إنشاء المنظمة الدولية بوصفها معاهد دولية 5 ن

وفقاً لمفهوم المعاهدة في قانون المعاهدات، فإن اتفاقية إنشاء المنظمة الدولية هي اتفاق دولي مكتوب بين الدول وخاصّع لقانون الدولي. وبناءً على ذلك، فإن الميثاق يخضع لشروط إبرام المعاهدات الدوليّة، ويستلزم عادة التصديق من الجهات المختصة (الحكومة والهيئات البرلمانية) وفق القواعد الدستورية الداخلية لكل دولة. كما يبيّن الميثاق – في نطاقه العام – أهداف المنظمة واحتياصاتها، ويوسّس للأحكام المرتبطة ببنائها.

ثانياً: خصائص المعاهدة المنبثقة للمنظمة الدولية 5 ن

1- القبول لا الانضمام (المعاهدة الموقلة)

تميّز المعاهدات المنشئة للمنظمات الدوليّة أنها تتحدث عن قبول دول جديدة في المنظمة لا عن الانضمام بالمعنى المتدالُّ في كثير من المعاهدات الأخرى؛ لأنّها تضع شروطاً وإجراءات محددة لقبول الأعضاء الجدد. ولهذا توصف بأنّها معاهدات مغلقة نسبياً، لأنّ الالتحاق بها لا يكون تلقائياً بل يخضع لقبول وفق قواعد الميثاق.

2- سمو الميثاق

من خصائص الميثاق كذلك سموه داخل نطاق التزامات الدول الأعضاء، بمعنى أن التزامات العضوية الناشئة عنه تقدم عند التعارض على التزامات دولية أخرى ~~ويؤشر شهاده~~ عادة بما قرره ميثاق الأمم المتحدة من أولوية التزامات الميثاق عند التعارض مع أي التزام ~~ولي آخر للأعضاء~~.



3- تكامل الميثاق وعدم جواز التحفظ

الميزة الثالثة هي ضرورة قبول أحكام الميثاق كاملة دون ~~تحفظ على أي بند منه~~، أي أن العضوية تفترض قبول النص كوحدة متكاملة، وهو ما يعبر عنه بـ تكامل المعاهدة المنشئة، ضماناً لوحدة النظام القانوني والمؤسسي للمنظمة وعدم تفككه بتحفظات متفرقة.

الخاتمة 2ن

يتضح أن المعاهدة المنشئة للمنظمة الدولية، وإن كانت في أصلها معاهدة دولية مكتوبة، فإنها تتميز بخصائص خاصة مرتبطة ببنيان المنظمة، أهمها: اعتماد القبول لا الانضمام (المعاهدة المقلدة)، وسمو الميثاق عند التعارض، وتكامل أحكامه بعدم جواز التحفظ، وهي خصائص تعكس الطبيعة المؤسسية المميزة لهذا النوع من المعاهدات.

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أولاً: الجواب باللغة العربية (في حدود صفحة)

Second:

Methodology (2 marks)

Introduction (2 marks)

International organisations are typically created by a written international treaty—a charter or constitution—governed by international law. While it remains a treaty in form, it also serves as the legal foundation of the organisation's structure and operation, including rules on its establishment and membership.

Main body (10 marks)

1) Establishment as a treaty (5 marks)

Under the law of treaties, the founding instrument of an international organisation is a written international agreement between States governed by international law. Accordingly, it is subject to the general conditions for concluding treaties and commonly requires ratification by the competent national authorities (government and, where required, parliament) in accordance

with domestic constitutional rules. The charter also sets out the organisation's purposes and competences and provides the basic rules relevant to its institutional framework.

2) The distinctive characteristics of the constituent treaty (as specified) (5 marks)

First: Admission rather than accession (a "closed" treaty)

A constituent treaty typically speaks of admission of new member States rather than "accession" in the ordinary sense, because it lays down specific conditions and procedures for accepting new members. This explains why such instruments are often described as relatively closed treaties, in the sense that joining depends on admission under the charter's rules.

Second: Supremacy of the charter

A key feature is the supremacy of the charter within the sphere of members' obligations: where obligations under the charter conflict with other international obligations of the member States, priority is given to the charter obligations. The UN Charter is commonly cited as an example, as it affirms the priority of Charter obligations in case of conflict.

Third: Integrity of the charter and no reservations

Another distinctive feature is that membership generally requires acceptance of the charter as a whole, without reservations to particular provisions. This reflects the integrity of the constituent treaty, intended to preserve the unity and coherence of the organisation's legal and institutional system.

Conclusion (2 marks)

In sum, although the constituent treaty of an international organisation is a treaty under international law, it has distinctive characteristics tied to the organisation's institutional nature: it relies on admission (hence a relatively closed treaty), it enjoys supremacy in case of conflict, and it is accepted in its integrity, without reservations, to safeguard the organisation's coherence.

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