INTRODUCTION

The purpose of this paper is to set a basis for discussion of the recent House of Lords decision in the case of Arab Monetary Fund v. Hashim and others (No. 3), and to examine how it affects the position of Arab International Corporations, particularly with regard to their ability to sue and be sued in English courts.

As there is as yet comparatively little judicial discussion in general upon the nature of International Corporations, which are also referred to as International Companies and International Legal Persons, brief reference will be made to the attempts of academics to define such entities (which I shall refer to as ILPs for short). Some of the problems created by ILPs vis-à-vis the liability of their members for debts in municipal jurisdictions, as witnessed in the mammoth Tin litigation and the AMF case will be examined, as will the International Arbitration which involved Westland Helicopters and the Arab Organisation For Industrialisation, with which I have been concerned for many years.

The scope for discussion is enormous and could involve questions such as the immunities or responsibilities of ILPs, the application of the ultra vires rule to their acts, and the problems which might occur upon their dissolution. I hope these problems will be the subject of wider discussion.

DEFINITION OF AN ILP

Firstly, I will deal with the nature of an ILP. Clive Parry has stated in graphic terms that an ILP, "is everywhere abroad nowhere at home".

Attempts have been made by various academics to provide a definition of an ILP with a certain amount of confusion. One can advantageous refer to the definition pro-
vided by F.A. Mann, 4 who suggested that the term "International Company" bore at least three meanings. In the present context, it is only necessary to note that we are not referring to national companies which have an international business. Nor are we referring to companies created under national law but described as international because they are conceived in a treaty concluded by states. The truly International Company, according to Mann, is one that is not only contemplated but is also created by the treaty between states. It must also be organised and live under Public International Law alone, and not derive its status from national law. Brownlie 5 would add to the definition the need for a distinction in terms of legal power and purposes, between the organisation and its member states. Seidl Hohenveldern 6 further provides that an ILP is established by its member states where they use means which if pursued by a single state, could be qualified as *acta jure imperii*.

While Friedmann 7 would argue that some national corporations ought to be elevated to the International plane because they have resources available to them which equal or exceed those of some states, his view does not appear to have any significant support.

It is worth remembering that it is not only a treaty which can create an ILP. Whilst this is the norm, according to Brownlie 8 it could equally be possible for the necessary contractual consensus to be provided by a resolution of a conference of states, 9 and he cites The World Tourism Organisation as being a case in point.

The existence of ILPs is by no means a new-found phenomenon. One could cite the Central Commission for the Navigation of the Rhine set up in 1815 by the Congress of Vienna as an early example. 10

It is true to say that ILPs have proliferated since the Second World War, the reason being the recognition by states of the need for greater co-operation between them and the inherent advantages in creating a separate legal entity to facilitate such co-operation, particularly in the commercial field with which we are presently concerned. 11

**Arab International Corporations**

Having briefly dealt with the nature of an ILP, I turn now to consider how Arab ILPs differ from other such entities. At first sight, there is no reason to distinguish an "Arab" International Organisation from any other, governed as they all are by Public International Law. However, upon consideration of the sources of Public International Law, one recalls that for the purposes of Article 38 of the Statute of the International Court of Justice, they include the general principles of law as recognised by civilised states.

5 Supra note 2 at p.681.
6 Corporations in and under International Law (1987), at p.72.
8 Supra note 2 at p.682.
9 For example, the United Nations Conference on Trade and Development (UNCTAD) and the United Nations Industrial Development Organisation (UNIDO) were both founded by resolutions of the UN General Assembly.
11 See Seidl Hohenveldern, supra note 6 at p.67.