



# The Withdrawal Clauses Of The Unfccc Of 1992 And Its Protocols: A Legal Appraisal

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## ABSTRACT

This article explores the legal and political dimensions of withdrawal clauses within key international climate agreements, focusing on the **United Nations Framework Convention on Climate Change (UNFCCC) of 1992** and its associated protocols, including the **Kyoto Protocol of 1997** and the **Paris Agreement on climate change of 1997**. Withdrawal clauses are critical components of these treaties, as they allow states to disengage from the agreements under specified conditions. This article investigates the implications of such provisions, particularly concerning the **legal** consequences of withdrawal, the **political ramifications** for international cooperation, and the broader **economic impacts** on global climate action.

The primary questions addressed in the article include: How do withdrawal clauses impact the effectiveness and stability of international climate agreements? What are the legal, political, and economic consequences for states that choose to withdraw, and how do these actions affect global climate governance? The study uses a **comparative legal analysis** to examine the withdrawal provisions in the **Kyoto Protocol** and the **Paris Agreement**, highlighting differences in their structures and the implications of these differences for global climate policy.

Key findings suggest that while withdrawal clauses provide states with sovereignty over their participation, they also introduce significant risks to the stability and long-term success of climate agreements. The **legal consequences** of withdrawal, such as violations of international commitments and the erosion of diplomatic trust, can severely undermine global efforts to combat climate change. Politically, withdrawals by major nations, such as the **United States' exit** from the **Paris Agreement**, highlight the fragility of climate cooperation. The article concludes by emphasizing the need for stronger, more binding provisions to prevent arbitrary withdrawals and enhance the resilience of international climate law, recommending reforms to withdrawal mechanisms and greater multilateral cooperation to address climate challenges effectively.

## INTRODUCTION

### (i) Contextual Background

The United Nations Framework Convention on Climate Change (UNFCCC) is an international environmental treaty that emerged from the Earth Summit in Rio de Janeiro in 1992. Its primary purpose is to address global climate change, a challenge that has long-term implications for environmental sustainability, human health, and the economic stability of nations across the world.<sup>1</sup> The UNFCCC was created as a response to the growing recognition of the severe impacts of human activity on the climate, including the burning of fossil fuels, deforestation, and industrial processes that release greenhouse gases (GHGs) into the atmosphere.

The Convention entered into force on March 21, 1994, after being ratified by a sufficient number of countries. The key objectives of the UNFCCC are to stabilize atmospheric concentrations of GHGs at levels that will prevent dangerous human interference with the climate system. The Convention sets a framework for future international negotiations on climate change, encouraging parties to take collective action in reducing emissions and adapting to the inevitable effects of climate change. Over the years, the UNFCCC has become the backbone of international climate negotiations, facilitating landmark agreements like the Kyoto Protocol (1997) and the Paris Agreement (2015).

While the UNFCCC itself does not set binding emission reduction targets, it provides a comprehensive framework for addressing climate change through ongoing negotiations and collaborations.<sup>2</sup> Key principles of the Convention include equity, common but differentiated responsibilities, and respective capabilities, recognizing that different countries contribute differently to climate change and have varying capacities to

<sup>1</sup> Birnie, P., Boyle, A., & Redgwell, C. (2009). *International Law and the Environment*. Oxford University Press.

<sup>2</sup> Sands, P., Peel, J., Fabra, A., & Mackenzie, R. (2018). *Principles of International Environmental Law*. Cambridge University Press.

mitigate its effects.<sup>3</sup> These principles have been foundational in shaping climate policy discussions and agreements.

## **(ii) Importance of Withdrawal Clauses**

Withdrawal clauses play a critical role in international treaties, as they provide the legal mechanism for a country to exit an agreement if it so desires. These clauses offer flexibility in international agreements, reflecting the sovereign right of states to determine their participation in multilateral treaties. In the context of climate agreements, the inclusion of withdrawal clauses is particularly significant, as they acknowledge the potential for changing political dynamics and the evolving nature of national interests in global climate governance.

In the case of the UNFCCC and its associated protocols, such as the Paris Agreement, withdrawal clauses are integral for managing the dynamics of international cooperation.<sup>4</sup>

The inclusion of such clauses allows for a state's ability to withdraw from the treaty under specified conditions, which typically include a notice period and a justification for the withdrawal. While these clauses are often seen as a safeguard against over commitment, they can also undermine the stability of the treaty if countries frequently opt to withdraw or challenge the agreement's binding nature.

The importance of withdrawal clauses in climate agreements lies in their potential impact on global efforts to combat climate change. If major emitters decide to withdraw or fail to comply with the terms of the treaty, the collective progress towards limiting global warming may be significantly hampered. Conversely, withdrawal clauses can also provide countries with the freedom to reassess their participation based on changing domestic priorities or geopolitical shifts. Therefore, the balance between ensuring global commitment to climate action and respecting national sovereignty is a key consideration in the negotiation and structure of these clauses.

In the specific case of the Paris Agreement, which builds upon the framework of the UNFCCC, the withdrawal clause became a point of significant debate, especially in light of certain countries' decisions to withdraw, such as the United States in 2017.<sup>5</sup> The controversy surrounding such withdrawals underscores the tension between global cooperation on climate action and national political autonomy.<sup>6</sup> Thus, withdrawal clauses remain a critical aspect of international environmental law and diplomacy, with far-reaching consequences for the success and longevity of climate agreements.

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<sup>3</sup> Bodansky, D. (2010). *The Art and Craft of International Environmental Law*. Harvard University Press.

<sup>4</sup> Bodansky, D. (2010). *The Art and Craft of International Environmental Law*. Harvard University Press.

<sup>5</sup> Rajamani, L. (2006). *Differential Treatment in International Environmental Law*. Oxford University Press.

<sup>6</sup> Rajamani, L. (2006). *Differential Treatment in International Environmental Law*. Oxford University Press.

In summary, the UNFCCC represents a cornerstone of international climate governance, aiming to stabilize global climate systems through collective action. Withdrawal clauses, while offering flexibility and protecting national sovereignty, carry significant risks to the integrity and effectiveness of climate treaties, particularly as the global community strives to meet the challenges posed by climate change. Understanding the historical context and the role of these clauses is essential for evaluating their impact on the future of international climate policy.

## **PART 1: THE LEGAL FRAMEWORK OF THE CLIMATE CHANGE CONVENTIONS AND PROTOCOLS**

The United Nations framework convention on climate change of 1992 is signed and ratified by 200 state parties, with a goal of reducing global emissions to preindustrial levels (1.5 degree Celsius). The Kyoto protocol of 1997 and Paris Agreement of 2015 serves as further commitments by state parties to this agreement to continue to seek for collective global solutions of emission reduction.

### **Section 1: Overview of the UNFCCC of 1992**

The United Nations Framework Convention on Climate Change (UNFCCC) was adopted at the Earth Summit in Rio de Janeiro in 1992, marking a historic moment in the global recognition of climate change as a pressing environmental issue. The Convention is a legally non-binding international treaty that laid the groundwork for future international climate negotiations and agreements.<sup>7</sup> The UNFCCC aimed to provide a structured platform for addressing climate change through international cooperation, setting broad goals and creating a framework to guide ongoing actions at the global, regional, and national levels.

The Convention has been a foundational pillar in the fight against climate change and has shaped subsequent global agreements, such as the Kyoto Protocol (1997) and the Paris Agreement (2015).<sup>8</sup> While the UNFCCC itself did not set specific, binding emission reduction targets for individual countries, it established a long-term vision of climate action and a comprehensive approach to mitigating and adapting to climate change.<sup>9</sup> A key aspect of the UNFCCC is its emphasis on inclusivity, ensuring that all countries are engaged in the climate change dialogue, regardless of their level of economic development or contributions to global emissions.

<sup>7</sup> Bodansky, D., Brunnée, J., & Rajamani, L. (2017). *International Climate Change Law*. Oxford University Press.

<sup>8</sup> UNFCCC Secretariat. (1992). *United Nations Framework Convention on Climate Change*. United Nations Treaty Series.

<sup>9</sup> United Nations. (1998). *Kyoto Protocol to the United Nations Framework Convention on Climate Change*.

## Foundational Objectives of the UNFCCC

The UNFCCC was structured around several key objectives, reflecting the growing understanding of climate change as a complex and multifaceted issue.<sup>10</sup> These objectives are designed to promote cooperation and action among countries, with the ultimate goal of stabilizing the concentration of greenhouse gases (GHGs) in the atmosphere. Below are the primary objectives outlined in the UNFCCC:

### (i) Stabilizing Greenhouse Gas Concentrations

One of the central objectives of the UNFCCC is to stabilize the concentration of GHGs in the atmosphere at levels that will prevent dangerous human interference with the climate system.<sup>11</sup> This objective recognizes the critical link between rising GHG levels and global warming, with the potential to lead to catastrophic environmental consequences such as sea-level rise, increased frequency and intensity of extreme weather events, and disruption of ecosystems.

The treaty emphasizes that the stabilizing of GHG concentrations should occur at a level that allows ecosystems and natural processes to adapt, while also ensuring that food production is not threatened and that economic development can continue in a sustainable manner.<sup>12</sup> This goal is often considered the UNFCCC's ultimate objective, and it has guided subsequent climate negotiations and agreements.<sup>13</sup> The challenge of stabilizing GHGs is complex and requires concerted global action, given the disparities in historical contributions to emissions and current levels of development among nations.

### (ii) Promoting Sustainable Economic Development

The UNFCCC acknowledges the relationship between climate change and economic development. It stresses that economic growth should not come at the expense of environmental sustainability.<sup>14</sup> The treaty promotes the idea of "sustainable development," which involves balancing economic development with environmental stewardship and social equity. This reflects the understanding that combating climate change must go hand in hand with fostering global development, particularly in developing countries.

Sustainable development in the context of the UNFCCC refers to economic growth that can meet the needs of the present without compromising the ability of future generations to meet their own needs.<sup>15</sup> The treaty recognizes the importance of ensuring that the most vulnerable countries, particularly those with low levels

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<sup>10</sup> United Nations. (1998). *Kyoto Protocol to the United Nations Framework Convention on Climate Change*.

<sup>11</sup> United Nations. (2015). *Paris Agreement under the United Nations Framework Convention on Climate Change*.

<sup>12</sup> Bodansky, D. (2011). "The Durban Platform: Issues and Options for a 2015 Agreement." *Center for Climate and Energy Solutions*.

<sup>13</sup> Hey, E. (2000). *Globalization and the Sustainability of International Environmental Law*. Martinus Nijhoff Publishers.

<sup>14</sup> Hey, E. (2000). *Globalization and the Sustainability of International Environmental Law*. Martinus Nijhoff Publishers.

<sup>15</sup> Churchill, R. R., & Ulfstein, G. (2000). "Autonomous Institutional Arrangements in Multilateral Environmental Agreements: A Little-Noticed Phenomenon in International Law." *American Journal of International Law*, 94(4), 623-659.

of industrialization and financial resources, are not unduly burdened by climate policies and are instead supported in transitioning to a more sustainable and climate-resilient economy.

### **(iii) Addressing Common but Differentiated Responsibilities**

One of the key principles embedded in the UNFCCC is the concept of "common but differentiated responsibilities" (CBDR). This principle recognizes that while all countries are responsible for addressing climate change, they have different capacities and historical contributions to global emissions.<sup>16</sup> Therefore, the UNFCCC calls for developed countries to take the lead in reducing emissions and providing financial and technological support to developing countries.

CBDR reflects the idea that climate change is a global problem that requires collective action, but the burden of that action should be shared in a way that accounts for the varying circumstances of different nations. Developed countries, with their higher historical contributions to global emissions and greater economic resources, are expected to take more significant and immediate action to mitigate climate change, while developing countries are given more time and resources to implement climate measures.

### **(iv) Enhancing Adaptation and Resilience**

The UNFCCC also emphasizes the importance of adapting to the impacts of climate change, which are already being felt in many parts of the world. While the primary focus of the Convention is on mitigation—reducing emissions to slow the pace of climate change—adaptation to the unavoidable impacts of climate change is equally important.<sup>17</sup> This includes building resilience in vulnerable countries, particularly those prone to extreme weather events such as droughts, floods, and storms, as well as addressing the impacts on agriculture, water resources, and human health.

The treaty calls for the strengthening of adaptive capacity, particularly in developing countries that are often the most vulnerable to climate change but least able to cope with its effects. It promotes cooperation in research, the exchange of knowledge, and the development of strategies that allow countries to better prepare for and respond to the climate challenges they face.

### **(v) Fostering International Cooperation and Coordination**

The UNFCCC establishes a framework for ongoing international cooperation on climate change.<sup>18</sup> The treaty recognizes that climate change is a global problem that requires a global response, and it facilitates

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<sup>16</sup> UNFCCC Secretariat. (1992). *United Nations Framework Convention on Climate Change*. United Nations Treaty Series.

<sup>17</sup> UNFCCC Secretariat. (1992). *United Nations Framework Convention on Climate Change*. United Nations Treaty Series.

<sup>18</sup> United Nations. (1998). *Kyoto Protocol to the United Nations Framework Convention on Climate Change*.

dialogue, collaboration, and the sharing of expertise among countries.<sup>19</sup> The Convention provides the institutional structure to coordinate the efforts of nations, including annual Conference of the Parties (COP) meetings, which serve as the primary forum for negotiations and decision-making.

The UNFCCC also plays a crucial role in monitoring and reporting progress on climate actions, ensuring transparency and accountability.<sup>20</sup> This includes the regular submission of national reports by parties, which provide an overview of their emissions levels, actions taken to mitigate and adapt to climate change, and the support they may have provided to other nations.

#### **(vi) Mobilizing Financial and Technological Support**

An essential element of the UNFCCC's objectives is the mobilization of financial resources and the transfer of technology, especially to developing countries.<sup>21</sup> The Convention recognizes that many nations lack the financial capacity to implement climate mitigation and adaptation strategies, and thus, developed countries are encouraged to assist. This includes financial support for emission reduction projects, as well as the transfer of clean technologies to help developing countries leapfrog polluting technologies and adopt more sustainable practices.

The financial aspect of the UNFCCC is embodied in mechanisms such as the Green Climate Fund (GCF), which was established to support developing countries in their efforts to combat climate change.<sup>22</sup> Through such initiatives, the Convention aims to reduce the gap between developed and developing countries in terms of climate action capabilities.

The UNFCCC of 1992 represents a critical step in the international community's collective effort to address the urgent and growing challenge of climate change.<sup>23</sup> Through its foundational objectives—stabilizing greenhouse gas concentrations, promoting sustainable economic development, addressing common but differentiated responsibilities, enhancing adaptation and resilience, fostering international cooperation, and mobilizing financial and technological support—it laid the groundwork for future climate agreements and set the stage for global action on climate change. By establishing a cooperative framework for countries to work together and support one another, the UNFCCC has provided a vital structure for tackling the

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<sup>19</sup> United Nations. (2015). *Paris Agreement under the United Nations Framework Convention on Climate Change*.

<sup>20</sup> Bodansky, D. (2011). "The Durban Platform: Issues and Options for a 2015 Agreement." *Center for Climate and Energy Solutions*.

<sup>21</sup> Bodansky, D. (2011). "The Durban Platform: Issues and Options for a 2015 Agreement." *Center for Climate and Energy Solutions*.

<sup>22</sup> Hey, E. (2000). *Globalization and the Sustainability of International Environmental Law*. Martinus Nijhoff Publishers.

<sup>23</sup> Aust, A. (2013). *Modern Treaty Law and Practice*. Cambridge University Press.

complexities of climate change, which continues to be one of the most pressing challenges of the 21st century.<sup>24</sup>

## SECTION 2: THE KYOTO PROTOCOL: OVERVIEW AND WITHDRAWAL CLAUSE

It was signed in Kyoto, Japan in 1997 as a follow up to the implementation of the UNFCCC of 1992. This protocol obliged annex 1 countries of compulsory emission reductions and notably created the carbon markets, where compliance and voluntary carbon markets existed.

### (A) Kyoto Protocol Background

The Kyoto Protocol is a landmark international agreement aimed at combating climate change by reducing greenhouse gas (GHG) emissions.<sup>25</sup> Adopted in Kyoto, Japan, on December 11, 1997, it was a significant development in the ongoing global effort to address climate change. The Protocol builds upon the United Nations Framework Convention on Climate Change (UNFCCC) by setting legally binding targets for developed countries to reduce their GHG emissions.<sup>26</sup> The Protocol marked the first time that countries took legally binding commitments to cut their emissions under an international agreement.

The primary objective of the Kyoto Protocol was to stabilize atmospheric concentrations of GHGs to prevent dangerous anthropogenic interference with the climate system. The agreement set binding targets for developed countries to reduce their emissions by an average of 5.2% from 1990 levels over a commitment period that ran from 2008 to 2012. These targets were differentiated according to each country's historical contribution to emissions and its level of economic <sup>27</sup>development, consistent with the principle of common but differentiated responsibilities (CBDR).

Unlike the UNFCCC, which was a framework agreement, the Kyoto Protocol introduced specific emission reduction targets for participating countries, making it a more stringent and concrete step in global climate governance.<sup>28</sup> The countries listed in Annex I of the UNFCCC, which include industrialized countries and

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<sup>24</sup> Churchill, R. R., & Ulfstein, G. (2000). "Autonomous Institutional Arrangements in Multilateral Environmental Agreements: A Little-Noticed Phenomenon in International Law." *American Journal of International Law*, 94(4), 623-659.

<sup>25</sup> Aust, A. (2013). *Modern Treaty Law and Practice*. Cambridge University Press.

<sup>26</sup> Boyle, A., & Chinkin, C. (2007). *The Making of International Law*. Oxford University Press.

<sup>27</sup> Fitzmaurice, M. (2002). *International Protection of the Environment*. Martinus Nijhoff.

<sup>28</sup> Brunnée, J. (2002). "COPing with Consent: Law-Making under Multilateral Environmental Agreements." *Leiden Journal of International Law*, 15(1), 1-52.

economies in transition (EITs), were required to meet the reduction targets. Developing countries were not assigned binding emissions reductions but were encouraged to contribute through voluntary measures.

The Kyoto Protocol introduced a range of mechanisms to help countries meet their targets, including:

**(i) Emissions Trading (Carbon Trading):** Allows countries that exceed their emissions reduction targets to sell their excess allowances to countries that are not meeting their targets.

**(ii) Clean Development Mechanism (CDM):** Enables developed countries to invest in emission-reducing projects in developing countries and earn credits for those reductions.

**(iii) Joint Implementation (JI):** Allows developed countries to invest in emission-reducing projects in other developed countries and gain credits.

While the Kyoto Protocol was a groundbreaking step in international climate law, its implementation faced several challenges.<sup>29</sup> The United States, one of the world's largest emitters, famously rejected the Protocol, arguing that it would harm its economy and that developing countries, including China and India, were not bound by emissions reduction targets. Despite this setback, the Protocol went into force in 2005 after securing enough ratifications, but it remained a source of controversy and debate within the broader international community.

### **(B) Withdrawal Clause in the Kyoto Protocol (Article 27)**

The withdrawal clause in the Kyoto Protocol is found in **Article 27**, which specifies the legal process through which a country may withdraw from the agreement.<sup>30</sup> According to the provisions of this article, any party to the Kyoto Protocol can withdraw from the treaty by submitting a formal notification to the United Nations Secretary-General.

### **Key provisions of Article 27:**

**(i) Notice Period:** The party wishing to withdraw must submit a formal written notification of its intention to withdraw, which must be done at least one year before the withdrawal takes effect. This notice gives the other parties to the Protocol time to prepare for the exit of that country and to take any necessary actions in response.

<sup>29</sup> Brunnée, J. (2002). "COPing with Consent: Law-Making under Multilateral Environmental Agreements." *Leiden Journal of International Law*, 15(1), 1-52.

<sup>30</sup> UN Treaty Collection. (2024). *Status of Treaties: UNFCCC and Related Protocols*. United Nations.

**(ii) Timing of Withdrawal:** The withdrawal takes effect one year after the date of notification, making the exit process a deliberate and gradual process. This ensures that the withdrawal does not disrupt ongoing international efforts to reduce GHG emissions under the Protocol, providing other countries with time to adjust and potentially fill the gap created by the exiting nation.

**(iii) Conditions for Withdrawal:** The Protocol does not specify conditions that must be met for withdrawal other than the notice period. The decision to withdraw is entirely within the discretion of the party involved, and the Protocol does not stipulate consequences or penalties for withdrawal. This reflects the sovereignty of nations, allowing them to voluntarily exit international agreements.

**(iv) Effect on Legal Obligations:** It is important to note that a withdrawing country is not absolved of its obligations incurred prior to withdrawal.<sup>31</sup> This means that any commitments made during the commitment period in which the country was a party to the Protocol must still be honored. The withdrawal clause only applies to future commitments, and the country must fulfill its existing obligations under the Protocol until its withdrawal takes effect.

### **(c) Legal Implications of Withdrawal from the Kyoto Protocol**

The legal ramifications of withdrawal from the Kyoto Protocol are multifaceted, with both domestic and international consequences.

**(i) Impact on Future Climate Negotiations:** Withdrawal from the Kyoto Protocol can influence the broader landscape of climate negotiations. A country that exits the Protocol may face international criticism, as withdrawal can be seen as a refusal to take part in global efforts to combat climate change.<sup>32</sup> The international community generally views such actions as undermining collective global action, especially when the world's leading emitters are involved.

**(ii) Loss of Global Cooperation:** The Kyoto Protocol was a crucial step in creating a cooperative, rules-based system for international climate governance. A nation's exit from the Protocol diminishes the overall effectiveness of the agreement and reduces the incentives for other countries to comply with their commitments. It undermines the principle of shared responsibility and the collective effort to reduce global emissions, weakening the international commitment to climate action.<sup>33</sup>

**(iii) Domestic Consequences:** A country's withdrawal from the Kyoto Protocol may also have domestic political and economic consequences.<sup>34</sup> Environmental groups, scientific communities, and public opinion may see the decision as a retreat from addressing climate change, potentially leading to public backlash. On

<sup>31</sup> UN Treaty Collection. (2024). *Status of Treaties: UNFCCC and Related Protocols*. United Nations.

<sup>32</sup> Voigt, C. (Ed.). (2017). *Research Handbook on Climate Change and Human Rights*. Edward Elgar Publishing.

<sup>33</sup> Schrijver, N. (2008). *The Evolution of Sustainable Development in International Law*. Brill Academic.

<sup>34</sup> Oberthür, S., & Ott, H. E. (1999). *The Kyoto Protocol: International Climate Policy for the 21st Century*. Springer.

the other hand, industries that stand to benefit from less stringent climate regulations might support withdrawal, seeing it as an opportunity to avoid the costs of compliance with international emission reduction targets.

**(iv) Reputation and Credibility:** International withdrawal may damage a country's reputation in the global arena, particularly in the context of environmental diplomacy. A country that withdraws may face challenges in building coalitions and maintaining strong relations with other countries that remain committed to climate goals. Its credibility in future negotiations, such as those concerning the Paris Agreement, may be weakened, and it may be viewed as unreliable in its climate commitments.

**(v) Legal Precedents:** Withdrawal from international treaties like the Kyoto Protocol can set legal precedents for how similar treaties and agreements are treated in the future. A country's withdrawal may inspire other nations to reconsider their participation in multilateral agreements, raising questions about the stability of international environmental law.

### Case Study Example: The United States' Decision to Withdraw

The most notable case of withdrawal from the Kyoto Protocol was that of the United States.<sup>35</sup> Although the U.S. played a key role in the negotiation of the Protocol, President George W. Bush announced in 2001 that the United States would not ratify the Kyoto Protocol.<sup>36</sup> The decision was based on concerns over the economic impact of mandatory emissions reductions and the fact that the Protocol did not impose any binding commitments on developing countries, including major emerging economies such as China and India.

The U.S. administration argued that the Protocol would harm the U.S. economy by placing restrictions on industrial growth and energy consumption.<sup>37</sup> Furthermore, the Bush administration contended that the absence of binding commitments for developing countries would place developed nations at a disadvantage, as the largest future emissions growth would come from these countries.

The U.S. decision to withdraw had a significant impact on the Kyoto Protocol's effectiveness. The U.S. was one of the largest GHG emitters, and its refusal to participate in the Protocol removed a major player from

<sup>35</sup> Keohane, R. O., & Victor, D. G. (2011). "The Regime Complex for Climate Change." *Perspectives on Politics*, 9(1), 7-23.

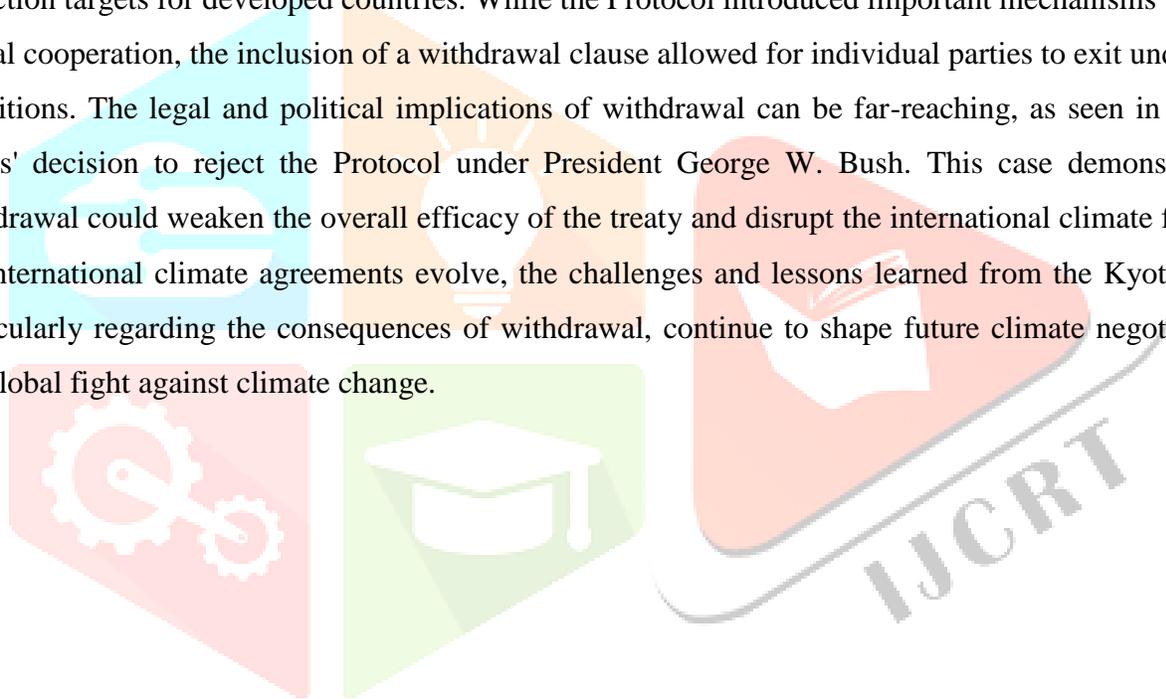
<sup>36</sup> Bodle, R. (2010). "The Cancun Agreements: A Step Forward Towards a Comprehensive Climate Treaty." *Carbon & Climate Law Review*, 4(2), 91-101.

<sup>37</sup> Rajamani, L. (2016). "The 2015 Paris Agreement: Interplay Between Hard, Soft and Non-Obligations." *Journal of Environmental Law*, 28(2), 337-358.

the global emissions reduction effort.<sup>38</sup> This raised questions about the effectiveness of the Protocol and highlighted the difficulties of achieving global cooperation when key players opt out. In the wake of this decision, other countries, particularly in Europe, sought to salvage the Protocol's objectives by working toward the creation of a new climate agreement—the **Paris Agreement**, which eventually replaced the Kyoto Protocol's binding targets with a more flexible, voluntary framework.

Despite the U.S. withdrawal, the Kyoto Protocol remained in effect for other countries, and the broader international climate dialogue continued. However, the example of the U.S. withdrawal underscored the risks of countries opting out of international climate commitments, with both legal and political ramifications for the future of global climate governance.

The Kyoto Protocol marked a historic step in global climate policy, establishing legally binding emission reduction targets for developed countries. While the Protocol introduced important mechanisms to facilitate global cooperation, the inclusion of a withdrawal clause allowed for individual parties to exit under specific conditions. The legal and political implications of withdrawal can be far-reaching, as seen in the United States' decision to reject the Protocol under President George W. Bush. This case demonstrated how withdrawal could weaken the overall efficacy of the treaty and disrupt the international climate framework. As international climate agreements evolve, the challenges and lessons learned from the Kyoto Protocol, particularly regarding the consequences of withdrawal, continue to shape future climate negotiations and the global fight against climate change.



<sup>38</sup> Yamin, F., & Depledge, J. (2004). *The International Climate Change Regime: A Guide to Rules, Institutions and Procedures*. Cambridge University Press.

### SECTION 3: THE PARIS AGREEMENT: OVERVIEW AND WITHDRAWAL CLAUSE

The Paris Agreement on climate change of 2015 is another mile stone in the global effort by state parties to reduced greenhouse agreement. Emissions reduction under this agreement is non-binding but state parties set up ambitious reduction targets through common but differentiated responsibility. State parties also agree to record and report annually their emissions figures.

#### (A) Paris Agreement Background

The **Paris Agreement**, adopted on December 12, 2015, during the 21st Conference of the Parties (COP21) to the United Nations Framework Convention on Climate Change (UNFCCC) in Paris, represents a historic global accord aimed at addressing the growing threat of climate change.<sup>39</sup> The agreement emerged after years of negotiations and followed the failure of earlier attempts, such as the Kyoto Protocol, to create binding global commitments for reducing greenhouse gas (GHG) emissions. What sets the Paris Agreement apart is its **universal nature**, aiming to bring all countries, regardless of their economic status, into a global climate action framework.

The Paris Agreement's primary goal is to limit global temperature rise to well below 2°C above pre-industrial levels, with efforts to restrict the increase to 1.5°C, a target that scientists have identified as crucial to minimizing the most catastrophic impacts of climate change. Unlike the Kyoto Protocol, which imposed binding emissions reductions on developed countries, the Paris Agreement is based on the principle of **nationally determined contributions (NDCs)**.<sup>40</sup> This allows each country to set its own emission reduction targets based on its national circumstances, capacities, and levels of development.<sup>41</sup> The agreement is thus more flexible, recognizing that different countries contribute differently to the problem and have varying abilities to mitigate climate change.

A key innovation of the Paris Agreement is its focus not only on **mitigation** reducing emissions but also on **adaptation** to the inevitable impacts of climate change and on **finance** to support climate action, especially in developing countries. Under the Paris framework, developed countries have committed to providing

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<sup>39</sup> Redgwell, C. (2006). "Withdrawal from International Treaties: Lessons from the Law of the Sea." *British Yearbook of International Law*, 77(1), 337-392.

<sup>40</sup> United Nations. (1969). *Vienna Convention on the Law of Treaties*.

<sup>41</sup> Iein, P. (2011). "Denunciation of Treaties in International Law." *Netherlands Yearbook of International Law*, 42(1), 77-114.

financial resources to developing countries to help them meet their climate goals.<sup>42</sup> This support is crucial for fostering global cooperation, ensuring that all nations can take part in the transition to a low-carbon, climate-resilient future.

The Paris Agreement also introduces a mechanism for **regular stock-taking** through the global stocktake, which takes place every five years, allowing parties to assess progress and strengthen their commitments in response to the latest scientific data. The first such stocktake was scheduled for 2023.

In sum, the Paris Agreement marked a shift in global climate policy by creating a more inclusive, flexible, and dynamic framework for addressing climate change. It recognizes the need for universal participation and places a strong emphasis on adaptation, finance, and regular review to ensure that the international community makes continuous progress in limiting global warming.

### **(B) Withdrawal Clause in the Paris Agreement (Article 28)**

The withdrawal provisions of the Paris Agreement are outlined in **Article 28**, which establish the conditions and process by which a country may withdraw from the accord.<sup>43</sup> The provisions aim to ensure that the withdrawal process is transparent, structured, and takes into account the significance of the Agreement as a global commitment.

#### **Key provisions of Article 28:**

**(i) Notice Period:** A country wishing to withdraw from the Paris Agreement must submit a written notification to the depository (the United Nations Secretary-General).<sup>44</sup> The withdrawal will take effect **one year after the notification** has been received. However, the key distinction with the Paris Agreement is that withdrawal cannot occur within the first **three years** after the Agreement enters into force for that party. This three-year period was designed to safeguard the stability and credibility of the Agreement, discouraging premature or politically motivated exits.

**(ii) Timing of Withdrawal:** The three-year notice period ensures that any country contemplating withdrawal will need to do so with significant foresight, which reinforces the idea that climate change is a long-term challenge requiring sustained commitment. The withdrawal notice period is relatively lengthy compared to the Kyoto Protocol's one-year notice period, which reflects the Paris Agreement's emphasis on ensuring that countries do not leave the Agreement hastily.

<sup>42</sup> Bodansky, D. (2016). "The Legal Character of the Paris Agreement." *Review of European, Comparative & International Environmental Law*, 25(2), 142-150.

<sup>43</sup> Van Asselt, H. (2014). *The Fragmentation of Global Climate Governance*. Edward Elgar Publishing.

<sup>44</sup> Cullet, P. (2003). *Differential Treatment in International Environmental Law and Policy*. Ashgate.

**(iii)Effect on Climate Commitments:** As with other climate agreements, withdrawal does not absolve the withdrawing country from its commitments during the period in which it was a party to the Agreement. If a country withdraws after agreeing to its NDCs (Nationally Determined Contributions), it remains accountable for any actions it undertook in the years leading up to the withdrawal. The provisions also indicate that a country may continue to participate in discussions and contribute to international climate efforts during the notice period, signaling that withdrawal is not meant to disrupt the ongoing global dialogue on climate change.

**(iv)Re-entry Option:** Unlike the Kyoto Protocol, the Paris Agreement does not set specific provisions for re-entry after withdrawal. However, a country could re-join the Agreement after its withdrawal by following the same process for ratification as it did when it first joined. This flexibility allows for future re-engagement if political or domestic circumstances change, which could be an important factor for countries reconsidering their withdrawal decisions.

#### **(v)Legal Consequences and Political Considerations of Withdrawal**

The legal and political ramifications of withdrawal from the Paris Agreement are complex and wide-reaching. Legal consequences include the potential loss of influence in shaping future climate policy and the weakening of a country's international legal obligations in climate action. The **political consequences** are arguably even more significant, as withdrawal could be seen as a retreat from global leadership on climate change.

**(i)Global Reputation and Leadership:** The Paris Agreement is seen as the global framework for addressing climate change, and withdrawal from the Agreement can severely damage a country's reputation on the international stage. Countries that withdraw might be perceived as undermining global efforts to mitigate climate change, and their political leadership in future multilateral negotiations could be undermined.

**(ii)Diplomatic Tensions:** Withdrawal may strain diplomatic relations with other countries that remain committed to the Agreement. Countries in the European Union, developing nations, and other climate-conscious states may view withdrawal as a rejection of collective climate action and may push for economic or diplomatic sanctions. Furthermore, withdrawal could have ripple effects, influencing other countries' willingness to comply with the Agreement's targets, which could delay global progress on climate mitigation.

**(iii)Domestic Political Backlash:** Politically, withdrawal may be driven by domestic political factors, such as the influence of fossil fuel industries, economic interests, or public opinion. However, it is also likely to provoke backlash from environmental groups, scientists, and a portion of the public who view climate

change as an urgent, existential threat. This could lead to domestic protests, challenges in future elections, and increased scrutiny of political leaders.

**(iv) Legal Precedents:** The decision of a country to withdraw can set a legal precedent for future international agreements. The Paris Agreement, while flexible, is underpinned by the global recognition that climate change is a critical issue requiring sustained commitment. If major nations like the United States were to withdraw, it could signal to other countries that the global climate regime is fragile and may encourage others to reconsider their participation.

#### **Case study: The United States' attitude of constant disregard of the convention.**

One of the most prominent cases of withdrawal from the Paris Agreement occurred under **President Donald Trump**. In June 2017, Trump announced his intention to withdraw the United States from the Paris Agreement, citing the economic burden of reducing emissions and a perceived unfairness in the distribution of responsibilities between developed and developing countries. Trump's withdrawal was emblematic of a broader nationalist, “America First” approach to environmental and international policies, and it drew significant international and domestic criticism.

However, Trump's decision was not final until November 4, 2020, the earliest date allowed by the Agreement. This three-year waiting period allowed ample time for international negotiations and highlighted the Paris Agreement's stability in the face of political shifts.

In contrast, under **President Joe Biden**, the United States re-entered the Paris Agreement on February 19, 2021, signaling a reversal of Trump's policy. Biden emphasized that addressing climate change was a central priority of his administration, and re-entry into the Paris Agreement marked a symbolic and substantive return to global climate leadership.<sup>45</sup> The re-entry process was straightforward because the United States had not formally withdrawn by the time Biden took office.<sup>46</sup> This demonstrated the flexibility of the Paris Agreement's withdrawal provisions, which allowed for a smooth transition back into the accord.

The United States' back-and-forth decision on the Paris Agreement illustrated how political shifts within major nations can have significant implications for the global climate regime.<sup>47</sup> It also underscored the importance of the withdrawal clause in ensuring that countries do not exit or re-enter hastily, which could destabilize international cooperation on climate change.

The **Paris Agreement**, with its universal framework, flexibility, and emphasis on national sovereignty, represents a significant advancement in global climate policy. However, its withdrawal clause, outlined in

<sup>45</sup> Cullet, P. (2003). *Differential Treatment in International Environmental Law and Policy*. Ashgate.

<sup>46</sup> Werksman, J. (1999). *Greening International Institutions*. Earthscan Publications.

<sup>47</sup> Handl, G. (2012). “Declaration, Principles, and Soft Law in International Environmental Law.” In Bodansky, Brunnée & Hey (Eds.), *The Oxford Handbook of International Environmental Law*.

Article 28, presents challenges for maintaining long-term global cooperation.<sup>48</sup> The **United States' withdrawal under Trump** and subsequent re-entry under Biden exemplify the profound legal and political consequences of withdrawal from the Agreement, both for the withdrawing nation and for the international climate regime. These cases also underscore the need for robust and sustained international cooperation on climate action, which is essential for meeting the ambitious goals of the Paris Agreement. The Paris Agreement's structure and withdrawal provisions reflect a balance between flexibility for individual countries and the overarching need for global unity in addressing climate change. In 2025, the newly elected president Trump signed executive orders and withdraw the United States from the Paris Agreement.

## PART 2: WITHDRAWAL CLAUSES UNDER THE CLIMATE CHANGE CONVENTIONS

### Introduction

Under international law, withdrawal clauses are a norm, this is to guarantee state sovereignty. The UNFCCC of 1992 and its protocols make provisions for these withdrawal clauses.

### SECTION I: Comparative Analysis: Withdrawal Provisions in the UNFCCC, Kyoto Protocol, and Paris Agreement

(A)The **UNFCCC**, the **Kyoto Protocol**, and the **Paris Agreement** are three of the most significant international agreements aimed at addressing the global challenge of climate change.<sup>49</sup> Each of these agreements has its own mechanisms for ensuring that countries comply with their commitments, and each includes provisions related to withdrawal. Understanding the withdrawal clauses in these three agreements provides insight into the balance between national sovereignty and global cooperation in tackling climate change.<sup>50</sup> This comparative analysis will examine the withdrawal provisions in the UNFCCC, Kyoto Protocol, and Paris Agreement, focusing on their legal and political implications, and the lessons learned from each agreement.

#### (i)The UNFCCC and Withdrawal Clauses

The **UNFCCC**, established in 1992, provides the framework for international cooperation on climate change. It does not impose legally binding emission reduction targets, but it serves as the foundation for later agreements like the Kyoto Protocol and the Paris Agreement.<sup>51</sup> The UNFCCC itself does not contain a specific withdrawal clause, though it does allow countries to withdraw from specific protocols or decisions made under the Convention. Countries may choose to withdraw from any protocol they have ratified by following a formal notification process.

<sup>48</sup> Sands, P. (1995). *The Environment and International Law*. Manchester University Press.

<sup>49</sup> Barrett, S. (2003). *Environment and Statecraft: The Strategy of Environmental Treaty-Making*. Oxford University Press.

<sup>50</sup> French, D. (2019). *International Environmental Law*. Oxford University Press.

<sup>51</sup> McCormick, J. (2001). *Environmental Policy in the European Union*. Palgrave Macmillan.

While the UNFCCC does not have a strict withdrawal clause, the general principle of sovereign rights under international law applies.<sup>52</sup> The absence of a defined withdrawal mechanism in the Convention has meant that countries can theoretically withdraw from the Convention itself, though no nation has ever done so. The Convention's goals and the overarching framework mean that withdrawal is less of an issue compared to the more binding agreements that followed.

### (ii) The Kyoto Protocol and Withdrawal Clauses

The **Kyoto Protocol** (1997) was the first major international climate treaty to establish legally binding targets for the reduction of greenhouse gas emissions. Article 27 of the Protocol provided a withdrawal clause, stipulating that any country wishing to withdraw could do so by providing written notification to the United Nations Secretary-General.<sup>53</sup> The **one-year notice period** ensured that the withdrawal process was not abrupt and allowed for time to manage the exit of a party.

The United States' decision not to ratify the Protocol exemplified the difficulty of securing universal participation in such agreements.<sup>54</sup> The U.S.'s decision to withdraw had significant implications for the Protocol's effectiveness, especially given that the U.S. is one of the world's largest emitters of greenhouse gases.

### (iii) The Paris Agreement and Withdrawal Clauses

The **Paris Agreement** (2015) differs from both the UNFCCC and the Kyoto Protocol in its approach to withdrawal.<sup>55</sup> The agreement introduced a **three-year notice period** before a country could officially withdraw from the treaty. This longer notice period was intended to provide a buffer against hasty decisions and to protect the stability of the international climate regime. The withdrawal clause in the Paris Agreement was a response to the United States' withdrawal from the Kyoto Protocol and its subsequent rejection of the Paris Agreement under President Trump.

## SECTION: II Comparative Overview

**(i) Legal Flexibility:** Both the Kyoto Protocol and the Paris Agreement incorporate withdrawal clauses to allow countries to exit if needed. However, the Paris Agreement's three-year notice period provides more time for international negotiations and helps ensure greater stability in the climate framework.

<sup>52</sup> McCormick, J. (2001). *Environmental Policy in the European Union*. Palgrave Macmillan.

<sup>53</sup> Hovi, J., Skodvin, T., & Andresen, S. (2013). "The Persistence of the Kyoto Protocol: Why Other Annex I Countries Move on Without the United States." *Global Environmental Politics*, 13(3), 1-17.

<sup>54</sup> Savaresi, A. (2016). "The Paris Agreement: A New Beginning?" *Journal of Energy & Natural Resources Law*, 34(1), 16-26.

<sup>55</sup> Hunter, D., Salzman, J., & Zaelke, D. (2011). *International Environmental Law and Policy*. Foundation Press.

**(ii) Political Implications:** Withdrawal from both the Kyoto Protocol and the Paris Agreement can have significant political ramifications, with countries potentially facing diplomatic isolation or damage to their international reputation. The United States' experience with withdrawal and re-entry highlights the political complexities of exiting or rejoining international climate agreements.

**(iii) Global Cooperation:** The longer notice period in the Paris Agreement reflects a lesson learned from the Kyoto Protocol, where abrupt withdrawals (such as that of the U.S.) undermined global climate efforts. The Paris Agreement's withdrawal provisions aim to maintain global cooperation while balancing national sovereignty.

The comparative analysis reveals that the withdrawal clauses in the UNFCCC, Kyoto Protocol, and Paris Agreement are structured to address both the legal and political challenges of international climate governance.<sup>56</sup> The Paris Agreement's more comprehensive approach to withdrawal, with its three-year notice period, ensures that countries cannot leave the agreement hastily, thereby preserving the integrity of global climate action.<sup>57</sup> As the global community continues to grapple with climate change, these withdrawal provisions will continue to shape the effectiveness and longevity of international climate agreements.

## (C) LEGAL IMPLICATIONS OF WITHDRAWAL

### State Responsibility in Climate Change Agreements

The concept of **state responsibility** in international law refers to the accountability of a state for its actions and omissions that violate international obligations.<sup>58</sup> This is particularly significant in the context of international agreements on climate change, such as the **UNFCCC**, the **Kyoto Protocol**, and the **Paris Agreement**, all of which involve legal obligations that countries voluntarily enter into.

When a state decides to withdraw from one of these treaties or agreements, it is important to understand the legal implications of this decision and its broader impact on global climate governance. In general, state responsibility for climate change agreements can be analyzed from the perspective of **compliance with treaty obligations** and **the consequences of withdrawal**.

<sup>56</sup> Wirth, D. A. (2002). "The International and Domestic Law of Climate Change: A Binding International Agreement without the Senate or Congress?" *Harvard Environmental Law Review*, 39(3), 515-553.

<sup>57</sup> Bodansky, D. (2001). "The History of the Global Climate Change Regime." In Luterbacher, U. & Sprinz, D. (Eds.), *International Relations and Global Climate Change*.

<sup>58</sup> Wirth, D. A. (2002). "The International and Domestic Law of Climate Change: A Binding International Agreement without the Senate or Congress?" *Harvard Environmental Law Review*, 39(3), 515-553. Cordonier Segger, M.-C., & Khalfan, A. (2004). *Sustainable Development Law: Principles, Practices, and Prospects*. Oxford University Press.

(i)**Treaty Obligations:** Under international law, states are bound by the terms of treaties they have ratified, as long as those treaties are in force. Withdrawal from these treaties does not erase a state's past actions, nor does it negate the obligations it undertook while participating in the agreement.<sup>59</sup> For instance, under the **Kyoto Protocol**, parties were required to meet specific emission reduction targets during the first commitment period (2008–2012).<sup>60</sup> If a state withdraws after agreeing to a target, it remains responsible for meeting the target during the period in which it was a party to the treaty.

Similarly, under the **Paris Agreement**, states submit their **Nationally Determined Contributions (NDCs)**, which are voluntary commitments to reduce emissions. While these targets are not legally binding, the Agreement is still structured around the idea of mutual accountability and transparency. Withdrawal from the Paris Agreement does not absolve a state of the legal obligations it had under the Agreement while it was a party, including reporting emissions data and updating their NDCs.

(ii)**Implications for Withdrawal:** Withdrawal from a climate agreement, like the Paris Agreement, does not necessarily relieve a state of its responsibilities under international law. For instance, **Article 28** of the Paris Agreement outlines the formal procedures for withdrawal, but it does not absolve a withdrawing country from its commitments before the withdrawal takes effect. A nation that withdraws still retains obligations related to emissions reductions, climate finance, and adherence to global stock-taking procedures during the period in which it was involved in the agreement.<sup>61</sup>

Moreover, international law principles like **pacta sunt servanda** (agreements must be kept) and the **good faith** principle require that countries honor their obligations for as long as they are part of an agreement. A country that withdraws from the Paris Agreement may still face pressure to comply with the non-binding yet important global norms surrounding climate change action. **International legal doctrines**, like those that govern the use of shared resources (e.g., air), may also impose additional obligations on states to mitigate climate change even if they have formally exited a treaty.<sup>62</sup>

Finally, withdrawal can also affect how a state is treated by other countries in future negotiations, as it may undermine its credibility and influence.<sup>63</sup> Countries that withdraw may face difficulties when trying to re-engage with global treaties and be less likely to influence negotiations.

## (D)Consequences for International Law

<sup>59</sup> United Nations Environment Programme (UNEP). (2019). *Emissions Gap Report*.

<sup>60</sup> IPCC. (2023). *Sixth Assessment Report: Climate Change 2023: Synthesis Report*.

<sup>61</sup> Pew Center on Global Climate Change. (2010). *Climate Change 101: Understanding and Responding to Global Climate Change*.

<sup>62</sup> Peel, J., & Lin, J. (2019). *Transnational Climate Change Litigation: The Contribution of the Global South*. Cambridge University Press.

<sup>63</sup> Park, J. (2019). *Climate Change and International Environmental Law*. Routledge.

The legal ramifications of a state's withdrawal from a climate change agreement extend beyond the immediate implications for the withdrawing country. The withdrawal of a major party can have far-reaching consequences for the broader framework of international law. Key issues in this regard include the stability of international treaties, the erosion of norms of cooperation, and the integrity of multilateral institutions.

**(i) Stability of International Treaties:** Withdrawal from key international agreements such as the **Paris Agreement** has the potential to undermine the **stability** of those treaties. A treaty's effectiveness relies on the mutual trust and cooperation of its parties.<sup>64</sup> When a key country withdraws, this can raise concerns about the long-term viability of the agreement. Withdrawal could inspire other nations to reconsider their commitment, leading to a **domino effect** in which multiple countries choose to exit.

This risk of fragmentation is particularly important in climate agreements, where the goal is to create universal commitment. The **Paris Agreement**, for example, was heralded for its broad global participation, including both developed and developing nations. The withdrawal of a prominent player could encourage others to follow suit, especially if that country's exit is seen as politically expedient.

**(ii) Erosion of Cooperation Norms:** The withdrawal of a major power from a climate agreement could also undermine the norm of **cooperation** that underpins international climate law. The **UNFCCC**, the **Kyoto Protocol**, and the **Paris Agreement** were all founded on the principle that collective action is necessary to address the global challenge of climate change. A withdrawal signifies a retreat from multilateral cooperation, undermining the trust necessary for addressing global issues.

The **global commons** nature of climate change—where emissions from one country can have far-reaching effects on others—necessitates global cooperation.<sup>65</sup> The withdrawal of key countries from international treaties can lead to an erosion of these norms, making it more difficult to forge collective responses in the future.

**(iii) Impact on Future Negotiations:** Withdrawal from a climate agreement can also complicate future climate negotiations.<sup>66</sup> A country's decision to withdraw may lead to **diplomatic tensions**, making it more difficult for that state to re-enter negotiations or be seen as a credible partner in future environmental

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<sup>64</sup> Depledge, J. (2000). *Tracing the Origins of the Kyoto Protocol: An Article-by-Article Textual History*. UNFCCC Secretariat.

<sup>65</sup> Maljean-Dubois, S. (2016). "The Paris Agreement: A New Step in the Gradual Evolution of Differential Treatment in the Climate Regime?" *Review of European, Comparative & International Environmental Law*, 25(2), 151-160.

<sup>66</sup> Bodansky, D. (2015). "Legally Binding vs. Non-legally Binding Instruments." In *Towards a Workable and Effective Climate Regime*, CEPR Press.

accords. International negotiations on climate change are predicated on a sense of solidarity, and if major emitters choose to withdraw, other states may be reluctant to continue making ambitious commitments<sup>67</sup>.

Furthermore, future climate agreements may be more difficult to negotiate if countries perceive that there are significant risks to **unilateral** action.<sup>68</sup> If major players are withdrawing from the **Paris Agreement**, the likelihood of achieving binding global commitments in future negotiations could diminish, as countries may seek to avoid legal obligations that could harm their national interests.<sup>69</sup> This can stall the process of securing stronger international agreements to reduce global warming.

### (E) Effects on Global Climate Action

The **global efforts to combat climate change** are severely impacted when key nations withdraw from international climate agreements. These effects are not only immediate but also long-term, as they affect the level of global ambition, finance flows, and trust in multilateralism.

**(i) Reduction in Global Ambition:** The withdrawal of major nations from climate agreements diminishes the level of global ambition needed to combat climate change effectively. Climate change is a **global challenge**, and actions taken by individual countries—particularly large emitters—are critical in achieving the collective goal of limiting global temperature rise.<sup>70</sup> When a country withdraws from an agreement, the global ambition of the accord is weakened, as other countries may follow suit or fail to increase their commitments.

For example, the **United States' withdrawal** from the **Paris Agreement** under President Trump was seen as a major blow to global climate efforts. The U.S. is one of the largest greenhouse gas emitters in the world, and its exit significantly undermined the international push to limit global warming. Other countries, especially emerging economies, may have interpreted the U.S. withdrawal as a signal that climate action is not a priority, affecting their own climate policies.

**(ii) Climate Finance and Support for Developing Nations:** One of the most significant effects of a major country's withdrawal is the disruption to **climate finance flows**. Developing countries, which are particularly vulnerable to the impacts of climate change, rely on financial support from developed nations to implement adaptation and mitigation strategies. The Paris Agreement contains provisions for **climate**

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<sup>67</sup> Voigt, C. (2008). *Sustainable Development as a Principle of International Law*. Martinus Nijhoff.

<sup>68</sup> Werksman, J., & Herbertson, K. (2011). "Equity and the Durban Climate Negotiations." *Carbon & Climate Law Review*, 5(1), 49-58.

<sup>69</sup> Cameron, J., Werksman, J., & Roderick, P. (1996). *Improving Compliance with International Environmental Law*. Earthscan.

<sup>70</sup> Dimitrov, R. S. (2010). "Inside Copenhagen: The State of Climate Governance." *Global Environmental Politics*, 10(2), 54-74.

finance, with developed nations committing to mobilize \$100 billion annually by 2020 to support developing countries.<sup>71</sup>

If major donors to climate finance—such as the United States—withdraw, it can lead to a reduction in the amount of funding available to support climate action in vulnerable countries. This can delay or prevent essential adaptation measures, exacerbating the impacts of climate change on the most disadvantaged populations.

**(iii) Political Fragmentation:** Withdrawal by key nations may also lead to **political fragmentation** within climate negotiations. Nations that remain committed to the agreement may become more divided in their approaches to climate change. For example, the **European Union** and other climate-conscious countries may intensify their efforts to implement the Paris Agreement domestically, but this may create tensions with countries that are less committed. Such fragmentation can result in a **two-tier** system where ambitious countries lead on climate action while others lag behind or pursue their national interests at the expense of global collaboration.<sup>72</sup>



### **Example: The United States' Withdrawal and the Global Reaction**

The withdrawal of the **United States** from the **Paris Agreement** under President Donald Trump is perhaps the most significant example of a country's impact on the global climate regime. Trump's decision was politically driven, reflecting a broader skepticism of multilateral agreements and concerns about economic costs.<sup>73</sup> The decision prompted immediate reactions from other countries, many of whom expressed disappointment but reaffirmed their commitment to the Paris Agreement. In response, countries like **China**, **India**, and members of the **European Union** signaled their intention to continue their efforts to meet the Paris targets.

At the same time, Trump's withdrawal was a major setback for climate diplomacy. It weakened the diplomatic pressure on other countries to intensify their emissions reductions and undermined the credibility of the United States as a leader in climate action. The exit also complicated ongoing climate negotiations, particularly regarding financial contributions to developing countries and efforts to ramp up ambition in future stocktaking periods.

<sup>71</sup> Dimitrov, R. S. (2010). "Inside Copenhagen: The State of Climate Governance." *Global Environmental Politics*, 10(2), 54-74.

<sup>72</sup> Rajamani, L., & Bodansky, D. (2019). "The Paris Rulebook: Balancing International Prescriptiveness with National Discretion." *International & Comparative Law Quarterly*, 68(4), 1023-1040.

<sup>73</sup> Boyle, A. (2012). "Climate Change and International Law: Tensions and Synergies." In Richardson et al. (Eds.), *Climate Change and International Law*. Edward Elgar.

The U.S. re-entry under **President Joe Biden** in 2021, however, demonstrated the global importance of political leadership in climate action. Biden's decision to rejoin the Paris Agreement was seen as a signal that the U.S. would return to a leadership role in global climate governance, bolstering global confidence in the agreement.

The legal and political implications of withdrawal from international climate agreements are profound.<sup>74</sup> While states retain sovereignty, their withdrawal from global climate accords has significant consequences for both their domestic policies and the broader international climate regime. From a legal perspective, withdrawal does not absolve a state of past responsibilities, and countries may still be held accountable for their actions during their participation in the agreement. Politically, withdrawal weakens global ambition, undermines climate finance, and fosters fragmentation in international negotiations.<sup>75</sup> The United States' withdrawal and re-entry exemplify the complexities and long-term impacts of such decisions on global climate action. Climate change is a global challenge that requires sustained, cooperative efforts, and the withdrawal of key players can destabilize these efforts, making it more difficult to achieve the necessary global response.

## (A) Political and Economic Consequences of Withdrawal

### Impact on International Relations

The political ramifications of a state withdrawing from climate agreements are far-reaching, influencing both the dynamics of international relations and the broader diplomatic landscape. Climate change agreements, such as the **Paris Agreement** and the **Kyoto Protocol**, are not merely technical documents; they represent shared political commitments to address one of the most pressing global issues.<sup>76</sup> Therefore, withdrawal from these agreements can signal a broader shift in foreign policy and national priorities, with significant consequences for international relations.

**(i) Erosion of Trust and Cooperation:** One of the primary political consequences of withdrawal from climate agreements is the **erosion of trust** between the withdrawing state and the global community. Climate agreements like the **Paris Agreement** are based on mutual commitments to collective action. When a country pulls out, it undermines the trust built over years of negotiation and cooperation. Other countries may feel that the withdrawing state is no longer willing to uphold its responsibilities or is prioritizing national interests over global goals.

<sup>74</sup> Ulfstein, G. (2007). "Treaty Bodies and Regimes." In Shelton, D. (Ed.), *The Oxford Handbook of International Human Rights Law*.

<sup>75</sup> Betlem, G., & Nollkaemper, A. (2003). "Giving Effect to Public International Law and European Community Law Before Domestic Courts." *European Journal of International Law*, 14(3), 569-589.

<sup>76</sup> Handl, G., & Lutz, R. (1998). *Environmental Protection and International Law*. Ashgate.

For instance, the **United States' withdrawal** from the Paris Agreement under President Trump sent a signal to other nations that the U.S. was stepping back from its previous role as a leader in global climate action.<sup>77</sup> This not only reduced the credibility of the United States in international negotiations but also raised concerns about the broader reliability of multilateral agreements.<sup>78</sup> Trust is fundamental in international diplomacy, and the withdrawal of a major player like the United States prompted uncertainty and tension in global climate forums.<sup>79</sup> Trust-building is key to advancing international cooperation, and withdrawal can severely damage relationships with allies and adversaries alike.

**(ii) Diplomatic Isolation and Tensions:** The political fallout from withdrawal can lead to **diplomatic isolation** for the withdrawing state. Countries that remain committed to the treaty may view the withdrawing state as a reluctant or uncooperative partner, potentially affecting bilateral relationships and future cooperation.<sup>80</sup> For example, after the U.S. withdrawal from the Paris Agreement, many countries, especially within the **European Union**, were vocal in their opposition, leading to diplomatic tensions. The EU and other progressive nations publicly expressed disappointment and signaled that they would continue with their climate ambitions regardless of the U.S. decision.

Furthermore, such a move can influence the country's diplomatic influence in other areas of international relations. States that withdraw from climate agreements may become less influential in **global governance** forums, as their credibility in addressing global issues, such as **trade, security, and public health**, might be questioned. Given that climate change intersects with many other international concerns, a country's withdrawal from climate agreements can reflect broader isolationist tendencies, affecting its role in other global negotiations.

**(ii) Impact on Multilateral Institutions:** Climate change agreements are typically negotiated through multilateral institutions such as the **UNFCCC** and the **IPCC** (Intergovernmental Panel on Climate Change). The withdrawal of a major player can significantly weaken the legitimacy of these institutions and their ability to facilitate meaningful global cooperation.<sup>81</sup> The **Paris Agreement**, for example, was hailed as a multilateral achievement because of the nearly universal participation it garnered. When a major nation steps back, it may undermine the effectiveness of these institutions and hinder the progress of future negotiations.

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<sup>77</sup> Faure, M., & Peeters, M. (2011). *Climate Change Liability*. Edward Elgar Publishing.

<sup>78</sup> Bodansky, D. (2003). "Climate Commitments: Assessing the Options." *Pew Center on Global Climate Change*.

<sup>79</sup> Scott, K. N. (2015). *International Law in the Era of Climate Change*. Edward Elgar.

<sup>80</sup> Mayer, B., & Crépeau, F. (2016). "Climate Migration and International Law." *Cambridge Journal of International and Comparative Law*, 5(2), 239-262.

<sup>81</sup> Bodle, R., Donat, L., & Duwe, M. (2016). *The Paris Agreement: Analysis, Assessment and Outlook*. Ecologic Institute.

The political implications of withdrawal extend to the **rules-based international order** itself.

<sup>82</sup>International agreements such as the **Paris Agreement** are built on the premise that states will adhere to negotiated commitments in good faith. Withdrawal challenges this order and signals to other countries that exiting from global agreements is an option, potentially eroding the global consensus on the need for collective action on climate change.

## **(B)Economic Consequences**

Withdrawal from climate agreements also carries significant **economic consequences**, especially for countries that rely on international support for climate-related projects or are vulnerable to the economic effects of climate change.<sup>83</sup> These consequences can vary depending on the withdrawing nation's level of development, reliance on international climate financing, and its exposure to climate risks.

**(i)Impact on Climate Finance:** One of the most immediate economic consequences of withdrawal is the disruption to **climate finance**. The **Paris Agreement** established a framework for developed countries to provide **financial assistance** to developing countries to help them mitigate and adapt to climate change.<sup>84</sup> This includes the **\$100 billion per year** pledge to support climate action in developing nations. Countries that withdraw from the agreement, particularly those who are key contributors to the funding mechanisms, may undermine these financial commitments, putting the most vulnerable nations at risk.

For example, the United States, as one of the largest contributors to climate finance, has historically played a pivotal role in supporting global climate action.<sup>85</sup> Its withdrawal from the Paris Agreement during the Trump administration had serious implications for climate finance, particularly for nations in the Global South that rely on this funding to implement **adaptation projects** (such as building flood defenses or drought-resistant crops) and **mitigation efforts** (such as reducing deforestation or transitioning to renewable energy).<sup>86</sup> The reduction of funding from major donors can stymie the ability of these nations to address the pressing impacts of climate change, increasing their vulnerability and perpetuating global inequality.

**(ii)Loss of Access to Green Technology and Market Opportunities:** Climate change agreements such as the **Paris Agreement** also promote the transition to **green technologies**, fostering **clean energy**

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<sup>82</sup> Hafner-Burton, E., Victor, D. G., & Lupu, Y. (2012). "Political Science Research on International Law: The State of the Field." *American Journal of International Law*, 106(1), 47-97.

<sup>83</sup> Brown Weiss, E. (2000). "Intergenerational Equity: A Legal Framework for Global Environmental Change." In Weiss, E. B. (Ed.), *Environmental Change and International Law*. United Nations University Press.

<sup>84</sup> Schrijver, N., & Weiss, F. (2004). *International Law and Sustainable Development*. Martinus Nijhoff.

<sup>85</sup> Bodansky, D. (2018). "The Role of the Paris Agreement in Global Climate Governance." *Chinese Journal of Environmental Law*, 2(1), 17-29.

<sup>86</sup> Vezirgiannidou, S.-E. (2009). "The Kyoto Agreement and the Pursuit of Relative Gains." *Environmental Politics*, 18(5), 723-742

industries, sustainable agriculture, and climate-resilient infrastructure. Countries that withdraw from climate agreements may lose access to the **technological innovation** and **investment opportunities** that come with these agreements. **International carbon markets**, for example, create opportunities for countries to trade emissions reductions and invest in low-carbon technologies. Withdrawing from these systems can reduce a country's access to such markets and limit its capacity to capitalize on green economic opportunities.

In addition, climate financing arrangements often include technology transfer provisions, where developed nations share their expertise and technology with developing nations. These provisions encourage innovation and help accelerate the global transition to a low-carbon economy.<sup>87</sup> By withdrawing from these frameworks, countries might lose out on technological collaborations, reducing their ability to develop and implement clean energy solutions domestically.<sup>88</sup> This could hinder the transition to a more sustainable, **green economy** and prevent countries from tapping into the global market for renewable energy technologies, which is expected to grow significantly in the coming decades.

**(iii) Impacts on Vulnerable Economies:** For countries that are especially vulnerable to the impacts of climate change—such as low-lying island states, small developing economies, or agricultural-based economies—the economic costs of withdrawal can be dire. These nations often depend on **international support** for climate adaptation and resilience-building measures, which help them, mitigate the damage caused by rising sea levels, extreme weather events, and shifting agricultural patterns.

Withdrawal from climate agreements can undermine the global effort to **reduce emissions**, which directly affects vulnerable nations. Without coordinated global efforts to reduce global warming, these countries will face **increased economic costs** related to climate impacts.<sup>89</sup> The loss of access to climate financing, along with diminished international cooperation, can prevent them from developing the infrastructure needed to protect their populations from climate-related disasters.

### **(C) Global Climate Leadership**

The decision to withdraw from a climate agreement can also profoundly affect a country's **global climate leadership** and its standing in the international community. The extent to which a nation is viewed as a leader on climate action is determined by its commitment to international agreements, its domestic climate policies, and its ability to influence other nations.

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<sup>87</sup> International Law Commission (ILC). (2006). *Fragmentation of International Law: Difficulties Arising from the Diversification and Expansion of International Law*. United Nations.

<sup>88</sup> Rajamani, L. (2015). "Ambition and Differentiation in the 2015 Paris Agreement: Interpretative Possibilities and Underlying Politics." *International & Comparative Law Quarterly*, 65(2), 493-514.

<sup>89</sup> Rajamani, L. (2015). "Ambition and Differentiation in the 2015 Paris Agreement: Interpretative Possibilities and Underlying Politics." *International & Comparative Law Quarterly*, 65(2), 493-514.

**(i) Loss of Leadership Credibility:** A country that withdraws from a climate agreement risks losing its position as a **global leader** on climate change. Historically, countries that have played an instrumental role in advancing international climate negotiations—such as the United States, the European Union, and China—are seen as standard-bearers for global climate action. Withdrawal signals that the country is no longer willing to lead or cooperate on global solutions, diminishing its influence in international climate discussions.

For instance, the **U.S.'s decision to withdraw** under President Trump significantly diminished its leadership role in the climate negotiations, as it was seen as an unwilling partner in the global effort to mitigate climate change.<sup>90</sup> In contrast, the U.S.'s re-entry into the **Paris Agreement** under President Biden restored its position as a key player in the global climate framework, reaffirming its leadership in global efforts to combat climate change.

**(ii) Impact on Soft Power:** **Soft power** refers to a country's ability to influence other nations through attraction rather than coercion, often through diplomacy, culture, and values. Climate leadership is a crucial component of a nation's soft power in the modern world, as environmental stewardship is increasingly seen as a key indicator of a country's commitment to global well-being and future sustainability.<sup>91</sup> A country that withdraws from climate agreements risks losing influence in other international arenas, as it may be viewed as disregarding the global commons for national self-interest.

Additionally, the withdrawal of key players can open up space for other countries to take on leadership roles in climate governance. The **European Union**, for example, capitalized on the U.S. withdrawal to assert itself as a leader in climate action, pushing forward ambitious climate policies such as the **European Green Deal**. Such a shift in leadership can alter the geopolitical dynamics of climate diplomacy, with countries that remain in the agreements taking on greater responsibility.

The political and economic consequences of withdrawal from climate agreements are profound and far-reaching. Politically, withdrawal erodes trust, strains international relations, and weakens multilateral cooperation, leaving the withdrawing country more isolated on the global stage.<sup>92</sup> Economically, it undermines access to climate financing, technology transfers, and market opportunities, while also exacerbating the vulnerabilities of developing nations. Furthermore, withdrawal can damage a country's reputation as a global climate leader, potentially diminishing its influence in future climate negotiations.<sup>93</sup>

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<sup>90</sup> Daniel Bodansky, Lavanya Rajamani & Jutta Brunnée. (2020). *International Climate Change Law and Policy: Legal and Political Pathways after Paris*. Cambridge University Press.

<sup>91</sup> Koskenniemi, M. (2005). *From Apology to Utopia: The Structure of International Legal Argument*. Cambridge University Press.

<sup>92</sup> Koskenniemi, M. (2005). *From Apology to Utopia: The Structure of International Legal Argument*. Cambridge University Press.

<sup>93</sup> Deleuil, T. (2012). "The Common but Differentiated Responsibilities Principle: Changes in Continuity After the Durban Conference." *Carbon & Climate Law Review*, 6(1), 82-92.

Therefore, withdrawal from climate agreements has consequences not only for the withdrawing state but also for the global community's collective efforts to combat climate change.

### **PART 3: FUTURE OF WITHDRAWAL CLAUSES IN INTERNATIONAL CLIMATE LAW**

#### **Section: I Reform and Modernization of Withdrawal Provisions**

As international climate law evolves, the provisions concerning the withdrawal of states from climate agreements will need to adapt to the changing geopolitical and environmental landscape. The effectiveness of climate treaties relies heavily on the commitment of participating states to fulfill their obligations and remain part of the global effort to mitigate and adapt to climate change. However, the potential for withdrawal undermines the long-term stability of these agreements and the credibility of global climate governance.

**(i) Longer Notice Periods:** One possible reform to withdrawal clauses is to extend the notice period required for a state to formally withdraw from an agreement. For example, the **Paris Agreement** currently stipulates a **3-year notice period** for withdrawal under **Article 28**, which is already relatively lengthy compared to the one-year notice period outlined in the **Kyoto Protocol** (Article 27).<sup>94</sup> However, extending this notice period even further could discourage hasty decisions and provide more time for diplomatic engagement and negotiations.<sup>95</sup> A longer notice period would allow other parties to address concerns raised by the withdrawing state and, if possible, offer compromises or solutions that might prevent withdrawal.

Additionally, the **requiring of a multi-stage process** for withdrawal, which includes public consultations, parliamentary debates, or transparent negotiations with other parties, could prevent countries from withdrawing impulsively and under the influence of temporary political trends.<sup>96</sup> This would add a layer of accountability, ensuring that the decision to withdraw is not solely based on internal political agendas but on thorough deliberation and a clear understanding of the potential global consequences.

**(ii) Conditional Withdrawal:** Another approach to strengthening the withdrawal clauses could be **conditional withdrawal**, which could specify that states may only withdraw after exhausting specific procedural or diplomatic avenues, such as dispute resolution mechanisms or consultations with other

<sup>94</sup> Behn, D. (2014). "Legitimacy, Evolution and Growth of the UNCITRAL Arbitration Rules." *Journal of International Dispute Settlement*, 5(2), 272-294.

<sup>95</sup> Weiss, E. B., & Jacobson, H. K. (1998). *Engaging Countries: Strengthening Compliance with International Environmental Accords*. MIT Press.

<sup>96</sup> Bodle, R. (2014). "Advancing the Paris Agreement on Climate Change." *Review of European, Comparative & International Environmental Law*, 23(2), 104-115.

parties.<sup>97</sup> For example, before a state could formally announce its intention to withdraw, it could be required to engage in a **mediation** or **dispute resolution** process through a neutral third party, such as the **International Court of Justice** or another established institution. This would ensure that countries cannot easily back out of agreements without attempting to resolve conflicts diplomatically first.

Moreover, a **clause linking withdrawal to non-compliance with specific legal obligations** could be introduced. This would prevent countries from withdrawing arbitrarily and only allow them to exit after demonstrating a clear failure to meet their obligations under the treaty.<sup>98</sup> Such a clause would increase the cost of withdrawal for any country, making it a less appealing option and incentivizing states to stay within the agreements or work on resolving disagreements rather than abandoning the accord entirely.

**(iii) Withdrawal Penalties:** Some have proposed the introduction of **penalties or sanctions** for states that withdraw from climate agreements. For instance, a state that withdraws could be required to **pay into a global fund** to support countries most vulnerable to climate change.<sup>99</sup> This fund could be used for adaptation and mitigation efforts in developing countries, ensuring that the global climate community continues to support the most disadvantaged nations even in the event of a major power's exit. Such measures would ensure that withdrawing states contribute to global climate efforts, even if they no longer participate directly in a particular treaty.

Another option could be to impose **temporary restrictions on a country's participation in future climate negotiations or agreements** if it withdraws. This would discourage countries from exiting, as they would lose the opportunity to shape future international climate law or benefit from cooperation in future climate projects.

### **(A) Strengthening Global Climate Governance**

To prevent the withdrawal of key parties from climate agreements and strengthen international cooperation, a series of strategic reforms and initiatives can be implemented. These reforms focus on making the global climate regime more resilient, transparent, and inclusive, so that states feel more engaged and committed to the collective climate effort.

**(i) Enhanced Stakeholder Engagement:** One of the central ways to strengthen climate governance is through **enhanced stakeholder engagement** in the climate policy-making process. This means involving not only national governments but also local communities, private sector actors, indigenous groups, and

<sup>97</sup> Zahar, A., & Peel, J. (2012). *Principles of International Climate Change Law*. Cambridge University Press.

<sup>98</sup> Helfer, L. R. (2005). "Exiting Treaties." *Virginia Law Review*, 91(7), 1579-1648.

<sup>99</sup> Koh, H. H. (1997). "Why Do Nations Obey International Law?" *Yale Law Journal*, 106(8), 2599-2659.

civil society organizations in the negotiation and implementation of climate agreements.<sup>100</sup> A more inclusive process would ensure that countries are not making decisions in isolation, but rather with input from a broad array of stakeholders, thus increasing the buy-in from diverse groups.

**Subnational actors**, such as cities and regions, can play a critical role in driving climate action. Strengthening the role of these entities in global climate negotiations could help secure local and regional commitments that ensure continued engagement, even if national governments attempt to withdraw or scale back their commitments.<sup>101</sup> By expanding the scope of participation, international climate agreements would become more resilient and reflective of diverse interests, reducing the likelihood that countries will consider withdrawing in the first place.

**(ii) Reinforcing Climate Diplomacy:** Diplomacy plays a crucial role in **preventing withdrawals** from climate agreements. Strengthening **climate diplomacy** through mechanisms such as **climate summits**, **ministerial meetings**, and ongoing dialogues could ensure that countries remain committed to their climate obligations and resolve conflicts before they escalate into a full withdrawal.<sup>102</sup> Diplomats and climate negotiators must remain engaged on a regular basis, not just at formal negotiation sessions, to foster trust and cooperation.

Additionally, more emphasis could be placed on **climate alliances and coalitions**, especially among nations with similar climate goals. Countries could form tighter partnerships, such as the **High Ambition Coalition** within the Paris Agreement, to reinforce each other's commitments and apply diplomatic pressure on countries that may be contemplating withdrawal. By working together, smaller states can exert more influence on larger nations to prevent the erosion of the agreement's integrity.

**(iii) Transparency and Accountability Mechanisms:** Strengthening **transparency and accountability** mechanisms within climate agreements is essential to building trust and maintaining long-term engagement.<sup>103</sup> The **Paris Agreement** already contains a robust **transparency framework** that tracks the progress of countries' **Nationally Determined Contributions (NDCs)**. This system could be expanded to include more detailed reporting, verification processes, and clear consequences for non-compliance.

By making climate action more transparent and measurable, parties will feel greater pressure to remain in the agreement and fulfill their obligations. In addition, a mechanism that rewards countries for exceeding their targets could further incentivize countries to stay engaged.<sup>104</sup> For example, nations that surpass their

<sup>100</sup> Dupuy, P. M., & Vinuales, J. E. (2018). *International Environmental Law*. Cambridge University Press

<sup>101</sup> Setzer, J., & Higham, C. (2022). *Global Trends in Climate Change Litigation: 2022 Snapshot*. Grantham Research Institute on Climate Change and the Environment.

<sup>102</sup> Morgera, E. (2020). *Global Environmental Law and Governance*. Edward Elgar Publishing.

<sup>103</sup> Shelton, D. (2013). *Advanced Introduction to International Environmental Law*. Edward Elgar.

<sup>104</sup> Chinkin, C. (2000). "Normative Development in the International Legal System." In Evans, M. D. (Ed.), *International Law*.

emissions reduction targets could be given a more influential role in future negotiations or increased access to financial and technological resources.

**(iv) Financial and Technical Support for Vulnerable States:** Ensuring that vulnerable countries, particularly **Small Island Developing States (SIDS)**, **Least Developed Countries (LDCs)**, and others on the front lines of climate change, are supported in their climate goals is essential to preventing withdrawal. Providing these countries with **financial support** for adaptation, **capacity-building**, and **technology transfer** through climate finance mechanisms could reduce the economic pressures that may otherwise push them to abandon climate agreements.

A **global climate insurance fund** could be proposed as a way of ensuring that vulnerable countries are not left behind due to the financial burdens imposed by climate change. This insurance fund could serve as a safety net, helping states cover the costs of implementing climate adaptation and mitigation projects.<sup>105</sup> If these countries feel that their needs are adequately addressed through such mechanisms, they will be less likely to withdraw.

### **(C) Role of Multilateral Environmental Agreements (MEAs)**

Multilateral Environmental Agreements (MEAs) play a pivotal role in shaping the future of global climate governance.<sup>106</sup> MEAs are legally binding agreements between multiple countries aimed at addressing environmental challenges, and their design directly influences the success of global climate efforts.<sup>107</sup> As the world faces increasingly urgent climate challenges, the role of MEAs in shaping effective climate governance, including withdrawal mechanisms, becomes more important.

**(i) Strengthening Global Environmental Norms:** MEAs, such as the **Paris Agreement**, play a crucial role in establishing global environmental norms that drive state behavior. These agreements create a framework for international cooperation, setting norms for emission reductions, adaptation efforts, and sustainable development. Strengthening the role of MEAs requires further embedding these norms in global governance structures and national policies. Additionally, incorporating climate action into other multilateral negotiations, such as those in the **World Trade Organization (WTO)** or the **United Nations**, could help integrate climate considerations into broader global decision-making processes.

**(ii) Developing Alternatives to Withdrawal:** MEAs should focus on creating **alternative mechanisms to withdrawal**, such as **constructive disengagement** options, where parties can temporarily suspend their

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<sup>105</sup> Schmalenbach, K. (2015). "Termination and Suspension of Treaties." In Dörr, O., & Schmalenbach, K. (Eds.), *Vienna Convention on the Law of Treaties: A Commentary*.

<sup>106</sup> Vihma, A. (2010). "The UNFCCC Secretariat as an International Institution." *Global Governance*, 16(3), 391-409.

<sup>107</sup> Bodle, R. (2018). "The Paris Agreement's Mechanisms and International Linkage under Article 6." *Climate Law*, 8(1-2), 1-23.

participation in certain provisions while working to resolve disagreements.<sup>108</sup> For example, countries could have the option to scale back their commitments on a temporary basis while remaining part of the agreement, subject to regular review and negotiations. This could help prevent the full disruption caused by withdrawal while still addressing the concerns of the withdrawing country.

**(ii) Encouraging Stronger Legal Frameworks:** The legal framework of MEAs can be strengthened to better manage disputes and prevent withdrawals. This can be achieved by incorporating more robust **dispute resolution** mechanisms into the agreements themselves, such as mediation, arbitration, or third-party intervention, ensuring that withdrawal remains a last resort. These legal mechanisms would encourage states to stay in the agreement and resolve conflicts within the structure of the treaty.

The future of withdrawal clauses in international climate law is crucial to ensuring that climate agreements remain effective and resilient. Reforms such as longer notice periods, conditional withdrawal, and penalties can help discourage arbitrary exits, while strengthening global governance through better diplomatic engagement, financial support, and transparency will foster greater compliance.<sup>109</sup> The role of **Multilateral Environmental Agreements** in shaping the future of climate governance cannot be understated, as they provide the legal and diplomatic framework for international cooperation.<sup>110</sup> With enhanced legal structures, more inclusive processes, and strong accountability measures, the global community can work toward more effective and enduring climate action.

#### **(D) SUMMARY OF KEY FINDINGS**

This article has explored the legal and political implications of withdrawal clauses in international climate agreements, with a particular focus on the **UNFCCC**, **Kyoto Protocol**, and **Paris Agreement**.<sup>111</sup> At the heart of this analysis lies the understanding that withdrawal clauses are critical mechanisms in international treaties, allowing states to exit an agreement under specified conditions. However, these provisions also present challenges to the stability of climate agreements, as they can undermine long-term commitments and hinder global cooperation.

Through examining the **Kyoto Protocol** and the **Paris Agreement**, it became clear that the provisions related to withdrawal have evolved over time. While the **Kyoto Protocol** allowed for withdrawal after a single year's notice, the **Paris Agreement** instituted a longer, three-year notice period, aiming to offer

<sup>108</sup> Bodle, R. (2018). "The Paris Agreement's Mechanisms and International Linkage under Article 6." *Climate Law*, 8(1-2), 1-23.  
Pauwelyn, J. (2012). "Different Means, Same End: Managing International Trade and Climate Change." *Georgetown International Environmental Law Review*, 26(2), 289-309.

<sup>109</sup> Van Asselt, H., & Hale, T. (2016). "How Non-State Actors Contribute to Compliance with International Agreements." *Review of European, Comparative & International Environmental Law*, 25(3), 355-370.

<sup>110</sup> Depledge, J., & Yamin, F. (2009). "The Global Climate Change Regime: A Defence." In M. Faure & J. Lefevre (Eds.), *Compliance and Enforcement in Environmental Law*. Edward Elgar.

<sup>111</sup> Depledge, J., & Yamin, F. (2009). "The Global Climate Change Regime: A Defence." In M. Faure & J. Lefevre (Eds.), *Compliance and Enforcement in Environmental Law*. Edward Elgar.

more stability. Nonetheless, the option to withdraw still poses risks, particularly when key nations like the **United States** have signaled or enacted their exit from these agreements.<sup>112</sup> The political and economic consequences of such withdrawals, including the erosion of international trust and the disruption of global climate financing, are significant.

The **legal consequences** of withdrawal are equally profound. Withdrawal clauses could encourage nations to backtrack on their environmental obligations, weakening the overall integrity of the treaty system. Yet, it is also recognized that while withdrawal clauses are important for state sovereignty the **future of international climate governance** depends on the strength of these agreements and their ability to hold parties accountable.<sup>113</sup>

## CONCLUSION

The **legal implications** of withdrawal from climate treaties are far-reaching. When a state withdraws, it may be in breach of its international commitments, leading to strained diplomatic relationships and potential violations of customary international law. While international treaties, like the **Paris Agreement**, provide a legal exit route, such actions can disrupt the treaty's cohesion and undermine trust between parties. This breach of trust can ripple through other areas of international relations, affecting not only future climate negotiations but also broader diplomatic ties.

Politically, the withdrawal of key states can result in diplomatic isolation and may shift the balance of global leadership on climate issues.<sup>114</sup> The **United States' withdrawal** from the **Paris Agreement** under the Trump administration, for instance, resulted in political backlash and a vacuum of leadership, with the European Union stepping up to assume a more prominent role in global climate governance. Additionally, withdrawals can deepen existing geopolitical divides, particularly between developed and developing nations, especially in areas such as climate finance and adaptation support. As such, the political ramifications of withdrawal are not only confined to the withdrawing nation but have wide-ranging effects on the global commitment to climate action.

## Final Thoughts

The future of withdrawal clauses in international climate agreements must balance the need for state sovereignty with the necessity for collective global action. While states must have the right to reassess their international commitments, the climate crisis requires a more robust, long-term commitment to multilateral

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<sup>112</sup> Humphreys, D. (2010). *Logjam: Deforestation and the Crisis of Global Governance*. Earthscan.

<sup>113</sup> Humphreys, D. (2010). *Logjam: Deforestation and the Crisis of Global Governance*. Earthscan.

<sup>114</sup> Bodle, R., & Duwe, M. (2012). "The Durban Platform and the Future of the UNFCCC Process." *Carbon & Climate Law Review*, 6(1), 35-45.

agreements.<sup>115</sup> Given the severity and urgency of climate change, the international community must strengthen the structures of climate governance to ensure that climate agreements are more resilient to withdrawal.

The importance of **multilateral cooperation** cannot be overstated in addressing global climate change.<sup>116</sup> The most effective way to prevent climate breakdown is for nations to work together, sharing responsibility and resources while holding each other accountable. As climate change is a transnational issue, no nation can effectively tackle it alone.<sup>117</sup> The evolving role of the **Paris Agreement**—and future international climate treaties—depends on the continued **cooperation** of all nations, and the commitment of both developed and developing countries is crucial to the treaty's success.

### Recommendations

To enhance the efficacy of international climate agreements and reduce the risk of withdrawals, the following recommendations are made:

1. **Strengthen the Legal Framework:** Reform withdrawal clauses to include longer notice periods, multistage processes, and clear dispute resolution mechanisms.<sup>118</sup> This would discourage rash decisions and encourage countries to resolve conflicts diplomatically rather than opting for withdrawal.
2. **Penalties for Withdrawal:** Introduce penalties or financial contributions for nations withdrawing from climate agreements, especially to support vulnerable countries.<sup>119</sup> This would help ensure that withdrawing countries still contribute to global climate efforts, mitigating the adverse effects on vulnerable states.
3. **Accountability and Transparency:** Increase accountability mechanisms, such as more rigorous reporting and verification of **Nationally Determined Contributions (NDCs)**, and introduce rewards for exceeding targets.<sup>120</sup> This would not only improve the overall credibility of climate treaties but also make it more difficult for states to backtrack without facing political or financial consequences.
4. **Multilateral Collaboration and Stakeholder Engagement:** Enhance the inclusivity of climate agreements by involving non-state actors, subnational governments, and civil society more

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<sup>115</sup> Urpelainen, J., & Van de Graaf, T. (2015). "The International Renewable Energy Agency: A Success Story in Institutional Innovation?" *International Environmental Agreements*, 15(2), 159-177.

<sup>116</sup> Oppenheim, L., & Lauterpacht, H. (1955). *International Law: A Treatise*. Longmans, Green and Co.

<sup>117</sup> • Rajamani, L. (2020). "Innovation and Evolution in the Paris Agreement Architecture." *International & Comparative Law Quarterly*, 69(3), 557-584.

<sup>118</sup> Charnovitz, S. (2003). "Trade Law Norms on International Environmental Law." *American Journal of International Law*, 96(3), 62-84.

<sup>119</sup> Bodle, R., Donat, L., & Duwe, M. (2020). *Strengthening the Paris Agreement Compliance Mechanism*. Ecologic Institute.

<sup>120</sup> Wewerinke-Singh, M. (2019). *State Responsibility, Climate Change and Human Rights under International Law*. Hart Publishing.

directly in climate governance.<sup>121</sup> This would build broader ownership of climate agreements and increase political pressure to uphold commitments.

In conclusion, while withdrawal clauses are a necessary feature of climate treaties to allow for sovereignty, there is a clear need to strengthen these mechanisms to ensure the long-term stability of international climate law. Strengthening accountability, creating alternative dispute resolution processes, and fostering deeper international cooperation are essential to preventing future withdrawals and ensuring that the global community remains united in tackling climate change.

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<sup>121</sup> Brunnée, J., & Toope, S. J. (2010). *Legitimacy and Legality in International Law: An Interactional Account*. Cambridge University Press.

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