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The Distinct Legal System of International Environmental Agreements

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Abstract

The complexities of the environmental issue and the particularity of the field of legal protection of the environment have led specialists in international environmental law to search, through international environmental agreements, for a model that is distinct from the traditional one. The aim is to achieve the objective of finding a solution to the environmental problem and interpreting the behavior of the parties, thereby achieving effectiveness. Thus, several distinguished mechanisms have emerged in these agreements, whether in terms of form—such as adopting a governance approach and flexibility in enforcement, application, and amendment—or in terms of substance, through the creation of distinctive tools such as the concept of the Conference of the Parties, incentives, and dispute resolution between the parties.

Keywords: International Environmental Agreement. Governance. Flexibility mechanisms. Conference of the Parties.

الملخص:

تميزت الاتفاقيات البيئية الدولية عن غيرها من المعاهدات من الجانب الشكلي بالعديد من الخصائص التي وضعت خصيصا لتكون أكثر مرونة فيما يتعلق بمسائل كيفية إنشاءها والدخول حيز النفاذ والتعديل وأهم شيء على الأطلاق هو تبني مفهوم الحوكمة في عمل هذه الاتفاقيات منذ أنشاءها لغاية تنفيذها

تميزت الاتفاقيات البيئية الدولية عن غيرها من المعاهدات من الجانب الموضوعي بادراج العديد من الوسائل والأدوات المتميزة التي تبحث من خلالها عن الفعالية على غرار فكرة مؤتمر الأطراف وآليات المراقبة والتنفيذ وفض النزاعات بين الأطراف وغيرها.

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Introduction:

The aggravation and wide spread of environmental problems, after scientists and researchers sounded the alarm and called for the need to confront them before it is too late, led to intervention by international law in this matter, particularly international treaty law, which is considered its most important source. It is governed by the classical formal framework established by the 1969 Vienna Convention on the Law of Treaties.

In return, and due to the particular nature of the global ecological problem and its fundamental difference from other subjects of international law, it was necessary for the drafters of international treaties concerned with environmental protection to take this issue into account, primarily by adopting a governance and flexibility approach and differentiated commitments in order to create unfamiliar legal rules and tools within this type of agreement, with the aim of confronting environmental problems and finding solutions to them, or at least reducing their level of severity, given their intersection with the economic interests of transnational corporations and their influence in political decision-making.

Therefore, the problem of the study revolves around **the extent of effectiveness of international environmental agreements in light of their distinction by unique tools and mechanisms introduced both formally and substantively**. To address this problem, the study is divided into two sections: the first focuses on the formal characteristics of environmental agreements in terms of flexibility and the legal system followed, which differs from the traditional system, while the second section centers on the substantive aspect of these agreements and the distinctiveness of their content through various features, along with measuring the effectiveness of this distinctiveness.

In this study, we followed the analytical and descriptive method by analyzing the texts of international environmental agreements and extracting their most important features from both the formal and substantive sides, in addition to analyzing the practical applications of these texts by providing several examples and measuring their effectiveness in changing the behavior of the parties and achieving the intended purpose of the treaty. As for the descriptive method, it requires providing descriptions of the various environmental treaties by selecting key models of them and describing their distinct legal system.

The main objective of this study is to extract the strengths of this type of international agreement and highlight how they differ from other treaties, with the aim of replicating this unique experience and attempting to use it in other

traditional treaties to solve legal problems and fill the gaps they suffer from which have limited their effectiveness.

THE FIRST TOPIC: The Distinct Legal System of International Environmental Agreements from the Formal Aspect

International environmental agreements differ from other treaties in terms of their formal aspects, with many features designed specifically to make them more flexible with regard to issues. such as how they are established, how they enter into force, and how they are amended. Most importantly, the concept of governance has been adopted in the work of these agreements from their establishment to their implementation.

FIRST REQUIREMENT: Governance in the Establishment, Monitoring, and Implementation of the International Environmental Agreement

International law has continued to rely on the state as the main actor, and to a lesser extent on international organizations, in establishing and concluding international treaties in various fields. However, over time, this practice has proven to have numerous gaps in international agreements, which negatively affected their effectiveness and weakened their performance (and a good example of this is human rights conventions). But with the emergence of international environmental law, a revolution occurred in the method of establishing, monitoring, and implementing international treaties by involving, alongside the state and governmental organizations, many non-governmental entities (NGOs) in an official and effective manner during the different stages of materializing the international agreement, starting with negotiations and establishment, through supervising the implementation of obligations by the parties, and reaching the contribution to their implementation, which practically embodied environmental governance.

The main reason for adopting environmental governance (Governance) lies in the specificity of the environmental issue, which concerns every human being as a living creature on this planet on the one hand, and the complexity, branching, and wide spread of the environmental problem on the other hand, which cannot, under any circumstances, be addressed by states alone. Therefore, contrary to traditional international treaties, it became necessary for states to involve international actors such as non-governmental organizations, associations, experts, technicians, scientists, research centers, and monitoring entities in playing an important role in implementing international environmental agreements.

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This environmental governance appears before drafting and signing the international agreement by the parties, whereby these non-governmental entities play an active role in shaping and establishing the legal rule of this agreement. In the Rio Earth Summit of 1992, from which several international agreements emerged, more than 2,400 non-governmental organizations participated in their preparation as official invitees. We also find the Aarhus Agreement of 1998 on environmental procedural rights, which allowed these organizations to participate in the Meeting of the Parties as candidates for the executive body of the treaty. The International Union for Conservation of Nature (IUCN), as a non-governmental organization, prepared several projects and guidelines that served as the basis for negotiations that led to several international agreements, including: the Ramsar Treaty of 1971 on wetlands, the Washington Treaty of 1973 on the protection of animal species, and the Convention on Biological Diversity of 1992[1].

The expertise possessed by these non-governmental organizations in specific environmental domains qualified them to play an important role even before the establishment of the international agreement, through setting guiding principles and identifying the nature of environmental threats that triggered states and international organizations to gather at the negotiation table to draft an international treaty in this context. Here, it should be noted that Principle 10 of the Rio Declaration of 1992, although non-binding, created a new wave of procedural rights for individuals and non-governmental entities to effectively engage in environmental protection. It called on states to enable them to access environmental information, participate in decision-making, and facilitate access to courts. This right was further strengthened with the creation of the Aarhus Agreement of 1998, through which these non-governmental entities contributed to the establishment, implementation, and monitoring of compliance of the parties with the agreement[2].

The second level of governance appears in International Environmental Agreements (IEA) by giving an important role to non-governmental organizations and individuals in their implementation, by involving them in the membership of permanent committees and bodies of these treaties, adopting decisions alongside the state parties, or by assigning them specific tasks and giving them mechanisms that contribute to implementation.

They contribute to policy design, decision-making, receiving information, and even providing consultations when requested. For example, Article 9 of the United

[1]- Philippe Sands. *Principles of International Environmental Law*. 2nd Ed. Cambridge University Press. New York. 2003. p.115.
[2]- Ibid., p.118.

Nations Framework Convention on Climate Change of 1992 provides for the establishment of the Subsidiary Body for Scientific and Technological Advice, a technical body that provides the agreement with information and advice in several areas, composed of competent experts and scientists representing the parties' governments. Also, the Aarhus Agreement of 1998 established the Compliance Committee composed of independent experts, individuals, and non-governmental entities working to provide information and monitor the compliance of the parties.

The presence of non-governmental organizations (NGOs) can also be observed at the Conference of the Parties (COP) meetings of the agreements, where periodic meetings are held to which these non-governmental organizations are invited. This constitutes an important opportunity for them to actively participate in planning and implementing the agreement[3]. These entities may take on several roles and capacities during these meetings, ranging from participant, observer, monitor, or implementer. For example, the Ramsar Agreement established the "Ramsar Advisory Mission" composed of several independent experts, which serves as an official mechanism to provide technical assistance through conducting field visits to sites and providing reports on their findings and recommendations for implementation. This mission worked in 67 sites around the world between 1998 and 2012[4]. As for the financial aspect, there are 700 non-governmental organizations (NGOs) participating in the activities of the Global Environment Facility (GEF), which has covered more than 140 countries, noting that this fund was created by the United Nations Environment Programme as a funding mechanism for many agreements and fields, including the ozone hole and climate change[5].

Another level of governance in these environmental agreements is the involvement of non-governmental organizations in monitoring the compliance of the parties with the provisions of the agreement and their commitment to the plans, programs, and duties assigned to them, by granting them several mechanisms on the one hand, or by allowing them membership in permanent bodies of the agreement whose mission is to monitor compliance on the other hand, which are called compliance monitoring committees of the agreement that include individuals and members from non-governmental organizations[6]. For example, the Canberra

[3]- There are many conventions in which non-governmental bodies and individuals join the periodic meeting of the Conference of the Parties. Among them are: the Basel Convention of 1990 on hazardous wastes, the Vienna Convention of 1985 on the ozone layer, the United Nations Framework Convention on Climate Change of 1992, and the Aarhus Convention of 1998.
[4]- 40 Years of the Ramsar Convention 1971–2011, p.20.
[5]- Jean-Pierre Beurier. *Droit international de l'environnement*. 4th Ed. Pédone. France. 2010. p.117.
[6]- Ibid., p.65.

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Agreement of 1980 on the protection of species in the Antarctic continent established a monitoring and observation system for implementation, which includes organizing periodic trips to the continent's coasts by "monitoring teams" composed of independent experts in the field[7].

There is also the reporting mechanism through the agreement by the state granted to non-governmental entities at the Secretariat of the agreement or the Conference of the Parties or the Compliance Committee. For example, the Aarhus Agreement of 1998 grants these entities the right to report on their state party in the agreement in case of its refusal to enable them from exercising their procedural rights stipulated therein. These non-governmental organizations may also activate the monitoring mechanism through the periodic reports submitted by the state party to the Secretariat of the agreement, which examines them and provides comments that are taken into consideration and later discussed either at the Conference of the Parties meeting or at the level of the Compliance Committee of the agreement[8].

What enabled environmental non-governmental organizations to impose themselves are these characteristics that distinguish them from their counterparts in other fields. Among these characteristics is professionalism — they no longer rely solely on demands, but have the ability to analyze, think, and acquire expertise, as well as the power of proposing solutions, transitioning from protest to efficiency in positions, through effectively participating in finding alternatives and solutions. This compelled governmental entities to be more open to them and to assign them prominent roles in environmental treaties[9]. Thus, the prevailing idea among states and governmental organizations in other treaties — that these non-governmental entities are competitors working to hinder their role in enforcing international law, or invoking state secrecy, or that they monopolize authority and decision-making power and their ability to face challenges alone — is surpassed here.

SECOND REQUIREMENT: Flexibility in the mechanisms of accession, commitment, and amendment of international environmental agreements

International custom has established specific principles regarding how international treaties are created, how accession is carried out, and how they enter into force, as well as how they are amended, how parties commit to their

[7]- Ibid., p.66.
[8]- See Article 26 of the Vienna Convention of 1985 on the ozone layer, and Article 4 of the Basel Convention of 1990 on hazardous wastes.
[9]- Deeb Kamal, *Fundamentals of Sustainable Development*, Al-Khaldounia Publishing House. Algeria. 2015. p.142.

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provisions, and even the issue of withdrawal from them[10]. However, the particularity and complexities of the international ecological problem led decision-makers to introduce innovative mechanisms in the formal aspect of international environmental agreements, compatible with this particularity, in order to seek greater effectiveness in their implementation. The most prominent feature agreed upon by specialists is "flexibility," especially in the entry into force of the treaty and the manner of commitment to it, compared to other traditional international agreements, thus relying on soft law instead of hard law[11].

This is clearly reflected in the matter of accession and entering into force automatically, that is, through the fulfillment of a specific condition stated in the agreement in advance, such as the accession of a certain number of parties. As for the party that joins later, it is after a certain period of time has passed. The same applies to the protocols and annexes of these agreements[12]. It is worth noting that these agreements grant multiple forms for parties to accede, whether by ratification, acceptance, approval, or accession, all of which save time and simplify accession procedures and the automatic entry into force of the agreement[13].

Regarding the amendment of an environmental agreement, it is usually entrusted to the Conference of the Parties for framework agreements during one of its periodic meetings. The amendment proposal is made by one of the parties, then discussed during the meeting for adoption by consensus, otherwise it is put to a vote by those present only, without the need for all parties to the agreement. It then enters into force after a specific period of time, and most importantly, it becomes binding even on the parties that were not present during the vote. A specific period of time is granted—usually days rather than months or years—for any party to express its objection to the amendment by notifying the Secretariat of the agreement; otherwise, it becomes automatically binding on it[14].

Thus, this flexibility and simplification of amendment procedures were introduced to correspond to the nature of the changes occurring in environmental elements, based on new scientific data and monitoring and statistical information. Perhaps the most prominent example is the 1992 Framework Convention on

[10]- Philippe Sands, Op. Cit., p.139.
[11]- See, for example, Article 9 of the Vienna Convention of 1985 on the ozone layer, and Article 16 of the Basel Convention of 1991 on hazardous wastes.
[12]- Philipe Sands, Op. Cit., p.133.
[13]- Article 158 of the United Nations Framework Convention on Climate Change of 1992 provides for significant flexibility regarding its amendment, whether by consensus or by the vote of ¾ of those present at the Conference of the Parties, or automatic entry into force for the remaining parties after a certain period of time in the event of no objection.
[14]- See Article 18 of the Vienna Convention of 1985 for the ozone layer and also Article 36 of the Convention on Biological Diversity of 1992.

Climate Change, which resulted in the 1997 Kyoto Protocol that precisely determined each state's share in reducing greenhouse gas emissions. The Conference of the Parties (COP) to this agreement repeatedly resorts to amending the protocols according to new data. The same applies to the 1987 Montreal Protocol on the ozone layer, which was amended several times in 1990, 1992, 1997, and 1999, requiring only a two-thirds vote of the protocol parties present at the Conference of the Parties meeting[15].

Therefore, most international environmental treaties record essential obligations in a formal legal framework, usually in the form of a framework agreement characterized by relative stability, as it sets the general vision for solving the environmental problem it addresses. Meanwhile, great flexibility is used in amending the agreement to match the occurring changes through the protocols or annexes attached to it, which usually contain the technical and scientific aspects of the treaty. These amendment techniques, unlike traditional treaties, allow improvement and modification whenever necessary, without the need for new signing or ratification of the treaty.

Another prominent feature of international environmental agreements is the flexibility in the commitment of parties to their provisions. Here lies the core of the matter: the most critical problem faced by international treaty law is weak commitment for one reason or another. To address this and in consideration of environmental particularity, thinking shifted toward creating new techniques that encourage parties to comply with their commitments and attempt to provide solutions to the reasons that lead them to evade implementation despite their accession to the agreement.

For example, some of these agreements allow accession to one of their protocols or annexes without requiring ratification of the framework agreement, such as the 1980 Lima Convention for the Protection of the Marine Environment of the South Pacific and the 1992 Framework Convention on Climate Change. This mechanism enables states to commit to part of the agreement without obligating them to commit to the entire treaty, based on the idea that any commitment by a state, even partially, counts as progress for the agreement and helps achieve its purpose.

On the other hand, international environmental law contains many forms and tools that do not have the binding nature of a treaty, such as declarations, codes of conduct, and recommendations. The most important examples include the 1972

[15]- Jean-Pier Beurier, Op. Cit., p.66.

Stockholm Declaration, the 1992 Rio Declaration, and Agenda 21, whose texts became general principles adopted by most states to varying degrees, integrating them into their policies and domestic laws. Although these cannot be classified as treaties under international law, once adopted and implemented by states and organizations in their internal laws, they constitute an added value to international environmental law. These instruments thus impose a lower level of commitment compared to treaties and allow states to test and experiment with these instruments without fully committing to them[16].

Another feature related to commitment in environmental agreements is the inclusion of multiple levels of obligations, ranging from the strictest to the most flexible. Certain provisions, especially in framework agreements, impose binding obligations on parties when joining them, such as the obligation to send periodic reports to the Secretariat or the prohibition of making reservations or inserting domestic legislative provisions on certain issues. In contrast, other provisions appear in the form of incentives or efforts to accomplish something, such as cooperation among parties in exchanging information and notifications or establishing certain centers and institutions. Here it is necessary to refer to one of the most important principles of international environmental law: the "principle of common but differentiated responsibilities," which was practically implemented in environmental treaties by introducing differentiated commitments among parties based on their financial and technological capacities. This, in itself, serves as an important incentive for developing countries to assume their obligations according to their capabilities, and even receive assistance from other parties to fulfill their commitments[17].

THE SECOND TOPIC : The Distinct Legal System of International Environmental Agreements from the Substantive Aspect

From the substantive point of view, international environmental agreements differ from other treaties in that they include a number of distinctive means and tools designed to ensure their effectiveness, such as the concept of conferences of the parties, monitoring and implementation mechanisms, dispute settlement between parties, and so on.

[16]- Daniel Bodansky, *The Art and Craft of International Environmental Law*, Harvard University Press, London, 2010, p.156.
[17]- See Article 10 of the Montreal Protocol of 1987, which urges the parties to take all practical steps to ensure the transfer of the best available environmentally safe substitutes and related technology to the rest of the parties.

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FIRST REQUIREMENT: Diversity of the tools used by international environmental agreements

On the substantive side, we find that international environmental treaties have included a set of diverse and distinctive tools and means at the same time, which they use in order to facilitate their implementation by the parties and to overcome the difficulties they may face.

Among these means is relying on precision in legal texts and avoiding generalities and the use of vague expressions as much as possible, such as giving precise definitions of the terms contained in the agreement, so that they can later be regulated by the parties and dealt with according to a unified understanding. This is especially the case when it concerns technical terms such as substances that deplete the ozone layer, or naming animal or plant species by their scientific names, or giving an accurate definition of the various types of waste referred to in the agreement[18].

Another means used by environmental agreements is encouraging the parties to incorporate legislation within their domestic laws in order to implement the agreement so that it becomes integrated as domestic law. Even though this method is common in many international agreements, what is distinctive here is that it stipulates precise and specific legislation, not merely the use of a general phrase. For example, the Bonn Convention of 1979 on the Conservation of Migratory Species provides in Article 3 protection to specific types of birds listed in Annex No. 01[19]. Moreover, the Secretariat of the agreement may even intervene at the request of the contracting party to provide assistance in drafting environmental legislative texts in implementation of the agreement (this is what was stipulated by the 1973 Barcelona Convention for the Protection of the Mediterranean Sea).

Among the distinctive mechanisms used by environmental treaties is the creation of an institutional structure of great importance, namely the "Conference of the Parties" (COP). We find this structure in most environmental agreements, which are called "framework agreements." A periodic meeting of the parties to the treaty is established (usually every three years), and it is assigned many tasks, whether in the formal aspect such as amending the agreement or its protocols, or dealing with accession or withdrawal of a party. It also has the authority to establish subsidiary bodies and define their functions, such as financial funding mechanisms or cooperation mechanisms between parties.

[18]- See, for example, the Basel Convention on the Control of Hazardous Wastes, which inserted a set of definitions for various terms contained therein, so that the parties can clearly understand how to apply or implement it.
[19]- Jean-Pier Beurier, Op. Cit., p.63.

On the substantive side, the Conference of the Parties is the authority where the parties present their periodic reports, which are discussed, and recommendations are issued in cases of non-compliance. The Conference of the Parties also provides material assistance and technical advice to parties that find difficulty in implementing the treaty. In addition to a feature that we hardly find in other traditional treaties, which is the possibility for non-parties to attend the meetings of the Conference of the Parties as observers. Thus, this institutional structure has indeed given great dynamism to these agreements and flexibility in their implementation in line with ongoing developments, and it works to inject new energy into them at every COP meeting.

Another notable matter regarding international treaties is their fundamental reliance on mechanisms of international cooperation between the parties on one hand, and between them and other bodies and institutions on the other. This is necessary and inevitable for addressing environmental problems of a global nature, which must be addressed within an international cooperation approach. This is unlike other international treaties that rely mainly on a state's internal implementation of its contractual obligations, such as human rights treaties. To embody this cooperation, institutions specific to the treaty itself may be established, or tasks may even be entrusted to already existing international institutions. For example, the London Convention of 1973 on marine pollution by ships entrusted the International Maritime Organization (IMO) with the task of receiving observations and reports on incidents and disseminating information on ship accidents. Likewise, the Basel Convention of 1991 established regional centers for training and technology transfer regarding the management of hazardous wastes. These agreements also encourage and stipulate the need for cooperation in the field of training, exchanging experiences, transferring knowledge, providing technical assistance, and transferring technology for capacity building. For example, the 1987 Montreal Protocol on the ozone layer stipulates that each party shall take all practical steps to ensure the transfer of the best environmentally friendly alternative substances and related technology to the other parties.

Among the cooperation mechanisms used by these treaties as well is the "licensing mechanism" to control trade in certain environmental elements. For example, the 1997 Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and Their Disposal stipulates the necessity of obtaining prior written authorization from the importing state so that exporting states may allow the export of such waste. Moreover, the importing state declares through this

authorization that it has the technical and financial capacities to process this type of waste[20].

Thus, international cooperation in the environmental field introduced by these agreements indirectly contributes to fostering world peace, creates a type of trust among the parties, and leads to a change in the concept of traditional security and peace-making. The most prominent example of this is the demilitarized zone between the two Koreas, which has turned into an environmental reserve for peace[21]. Here, we move from the concept of national territory to that of the cross-border ecological territory, which requires the concerted efforts of all states to protect it.

SECOND REQUIREMENT: The extent of the effectiveness of the legal rule of international environmental agreements

Perhaps the most important challenge facing international law in general and international agreements in particular is the issue of effectiveness, due to several factors related to the consensual nature of this law and the inability to force a state to comply with a certain rule, as well as the concept of sovereignty and equality among states. For this reason, international environmental agreements came to focus to some extent on the issue of effectiveness, and not merely on the level of establishment, the number of adherents, or their entry into force. This is based on the global nature of environmental problems, unlike other international issues, which requires deeper research into effective mechanisms and tools to address the compliance problem.

From the perspective of comprehensiveness, it can be said that environmental agreements have covered various elements of the environment and the problems it suffers from. According to the United Nations Environment Programme, there are currently more than 213 environmental treaties, which have followed three methods: the *sectoral method*, whereby the four areas of the environment were covered—marine, air, land, and animal and plant life—such as the Convention on Biological Diversity, the protection of the ozone layer, climate change, the protection of endangered animals, and international marine environments. There is also the *transversal method*, which focuses on materials that directly affect the environment, such as waste, chemicals, and radiation, the most important of which

[20]- Gérard Monediaire, "Les déchets dans le droit international de l'environnement", *Art dans mondialisation de droit de l'environnement*, 1st International Seminar on Environmental Law: Rio+10, Rio de Janeiro, 2002, p.14.
[21]- Jean-Pier Beurier, Op. Cit., p.122.

are the Basel Convention of 1989, the Rotterdam Convention of 1998 on international trade of chemicals, and the 1994 Convention on Nuclear Safety[22]. Then comes the third method, the *integration method*, which relied on integrating the environmental protection approach into a number of international legal texts that focus on fields other than the environment, such as the Marrakesh Agreement of 1994 on international trade. Thus, environmental agreements have been able to cover various problems and challenges facing the global environment.

On another note, regarding the number of accessions to these agreements, it is clearly observed that most framework treaties have a considerable number of ratifying states. This indicates the general willingness of the world's countries to engage in bearing responsibility and addressing environmental problems, which gives these agreements a significant point of strength and raises their level of effectiveness[23].

Another criterion used to measure effectiveness is the situation in which a dispute arises between two parties in the environmental agreement. This often leads to non-compliance by one of the parties, under the pretext that the other party did not comply, or it may even lead to the withdrawal of one of the two parties. Therefore, environmental agreements have worked on developing many tools to settle disputes between parties, some of which are common in other international treaties such as negotiation, good offices, arbitration, or even referring the dispute to the International Court of Justice if necessary.

The new idea introduced by environmental treaties is the establishment of a committee often called the *conciliation committee*, based on the request of one of the disputing parties. It is formed with an equal number of members appointed by each party, and it works on bringing viewpoints closer and resolving the dispute by issuing a final decision in the form of a recommendation to be implemented by both disputing parties[24]. Such a distinctive mechanism certainly ensures a high degree of dispute settlement between the parties and ensures their compliance with the agreement.

To measure the effectiveness of the treaty rule, it is also necessary to assess its ability to solve the problem for which it was created, which is known as

[22]- Alexandre-Charles Kiss. "Tendances actuelles et développement possible du droit international conventionnel de l'environnement." Centre International de Droit Comparé de l'Environnement. Limoges. 2003. p.23.
[23]- The Barcelona Convention of 1973 for the protection of the Mediterranean Sea: 21 states and the European Union, meaning all Mediterranean countries; the Ramsar Convention of 1971 on wetlands: 171 states; the Vienna Convention of 1985 for ozone protection: 197 states.
[24]- See Article 14 of the UN Framework Convention on Climate Change of 1992, and Article 11 of the Vienna Convention for the Protection of the Ozone Layer of 1985, for example.

problem-solving effectiveness. That is, to what extent did the agreement contribute to solving the environmental problem? We find that indeed some environmental agreements have largely achieved this objective due to their content and the tools used. For example, the Montreal Protocol of 1987 prohibited the use of certain substances that are likely to deplete the ozone layer, primarily chlorofluorocarbons (CFCs). Between 1986 and 1995, global production and consumption of these substances decreased by more than 75%. In parallel, the widening of the ozone hole began to gradually shrink compared to before[25]. The same applies to many environmental agreements that aimed to protect certain animal species from extinction, such as the agreements on the protection of the polar bear, seals, and yellowfin tuna. The implementation of the protection mechanisms stipulated by the parties, primarily banning illegal trade, directly contributed to keeping these species at acceptable population levels and prevented their extinction.

The effectiveness of the treaty rule can also be assessed by its ability to change the behavior of the parties before and after the agreement, which is known as *behavioral effectiveness*[26]. Here, we observe whether the actor behaves differently after the treaty enters into force, even if it does not fully comply. For instance, the Ramsar Convention of 1971 on the protection of wetlands established an international classification of these areas worldwide after conducting an inventory. Studies conducted in this regard have found that this international classification changed state and individual behavior towards these wetlands[27], through increased public awareness, providing greater protection, and offering financial support. All this behavioral change resulted from the international status given to these sites. Likewise, the procedural environmental rights introduced by the Rio Declaration and the Aarhus Convention are considered the most important addition to international human rights law—something that even its own treaties could not achieve regarding empowering individuals with these rights[28].

Finally, we refer to the *periodic reporting mechanism* as a criterion to measure the effectiveness of these agreements. This mechanism, known in most international treaties, has proven its shortcomings and weak performance, especially in human rights treaties, where the state can record whatever measures it wants, even if they do not reflect reality. However, the positive and distinctive aspect introduced by environmental treaties—besides obliging the party to submit a periodic report to the Secretariat of the treaty showing its commitments and

[25]- Daniel Bodansky. *Op.Cit.* p.260.
[26]- Ibid., p.253.
[27]- Secretariat of the Ramsar Convention, *40 Years of Ramsar 1971–2011*, 2011, p.26.
[28]- Alan Boyle. ("Human Rights and the Environment: Where Next?"). *Environmental Law Dimensions of Human Rights*. Oxford University Press. United Kingdom. 2015. p.205.

implementation—is that most environmental agreements require the parties to include clear and precise matters in the form of statistics, and not merely rely on vague and general expressions[29].

The second stage then comes: *review*. A specific body designated by the treaty is entrusted with verifying the accuracy of the information recorded in the periodic report so that the problem can be identified early and assistance can be provided. Finally comes the compliance assessment stage, not just issuing recommendations as is common in traditional international treaties. Here, the environmental agreement relies on tools aimed at supporting the state, such as providing technical consultations and offering solutions to the problem by specialists and experts, as well as providing financial assistance when necessary to developing countries through funding mechanisms established by the agreement, then publishing cases of non-compliance if the state continues, then issuing warnings, and ultimately suspending the rights and privileges granted under the agreement. Here, we can reach the achievement of the intended effectiveness of the treaty.

Conclusion:

- Through this study, we have indeed identified a distinguished and unique legal system for international environmental agreements, and it can be said that they have triggered a revolution in this context and departed from what is customary. This is perhaps primarily due to the specificity of the subject they address, which is the global ecological risk. From the stage of drafting these agreements, they relied on the involvement of most non-governmental actors in the negotiation, and even in the implementation and monitoring stages, and this is considered an achievement of these agreements.

- The other most prominent feature of these agreements from the formal aspect is their reliance fundamentally on flexibility in constructing their legal framework, starting from the matter of accession to the agreements, to their automatic entry into force, passing through the amendment procedure which follows simplified and concise methods, and ending with the different forms they take, such as framework conventions, protocols, annexes, appendices, and recommendations, all of which rely on flexibility in implementation and compliance by the parties.

[29]- Article 5 of the Vienna Convention of 1985 stipulates providing accurate information on the measures taken regarding the protection of the ozone layer.

- The same applies to the substantive aspect of international environmental agreements, as they have created a set of distinctive legal tools and mechanisms that are relatively compatible with the ecological problem. It became necessary to use precise and clear terms and to provide definitions for various concepts, and the Conference of the Parties—formed in the majority of these agreements—played a major role in managing them and gave them an uncommon dynamism due to the tasks it undertook. It is also clearly evident that these agreements greatly rely on the principle of international cooperation among the parties to ensure the success of the treaty, by stipulating a set of field procedures that must be carried out jointly in order to achieve the intended purpose. Here we achieve two objectives at the same time: compliance with the treaty provisions and spreading the culture of global peace through cooperation.

- As for measuring the extent of effectiveness of these environmental agreements, it can be summarized in the following measurement model:

- **Clarity of the legal rule → Change in the behavior of the actor → Achievement of the result and solving the problem**[30]**.**

- Here, we found that most agreements are characterized by clarity and precision in their texts in general, and by specifying exactly what is required from the parties. This led to a change in their behavior in certain environmental fields and therefore to solving the problem and achieving the intended purpose (the Vienna Convention of 1985 on the protection of the ozone layer as a model).

- We conclude this study with some recommendations, the most important of which are:

- The necessity of adopting a governance approach in the conclusion of international agreements and not insisting on the centrality of the state as the main actor, which has proven its limitations in addressing the complex challenges facing the international community.

- The necessity of replicating the legal model of international environmental treaties, both in its formal and substantive aspects which have proven effective, in other international treaties—especially in the field of human rights, which indeed suffers in this regard.

- The necessity of adopting the "Conference of the Parties" model from environmental treaties and generalizing it in most international treaties, due to its

[30]- Daniel Bodansky, Op. Cit., p.260.

many advantages in implementing and activating the agreement in a flexible and negotiated manner, while addressing some of its drawbacks, particularly the level of commitment and compliance.

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