



## **Denunciation of Treaty in International Politics: A Critical Analysis of US' Renunciation from the Paris Climate Change Agreement**

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### **Abstract**

Since the wake of the Westphalia Peace (or Treaty) in 1648, the idea of treaty has become handy and instrumental to the conditioning of the globe and maintenance of peace in the international arena. One of such treaties is the Paris Climate Agreement entered by states to forestall global warming and other climatic issues. It is however, problematic to note that states now willingly opt out of agreements entered in the international arena. This study sets out to interrogate why states denounce treaties, focusing on President Donald Trump's choice to pull US out of Paris Climate Agreement. The study is anchored on the theory of Rational Actor Model, causal research design, documentary method of data collection, and content analytical method of data inquiry and analysis. The study argued that the concern of reduced economic competitiveness, conditional commitments, and nationalistic thinking are to be considered as US reasons for Paris Climate Treaty denunciation. The study deciphered that US' choice to pull out of the Paris Climate agreement under Donald Trump's presidency is not unconnected to Trump's rationalistic choice or idea to put US first and make her great through nationalistic economic policies devoid of global influences, and global economic bazar, which he saw as wasteful venture. The study recommended that humanity needs all hands (states) on deck to combat the common enemy of global warming occasioned by climate change. Hence, the treaty through a more accommodating and friendly protocol should be sustained by all parties.

**Keywords:** Treaty, Climate Change, International Politics, Renunciation, and Rational Actor Model.

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## Introduction

Essentially, treaty is a formal, legally binding written agreement between actors in international law. It is usually entered into by sovereign states and international organizations, but can sometimes include individuals, business entities, and other Legal persons. A treaty may also be known as an international agreement, protocol, covenant, convention, pact, or exchange of letters, among other terms. Regardless of terminology, only instruments that are legally binding upon the parties are considered treaties pursuant to, and governed by, international law. The process and initiation of climate change treaty began in the late 1980s, when the United Nations inaugurated the first round of formal talks on global warming. Over two decades later, the scientific understanding of climate change improved and public awareness on its problem has spread widely. Early diplomatic efforts easily produced new treaties such as the 1992 UN Framework Convention on Climate Change (UNFCCC), 1997 Kyoto Protocol, and Copenhagen November 2009 15<sup>th</sup> Conference of The Parties (COP-15) as well as the 2016 Paris Climate Agreement (Zhang, Dai, Hua-Xia, & Wang, 2017).

In the face of the lofty contents of these Treaties, Frameworks and Conventions including the 2016 Paris Climate Agreement ratified and endorsed by 197 countries including the United States of America on the need to combat the menace of climate change and global warming, it is worrisome that many countries especially America which is envisaged as one of the highest emitter of Green House Gases (GHGs) that causes the depletion of the ozone layer and by extension heating up our climate are paying lips service to the implementation of the climate Agreements, most recent is the US pulling out of the Paris Climate Agreement. It is most germane to state that though more greenhouse gases are emitted in the Northern than Southern Hemisphere, this does not contribute to the difference in warming because the major greenhouse gases persist long enough to mix between hemispheres. The thermal level of the oceans and slow responses of other indirect effects mean that climate can take centuries or longer to adjust to changes in forcing (Fiona, 2015; Margaretha, & Curtis, 2017).

Global warming is really not a 'normal' international environmental problem. It threatens huge changes in living conditions and challenges existing patterns of energy use and security. There is almost no dimension of international relations that it does not actually or potentially affect, and it has already become the subject of high politics at the international milieu as has been a subject of discussion at G.8 and G 77 summits. Meanwhile, the 'front lines' in the UNFCCC



negotiations on a post -2012 climate treaty are two-fold and reflect the North-South divide, which in 2012 is still dominant within the UNFCCC: the emerging economies of China, India, Brazil, South Africa and Indonesia, together with most other developing countries in the G.77 + China Coalition, regard the UNFCCC as the only legitimate setting for negotiations on climate change mitigation and adaptations. Based on their understanding of climate Justice and the right for economic development, the G.77 + China Group favours a second commitment period of the Kyoto protocol and opposes any binding commitments on its part as those would interfere with developing countries; priority of economic development and poverty alleviation (Elle, 2017; Zhang, Dai, Hua-Xia, & Wang, 2017).

United Nations Framework convention on Climate change (UNFCCC) signed at the Rio earth Summit, envisaged the reduction of greenhouse gas emissions and their removal by carbon sequestration, a process through which carbon-based gases are into the ground (IBM, 2010; Justin, 2015). The signatories hoped that including a commitment from developed nations to cut their emissions could make a start. There was a binding commitment however, for parties to draw up national inventories of sources and sinks. As this included the developing nations, many of whom were equipped to fulfil this obligation, there was also funding for capacity building (Dai, Zhang & Wang, 2017).

Most importantly, the convention locked the signatories into holding a continuing series of annual conferences of parties (COPs) to consider possible actions and review the adequacy of existing commitments, supported by regular meetings of the subsidiary scientific and implementation bodies. By the Second cop in Kyoto in 1997, the parties agreed on a “control” measures to the protocol involving emissions reductions by developed countries facilitated by flexibility mechanisms (Barrett, & Starvins, 2003).

The problem faced by the framers of the Kyoto protocol was that reducing greenhouse-gas emissions would involve energy, transport and agriculture, i.e. the fundamentals of life in modern societies. This challenges the whole idea of sustainable development. Whether this must involve real sacrifices in living standards and impossible political choices is a tough question for governments, although there are potential economic benefits developments of alternative-energy technologies. Politicians in Europe have taken the lead in trying to reduce greenhouse gas emissions (Brito & Mark, 2012).



There is a further problem in that, even though the effects of climate change are not fully understood, there is enough evidence for some nations to calculate that there might be benefits to them from climate alterations, but recognizing the importance of this issue for the health of the planet and all living creature, national leaders could not come to an agreement on next steps at the 2009 Copenhagen climate conference. However, concerns of reduced economic competitiveness and conditional commitments, such as the US pulling out of the 2016 Paris climate agreement entered by 197 countries, make negotiation positions of key states incompatible. The existing studies such as the works of David, Megan, Sally, & Ryan (2012); Bodansky (2016); Zhang et al (2017); Dai, Zhang & Wang, (2017); Margaretha & Curtis (2017) etc. mostly agreed on the powerful and contributive role of the US in combating global climate change, but in the wake of US pull-out of the pact, countries such as China, India, Japan, and European states are advised to fill the yawning gap that would be left by the Trump's US decision to exit the Paris climate pact.

More so, there exists no scholarly literature that address in concrete terms the rationale behind President Donald Trump's pulling out of U.S from Paris Climate Change Agreement; the Paris Climate Change Agreement and Previous Treaties and Conventions on Global Warming; and Global Warming and Climate Change Menace and the Collaborative Action of Independent States. Again, the scopes of the extant studies are not in tandem with the scope of this study. It is the quest to addressing these burning climate questions and the politics associated with the implementation of previous climate Agreements and to understand the rationale behind the US pulling out of the Paris climate Agreement that necessitated this research work.

### **Conceptual Delineation**

#### ***Treaty***

Treaties are written agreements between states that are governed by international law. Treaties are referred to by different names, including agreements, conventions, covenants, protocols and exchanges of notes. If states want to enter into a written agreement that is not intended to be a treaty, they often refer to it as a Memorandum of Understanding and provide that it is not governed by international law (Rafael, 2010).

Treaties can be bilateral, multilateral, regional and global. The law of treaties is now set out in the 1969 Vienna Convention on the Law of Treaties which contains the basic principles of



treaty law, the procedures for how treaties becoming binding and enter into force, the consequences of a breach of treaty, and principles for interpreting treaties. The basic principle underlying the law of treaties is *pacta sunt servanda* which means every treaty in force is binding upon the parties to it and must be performed by them in good faith. The other important principle is that treaties are binding only on States parties. They are not binding on third States without their consent. However, it may be possible for some or even most of the provisions of a multilateral, regional or global treaty to become binding on all States as rules of customary international law (Shaw, 2003; Rafael, 2010).

There are now global conventions covering most major topics of international law. They are usually adopted at an international conference and opened for signature. Treaties are sometimes referred to by the place and year of adoption, e.g. the 1969 Vienna Convention. If a State becomes a signatory to such a treaty, it is not bound by the treaty, but it undertakes an obligation to refrain from acts which would defeat the object and purpose of the treaty. A state expresses its consent to be bound by the provisions of a treaty when it deposits an instrument of accession or ratification to the official depository of the treaty. If a State is a signatory to an international convention it sends an instrument of ratification. If a State is not a signatory to an international convention but decides to become a party, it sends an instrument of accession. The legal effect of the two documents is the same. A treaty usually enters into force after a certain number of States have expressed their consent to be bound through accession or ratification. Once a State has expressed its consent to be bound and the treaty is in force, it is referred to as a party to the treaty (Shaw, 2003).

The general rule is that a treaty shall be interpreted in good faith in accordance with the ordinary meaning to be given to the terms of the treaty in their context and in light of its object and purpose. The preparatory work of the treaty and the circumstances of its conclusion, often called the *travaux préparatoires*, are a supplementary means of interpretation in the event of ambiguity (Rafael, 2010).

A treaty is a formal, legally binding written agreement between actors in international law. It is usually entered into by sovereign states and international organizations, but can sometimes include individuals, business entities, and other Legal persons. A treaty may also be known as an international agreement, protocol, covenant, convention, pact, or exchange of letters, among



other terms. Regardless of terminology, only instruments that are legally binding upon the parties are considered treaties pursuant to, and governed by, international law.

### **Bilateral and multilateral treaties**

Bilateral treaties are concluded between two states or entities. It is possible for a bilateral treaty to have more than two parties; for example, each of the bilateral treaties between Switzerland and the European Union (EU) has seventeen parties: The parties are divided into two groups, the Swiss (on the one part) and the EU and its member states (on the other part). The treaty establishes rights and obligations between the Swiss and the EU and the member states severally, as it does not establish any rights and obligations amongst the EU and its member states. A multilateral treaty is concluded among several countries, establishing rights and obligations between each party and every other party. Multilateral treaties may be regional or may involve states across the world. Treaties of ‘mutual guarantee’ are international compacts, e.g., the Treaty of Locarno which guarantees each signatory against attack from another. (Rafael, 2010).

### **International Politics**

International Politics according to Aberystwyth University (2021), is about understanding and explaining global challenges and developing ideas for change at the international, state and sub-state levels. International Politics is fundamentally an interdisciplinary subject that draws on several subjects, including: politics, history, economics, geography, philosophy, law and sociology. International Politics is about the world we live in, the challenges we face, power and struggles, and the opportunities and the obstacles for relations among peoples, societies, states, organisations. Students of International Politics have gone onto careers in areas such as: national civil services, journalism, non-governmental organisations, politics, teaching, security forces, social and political research, law, international organisations, and many others. International Politics is about the different ways in how we can think about this world and, therefore, the different ways in how we might understand and tackle the challenges and realise the opportunities. International Politics is about ideas, practices, histories, peoples, and places (Aberystwyth University, 2021).

From the forgoing, International Politics is about the increasingly complex and intertwined nature of local, national, regional, international and global problems. International Politics is



about the multitude of actors that shape our world such as states, formal and informal international organisations like the IMF and the G20, non-governmental organisations like Amnesty International, non-state actors like terrorists, multinational corporations or influential billionaires like Bill Gates (Aberystwyth University (2021).

### **Paris Climate Agreement**

The Paris Climate Agreement is also known as Paris climate accord or Paris agreement is an agreement within the United Nations Framework Convention on Climate Change (UNFCCC) dealing with greenhouse gas emissions mitigation, adaptation and finance starting in the year 2020. The language of the agreement was negotiated by representatives of 196 parties at the 21st Conference of the Parties of the UNFCCC in Paris and adopted by consensus on 12 December 2015 (Druzin, 2016; Sinha, 2015). As of November 2017, 195 UNFCCC members have signed the agreement, and 174 have become party to it (Vidal, & Vaughan, 2015).

The Agreement aims to respond to the global climate change threat by keeping a global temperature rise this century well below 2 degrees Celsius above pre-industrial levels and to pursue efforts to limit the temperature increase even further to 1.5 degrees Celsius (Mark, 2015). In the Paris Agreement, each country determines, plans and regularly reports its own contribution it should make in order to mitigate global warming. There is no mechanism to force a country to set a specific target by a specific date, but each target should go beyond previously set targets (Sutter & Berlinger, 2015; Vidal, & Vaughan, 2015).

### **Denunciation of Treaty**

Denunciation denotes a unilateral act by which a party seeks to terminate its participation in a treaty (Unilateral Acts of States in International Law). Lawful denunciation of a bilateral treaty (Treaties) terminates it. Although denunciation is also used in relation to a multilateral treaty, the better term is withdrawal. Withdrawal of a party from a multilateral treaty will not normally result in its termination. But, for simplicity, termination will here be used to describe both termination of a bilateral treaty and withdrawal from a multilateral treaty (Anthony & Peters, 2021).

The termination of treaties is an immensely practical topic, though often neglected by writers. Part V, Arts 42 to 45 and 54 to 64, Vienna Convention on the Law of Treaties (1969) (VCLT) set out the various circumstances in which a treaty can be denounced, terminated, or its



operation suspended, other than on the ground of invalidity, which ground is very rarely invoked, and even more rarely successfully (Treaties, Validity). Arts 65 to 72 VCLT specify the procedures to be followed and the consequences of termination or suspension (Anthony, & Peters, 2021).

### **Theoretical Framework**

The study is anchored on Rational Actor Model, a strand of the Decision making theory in international relations. The Rational-Actor Model was the first strand of the decision making analysis developed as part of the realist approach. The model was espoused by a political scientist, Graham T. Allison in 1962 as a response to the Cuban Missile Crisis. The proponents of the theory include Philip Zelikow; John F. Kennedy; Rosenau, etc. The Model holds that the governments are treated as the primary actor; and the government examines a set of goals, evaluates them according to their utility, then picks the one that has the highest payoff (Asogwa, 2009).

This model assumes that the main actor in foreign policy is a rational individual who can be relied on to make informed, calculated decisions that maximize value and perceived benefits to the state. The rational actor model relies on individual state-level interactions between nations and government behaviour as units of analysis; it assumes the availability of complete information to policymakers for optimized decision making, and that actions taken throughout time are both consistent and coherent. There are four main steps or assumptions in the rational actor's decision-making process: identify the problem, define desired outcomes, evaluate the consequences of potential policy choices and finally, make the most rational decision to maximize beneficial outcomes. A distinguishing mark of the Rational-Actor Model is its image of the international society. Thus, the international society is pictured as a multi-state system in which the state is either the sole, or at least the prime actor; and most essentially the source of behaviour of the state are looked for in what is regarded as the objective realities of its position in the world (Asogwa, 2009).

Furthermore, as Rosenau (1971), puts it, adherents of the Rational-Actor Model do not hesitate to attribute human characteristics to abstract entities (the state) and then to equate their insights into the behaviour of the entities with human behaviour itself. Simply put, the central





assumption of the Rational-Actor-Model- is that government behaviour can be most satisfactorily understood by analogy with purposive acts of individuals. The action of a state is explained by an analogy between nations in international politics as coordinated by rational human beings (Verba, 1969, cited in Asogwa, 2009). According to the model, a rational process of decision making is one in which the individual responding to an international event bases his response upon a cool and clear-headed means-ends and calculations.

The theory is apt to this study, because states are run by men (actors) and it is a pointer to the way states act the way they do in the international system. From the foregoing, the Rational-Actor Model aptly explains the realities surrounding the behaviour and/or body language of the president (President Donald Trump) and the eventual decision of the United States to pull out of the Paris Climate Change Agreement. US through the president argues that the Paris agreement is detrimental to the economic survival as a core national interest of the United States and her citizens. President Donald Trump described the Paris Agreement as ‘a self-inflicted major economic wound’ that weakens US sovereignty and does not do much for the environment, and called the idea of climate change a ‘hoax.’

## **Methodology**

The study is hinged on causal research design also known as explanatory research, which is conducted in order to identify the extent and nature of cause-and-effect relationships. The sources of data for this study are strictly secondary sources gotten from documents, and archive retrieved from internet, articles, journals, newspapers, magazines, textbooks etc. that deal on issues related to the subject matter under investigation. The study is based documentary method of data collection, whereas, content analysis was adopted as its method of data analysis.

## **The Discourse**

### **Previous Treaties on Climate Change and Global Warming**

States in the globe have over the years made joint and concerted efforts in forestalling global climate change menace. International governmental organisations like United Nations (UN), international conferences and protocols on environment, sustainable development on climate



change, have been established to combat climate change. Gazala (2016, p. 45) succinctly captured them, viz.:

1. UN Conference on Human Environment, Stockholm (1972) (Effect of Environmental degradation on Quality of Human Life)
2. Vienna Convention (1985) (Protection of Ozone Layer)
3. Montreal Protocol (1989) (Total Elimination of Ozone Depleting Substances)
4. Basal Convention (1989) (Control of Trans-boundary Movements of Hazardous waste)
5. Geneva Convention (1990) (Technology and financial help to Developing Countries)
6. UN Convention on Climate Change, New York (1992) Economic Development and Environmental Protection
7. Bio-diversity Convention, Nairobi (1992) (Preservation of Earth's Bio-diversity)
8. UN Conference on Environment and Development (Earth Summit) Rio de Janeiro, Brazil (1992) (Environment and Sustainable Development)
9. Kyoto Protocol (1997) (Stabilization of Green House Gases)
10. World Summit on Sustainable Development, Johannesburg (2002) (International Solidarity on Environmental Issues)
11. Bali, Indonesia (2007) Ad Hoc Working Group on Long-term Cooperative Action under the Convention (AWG-LCA) established
12. Copenhagen Summit (2009) (Road map for Post-Kyoto treaties)
13. United Nations Climate Change Conference, Doha, Qatar (2012) (The Doha Climate Gateway)
14. Paris Agreement (2016) (Targets for everyone) (Gazala, 2016).

### **Overview of the Paris Climate Change Agreement**

Bodansky (2016) averred that it was not without reasons, that climate change has been called a super wicked problem. It requires societies and individuals to undertake potentially costly measures now to address a long-term and still somewhat uncertain threat. It implicates virtually every aspect of a states' domestic policy, including energy, agriculture, and transportation. And



it requires massive collective action by states with very different interests, priorities, and circumstances. The Paris Agreement seeks a Goldilocks solution that is neither too strong (nor hence unacceptable to key states) nor too weak (and hence ineffective). To safeguard national sovereignty, it adopts a bottom-up approach, in which the agreement reflects rather than drives national policy (Richard, 2015). But to promote stronger action, states' nationally-determined contributions (or NDCs, for short) are complemented by international norms to ensure transparency and accountability and for states to progressively ratchet up their efforts. Accordingly, Zhang, et al (2017, p. 9), surmised that:

The Paris Agreement entails all countries: developed and developing, to make significant commitments to address climate change. Countries responsible for 97 percent of global emissions have already pledged their Nationally Determined Contributions (NDCs) for how they will address climate change. Countries will revisit their current pledges by 2020 and, ideally, strengthen their emissions reduction targets for 2030. The Paris Agreement includes a stronger transparency and accountability system for all countries, requiring reporting on greenhouse gas inventories and projections that are subject to a technical expert review and a multilateral examination. Countries will continue to provide climate finance to help the most vulnerable adapt to climate change and build low-carbon economies. While the Paris Agreement does not 'solve' climate change, it allows us to start the next wave of global climate actions, creating a virtuous cycle for more aggressive action in the decades ahead.

The Paris Agreement has been hailed as "historic, a landmark, the world's greatest diplomatic success, a big deal" (Robert, 2015, p. 7). But, if so, it is not because of the novelty of the contents of the agreement. The real paradigm shift occurred at the 2009 Copenhagen Conference, when states abandoned the Kyoto Protocol's architecture in favour of a more flexible approach. Nor is it because the current emission reduction pledges by states under the agreement are sufficient (Bodansky, 2010; Fiona, 2015). Even the biggest fans of the Paris outcome do not claim that it puts the world on a pathway to limiting climate change to 2° C, the goal agreed in Paris, much less the even more ambitious aim of 1.5°, which many argue is necessary to avert catastrophic damage. At best, the NDCs put forward by countries in connection with the Paris Conference will limit temperature increase to 2.7° C. (Joby & Chris, 2015). If Paris indeed proves historic it will be because it institutionalizes a new paradigm that, over time, catalyses ever stronger global action to combat climate change. According to Bodansky (2016) eight features of the Paris Agreement stand out:



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1. First, it is a legally binding instrument (albeit with many nonbinding elements), in contrast to the Copenhagen Accord, which was a political deal.
2. Second, it is global. It applies not only to developed countries, like the Kyoto Protocol, but also to developing countries, which account for a growing share of global emissions. As of March 15, 2016, 188 countries had put forward intended nationally determined contributions, representing roughly 95% of global emissions. This, in itself, is extraordinary.
3. Third, it establishes a long-term, durable architecture, in contrast to the Copenhagen Accord, which involved one-shot pledges addressing only the period up to 2020.
4. Fourth, the long-term architecture institutionalizes an iterative process, in which, every five years, parties will come back to the table to take stock of their collective progress and put forward emission reduction plans for the next five-year period.
5. Fifth, it establishes an expectation of progressively stronger action over time.
6. Sixth, it abandons the static, annex-based approach to differentiation in the United Nations Framework Convention on Climate Change (UNFCCC) and the Kyoto Protocol, in favour a more flexible, calibrated approach, which takes into account changes in a country's circumstances and capacities and is operationalized differently for different elements of the regime.
7. Seventh, it establishes a common transparency and accountability framework that reflects Justice Brandeis's admonition, sunlight is the best disinfectant. States will have an incentive to carry out their NDCs because, if they don't, everyone will know, subjecting them to peer and public pressure.
8. Eighth, the architecture institutionalized in the Paris Agreement appears to command universal, or near universal, acceptance.

### **Denunciation of Treaties in International Politics**

Interestingly, the sources of international law have been influenced by a range of political and legal theories under liberal, conservative and radical schools of thought. During the 20<sup>th</sup> century, it was recognized by legal positivists that a sovereign state could limit its authority to



act by consenting to an agreement according to the contract principle *pacta sunt servanda*. This consensual view of international law was reflected in the 1920 Statute of the Permanent Court of International Justice, and remains preserved in Article 7 of the ICJ Statute (Slomanson, 2011).

To be effective, termination or suspension of treaty may only take place as a result of the application of the provisions of the treaty itself or the Vienna Convention on the Law of Treaties (VCLT) (1969) (Art. 42 (2)). Unless the treaty provides otherwise, it is for the party claiming that a treaty has been terminated or suspended to establish that the necessary grounds exist. Most treaties contain provisions on termination, and termination provisions are usually closely linked to those on the duration of the treaty. The two matters must therefore be considered together. A treaty, whether bilateral or multilateral, may terminate, or a party may withdraw from it, in conformity with its provisions (Art. 54 (a) VCLT). The following few examples illustrate the great variety of clauses (Anthony & Peters, 2021).

Many bilateral treaties make no provision for duration but include a termination clause, which typically provides: 'Either party may terminate this treaty by means of a written notice to the other party. Termination shall take effect X (unknown) months following the date of notification.' When, as in air services agreements, it is often necessary to take account of time zone differences, it is usual to provide that: 'This Agreement shall terminate at midnight (at the place of receipt of the notice of termination) immediately before expiry of the X months' notice of termination by the other Contracting Party' (Anthony & Peters, 2021).

Most multilateral treaties of unlimited duration will allow a party an unconditional right to withdraw. Treaties adopted within the United Nations (UN) (including most human rights conventions) usually provide that:

- (1) Any State Party may denounce this Convention by written notification to the Secretary-General of the United Nations.
- (2) Denunciation shall take effect one year following the date on which notification is received by the Secretary-General of the United Nations.

Conventions adopted within the International Labour Organization (ILO) often require a lengthy period of notice and impose strict conditions on when notice can be given. Typically, a Member State cannot denounce an ILO convention until 10 years from the date on which the



convention first enters into force; and if a Member State does not denounce it within 12 months of the expiration of the 10-year period, it may not then denounce until the expiration of a further 10-year period, and so on (Anthony & Peters, 2021).

On 12 March 1993 the Democratic People's Republic of Korea (DPRK) (Korea), following a period of non-co-operation with the International Atomic Energy Agency (IAEA) with regard to the safeguards agreement required by the Non-Proliferation Treaty (NPT), gave 90 days' notice of withdrawal from the NPT. It gave as the reason United States military exercises (which according to the DPRK threatened it with nuclear war) and the conduct of the IAEA. The three joint depositaries (Depositary) of the NPT issued a joint statement questioning whether the DPRK's reasons were 'extraordinary events related to the subject-matter' of the NPT. Following DPRK/US talks, and just before the end of the 90 days, the DPRK and the US announced that the DPRK 'had decided unilaterally to suspend as long as it considers necessary the effectuation of its withdrawal'. But, on 10 January 2003 the DPRK, referring to its previous notice of withdrawal, informed the Security Council of the United Nations that it would withdraw immediately from the NPT because of the critical US-inspired IAEA resolution of 6<sup>th</sup> January 2003, which reflected the vicious, hostile policy of the US towards the DPRK (Anthony, & Peters, 2021).

Other treaties which are unlikely to be capable of withdrawal are treaties of peace, disarmament treaties, and those establishing permanent regimes, such as for the Suez Canal. Most universal human rights treaties do provide for withdrawal. In the case of the International Covenant on Civil and Political Rights (1966) (ICCPR), the Human Rights Committee (the Committee) established under it has expressed the view in its General Comment that the omission in that case of such a right, as well as the nature of the ICCPR, precludes the existence of the right. In this case the Committee would seem to be right (Anthony, & Peters, 2021).

In August 1997 the DPRK gave notice of withdrawal from the ICCPR. The UN Secretary-General thus informed the DPRK that it could not withdraw unless all the other parties consented. The DPRK appears to have accepted this. Treaties which by their nature are more likely to fall within the exception in Art. 56 (1) VCLT are treaties of alliance, commercial or trading agreements, and cultural relations agreements. The commercial character of a treaty



will, however, not be decisive, particularly when the treaty concerns a joint endeavour (Anthony & Peters, 2021).

### **Breach of Bilateral Treaties**

A 'material' breach of a bilateral treaty by one party entitles the other to invoke it as a ground for terminating the treaty or suspending its operation in whole or in part (Art. 60 (1) VCLT) (Anthony & Peters, 2021). Subject to such rights as it may have to take countermeasures, it must seek a peaceful settlement of the dispute, as required by Art. 33 of the Charter of the United Nations (United Nations Charter), and, more particularly, follow the procedure in Treaties, Validity) Arts 65 to 68 VCLT. The breach must be of the treaty itself, not of another treaty or of rules of general international law. Nor can a party which is itself already in breach, and which has prevented the other party from complying with the treaty, invoke a breach by that other party (Anthony & Peters, 2021).

### **Breach of Multilateral Treaties**

Multilateral treaties pose different problems, since a material breach by one party may not necessarily affect all other parties, whose interests must also be taken into account. Art. 60 (2) VCLT therefore deals with three different situations:

- a) The other parties, by unanimous agreement, are entitled to suspend the operation of the treaty in whole or in part, or to terminate it, in the relations between themselves and the defaulting State or to terminate or suspend the operation of the treaty completely.
- b) A party 'specially affected' by the breach may invoke it as a ground for suspending the operation of the treaty in whole or in part in the relations between itself and the defaulting State.
- c) If the treaty is 'of such a character' that a material breach 'radically changes the position of every party with respect to the further performance of its obligations under the treaty', any party, other than the defaulting party, may invoke the breach as a ground for suspending the operation of the treaty in whole or in part with respect to itself.

This provision is designed to deal with certain special types of treaty, such as disarmament treaties, where breach by one party could well undermine the whole treaty regime. In such a case, the provisions in (a) and (b) above may not adequately protect the interests of an individual party, which could not suspend the performance of its own obligations in relation to



the defaulting party without at the same time breaching its obligations to the other parties, yet if it does not do so it may be unable to protect itself against the threat resulting from, for example, rearming by the defaulting State (Anthony & Peters, 2021).

### **Fundamental Breach**

A fundamental breach is one which goes to the root of a treaty. Although it is not mentioned expressly in the VCLT, the concept is contained within that of a material breach. On 1<sup>st</sup> September 1983, Korean Airlines flight KAL 007 was unlawfully shot down by Soviet forces. (Korean Air Lines Incident 1983), Several States with air services agreements with the Soviet Union, unilaterally and for varying periods, suspended them with immediate effect, so preventing Aeroflot from landing in their territory. They were entitled to do so because the Soviet action undermined the fundamental basis of all air services agreements: that each party will ensure the safety of the other party's aircraft (Anthony & Peters, 2021).

### **The Rationale for US Climate Change Treaty Renunciation**

During his 2016 presidential campaign trail, Donald Trump talked sceptically and/or denied climate change and its existence, and he vowed to pull out from the Paris Agreement once he was elected. Following his win in the election, Trump softened his position, stating that he had 'an open mind' toward climate change. He put off deciding what to do with the Paris Agreement, indicating that he knew very well that the decision to exit would draw strong criticism both at home and abroad. Despite being on the fence briefly, Trump eventually chose to back out of the agreement (Milman, 2017; Zhang et al., 2017). Trump's decision to denounce or opt out of the Paris climate change treaty are enunciated and explained below:

- First, the Trump Administration is closely tied to the fossil fuel industry, and interest groups are a defining feature of American politics. The fossil fuel industries hold powerful political clout over the Trump Administration and the Republican Party: It has been reported that Trump himself, Vice President Pence and EPA Administrator Pruitt are all personally closely associated with the petrochemical mogul Koch Industries (Mayer, 2017). Once the U.S. withdraws from the Paris Agreement, the Trump Administration will seek to repeal climate regulations to benefit energy companies including Koch Industries. EPA Administrator Pruitt, who led the legal fight against former President Obama's Clean Power Plan, repeatedly denied anthropogenic causes of global warming, and insisted withdrawing from the Paris Agreement, and on





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May 25, 2017, twenty-two Republican senators wrote a letter to the President urging him to leave the agreement. It is reported that the campaigns of these 22 senators have collected more than US\$ 10 million in oil, gas, and coal since 2012 (McCarthy & Gambino, 2017).

- Second, current political and social polarization embolden Trump's withdrawal decision; the partisanship, social tension, and ideological antagonism that define today's U.S. leave little room for bipartisan cooperation (Jonathan & Sam, 2015), and the Charlottesville riot on 21 August, 2017, is just the latest incident that testifies to the current polarization. Seeing that his constituency was not going to react negatively to his withdrawal decision, Trump was emboldened to announce the exit, hoping that it would help him in the next election (Zhang, et al, 2017).
- Third, Trump is sceptical of climate change, and he refuses to acknowledge the fundamental principle of common but differentiated responsibility in global climate cooperation. He has also never publicly acknowledged that climate change is happening and is mainly caused by human beings, a consensus shared by most U.S. scientists. In his withdrawal speech, Trump stated that "the Paris Accord is very unfair at the highest level to the U.S. and compared China and India's mitigation obligations with U.S., taking no notice of the common but differentiated responsibility principle. It would be extremely difficult to change Trump's unyielding ideas on climate change and international affairs (Walsh, et al, 2017; Brian, 2017).
- Fourth, Trump's undue emphasis on America First departs significantly from Obama's foreign policy philosophy. Economically, Obama believes that the Paris Agreement enhances America's climate security, promotes America's low-carbon economy and renewable energy industry, and is indispensable for securing employment and maintaining the U.S. competitive edge (Obama, 2017). On the contrary, Trump believes that the Paris Agreement undermines U.S. competitive edge and impairs both employment and traditional energy industries (TWH, 2017). Politically, Obama believes that the Paris Agreement strengthens the U.S. leadership in international affairs, whereas Trump believes that the agreement weakens the U.S. sovereignty. A climate sceptic, Trump puts overwhelming weight on mitigation's economic costs and



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belittles its ecological and economic benefits, which is consistent with his nationalistic and isolationist America First world view.

- Fifth, Trump holds personal acrimony against Obama (Liptak & Jones, 2017) and relishes destroying Obama's political legacy; during the 2016 Presidential campaign, Trump and Obama openly attacked each other with a high degree of animosity. "There have been instances in the past where the current President and a former President do not get along at all," said Timothy Naftali, a historian at New York University; "What is different this time is that the two are showing it. That the animosity is so clear" (Liptak & Jones, 2017, p. 23). Known for a strong personality, Trump takes on anything-but-Obama stance and decided to roll back most of Obama's policies after he took office, including acceding to the Paris Agreement, one of Obama's strongest political legacies.

Even though, Trump's withdrawal decision was mainly driven by the US domestic politics and his personal preferences rather than any burden on the U.S. imposed by the Paris Agreement. Under America's tripartite system, the President, the Congress, and the Supreme Court share the authority to make climate policies, and as clean energy has become increasingly profitable and growing popular pressure has forced politicians to take actions on climate change, the Trump Administration is facing an uphill battle in rolling back Obama-era climate regulations (Gallup, 2017; Brian, 2017). Uncertainties remain regarding what can be achieved with climate deregulation under the Trump Administration.

### **The Political and Macroeconomic Implications of US Paris Climate Treaty Denunciation**

The political/macroeconomic impact, impacts include two aspects; first, comparing the GDP with that of the business as usual (BaU) scenario, the macroeconomic impacts of carbon reduction are identified; second, comparing with the reference scenario of the Nationally Determined Contribution (NDC) 27 and 2 C 27 scenarios, the additional macroeconomic impacts of the US withdrawal could be identified (Zhang, et al, 2017).

U.S. withdrawal from the Paris Agreement, other regions will face a higher carbon price since they must enhance their carbon reduction efforts to achieve the global targets. Moreover, other countries will suffer from additional GDP loss in achieving the climate targets. To achieve the NDC target, if the U.S. achieves its NDC target, its GDP loss would be US\$102.8 billion (284.8



US\$ per capita) compared with the BaU scenario, accounting for 0.6% of the GDP. However, in the NDC 20, NDC 13, and NDC 00 scenarios, the loss will decrease by US\$40.68 billion, 67.38 billion, and 93.31 billion, equivalent to the per capita GDP of US\$112.7, 186.6, and 258.4, respectively (Zhang, et al, 2017; Elle, 2017).

On the other hand, other regions' GDP loss will increase. China's GDP loss in 2030 under the NDC 27 scenario is US\$126.3 billion compared with the BaU scenario, equivalent to a per capita GDP loss of US\$94.4, accounting for 1.35% of the GDP, which is much higher than the U.S. Furthermore, in the NDC 00 scenario, the loss will increase to US\$146.1 billion (an increase of US\$19.77 billion or additional per capita GDP loss of US\$14.8), accounting for the GDP of 1.56%. The GDP loss of the EU and Japan in 2030 under the NDC 27 scenario is US\$112 billion and 4.0 billion, equivalent to per capita GDP loss of US\$247.9 and US\$33.5, accounting for the GDP of 0.87% and 0.07%, respectively. While in the NDC 00 scenario, the additional loss will be US\$13.22 billion (per capita GDP loss of US\$29.3) and US\$2.31 billion (per capita GDP loss of US\$19.2), respectively (Zhang, et al, 2017; Elle, 2017).

To achieve the 2 C target, the GDP loss will be much higher than that in the NDC target. The results show that the GDP loss of the U.S. in the 2 C 00 target will be US\$210 billion, accounting for 1.23% of the GDP, whereas under the 2 C 20, 2 C 13, and 2 C 00 scenarios, the loss will drop to US\$53.2 billion, 26.1 billion, and 0.87 billion, accounting for merely 0.31%, 0.15%, and 0.01% of the GDP, respectively. Note that the GDP even increases slightly in the 2 C 00 scenario because the lower carbon price in the U.S. makes its industrial products competitive in the global market. As a result, exports will increase, leading to higher GDP growth. However, the following part shows how other countries will experience more losses (Zhang, et al, 2017).

China's GDP loss in 2030 is US\$ 441.2 billion under the 2+C27 scenario, equivalent to a per capita GDP loss of US\$329.5. The additional GDP change under the NDC and 2 C targets compared with full implementation of the U.S. obligation scenario (measured in US\$, 2002 constant price), (a) 2016e2030, and (b) in 2030. 4.7% of the GDP. In the 2 C 00 scenario, the loss will increase to US\$510 billion (accounting for 5.7% of the GDP), increasing by US\$71.1 billion and a per capita GDP of US\$53.1. The EU's GDP loss in 2030 increases from US\$179.0 billion (396.3 US\$ per capita, or 1.39% of the GDP) in the 2C27 scenario by US\$32.14 billion



in the 2 C 00 scenario, equivalent to additional per capita GDP loss of US\$71.1. Similarly, Japan's GDP loss in 2030 increases from US\$84.0 billion (697.8 US\$ per capita, or 1.55% of the GDP) in the 2 C 27 scenario by US\$13.45 billion in the 2 C 00 scenario, equivalent to an additional per capita GDP loss of US\$111.7 (Zhang, et al, 2017; FS & UNEP, 2017).

## Conclusion and Prognosis

Essentially, this study is meant to cursorily look at renunciation and/or denunciation of treaty in the international system, using the Paris Climate Change Agreement and the pulling out of US as the focus of the treatise. Ipso facto, multilateral treaties such as Paris Climate Agreement, pose different problems; albeit, a material breach by one party (US) may not necessarily affect all other parties, whose interests must also be taken into account. Art. 60 (2) VCLT therefore deals with three different situations as already mentioned above:

- a) The other parties, by unanimous agreement, are entitled to suspend the operation of the treaty in whole or in part, or to terminate it, in the relations between themselves and the defaulting State or to terminate or suspend the operation of the treaty completely.
- b) A party 'specially affected' by the breach may invoke it as a ground for suspending the operation of the treaty in whole or in part in the relations between itself and the defaulting State.
- c) If the treaty is 'of such a character' that a material breach 'radically changes the position of every party with respect to the further performance of its obligations under the treaty', any party, other than the defaulting party, may invoke the breach as a ground for suspending the operation of the treaty in whole or in part with respect to itself.

Base on the aforementioned, it will be noteworthy to reiterate that President Donald Trump described the Paris Climate Change treaty as "a self-inflicted major economic wound" that weakens US sovereignty and does not do much for the environment. He unequivocally reiterates that the 2015 agreement hamstring the US economy, particularly the manufacturing and fossil fuel industries, hurts American workers and empowers other countries like China, India, Japan, Germany, Canada, European countries, etc. that pollute as much or more than the US. The agreement he said would impose draconian financial and economic burdens, costing America \$3 trillion and transferring coal jobs to China and India (Harrington, 2017). A critical look at the import of the Rational-Actor Model to the study leaves one in no doubt as to why



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states (example, US) make certain choices, take unexpected and certain disappointing (to them, beneficial) decisions and renege on agreements. This they do when their interest is perceived to be endangered in relation to those of the international system.

Following series of earlier negotiations among nations, the Paris Agreement signed on 12 December, 2015 in France became world first comprehensive deal on addressing the increasing negative consequences of global climate change anchored on human activities. The United States' led government of President Donald John Trump essentially pulled out of the Paris Climate agreement on account of national economic interest, citing risks of jobs loss, boosting the energy sector, preventing transferring jobs to China and India, redistribution of American wealth to other countries through the Green Climate Fund and consequent devastation of US economy. Despite of the US pull out from the Paris Deal, major world states and leaders such as those of Germany, China, Japan, India and France have all reiterated their contained commitment to Paris Climate Accord even without the US.

Though the United States had formally announced its pull out from the Paris Agreement, all hope is not lost as there is a wide range of rooms and areas where negotiation, compromise and consensus can be reached. Hence European powers notably Germany, France and the UK in close ranks with China, Japan and India can prevail on the situation through leader-to-leader as well as multilateral diplomacy particularly incorporating America's vital interest as a global financier. However, it is worthy to note that humanity needs all hands (states) on deck to combat the common enemy of global warming occasioned by climate change. Hence, the treaty through a protocol should be sustained by all parties.

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