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The Legal Origin Of The Negotiating Framework Contract - A Comparative Study

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ABSTRACT

This study investigated the legal basis of the negotiating framework contract as it is one of the types of framework contracts that did not receive the attention it deserves in terms of civil law jurisprudence, as it is one of the mechanisms developed in organizing the pre-contract stage and linking it to the two stages of concluding and implementing the contract with some obligation, and the researcher concluded that The negotiating framework contract, although it is a kind of framework agreement that dates back to the French judiciary and jurisprudence, but it originates there, rather it was dealt with by the German Law of General Conditions for Commercial Contracts of 1979, which divided framework contracts in terms of subject matter into an approved framework that creates a commitment to future contracting. A negotiating framework arranges a commitment to negotiate. The legal nature of the negotiating framework despite the difference in jurisprudence in it to three directions. A hierarchical formation, the framework agreement is at its top, and implementation contracts are inferior to it, and accordingly they must be concluded according to the direction of framework satisfaction, otherwise it is considered flawed by a framework nonconformity.

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Introduction

The negotiating framework contract is considered one of the most important attempts to organize the pre-contract stage, as this stage, with its special importance in defining the rights and obligations arising from the contract, did not interfere with the regulation of its provisions in accordance with provisions defining responsibility for acts and disputes that arise with their misfortune, which prompted The parties have sought to find mechanisms for an agreement, of which the negotiation framework contract is considered the most advanced in organizing this stage.

The framework contract is divided in terms of its subject matter into an "approved framework" that creates a commitment to the future contract between its two parties in application of it, and a "negotiating framework" that creates an obligation to seek the contract, and the content of the difference between the two types lies in the legal nature of the main obligation arising from each of them. The first is an obligation to fulfill The result is the conclusion of the application (future) contract, while the second is an obligation to take the necessary care for the future contract, and therefore the "negotiating framework contract" is considered a new, unnamed contract that needs to be studied in order to clarify its nature, define its types, and simplify its provisions as well as Expiration mechanisms. This contract, which we called "the negotiating framework contract", is characterized by that it strikes a balance between the desire to create a consensual arrangement for the pre-contract stage, and the principle of contractual freedom, as it creates an obligation to seek contract without constituting a restriction on the freedom of contracting or a violation of it, in addition to its importance In organizing contractual relationships that have continued since the inception of the idea of contracting, and until the implementation of the application contracts under it.

Research importance:

Our study of the issue of legal establishment of the negotiating framework contract acquires its importance from the importance of the contract itself as one of the agreement mechanisms for organizing continuous legal relations in a manner that achieves a balance between the principle of contractual freedom on the one hand, and the

desire to create a legal regulation for the pre-contract stage, given the role of this stage in building the contract And determining the rights and obligations arising from it, in addition to that, our study of this contract will be like a birth certificate for it, as we did not find from Western or Arab jurisprudence those who preceded us in the discussion of the negotiating framework.

Objectives of the study:

We seek, behind our study of the negotiating framework contract, to achieve goals, the most important of which can be summarized as follows:

Establishing the origins of the negotiating framework contract, defining its concept and stating the position of the legislations subject to comparison.

Determine the legal nature of the negotiating framework contract.

The problem of the study:

We can summarize the problematic of our study with several questions, which we will try to answer in the course of the research, and summarize them as follows:

What is the origin of the negotiating framework contract? And is it considered an introductory or independent contract?

What is the legal nature of the negotiating framework contract?

Study methodology

In order to achieve the objectives of our study and answer the questions that it raises, and to arrive at the legal basis for the negotiating framework contract, we will adopt the descriptive and analytical approach to describe and analyze the legal texts that organized the framework contract as well as the jurisprudential opinions and judicial decisions related to the contract under study, and we will also rely on the approach. Comparative study in the study of the texts of the legislation subject to comparison (the French Civil Law of the year 1804 AD amended and the Iraqi civil legislation No. 40 of 1951 AD, as well as the UAE Civil Transactions Law No. 5 of 1985 AD) in order to be better informed about the subject of our study.

Study structure:

In light of the foregoing, we will divide our study on the subject of legal rationale for the negotiating framework contract into three topics, in the first of which we deal with establishing the origin of the contract from the historical point of view, and in the second we explain the legal nature of the contract, and then we will discuss in the third the types of the negotiating framework contract with its practical applications.

Chapter one
Historical rooting for the holding of the negotiating framework

The negotiating framework contract is considered a type of framework contract that has been produced by the practical reality as an attempt to organize the stage that precedes the birth of the contract and its becoming a source of commitment, because the legislator, motivated by the care of the principle of contractual freedom, did not intervene at that stage, which led the parties to try to find ways of agreement to organize this stage . Based on the above, we will divide this topic into three demands. In the first, we will show the establishment and development of the framework agreements, and in the second we will deal with the positions of the legislations in question regarding the negotiating framework contract, and then we conclude in the third of them to define its concept.

The first requirement
Rooting the origins of the agreements regulating the pre-decade

In the past, the contract was a simple one that is concluded as soon as the mutual consent between the two parties is achieved through the conjunction of the acceptance issued by one of them with the offer of the other in a way that proves its effect on the contracted. However, the development in various areas of life, which resulted in the diversity and complexity of transactions, has resulted in an urgent need to regulate the stage of contract building, especially since the legislator did not interfere in its regulation for fear that this would constitute a constraint that limits the principle of contractual freedom.

In light of the foregoing, we will try to root the agreement mechanisms as attempts to organize the stage of contract building by dividing them according to their purpose, and since the need that prompted their emergence does not go beyond future contracts in a flexible and rapid manner, so

we will address them through the following division:

The parties tended to devise agreement mechanisms aimed at organizing the work of negotiation, and these agreements, regardless of the names given by the parties, can all be referred to their goal, which is to organize negotiation. Thus, we call them negotiation agreements, whether the agreement is interim that organizes the negotiation process in the form of stages . And a temporary agreement in which the obligations and burdens of the two parties are determined during the negotiation, and the agreement may be in principle agreed upon by the two parties in order to proceed in the negotiation process until the target contract is concluded . These patterns have proven useless in practice to achieve their end.

Second: Mechanisms to ensure the continuation of future contracts:

The parties' attempts to ensure the continuity of future contracts had taken stages from the inception of the standard contract and up to the framework agreements. The matter that obliges us to briefly present this stage is as follows:

Typical knot stage:

This stage represents the first response from the parties to the need to find mechanisms for an agreement that organizes their economic ties in a way that ensures their continuity, and in which the parties resorted to securing their future contracts to conclude a standard contract that includes general conditions that regulate the contracts between the two parties.[1]

The standard contract is considered an advanced application of compliance contracts. Its benefit is to enable its parties to facilitate the conclusion of future contracts according to uniform conditions and in a speedy manner without the need to negotiate each contract concluded between them in the future.[2]

The period of the contract with periodic implementation

The contract with periodic or consecutive implementation is based on the parties entering into a single contract in which the implementation takes place periodically so that the two parties guarantee the stability of the pluralistic relationship during the term of the contract, which achieves the desired goal behind its conclusion, which is to ensure the continuation of future contracts.[3] It is considered a form of the continuous contract in which those who enter into an essential element[4].

The second requirement
Establishing the origins of the framework agreements and the position of comparative legislation

On the occasion of negotiating a series of contracts, the parties resort to the establishment of a permanent framework that organizes future contracts and is flexible in a way that is compatible with new economic conditions.[5] To achieve this, the parties include in their framework agreement the basic rules governing the contracts that are concluded in implementation thereof, which achieves taking into account the economic conditions of the parties to the framework at the time of concluding the implementation contract.[6] The first appearance of the framework agreements is due to France, where some jurists referred to them on the occasion of commenting on the condition of the sole supplier, which was a contractual clause in contracts involving the distribution of beer to cafes in 1931, where Professor Volrin went that this condition implies a sign of his exit, because It included a negative commitment that prevents the coffee shop owner from meeting his needs for the drink subject of the contract from a person other than the supplier, and a positive commitment that

[1] See: Dr. Mustafa Muhammad al-Jamal, Seeking Contract, previous source, p. 93, Dr. Muhammad Hussein Abdel-Al, The Agreement Regulation of Contractual Negotiations, Previous source, p. 19.

[2] The typical contract, an advanced picture of the adherence contract, see in detail: Muhammad Ali Al-Marri bin Ali, Adherence Contracts, Journal of the Islamic Fiqh Academy, Jeddah, Saudi Arabia, Issue 14, 2004, p. 30.

[3] See: Dr. Muhammad Abd al-Zahir Hussain, Legal Aspects of the Pre-Contract Phase, Journal of Law, Kuwait University, ???????, Issue 2.

[4] See: Dr. Hassan Ali Al-Dhanun, The Role of the Period in Time Contracts, 1st Edition, Baghdad, 1988, p. 11..

[5] **GATSI** (J.), Le contract cudve, op. Cit, p13.

[6] See: Muhammad Hussein Abdel-Al, The Agreement Regulation of Contract Negotiations, Previous source, p. 132.

obliges him to focus his future contracts with him.[7]

Since that time, framework agreements have become recognized mechanisms at the level of jurisprudence and the judiciary to organize the pre-contract stage and ensure the continuation of the series of future contracts between its parties, taking into account the principle of contractual freedom, which prompted the jurisprudence in France to invite the legislator to adopt it as a named contract in the folds of French civil legislation and the text It is within the general rules governing contract theory[8.]

The traditional jurisprudence has made a distinction between two types of framework agreements on the basis of the obligations arising from them, the first is the agreements establishing the commitment to contract between the two parties, and the second is the agreements that do not establish commitment and contracting, but rather that entail an obligation to negotiate[9]. And he goes to consider the last type as mere agreements that cannot be considered a contract and that there are two wills in them, because they do not entail an obligation on the two parties, as they describe them, but each party has the freedom to contract or reject it without the framework agreement having an effect on his commitment to the future contract.[10] The prevalence of framework agreements and their promulgation of the agreement mechanisms for organizing the pre-decade period has made jurisprudence in France pay special attention to discussion and consolidation since the first judicial application that has gained its presence in practical life.[11] The fiqhi calls for the French legislator to legalize the frame contract in the folds of the general rules governing contract theory[12], The French legislator finally responded to the calls of jurisprudence by stipulating the framework contract in Article (1111) according to the legislative decree of 2016, which amended the French contract law, as it stipulated:

(A framework contract is an agreement under which the parties define the general characteristics of their future contractual relations, and the fall of the application determines how this agreement will be implemented)[13] It is noted that the French legislator has adopted the framework contract in the general rules, and this is an implicit indication of the possibility of concluding a news contract on the occasion of any future deal or contract. As for the emergence of the negotiating framework contract as a type of framework contract, it was not an innovation of the French jurisprudence or the judiciary, but rather thanks to the emergence of the negotiating framework agreement, which represents the origin of the negotiating framework contract, to the German law of December 9 of 1976 concerning the general conditions of commercial contracts[14] . However, its provisions were not precisely regulated in the aforementioned law.

As for the UAE legislator, he did not consider the idea of a framework in general in the general rules governing contract theory[15] The position of the Iraqi legislator does not differ from him in anything, since he also did not take the idea of a framework in civil law. However, the negotiating framework can be concluded as an indefinite contract under Iraqi legislation based on the general principle that stipulates the freedom of contracting in it.[16] Despite the possibility of adopting the idea of a negotiating framework in light of the UAE and Iraqi legislations without stipulating it, we see the need to legalize it, and here we call on the legislator in the United Arab Emirates as well as the Iraqi legislator to amend

[7] See: Saddam Faisal Cookz, The Framework Agreement, previous source, p. 14

[8] See more details: Dr. Mustafa Muhammad al-Jamal, Seeking Contract, previous source, p. 281

[9] See: Dr. Muhammad Hussein Abdel-Al, Conclusion of the Contract in Implementation of Another Contract, Previous Source, p. 15 and later

[10] **GATSI** (J.), Le contrat cadre, **CREDA** Le contrat cadre op. Cit, p40 ets

[11] See: Dr. Muhammad Hussein Abdel-Al, Conclusion of a contract in implementation of another contract, previous source, p.9.

[12] **CORNU**(J.), Vocabulaire juridique, Ass. H. Capitant, PUF, 1996, P. 535

[13] See: New French Contract Law, translated by Dr. Muhammad Hassan Qasim, a previous source, p. 33.

[14] **ROTH** (G.H) Lanouvelle loi allymonde surles conditions, Op, Cit, p.359

[15] Article (126 BC).

[16] Article 75 BC (it is valid for the contract to be returned to anything else that is not prohibited by law or contrary to public order or morals).

the civil law and explicitly stipulate the adoption of the idea of a negotiating framework.

The third requirement
Definition of negotiating framework contract

The jurisprudence was divided in the matter of defining framework agreements into two regulatory and doctrinal directions, whereby advocates of the constitutional trend tend to consider the framework agreements of a statutory or regulatory nature, conventions normatives.[17] Consequently, the framework is defined as "agreements of a statutory or regulatory nature in which the will of the parties is directed towards regulating the relationship between them, by establishing a special agreement officer that applies to their future relationship.[18] It is taken for the above definition that it implies a misuse of the term consensual or voluntary officer, since the origin of its use is due to private international law[19] As for the nodal trend, they are divided into two traditional and modern groups. As for the traditional team, most of them represent the traditional school of jurisprudence and agree to assign the contractual character to the framework agreements. Subsequent contracts implemented for it, which are called (implementation contracts or execution contracts)[20]. As for the modern team, jurisprudence in it tended to try to define the framework by focusing on the most important feature in it being represented with contracts concluded in implementation of it, "a group of nodal[21]. Consequently, the framework contract was defined as "a regular contractual grouping, consisting of a group of contracts linked by one goal, which is the economic goal that the parties seek to achieve from behind this agreement."[22]

Chapter two
The legal nature of the negotiating framework contract

There is a question that arises in connection with determining its legal nature as guaranteed. Is it possible to determine its legal nature, according to the origin to which it belongs, which is the framework agreements? Or is this branch of legal nature determined differently from its framework origin?

In light of the aforementioned, we will try to answer the above questions by dividing this topic into three demands. In the first, we deal with the regulatory theory, and in the second we explain the nodal theory with a presentation of the difference between traditional jurisprudence and modern jurisprudence in this, trying to reach an elucidation of the legal nature of the negotiating framework.

The first requirement
Regulatory theory

We will try to explain the content of the theory, the arguments of its supporters, and the criticism directed at it, in order to clarify the validity of what it went to with regard to the negotiation framework contract.

First: The content of the regulatory theory: The meaning of this theory is that the agreements in which the will of the two parties are directed to formulating basic general rules governing future contracts between them are of a statutory or organizational nature.[23] Consequently, framework agreements are not considered contracts in the strict sense [24]. Rather, they are regulations that are guided by the general rules they contain in concluding and implementing future contracts that

[17] , **POUHETTE** (G.), contribution al ètude critique de la notion de contrat, thèse, 1965, p. 636.&**BATIFFOL** (H.), subjectivisme et Objectivisme dans le droit internationai privè des contrats, Mèlanges Maury, t, 1, P. 58.

[18] **MAYER** (P.), La distinction entre regeles et decisions et droit international prive, Dalloz, 1973, No. 52 ets, p. 37ets.

[19] The consensual officer (the chosen law) means the law in which the will of the parties to the legal relationship tainted with a foreign element tended to choose him to govern the legal disputes arising from them, see: Awni Muhammad Al-Fakhri, The Will to Choose in International, Commercial and Financial Contracts, A Comparative Study, Zain's Legal Publications, First edition, Beirut, 2012, 191.

[20] **MOUSSERON** , Technique contracttuelle, ed. F. Lefebvrem Paris, 1988, No 125, p.66

[21] **CREDA**, Le contrat-cadre, t. 1,Op. cit.,No. 122 ets, p.86 ets. & **TEYSSIE** (B.), Le groups de contats, these, L. G. D. J., 1975, No 79 et No 270.& **POLLAAUD-DULIAN**(F.) et **RONZANO** (A.) Le contat-cadre, par dela, les paradoxes, R. T. D. Com., 1996, No. 19, p. 188.

[22] See: Muhammad Ibrahim Al-Desouki, Legal Aspects of Negotiations Management and Contract Conclusion, Institute of Public Administration, Saudi Arabia, Riyadh, 1995 AD, p.109. And d. Mustafa El-Gammal, Seeking Contract, Al-Halabi Legal Publications, Beirut, 2004, p. 282

[23] **MOUSSERON** (J.M), Technique contract ulle, Op .Cit, p.66

[24] **GATSI** (J.) Le contract-cadre, Op .Cit, P.123, **CREDA**,Le contract, Op. Cit,p.187

take place between their parties [25.] An application of them is governed by the rules agreed upon in the framework organization [.26] In light of the above, it becomes clear that the regulatory theory explains the relationship between the framework and the future contracts that are concluded in its application as being a relationship of subordination to an agreement officer, and therefore the framework is nothing more than a private legal officer originating from the agreement and plays a regulatory role in the process of concluding and implementing future contracts.

Second: Estimating Regulatory Theory:

We see from a humble point of view that the regulatory theory, although it constitutes an attempt to define the legal nature of framework agreements, cannot be relied upon in that, because it involved an unconvincing proposition and several contradictions, and we can summarize the most important reasons that support the non-acceptance of this theory as follows:

1- Supporters of the regulatory theory go to distinguish between two types of framework agreements, including the agreements that establish the future commitment to the contract, and this in itself is a contradiction in which the theory implies, since there are five sources of commitment, and none of them are special legal controls.[27]

2- The foundation of the theory on the idea of special legal controls implies a misunderstanding of the function of framework agreements, since the agreement controls only reflect the viewpoint of the parties to the conduct in basing its judgment on a specific law that they appreciate the authority to achieve the best solutions to disputes that may arise in the future [28], as for the framework agreements, they play a role Organizationally between its parties regarding their future contracts.

The second requirement

Nodal theory according to the traditional perspective

Most of the traditional jurisprudence tends to consider framework agreements of a contractual nature, since they arise from the convergence of two wills of freedom and choice in order to formulate framework rules that regulate the process of concluding a series of future contracts between their parties, [29] which we deal with in the following:

1- The content of the traditional trend in nodal theory:

The content of the nodal theory is determined according to the viewpoint of the traditional school of jurisprudence that it is based on the recognition of the nodal nature of the framework agreements, as it results from the union of two wills leading to a specific legal effect, which is the organization of a series of recognition of the nodal character, and considering them as contracts that pave the way for the conclusion of other future contracts [30].

However, the proponents of this approach distinguish before that between two types of framework agreements, as is the case. Perhaps the proponents of the regulatory theory recognize the contractual nature of those that entail a commitment to future contracting [31], while the other type for them is not considered contracts,

[25] Ph.D.. Muhammad Ibrahim Desouki, Legal Aspects of Negotiations Management and Concluding Contracts, previous source, p. 109

[26] Muhammad Shaker Mahmoud Muhammad, Responsibility for severing the negotiations, previous source, p. 68.

[27] See: Dr. Ahmed Abdel Razzaq Al-Sanhouri, Mediator in Explaining Civil Law, The Theory of Commitment in General, Previous source, p. 119, Dr. Hassan Ali Al-Dhanun, The General Theory of Commitment, previous source, p.25

[28] The agreement officer: It is the officer who relies on the common will of the two parties to the legal disposition impregnated with a foreign element as a basis for determining the law applicable to it in terms of origin, see in this sense: Ziad Khalif Al-Anzi, the principle of the parties 'freedom to choose the law applicable to international trade contracts according to the Hague Conference Treaty (2015), University of Sharjah Journal, Volume 13, Issue 2, 2016, p. 376.

[29] See: Saddam Faisal al-Muhammadi, Framework Agreements, previous source, page 19, Hisham Dhaifallah Abd al-Malik, Negotiating in International Trade Contracts, previous source, p. 344.

[30] **LAMETHE** (D.), Laccord Cadve, Gaz. Pal, 1978, doct.p.365

[31] See: Dr. Attia Suleiman Khalifa, the framework contract and the law applicable to it, previous source, p. 129

but rather than being agreements of an organizational character [32].

It is evident from the above that the proponents of this approach recognize the framework agreements of a contractual nature, but in their view they are nothing more than contracts that pave the way for future contracts, and therefore they view the framework contract as a legal entity independent of the applied contracts concluded on its basis.[33]

The Paris Court of Appeal endorsed this approach, as it went in its judgment dated September 26, 1995 related to a dispute that arose over a framework agreement between two parties obliging them to cooperate according to the circumstances in implementing projects for printing and publishing. The court went on to distinguish between framework agreements that create a commitment to future contracting and those That creates an obligation to cooperate only, and accordingly refused to recognize the framework agreement subject of the lawsuit of the contractual nature. [34]

It is noticed from the above judgment that the court has inferred in it its opinion of Article 1101 of the French Civil Code [35], which is an inference in which the court did not succeed, since the definition of the contract as a union of two or more wills aims to establish, transfer, amend or terminate the obligation [36], no The denial of the contractual character of the agreements that establish an obligation to cooperate, and there is no evidence of the incorrectness of what the Paris Court of Appeal went to in its aforementioned ruling that the French legislator had organized the promise of preference in Article 1132 and considered it a contract despite the fact that it does not arrange an obligation to conclude the contract [37].

2- An appreciation of the traditional trend in nodal theory:

In its traditional approach, the dogmatic theory is the first step in the field of jurisprudence to recognize the modifying nature of framework agreements[38], However, it did not present an acceptable proposal regarding the specifics that characterize these agreements, and in light of the above, we can conclude that they are not recognized for the following reasons:

a- Its supporters have not adopted a logical explanation of the relationship between the framework contract and the implementation contracts, as it is not multiplied to them as a prelude relationship to those contracts, while it is considered a relationship that is graded in terms of legal value, and therefore the application contracts are governed by the framework contract based on the idea of the hierarchy of framework agreements.[39]

b- It did not include the idea of framework conformity and the effect of its failure to verify the validity of the applied contracts concluded in contradiction to the framework, which constitutes a waste of the most important peculiarities of the framework, which is considered one of the results of the aforementioned hierarchy idea.[40]

The third requirement
Nodal theory in modern jurisprudence

1. The content of the modern trend in nodal theory:

They dedicate the idea of hierarchy in explaining the relationship between the framework contract and the applied contracts that fall under it[41]. It decides that the contract is

[32] **TOUCHAIS** (M.), La structure du contrat Cadve de distribution et al determination du prix contrats dapplication, J.C.P,1994.p.121.
[33] See: Dr. Muhammad Muhammad Abu Zaid, Negotiating in the Contractual Framework, Previous Source, Page 122, Dr. Muhammad Hussein Abdel-Al, Concluding the Contract in Implementation of Another Contract, Previous Source, p. 92, Dr. Wajih Karim Abdellah, Negotiating the Contract, Previous Source, pg. 479.
[34] paris, 26sep 1995, R.T.D.C,1996, p.143, obs. J. mestre.
[35] **Art.1101**, le contra test un accord de volontes ent devx ou plusieurs personnes destine a crecr. Modifier, transmettre ou etcindre des obligaitians.
[36] **Creda** (J.), Le contrat cedre,op.cit, p.89
[37] See: French collective contract law in Arabic, translated by: Dr. Muhammad Hassan Qasim, the same source, p. 40
[38] **Moussro net sevbe**, Technique contractuelle, op.cit, p.125
[39] **Gatsi** (O.) leccontract cadre, op.cit, p.73 ets
[40] **Creda** (j.), le contrat cadre, op.cit, p.64.
[41] **Gatsi** (J.), Le contrat cadre, op.cit, p.127.

considered defective with the defect of the framework nonconformity .[42]

2. Appreciation of the recent trend in nodal theory:

Some jurisprudence has gone in support of the modern trend that put forward the idea of group nodal in determining the nature of framework agreements [43], since this proposition is consistent with the reality of those agreements and the specificities that characterize them as the mechanisms of an agreement to regulate the continuing legal relations between industrial or commercial projects that intend to conclude a series of Future contracts [44].

In light of the above, we conclude that the modern trend in defining the legal nature of framework agreements is likely due to the following reasons:

- Supporters of this trend adopt a logical interpretation of the relationship between the framework agreement and the implementation contracts concluded on its basis, as they devote the idea of a hierarchy that places implementation contracts in a lower position than the framework agreement, which imposes on its parties the duty to observe the basic rules included in the framework, and I am not considered flawed by not Frame matching [45].
- The modern trend recognizes the contractual nature of framework agreements in a way that keeps pace with modernity in jurisprudence proposals regarding the modern concept of the contracting party, as well as devoting the idea of nodal grouping that is a peculiarity of framework agreements in a way that distinguishes them from other contracts that pave the way for the conclusion of other future contracts and are independent of them [46].

The legal nature of the negotiating framework contract is determined according to the recent trend that we have preferred in determining the nature of the framework agreements, and there is no specificity for the negotiating framework contract that necessitates its departure from the framework original in terms of the legal nature, noting that the modern trend does not recognize framework agreements that do not entail a commitment to the contract with the legal nature. The negotiating framework contract is one of them, which constitutes a new approach with him in the modern direction in terms of imparting a contractual nature to framework agreements that do not entail a future commitment to contracting on their parties.

Results

1. The origin of the negotiating framework contract is due to the German Commercial Contracts Regulation Law of 1979, despite the fact that the framework agreements are due to the French judiciary and jurisprudence since the French Court of Cassation ruled in the case of the stations commitment to distribute the fall in 1932.
2. The negotiating framework contract is defined as: a contract group with a hierarchical formation that gives rise to a major obligation represented in seeking to contract in light of the requirements of good faith, and it consists of two levels of contracts in which the contractual framework (the negotiating framework contract) is superior to the implementation contracts (implementation contracts) that It is concluded in implementation of it in terms of legal value, and this entails the necessity of achieving framework conformity in applied contracts.

The legal nature of a negotiating framework contract is that it is considered a contractual group

[42] See more details: Hisham Taif Allah Abd al-Malik, Negotiating in International Trade Contracts, previous source, p. 349.

[43] See in detail: Saddam Faisal Kookz, Framework Agreements, a previous source, p. 23, Hisham Dhaifallah Abd al-Malik, Negotiating in International Trade Contracts, an earlier source, p. 351, Dr. Muhammad Hussein Abdel-Al, Conclusion of the Contract in Implementation of Another Contract, Previous Source, p. 131.

[44] **Creda** (J.) , le contrat cadre, opp.cit, p.126.

[45] See: Dr. Muhammad Ibrahim Desouki, Legal Aspects of Negotiating Management and Concluding Contracts, previous source, p. 113, Dr. Mustafa Muhammad Al-Jamal, Seeking Contract, Previous Source, pp. 28-284.

[46] The modern concept of a party according to the group that includes two classes, the first in the two contracting parties in one contract, while the second includes the contracting parties in a contract group, see in detail: GHESTIN (J.) distinction enter les parties et les tiers au contrct, dcped, 1992, p . 517

consisting of a framework agreement and application contracts that fall under the framework agreement and are governed by it in accordance with the governing framework rules contained in the agreement

Conclusion

In the conclusion of this study, in which we dealt with a topic of great importance, namely, the legal establishment of the negotiating framework contract, as it is one of the modern contractual mechanisms that have not received the attention and rootedness of jurisprudence, so we have reached a number of conclusions and recommendations that we briefly list below:

Recommendations

In light of the foregoing, we recommend that the legislative authority in the countries whose legislations were compared in our study to establish the negotiating framework contract should undertake the drafting of an amendment to the civil laws by stipulating this contract and organizing its provisions and determining its effects in a way that ensures the achievement of the reason sought from it, and achieves a balance between The principle of freedom of negotiation in contractual relations, and between the principle of negotiation security on the other hand.

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