
INTRODUCTION

By Lawrence Susskind and William R. Moomaw

This is the fifteenth volume in the Papers on International Environmental Negotiation series published by the MIT-Harvard Public Disputes Program at Harvard Law School. The papers from the first ten years that offered the most interesting or controversial contributions to theory building appeared in our book, **Transboundary Environmental Negotiation** (Jossey-Bass, San Francisco, 2003). The five papers in this volume pursue four of the themes that we think are central to improving the global “system” we use to generate and enforce multilateral environmental agreements (Susskind, *Environmental Diplomacy*, Oxford, 1996).

The first has to do with the increasing importance of non-governmental actors in both formulating and implementing transboundary environmental agreements. While the international legal community continues to favor a more formal state-centric system (and long for global regulatory regimes that would ensure enforceability), it is our belief that the effectiveness of multilateral environmental agreements actually hinges on the direct engagement of the relevant stakeholders (both governmental and non-governmental interests) in drafting, implementing, and evaluating such agreements.

Second, we are convinced that more can be done to achieve a better balance between “science” and “politics” in defining and responding to resource management problems that require transboundary cooperation. This is linked to our third point: that further capacity-building is required to ensure that all the relevant stakeholder groups are equipped to participate in the public-private partnerships, incentive systems, reporting mechanisms, and evaluative efforts needed to ensure effective implementation. Finally, we are convinced that the only way to achieve “compliance without enforcement” (which is all the international system allows) is to build an elaborate “system” of interlocking public, private, and voluntary elements.

Beaudry E. Kock takes a strongly prescriptive approach to the challenge of enhancing the participation of non-governmental organizations (NGOs) in international environmental negotiations (IENs). In his paper, "**Engaging Non-Governmental Organizations with international environmental negotiations: institutional approaches to reforming State-NGO interactions**," he recognizes that NGOs have significant capacity to contribute to all stages of IENs. The increasing numbers and sophistication of NGOs, and the many roles they perform that states cannot, suggest that their increased participation is both desirable and inevitable. But he posits that serious obstacles remain: increasing NGO numbers are placing logistical strains on the UN organizations tasked with managing their involvement; states remain unwilling to compromise their real or imagined sovereignty rights, severely limiting meaningful NGO-state interaction; and many NGOs have often been ineffective in the past, on some occasions even disrupting negotiations and damaging progress towards agreement. To rectify this situation, Kock

proposes creating a new framework for NGO involvement in IENs, the International Council for Non-Governmental Organizations (ICONGO). This international, independent body would attempt to synthesize the views of its broad, international membership through a bicameral decision-making framework, and represent and advocate these views at IENs through the work of a single delegation. To smooth the creation and operation of ICONGO, Kock proposes establishing a new set of governing principles, a "Civil Society Resolution" (CSR), that would be adopted by the United Nations. This resolution would codify a new set of relationships between NGOs and states through a combination of hard and soft law, integrating major innovations - such as full participatory and negotiation rights for the ICONGO delegation, but reduced rights for non-ICONGO NGOs - designed to overcome both state and non-state resistance to more meaningful NGO participation in IENs. This dual institutional approach, Kock believes, would give NGOs a more influential and unified voice in global environmental treaty-making.

In Monitoring Change: Citizen Science and International Environmental Treaty-Making, Katharine Harvey recognizes the important role that science plays in environmental treaty negotiations, but points out that there are few, if any, institutional mechanisms for monitoring and evaluating the effects upon the environment once treaties are in place. She also recognizes that there are currently few opportunities for individual citizens to participate in treaty-making processes. To rectify these limitations, she proposes engaging citizens to help monitor and evaluate the impacts of transboundary environmental policies. Using climate change as an example, she suggests that a fourth working group be added to the current Intergovernmental Panel on Climate Change (IPCC). This new organization would be dedicated to building a consensus on the scientific impact of world government policies on the environment. In order to encourage the appropriate public dialogue and participation in the IPCC process, citizens would be asked to help collect and assess scientific data describing the impacts of government climate change policies.

Women have an essential role to play in the development of a sustainable and ecologically sound system of natural resource management because of their direct and critical relationship with the natural world as a result of socially created roles and responsibilities that fall mostly on women in households, communities, and ecosystems. Yet, women's environmental needs and concerns are often not adequately addressed by international treaties. Often, women are excluded from decision-making. Kiran Soni Gupta takes an in-depth look at how women have participated in environmental negotiation processes and to what extent their concerns have been taken into account. In her paper, "**Gender Concerns and International Environmental Negotiations – How far and How much more?**" she argues that there is a dire need to have greater participation by women. She proposes a "gender lens" protocol that might be added to the Biodiversity Convention and integrated as part of each subsequent protocol in order to create a more treaty making process more responsive to gender issues.

Much of the world's population depends on freshwater supplies that cannot be confined to one particular state. This creates challenges regarding the management of international transboundary rivers and aquifers and ensuring adequate water for everyone. In their paper, **“Towards a Global Transboundary Watercourse and Aquifer Agreement,”** Anna Brown and Nancy Odeh take stock of the discourse on existing international watercourse agreements and propose a new Global Transboundary Watercourse and Aquifer Agreement (GTWAA). Their proposal builds on a body of writing that highlights the importance of institutional capacity building within a given watercourse to manage and resolve potential water-use conflicts. The proposed GTWAA would enshrine certain fundamental principles, implementation activities, and soft law, or guiding principles, to which states sharing water resource would be expected to subscribe. They argue that the GTWAA would help to resolve potential water use disagreements and even create opportunities for cross-border cooperation.

Perhaps today more than ever before, energy drives many countries' economic success. Yet many nations have limited non-renewable resources. Therefore, energy security is a critical issue and has been the focus of transnational and regional cooperation. In **“ASEAN Energy Cooperation: An Opportunity for Regional Sustainable Energy Development,”** Phinyada Atchatavivan explores ways to implement a more sustainable, efficient and clean energy development approach (for electricity generation) in South East Asia. She proposes six strategies that would encourage ASEAN members to develop and share sustainable energy technologies. These include energy interconnection projects, the diversification of energy sources to include a larger portion of renewables, and the fostering of energy efficiency practices. “By moving towards sustainable energy development, the economies of ASEAN can be certain of the path ahead of them - long-term economic development, competitiveness in the world arena, and a cleaner and healthier region,” the author writes.