

The Potential of International Legal Frameworks for addressing Regional Environmental Challenges

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Setting the Context

- The Hemisphere has tremendous natural resource wealth resulting in high biodiversity value, as well as impacts from a wide range of industries. Most tropical forest area in the world. But gross deforestation during 1990s alone 4.4 million hectares a year, much by large commercial interests. Forests also home to 165 million people.
- The Hemisphere has extensive transboundary resources, a wide array of tools for working together at the international and regional level.
- Countries in the Hemisphere have supported a wide array of international environmental agreements, and have a solid array of national laws that have the potential to help implement these agreements.

Setting the Context

- For some major treaties, the United States has chosen not to be a Party. This may impact the potential for international legal frameworks to address environmental challenges. However, the United States has been major contributor to the Global Environment Facility, the largest source of finance for implementing major international agreements.
- Many countries heavily involved in trade agreements, which can generate pressure to develop natural resources at lowest possible costs. Sustainable forest management struggles to compete with commercial crop cultivation. Frontier conversion makes economic sense.
- Yet, such expansion provides poor forms of employment, large CO₂ emissions, and can have limited economic life as it converts to poor quality land after overuse or poor quality use.

Features of Some Key International Legal Frameworks

The Three “Rio Conventions”

1. United Nations Framework Convention on Climate Change
2. Convention on Biological Diversity
3. Convention to Combat Desertification

- Implementation of the Rio Conventions, especially in developing countries relies heavily on voluntary funding, use of the Global Environment Facility.
- No specific enforcement mechanism. GEF uses payments to support biodiversity, linked to payment for ecosystem services. Address invasive species, support for Cartagena Protocol on Biosafety, Access and benefit sharing regimes.

Int'l Legal Frameworks (cont'd)

The Vienna Convention and the Montreal Protocol on Substances that Deplete the Ozone Layer

- Implementation supported through direct finance, including through GEF, with possible sanctions for non-compliance. One of the most successful environmental treaties.
- Stockholm Convention on Persistent Organic Pollutants (POPs' Convention)
 - Funding available through GEF for countries to be rid of obsolete stockpiles of toxic pesticides. World Bank/FAO/WWF/CropLife Africa Stockpiles Program.

Int'l Legal Frameworks (cont'd)

- Marine Pollution Conventions
 - Cartagena Convention for Wider Caribbean Region (1983)
 - Protocol for Specially Protected Areas and Wildlife (1990)
 - International Convention for the Prevention of Pollution from Ships (MARPOL)
 - Provide standards to address marine pollution from land-based and ship-based sources
 - Wider Caribbean becomes “special area” under MARPOL Annex VI and receives support through Global Environment Facility and World Bank finance. Not yet fully in force.

Int'l Legal Framework's (cont'd)

- UN Fish Stocks Agreement
 - Provides legal support for expanded efforts to police illegal unreported and unregulated fishing. LAC major improvements in monitoring, control and surveillance.

- Convention on the Law International Watercourses
 - While not in force, represents accepted customary principles of notification among riparian States, often set forth in bilateral agreements.

 - World Bank policies – require notification, environmental assessment of transboundary impacts, public participation and meaningful consultation.

Int'l Legal Framework's (cont'd)

- **The Kyoto Protocol to the UNFCCC**
 - **Commitment to reduce greenhouse gases, contains mandatory emission reduction obligations (QELROs) - unique market mechanisms – joint implementation (Art. VI), the Clean Development Mechanism (Art. XII), and emissions trading, (Art. XVII)**
 - **Potential for the Region**
 - **With trading and project linkages to other systems, both mandatory (European Union Emissions Trading Systems) and voluntary.**
 - **Hemisphere an active participant, but for United States, in the market mechanisms. 26-28% of total CDM projects are in Latin America, though only 17% total tonnage.**

Summary of Instruments

■ Use of Market Mechanisms

- Trading
- Clean Development Mechanisms
- Links to voluntary markets – Brazil proposed “REDD” as part of UNFCCC Dialogue
- Payment for ecosystem services – GEF in Colombia, Costa Rica, Nicaragua, World Bank in Mexico and Costa Rica
- <http://econ.worldbank.org/WBSITE/EXTERNAL/EXTDEC/EXTRESEARCH/EXTPRRS/EXTTROPICALFOREST/>

Use of Command and Control

- Traditional support for enforcement efforts still a fundamental tool
- IUU Fishing Reporting/Vessel Monitoring Systems (VMS)

Voluntary Licensing/Certification Schemes

- EU Forest Law Enforcement Governance and Trade (FLEGT) (but binding!)
- Forest Stewardship Council, Marine Stewardship Council