



## COVER STORIES

# The Green Diplomacy Gap

*The United States is slowly ceding leadership on important international environmental issues to other nations. In the process, our ecological and economic interests are increasingly at risk. Strengthening U.S. environmental diplomacy will require an infusion of resources and a call to action on key international accords*

PAUL E. HAGEN

In an era marked by rapid globalization, new systems of global economic and environmental governance are emerging that require the full engagement and participation of the world's largest economy and only remaining superpower. Many global environmental problems such as the impacts of climate change, the preservation of biological diversity, and trans-boundary air pollution demand multilateral responses that include the participation of the United States, one of the world's most knowledgeable environmental problem-solvers. Unfortunately, while the United States continues to exercise leadership on international economic and security matters, it may be missing a historic opportunity to move governments closer to the goal of sustainable development.

Although the environmental and economic stakes have never been higher, the United States finds itself outside an expanding array of major international environmental agreements. The United States is also failing to invest in the institutions, both national and international, that are essential to advancing its environmental agenda, defending related economic interests, and achieving the country's long-term strategic interests, which include not only fostering sustainability but also reducing threats to national security posed by environmental disruption.

The growing reach and complexity of international environmental accords means that U.S. industry too has a growing economic stake in the successful outcome and implementation of numerous international agreements. These include agreements aimed at reducing greenhouse gas emissions, controlling trade in products of biotechnology, and phasing out certain commercial chemical products and pesticides, and a host of other treaties.

Unfortunately, U.S. influence and credibility in key international environmental forums

is rapidly eroding, as other countries assume leadership while Congress and the Executive Branch fail to make the tough decisions and investments required to ensure effective U.S. participation on the international stage.

The reasons for the continuing loss of U.S. leadership and credibility are many and inter-related. Neither the Executive nor the Congress have made funding for U.S. environmental diplomacy a budgetary priority. Resources available to the State Department's Bureau of Oceans and International Environmental and Scientific Affairs, the office with principal responsibility for the conduct of U.S. environmental diplomacy, have remained flat despite a significant increase in workload — since 1991, the number of environmental treaties, negotiations, and commissions in which the United States participates has more than doubled — and there has been an exponential increase in the significance of multilateral environmental initiatives to U.S. economic interests. Resources for international environmental activities at other key agencies such as the Environmental Protection Agency, the Office of the U.S. Trade Representative, the Department of Commerce, and the Department of the Interior similarly have not kept pace with demands.

At the same time, U.S. contributions to key international organizations addressing environmental problems have fallen dramatically. The long failure, only partially addressed, to pay our U.N. dues has undermined U.S. stature in a wide-range of international forums. Our contributions to the Global Environment Facility, one of the primary mechanisms for funding cooperative efforts addressing biodiversity loss, climate change, international waters, and ozone depletion, are over \$200 million in arrears. Congress also has attached conditions to various appropriations that have had the effect of hindering rather than facilitating the conduct of U.S. environmental diplomacy.

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U.S. official development assistance to poor countries has also declined over the past decade, casting further doubt on our commitment to the goal of sustainable development. According to the Center on Budget and Policy Priorities, the share of GNP the United States contributes to development assistance has declined by more than half since the late 1980s. U.S. per capita contributions to development assistance now rank near the bottom among developed countries.

Most significantly, the United States has failed to ratify and implement many of the major multilateral environmental agreements — MEAs — that have been concluded over the past decade. These include the Basel Convention on the Transboundary Movements of Hazardous Wastes, the Convention on Biological Diversity (including the recently concluded Biosafety Protocol), and the Law of the Sea Convention, just to name a few. The failure of the United States to become a party to these and other major accords has limited our ability to influence their implementation and lessened our credibility in negotiations now under way on new agreements and policy initiatives.

There now exists a growing global economy and a system of economic governance that only a few years ago would have been difficult to imagine. World trade has more than doubled since 1991, and trade tariffs and barriers continue to fall across the globe in the wake of the new international trade agreement, which formed the World Trade Organization. Foreign Direct Investment flows continue to expand worldwide. FDI flows from the private sector in developed countries to developing countries are now estimated at over \$160 billion annually and dwarf the flow of official development assistance, now estimated at roughly \$50 billion annually. Multinational corporations are now capitalized at levels that exceed the gross domestic product of many large nations. Their presence in a multitude of countries and the rise in cross-border mergers and acquisitions now makes it difficult to ascribe a nation of origin to many of the world's best known enterprises or products.

If big business is leading the way toward

greater economic integration, the American public is not far behind in recognizing the economic benefits of globalization as well as the need for greater diplomatic efforts to protect the environment. Polls conducted in advance of the WTO ministerial meeting in Seattle last November revealed that 73 percent of Americans agreed with the statement "I regard myself as a citizen of the world as well as a citizen of the United States." A whopping 77 percent felt that there should be more international agreements addressing environmental concerns.

In spite of this rapid integration, and our remarkable progress in addressing domestic environmental concerns, the United States has yet to find its footing in international environmental affairs. Although the United States remains active in the MEA process, its ability to direct a growing international environmental agenda is increasingly limited, as is its ability to deliver favorable results even under the best of circumstances. While the United States has managed to achieve a number of good outcomes in recent international environmental negotiations, these results are increasingly due to the efforts of an overextended team of diplomats and lawyers from State and other supporting experts from EPA, USTR, the Department of Commerce, and other agencies. It is clear that the United States can no longer advance its environmental agenda nor effectively defend its economic interests without a substantial reinvestment in international environmental diplomacy. U.S. leadership in international environmental affairs is on the wane — and there is plenty of blame to go around. Restoring our credibility and effectiveness will take a significant injection of resources, new ideas, and political capital on the part of the Executive Branch, Congress, and environmental and industry stakeholders.

**T**he environmental protection, conservation, and sustainable development challenges facing the world are formidable. Since 1950, world population has more than doubled, to over six billion people. India and China each now boast populations that exceed 1 billion. Nearly half of the six billion

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KEY  
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AND  
AMENDMENTS  
SIGNED OR  
ADOPTED BUT  
NOT YET  
RATIFIED BY THE  
UNITED STATES

IN FORCE

**Protocol Concerning Specially Protected Areas and Wildlife to the Cartagena Convention (1990)**

**Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and Their Disposal (1990)**

**Convention on Environmental Impact Assessment in a Transboundary Context (1991)**

**Protocol to the 1979 Convention on Long-Range Transboundary Air Pollution Concerning the Control of Emissions of Volatile Organic Compounds or Their Transboundary Fluxes (1991)**

**Convention on the Transboundary Effects of Industrial Accidents (1992)**

**Convention on Biological Diversity (1993)**

**Agreement Establishing the South Pacific Regional Environment Program (1993)**

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live on incomes of less than \$2 a day. Close to 1.3 billion do not have access to clean water. People in poverty have little choice but to place enormous strains on their local environment just to survive. Meanwhile, populations in wealthy countries enjoy consumption patterns that in many instances are unsustainable.

Economic disparities increase the difficulty of developing an international consensus for action on a wide-range of global problems in the areas of climate change, the conservation of biological diversity, the restoration of depleted marine resources, and the sound management of hazardous chemicals and wastes.

The United States and other developed countries often need the participation of developing countries to make progress on global environmental problems. However, governments faced with more immediate challenges cannot be expected to divert scarce resources to issues of global concern. At a recent UNEP-sponsored workshop on persistent organic pollutants held in Lusaka, Zambia, an African delegate reminded a U.S. State Department representative that global concerns over the risks posed by POPs were of little concern in countries where 20 percent of the population may be infected with the virus that causes AIDS. The message: if the United States and other developed nations want to make progress on global environmental problems, they need to be prepared to foot the bill.

**I**nternational environmental issues now figure prominently in the economic relations among nations. Whereas MEAs were once lofty and aspirational, they are now highly technical and legal instruments that are fast becoming specific, prescriptive, and of great consequence to certain industry sectors that are integral to our economic well-being. In countries with new or evolving domestic environmental legal regimes, MEAs now serve as drivers that shape

the development of national laws by obligating parties to undertake measures to reduce pollution or protect natural resources. As such, MEAs often include mechanisms for providing needed financial and technical expertise to developing countries, thereby facilitating capacity building and promoting the rule of law.

Indeed, the future vitality of many U.S. industries is now closely tied to the outcome of current multilateral negotiations and the proper implementation of existing accords. These include the energy, manufacturing, and

transportation sectors (Climate Change Convention and Kyoto Protocol), biotechnology, pharmaceutical, and agriculture sectors (the Biodiversity Convention and the Cartagena Protocol on Biosafety), the chemical industry (conventions on Prior Informed Consent, Persistent Organic Pollutants, and the Global Harmonized System), and the precious metals, electronics, and recycling industries (Basel Convention and related agreements). These and other MEAs frequently target specific commercial chemical products to be phased out or restricted, identify pollutants and industrial processes to be controlled, and specify best management practices and pollution control technologies. Other

agreements establish rules for the classification and control of international trade of various goods, such as chemicals, living modified organisms, and hazardous wastes and recyclables. Still other accords establish international liability regimes governing the management and transport of hazardous goods and wastes.

Fundamental disagreements over the role of science, risk assessment, risk management, and the precautionary principle now dominate many negotiations. These debates are not academic, as they often define the environmental risks to be addressed and obligations to be assumed by governments. Moreover, these issues are central to the related concern that MEAs not provide countries with an opportunity to unfairly discriminate among products or industrial processes in interna-

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tional trade under the guise of implementing international environmental commitments. The United States has been at the forefront of advocating science-based approaches in the development of MEAs, an approach that should receive the support of industry and environmental advocates alike.

Industry is often concerned with the risks associated with the negotiation of new environmental accords. And with good reason, given their potential to establish new global norms and to impact international trade and investment. The benefits to business that can arise from MEAs are also significant but may not be as readily apparent. Many environmental agreements serve to harmonize environmental policies, priorities, and standards across borders, thereby allowing companies to pursue regional and global business plans and compliance strategies with greater certainty. MEAs can often level the playing field by establishing environmental requirements that are applied to industries operating in countries around the world. Negotiations are now under way on a Globally Harmonized System for the Classification and Labeling of Chemicals, which could greatly improve worker and environmental protection while reducing compliance costs for many industries by promoting common, consistent criteria for classifying chemicals according to their hazards and developing uniform hazard labels, material safety data sheets, and other information sources based on the classifications.

At a recent ELI roundtable on environmental diplomacy [see following article], a representative of the U.S. automobile industry noted that most automakers have operations worldwide and that even aggressive upward harmonization of environmental standards would deliver cost savings to companies through the standardization of operations and equipment. In practice, harmonization across international borders is difficult. Nonetheless, acting through forums such as the OECD, the United States has succeeded in lowering many potential non-tariff trade barriers through the harmonization of environmental policies and standards across the world's largest economies.

Industry can also benefit from international environmental agreements that lower non-tariff trade barriers and facilitate market access for products and processes. Biotechnology companies, for example, stand to benefit significantly from the timely implementation of the recently concluded Biosafety Protocol

to the Convention on Biological Diversity governing transboundary shipments of living modified organisms, or LMOs. The protocol establishes new Advanced Informed Agreement procedures and risk assessment and management requirements for cross-border shipments of LMOs. The accord also establishes a framework and methodology for governments to follow in evaluating and approving the commercial use of LMOs at a time when most governments have just begun the process of developing the capacity to regulate the introduction of genetically altered seeds, plants, commodities, and other products.

Last, with respect to those countries with limited capacity to develop and consistently implement environmental regimes, international agreements often deliver a certain measure of transparency, in the form of designated "competent authorities" and reporting obligations. These obligations, which are common to most modern MEAs, often help industry to better navigate legal regimes that would otherwise appear muddled and confusing.

Overall, industry as a whole has been slow to recognize the economic benefits that might arise from greater U.S. leadership and an enhanced system of global environmental governance. Trade and environmental interests are increasingly intertwined and in many instances inseparable. The question of whether governments should be able to resort to the binding dispute settlement process established under the new WTO agreements in instances where a party believes it has been unfairly discriminated against also figures prominently in MEA negotiations. The issue of whether environmental accords should trump WTO obligations has been a particular point of contention between the United States and the European Community. The United States has sometimes favored inclusion of a "savings clause" in MEAs that may have trade impacts to preserve rights and obligations of parties under existing international accords. However, the ability of the United States to preserve its preference for resorting to the WTO dispute settlement mechanisms in future agreements remains in question, particularly if the ambiguous and conflicting language agreed to in the recently concluded Biosafety Protocol — an agreement in which U.S. negotiators were handicapped by the fact that the United States was not a party to the underlying Biodiversity Convention — becomes standard.

**United Nations  
Convention on the Law of  
the Sea (1994)**

**Agreement Relating to  
the Implementation of  
Part XI of the United  
Nations Convention on  
the Law of the Sea of 10  
December 1982 (1994)**

**United Nations  
Convention to Combat  
Desertification in Those  
Countries Experiencing  
Serious Drought and/or  
Desertification,  
Particularly in Africa  
(1994)**

**NOT IN FORCE**

**1983 Amendment to the  
1973 Convention on  
International Trade in  
Endangered Species of  
Wild Fauna and Flora  
(1983)**

**Inter-American  
Convention for the  
Protection and  
Conservation of Sea  
Turtles (1996)**

**1997 (Montreal)  
Amendment to the  
Montreal Protocol on  
Substances that Deplete  
the Ozone Layer (1997)**

**1997 Amendment to the  
International Plant  
Protection Convention  
(1997)**

**Protocol to the 1979  
Convention on Long-  
Range Transboundary Air  
Pollution on Persistent  
Organic Pollutants  
(1998)**

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**I**n the face of these significant environmental and economic challenges, U.S. effectiveness in international environmental forums has suffered a decade-long decline. One of the underlying reasons for the loss of leadership is the failure of Congress to recognize the importance of energetic U.S. engagement in international affairs generally, and in environmental diplomacy particularly. Although the Clinton administration has taken a number of important actions to further U.S. environmental diplomacy, its overall record also reflects an unwillingness to make environmental diplomacy a policy and budgetary priority. Industry and environmental stakeholders have also failed to press their case for greater U.S. participation and effectiveness in key international forums, often to their own detriment.

Even though the Cold War has ended, the explosion in new nation-states, the growth of global commerce, and other factors have contributed to an increasing workload for the State Department. Nonetheless, funding for international activities, in real terms, has declined significantly. The federal budget's so-called Function 150 Account, which covers nonmilitary foreign affairs spending, is now roughly 20 percent less in today's dollars than it was in the 1980s.

Diplomats from the Bureau of Oceans and International Environmental and Scientific Affairs typically lead U.S. delegations to major multilateral environmental negotiations, with technical and policy support from appropriate program offices within EPA and other relevant agencies. The workload for OES has increased dramatically. Since 1991, the number of active environmental treaties, negotiations, and commissions in which the United States participates has more than doubled, and the economic significance and technical complexity of MEAs has increased dramatically. At the same time, however, staffing for OES has increased by less than 4 percent.

Treaty negotiations are time consuming and labor intensive for countries like the

United States that have a strong interest in securing results that achieve environmental benefits, protect national economic interests, and minimize conflicts with existing domestic laws and policies. Successful outcomes require a significant up-front investment of diplomatic effort to shape the international mandates for environmental negotiations.

Before and during the negotiations for an MEA, interagency consultation among State, EPA, USTR, Commerce, and a host of other agencies is required before a U.S. negotiating objective or position can be adopted. Once U.S. positions are agreed to internally, our negotiators must coordinate their positions and strategies with like-minded countries through

bilateral and regional consultations in an effort to build consensus for a particular approach. Throughout the process, the government must take account of the positions of various competing stakeholders. Neither industry nor consumer nor environmental NGOs can be counted on to speak with one voice. And after an MEA is in place, the United States must participate in numerous conferences and meetings of the parties as well as technical group meetings in order to protect U.S. interests—regardless of whether the United States becomes a party to the agreement.

In recent years, State has taken a number of important steps to meet environmental challenges. In 1993, the department established a new position of Under Secretary for Global Affairs to help ensure that the environment and other global issues were made part of U.S. foreign policy. In 1996, then Secretary of State Warren Christopher launched an effort to better integrate environmental issues into the department's core foreign policy goals. He created regional environmental centers (now totaling nine) for the department and ordered all bureaus and overseas missions to integrate environment and natural resource objectives into planning and activities. Sadly, four years later State has not succeeded in securing the financial resources necessary to this integration, and a \$15-million request in this year's budget to create an environmental diplomacy

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fund received only \$4 million as a result of congressional budget-cutting.

EPA also plays a central role in the conduct of environmental diplomacy. Examples of EPA's global activities include ensuring that environmental considerations (including environmental health considerations) were adequately taken into account at the series of United Nations conferences held in recent years on Environment and Development (Rio, 1992), Population (Cairo, 1994), Social Development (Copenhagen, 1995), Women (Beijing, 1995), and Human Settlements (Istanbul, 1996). Regional examples include the annual G-8 Summit and Environmental Ministerial meetings and the activities related to the 1994 Summit of the Americas.

EPA support, particularly from key program offices, is often critical to ensuring that U.S. negotiating positions are scientifically based and consistent with existing U.S. laws and policies. The agency has also taken a lead role in work under the NAFTA environmental side agreement, heads U.S. environmental participation within the OECD and the Economic Commission for Europe, guides environmental work along the Mexican border, and manages bilateral agreements with Canada on air quality and the restoration of the Great Lakes ecosystem.

In addition, EPA (along with the Department of the Interior and the National Oceanic and Atmospheric Administration) engages in innumerable technical cooperative activities with other countries, which constitute the on-the-ground component of environmental diplomacy and which often determine whether international environmental instruments actually deliver environmental benefits.

While Congress has slightly increased staffing for the EPA's Office of International Activities, it has consistently cut specific appropriation requests for agency programs addressing transboundary environmental pollution in North America, ozone depletion, infrastructure projects along the Mexican border, and of course climate change. Like the Department of State, EPA's international environmental portfolio is growing. Less clear is whether Congress is providing the resources necessary to support EPA's role in the conduct of U.S. environmental diplomacy.

The role of the United States Trade Representative in international environmental matters has also expanded dramatically over the past decade. The Clinton administration established the Office of Environment and Natural Resources within USTR to better po-

sition the United States to respond to a growing suite of trade and environment issues. Environmental issues are now at the heart of a number of high-profile trade disputes between the United States and the countries of the European Community. In the areas of agriculture and biotechnology, the United States and Europe remain at loggerheads over the proper regulation of genetically modified seeds, commodities, and hormone-treated beef. The European Community has also promulgated new aircraft engine standards aimed at reducing noise that exceed international standards established by the International Civil Aviation Organization. The new requirements threaten to restrict the access of U.S. carriers to key European markets.

During the five years it has been in existence, the WTO has addressed a number of disputes involving the U.S. relating to conservation and sanitary and phytosanitary measures. As evidenced by the WTO ministerial meeting in Seattle last year, future trade liberalization may be linked to further accommodation of environmental and labor concerns in current and future trade accords. USTR also shares responsibility for conducting environmental reviews of future multilateral trade accords with the president's Council on Environmental Quality under a new Executive Order. The office also figures prominently in the formation of U.S. policy positions on the trade-related provisions of various MEAs, including agreements concerning trade in products of biotechnology, chemicals, and recyclables. Despite these increasing demands, resources dedicated to environmental concerns within USTR remain inadequate. Since its start in 1993, the Environment and Natural Resources office has grown from about three to five full-time positions. It is difficult to see how the United States will be able to advance mutually supportive trade and environmental policies in the absence of greater resources.

**T**he loss of U.S. credibility due to our lack of engagement is compounded by the difficulties U.S. negotiators face in trying to conclude effective international accords. The end of the Cold War has been accompanied with the breakdown of traditional political blocs within the developed and the developing worlds. Changing political and economic agendas have made finding international consensus on important environmental problems

**Protocol to the 1979 Convention on Long-Range Transboundary Air Pollution on Heavy Metals (1998)**

**Rotterdam Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade (1998)**

**Kyoto Protocol to the United Nations Framework Convention on Climate Change (1998)**

**1999 (Beijing) Amendment to the Montreal Protocol on Substances That Deplete the Ozone Layer (1999)**

**Protocol Concerning Pollution from Land-Based Sources and Activities to the Cartagena Convention (1999)**



increasingly difficult. Two-thirds of the current 188 members of the United Nations did not exist as sovereign nations when the world body was founded after World War II. Developing a consensus on international environmental priorities and commitments is a formidable task given the multitude of states, languages, legal traditions, and economic interests involved.

This change has in turn increased the complexity of the political dynamics at work within existing international organizations and negotiations. Perhaps there is no better example of this new political reality than the decision by certain rapidly developing countries to block the environment and labor agendas proposed by the United States and the European Community at the WTO ministerial in Seattle. Where once multilateral trade negotiations were largely driven by the United States, the European Union, and Japan, developing countries with dynamic economies are now flexing their own political muscle and shaping the debate on trade and environmental policy.

Competing economic and political interests have also caused many traditional political allegiances to break down, increasing the task of international consensus building enormously. The traditional North-South divide continues to figure prominently in negotiations on climate change and the protection of biological diversity. Debates over the availability of new financial and technical assistance also figure prominently in most MEA negotiations. Increasingly, developed countries are also at odds in international environmental negotiations due in large measure to differing regulatory regimes and competing economic interests. In recent negotiations on global chemical treaties, OECD member states have often been divided, with Japan, the United States, Canada, Australia, and New Zealand frequently opposing positions taken by the European Union. Similarly, in specialized U.N. agencies such as the International Civil Aviation Organization, questions regarding the threat of economic discrimina-

tion posing as environmental regulation have emerged as EU member states seek to protect their domestic aerospace and air transport industries. Part of the reason for the breakdown in traditional allegiances is philosophical. For instance, European states typically favor broad, aspirational commitments in agreements that would be difficult for some countries, including the United States and even the European Community, to implement domestically. Most of the reason is economic, as all sides seek to avoid disproportionate impacts on domestic industries by accords that increasingly have direct impacts on companies and products.

The negotiations for the Biosafety Protocol took the breakdown of traditional allegiances one step further, with the United States (a non-party to the underlying Biodiversity Convention) helping to form the "Miami Group" of leading agricultural exporting countries. The Group, comprising both developed and developing countries, blocked efforts by the European Community to extend the protocol's Advanced Informed Agreement procedures to genetically modified agricultural commodities. The Group also joined with the EU to turn back efforts by the "Like-Minded Group" (a subset of the Group of 77 bloc of developing countries — a bloc

that now has 133 members) that favored the extension of treaty obligations to pharmaceuticals and any products derived from transgenic organisms. The allegiances formed in the Biosafety Protocol are likely to be short-lived but are indicative of a phenomenon that will certainly be repeated elsewhere: namely the formation of new temporary alliances in MEA negotiations.

In the multifaceted, highly politicized context of the biosafety talks, the task of protecting literally billions of dollars in U.S. commodities and consumer products trade fell to a handful of officials from State, EPA, USTR, and the Department of Agriculture. This team did remarkably well considering the lack of resources the United States put behind them and the absence of coordinated industry in-

*Our national interests and the interests of the business and environmental communities are best served by robust U.S. engagement in international environmental diplomacy*

put early in the negotiations. As negotiations proceed on a wide range of environmental issues, it is no longer clear that underfunded and understaffed U.S. delegations will be as successful in protecting U.S. interests in the future.

**A**nother reason U.S. environmental diplomacy is becoming more challenging is the emergence of new international non-governmental actors who are succeeding in advancing their own goals within various international forums that were once the purview of only nation-states.

Environmental NGOs often play a significant role in the negotiation and implementation of MEAs. Environmental groups helped organize developing countries early in the negotiations for the Biosafety Protocol, even producing a model text that served as the basis for early discussions. In the decade since the adoption of the Basel Convention, groups such as Greenpeace have succeeded in setting the agenda for negotiations and moving the agreement from one that regulates trade in covered wastes to an accord that increasingly prohibits such trade — despite objections from the United States and some developed country parties.

On the domestic front, even relatively small NGOs exert significant influence over U.S. international policy. Again using the Basel Convention as an example, the Clinton administration has not produced a proposal for Basel implementing legislation despite the fact that the Senate gave its advice and consent to ratification in 1992. The reluctance of the administration to move forward has been attributed in part to the concern among senior EPA officials that a handful of small environmental groups will inevitably challenge the administration's proposal as not being green enough. The reason for the fear is that the United States has been unwilling to also support a poorly conceived amendment that would ban all transboundary shipments of hazardous wastes from developed countries to developing countries, regardless of whether the wastes would be managed in an environmentally sound manner.

The Basel Convention highlights an unfortunate dilemma for the U.S. government. In many instances, action on furthering international environmental goals is delayed or deferred out of political concerns that certain industry groups or environmental NGOs will

be dissatisfied. Often, NGOs that have played an active role in the negotiation of MEAs choose not to press for U.S. ratification of concluded agreements. This may be because U.S. implementation is not a domestic policy priority or because of concerns with the influence the United States may have as a party to particular accords. Industry groups dissatisfied with a final accord may decline to push for U.S. ratification only to find that one of their strongest allies, the U.S. government, cannot take part in major decisions affecting their interests going forward.

In the economic arena, NGOs now wield enormous influence. In 1992, environmental NGOs succeeded in blocking NAFTA until environmental concerns were addressed. Efforts within the OECD to conclude a Multilateral Agreement on Investment in 1998 were scuttled in part due to objections raised by various NGOs concerned with the apparent lack of transparency in the negotiations and the perceived failure of governments to adequately address environmental concerns in the treaty. And of course environmental NGOs had a large role in derailing the start of the trade talks that were to have begun in Seattle last year.

For its part, U.S. industry has been slow to recognize the emerging domestic and international political dynamic that will require a greater accommodation of labor and environmental concerns in connection with further trade and investment liberalization. In the EU, green parties are now key voting blocs in multi-party parliamentary processes. As a whole, industry needs to come forward with creative approaches for advancing environmental protection in an era of rapid economic expansion and integration. One way around the current trade and environment stalemate could be for business to support a more active U.S. role in the promotion of national environmental capacity building. Such an approach would go a long way toward managing the environmental impacts that might otherwise accompany expanded trade and investment. In sum, while both industry and environmental groups seek to advance relatively narrow interests within particular accords, neither group has focused on the importance of ensuring U.S. credibility and effectiveness in the first instance.

Technology has also changed the conduct of environmental diplomacy. Fax machines, computers, and of course the Internet have allowed NGOs, industry, and governments

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**IN FORCE**

**Protocol to the 1979  
Convention on Long-  
Range Transboundary Air  
Pollution on the  
Reduction of Sulfur  
Emissions or Their  
Transboundary Fluxes by  
At Least 30 Percent  
(1987)**

**Protocol to the 1979  
Convention on Long-  
Range Transboundary Air  
Pollution on Further  
Reduction of Sulfur  
Emissions (1998)**

**NOT IN FORCE**

**International Convention  
on Liability and  
Compensation for  
Damage in Connection  
with the Carriage of  
Hazardous and Noxious  
Substances by Sea**

**1996 Protocol to the  
Convention on the  
Prevention of Marine  
Pollution by Dumping of  
Wastes and Other  
Matter, 1972**

**International Convention  
for the Prevention of  
Pollution from Ships  
Annex IV**

**Protocol of 1997 to  
Amend the International  
Convention for the  
Prevention of Pollution  
from Ships Annex VI**

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to access and move information around the globe in minutes, enhancing the ability of all to participate in negotiations and other meetings. For example, international organizations now routinely make meeting documents, calendars, and contact information available on the Web. The availability of timely information has increased the level of participation and interest of all stakeholders in the deliberations of once obscure organizations and bureaucrats. Daily reports issued by the International Institute for Sustainable Development on key treaty negotiations, for instance, provide policymakers and stakeholders with remarkable access to the issues in play in major negotiations, often within 24 hours after they are raised. This in turn has allowed governments to benefit (hopefully) from a wider range of stakeholder views in conducting negotiations on new environmental accords. Nonetheless, increased transparency and stakeholder participation does increase the challenges that U.S. negotiating teams face in developing and advocating U.S. positions in the face of potential NGO and industry opposition.

**T**he importance of environmental diplomacy to U.S. environmental, economic, and strategic interests is difficult to overstate. Finding a constructive way forward will require the attention, cooperation, and resources of policymakers and industry and environmental stakeholders alike. A few modest proposals are offered below:

**Break the log jam of overdue treaty ratifications.** The administration and Congress should place a priority on addressing the growing backlog of environmental treaties now awaiting signature and/or ratification. Global agreements now widely accepted by the international community deserve priority consideration by the Senate Foreign Relations Committee. Ratification of even a few major accords would greatly enhance U.S. effectiveness with respect to implementation of these regimes worldwide. More importantly, U.S.

implementation of key agreements that have already been concluded will enhance our credibility in ongoing negotiations concerning climate change, POPs, and the upcoming RIO+10 Conference, scheduled for 2002.

Securing U.S. ratification of the agreements now before Congress will require the active support and cooperation of both the business and environmental communities. Industry needs to recognize that its economic interests can best be protected when the United States has a seat at the table. Environmental NGOs must recognize that environmental goals are unlikely to be advanced over the long term if the United States continues to be outside major environmental accords. Business, environ-

mental, and consumer groups should all take on the task of educating the American public on the importance of U.S. environmental diplomacy in addressing global environmental problems and improving environmental quality in the United States while protecting our economic interests. Both industry and environmental stakeholders must recognize that international agreements will inevitably be less than ideal from their perspective — diplomacy means compromise.

**Expand U.S. support for good government and capacity building.** The United States also needs to expand funding for the U.S. Agency for International Development and appropriate international organizations in-

involved in overseas development and government capacity building. Increasing the capacity of developing countries and economies in transition to establish and implement environmental regulatory regimes in a fair and transparent manner would deliver significant environmental benefits. Increased capacity would also help level the playing field and reduce the regulatory uncertainties that many U.S. companies face when operating overseas.

**Increase staff and funding for international environmental diplomacy.** The dramatic increase in workload that has accompanied the recent expansion of international environmental treaty-making requires that both the

*The need is clear for action, particularly in the Congress, to bring our investment in national and international institutions to a level appropriate to a superpower*



Executive Branch and Congress increase the resources — funding and personnel — available to the State Department, EPA, USTR, and other agencies responsible for environmental diplomacy. For example, the Executive Branch and Congress should fully support OES's requested environmental diplomacy fund. Doing so would provide an added measure of flexibility to U.S. negotiators and would increase the likelihood of successful results. The department also needs to enhance its system of recruiting and rewards for those responsible for the conduct of U.S. environmental diplomacy. Consideration should be given to the benefits that might arise from an increase in the number of EPA staff detailed to OES when added technical expertise and a thorough understanding of particular U.S. regulatory regimes is needed.

*Place a priority on the implementation of existing accords.* The scheduled 10-year review of progress achieved since the Earth Summit should place an emphasis on the implementation of Agenda 21 and other regional and global environmental accords. The RIO+10 summit is likely to focus on a wide range of issues related to globalization, investment, trade, and sustainable development. The United States should work with its allies in developed and developing countries to promote the full implementation of and compliance with existing international agreements. New efforts to support capacity building and compliance in the developing world are necessary for environmental gains to be realized from these accords. Relevant industry sectors and environmental NGOs should be full participants in initiatives aimed at building legal regimes, technical expertise, compliance mechanisms, and enforcement capabilities.

*Evaluate the current structure of international environmental law and institutions.* The United States should lead an international assessment of the current global and regional structure of international environmental law and supporting institutions. Consideration should be given to consolidating existing convention secretariats under a better-organized UNEP or perhaps a new "World Environmental Organization." At the annual meeting of G-8 environment ministers held in April, officials signaled their support for a long-overdue reassessment of the U.N.'s institutional and legal framework addressing environmental issues. The communique suggests that governments may be prepared to take steps as part of the Rio+10 meeting to better orga-

nize the numerous secretariats and organizations located around the world in a manner that would enhance scientific cooperation and policy linkages.

*Seek MEAs that don't unnecessarily exceed the requirements of U.S. domestic environmental laws.* A challenge for the United States and other countries with mature environmental legal regimes already in place is that MEAs often depart from existing statutory approaches, thereby requiring amendments to current laws. In the United States, the hard reality of domestic politics has led to near gridlock on most environmental issues. MEAs that do not drive significant changes in U.S. law can nonetheless deliver important environmental benefits by promoting higher environmental standards in some developed and most developing countries (including economies in transition). U.S. industry is often concerned with the possibility that MEAs will impose new requirements in the United States. Conversely, some environmental NGOs tend to view MEAs that do not impose significant new obligations on the United States as failed efforts.

The United States should be willing to adjust its existing legal regime to implement accords that are generally consistent with existing U.S. statutory approaches. Indeed, this has generally been the case as U.S. implementation of the Basel Convention, the Prior Informed Consent Convention, and an expected Persistent Organic Pollutants agreement will collectively require some amendments to the Resource Conservation and Recovery Act, the Toxic Substances Control Act, the Federal Insecticide, Fungicide, and Rodenticide Act, and potentially the Clean Air Act. Future action on climate change might require an entirely new and expansive domestic legal regime. However, all sides should recognize the political risks associated with opening up major environmental statutes and the environmental gains that can be made by bringing global environmental norms closer to the standards and approaches already in place in the United States.

*Expand trade and environment capabilities at USTR, EPA, and other key agencies.* The United States has responded to an expanding portfolio of trade and environment frictions by expanding the environmental expertise of USTR and the trade expertise at EPA. It is clear, however, that the both will need additional resources and capabilities to manage trade and environment issues going forward. Efforts by the administration to en-

**Convention on Access to Information, Public Participation in Decisionmaking, and Access to Justice in Environmental Matters**

**Protocol to the Basel Convention on Liability and Compensation for Damage Resulting from Transboundary Movements of Hazardous Wastes and Their Disposal**

**Cartagena Protocol on Biosafety to the Convention on Biological Diversity**

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hance the State Department's trade and environment expertise, however, have met with congressional resistance. At bottom, the ongoing tensions over the incorporation of environmental considerations in trade agreements and the use of trade-related measures in MEAs underscore the need for greater trade and environment expertise across a number of agencies.

*Expand the science, health, and technology capabilities of EPA and the Department of State.* Maintaining expertise in the area of science, health, and technology should be a priority for both EPA and the Department of State. The National Research Council has criticized both agencies for under-emphasizing the role of science, and State for under-emphasizing health and technology as well. Action to enhance science capability at both agencies should be taken with an eye toward enhancing the role of science in the development of international environmental law.

*Promote upward harmonization of environmental standards.* The U.S. government should also work with specific industry sectors and appropriate international organizations to identify opportunities for upward harmonization of environmental standards. Many multinational corporations already apply environmental standards and management practices comparable to those used in the United States or Europe to facility operations worldwide. Some even audit their in-country suppliers to such standards. The release in 1998 of the World Bank's *Pollution Prevention and Abatement Handbook* has also promoted best management practices that in many instances exceed the environmental requirements of many less-developed countries. Both industry and government representatives should consider whether the mandate of existing international bodies should be expanded to include activities aimed at raising the environmental standards of countries with economies in transition as well as less-developed countries. Similarly, the United States, which has been a leader in establishing environmental review procedures and standards for our export credit agencies (e.g., the Overseas Private Investment Corporation and the Export-Import Bank), must continue to press our major trading partners to adopt similar environmental assessment and review procedures to avoid disproportionate impacts on U.S. companies and to promote environmentally sustainable trade and investment.

Recent events do provide some cause for optimism. Congress has now agreed to pay \$926 million in past U.N. dues. Despite the fact that the U.N. estimates the U.S. tab at \$1.7 billion and the fact that Congress has attached problematic conditions to even the partial U.S. payments, this recent agreement represents some progress on a long-standing impasse that has severely damaged U.S. credibility. The House of Representatives has also passed the president's legislation establishing permanent normal trading relations with China. These developments suggest that both the White House and the Congress may be headed down a more constructive path with respect to a long list of international issues requiring attention.

In addition, EPA is working on implementing legislation for the Basel Convention and the PIC Convention, both of which could be introduced later this year. While Congress is unlikely to act on either this session, the proposals could set the stage for serious consideration of necessary implementing legislation and ratification of these and other accords, many of which have stalled at the Senate Foreign Relations Committee. The fact that the committee's chair, Senator Jesse Helms (R-NC), recently took steps to warm relations with the U.N. Security Council may bode well for outstanding treaties needing the advice and consent of the Senate. Charitable giving for international and environmental causes is also on the rise, suggesting that new resources may be available for NGOs interested in taking on the hard work of restoring U.S. leadership on global environmental issues. U.S. participation in and financial support for the Montreal Protocol still stands as a powerful example of the progress that can be made in addressing global environmental problems that the United States chooses to engage.

Viewed broadly, U.S. national interests and the interests of the business and environmental communities are best served by robust U.S. engagement in international environmental diplomacy. The need is clear for governmental action, particularly in the Congress, to bring our investment in national and international institutions up to a level appropriate to the world's richest nation. After that, perhaps the emergence of the United States as an environmental superpower will ultimately depend on domestic diplomacy — a meeting of mainstream business and environmental groups willing to cooperate to protect the national interest, both environmental and economic. •