

I. Introduction¹

The "greening" of the public policy debate over the last ten years or so has been remarkable. The appeal of environmentalism cannot be underestimated. It reflects concerns, often well-founded, close to the everyday life of voters. It is easily packaged for emotional public debate, and yet addresses significant, very real-world problems at the heart of economic and social development. The combination of political sex appeal and substantive merit is powerful.

As public concern about environmental conditions increases, so has the response of governments. While much of the focus remains domestic (and properly so), governments are also faced with growing demands for solutions related to global commons issues (e.g., climate change, ozone layer depletion), transboundary pollution impacts (e.g., North American air quality), and the spectre of companies flocking to "pollution havens" in other countries (the on-going NAFTA debate about Mexican environmental standards is illustrative).

In order to foreclose unilateral action on the part of one or a very limited number of governments and in recognition that effective, long-term responses depend on mutually reinforcing cooperation, countries have increasingly turned to the negotiation of international environmental agreements (IEAs) as the bedrock upon which they can and should make progress. A fairly comprehensive 1991 list of treaties and other agreements in the field of the environment reveals that 24 were negotiated from as early as 1921 through the 1950s; another 26 in the 1960s; 46 more in the 1970s; and 56 in the 1980s.² Moreover, the importance of these agreements appears to have increased qualitatively as well. The key instruments related to ozone depletion and the transboundary movement of hazardous wastes date from the most recent period. The Canada-U.S. Air Quality Agreement, the 1992 Earth Summit conventions on Climate Change and Biodiversity, the 1993 North American Agreement on Environmental Cooperation, and the possibility of a Global Forests Convention and a regime covering the effective management of straddling fish stocks: all this recent and future activity attests to the growing range and complexity of the issues in play and of the rules of the game under development.

¹ The writer was a member of Canada's NAFTA negotiating team and the lead negotiator for Canada of the North American Agreement on Environmental Cooperation.

² Annex III, GATT document L/6896 (September 1991). A U.S. government report identified 170 multilateral (global and regional) and bilateral environmental agreements, two-thirds having been signed since 1972. See United States International Trade Commission, International Agreements to Protect the Environment and Wildlife, USITC Publication 2351 (January 1991), p. vii.