

Book Review: Global Environmental Problems and International Environmental Agreements: The Economics of International Institution Building, by Timothy Swanson and Sam Johnston

Jaye Ellis

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GLOBAL ENVIRONMENTAL PROBLEMS AND INTERNATIONAL ENVIRONMENTAL AGREEMENTS: THE ECONOMICS OF INTERNATIONAL INSTITUTION BUILDING BY TIMOTHY SWANSON AND SAM JOHNSTON (CHELTENHAM, U.K.: EDWARD ELGAR, 1999)

BY JAYE ELLIS¹

This book was initially conceived of as a resource for representatives from developing countries negotiating multilateral environmental agreements (MEAs). It focuses on the development of international law and institutions for the management of global commons resources, that is, resources that are not included in the realm of competence of a single jurisdictional unit and that require coordination among different units as well as the development of new structures and processes for their proper management. The authors' objective is to provide participants in negotiations with information explaining why negotiations for the creation of conservation and management regimes for commons resources break down or produce inefficient or unenforceable agreements. Given this information, negotiators can avoid these pitfalls in future negotiations.

The book is divided into three sections: the economics of global environmental problems, developing international environmental law, and principles of international environmental law. The first and third chapters are primarily didactic, providing overviews of economic and legal frameworks for analyzing global commons resources management. These chapters will likely be too basic for either political scientists or international lawyers, but members of each group can benefit greatly from the clear yet critical overview of the analytical tools of the other group. As a result, the book thus may promote much-needed communication between these groups.

The authors analyze efficient resource use, relying primarily on economic analysis, but taking a critical approach to the analytical tools employed. The case supporting international co-operation for global commons resource management is made through reference to the limitations on state jurisdiction and to externalities that create disincentives for individual states to pursue globally sustainable resource exploitation. The authors consider global climate change, biodiversity conservation, and

¹ Assistant Professor, Faculty of Law and School of Environment, McGill University.

the trade-environment nexus in some detail to illustrate their arguments.

Because the authors rely primarily on an economic analysis of global commons management, they focus on the difficulty of perverse incentives to over-exploit commons resources and the need to counteract these incentives in the design of international institutions, particularly by including a mechanism to make side payments. The authors note that this solution poses almost as many difficulties as it purports to solve, due to the complexity of the resulting agreement, to the free rider problem, and to weaknesses and difficulties in international law, including its horizontal organization.

The authors argue that the underlying reason for the failure to obtain agreement among countries on a particular strategy for managing global commons resources lies in the distribution of the costs and benefits of participation. Heterogeneity among states, which produces a diversity of often incompatible interests with respect to a given environmental resource, causes such distributional problems. Three underlying causes of heterogeneity are focused on: different levels of development, different investment choices, and physical locations. A fourth cause of heterogeneity, differences in preferences, is also discussed, with reference to the decision by some governments to permit imports of hazardous wastes and the siting of environmentally harmful industries on their territories. The authors ultimately conclude, however, that different preferences and tolerance levels can be explained in terms of income level. In other words, they constitute an aspect of different levels of development.

The authors argue that the causes of heterogeneity among states are at least perceived to be objective. They conclude that, as long as these causes are considered and an effort is made to understand the perspectives of differently situated states, it is theoretically possible to structure a system of incentives and side payments that will ensure an equitable distribution of the costs and benefits flowing from the environmental regime. Furthermore, this system of incentives should be objectively recognizable as an equitable one.

At least two assumptions, one explicit and one implicit, are at work here. The explicit assumption is that there is a common baseline underlying the heterogeneity of interests in environmental resources. Once one corrects for different levels of development, different investment histories, and different physical locations, people will value an environmental resource in the same way. In other words, heterogeneity is conditioned by objective elements external to the subject, and environmental regimes can correct for this heterogeneity by taking into account and adjusting for these objective elements. The implicit assumption is that subjective elements, such as preferences, different systems of valuation, as well as

understandings of the world conditioned by different historical experiences, do not affect states' perceptions of their interests in environmental resources.

As a result of these assumptions, the authors arguably place too much reliance on an evaluation of objectively determined costs and benefits, and incentives and disincentives. This criticism may seem unfair, as the authors did not intend to explain every cause of regime failure in global environmental protection, but rather to guide potential participants in negotiations concerning MEAs. However, the desire is that these participants be aware of the range of reasons for regime failure; to put the participants in a position to avoid these pitfalls, a broader inquiry would have been very useful. The assumption that interests are exogenously determined limits the types of solutions that one can seek in structuring negotiations for MEAs as well as the regimes themselves.

Furthermore, the notion that all people would attribute the same value to environmental resources if they were similarly situated seems quite unrealistic. Our perceptions of the environment are certainly conditioned by material factors, including our access to and dependence on environmental resources. Other influences are ideational and depend on a complex network of values, preferences, experiences, and understandings. In order to design an effective regime, it is vital both to consider the distribution of costs and benefits and to seek to render this distribution as equitable as possible. However, an appreciation of costs and benefits as well as an appreciation of the extent to which the final product is equitable depend on subjective as well as objective elements. For example, good regime design depends as much on ensuring the confidence of relevant actors in the process and the outcome as on striking the right balance between costs and benefits.

The book is rich in examples and discusses a wide array of resource management problems in international society. However, it would have been helpful to learn more about the criteria used to select the case studies so that it would be easier to assess the extent to which lessons drawn from the examples are applicable to other contexts. One of the biggest weaknesses of these case studies is that the research is, at times, quite out of date, causing the authors to take an unnecessarily pessimistic view of outcomes in international environmental law.² Finally, given the book's

² For example, the 1982 *United Nations Law of the Sea Convention*, 10 December 1982, 1833 U.N.T.S. 397 [*Convention*] is described as not having entered into force and as not having been signed by the Federal Republic of Germany, the United Kingdom, and the United States. In fact, the former two countries have acceded to the *Convention*, which entered into force in 1994. In addition, the discussion of the quota management system for ivory from African elephants under the *Convention*

emphasis on the importance of international institutions for enforcement and monitoring, it would have been instructive to see some reflection on regimes that are often held up as examples in these respects, such as the regime for the protection of the ozone layer.

The book's strength lies in the two didactic chapters, which increase the accessibility of a range of analytical tools to scholars interested in conservation and management of global commons resources. As such, the book will likely promote communication among people trained in different disciplines, and prepare the ground for much-needed interdisciplinary and trans-disciplinary work in the area.

for International Trade in Endangered Species, 3 March 1973, 993 U.N.T.S. 243 (*CITES*) does not refer to developments subsequent to the 1989 Conference of the Parties. Important developments have taken place within *CITES* with respect to the African elephant and the ivory trade since then.