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Global Diplomacy

An Introduction to Theory and Practice

Edited by Thierry Balzacq · Frédéric Charillon · Frédéric Ramel

Translated by William Snow



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Environmental Diplomacy

Amandine Orsini

International environmental diplomacy is recent compared to other kinds of diplomacy and only became official during the 1970s. However, it has stood out from the beginning due to its exemplary, unfailing dynamism over time. In 2013, Rakhyun Kim (2013) already counted 747 multilateral environmental agreements. Add to those the new agreements regularly adopted by states, like the 2013 Minamata Convention on Mercury that strives to reduce the harmful effects of mercury or the 2015 Paris Agreement related to the United Nations Framework Convention on Climate Change (UNFCCC), one of whose goals is to limit climate change and its effects. Driven by that dynamism, the scope of certain events in environmental diplomacy has grown exponentially. For instance, 25,903 participants took part in the 22nd Conference of the Parties to the UNFCCC in Marrakech in December 2016. Nearly a quarter of them were non-state observers.

But, first and foremost, what is environmental diplomacy? In theory, environmental diplomacy is understood as diplomacy that deals solely with

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environmental issues. But in practice, environmental diplomacy deals on a regular basis with many other themes related to trade (trade in endangered species, for example), intellectual property (such as rights of indigenous and local populations regarding the use of natural genetic resources), energy (reaching goals for reducing greenhouse gases, use of biofuels, etc.), health (among others, the health impact of consuming genetically modified organisms—GMOs), and even security (the consequences of global warming on transnational migration, for instance).

Initially understood by decision-makers with regard to its primary sense, environmental diplomacy was long seen as secondary by governments. That sidelining gave it more freedom and helped it to develop distinctive features that explain its current dynamism, as detailed in this chapter. The first part looks at the content of environmental diplomacy and the second part at its rules.

The Content of Environmental Diplomacy

Environmental diplomacy developed cautiously from the fourteenth century on the European continent through bilateral agreements (between England and Portugal, England and France, etc.) to manage fishing resources. In the seventeenth and eighteenth centuries, several of those agreements investigated access to certain territories and rivers in Europe and North America. Apart from these agreements on specific resources and territories, it was only in the nineteenth century that the environment took on a decidedly multilateral dimension. Indeed, bilateral actions are often insufficient in managing non-exclusive, non-rival threatened public goods. Furthermore, most resources (such as fish) and core environmental issues know no borders. In 1857, the first multilateral agreement-involving more than three countries-committed states bordering Lake Constance to handle pumping the lake's waters. During the nineteenth century, multilateral agreements gradually developed and began dealing more directly with environmental problems such as transporting hazardous substances or protecting endangered species.

Following the gradual development of environmental agreements in the nineteenth and twentieth centuries, it took major environmental summits, in particular the Stockholm Summit in 1972, for the environment to assume its truly global sense and for environmental diplomacy to turn toward protecting the world's natural resources rather than merely managing them.

After the 1972 summit, other summits, held every ten years, set the tone for environmental diplomacy (Morin and Orsini 2015: 133–156), providing an opportunity to take stock, propose general principles embedded in official declarations, and create international institutions devoted to the environment (Death 2011).

The 1972 Stockholm Summit, or United Nations Conference on the Human Environment, was the first multilateral summit devoted to the environment. Thanks to the active participation of developing countries, the summit was one of the largest international conferences ever held. Delegations from 114 countries participated, while at the time the United Nations only had 131 member states and the environment had not yet become a key issue in international relations. Subsequent to the participation of developing countries, the summit highlighted environmental concerns as a priority, but recognized in the same breath the importance of economic development. This association between environment and development objectives has remained highly present at other summits on environmental protection. In particular, it gives a quick answer to developing countries concerned about implementing measures that are technologically costly or restrictive for their economic development. While developing countries were initially suspicious of multilateral initiatives to protect the environment, the summit showed that compromise was possible. The final declaration stated twentysix general principles on the environment. It endorsed in particular the creation of the United Nations Environment Programme (now known as UN Environment) and advised states to create the first national ministries specialized in the environment.

To consolidate the gains made in Stockholm, a second summit, the United Nations Conference on Environment and Development, was held in Rio in 1992. The summit affirmed the ties between environment and development. Indeed, it was decided that the conference would be held in a developing country this time, in this instance Brazil (Tolba 1998). It was a large-scale summit that brought together 108 heads of state, 187 delegations, around 10,000 governmental delegates, over 1400 officially accredited non-governmental organizations (NGOs), and nearly 9000 journalists. It was particularly productive. Countries endorsed a political declaration that clarified general principles inherited from those adopted in Stockholm and agreed on an ambitious plan of action, named Action 21, to identify problems, define goals, and specify the means of action on themes as diverse as chemical substances, access to safe drinking water and transportation. A major principle adopted was the principle of common but

differentiated responsibilities. According to this principle, all states must commit to make an effort to protect the environment, but that effort must be calculated proportionally to their responsibility and capacities. In other words, in line with these criteria, efforts required of developed countries must be far greater than those asked of developing countries. The summit also saw the adoption of two international treaties: the UNFCCC and the Convention on Biological Diversity (CBD), while two international diplomatic processes were put into effect on desertification and forests. With regard to institutional arrangements, the summit saw the creation of the Global Environment Facility and the Commission on Sustainable Development, to ensure the follow-up to Action 21. Lastly, the summit confirmed a major trend: liberalism in the field of environmental protection. That trend emphasized the economic value of the environment which, by establishing markets, would help preserve it, as in the carbon market approach, or through payments for ecosystem services.

In 2002, the World Summit on Sustainable Development held in Johannesburg shifted partly from environmental priorities, opening the door to non-state actors. Indeed, the summit's organizers actively encouraged concluding "Type II partnerships," or agreements made not only between states but between partners of various kinds, including companies, intergovernmental organizations, NGOs, and states. More than two hundred Type II partnerships were reached in Johannesburg, for investments totaling over 23 million dollars. That trend developed within the dynamic of environmental liberalism, but also marked a desire to improve the effectiveness of environmental measures, by delegating their implementation to actors in the field.

Twenty years after the Rio Summit, UN members tried for a new diplomatic breakthrough by organizing a summit on sustainable development in Rio de Janeiro, the Rio + 20 summit (Foyer 2015). Despite a less favorable international context (with the 2008 economic crisis and the rise of emerging economies), Rio + 20 was again innovative in several respects, introducing the concept of "green economy." According to "The Future We Want" declaration adopted at the Rio + 20, the green economy is "one of the important tools available for achieving sustainable development" (paragraph 56). A flexible instrument, it would not be "a rigid set of rules" (paragraph 56). Another major innovation of the summit was to insist on the importance of information gathering and dissemination to incite behavior that is more respectful of the environment. From the standpoint of institutional innovations, the Commission on Sustainable Development, created in Rio in 1992, was replaced by the High-level Political Forum on Sustainable Development involving "high-level decision-makers," in order to give it greater visibility and decision-making power. "The Future We Want" also called on the UN General Assembly to reinforce the institutional structure of UN Environment.

Parallel to these major summits, a multitude of environmental treaties has been signed on highly varied themes such as hazardous wastes, chemical products, and marine pollution to cite but a few. These treaties have no single institutional affiliation (e.g., to UN Environment) because the institutionalization of environmental treaties in the international organizational landscape happened step by step. In certain cases, preexisting international organizations preferred expanding their own areas of action rather than delegating that role to international environmental institutions. For instance, the United Nations Educational, Scientific, and Cultural Organization (UNESCO) took under its wing the 1972 Convention Concerning the Protection of the World Cultural and Natural Heritage, thus also managing natural sites. Furthermore, organizations and their treaties, which initially had no environmental objectives, have gradually adopted some. This is the case for the International Tropical Timber Organization and the International Whaling Commission, which had quite commercial objectives when created, namely ensuring respectively the sustainability of the timber trade and whale hunting, and gradually shifted toward the protection of the corresponding natural species. In these two cases, the treaties adopted fall outside the United Nations system. Finally, numerous environmental treaties have a regional dimension and therefore go hand in hand with regional organizations. This is the case for example with the Protocol on Environmental Protection to the Antarctic Treaty adopted in 1991. Due to their very different levels of institutionalization, environmental treaties have in any case tended to become independent, for example, by setting up their own secretariats.

Despite their different origins and institutional ties, environmental treaties form a family of treaties, in which certain provisions have lasted through various agreements (Kim 2013). These include provisions that reflect the major orientations emphasized at environmental summits (sustainable development, the importance of development, partnerships, etc.) as well as a certain number of more specific principles such as the precautionary principle, the principle of advance informed agreement, and of common but differentiated responsibilities.

Furthermore, the absence of a single institutional affiliation for these different environmental treaties has helped extend environmental standards and principles to diplomatic bodies outside the environmental field. Thus, environmental diplomacy has spread to other fields in a dual dynamic: First, it is expanding its competency and its applicability to non-environmental themes; second, it is involved in disseminating its own principles.

On the one hand, environmental diplomacy has repeatedly spoken out on issues beyond its core competence. Several environmental treaties have thus been developed in opposition to the principles of the World Trade Organization (WTO) and/or its Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS). For instance, the 1992 CBD recognized the sovereignty of states over their natural resources (open access until then), in order to oppose the development of patent-type intellectual property rights within the TRIPS agreement, through which innovations coming from those resources could be privatized. Also, the 2000 Cartagena Protocol on Biosafety, pertaining to GMOs, took a stand against the WTO's principle of scientific evidence by adopting the precautionary principle. Where the former recognized the harmlessness of GMOs until proven otherwise, the latter recognized the potential risks tied to GMOs until they are proven harmless. The Cartagena Protocol is also opposed to the principle of free trade by adopting the principle of advance informed agreement that requires states to be informed of any transfer of GMOs intended for direct release in the environment on their territory and for this transfer to be validated before being effective. That principle has also been used by several environmental treaties involving the transport of hazardous substances.

On the other hand, environmental diplomacy has tried to have its goals adopted by diplomatic actors beyond the environmental field. Since the 1980s, the World Bank has been accused of environmental degradation after granting loans of several million dollars for development projects with disastrous environmental impacts. For example, the construction project for the Polonoroeste road through the Amazon, which began in 1981, had a catastrophic impact on biodiversity and on living conditions for indigenous populations in the region. The Bank was then criticized by NGOs as well as states and in particular the American Congress, which threatened to suspend its contributions. It had to modify its practices and today is striving to be more consistent with sustainable development goals. Another example is climate issues, which turned up at the UN Security Council for the first time in 2007, when countries evoked the consequences of climate change on worldwide security with threats such as sea levels rise and the increase in climate refugees.

The result of this tangled institutional web is that, since the 2000s, for each sub-theme dealt with, environmental diplomacy has formed a pluriinstitutional structure that cannot be summed up by one single international regime. On the contrary, it lies at the crossroads of several regimes, often forming regime complexes. For example, the question of investment in biofuels is located at the intersection of four international regimes: climate change with, among others, the UNFCCC's clean development mechanism; trade, represented by the WTO; development, represented by the World Bank; and energy, represented by the European Renewable Energy Directive. Similarly, the issue of access to natural genetic resources is interwoven with the regimes of environmental protection with the Nagoya Protocol; intellectual property rights with the World Intellectual Property Organization; health with the World Health Organization; and agriculture, notably with the Food and Agriculture Organization of the United Nations.

These regime complexes can present different, more or less coherent structures which consequently may create synergies or conflicts. In any case, the price to be paid in terms of participation in environmental diplomacy is relatively high. Efforts have to be intensified nowadays, whereas in the 1990s it was still possible to follow a single arena of negotiation in order to remain informed and influence a theme. Furthermore, once they have paid for admission into the game of diplomacy, actors must also invest in understanding its rules.

The Rules of the Environmental Diplomacy Game

Environmental diplomacy is based on three main tacit rules that shape governmental decisions.

First, environmental diplomacy is based on the rule of consensus, in a game where collective actions are important. Thus, the vast majority of decisions are presented to all diplomats and adopted, unless there is an opposing reaction from any government. Voting is very rare. The consensus rule and the corresponding "silence means consent" practice allow any interests at stake to be expressed, in theory. It is therefore a rather inclusive rule. But, in practice, it prevents those absent from expressing their potential opposition (when the profusion of arenas of negotiation poses a problem simply in terms of one's presence at discussions). It also puts

some pressure on diplomats, since the impact on one's reputation could be substantial for a country that raises its voice against all the others.

Second, in environmental diplomacy, every negotiation is divided into sub-themes, while the final agreement pertains to all of them, a global package combining different possibilities for each sub-unit. This enables package deals and tradeoffs, according to the formula "nothing is agreed until everything is agreed" (Jepsen 2013). Agreements usually follow a similar structure whose main elements are a general preliminary declaration, followed by definitions, a description of measures, control mechanisms, and legal procedures for implementation. For each of these points, negotiations are subdivided into different working groups, often themselves subdivided into contact groups, regarding issues that often become highly technical and varied: economic as well as legal, ethical, etc. For example, during the negotiations at the 12th session of the United Nations Forum on Forests, countries set up two working groups. One was to work on drawing up a ministerial declaration, and the other was to work on a shared resolution. The second working group created a contact group to discuss possibly setting up a committee on application and technical opinions. That contact group had to envision the committee's functions, modalities, and possible competencies. Since each point, even technical ones, is important, diplomats only give their opinion once they feel they have a precise enough vision of all modalities.

Third, multilateral environmental negotiations correspond very closely in game theory to the game of chicken. It is a non-zero-sum game involving two players, in which cooperation is rewarded. The game draws on scenes of car duels in several major American films. Two drivers are facing each other on two sides of the same track. They race toward each other. The first one to jump out of his vehicle to avoid a crash loses and is a "chicken." Each driver's goal is thus to show his determination and act tough, to make his adversary give up as quickly as possible. This allows the two drivers to stay alive. In the opposite case, the game would be counterproductive because they would both lose their lives. If you replace the drivers with diplomats, and the action of jumping out with accepting an agreement, then the game truly does reflect the dynamics of environmental diplomacy.

On the one hand, states see the value in adopting a joint agreement. Indeed, they invest time and money in numerous international meetings. Although official meetings for each treaty are often held no more than every two years, and only last two weeks, they are the result of dozens and even hundreds of preparatory meetings all over the world. The absence of a final agreement would not enable states to maximize the return on these material investments. Furthermore, such investments indicate that some states acknowledge the urgency of the problems to be dealt with and recognize that environmental themes can only be resolved collectively. Handling radioactive waste only makes sense on a multilateral basis, so as to avoid the dumping of such waste in countries that do not have the means to participate in environmental diplomacy, without, furthermore, solving the environmental problems of such waste. Efforts to limit climate change only make sense if all states commit to it (Aykut and Dahan 2015). Consequently, the outcome of environmental diplomacy must be a global agreement.

On the other hand, none of the negotiators wants to take the first step toward cooperation. Concerns about economic competitiveness have slowed down the momentum of most developed countries. Conversely, small delegations have either had trouble following the discussions, or been unable to find satisfactory solutions. Furthermore, segmentation of negotiations into working and contact groups has led all the diplomats to wait as long as possible before reaching an agreement, because often they only know at the last minute what it will consist of. As a result, agreements are reached at the very end, late at night after real diplomatic marathons. It is not uncommon to find negotiators asleep at their desks, on sofas in the corridor or even on the floor of negotiating rooms. Moreover, negotiating sites are arranged like miniature towns to allow the diplomats to be ever present, complete with catering, rooms for prayer, meditation, and yoga.

Most delegations understand this dynamic and use their best diplomats sparingly, only sending them in for the second week of negotiations.¹ But some smaller delegations make out well thanks to their representatives' physical strength and force of character. Tewolde Berhan Gebre Egziabher, an Ethiopian delegate, impressed the negotiators of the Cartagena Protocol on Biosafety due to his active presence, day and night, at all the negotiation meetings. The legend of the Ethiopian marathoners seems to have been confirmed in international diplomacy.

¹This dynamic is also important for anyone wanting to plan fieldwork during international environmental negotiations. In order to meet the most people and conduct interviews, it is preferable to be involved during the first week when diplomats have more time. To understand the outcome of negotiations or try to meet important political actors, it is better to be involved in the second week of negotiations and expect to have feedback a day or two after the official closing date announced at the beginning of the meetings, constantly postponed. If environmental diplomacy follows the game of chicken, how are agreements reached? In addition to states' motivation, two elements in the negotiating procedure do increase the chances of an agreement being adopted: transparency in discussions and the importance of session chairs.

Environmental diplomacy is in many respects a transparent diplomatic game followed by numerous non-state actors who play the role of safeguards. Not only is the number of countries involved in environmental diplomacy impressive, but the diversity of actors is equally so, with the significant participation of various kinds of non-state actors (Canal-Forgues 2015; Kuyper and Bäckstrand 2016). Since the Rio Summit, actors as diverse as mayors, indigenous leaders, farmers, representatives of student organizations, heads of multinational companies, and union delegates have taken part in discussions.

In addition to the number and diversity of actors, there is also a diverse range of political roles they may play. Whereas observers are traditionally confined to a passive role, several procedures in environmental diplomacy provide a chance for them to have their voices heard. Already at the Rio Summit, certain actors from civil society attended the preparatory meetings, where they were able to convey documents to government representatives and take the floor during plenary sessions. Furthermore, observers have the possibility of expressing themselves during environmental negotiations, but only after state diplomats have spoken. Along with these official statements, non-state actors engage in everyday lobbying interactions that influence final decisions (Orsini 2010).

Other official events may be planned in order to foster interactions between observers and official diplomats. This is the case for side events that generally take place in rooms adjacent to official negotiations, but also for an increasing number of spaces used for exhibitions, discussions, and meetings. During the twenty-first session of the Conference of the Parties, in Paris, many exchanges occurred at the "alternative village" in Montreuil, the "climate generation spaces" at Le Bourget, the "climate action zone" at CentQuatre, the "global landscapes forum" at the Palais des Congrès, and at the two "solutions galleries" at the Grand Palais and Le Bourget. There are many borders that get blurred between the "main" (official diplomacy) and "fringe" (informal diplomacy) events.

In addition to on-site transparency, most multilateral environmental diplomatic meetings have detailed records available online and more recently webcasts. Since the 1992 Rio Summit, the Earth Negotiations Bulletin (IISD, n.d.) has produced bulletins on a regular basis about major negotiations in progress, presenting highly detailed summaries of official negotiations while also valuing corridor discussions. Since COP21, real virtual participation in the UNFCCC's COP has been possible through live streaming and later on webcasts. This transparency has intensified civil society's focus on environmental diplomacy and has worked favorably in adopting agreements, even though it complicates decisions by multiplying the interests at stake.

The second procedural element that fosters decision-making has been the gradual increase in importance of session chairs who are traditionally designated at the beginning of every official meeting, or for an entire negotiating process, and whose role has become more and more vital. There are often two of these negotiation ambassadors, traditionally representing two countries with opposing interests regarding the themes dealt with. For instance, for the negotiations on the Nagoya Protocol on Access to Genetic Resources, the co-presidents were a Canadian diplomat, Canada being a user country of genetic resources, and a Colombian diplomat, Colombia being a supplier country of genetic resources. The co-presidents are chosen by the secretariats of the institutions the negotiations are tied to, and their choices are then approved by all the parties at the start of negotiations.

The role of session chairs is officially to handle the diplomatic processes in order to bring them to a successful conclusion. In practice, these key actors often write drafts of future agreements. It is also not uncommon for them to use innovative negotiating techniques to foster a positive conclusion to discussions. For example, during the final negotiations of the Cartagena Protocol in September 1999 and January 2000, diplomats could not reach an agreement. Discussions were impossible between pro- and anti-GMOs. The session chair, Juan Mayr, Colombian environmental minister, decided to use colored balls to coordinate slots for speakers. Not finding anymore colored balls for the last negotiating session, he chose five different-colored teddy bears that he named Justice, Testaverde, Brown, Rodriguez, and Smith. Like colored balls, teddy bears were used to manage the order of diplomats' interventions. No diplomat had the right to speak before choosing a teddy bear and hugging it. The teddy bears helped to ease tensions by adding some humor and a human touch (the teddy bear as a symbol of something sweet and childlike). The Cartagena Protocol was adopted on January 29, 2000, and the teddy bears were present when it was signed. When session chairs do not succeed in reaching an agreement, the country hosting the meetings may also play an important role. For instance, "The Future We Want," adopted at Rio + 20, was drawn up at the last minute by Brazilian diplomats.

* * *

As has already been explained in detail in this chapter, environmental diplomacy is dynamic, innovative, and inventive. For this reason, it is worth being used more often as a model for other areas of diplomacy, even if its performance could also be improved (Susskind and Ali 2014). In terms of content, others could learn from environmental diplomacy through its constant ability to provide new ideas and willingness to challenge existing models in the interest of effectiveness. In terms of rules, others could learn from environmental diplomacy the importance of transparency in discussions, participation by all, and collective dynamics allowing highly diverse interests to be taken into account: of developed and developing countries, of present and future generations, of mankind and of all living beings, etc.

And yet, rather than being a model for others, the environmental diplomacy described above is threatened due to its increasing politicization. This is the case notably for the subject of climate change. As an attentive observer at COP21 stated: "the climate change arena has become the place to speak, to be heard and to seek funds" (Foyer 2016, 4). To be sure, this politicization has given more visibility to the environment on the international stage, but it also risks paralyzing negotiations. The expanded audience dilutes environmental imperatives, and generalist decision-makers, contrary to diplomats specialized in the environment, are not always favorable to environmental policies. Thus, for better or worse, environmental diplomacy has become more dependent on the interests of the major powers.

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