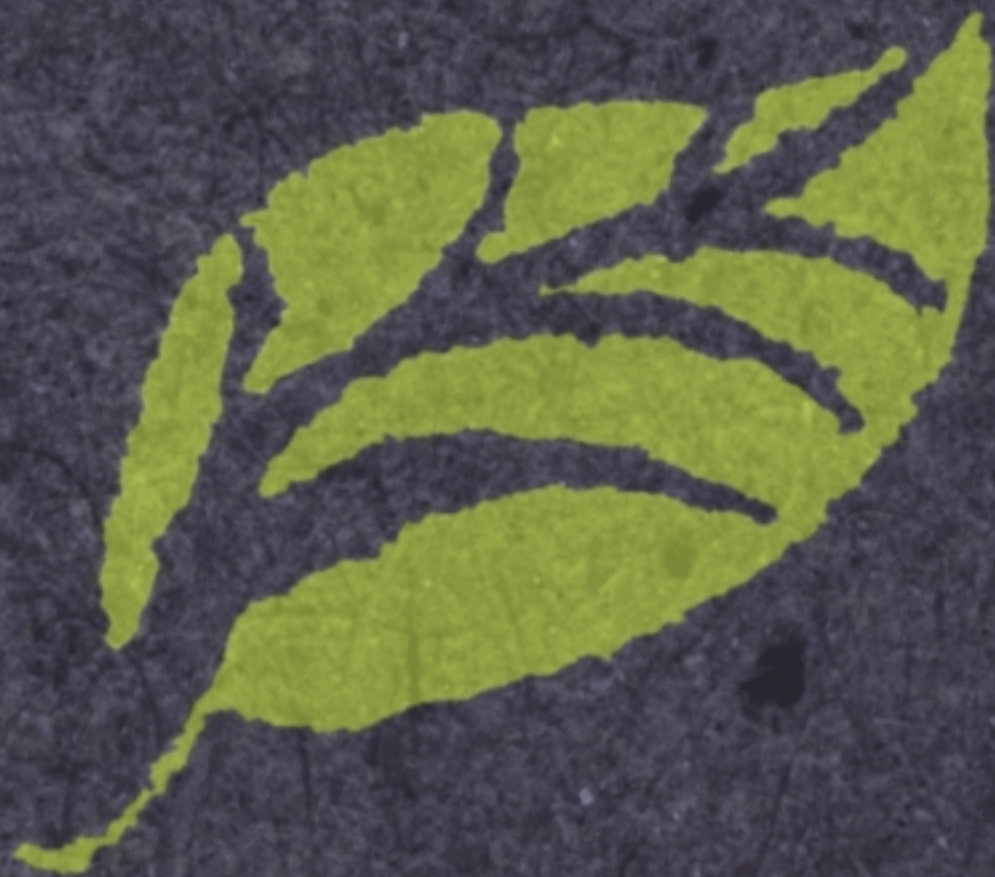


Emerging Forces in

ENVIRONMENTAL GOVERNANCE



EDITED BY NORICHIKA KANIE AND PETER M. HAAS

Emerging forces in environmental governance

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Introduction

Norichika Kanie and Peter M. Haas

Throughout the process leading up to the 2002 World Summit on Sustainable Development (WSSD) the international community endorsed the need to integrate better three dimensions of sustainable development: the environmental, social, and economic dimensions of development. In the words of Dr Elim Salim, former Minister for Environment in Indonesia and the chair of the main committee to the WSSD and its preparatory committees (prepcoms), these three dimensions of sustainable development are similar to the components that make up a lemon tea. When putting sugar and lemon into the tea, those components cannot be seen in the cup. They are melted and integrated into the body of the lemon tea. Similarly, effective sustainable development planning seamlessly integrates the environmental, social, and economic dimensions of development so that all three dimensions are taken into account for public and private decision-making.

Despite years of effort at reform, however, existing multilateral environmental institutions are not yet well designed for such policy integration, as the historical development of environmental institutions shows. In 1972, when the institutionalization of international environmental policy-making really began, the issues were focused mainly on the conservation and management of natural resources, both living and inanimate. No one could have predicted, or even imagined at that time, the severity or variety of problems that would arise by the twenty-first century, including such previously unrecognized threats as stratospheric

ozone depletion and trade in hazardous wastes. Today there exist over 500 multilateral environmental agreements (MEAs) and a plethora of international organizations, doing the best they can to respond to environmental challenges that range from climate change to persistent organic pollutants. In addition new planning doctrines of critical loads, integrated assessment, and public participation have emerged and been applied to multilateral management efforts. The manner in which environmental institutions have developed in response to these problems has, however, largely been *ad hoc* and fragmented. Collectively, these institutions serve as a reflection of the muddled hierarchy of real-world issues that compete for global attention.

The apparently disjointed approach to environmental governance can, largely, be attributed to the very nature and complexity of environmental problems. Environmental processes are governed by laws of nature that are not amenable to conventional bargaining within the domestic or international policy-making process. Environmental policy-makers have to struggle, from the outset, with the issue of “scientific uncertainty” as well as incompatibilities between the ethical and political ramifications of the precautionary principle. In many ways, the current international legislative environment is not conducive to the development of coordinated, or synergistic, approaches to collective environmental – and sustainable development – problem-solving. Particular international agreements are often negotiated by way of “specific” regimes that are considered in relative isolation. Each agreement is tackled by, more or less, artificially decomposing the causal complexities involved for the sake of practical “manageability”. Agreements are negotiated by specialized ministries or functional organizations within forums that are detached from the negotiating arenas of other international agreements. Furthermore, the process of consensus-building within the context of the non-cooperative games which are characteristic of global multilateral treaty-making involves a plethora of *ad hoc* log rolling. This, all too often, obscures the interconnectedness of the goals to be shared among different issue-specific regimes. The treaty-making process is also extremely time-consuming. It has taken over a decade to advance from the agenda-setting stage, via a framework agreement, to the negotiation of the first operational protocol for collective action. Even after the protocol agreement, ratification of the protocol is a matter of how governments can create a consensus at the domestic level, and if a government turns out to be unwilling to ratify the protocol and brings back the issue of scientific uncertainty again for political reasons, there is still a possibility that the whole negotiation process can unexpectedly be taken back to an earlier stage, which may consume extra time.

To date international environmental policy-making has generally been

segregated on the basis of topic, sector, or territory. The result is the negotiation of treaties that often overlap and conflict with one another. This engenders unnecessary complications at the national level as signatories struggle to meet their obligations under multiple agreements. At the international level, some coordination efforts exist between environmental institutions through mechanisms such as the Inter-agency Coordination Committee and the Commission for Sustainable Development, but these institutions are far too weak to integrate the three dimensions of sustainable development effectively. They seem to have served more as a pooling regime rather than an effective coordination regime.

And yet the process moves. Describing the difficulty of the endeavour should still not blind us, as analysts, to the fact that amazing accomplishments have been achieved multilaterally over the last 30 years. Most governments created environmental agencies, and, since 1992, units responsible for sustainable development. Public expenditures on the environment in the advanced industrialized countries now routinely run between 2 and 3 per cent of GNP. The market for pollution-control technology is conservatively estimated at \$600 billion per year, and this market did not even exist in 1972. It was created as a consequence of governments adopting policies in order to achieve environmental protection and sustainable development. As mentioned above, hundreds of MEAs have been adopted. Many of these MEAs have actually been effective at improving collective environmental quality through inducing states to change policies in a manner conducive to a cleaner environment. Stratospheric ozone pollution has been reduced. European acid rain is greatly reduced. Oil spills in the oceans are down in number and volume. The quality of many regional seas has been stabilized, if not improved. In the face of sustained economic growth throughout the last 30 years these are not inconsiderable accomplishments. But still the challenge remains to do better, and to progress from environmental protection to sustainable development.¹

We, as social scientists and citizens of the world, have already recognized that certain inherent links exist between human activities and the natural environment on which they depend. We know, for example, that there are a number of different gases that all lead to climate change, acid rain, and ozone loss. Similarly, we recognize that the climate, forests, oceans, wetlands, and diverse biosystems are naturally co-dependent within the global ecosystem.

There is growing interest in identifying the ways and means of creating a more effective synergy between the multitude of environmental institutions that exist at the local, national, regional, and global levels, and between those levels. The need for a common understanding of the interrelationships between different elements and dimensions of the

environment, and sustainable development, extends well beyond the limitations of current scientific knowledge.

The multilateral approach to these issues still remains fragmented in terms of methods and mechanisms of scientific assessment and the development of consensual knowledge. This is also the case in regard to human capacity-building and the arts of domestic-regional-international interfacing in policy-making. At present it is unlikely that the tendency simply to piggyback institutions will produce a coherent, holistic approach to the governance of global sustainable development.

This volume addresses the various new channels of multilateral environmental governance that have appeared within an increasingly globalized international system at the end of the twentieth century. While states ultimately continue to make and enforce international law, they are increasingly dependent upon multilateral institutions, organized science, NGOs and social movements, and business and industry for formulating their views and conducting policy. This collective research project started with the premise that it is the emerging forces emanating from these multi-actors which facilitate creating institutional synergism in environmental governance. In other words, the authors believe that the state alone is not enough to propel changes.

As it is science that makes the environmental aspect of sustainable development “speak”, the science-politics interface can be one of the most crucial facets of environmental regime-building. Yet there remains a great amount of scope for improved efficiency in the process of forging consensual knowledge, by identifying and utilizing the natural synergies that exist within the environment itself. Recent research reveals that most conflicts within the process of environmental regime-building are located at a cognitive level. What may appear to be political disagreements are often underpinned by disagreements about empirical data, analysis, and the formulation of assumptions regarding the causal relationships that underlie a given problem.

The interaction between science and politics has undergone institutional innovations during the past two decades, in that government-designated expert groups and independent scientists have, to a large degree, been incorporated within the negotiation setting. Yet it is now the case that most treaty negotiations have entered a stage where a greater role is envisaged for the social-scientific disciplines. Social sciences can provide two important contributions to a better understanding of global change and sustainable development. The first is through research on the human dimensions of global change, such as the large-scale demographic and social forces that drive societies to behave in potentially unsustainable manners. The IPCC, for instance, has turned to the use of social scientists to write reports on the human activities that generate green-

house gases and thus are the root causes of climate change. Secondly, social scientists can study the diplomatic process by which states try to address shared environmental risks meaningfully, and thus contribute to improvements in the process. For instance, whereas states have endorsed scientifically derived “critical loads” for the protection of certain endangered ecosystems (such as in the case of European acid rain), in practice they often resort to more modest emission standards called “target loads”. Social scientists can help decision-makers understand the process by which critical loads are adopted, and yet target loads are pursued, within a broader process of trying to move target load commitments closer to the critical loads which will be more beneficial for the sustainable development of the endangered ecosystems.

This volume is but one of many reflexive efforts by social scientists and environmental diplomats to understand and improve the process of multilateral environmental governance. To some extent sustainable development entails developing mechanisms by which groups who study and understand the development process may be better involved in that process.

Background

In 1999 the United Nations University, in collaboration with over 15 different UN organizations and agencies, agreement secretariats, and specialized agencies, examined the issue of synergy and coordination within international efforts to protect the environment. In the report emanating from this conference, many important questions were raised and several key conclusions reached. These included, for example, whether existing environmental institutions will be “adequate in the medium and long term, or whether deeper structural realignments are necessary”.²

In regard to this question, one particular recommendation has continually resurfaced. This recommendation lies in the realm of structural change and involves the creation of a world environmental organization (WEO). Although the idea of a new global international environmental organization was once sidelined in the 1992 UN Conference on Environment and Development (UNCED) process, the proposal has regained currency over recent years within the academic literature.³ There has been something of a time lag between renewed interest in the proposal at the academic level and the more recent interest in the idea from a policy perspective. At a policy level the notion of creating an overarching international environmental organization has been lent credence through a number of recent high-profile statements. These include the comments made recently by Renato Ruggiero,⁴ and also the joint declaration of

Brazil, Germany, Singapore, and South Africa at the “Rio + 5” UN-GASS meeting in 1997. Most recently French President Jacques Chirac supported the idea of a WEO in his speech at the 2002 World Summit on Sustainable Development.

Proponents suggest that a world environment organization, or a world environment and development organization (WEDO), could, *inter alia*, facilitate greater coherence in the international environmental and sustainable development regime and increase the political standing of environmental and developmental issues *vis-à-vis* other policy areas, such as international trade as an economic dimension of sustainable development.

While many of the proposals that have been put forward may be attractive at first glance, those seeking to probe deeper into the feasibility and utility of each are confronted with a whole host of complexities and challenges that must be assessed. Many of the complexities are a consequence of the myriad of interrelated functional, political, and legal aspects that comprise the challenge of effective environmental and sustainable development governance. To date, attempts at an in-depth examination of these issues, in a systematic manner, have been rare. It is this factor that has led to this project, which aims to provide an interdisciplinary study of the missing linkages in the existing global environmental governance structure. Although the authors recognize the importance of sustainable development *per se*, the primary focus is on the environmental dimension of sustainable development. Sustainable development is seen from an environmental perspective in this volume.

The idea of launching a research project that looks into the possibilities for the reform of environmental governance structures emerged during Norichika Kanie’s discussion with Bradnee Chambers when he worked for the United Nations University Institute of Advanced Studies (UNU/IAS) in 2000. After the elaboration of an earlier proposal, the research project began in 2001 with the support of a generous grant from the Japan Foundation Center for Global Partnership. The project consists of two parts. The first part, the result of which is presented in this volume and which was coordinated by Norichika Kanie, evaluates the state of the art and emerging forces in environmental governance. In this part of the project institutional reform is viewed from the present perspective by evaluating the strengths and weaknesses of the current environmental governance structure. The second part views the reform from the perspectives of various proposals already presented. It looks at actual policy implication of various proposals for institutional reform that have not yet been assessed in a concrete manner. This second part includes an assessment of both strengths and weaknesses of establishing a WEO, and the results are presented in another volume. Since members of the two parts

of the project interacted with each other at a workshop and on other occasions, many of the chapters in this volume consider possibilities for the proposals investigated in the latter part (such as the possibility of a WEO) in their recommendations for reform.

The Faculty of Law and Policy Studies at the University of Kitakyushu, where Norichika Kanie was based, hosted the first part of the project, and the UNU/IAS was the host of the second part. Bradnee Chambers of the UNU coordinated the second part.⁵ The project was basically designed so that two members of the project would deal with one issue, such as multilateral institutions, the science-policy interface, the NGO-GO interface, the industry-government interface, and multilevel governance.

The project members first met at a workshop in May 2001 in Hawaii to discuss substantive issues. The first draft papers were presented at a two-day workshop in March 2002 in New York, which was held as a side event to the PrepCom3 for the WSSD. Preliminary findings of both parts of the project were also presented as a UNU report to the PrepCom3. Based on the discussion and further research efforts after the second workshop in New York, the final draft papers were submitted and are presented in this volume. Out of the revised papers the authors have also presented a report to the WSSD held in Johannesburg.⁶

Overview of the book

The volume is divided into five sub-themes. The first theme deals with multilateral institutions, and consists of three chapters. It begins with a chapter by Toru Iwama that reviews the existing multilateral environmental or environment-related institutions and coordination structures, with particular attention to the UN system and treaty organs, and gives insights into the interlinkages of the international environmental governance system by proposing their restructuring and revitalization and the creation of new institutions. He shows that there are a number of inter-related functions fulfilled by various multilateral institutions. They have “fulfilled their functions successfully in their own given mandates to protect the environment, but existing multilateral institutions and structures are inadequate to meet the global environmental challenges that international society is now facing”. Therefore, he argues, some kind of reform is necessary. Proposals for reform are closely investigated by the other volume coming out of this project, edited by Bradnee Chambers, but Iwama also provides an overview of those various proposals. As he argues, when it comes to creating/reforming something, one of the pressing problems is finance. However, one may realize by a close look at the

existing institutions that forces for creating synergies are already emerging within the existing institutional framework, and we may well start looking forward from what we already have to hand.

Such a case seems to exist even in one of the pressing issues, the finance issue. In Chapter 2 Jake Werksman assesses the Global Environment Facility's (GEF) role in consolidating the governance of project finance in areas of the global environment, and draws lessons for a better financial mechanism in environmental governance. Nearly eight years' experience of the GEF, designed through a loose set of institutional links rather than through creating a new international institution, has shown that it has struggled with "the need to avoid the duplication or proliferation of institutions, to tap into the comparative advantages of existing institutions, and to promote partnerships, cooperation, and healthy competition amongst development agencies". In terms of environmental governance, Werksman concludes, the GEF's function of consolidating governance of more than one MEA can lead to greater institutional efficiency, but it may also provide a means for capping and containing developing country demands for increased resources. At the project level, there is evidence that the GEF's position at the centre of more than one MEA has helped it to avoid funding projects in one focal area that could have undermined the objectives of another focal area.

If it is the case that forces for creating symbiotic environmental governance institutions are already emerging even within the existing institutional framework, then we should also consider how the existing structure and functions of the institutional framework could improve global and international governance structures. In other words, we need tools to identify which elements of the structure and function of the institution affect success or failure in achieving the goals of the regime. Lessons may be learned from the experience of other international institutions, Laura Campbell argues, because "successful approaches could serve as a model for environmental governance". Campbell has chosen the cases of the WTO and WIPO, and evaluates them in terms of regime effectiveness in Chapter 3. She argues that, in the context of globalization, issue linkage of environmental issues with other issues such as trade and investment, dispute resolution and enforcement mechanisms, and economic incentives to participate and comply with agreements appears to be an important lesson for developing effective environmental governance structures.

The second sub-theme looks at the linkage between global, regional, national, and local arenas. So far attention has been paid to the linkage at the same level of governance structure and between different issues, called "horizontal linkage", when talking about linkage. However, as 10 years' experience of implementing Agenda 21 has made clear, equally

important is how to translate the decisions taken at global level to implementation at the local level, and how local, often fragmented, experience or “best practices” for protecting the environment are accommodated into global regime design. Two chapters are devoted to investigating emerging forces and barriers to narrow the vertical gap. Jonathan Strand examines in Chapter 4 the question of how regional integration may serve as a stepping-stone to environmental governance. Recently, some attention has been paid to vertical linkages, especially in academia, but so far attention has been paid mainly to global and domestic governance, rather than the regional level. Strand argues that there is a paramount role for regional-level coordination of environmental governance and that regional environmental organizations could fill an important niche in multilateral environmental governance. In Chapter 5 Kanie explores domestic-international vertical linkage, and points out emerging forces that may narrow the gap between the domestic and international arenas, as well as identifying barriers to narrowing the gap. The narrowing forces exist in NGO activities, science activities, policies, institutions, and emerging partnerships between some of the stakeholders, but barriers also exist, which are found in the way to disseminate information, language, institutional capacity, and complex MEA requirements.

The next sub-theme is on the emerging forces that exist in the interface between science and policy. In Chapter 6 Peter Haas looks at lessons about the scientific functions that need to be performed to achieve effective multilateral environmental governance, and the institutional design by which such functions may best be performed. He concludes that effective international institutions in the environmental and sustainable development domains have been those that operate through networks composed of multiple international institutions and elements of civil society, rather than centralizing science policy functions. Chapter 7 looks into the case of the IPCC. Yasuko Kameyama assesses the eight gradually expanded roles of the IPCC in the climate change regime: the IPCC as a provider of scientific knowledge to the political process; a body to apply legitimacy to what is written in its reports; a forum to reach political agreements that would not be achievable in the political arena; a corridor for an epistemic community to influence politics; a forum to reach an agreement concerning scientific findings; a tool for researchers to obtain constant research funds; a tool for negotiators to justify their governments’ positions; and an organization that disseminates information concerning climate change to the public. She argues that, with rejection of individual political preference, the IPCC roles provide a good guidance for a future scientific organization.

The fourth sub-theme is devoted to relations between non-governmental organizations (NGOs), or civil society organizations

(CSOs), and the environmental governance structure. This nexus is another noteworthy area of emerging forces that facilitate changes to the dynamics of environmental governance. In Chapter 8 Satoko Mori gives an overview of institutionalization of NGO involvement in global environmental governance, particularly focusing on the development after UNCED. Among other things she shows the function of the multi-stakeholder dialogue (MSD) process and the institutional practices of the UNFCCC and the World Bank. Dana Fisher examines more deeply in Chapter 9 the relationship between civil society protest and NGOs' and civil society actors' participation in the international meetings of economic institutions and multilateral regimes by looking at their engagement at particular meetings in recent years. She looks most carefully at the World Bank/International Monetary Fund and the UN Framework Convention on Climate Change. She observes that civil society actors work both within international institutional structures by lobbying members of national delegations as NGO participants, as well as by organizing protests outside of the meetings of such international institutions and multilateral regimes; she suggests that transparency, NGO participation throughout the process, and support of demonstrations by institutional representatives are key to improved environmental governance.

The fifth sub-theme is the interface between business/industry and government. As a business exhibition was symbolically presented in the Sandton International Conference Centre at the WSSD, it is impossible to ignore the role of the business/industry sector in environmental governance. However, there are still positive and negative views towards business/industry involvement in environmental governance activities. Because they are generally recognized substantially as the main force that fosters economic globalization, there are still cautious and sceptical views about their engagement in environment and sustainable development activities. In particular, environmental NGOs or CSOs, which appear to be another kind of emerging force in environmental governance, generally view industry involvement with sceptical eyes. Such a view is very well represented in Chapter 10 by Harris Gleckman. He examines the current balance between international corporate voluntary environmental management and public sector environmental management, and finds that it is, at least from the perspective of the environment, tilted too far in one direction. By recognizing the four components of environmental regulatory systems – namely voluntary codes and standards, self-defined implementation standards, self-financed certification systems, and elective public reporting – and the drivers at the national and international levels, it is possible to construct a number of ways to re-centre the political balance, to create a sustainable business climate, and to enhance global environmental protection. Mikoto Usui provides more positive

views towards business/industry partnership in environmental governance. They possess huge power, and thus we should make positive use of them to find a win-win situation. In his informative Chapter 11, Usui explores various types of industry-government relationships. He argues that the multi-stakeholder dialogue programme of the UNCSD as well as the Global Compact have offered an innovative breakthrough at least for evading the impasse of institutional parallelism between private business and CSOs. It is hoped that the “Type 2” outcome of the WSSD will stimulate a variety of tri-sectoral partnering projects that involve a mediatory or brokering role of various UN agencies, the World Bank, and the IFC.

Finally, Peter Haas, Norichika Kanie, and Craig Murphy summarize the emerging forces in environmental governance, reflecting on the chapters in this volume. They present a matrix of functions in environmental governance that provides a mapping of the actor-function relationship. By clarifying who undertakes which function, our understanding of the complex environmental governance structure may advance. Also, the matrix could serve as a hint for further institutionalization or non-institutionalization of emerging forces in environmental governance in the world, since emergence of a WEO is unlikely in the foreseeable future.

In the process leading up to the WSSD a new approach was developed for enhancing “partnerships” between and among various stakeholders in society in implementing measures for sustainable development. As defined by the Commission on Global Governance, partnerships should be at the core of global governance.⁷ If so, how shall we enhance partnerships? In what kind of governance structure can we enhance partnership functions? Without understanding the emerging forces in governance, states and civil society cannot establish meaningful partnerships. The authors hope that this volume can help in understanding the emerging forces in environmental governance, and serve as a reference for further discussion on the reform of environmental governance structure.

Notes

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2. United Nations University. 1999. *Inter-linkages: Synergies and Coordination between MEAs*, UNU Report. Tokyo: United Nations University, p. 31.
3. See Esty, Daniel C. 1994. *Greening the GATT*. Washington, DC: Institute for International Economics; Biermann, Frank and Udo E. Simonis. 1998. *A World Environment and Development Organization*, SEF Policy Paper 9. Bonn: SEF, p. 12; Ulfstein, Geir.

1999. "The proposed GEO and its relationship to existing MEAs", paper presented at the International Conference on Synergies and Coordination between Multilateral Environmental Agreements, United Nations University, 14–16 July. *Global Environmental Politics*, Vol. 1, No. 1. February 2001, MIT Press. See also the statement that came out of the Strengthening Global Environmental Governance Conference, New York, 4–5 June 1998.
4. Former Director-General of the WTO.
 5. Chambers, W. Bradnee and Jessica F. Green (eds). Forthcoming. *Reforming International Environmental Governance: From Institutional Limits to Innovative Solutions*. Tokyo: United Nations University Press.
 6. UNU/IAS. 2002. *International Sustainable Development Governance: The Question of Reform: Key Issues and Proposals*. Tokyo: UNU/IAS.
 7. The Commission on Global Governance defines governance as follows. "Governance is the sum of the many ways individuals and institutions, public and private, manage their common affairs. It is a continuing process through which conflicting or diverse interests may be accommodated and cooperative action may be taken. It includes formal institutions and regimes empowered to enforce compliance, as well as informal arrangements that people and institutions either have agreed to or perceive to be in their interest." Commission on Global Governance. 1995. *Our Global Neighbourhood: The Report of the Commission on Global Governance*. Oxford: Oxford University Press.

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Mikoto Usui •
Jacob Werksman

International governance increasingly occurs through complex synergies between networks of actors across levels of international politics. While current governance arrangements remain a crazy quilt of overlapping activities, this book seeks to describe and analyze the activities of many new actors in international politics in the realm of sustainable development. It highlights many of their activities, difficulties, challenges, and critiques of their role in international governance, as well as raising new theoretical and empirical puzzles for the future study of globalization and the formulation of policies for global issues.

This book addresses the various new channels of multilateral environmental governance that have appeared within an increasingly globalized international system at the beginning of 21st century. While states ultimately continue to make and enforce international law, they are increasingly dependent upon multilateral institutions, organized science, NGOs and social movements, and business and industry for formulating their views and for conducting policy. It is the emerging forces emanating from this multiplicity of actors that facilitate institutional synergisms in environmental governance. This book focuses on clarifying the key actors and the governance functions they perform in addressing environmental threats.

Norichika Kanie is an associate professor of International Relations at the Tokyo Institute of Technology. **Peter M. Haas** is Professor of Political Science at the University of Massachusetts at Amherst.

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