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The Top 10 Trends in International Environmental Law

(Forthcoming in Martella R and Grosko B (eds.) *International Environmental Law: The Practitioner's Guide to the Laws of the Planet* (American Bar Association 2013).)

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Chapter 5: The Top 10 Trends in International Environmental Law

By Tseming Yang¹

Given the multitude of international environmental issues, the choice of the top 10 issues is to some extent arbitrary. A better description of such a list may be overlapping sets of top issues that together make up the 10 issues at the top of the minds of environmental lawyers, diplomats, and policy-makers. This is such a list.

I. Global Climate Change and Energy Policy

In any inventory like this, Climate Change must be at the very top. With its global scope, both in terms of contributions and effects, the warming of the Earth's surface and atmosphere from increasing concentrations of greenhouse gases, is unquestionably the greatest environmental challenge for humanity. Within just the last four decades, the total global anthropogenic carbon emissions into the atmospheres have doubled, with a 10-fold increase over the last century. Temperatures and sea levels are expected to rise, with attendant increases in the frequency of storms, floods, droughts, and other extreme weather events, changes in ecosystems, and adverse effects on human health.

Of course, the international community has not stood still, but has called for the widest possible cooperation by all countries to limit carbon emissions. The result have been policy and legal responses not only by national governments and international organizations but also sub-national and local entities as well as businesses and civil society organizations. While there is too much to discuss in detail, four sets of efforts are particularly noteworthy: international, regional, national, and sub-national climate initiatives.

Among the most visible international initiatives have been the work of the Intergovernmental Panel on Climate Change (IPCC) to assess the state of the science and potential effects of climate change as well as the 1992 United Nations Framework Convention on Climate Change to promote global cooperation to devise and implement appropriate policy responses. Designed with the goal to "limit average global temperature increases" and to cope with the inevitable impacts of climate change, the UNFCCC has served primarily as a forum for cooperation and dialogue. Quantitatively defined GHG emission reduction commitments are contained only in a subsidiary agreement, the 1997 Kyoto Protocol. Under the Kyoto Protocol, most of the wealthiest

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nations agreed to reach on average 5% emission reductions from 1990 levels by the end of 2012. One of the notable exceptions was the United States, which signed the Kyoto Protocol but has not ratified it.

The aggregate emission reduction target of the Kyoto Protocol parties as a whole appears to have been met, largely due to reduced economic activity from the break-up of the Soviet Union in the 1990s and the global economic slow-down during the 2008-2012 first commitment period. However, compliance by individual country parties with their Kyoto-assigned reduction targets has varied significantly, with some economies missing their individual targets by significant amounts.

Since 1992, the parties to the UNFCCC have also made progress in other ways. Most important have been efforts to encourage developing countries to engage in emission reduction activities, especially through the Clean Development Mechanism, addressing the role of deforestation and other land use-related contributors to climate change, and creating a new financial entity to support the work of the developing world, the Green Climate Fund. Most recently, the outcomes of the 2012 Doha negotiations created a second commitment period to last from 2013 to 2020. They also set out a plan for more significant post-2020 long-term reductions to be negotiated by 2015, with the ultimate goal of ensuring “that global temperature increases are limited to below [two] degrees Celsius.”²

At the regional level, the European Union’s efforts, especially its Emissions Trading System (EU ETS), has been noteworthy. Designed to control the “carbon dioxide emissions from more than 11,000 power stations and industrial plants in 30 participating countries,” the EU ETS covers a total of “40% of the European Unions’ total greenhouse gas emissions.”³ Most recently, the EU has taken the controversial step of expanding coverage of GHG emissions to the aviation sector, including non-EU airlines flying in and out of EU airports, a step opposed by many non-EU states. However, as of this writing, the EU suspended application of the tax.

At the national level, virtually every single country has been active on climate change.⁴ Within the US, federal government involvement has increased since the US Supreme Court’s 2007 decision in *Massachusetts v. EPA*. The Environmental Protection Agency’s 2009 finding that “greenhouse gases constitute a threat to public health and welfare” under section 202(a) of the Clean Air Act triggered a number of regulatory actions, such as new emission standards for new motor vehicles, “expected to save more than 6 billion barrels of oil through 2025 and reduce more than 3,100 million metric tons of carbon dioxide emissions” in car emissions alone. A pending proposal for new power plants will impose national limits on GHG emissions by “new fossil-fuel-fired electric utility generating units.”⁵

Finally, activity at the sub-national level has also been progressing rapidly. Within the US, California has been a leader, especially by mandating statewide GHG

² http://unfccc.int/essential_background/items/6031.php

³ <http://www.edf.org/climate/eu-emissions-trading-system-report>

⁴ See, e.g., *infra* chapters ____.

⁵ <http://epa.gov/climatechange/EPAactivities/regulatory-initiatives.html>.

emission reductions by 2020 through enactment of the Global Warming Solutions Act of 2006. Also known as AB 32, its emission reduction requirements as well as its most visible and controversial implementing feature, a cap-and-trade system created by the California Air Resources Board, became legally enforceable as of 2013.⁶

II. Globalization of Environmental Law

As international and global environmental problems have grown in importance over the last couple of decades, environmental law has evolved to meet these needs and given rise to Global Environmental Law. As the opening chapter of this book already described, global environmental law is the amalgam of international, national, and transnational environmental law principles that are being produced by active efforts of environmental law transplantation, convergence of law and governance systems, as well as integration and harmonization of international regulatory systems among themselves and with national systems.

Global environmental law is thus the manifestation of complementary trends of proliferation of environmental treaties and other international legal instruments, rapid development of national environmental law and governance systems across the world, and the growing importance of transnational law. It represents the inevitable realization that effective solutions to global environmental problems require not only government-to-government legal commitments, but also the development of law and governance institutions at the national and sub-national level. Such law and governance institutions are critical not only to engage national governments but also to allow for effective intervention into the role of the private sector and individuals in environmental degradation.

In a sense, even though globalization continues to contribute to environmental pressures across the world, it is also promoting convergence, integration, and harmonization in international, national, and in transnational environmental regimes, both legal rules as well as in the underlying environmental governance institutions and mechanisms. Just as the environment is interconnected, humanity's response to the global range of environmental problems will eventually require increasingly integrated and comprehensive institutional regulatory response. Whether these trends will eventually lead to the emergence of a globally integrated, or at least coordinated, regime of environmental governance remains to be seen.

III. Sustainable Development and Law

"Sustainable development" has been around as a buzz word at least since the Brundtland Commission's 1986 report entitled "Our Common Future." Its prospects have enjoyed a significant revival in recent years, however. As a concept, it embraces notions of temporal balance by providing for "development that meets the needs of the present without compromising the ability of future generations to meet their own

⁶ <http://www.arb.ca.gov/cc/ab32/ab32.htm>.

needs” as well as substantive balance between economic development and social and environmental considerations, such as eradication of poverty and conservation of natural resources. Its growing importance as a key framework through which global issues, especially maintenance of the health of the Earth’s ecosystems, are being evaluated led it to being adopted as the focus of the recent 2012 UN Conference on Sustainable Development. Also referred to as Rio+20, the Conference was centered on two thematic issues, a “green economy” and institutional frameworks for sustainable development.⁷

Rio+20 made evident that the concept is of broad significance across many different sectors and levels of government, private business, and civil society. Its showcased not only government initiatives but also innovations by civil society organizations such as farmers, women groups, the scientific community, indigenous peoples and many others.⁸ Rio+20 demonstrated that creative projects are advancing not only the cause of natural resource conservation and environmental protection but are also helping to alleviate poverty, create jobs, and grow the economy. Its “framework for action and follow-up” will likely spur further developments. Whether Rio+20’s vision for the “green economy will ultimately make sustainable development a reality, however, remains to be seen.⁹

At the national level in the US, the concept of sustainable development has enjoyed varying levels of attention, including as a subject of White House study with the President’s Council on Sustainable Development during the Clinton Administration. In recent years, the Environmental Protection Agency decision to commission a study for a new “Green Book,” a “management system framework to accelerate incorporation of sustainability into the operational activities of the EPA,”¹⁰ has been the most substantive exploration yet of how sustainability can be operationalized. The “Green Book” calls for nine sustainability principles to guide EPA’s work – (1) environmental protection, (2) the precautionary approach, (3) intergenerational equity, (4) internalization of environmental costs, (5) participation of all concerned citizens, (6) regeneration, (7) substitutability, (8) assimilation, and (9) avoiding irreversibility.¹¹ Such consideration remains ongoing, though it has not been without controversy.

Finally, the private sector has been developing and implementing its own sustainability initiatives. Motivated by the cost-savings that can be achieved as well as consideration of good corporate citizenship and public opinion, such initiatives have given rise to progressive corporate policies and initiatives.¹² In the banking industry

⁷ The Future We Want at 9.

⁸ <http://www.asil.org/insights120905.cfm>.

⁹ <http://www.asil.org/insights120905.cfm>.

¹⁰ <http://www.epa.gov/region9/science/seminars/2012/green-book.pdf>,
<http://epa.gov/sciencematters/april2011/truenorth.htm>.

¹¹ <http://www.epa.gov/region9/science/seminars/2012/green-book.pdf> at 42.

¹² General Electric’s “Ecomagination” program, which has engaged the company in “build[ing] innovative solutions to today’s environmental challenges while driving economic growth,” according to its company literature, is among the most visible of such corporate initiatives. <http://www.ecomagination.com/about>. Under this program, the company has built the GE38 Turboshaft Engine. Compared to its predecessor, it

specifically, the internationally-adopted Equator Principles have come to be seen as the leading set of voluntary guidelines “for managing social and environmental issues related to the financing of development projects” in all industry sectors, including “mining, oil and gas, and forestry.”¹³ Unfortunately, significant public relations and marketing efforts accompanying and supporting such sustainability initiatives have made it difficult to distinguish between what are substantively progressive policies and green corporate commitments as opposed to just “green-washing.”

IV. The Rise of the Developing World

Rapid economic growth in many developing countries has not only raised standards of living but also increased their environmental footprint correspondingly. Most prominent examples of this trend have been the emerging economies in East Asia and South America where standards of living comparable to North America, Western Europe and Japan have been achieved in at least substantial parts of society. And even if countries like China and India still have some ways to go in their development trajectories, their sheer population size and prospective global environmental impact has made them important players in international environmental cooperation and diplomacy.

In the past, poverty alleviation and other societal needs made these countries reluctant to prioritize pollution control and other environmental issues over economic growth. Furthermore, the notion of “common but differentiated responsibilities” of countries under Rio Principle 7, based on “the different contributions to global environmental degradation,” has provided a key argument that industrialized countries bear the primary responsibility for addressing environmental problems.¹⁴

Rio Principle 7 remains foundational for much of modern international environmental law. It is referenced in the UN Framework Convention on Climate Change and in the Stockholm Convention on Persistent Organic Pollutants. It was re-affirmed most recently in Rio+20’s outcome document “The Future We Want.” But with the growing environmental footprint of the developing world, including the emerging economies, the practical application of Principle 7 has become increasingly difficult and controversial. For example, in the context of international climate negotiations, industrialized countries are putting increasing pressure on countries with large carbon footprints, such as China, to make to meaningful emission reduction commitments.

There will undoubtedly be resistance by the developing world to greater environmental commitments, especially given the developing world’s increasing clout

provides “57 percent more power, . . . eighteen percent better fuel consumption, with 63 percent fewer parts.” <http://www.geaviation.com/engines/military/ge38/>.

¹³

[http://www.ifc.org/ifcext/ea_sustainability.nsf/AttachmentsByTitle/Equator+Principles+Factsheet/\\$FILE/Equator+Principles+Factsheet.pdf](http://www.ifc.org/ifcext/ea_sustainability.nsf/AttachmentsByTitle/Equator+Principles+Factsheet/$FILE/Equator+Principles+Factsheet.pdf).

¹⁴ Rio Principle 7 (“developed countries acknowledge the responsibility that they bear in the international pursuit to sustainable development in view of the pressures their societies place on the global environment and of the technologies and financial resources they command”)

and role in shaping international environmental negotiations. However, there also seems little doubt that changes will ultimately have to come not only in the South's active contribution to environmental problem-solving but ultimately also the structure of international cooperation on environmental issues.

V. Environmental Institutions, Governance Mechanisms, and the Rule of Law

The rise of global environmental law as well as proliferation of environmental treaties and legislation at the national and sub-national level has highlighted one important bottleneck in the development of effective systems to protect the environment. While legal rules and environmental standards are necessary elements, they are not sufficient conditions for such systems to be effective. In other words, successful international, national and local environmental governance systems require both well-designed legal rules and standards as well as effective governance mechanisms and institutions.

At the international level, discussions of enhanced and effective governance have revolved around the internal structures and external relationships of multilateral environmental agreements, the United Nations, especially the United Nations Environment Programme and the other specialized agencies of the UN, as well as non-UN affiliated multilateral organizations such as the WTO. Reform efforts have been controversial and centered in part on initiatives to restructure and enhance the status of UNEP.¹⁵ They did not find much traction in the preparations for the 2012 Rio+20 Conference, and the long-term prospects are unclear.

Efforts to enhance environmental governance at the national level have had less visibility, though appreciation of its critical importance is spreading. Effective national governance systems are critical to the implementation of international commitments on the environment and turning policy aspirations into on-the-ground reality. They require not only well-designed legislation, but also mechanisms and institutions concerned with the environment. As articulated by Scott Fulton and Antonio Benjamin, such systems must include mechanisms that allow civil society to participate in environmental decision-making, ensure accountability of both private and governmental actors in regards to the environment, provide access to fair and responsive dispute resolution, and make environmental information available to the public. At the same time, environmental institutions must be well-designed, efficient and operate with maximum integrity.¹⁶

Recognition of the need for effective international and national governance system is increasingly recognized in international conferences such as Rio+20 and the concurrent World Congress on Justice, Governance and Law for Environmental Sustainability,¹⁷ as well as through the work of transnational networks, such as the

¹⁵ Tseming Yang, ASIL Insight: The UN Rio+20 Conference on Sustainable Development – What Happened?, available at <http://www.asil.org/insights120905.cfm>.

¹⁶ C. Scott Fulton & Antonio H. Benjamin, Foundations of Sustainability, 28 *Env'tl. Forum* (Nov.-Dec. 2011).

¹⁷ <http://www.asil.org/insights120905.cfm>

International Network on Environmental Compliance and Enforcement,¹⁸ the IUCN Commission on Environmental Law, and the World Resources Institute's Access Initiative. Without more progress on developing effective governance systems, however, this issue will likely be a limiting factor in making significant further progress on international environmental initiatives.

More importantly, to the extent that efforts to strengthen environmental governance systems are successful, they also help to make the rule of law in such systems more robust. In fact, as recognized in the work of organizations like the International Development Law Organization and at the 2012 UN High Level Meeting on the Rule of Law,¹⁹ a more robust rule of law will conversely make environmental governance more effective. Ultimately, strengthening environmental institutions and governance benefits not only the environment and public health. It also makes the rule of law more robust and produces collateral benefits such as greater respect for human rights and democratic governance.

VI. Human Rights and the Environment

The connection to public health has arguably been the primary motivation for most public attention to environmental protection. However, explicit recognition of the linkage between human rights and environmental protection has increasingly attracted wider support in recent years. Thus, traditional human rights advocacy organizations have become increasingly engaged in environmental matters, and vice versa.

In the U.S., this connection has manifested itself in the rise of the environmental justice movement. Based in large part on the 1960s civil rights movement, the EJ movement's primary focus has been on environmental discrimination. Its aims, however, have been broader in raising attention about fundamental entitlement and equal rights to clean air, clean water, and other environmental goods. Since its rise in the 1980s and 1990s, however, the environmental justice movement has lost much visibility.

What the national EJ movement has lost in attention, however, is increasingly being made up by growing international interest in environmental human rights issues. For example, in recent years, the Inter-American Commission has had petitions related to the impact of climate change on the Inuits in Alaska as well as claims of environmental discrimination against racial minority communities in Louisiana.²⁰ On

¹⁸ For example, during the IUCN World Conservation Congress in Jeju, the INECE provided a workshop on "facilitating responses to environmental crime through a global network of environmental prosecutors in order to effectuate the rule of law and good governance." <http://inece.org/resource/facilitating-collaborative-responses-to-environmental-crime-through-a-global-network-of-environmental-prosecutors/>.

¹⁹ Declaration of the High-level Meeting of the General Assembly on the Rule of Law at the National and International Levels, at para 30, available at http://www.unrol.org/files/Declaration%20HLM_A%20RES%2067%201.pdf.

²⁰ Paul Revkin, Inuit Climate Change Petition Rejected, N.Y. Times, Dec. 16, 2006, available at http://www.nytimes.com/2006/12/16/world/americas/16briefs-inuitcomplaint.html?_r=0; Inter-

July 28, 2010, the United Nations General Assembly explicitly recognized a human right to clean drinking water and sanitation and called upon states and international organizations to provide financial resources and technology to countries where access to clean drinking water is limited.²¹ In 2012, the UN Human Rights Council appointed an independent expert on human rights and the environment, to study and report on the connection between these fields.²² These developments will not only continue to enhance understanding about this relationship but also maintain international attention.

VII. The Growing Role of the Environment in International Economic Law

The evolution and growing scope of international economic law and institutions, ranging from international trade law to multilateral financial institutions such as the World Bank, has led to the inevitable collision with environmental issues. In one of the most visible early instances, Mexico filed a legal challenge under the General Agreement on Tariffs and Trade against the U.S. for a ban on tuna imports caught by methods that resulted in excessive dolphin mortality. While the import ban sought to promote dolphin protection, it was also asserted to violate GATT requirements, a contention that was eventually decided against the US.

Since then, environmental issues have proliferated in number and scope in this area. International investment regimes routinely must confront regulatory takings claims by international investors with respect to environmental regulations restricting business activities. In the intellectual property context, environmentalists see concerns about bio-prospecting activities by pharmaceuticals companies and the inadequate protection of the interests of indigenous and other local communities. And finally, financing support by international financial institutions for large infrastructure projects in developing countries, such as hydro projects, has raised serious questions about potential environmental harm to local ecosystems, extinction of endangered species, and displacement of entire communities.

The international response to such issues has been the creation of environmental safe-guards and further study. For example, the World Bank and other international financial institutions have created internal mechanisms, such as the World Bank's Inspection Panel, to ensure compliance with Bank directives regarding environmental and public participation requirements in projects supported by such institutions. As interest in and attention to the relationship between the policies and objectives of international economic regimes and the environment grows, the legal and institutional mechanisms can also be expected to continue adjusting.

VIII. Increased Attention to Biodiversity

American Commission on Human Rights, Report No. 43/10 (2010), Pet. 242-05, *Mossville Environmental Action Now*.

²¹ UN Resolution 64/292, http://www.un.org/waterforlifedecade/human_right_to_water.shtml

²² A/HRC/RES/19/10. *See also* <http://www.ohchr.org/EN/Issues/Environment/IEEnvironment/Pages/IEenvironmentIndex.aspx>.

According to the 2010 Global Biodiversity Outlook 3, biological diversity in all of its manifestations, genes, species, and ecosystems, continues to decline across the world. Natural habitats in many forms, ranging from freshwater wetlands and sea ice habitats to coral and shellfish reefs, all are in significant decay. With humanity's ecological footprint exceeding the earth's biological capacity, the resulting pressures from habitat change, overexploitation, pollution, invasive alien species and climate change, have decreased biodiversity seriously. Amphibians, coral species, and almost a quarter of plant species are deteriorating and facing extinction.

As with other global environmental challenges, the international community has responded with broad-based cooperative efforts, foremost through the Convention on Biological Diversity. Through the Biodiversity Convention, parties have encouraged national efforts to conserve national ecosystems and species. Foremost has been the development of national strategies and strengthening of enabling governance systems, as well as enhancing international financial support. Its comprehensive subject matter scope and near universal membership have made the Biodiversity Convention arguably the most important international treaty regime focused on nature conservation. It is also the only agreement to address the commercial benefits that can arise out of biodiversity conservation, including biotechnology and pharmaceuticals. In the short 2 decades of its existence, its parties have already managed to negotiate and adopt three subsidiary protocols, the Cartagena Biosafety Protocol, the supplemental Biosafety Liability Protocol, and in 2010 the Nagoya Access and Benefit Sharing Protocol.

Yet, the Biodiversity Convention is neither the first nor the only major forum for nature conservation and resource management. Its predecessors range from the turn of the century Migratory Bird Treaties and the 1946 International Whaling Convention to the 1972 Convention on International Trade in Endangered Species and the Bonn Convention on Migratory Species. These treaty regimes continue as focal points for particular issues such as whale conservation or endangered species trade. However, as understanding of the broader importance of biodiversity to human well-being grows, so will legal and regulatory interest in the broader perspective.

IX. Chemicals and Hazardous Substances Management

Since the Rio Earth Summit, management of chemicals and hazardous substances has gained significantly in international visibility. Starting with the Basel Convention on the Transboundary Movement of Hazardous Wastes and Substances in 1989, 4 primary global environmental agreements focusing on these issues have been concluded in the last 25 years. A fifth non-binding policy framework, the Strategic Approach to International Chemicals Management, was created in 2006 at the International Conference on Chemicals Management. The newest of these, the Minamata Convention on Mercury, joins the Rotterdam Convention on Prior Informed Consent Procedure for Chemicals and the Stockholm Convention on Persistent Organic Pollutants, concluded in 1998 and 2001, respectively. While the Minamata Convention's legal effectiveness still has to await formal adoption as well as signature and ratification

by governments, the other three Conventions enjoy near universal membership and have been in force for some time, with both the Rotterdam and the Stockholm Conventions entering into force in 2004 and the Basel Convention in force since 1992.

This proliferation of international agreements addressing chemicals and hazardous wastes has come primarily in response to their dramatically increased ubiquity. In the last forty years alone, the global chemicals industry has more than tripled its output in inflation-adjusted dollars and shifted production increasingly from OECD nations toward the emerging economies.²³ In fact, according to United Nations Environment Programme's 2012 Global Chemicals Outlook, China is now the world's leader in chemicals production.²⁴ Yet, such international activity is also a result of growing awareness and regulatory activity at the national level in the US and Western Europe as well as highly visible dumping incidents, such as of Italian hazardous waste in Koko Island, Nigeria, and growing exports of chemicals to the developing world.²⁵

In spite of the growing number of international agreements, over forty by one count, such efforts remain inadequate because of their piecemeal approach, either focusing on individual or a limited set of hazardous substances or addressing only a subset of the issues that impede proper regulation. Yet, the European Union REACH program, "Registration, Evaluation, Authorization and Restriction of Chemicals," has provided a clearer picture of the significant number of chemicals that are produced in significant quantities and present serious concerns to public health.²⁶ And while the EU's REACH program itself offers a recent effort to respond to these growing risks, regulatory systems in many other countries, including in the US, remain outdated. Efforts to increase the effectiveness of international agreements are ongoing and have included initiative to ensure close coordination of the Basel, Rotterdam, and Stockholm Conventions through a joint secretariat. Nevertheless, greater efforts are necessary to broaden the scope of these agreements in terms of substances covered and issues addressed. International pressure for more comprehensive approaches is likely to grow in the future.

X. Oceans and Fisheries

The oceans remain a key agenda item for the management of the global environment. Of interest have been the ocean's natural resources, both fisheries and ecosystems such as coral reefs, as well as the connection to broader ocean governance issues, especially the Law of the Sea.

The oceans seemed capable of providing a limitless bounty of food for the world just a few decades ago. Now, over-fishing and pollution have dramatically increased the need for management of marine resources. Just as the increasingly intense whaling

²³ Center for International Environmental Law, *Paths to Global Chemical Safety: The 2020 Goal and Beyond* 9 (2013).

²⁴ UNEP, *Global Chemicals Outlook* 9 (2012).

²⁵ For a general overview, see Carmen G. Gonzalez, *Beyond Eco-Imperialism: An Environmental Justice Critique of Free Trade*, 78 *Denv. Univ. L. Rev.* 981 (2001).

²⁶ CIEL, *Paths to Global Chemical Safety* 10.

activities a little less than a century ago led to the international management of whaling, first under the auspices of the League of Nations and then in the form of the present-day International Whaling Commission, a number of regional fisheries management organizations have been created to oversee the exploitation of various fish stocks and to reign in unsustainable fisheries practices. In addition, pollution and climate change, including ocean acidification and temperature rise effects, have forced increasing attention to the degradation of marine ecosystem, especially coral reefs, as places critical for maintaining the healthy marine biodiversity and habitats.

One critical aspect of ocean and marine resource management has been the UN Convention on the Law of the Sea (UNCLOS), especially the question of the US government's relationship to it. UNCLOS was concluded over three decades ago.²⁷ Unfortunately, the United States remains the only major nation outside of this treaty regime. While successive Presidents, both Democratic and Republican, as well as the military and foreign policy establishment have supported ratification, Senate advice and consent remains outstanding. Nevertheless, the United States has continued to remain engaged in the work of UNCLOS. And with sea level rise and the expectation of an arctic region available for regular marine passage due to climate change, the questions about marine jurisdiction and governmental claims over areas of the sea floor are likely to rise in importance and require increasing attention and engagement by the United States.

Conclusion

There remain many more important trends and developments in international environmental law that this chapter cannot address. Nevertheless, the trends discussed here are among the most important and will arguably be the ones to dominate the discourse among international and environmental lawyers, diplomats, industry stakeholders, and interested civil society in the coming years.

²⁷ United Nations Convention on the Law of the Sea, Dec. 10, 1982, 1833 U.N.T.S. 397.