

*International Environmental Law-making
and Diplomacy Review*

2019



International Environmental Law-making and Diplomacy Review 2019

Tuula Honkonen and Seita Romppanen (editors)

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FOREWORD

The compilation of papers in the present volume of the *Review* is based on lectures presented during the sixteenth University of Eastern Finland – United Nations Environment Programme Course on Multilateral Environmental Agreements (MEAs), held from 14 to 24 October 2019 in Siena, Italy.

The publication is aimed at equipping present and future negotiators of MEAs with information in the area of international environmental law-making, including the experience of others, in order to improve the impact and implementation of these key treaties. The ultimate aim is to strengthen and build environmental negotiation capacity and governance worldwide.

For the past sixteen years, the University of Eastern Finland has partnered with UNEP to conduct a training course on MEAs annually, with each Course focusing on a specific theme. From each Course, selected papers written by lecturers, and participants, have, after a rigorous editing process, been published in the *Course Review* (2004–2018), for the benefit of both Course participants and a wider audience, who are able to access these publications online.

Since each MEA Course has a distinct thematic focus, the *Reviews* address a range of specific environmental issues, in addition to providing more general observations regarding international environmental law-making and diplomacy. The focus of the 2019 course was ‘Emerging issues in international environmental law’, and the current *Review* builds upon the existing body of knowledge in this area.

The material presented in this *Review* is intended to expose readers to a variety of emerging issues in international environmental law and law-making. Under this theme, a broad range of topics related to the emerging issues were addressed during the MEA Course, such as the work done under the United Nations Environment Assembly, General Assembly resolution 72/277 entitled ‘Towards a Global Pact for the Environment’, whose ad hoc open-ended working group’s recommendations were endorsed through General Assembly Resolution 73/333, emerging technologies and law, gaps within the current systems and Marine Biodiversity Areas Beyond National Jurisdiction. This compilation of papers informs the readers of this *Review* of the different emerging issues in the international environmental sphere and of the policy choices that can enhance bilateral and multilateral cooperation in addressing these issues.

The 16th MEA Course provided a unique opportunity for the participants to learn about emerging issues in international environmental law and law-making and to apply their enhanced knowledge and acquired skills in practice through several international environmental negotiation and drafting exercises. This *Review* presents to a wider audience a valuable collection of lessons and insights drawn from the Course.

UNEP is grateful to all the contributors for the successful outcome of the sixteenth Course. We would also like to thank Tuula Honkonen and Seita Romppanen for their skilful and dedicated editing of the *Review*, as well as the Editorial Board for providing guidance and oversight throughout this process.

Arnold Kreilhuber

Acting Director,

Law Division

United Nations Environment Programme

EDITORIAL PREFACE

1.1 General introduction

The lectures presented on the sixteenth annual University of Eastern Finland – UN Environment Course on Multilateral Environmental Agreements (MEAs), from which the papers in the present *Review* originate, were delivered by experienced MEA professionals, members of government and senior academics. One of the Course's principal objectives is to educate participants by imparting the practical experiences of experts involved in international environmental law-making and diplomacy – both to benefit the participants on each Course and to make a wider contribution to knowledge and research through publication in the *Review* publication. The papers in this *Review* and the different approaches taken by the authors therefore reflect the professional backgrounds and experiences of the lecturers, resource persons and participants (some of whom are already experienced diplomats). The papers in the *Reviews* of different years, although usually having particular thematic focuses, present various aspects of the increasingly complicated field of international environmental law-making and diplomacy.

It is intended that the current *Review* will provide practical guidance, professional perspective and historical background for decision-makers, diplomats, negotiators, practitioners, researchers, students, teachers and different stakeholders who work with international environmental law-making and diplomacy. The *Review* encompasses different approaches in this field, including international environmental law and governance, international environmental law-making, environmental empowerment, and the enhancement of sustainable development generally. The special themes of the *Reviews* bring naturally their own approaches and special questions into the publication.

The first and second Courses were hosted by the University of Eastern Finland (UEF), in Joensuu, Finland where the landscape is dominated by forests, lakes and rivers. The special themes of the first two Courses were, respectively, 'Water' and 'Forests'. An aim of the organizers of the Course is to move the Course regularly to different parts of the world. In South Africa, the coastal province of KwaZulu-Natal is an extremely biodiversity-rich area, both in natural and cultural terms, and the chosen special themes for the 2006 and 2008 Courses were therefore 'Biodiversity' and 'Oceans'. These two Courses were hosted by the University of KwaZulu-Natal, on its Pietermaritzburg campus. The fourth Course, held in Finland, had 'Chemicals' as its special theme – Finland having played an important role in the creation of international governance structures for chemicals management. The sixth Course was hosted by UNEP in Kenya in 2009, in Nairobi and at Lake Naivasha,

with the special theme being ‘Environmental Governance’. The theme for the seventh Course, which returned to Finland in 2010, was ‘Climate Change’. The eighth Course was held in Bangkok, Thailand in 2011 with the theme being ‘Synergies Among the Biodiversity-Related Conventions’. The ninth Course was held in 2012 on the island of Grenada, near the capital St George’s, with the special theme being ‘Ocean Governance’. The tenth Course, which in 2013 returned to its original venue in Joensuu, Finland, had ‘Natural Resources’ as its special theme. The eleventh Course was again held in Joensuu with a special theme of ‘Environmental Security’. The twelfth Course was hosted by Fudan University in Shanghai, China, with the recurring special theme ‘Climate Change’. The thirteenth Course was again hosted by the UEF in Joensuu, with the special theme ‘Effectiveness of Multilateral Environmental Agreements’. The fourteenth Course was held at the Château des Comtes de Challes, Chambéry, France and at the International Environment House, Geneva, Switzerland. The special theme of the Course was ‘Trade and Environment’. The fifteenth Course was hosted by the UEF in Joensuu. The special theme of the Course was ‘Environment and Human Rights’. The most recent, sixteenth, Course was held in Italy, hosted by the University of Siena. The special theme of the Course was ‘Emerging Issues in international Environmental Law’ – and this is therefore the special theme of the present volume of the *Review*.

The Course organizers, the Editorial Board and the editors of this *Review* believe that the ultimate value of the *Review* lies in the contribution that it can make, and hopefully is making, to knowledge, learning and understanding in the field of international environmental negotiation and diplomacy. Over the years, the academic perspective of international environmental law and policy has gained a more prominent role in the *Review*. Although only limited numbers of diplomats and scholars are able to participate in the Courses themselves, it is hoped that through the *Review* many more are reached.

Many of the papers contained in the *Review* are based on lectures or presentations given during the Course, but have enhanced value as their authors explore their ideas, and provide further evidence for their conclusions. In addition, the *Review*

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