

## **International Environmental Policy and Law**

**Law 682, NRE 501.117, Anthrcul 558**

**University of Michigan, Winter 2008**

### **SYLLABUS FOR LAW 682**

**(Most recent revision: lhh, 29 February 2008)**

Class Meetings: Mon and Wed, 2:40 – 4:00 PM, Dana Building (SNRE) Room 1046

**(Note: This course follows the university calendar, not the law school calendar: The first meeting is Monday January 7, the last is Monday, April 14.)**

#### ***Professors:***

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#### ***Course Outline and Objectives:***

In this course, we will examine how society manages (or fails to manage) international environmental and natural resource issues — including those under the authority of national governments outside the United States, and those that fall beyond the authority or capability of any single national government.

Some classes will focus on specific international environmental issues. The issues considered will include stratospheric ozone depletion, trans-boundary air pollution, protection and management of biological systems – including forests, endangered species, biological diversity, and marine fisheries – and global climate change.

We will examine each issue from three perspectives. We will *describe* the history and present status of attempts to manage the issue, and of our knowledge about it (mostly scientific knowledge, sometimes also technological, economic, and other relevant knowledge). We will seek to *explain* the policy outcomes we see, asking why things are being done in this way and not some other. And we will seek to *assess* the effectiveness with which the issue is being managed, relative to its apparent severity and urgency.

In other classes, we will pursue more general and conceptual topics. We will examine the nature and historical development of global environmental stresses, attempts to respond to them, and

systematic structural issues that obstruct effective management of environmental (or other) issues at global scale. We will emphasize the general elements or tools that have been employed as components of responses to manage these issues – e.g., international negotiation of treaties or other instruments, international organizations, international legal principles, financial measures, implementation and compliance systems, and initiatives by NGOs as alternatives or supplements to government action. We will thus introduce models of environmental governance that rely on state, market, or civil society-related exchanges, and distinguish among environmental governance, environmental policy making and environmental management.

Additional topics to be considered will include the use of science – scientific knowledge and uncertainty, consensus and controversy – in international policy-making; and the linkages of international environmental issues to other issues of trade, development, and international economic policy. We will briefly examine how, in many parts of the world, colonial states attempted to govern nature and for what ends; and the present-day nature of the effects of these historical environmental policies.

Overall, the perspective of the course will be synthetic: it will seek to apply insights from research and scholarship to help advance practical understanding of what is happening, why, and how things might be done better. The bridge between theory and practice will go both ways: we will both use theoretical concepts to help understand specific issues, and use evidence from these issues to help criticize and refine theoretical claims.

**Format:** a few lectures, lots of discussion, plus one or more simulation exercises.

**Requirements and Evaluation:** Your grade in the course will be based on the following:

*15%: Class Participation:*

You are expected to do the reading, think about it, and come to class prepared to make informed and thoughtful contributions to the discussion. Part of this grade will be assigned by us, part of it by your colleagues, who will be asked to assess how effectively you contributed to their learning. The peer evaluation component of this will be carried out through a brief informal response on CTOOLS, the completion of which will be a requirement of the course.

*45%: Two Short papers on assigned topic and one in-class quiz:*

First short paper: an identification and analysis of a collective-action problem, based on your reflections following the climate-change simulation exercise.

Second short paper: a briefing note on the state of knowledge and international management of an environmental issue **not included** in the cases we discuss in class. This paper will not entail any recommendation for action, but rather a thorough synthesis of various perspectives on the chosen issue.

In-class quiz: a brief (20-minute), short-answer quiz covering basic factual information related to the cases and institutions we have discussed.

*40%: One longer Paper:*

A more extensive analysis of an issue of your choice, which may take the form of either an explanatory causal argument, or a well-supported action recommendation for some specific

actor engaged in the issue. We are also willing to consider other types of topics for the major paper, including more conceptual or theoretical pieces.

A brief proposal will be required, three weeks prior to the paper due date.

The page-length of written work required for the course is relatively short. This does not mean that we intend these assignments to be undemanding. We expect you to work hard to produce clear, concise, correct writing, advancing coherent, well supported arguments, in a relatively short format. These assignments – both the short and the long – are intended to exercise your ability for independent, critical thinking, *not* to provide an opportunity for extended narrative or reproduction of the course readings or lectures.

**Textbooks and Readings:** Most of the reading for the course will be posted on Ctools and distributed in course packs at the Law School Reading Room (Identified by the law school course number, Law 682, Parson).

In addition, there are two required books, available at the usual locations:

*International Environmental Law and Policy*, 3<sup>rd</sup> Ed, David Hunter, James Salzman, and Durwood Zaelke, (Foundation Press, 2007), (hereafter HSZ)

*The Science and Politics of Global Climate Change: a Guide to the Debate*. Andrew E. Dessler and Edward A. Parson. Cambridge University Press, 2006. (paperback)

*Additional useful resources:* (You might wish to consult these for course assignments, to explore additional issues, or for more detailed and in-depth treatment of issues we cover.

Haas, Peter M., R.O. Keohane, and M.A. Levy, eds., *Institutions for the Earth: Sources of Effective International Environmental Protection*. MIT Press, 1993.

Hurrell, Andrew, and Benedict Kingsbury, eds., *The International Politics of the Environment*. New York: Oxford University Press, 1992

Keohane, Robert O. and Marc A. Levy, eds., *Institutions for Environmental Aid: Pitfalls and Promise*. Cambridge, MA: MIT Press, 1996.

Sands, Philippe, ed. 1994. *Greening International Law*. New York: New Press.

Schneider, Stephen, Armin Rosencranz, and John Niles, eds., *Climate Change Policy: a Survey* Washington, DC: Island Press, 2002.

Stewart, Richard B. and Jonathan B. Wiener, *Reconstructing Climate Policy: Beyond Kyoto* Washington, DC: American Enterprise Institute, 2002.

Victor, David, K. Raustiala, and E. Skolnikoff, eds, *Implementation and Effectiveness of International Environmental Commitments* Cambridge, MA: MIT Press, 1998.

Young, Oran. 1999. *The Effectiveness of International Environmental Regimes*. Cambridge, MA: MIT Press.

***Detailed Class and Topic Schedule, with Workplan.******Class 1 (Mon, Jan 7): Course introduction (Both)******Reading:***

P.M. Vitousek et al, "Human domination of earth's ecosystems". *Science* 277: 494-499 (July 25, 1997)

C.S. Holling, "An ecologist's view of the Malthusian Conflict", Ch. 4 in K. Lindahl-Kiessling & H. Landsberg, eds., *Population, Economic Development, and the Environment*. Oxford U Press, 1994

Robert M. Solow, "Sustainability: an Economist's Perspective" *National Geographic Research and Exploration* 8:1, pp. 3-9, 1992

R. Kates, B.L. Turner, W.C. Clark, "The Great Transformation," in *Earth as Transformed by Human Action*, ed. B.L. Turner et al, Cambridge 1990. pp. 1 – 17 (***Only marked passages are required: pg. 1 – top of 3; bottom right of p 5 through top right of 8; bottom right of 10 through 15) rest of excerpt optional***)

(optional – Ctools only) UNEP, Global Environmental Outlook-4: Summary for Decision-Makers. Oct 25, 2007, at <http://www.unep.org/geo/geo4/media/>.

***Follow-up:***

***Begin*** reading HSZ Chapter 4, "A Brief History from Stockholm to Johannesburg." This background historical material is not for any particular class, but you must be familiar with it by the time we get to Class 7 (Wed, January 30).

(Roles for global climate change simulation distributed)

***Class 2 (Wed, Jan 9): Global Climate Change Simulation (TP)***

***Preparation:*** Read and prepare role for global climate change simulation.

***Class 3 (Mon, Jan 14): Collective Action, Prisoners' Dilemmas, and Commons Problems (Both).***

***Preparation:*** Reflect on experience in climate change simulation, and Read:

D. Hofstadter, "The Prisoner's Dilemma Computer Tournaments and Evolution of Cooperation". *Metamagical Themas*. Bantam:New York 1985, pp. 715-734

T. Dietz et al, *The Drama of the Commons*, Chapter 1 (pp. 3-28)

Arun Agrawal, Profits on the Move: The Economics of Collective Migration among the Raika Shepherds in India. *57: 4 Human Organization*. (1998) p. 469

(Optional) T.C. Schelling, "Hockey helmets, daylight savings, and Other Binary Choices", *Micromotives and Macrobehavior*, Norton:New York, 1978. pp. 213-243.

***Class 4 (Wed, Jan 16): International Environmental Politics and Law: Theories and Foundations (TP)***

Ian H. Rowlands, "Classical theories of international relations", Ch 3 (pp. 43-65) in Luterbacher and Sprinz, eds., *International Relations and Global Climate Change*. Cambridge: MIT Press, 2001.

"A Short course on the international legal system", pp. 169-199, in Brown Weiss et al, *International Environmental Law and Policy*.

Rio Declaration on Environment and Development: Complete text at:

[www.unep.org/Documents.Multilingual/Default.asp?ArticleID=1163&DocumentID=78&l=en](http://www.unep.org/Documents.Multilingual/Default.asp?ArticleID=1163&DocumentID=78&l=en)

***No class on Monday Jan 21 –Martin Luther King Day***

***Class 5 (Wed Jan 23): Theories and Histories of Environmental Policy (RH)***

*Histories:*

Clips from archival documentary footage:

[69.93.98.66/~interlck/images/Expass/Extraordinary Passage Clips to Screen October 1/](http://69.93.98.66/~interlck/images/Expass/Extraordinary_Passage_Clips_to_Screen_October_1/)

And some audience response on these topics from a symposium this summer:

<http://www.interlockboardmeeting.com>

(Ctools) John Phillips and Harold Coolidge, *The First Five Years: The American Committee for International Wildlife Protection*. December, 1934.

Prendergast, D.K., and Adams, W. M. 2003. Colonial wildlife conservation and the origins of the Society for the Preservation of the wild fauna of the Empire (1903-14). *Oryx* 37(2): 251-60.

*Theories:*

Sabatier, Paul (1991). [Towards Better Theories of the Policy Process](#). *PS Political Science and Politics*, vol. 24, no. 2, pp. 147-16.

Lemos, M. C. and A. Agrawal (2006). [Environmental Governance](#). *Annual Review of Environment and Natural Resources*, vol. 31.

***First short paper due in class, Wed Jan 23.***

***Class 6 (Mon Jan 28): Theories of Policy-making, continued. (both)***

Overflow for discussions of theory and foundations from prior two classes – No additional reading, though we recommend as a general overview:

Hempel, Lamont (1996). [Environmental Policy Making: the Policy Process \(chapter 5\)](#). In *Governance: The Global Challenge*. Island Press.

### ***Class 7 (Wed Jan 30) Scientific Knowledge and Assessment in Environmental Policy 1 (TP)***

*Preparation:* Read:

Collingridge, David, and Colin Reeve, *Science Speaks to Power: The role of Experts in Policy-Making*. London: Frances Pinter. Chs 1 - 3, pp. 1 - 27.

Ruckelshaus, W., "Risk, Science, and Democracy", *Issues in Sci. and Technol'y*, 1985. 19-38.

R.B.Mitchell, W.C.Clark, and D.W.Cash, "Information and Influence", pp. 307-338 in Mitchell et al, eds., *Global Environmental Assessments*. MIT Press: 2006.

Inter-governmental Panel on Climate Change, *Assessment Report 4 Synthesis, Summary for Policymakers*, at [www.ipcc.ch/pdf/assessment-report/ar4/syr/ar4\\_syr\\_spm.pdf](http://www.ipcc.ch/pdf/assessment-report/ar4/syr/ar4_syr_spm.pdf)

Chris Mooney, "An Inconvenient Assessment", *Bulletin of the Atomic Scientists* 63:6, pp. 40-47, November/December 2007.

### ***Classes 8 and 9 (Mon Feb 4, Wed Feb 6) Stratospheric Ozone Depletion (TP)***

*Preparation:* Read:

Current treaty text at:

<http://www.unep.org/ozone/pdfs/Montreal-Protocol2000.pdf>

Original 1987 text with 1990 and 1992 adjustments and amendments at:

<http://sedac.ciesin.columbia.edu/entri/TextsToc.jsp>

Parson, *Protecting the Ozone Layer: Science and Strategy*. Ch 3, 5, 6, and 9.

G. Taubes, "The Ozone Backlash", *Science* 260, 11 June 1993, pp. 1580-1583

***NOTE: By these classes, you should have finished reading HSZ Chapter 4.***

***NOTE: Reading Packet 1 ends here.***

### ***Class 10 (Mon Feb 11) Scientific Knowledge and Assessment in Environmental Policy 2 (RH)***

*Preparation:* Read:

Beck, Ulrich 1995 *Risk Society: Towards a New Modernity*. Newberry Park, CA: Sage. Chapter 2: "The Politics of Knowledge in Risk Society," pp. 51-84.

Mitchell, Timothy, "The Character of Calculability," "The Invention and Reinvention of the Peasant," and "The Object of Development," in *Rule of Experts: Egypt, Techno-Politics, Modernity* (Berkeley: U of California Press, 2002), pp. 80-152 and 209-243.

Armitage, D. R. 2005. [Traditional agroecological knowledge, adaptive management and the socio-politics of conservation in Central Sulawesi, Indonesia](#). *Environmental Conservation* 30(1): 79-90.

***Class 11 (Wed Feb 13): Biological Diversity from the Bottom Up: Protecting Biodiversity at National and Community Scale (RH)***

*Preparation:* Read:

Worm, Boris et al. 2006. [Impacts of biodiversity loss on ecosystem services](#). *Science* 314: 787-90.

Ellison, K. 2003. [Renting Biodiversity: The Conservation Concessions Approach](#). *Conservation in Practice*/ 4(4).

Ferraro, P. J. and A. Kiss (2002). [Direct Payments to Conserve Biodiversity](#). *Science*/ 298, pp. 1718-1719.

Arambiza, E. and M. Painter. 2006. [Biodiversity conservation and the quality of life of indigenous people in the Bolivian Chaco](#). *Human Organization* 65(1): 20-34.

***Class 12 (Mon Feb 18) Biological Diversity from the Top Down: The Convention on Biological Diversity (TP)***

*Preparation:* Read:

HSZ Chapter 15, Sections I and II, p. 1002-1069

Paul Steinberg, "Defining the Global Biodiversity Mandate: implications for international policy". *International Environmental Affairs* 10:2 (1998), 13-130.

Review text of Biodiversity Convention, at <http://www.cbd.int/doc/legal/cbd-un-en.pdf>

"Recommendations for action for a sustainable biosphere policy", pp. 379-393, in Schellnhuber et al, *World in Transition: Conservation and Sustainable Use of the Biosphere*. Germany Advisory Council on Global Change (WBGU); Earthscan, 2001.

***Class 13 (Wed Feb 20) Implementation of International Environmental Policy (TP)***

*Preparation:* Read:

Brown Weiss et al, *International Environmental Law and Policy*, pp. 199-236.

Ray Vernon, "Behind the Scenes: how policymaking in the EU, Japan, and the U.S. affects Global Negotiations" *Environment* 35:5, June 1993.

Jasanoff, Sheila, "Cross-national differences in Policy Implementation", *Evaluation Review* 15:1, February 1991, pp. 103-119.

***Second short paper due in class, Wed Feb 20.***

***Class 14 (Mon March 3) Non-state Actors in Policy and Implementation 1 (RH):***

*Preparation:* Read:

Paul Wapner, "Politics beyond the state: environmental activism and world civic politics", excerpt from *World Politics* 47 (April 1995), 311-340.

Hodgson, D. L. 2002. Introduction: Comparative perspectives on the indigenous rights movement in Africa and the Americas. *American Anthropologist* 104(4): 1037-1049.

Chapin, Mac. 2004. A Challenge to Conservationists. *WorldWatch* 17(6): 17-31.

Dove, M. R. 2006. Indigenous People and Environmental Politics. *Annual Review of Anthropology* 35: 191-208.

***Class 15 (Wed March 5) Non-state Actors in Policy and Implementation 2 (RH):***

*Preparation:* Read:

Daniel Press, Daniel Doak and Paul Steinberg. The Role of Local Government in the Conservation of Rare Species. 10(6): 1538-1548 (1996).

Joshua Margolis & James Walsh, *Misery Loves Companies: Rethinking Social Initiatives by Business*, *Administrative Science Quarterly* 48(2):268-305 (2003).

Jennifer Kaye, *Coca-Cola India*, Tuck School of Business no. 1-0085 (2004).

David Million, *Theories of the Corporation*, 1990 *Duke Law Journal* 201

***Classes 16 and 17 (Mon March 10, Wed March 12): Management and Protection of Fisheries and Marine Ecosystems (TP, plus guest lecture by Dean Bavington)***

*Preparation:* Read:

HSZ Chapter 12, Sections I and II, pp. 734-791

Pauly et al, "Towards Sustainability in World Fisheries", *Nature* 689 (2002).

B. Worm and D. Vanderzwaag, "High-seas fisheries: troubled waters, tangled governance, and recovery prospects". *Canadian Institute of Int'l Affairs* 64:5 (2007).

D. Ardia, "Does the Emperor Have No Clothes? Enforcement of International Laws Protecting the Marine Environment". 19. *Mich J. Int'l L.* 497 (1998).

(Ctools) Petter Holm, "Fisheries management and the Domestication of Nature",

(Ctools) Dean Bavington, "Professionally husbanded and Harvested from Egg to Plate: Fisheries Managerialism and the Blue Revolution in Newfoundland & Labrador"  
Cod Fisheries

(Ctools)(Optional) "The Bluefin Slaughter", *NYT*, Nov 17, 2007.

[www.nytimes.com/2007/11/17/opinion/17sat2.html?\\_r=2&hp&oref=slogin&oref=slogin](http://www.nytimes.com/2007/11/17/opinion/17sat2.html?_r=2&hp&oref=slogin&oref=slogin)

Also look at ICCAT web site, [www.iccat.es](http://www.iccat.es).

### ***Class 18 (Mon March 17) Protection of Forests (RH)***

*Preparation:* Read:

R. Dimitrov, “Lost in the Woods: International Forest Negotiations”, Ch. 5 (pp. 99-130) in *Science & International Environmental Policy*. Rowman and Littlefield 2006.

Smith, J., V. Colan, C. Sabogal, and L. Snook. 2006. [Why policy reforms fail to improve logging practices: The role of governance and norms in Peru](#). *Forest Policy and Economics* 8(4): 458-69.

McCarthy, J. F. 2002. [Turning in circles: District governance, illegal logging, and environmental decline in Sumatra, Indonesia](#). *Society and Natural Resources* 15(10): 867-86. Or

Smith, J., K. Obidzinski, Subarudi, and I Suramenggala. 2003. [Illegal logging, collusive corruption and fragmented governments in Kalimantan, Indonesia](#). *International Forestry Review* 5(3): 293-302.

### ***Class 19 (Wed March 19) Protected Areas (RH)***

*Preparation:* Read:

Duffy, R. 2006. [The potential and pitfalls of global environmental governance: The politics of transfrontier conservation areas in Southern Africa](#). *Political Geography* 25(1): 89-112.

Wells, M. P. and M. D. Williams. 1998. [Russia's protected areas in transition: The impacts of perestroika, economic reform and the move towards democracy](#). *Ambio* 27(3): 198-206.

Hardin, R and M.J. Remis 2006. Biological and Cultural Anthropology of a Changing Tropical Forest: A Fruitful Collaboration across Subfields. *American Anthropologist* 108:273-285.

Pala, C. 2007. “No-Fishing Zones in Tropics Yield Fast Payoffs for Reefs” [nytimes.com](http://nytimes.com) April 17, 2007

McClanahan, T.R. et al., 2006. A Comparison of Marine Protected Areas and Alternative Approaches to Coral-Reef Management, *Current Biology* 16:1408-1413.

### ***1-2 PAGE PROPOSAL FOR FINAL PAPER DUE WED MAR 19***

### ***Class 20 (Mon March 24): The Convention on International Trade in Endangered Species (CITES) (both)***

*Preparation:* Read.

Review text of CITES Convention and appendices, at [www.cites.org](http://www.cites.org)

HSZ Chapter 15, Section IV, pp. 1095–1122.

Laura Kosloff and Mark Trexler, “CITES: No Carrot, but where’s the Stick?” *Env’t Law Reporter* 17 ELR 10222.

(Optional) “The CITES Fort Lauderdale Criteria: uses and limits of science in international conservation decision-making”, *Harvard Law Review*, April 2001.

Reeve, R. 2006. [Wildlife trade, sanctions and compliance: lessons from the CITES regime.](#) *International Affairs* 82(5): 881–97.

Stiles, D. 2004. [The ivory trade and elephant conservation.](#) *Environmental Conservation* 31(4): 309–21.

Mofson, P., “Zimbabwe and CITES: illustrating the reciprocal relationship between the state and the international regime,” in Schreurs & Economy eds., *The Internationalization of Environmental Protection* (Cambridge U Press, 1997)

### ***Class 21 (Wed March 26) International Trade Law and the Environment (TP)***

*Preparation:* Read:

HSZ Chapter 17, Sections I and II, pp. 1233 – 1306.

R. Howse, “The Appellate Body Rulings in the Shrimp/Turtle Case: a new legal baseline for the trade and environment debate”, *Columbia J. of Env’t Law* 27:2, 489-519.  
[faculty.law.umich.edu/rhowse/Drafts\\_and\\_Publications/Shrimp\\_Turtle.pdf](http://faculty.law.umich.edu/rhowse/Drafts_and_Publications/Shrimp_Turtle.pdf)

### ***Class 22 (Mon March 31): Wildlife Trade and Global Health (RH)***

*Preparation:* Read.

Hardin, et al. Turning a Bioterror Threat into Bushmeat Crisis Action: Wildlife Conservation from Food Security to Homeland Security. (forthcoming chapter) Hardin, R. ed, volume of *New Ecologies for the 21<sup>st</sup> Century Series*, Duke U. Press.

Von Hippel, F. A. and W. Von Hippel. 2002. Sex, Drugs and Animal Parts: Will Viagra Save Threatened Species? *Environmental Conservation* 29(3): 277-281.

Cooney, R and P. Jepson. 2006. The international wild bird trade: what's wrong with blanket bans? *Oryx* 40(1): 18-23.

### ***Class 23 (Wed April 2) Globalization and the Environment (RH)***

*Preparation:* Read:

Robert C. Paehlke, *Democracy’s Dilemma: Environment, Social Equity, and the Global Economy*. MIT Press: 2003. Chapter 1 (p. 1-37), Chapter 6 (195-228), Chapter 8 (263-275)

### ***Class 24 and 25 (Mon April 7, Wed April 9): Global Climate Change***

*Preparation:* Read:

A. E. Dessler and E.A. Parson, *The Science and Politics of Climate Change: a guide to the Debate*. Cambridge University Press, 2005, Chapter 5 (on Ctools)

Marty Hoffert et al, "Advanced technology paths to global climate stability: energy for a greenhouse planet". *Science* 298 (1 November 2002), 981-987, plus attached exchange of letters, *Science*, 25 April 2003.

S. Pacala and R. Socolow, "Stabilization Wedges: Solving the Climate Problem for the Next 50 Years with Current Technologies," *Science* 305 (13 August 2004), 968-972.

***Class 26 (Mon April 14): Course wrap-up***

*Preparation:* Read:

G. Gallopin, A. Hammond, P. Raskin, R. Swart, *Branch Points: Global Scenarios and Human Choice*. At <http://www.tellus.org/seib/publications/branchpt.pdf>

***Note: we will reserve 20 minutes of class time for the short answer quiz***

***FINAL PAPER DUE, WEDNESDAY APRIL 16, 5:00 PM (DAY BEFORE EXAMS)***