

World Leaders Debate the Future of the Global Pact for the Environment

Maria Antonia Tigre

On the evening of September 25, 2019, the Columbia Center on Sustainable Investment (CCSI), the UN Sustainable Development Solutions Network (SDSN), and Le Club des Juristes, with support from Iberdrola and under the guidance of Prof. Jeffrey Sachs, Special Advisor to the UN Secretary-General on the SDGs, and Laurent Fabius, President of the Constitutional Council of the French Republic, hosted a conference to discuss [the Global Pact for the Environment](#).

This conference, the third annual of its kind (see [2017](#) and [2018](#)), built upon the last two years of diplomatic efforts to promote the Global Pact and discuss opportunities to strengthen international environmental governance. This conference focused on the ability of a Global Pact for the Environment, which aims to unify international environmental governance and codify a human right to the environment in international law, to support the 2030 Agenda for Sustainable Development, including by linking the 2030 Agenda to the international environmental legal system. Specifically, the conference explored potential connections between 2030 Agenda for Sustainable Development and the Global Pact for the Environment, touching upon opportunities for mutual reinforcement and considering priority provisions for Global Pact negotiators to include to maximize impact. Panelists discussed how a Global Pact could serve the three overarching pillars of the Sustainable Development Agenda, including to promote social inclusion and economic development in addition to environmental protection.

The panel was moderated by **Prof. Nicholas Robinson**, Executive Governor of the International Council of Environmental Law, who introduced the topic and the basic documents required to follow the development of the Global Pact for the Environment: the draft of the Global Pact for the Environment, the Sustainable Development Goals, the UN Secretary-General's Report on Gaps in International Environmental Law and Environment-Related Instruments: Towards a Global Pact for the Environment, UN Doc. A/73/419, the UNGA Resolution No. A/RES/72/L.51, and the UNGA Resolution No. A/RES/73/333. Prof. Robinson praised the Co-Chairs for providing an example of best practices in good diplomacy in building a positive consensus out of the consultations in Nairobi and prompted the panelists into commenting on the topics that will consume the next few years in international environmental lawmaking, as the UN debates a new political declaration.

Introductory Remarks:

Prof. Jeffrey D. Sachs opened the conference noting the recent fires in the Amazon rainforest and questioning the mutual responsibilities of Brazil towards humanity, and of humanity's towards Brazil. He inquired how we could best move forward in the current state of environmental backlash and help sharpen the discussion towards greater environmental protection, focusing on the Global Pact for the Environment and the rule of law as helpful steps in this process. Similarly, **María Fernanda Espinosa Garcés**, President of the 73rd Session of the UN General Assembly, questioned our current social contract, calling for a change in the relationship between society, the economy, politics, and nature. She noted our current environmental policies are like "Taking Tylenol when you have cancer." The Global Pact for the

Environment could be the scaffolding structure needed for existing multilateral environmental agreements, bolstering the environmental law system at all levels. Referring to the recent events in the Amazon rainforest, she questioned how we could better legislate the global commons while also respecting national sovereignty. Espinosa ignited the debate by asking what consensus means at the UN General Assembly and whether it is time to revise the notions of consensus and unanimity in decision-making.

The need for a new approach to effectively address the world's environmental challenges:

Amal Mudallali, Permanent Representative of Lebanon to the United Nations, and Co-Chair of the Open-Ended Working Group responsible for debating gaps in international environmental law, gave insights into the behind-the-scenes negotiations of the final recommendations of the working group and the challenges faced by the Co-Chairs. The negotiations faced several practical and substantive difficulties, such as the lack of participation of countries in Nairobi, where 60 percent of states do not have embassies. Since the beginning of the negotiations, the majority of countries rejected the notion of a “legally binding” agreement. The talks were also affected by changes of governments. Allies at the beginning of consultations were no longer in favor of the Global Pact and rejected the idea of a potential new agreement. However, diplomats were able to find the language to reach the final recommendations by consensus, moving the discussion forward through effective communication.

Francisco Duarte Lopes, Permanent Representative of Portugal to the United Nations and Co-Chair of the Open-Ended Working Group, highlighted the role of three groups essential in influencing the final recommendations: the support of the President of the General Assembly, the participation of civil society, and the pressure of a few Member States. Although there were clear divisions related to the content of the Global Pact, they were able to reach an agreement by inclusively bridging the divide. **Satya Tripathi**, UN Assistant Secretary-General and Head of New York Office at UN Environment, noted the massive gap between what is being preached and practiced in environmental protection. However, he predicted that because of what has been achieved so far, the number of states supporting the Global Pact would continue to grow.

Putting the Global Pact to work for the 2030 Sustainable Development Agenda

Joan Carling, Co-Convener of the Indigenous Peoples Major Group for Sustainable Development, noted the principle of reciprocal relationship with nature and called for furthering the protection of environmental defenders, and indigenous people in particular. Through the protection of individual and indigenous rights, further environmental protection could be achieved. **Raoul Renard**, of the International Chamber of Commerce, highlighted the relevance of grassroots mobilization from all walks of life through a consciousness-raising exercise. He called on governments to align their SDGs and promote ambitious market-based mechanisms, as well as the promotion of low-carbon technologies. **Geneviève Dufour**, Professor of Law at the University of Sherbrooke, stressed how the bearing of the Global Pact does not depend on its status as a legally binding document. Since public international law changes slowly, it is essential to respond to the current momentum, which calls for a political declaration. A declaration could identify a common basis for environmental standards and strengthen national measures by crystalizing principles into general principles of international environmental law,

including if contra posed against existing obligations such as trade. The value of a declaration will be attributed to its content and negotiated in the following years. Principles such as the right to ecology, non-regression, and reparation even if there is no unlawful act, the precautionary principle defined to protect the environment, and the resilience principle could be part of a new declaration.

Carroll Muffett, President and CEO of the Center for International Environmental Law, focused on the right to the environment, the rights of future generations, and the rights of nature. He highlighted the need to recognize that we live in a world that we cannot live without and to account for the entire life cycle impact of environmental problems. He noted that it is essential that our laws adapt, because so must humanity. **Stewart Patrick**, Director of the International Institutions and Global Governance Program at the Council on Foreign Relations, underlined the need to bridge trade and the environment, penalizing countries that are creating environmental externalities for everyone else. Along with a new deal for nature, the biodiversity framework needs to be revised, possibly using a mechanism similar to that of the Paris Agreement, with strong goals and flexible commitments from countries. **Carlos Sallé**, Director of Energy Policies and Climate Change at Iberdrola, noted the roles of education and access to information, focusing on the procedural rights included in the Global Pact, and the vulnerability of different sectors.

Closing Remarks

Yann Aguila, Partner at Bredin Prat; Professor of Public Law at Sciences Po and Paris Bar School; and Chair of the Environmental Law Commission at the Club des Juristes, closed the panel noting that there is always hope. Our current challenge is to convince the States opposing the Global Pact that there is value in such an initiative. Echoing the speech given by Greta Thurnberg at the UN General Assembly, he called for the development of an international environmental law that answers to the anger of the youth.

Maria Antonia Tigre is an S.JD. Candidate at the Elisabeth Haub School of Law at Pace University. She is the author of Gaps in International Environmental Law: Toward a Global Pact for the Environment (ELI Press, expected Dec. 2019).