UNIVERSITY OF OKLAHOMA

GRADUATE COLLEGE

MULTILATERAL ENVIRONMENTAL AGREEMENTS: THE CHALLENGE OF

IMPLEMENTATION

A DISSERTATION

SUBMITTED TO THE GRADUATE FACULTY

in partial fulfillment of the requirements for the

degree of

Doctor of Philosophy

By

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Norman, Oklahoma
2006

UMI Number: 3222157

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MULTILATERAL ENVIRONMENTAL AGREEMENTS: THE CHALLENGE OF
IMPLEMENTATION

A DISSERTATION APPROVED FOR THE
DEPARTMENT OF POLITICAL SCIENCE

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Abstract

Implementation theory has been a central focus of the policy process. How a policy gets implemented can take many forms. Implementation can take a top-down approach, a bottom-up approach, or an approach that combines the two. Most scholarship today looks at these various approaches from the perspective of a single, small-scale policy problem.

This study looks at how Multilateral Environmental Agreements (MEAs) get implemented and once implemented, how they are monitored and achieve compliance. Implementation is looked at through the lens of historical institutionalism. Within this framework, the issues of sovereignty, collective action, capacity building, and resources are evaluated. This is done through the analysis of the National Reports submitted by the parties to the agreements and an original paper interview mailed out to the implementing agencies of the MEAs studied.

Chapter 1: Introduction

Multilateral Environmental Agreements offer scholars a unique opportunity to view implementation theory on a global scale. Once an MEA is ratified and entered into force it must then be implemented. This is no easy task. Implementing a single policy at the local level is difficult enough. Trying to implement a global environmental policy can be daunting. There are many actors and institutions involved in the process and all must come to some sort of agreement as to who will be responsible for implementation, how implementation will take place, what sort of timetable will be involved, and where in the institutional structure is to begin and end. Many of these questions are answered, at least on paper, in the actual agreements. But how the "paper" process translates into reality is not always clear.

This question is one of the core questions of this research but it is not enough to look simply at implementation in order to see the big picture. Once the agreements get implemented, how are they monitored? How do the monitoring agencies gain compliance? If the agreements are implemented and a system for monitoring is in place and parties are complying, does this translate into effectiveness? Compliance does not guarantee effectiveness. A party to an agreement may be doing everything that it is bound to do by the MEA but if what they are doing is having no effect on the environmental problem, then how effective is the agreement? In order for an MEA to be effective, compliance must be taking place and it must be having an impact on the problem. Can we really explain or predict effectiveness based on how an MEA is implemented, monitored, and complied with? As this research will show later on, if compliance is making a difference, then effectiveness can be predicted.

Implementation, monitoring, and compliance all have a direct impact on effectiveness of an MEA but there are also indirect factors which impact these three processes and ultimately, effectiveness as well. These include sovereignty, collective action, and capacity building. In general terms, sovereignty is the right of any nation state to exercise power over its own territory without outside interference. When dealing with MEAs, the question arises, do parties to these agreements cede some level of sovereignty by signing on? The short answer to this question is yes. Once a party signs an agreement it already relinquishes some level of sovereignty by agreeing to abide by a set of rules that may encompass actions within and/or outside of the party's own borders. It is almost a given that at this point any notion of "absolute" sovereignty is gone. The more relevant question may be; what happens to sovereignty after the party signs on to the agreement? How do parties reconcile their desire to abide by the agreement and their desire to maintain control over their own territory?

MEAs are collective action on a global scale. As with sovereignty, once a party signs on to an agreement, it is in essence agreeing to be a part of the collective action. In a sense, once a party signs on to the agreement, the collective action problem is solved. This does not diminish its importance in studying MEAs. There are hundreds of international agreements today all dealing with "global" commons problems and all requiring a collective action solution. The challenge we face today is going beyond Hardin's "tragedy of the commons" and Ostrom's "common pool resources" that deal only with small scale, local problems. What these authors have done, though, particularly Ostrom, is lay the groundwork upon which solutions to global commons problems can be built. This is an issue which will be explored throughout the dissertation.

Capacity building is also a factor in the success of implementation, monitoring, and compliance of an MEA. More recently it has become the focus of many MEAs. A party's ability to comply with an MEA has a great deal to do with its capacity to do so. It is generally agreed that most countries have the intent to comply with agreements but lack the capacity to do so. Capacity building depends a great deal on the resources that are available and unfortunately, with many MEAs, this is an area that is lacking. Many MEAs do not have their own financial mechanisms built in to the agreement and must rely on outside sources for the financial and technical resources necessary for implementation. The Montreal Protocol is one of the few agreements that has sufficient resources and a mechanism for distributing these resources. It is viewed by most to be one of the most successful MEAs in force today. Capacity building may turn out to be one of the key factors in implementation of MEAs.

What brings this all together is the institutional framework of the MEA and this is the focus of this dissertation. Implementation, monitoring, and compliance can only take place if an institutional framework is in place. Most MEAs establish this framework at the very beginning of the process and most are structured the same way: secretariat, conference of the parties and a scientific and/or technical body. Many also include provisions for NGOs and IGOs. Establishing this framework during the negotiation process allows for stability in the MEA but also flexibility to adjust to changes. The core structure remains the same but new institutions may be added as necessary. This is especially true in the case of NGOs and IGOs. The important questions are, how do these institutions influence the behavior of the parties to the agreements and what role do institutions play in implementation, monitoring, and compliance?

We cannot begin to understand how MEAs get implemented without first understanding the role of institutions in this process. Although the institutional framework among MEAs is fairly consistent, how states respond to these institutions may vary. For this reason,

> "institutions are important for helping us to understand the differences among states in their approaches to environmental policy formation and who is involved in the process. Peter Hall defines institutions as the formal rules, compliance procedures, and standard operating practices that structure the relationship between individuals in various units of the polity and economy. Institutions structure interactions among political actors, influence their goals, and in this way affect political outcomes. They can influence access to formal policy formation process, mediate power relations among actors and establish certain political incentives and constraints. In other words, institutions are critical intervening variables that affect which voices have a say in policy formation. They do not, of course, in themselves create policies, but rather they mediate interactions among political actors involved in the policy making process" (Schreurs, 1996).

Institutions, therefore, play a key role in structuring the implementation of MEAs. It is important to keep in mind though, that MEAs are not institutions. MEAs are documents that in essence house the institutional framework to carry out the implementation of the MEA.

Overview of MEAs

Within the international community, MEAs have become the chosen method for dealing with international environmental problems. The consequences of these transboundary environmental problems cross both political and physical boundaries. Responses to these types of problems require a coordinated effort on the part of states (Victor and Skolnikoff). The nature of these types of problems requires a global response and this response comes in the form of an MEA.

MEAs are "agreements between states which may take the form of 'soft-law,' setting out non-legally binding principles which parties will respect when considering

actions which affect a particular environmental issue, or 'hard-law' which specify

legally-binding actions to be taken toward an environmental objective" (Ministry for the

Environment). An MEA involves an agreement between two or more countries and

includes "international and regional conventions and protocols therein; where a

convention provides a general framework for action, protocols outline steps to address

specific problems" (Bhandari, 1).

The majority of MEAs date from 1972, after the Stockholm Convention.

According to Victor and Skolnikoff:

> "more than half of the United Nations' list of 170 multilateral environmental
> agreements has been added in the last 25 years. Much of the cannon of
> international environmental law – such as agreements to regulate trade in
> hazardous wastes, global warming, and depletion of the stratospheric ozone layer
> – has been adopted only in the last decade" (Victor and Skolnikoff).

However, the first MEA actually dates back to 1868 and is the oldest European treaty

still in force (EBU, 1). This treaty, known as the Mannheim Convention or the

Convention on the Rhine, guaranteed freedom of navigation on the Rhine (EBU, 1). The

Mannheim Convention "was concluded in 1868 between the Rhine riparian states. Under

the agreement the EU member States which are also signatory states, transferred

responsibilities falling within the scope of the Convention to the Central Commission for

Navigation of the Rhine (CCNR)" (EBU, 1). So, although it is generally agreed that the

influx of current MEAs began with the Stockholm Convention, the precedent for the

recent trend was established long before then.

The United Nations Environment Programme classifies MEAs into what it calls

"clusters." There are five clusters: biodiversity-related conventions, atmosphere

conventions, land conventions, chemicals and hazardous wastes conventions, and

regional seas conventions and related agreements. Treaties are also divided into three

categories:

1) core environmental conventions and related agreements of global significance whose negotiation, development, and/or activities have been associated with UNEP's work, which is further reflected in a number of Governing Council decisions dating back to the establishment of UNEP;
2) global conventions relevant to the environment, including regional conventions of global significance that were negotiated independently of UNEP; and
3) others, largely restricted by scope and geographical range (UNEP).

All of the MEAs used in this study are categorized as core environmental conventions.

The Montreal Protocol falls into the cluster of atmosphere conventions. The Convention

on Biological Diversity and the Convention on the Wetlands fall into the cluster of

biodiversity-related conventions. The United Nations Convention to Combat

Desertification falls into the land conventions cluster, and, in fact, is the only agreement

in this cluster.

<u>**Overview of Implementation Theory and How it Relates to MEAs**</u>

It is believed by many that the study of implementation policy began with (or at

least became a focal point) Pressman and Wildavsky's 1973 study of an Economic

Development Administration project in Oakland, California (O'Toole, 2000). Their study

brought implementation to the forefront of policy research. Up to that point, it had

"largely been a background issue" (O'Toole, 2000). Still, disagreements within the field

persist beginning with how to define policy implementation. According to O'Toole:

"policy implementation is what develops between the establishment of an apparent intention on the part of governments to do something, or to stop doing something, and the ultimate impact in the world of action. Some scholars include here both the assembly of policy actors and action, on the one hand, and the cause-effect relationship between their efforts and ultimate outcomes, on the other. Others, including myself, have emphasized the importance of making a conceptual distinction between implementation (action on behalf of the policy)

and ultimate impact on the policy problem. Implementation research concerns the development of systematic knowledge regarding what emerges, or is induced, as actors deal with a policy problem" (O'Toole, 2000).

If scholars are emphasizing different aspects of the process then implementation research is inconsistent at best. For this reason, a very specific definition of implementation will be used when dealing with implementation of MEAs.

Implementation of MEAs is by far the most difficult component of the international policy process. Implementation at the local, state, or national level can be a challenge and problems often occur at each stage of the policy process. Trying to reach consensus among competing agencies and organizations can be difficult. This difficulty becomes magnified as one moves to the international level. Multilateral agreements introduce unique problems not the least of which is having to deal with different countries run by different types of institutions who may view their roles in the implementation process differently as well.

Because of the diversity of MEAs, implementation can be a very complex issue. Different parties to these treaties view their obligations in different ways. Some feel that because they did not directly contribute to the problem, their obligation should be less than those who are major contributors. Some major contributors feel no obligation to solve the problem. For economic reasons, the United States has recently said that it will not abide by its signature on the Kyoto Protocol. Regardless of the reason given, many countries may view the US's position as hypocritical because it is one of the largest contributors to the problem. There is a general fear that if the United States does not abide by the agreement then others may follow its lead. This view could negatively affect the ratification process.

Implementation also encompasses enforcement, compliance, monitoring, and dispute resolution. Each signatory may have a different interpretation of exactly what it means to comply with a particular treaty. And simply because a country complies with an MEA does not necessarily mean that the treaty has been successfully implemented or is effective (Weiss and Jacobson, 1998). As one author puts it, "environmental problems are scientifically, politically, and economically complex and do not lend themselves to quick and easy solutions, especially at the international level" (Piddington, 19). Another claims that there is

> "a huge deficiency in implementing and enforcing treaty norms. The reasons are manifold and very complex: besides the missing will of the States to relinquish their sovereignty with regard to the use of natural resources and to decide themselves on implementation according to their national policies, financial and socioeconomic aspects as well as the lack of knowledge in the natural science of interrelated causes and effects may be the main obstacles for effective implementation" (Rest, 32).

The issue of implementation is an important one, especially considering the number of multilateral treaties in existence today. According to Weiss and Jacobson, however, "we know very little about national implementation and compliance with the treaties and other international legal instruments that have been negotiated, despite their importance and growing number" (Weiss & Jacobson, 1). They continue, "international accords are only as effective as the parties that make them. Effectiveness is the result not only of how governments implement accords but also of compliance" (Weiss & Jacobson, 1). This is an important point because it emphasizes the importance of successful implementation and compliance. As the authors point out, "learning about implementation and compliance is an essential first step to learning about effectiveness" (Weiss & Jacobson, 6).

Definition of Implementation

Lester and Stewart define implementation in the following way:

"The stage of the policy process immediately after the passage of a law. Implementation, viewed most broadly, means administration of the law in which various actors, organizations, procedures, and techniques work together to put adopted policies into effect in an effort to attain policy or program goals" (Lester and Stewart, 104).

The above definition is a good "generic" definition of implementation. For the purposes of this research, a more specific definition will be used that relates directly to the implementation of multilateral environmental agreements. It is also not enough to define just implementation; definitions of compliance and effectiveness must also be taken into consideration.

It is important to note much like the term institution, the definitions of implementation, compliance, and effectiveness are subject to interpretation by scholars. For this reason, with the exception of the definition of effectiveness, the definitions given in the *Guidelines on Compliance with and Enforcement of MEAs*, will be used for this research. Since these are the definitions given by UNEP, they seem appropriate for this study. The Guidelines do not provide a definition of effectiveness so Faure and Lefevere's was chosen.

In this research, implementation will refer to "all relevant laws, regulations, policies, and other measures and initiatives that contracting parties adopt and/or take to meet their obligations under a multilateral environmental agreement and its amendments, if any" (Guidelines on Compliance 2). Compliance will refer to "the fulfillment by the contracting parties of their obligations under a multilateral environmental agreement and any amendments to the multilateral environmental agreement" (Guidelines on

Compliance 2). The definition of effectiveness to be used will be Faure and Lefevere's: effectiveness will refer to "whether treaties that are correctly complied with actually achieve the objectives stated in the treaty, or whether the treaty actually helped to reach the environmental goal for which it was designed" (Vig and Axelrod, 139).

A second problem occurs in the approach taken to implementation research. In the post Pressman/ Wildavsky era, a "proliferation of studies brought, in turn, an explosion in types of research designs, varieties of models, and especially proposals for adding a bewildering array of variables as part of the explanation for the implementation process and its products" (O'Toole, 2000). This, in turn, led to a "set of sectarian disputes: qualitative and small-n versus quantitative, large-n investigations; top-down versus bottom-up frameworks; policy design versus policy-implementation emphasis, and so forth" (O'Toole, 2000).

The fact that implementation theory dealt mainly with a single policy issue being implemented by a single agency led to still another problem. Implementation was seen as occurring in one of two ways: top-down or bottom-up. In a top-down approach, "theorists see policy designers as the central actors and concentrate their attention on factors that can be manipulated at the central level" (Matland, 1995). A bottom-up approach, on the other hand, emphasizes "target groups and service deliverers, arguing policy really is made at the local level" (Matland, 1995). Today many researchers take the view that implementation takes place with an approach somewhere in the middle; "some convergence of these two perspectives, tying macrolevel variables of the top-down models to the microlevel variables 'bottom-uppers' consider, is necessary for the field to develop" (Matland, 1995).

It is a "middle of the road" approach which may be the best approach to implementation of MEAs. And it may be in the area of MEA research that implementation theory makes another resurgence. For the most part, "implementation research has been conducted in and regarding the United States…solid cross-national comparative work has been especially lacking" (O'Toole, 2000). This is an area where implementation of MEAs may have a profound effect on the field of implementation theory. This is a point that O'Toole makes as well. He says that:

> "one of the topics on which cross-national comparative implementation research can bear fruit, and has done so to some extent already, is on the execution of international agreements, especially multilateral ones. The typical circumstances is a common policy and a number of signatory countries. Hundreds of such agreements now present important empirical circumstances for systematic study. Early scholarship offers some cross-national comparisons but additional investigations are clearly needed" (O'Toole, 2000).

It is in this area that this research hopes to make a contribution.

Overview of the Research Problem

This research looks at how MEAs get implemented and the role institutions play in the implementation process. As previously stated, MEAs have become the chosen method for dealing with transboundary environmental problems. If this is to be the future trend in dealing with global environmental issues then it is important that we understand how these agreements get implemented and how successful (or unsuccessful) implementation affects the effectiveness of these agreements. If we cannot find the keys to successful implementation then these agreements are in essence, useless. An MEA needs to be something more than a symbolic gesture. MEAs are a call to action and the call must be answered by the parties signing on to these agreements. If parties sign on without any follow through then the agreements are basically moot. It is not enough to

say we have an agreement to deal with the climate change issue, or the ozone layer, or desertification. The agreements must be in a format that can be translated into action.

This study attempted to answer the question of how MEAs get implemented and whether monitoring and compliance follow implementation. This was done using a paper interview of four MEAs currently in force: the Montreal Protocol (MP), the United Nations Convention to Combat Desertification (UNCCD), the Convention on Biodiversity (CBD), and the Convention on the Wetlands (Ramsar). The National Reports for each MEA were also evaluated. In the course of evaluating both the paper interview and the National Reports it was discovered that the four MEAs were in different stages of the implementation process. Some had been fully implemented (the MP) while others were still in the development phase (the UNCCD). The level of monitoring and compliance varied as did the views on the level of success of each of these. The responses also showed discrepancies between what the respondents said about their MEAs and what the National Reports actually showed. Even though self-reporting in many ways is a matter of perspective, all the respondents appeared to be making an effort to give honest responses. This, of course, is the major problem with self-reporting but the paper interviews also offered invaluable insight into the four MEAs in this study.

Because of the small-n in the study (only 4 case studies used), it is not possible to generalize these findings to discussions of all MEAs. It can offer us insight into the four case studies used but will not allow any broad theories to be developed regarding implementation of MEAs. What it can do is serve as a starting point for future research. As more agreements are signed it will become increasingly more important for us to understand why some work and why some do not. It is especially important to understand

the role of institutions since in many ways they are the key to successful implementation. If we are to rely on MEAs to "solve" our global environmental problems then they must be effective. If we are going to try and "guarantee" any sort of effectiveness then we must understand the implementation process. For this reason it is important for scholars to focus their attention on the process of implementation. This research will explore more specifically, "how intent translates into action that helps to solve international environmental problems" (Victor and Skolnikoff, 1998).

Implementation: Enforcing, Monitoring and Compliance

This dissertation analyzes the interactions between the enforcing, monitoring, and compliance sponsored by Multilateral Environmental Agreements (MEAs). The focus is on compliance as a measure of effectiveness for the MEA. Simply implementing an MEA is not enough to guarantee success. There must also be a system in place for monitoring and compliance including having the resources to accomplish these tasks. There must be follow-up to bring those parties in non-compliance into compliance. There must be an institutional structure in place within the MEA which spells out which organizations are responsible for implementation, monitoring, and compliance and how these tasks are to be accomplished. Effectiveness of the MEA depends upon each institution performing its task well but without the proper guidelines and/ or resources, this may not occur. There are challenges at each step in the process that may hinder progress. How the MEAs respond to these challenges is directly related to how effectively they are implemented.

When the United Nations Conference on the Human Environment was held in Stockholm in 1972, there were only about three dozen MEAs. Today there are more than 900 international legal instruments (mostly binding) that are either focused on the

environment or contain one or more provisions concerned with the environment (Weiss, 1998, 297). With so many agreements in force today, it is important to understand how MEAs are enforced, monitored, and gain compliance. The guidelines for these three components of implementation are laid out within the text of the treaty. The agreement spells out which institutions are responsible for each and how these tasks are to be accomplished. Some MEAs have separate sections for availability of resources and funding. Those that do not have separate funding may face problems when it comes to implementation, monitoring, and compliance. There are many factors which affect this process and these factors affect different MEAs in different ways. These are the types of issues to be addressed in this dissertation.

Because the number of MEAs has grown so dramatically over time, the need to understand how MEAs work has also grown. There is also an increased interest in protecting the environment and MEAs provide the framework for an international response. The creation of the Kyoto Protocol and the concern most of the world has shown for the climate change issue highlights this last point. MEAs provide a vast resource for policy research, particularly in the area of implementation but it seems to be an area that is lacking in research. As Weiss and Jacobson point out, "we know very little about national implementation and compliance with the treaties and other international legal instruments that have been negotiated, despite their importance and growing number. Even if no more accords were to be negotiated, it would be essential to make those that are in force work effectively" (Weiss and Jacobson, 1998, 1).

Implementation processes can vary among MEAs. Therefore one MEA may fail but another may succeed. It is important to understand what factors account for these

differences and what changes can be made to improve implementation of MEAs. As new

agreements are created, it is important to discover what works and what does not. What

are the factors that either hinder or help in the successful implementation of MEAs? By

analyzing the implementation records of current MEAs, scholars may be able to gain

insight into the workings of future MEAs.

The Research Questions

Once implemented, how do monitoring organizations get compliance with

MEAs? What role do institutions play in the implementation, monitoring, and compliance

of MEAs? Institutions vary among countries and this variation could affect all three

processes. What role, if any, does sovereignty play in the implementation process? Does

sovereignty hinder or enhance the process of implementation? How important are

resources in implementation, monitoring, and compliance? MEAs present environmental

problems that involve collective action on a global scale. Do MEAs provide a significant

mechanism for dealing with a global commons? Without successful implementation

parties will have difficulty gaining compliance. Expectations must be made clear so that

goals can be achieved. Successful enforcement and monitoring is key to gaining

compliance.

Figure 1.1 shows how the relationship of these three processes is viewed in terms

of this study. Each process builds upon the other until the ultimate goal of effectiveness

of the MEA is reached. These are the core relationships to be evaluated in this study.

Defining Implementing Institutions

The question of what constitutes an institution needs to be clarified. The term

institution means different things to different people. According to Vig and Axelrod:

> "The term institutions has been used differently by international theorists. Some
> limit the term to formal organizations that have defined memberships, offices,
> staffs, and other tangible facilities. Others use the term to cover almost any
> regularized pattern of interaction or behavior, whether formally organized or not.
> Some tend to equate international institutions with 'regimes,' while others draw
> sharp distinctions between organizations and regimes. For our purposes, the term
> institutions will refer to both formal intergovernmental organizations (IGOs) and
> international nongovernmental organizations (INGOs) that play a role in the
> establishment, maintenance, and implementation of environmental policy
> regimes" (Vig and Axelrod, 11).

In all likelihood, scholars adapt the meaning of institutions to fit within the parameters of

research they are conducting. As research on MEAs becomes more prevalent, the number

of institutions involved in the implementation process becomes greater. As Weiss and

Jacobson point out, "as countries have implemented MEAs, they have developed new

institutional features and refined and expanded others. Major developments include

regional networks for implementing treaties, implementation committees and

noncompliance procedures, active secretariats, increased use of scientific and technical

bodies, and enhanced roles for NGOs and the private sector" (Weiss and Jacobson, 159).

Consistent with Vig and Axelrod's definition of institutions, the term institution will

refer to IGOs, NGOs and INGOs, and will also include all treaty secretariats, all

Conference of the Parties or Members of the Parties, all scientific and technical bodies,

and any private sector organizations that play a role in implementation. How well these

institutions operate within the context of the MEA is one point of focus for this research.

An important point to keep in mind is that the MEAs themselves are not institutions; they

are documents that house the institutional framework, and the role of that framework in

shaping implementation is key.

Theoretical Framework

.Historical institutionalism was chosen as the framework for this study because it recognizes the importance of institutions in structuring politics. It places the emphasis of evaluation on the role of history and institutions in shaping policy over time. MEAs have two characteristics that make them prime candidates for historical institutionalism. First, implementation of MEAs is a process that evolves over time and needs to be evaluated as such. It is necessary to look at the history of the MEA in order to understand its development. Second, institutions play a key role in how MEAs get implemented. Without fully understanding this role, we cannot understand what works and what does not in the MEA context. It is believed that the findings of this study will foster a better understanding of the role of institutions in the implementation of MEAs and give us an idea of how to improve upon compliance, and thus the success of implementation, for current and future MEAs. Historical institutionalism will allow us to evaluate implementation, monitoring, and compliance among MEAs.

Summary of Findings

The primary data for the study came from a paper interview completed by members of four MEAs currently in force. These are the Montreal Protocol (MP), Ramsar (also known as the Convention on Wetlands), the Convention on Biological Diversity (CBD), and the United Nations Convention to Combat Desertification (UNCCD). The respondent for the MP was the Deputy Executive Secretary for the Ozone Secretariat. The respondent for Ramsar was a communications officer for the Ramsar Convention Secretariat. The respondent for the CBD was a legal advisor responsible for

reviewing implementation of provisions of the Convention and COP decisions. The UNCCD respondent was the Associate Public Information Officer. Although we must always be cautious when using self-reporting data, having responses from people with first hand knowledge of their respective MEAs allowed the researcher to gain important insight into the treaty process. There does not appear to be this type of research data available in the current literature.

Organization of Dissertation

Chapter I provides the reader with the purpose of this research, design of the study, and case selection criteria. An overview of MEAs and implementation, and defining implementation for the purposes of this study is then presented. The chapter also gives an overview of the four case studies included in this research along with an overview of the data collection methods used in the study.

Chapter II lays out the theoretical framework used in the study. Historical Institutionalism was chosen as the framework for this research and it is important to understand why historical institutionalism, and not rational choice theory, was selected. This chapter gives the justification for choosing historical institutionalism as well as an overview of both rational choice theory and historical institutionalism.

Chapter IV provides an overview of sovereignty and collective action. These two concepts are an important aspect of contracting parties and the MEAs to which they are parties. It is important to understand the role they play in the implementation process and how they relate to the research question in this study.

Chapter V examines the theoretical framework, offers a summary of the findings in the study, and discusses their significance and relevance to the field of political

science.

Chapter VI provides an explanation of the research design, the case selection and paper interview and analyzes the findings of the data for implementation, monitoring, and compliance that was taken from the paper interviewss and the National Reports associated with the four cases. Chapter VI answers the questions: are MEAs being implemented effectively and are monitoring agencies getting the compliance needed for successful implementation?

CHAPTER II: Overview of MEAs and Issues of Implementation

It is important to study MEAs because the impact that they have is far reaching and will be felt years down the road. More specifically though, it is important to study MEAs because of the impact they can have on the study of institutions and implementation theory. If we can understand the influence institutions have on implementation of multilateral environmental agreements, then there is a possibility that the treaty process can be enhanced. Currently there is a push for something called "harmonization" of national reporting. As one author notes, "not enough has been done in the area of harmonization of national reporting between environmental agreements. There have been many cases of weak focal points in national government for the conventions. These have contributed considerably to the lack of implementation of the agreements" (Dodds, 4). The need for a harmonization of national reports shows the importance of implementation for MEAs and the desire for effective implementation. This point demonstrates the importance of further research in this area.

Definitions for the purposes of this research

The following definitions of MEA, implementation, monitoring, compliance, effectiveness, and institution will be used for the purposes of this research:

MEA: Multilateral Environmental Agreement

IMPLEMENTATION: All relevant laws, regulations, policies, and other measures and initiatives that contracting parties adopt and/or take to meet their obligations under the multilateral environmental agreement and its amendments, if any (Guidelines on Compliance, 2).

MONITORING: The processes used to determine the level of compliance with MEAs. These may include observation, testing, data collection, and/or reporting.

COMPLIANCE: Compliance will refer to "the fulfillment by the contracting parties to

their obligations under a multilateral environmental agreement and any amendments to the multilateral environmental agreement" (Guidelines on Compliance, 2)

EFFECTIVENESS: "Whether treaties that are correctly complied with actually achieve the objectives stated in the treaty, or whether the treaty actually helped to reach the environmental goal for which it was designed" (Vig and Axlerod, 139).

INSTITUTION: Refers to all Intergovernmental Organizations (IGOs), Non-Governmental Organizations (NGOs), and International Non-Governmental Organizations (INGOs), treaty Secretariats, COPs, Scientific and Technical Bodies, and any private sector organizations involved in monitoring, compliance, and implementation.

Definition of Treaties and Multilateral Environmental Agreements

The Vienna Convention on the Law of Treaties defines a treaty as "an international agreement concluded between states in written form and governed by international law, whether embodied in a single instrument or in two or more related instruments and whatever its particular designation" (Vienna Convention on the Law of Treaties, 1969, 3). Agreements that meet this definition are called conventions, protocols, accords, pacts, or charters. They can be bilateral (between two countries) or multilateral (among several countries). The focus of this research is on multilateral agreements generally. More specifically, the research examines the implementation, monitoring, and compliance of such agreements. In examining implementation, monitoring, compliance and effectiveness are also taken into consideration.

There are five major steps that go into creating a treaty. In step one, negotiation, representatives from the various governments meet to work out the provisions of the agreement. During step two, the signature phase, each of these representatives signs the treaty (although at this stage the signatures are not binding). In step three, ratification, the signatures of the representatives become binding. Treaties are ratified based upon the

laws of the individual nations. Once the treaty is ratified, the signature nations become parties to the treaty and are now legally bound to its terms. In the fourth step, called the exchange of instruments of ratification, parties exchange the instruments of ratification to indicate their consent to being bound by the terms of the treaty. The final and fifth step in creating a treaty is publication. Once a treaty is published it becomes valid and binding on the parties as of the date it enters into force (Source of information: www.infoctr.edu/tutorial/international/About_Treaties.htm).

Multilateral treaties and agreements vary considerably in structure. The obligations and commitments spelled out in each treaty or agreement are specific to that treaty or agreement and can also vary considerably. One thing that many treaties have in common is that they are designed to evolve over time to adapt to change. Edith Brown Weiss refers to this as a treaty having a "living" history (Weiss, 90). Some of these changes include new obligations, new roles for key players, and/ or new implementation and monitoring activities (Weiss, 92). This flexibility allows changes to occur without having to create a new treaty. And although there is a formal treaty amendment process, many changes occur through less formal processes such as guidelines, annexes, or decisions of the parties. Using such an informal and flexible approach tends to bring about better cooperation among nations. Countries do not want to be coerced into having to comply and these flexible methods offer an alternative to more coercive methods. Having an informal and flexible approach may also help with implementation if countries feel that they have some say in the implementation process rather than just being told how something will be done. Also, since institutions used in implementation may vary from treaty to treaty, it helps to have more informal and more flexible methods to address

the problems of implementation. This is not a one-size fits all type of approach to implementation and having a less rigid approach may help make implementation more efficient and more effective.

The type of approach an MEA takes is an important consideration. It is a common debate as to whether traditional command-and-control solutions work better than market-based solutions. This debate is central to the emissions trading program. Much of environmental regulatory policy, at least in the U.S., falls into the category of command-and-control policy regulation. Non-compliance in these situations can result in fines, penalties, litigation, or a combination of all three. In their book, Cleaning up the Mess: Implementation Strategies in Superfund, Church and Nakamura evaluate three different approaches to implementation. They use the Superfund because of its uniqueness. The statutes give the EPA choices in how to deal with clean-up efforts. Church and Nakamura refer to these as implementation strategies. The first of these is prosecution. This strategy emphasizes coercion through the threat of having to pay for clean-up, administrative and court orders, and heavy fines for noncompliance (Church and Nakamura, 10).

The second implementation strategy "emphasizes the need for all sides to resolve differences in good-faith negotiations rather than through adversarial procedures" (Church and Nakamura, 11). This approach is referred to as the accommodation strategy.

The third implementation strategy is "a policy tool that sidesteps the tension between these two approaches altogether" (Church and Nakamura, 12). This strategy is referred to as the public works approach. The view of this approach is to act first and "let the lawyers and accountants fight over the bill later" (Church and Nakamura, 12).

Church and Nakamura found in their study that, "the government rarely pursues a

'pure' prosecution, accommodation, or public works strategy at any particular site. Enforcement activities in the real world often involve mixed strategies" (Church and Nakamura, 12). They also found, however, that certain Superfund regions had "clear orientations toward one or another of these alternatives in government actions" (Church and Nakamura, 12). The actors involved, organizations, and institutions involved, and the resources available all influence which implementation strategy will be attempted.

The type of approach taken to implementation becomes central to the discussion of multilateral environmental agreements because the type of policy instrument used has a great deal to do with the success or failure to implement a program. It has been argued by some that "softer" approaches to policy, such as the emissions trading program and (financial) incentives, tend to bring better results and "hard" approaches, such as formal regulations and formal punishments for not adhering to regulations, should be used as a last resort. As Weiss and Jacobson point out, their review of treaties in their research "indicates strong reliance on methods associated with the sunshine approach, particularly reporting; increased use of incentives; and little employment of sanctions. This is consistent with methods used in other international environmental treaties" (Weiss and Jacobson, 166). Their conclusions are echoed by Faure and Lefevere who write:

> "Economic sanctions become increasingly difficult to apply with the development of an increasingly comprehensive international trade regime. Approaches to compliance problems now need to take into account the actual abilities of states to comply, and sanctions for noncompliance need to be developed that fit within the new international regimes. Solutions for compliance problems need to be based more on what is referred to as a 'managerial approach' rather than on a more traditional enforcement approach" (Vig and Axelrod, 141).

All of the agreements included in this study use a sunshine approach to encourage compliance in the form of National Reports.

One of the major findings of the 1998 Weiss and Jacobson study is that if countries become "engaged" then implementation and compliance become more effective. Becoming engaged "involves a broad commitment that is deeper than just sections of the governments or even whole governments. The country must see that its interests are served by complying with the treaty" (Jacobson & Weiss, 551). How we get countries engaged has a great deal to do with their intention to comply and their capacity to comply. These two factors vary greatly among countries. Countries may intend to comply but lack the capacity to do so. Others may have the capacity to comply but never intend to do so. Still others may have both the capacity and intent. Despite a country's intent or capacity, it still may take some encouragement to get them to comply.

Compliance

Compliance can be viewed from two different perspectives. One is compliance through enforcement and the other is compliance through management. The question is which of the two approaches is more effective in addressing non-compliance? Enforcement theorists, "characteristically stress a coercive strategy of monitoring and sanctions, management theorists embrace a problem-solving approach based on capacity-building, rule interpretation, and transparency" (Tallberg 609).

According to Tallberg:

"the enforcement approach is firmly anchored in the political economy tradition of game theory and collective action theory. States are conceived as rational actors that weigh the costs and benefits of alternative behavioral choices when making compliance decisions in cooperative situations. Both the sources of, and solutions to, non-compliance stem from the incentive structure. States choose to defect when confronted with an incentive structure in which the benefits of shirking exceed the costs of detection through monitoring and the threat of sanctions" (Tallberg 611).

This goes back to the notion that simply because a country signs on to an agreement does not mean that it intends to comply with it. It signs an agreement because it feels that it is important to do so but may fail to follow through.

Based on much of the current literature though, countries do seem to be following through. Parties generally tend to comply with their MEAs. Research done by Victor, Raustiala, and Skolnikoff supports this view. According to these authors, "noncompliance is typically the product of incomplete planning and miscalculation rather than a willful act" (Victor, et al, 1998, 661). These authors found that the studies in their book "confirm what is often claimed: almost all countries comply with almost all of their binding international commitments" (Victor, et al, 1998, 661). Another study came to a similar conclusion saying that there is an error in conceptualizing that most compliance problems are due to intentional violations (Weiss and Jacobson, 1998, 39).

The generally held view in the current literature is that parties have the intent to comply but lack the capacity to do so. Parties sign on to agreements in good faith but lack the resources necessary to follow through on their commitments. The enforcement approach is not a practical solution in these situations. The central part of the enforcement approach is monitoring and sanctions. When instances of shirking and non-compliance are detected by monitoring then a "punishment" can be meted out. When combined, "monitoring and sanctions carry the capacity of deterring defections and compelling compliance" (Tallberg 612). But you cannot compel compliance in a country that lacks the capacity to comply. This is probably the reason that most MEAs adopt a management approach to compliance.

The management approach is much different from the enforcement approach.

According to Tallberg:

> "management theorists stress states' general propensity to comply with international
> rules, owing to considerations of efficiency, interests, and norms. Non-compliance, when it occurs, is not the result of deliberate decisions to violate treaties, but an effect of capacity limitations and rule ambiguity. By consequence, non-compliance is best addressed through a problem-solving strategy of capacity building, rule interpretation, and transparency, rather than through coercive enforcement" (Tallberg 613).

Capacity building is an important aspect of all the MEAs involved in this study, particularly for developing parties which have a lower standard of living and industrial base than developed parties. Many developing parties may have the intent to comply with the agreements but simply lack the capacity to do so. Tallberg uses a quote from Oran Young to emphasize this point as well; "the effectiveness of international institutions varies directly with the capacity of the governments of members to implement the provisions" (Tallberg 613). Capacity building takes resources. For developing nations, resources are not always readily available. Developing nations must often rely upon developed nations for the financial support necessary to carry through with implementation. For this reason, many parties do not intentionally violate their MEA. Parties may simply lack the resources and capacity to do so. Logically, the management approach would be more beneficial and more effective in these situations.

One point to keep in mind, and one that many authors point out, is that compliance and effectiveness are not the same thing. Simply because a country complies with a treaty does not mean that the treaty will be effective. Many things can affect compliance. As Lester and Stewart point out, "no scheme for compliance will work if the implementers and those charged with compliance fail to agree on the goals of implementation. Implementation goals will necessarily involve bargaining and

negotiation among the various parties involved, including interests of the wider community affected by these goals and standards" (Lester and Stewart, 108).

Purpose of Research

The purpose of this research is to examine the implementation of multilateral environmental agreements. There is a great deal of research available on MEAs but much of it is centered around rational choice theory and evaluates how individuals affect the implementation process rather than the process itself. Much of the research is based upon the premise that individuals are intentionally rational and that they will act in their own self-interest. The belief being that parties sign on to agreements because they are going to get something out of it. The problem with this view is that there is not much in the literature to support the notion that parties to MEAs sign on to promote their own self interest. Ideally the benefits of signing an agreement will outweigh the costs but this is not always the case. The UNCCD deals with desertification. In general, desertification does not occur in developed countries. They sign on to the UNCCD to assist the affected parties with implementation through financial and technical resources. The costs for developed countries in this case are greater than the direct benefits they will receive. And yet, they still sign on to the agreement.

It may be that scholars get caught up in how they think parties should behave based on a situation rather than seeing how parties actually behave. Much of the scholarship on MEAs may be driven too much by theory rather than practical application. There are many factors that affect the effectiveness of an MEA. A party's behavior is just one factor and not really the most influential or important one. An MEA really works from the inside-out. As this research will show, institutions play a major role in

implementation of MEAs. Not in how the parties affect institutional behavior but how institutions shape parties behavior.

So, where does implementation theory fit into the development of MEAs.? How are MEAs implemented? Once implemented, how are they monitored? How do monitoring agents gain compliance? And, ultimately, how effective are MEAs? What role do institutions play in implementation, monitoring, and compliance? Does sovereignty play a role? What factors influence implementation, monitoring, and compliance? These are many questions but few answers currently available.

One author points out:

"much of the work on multilateral environmental agreements has been a global top-down approach. There has been very little attempt to link the local to the national to the international, both in terms of information on impacts and upon compliance. This has occurred at the same time, as there has been an increase in the devolution of power to smaller units in many places of the world without the creation of proper links between the different levels of government and the international bodies" (Dodds, 4).

This is an important observation because the top-down approach is a key concept in much of implementation theory. Some scholars, like Moore (1987) and Lipsky (1980), have argued that implementation decisions are made at the bottom by street-level bureaucrats rather than at the top. Still others, like Gaddie and Regens (2000), determined that an approach somewhere in the middle may offer a better solution. In their study, the authors examine the implementation problems of section 404 of the Clean Water Act that attempts to regulate wetlands protection. Rather than a top-down approach or a bottom-up approach, they developed a communications approach. Their findings indicated that the problems with implementing section 404 stem from problems of communication between the federal and state levels.

Structure of MEAs

Some MEAs are designed with a top-down system. The Secretariat is at the top, followed by the conference of the parties (COPs), then IGOs and NGOs, Scientific and Technical Bodies, and outside groups and the private sector. The institutional framework for MEAs is more or less preset in this manner but although the structure of MEAs may appear to take a top down approach on paper, the reality of how institutions in an MEA function may be completely different. Many COPs are extremely powerful in the treaty process, particularly in the area of implementation. In three of the four treaties used in this study the COPs are the decision makers. In these three cases, the COPs are ultimately responsible for policy-making and implementation. This would seem to indicate an approach more in line with Gaddie and Regens. The real power lies in the middle with input from the top and bottom. An evaluation of MEAs within the framework of historical institutionalism may show that the relationship among the different institutions in MEAs is not hierarchical at all but lies somewhere in-between.

This current study was motivated by a need to "fill in the gaps" so to speak in implementation theory as it relates to MEAs. MEAs do not fit neatly into any category of implementation theory. None of the four MEAs in this study take a strictly top-down approach or bottom-up approach. The MP was the only respondent to specifically mention the Secretariat on the paper interview but the indications are the Implementation Committee is the one with the power. The Secretariat is simply there to assist when needed. CBD, Ramsar, and UNCCD all have the COPs as the primary policy makers. The UNCCD, however, does take a bottom-up approach to implementation at the local level and this is the specified approach in the National Action Plan (NAP) of each of the

affected parties. It is apparent that implementation of MEAs cannot be explained by a top-down approach or a bottom-up approach. The reality lies somewhere in-between.

Design of the Study

The present research is a case study of four MEAs: the Montreal Protocol (MP), the Convention on Biological Diversity (CBD), the United Nations Convention to Combat Desertification (UNCCD), and the Convention on Wetlands (Ramsar). Each of these addresses a different environmental problem but are all evaluated in this study using the same set of constructs; what impact do institutions, sovereignty, collective action, implementation, monitoring, and compliance have on the effectiveness of the MEA. All treaties have entered into force and have been ratified. The time frame for these ranges from 12 years (UNCCD) to 31 years (Ramsar). Table 2.1 represents the MEAs used in the study, the date they each entered into force, and the number of contracting parties to each agreement.

TABLE 2.1

MEAS REPRESENTED IN THE PAPER INTERVIEWS		
	Entered into force	**Contracting Parties**
MP	**June 1989**	**189**
CBD	**December 1993**	**176**
UNCCD	**December 1996**	**179**
RAMSAR	**1975**	**145**

CHAPTER III: The Theoretical Framework

Historical Institutionalism

The theoretical framework for this study is based upon historical institutionalism.

Historical institutionalism is one theory which emerged out of the behavioral revolution

in political science under the heading of new institutionalism. The basis for this new

institutionalism was that institutions matter. There was renewed interest in how

institutions shape political strategies and influence political outcomes (Steinmo, Thelen,

and Longstreth, 1992). This makes historical institutionalism particularly relevant to the

study of MEAs. According to one author:

> "Historical institutionalism is particularly useful in understanding the way in
> which actions and 'institutions' can shape further developments… Paul Pierson
> argues that historical institutionalism is historical 'because it recognizes that
> political development must be understood as a process that unfolds over time' and
> intitutionalist 'because it stresses that many of the contemporary implications of
> these temporal processes are embedded in institutions – whether they be formal
> rules, policy structures, or norms'" (Alanko, 2006).

Theda Skocpol, a well known historical institutionalist, lists three important

features that characterize historical institutional scholarship:

1) "historical institutionalists address big, substantive questions that are
   inherently of interest to broad publics as well as to fellow scholars;
2) to develop explanatory arguments about important outcomes or puzzles,
   historical institutionalists take time seriously, specifying sequences and
   tracing transformations and processes of varying scale and temporality;
3) historical institutionalists likewise analyze macro contexts and hypothesize
   about the combined effects of institutions and processes rather than just one
   institution or process at a time.

Taken together, these three configurations add up to a recognizable historical institutional

approach that makes powerful contributions to our discipline's understandings of

government, politics, and public policies" (Pierson and Skocpol, 3).

Pierson and Skocpol also emphasize the importance of looking at processes over time. As they say, "scholars working in this tradition have developed compelling methodological and theoretical justifications for historically-grounded investigations – by which they mean not just looking at the past, but looking at processes over time" (Pierson and Skocpol, 5). Institutional changes may occur slowly over time. Focusing on just one snapshot in time limits our ability to interpret these changes and may cause us to dismiss their importance. Pierson and Skocpol believe that this is an important aspect of historical institutionalism. According to the authors, "theoretical attentiveness to historical processes represents a formidable comparative advantage of historical institutionalism, especially since this attentiveness is linked to macroscopic analysis focusing on institutions and organizations in addition to aggregates of people" (Pierson and Skocpol, 10).

Pierson and Skocpol's view of historical institutionalism can be summed up in the following way:

(1) it Probes uneasy balances of power and resources, and see institutions as the developing products of struggle among unequal actors;
(2) it typically does meso or macro-level analyses that examine multiple institutions in interaction, and operating in, and influenced by, broader contexts;
(3) it analyzes how sets of organizations and institutions relate to each other and, in turn, shape processes or outcomes of interest;
(4) it takes a macro approach.

Institutional characteristics are a key part of this research. It is not about how individual behavior affects the institutions but how institutions get the behavior they desire from the parties to the agreements. All MEAs establish an institutional framework first. When an MEA is open for signature, the institutional framework is already in place.

Historical institutionalists "define institutions as the formal or informal procedures, routines, norms, and conventions embedded in the organizational structure of the polity or political economy" (Hall and Taylor, 2). Parties signing these agreements are agreeing to abide by these procedures, routines and norms set out by these institutions at the start. Parties are aware up front that complying with these agreements may be costly both financially and in terms of relinquishing some sovereignty. It is almost a given that, in the beginning at least, the costs will outweigh the benefits. Many of the benefits of these MEAs are not seen or felt until the agreements have been in force for several years. And yet, parties continue to sign on.

The behavior of those involved in MEAs is very much driven by institutions and not by the actor's expectations but rather the expectations placed upon the actors by the institutions. MEAs fall more in line with the view that "instead of seeing collective behavior as a simple summation of individual actions, scholars are interested in examining the specific mechanisms that shape interactions among individuals and different patterns of outcomes. Institutions are seen as a critical contextual variable that shapes behavior and thus collective outcomes" (Ferris and Tang, 4). Here again, the individual does not shape the behavior of the institution, rather the institutions shape the behavior of the individual. In the case of MEAs, the Secretariat, the COPs, Implementation Committees, Scientific and/or Technical Bodies, IGOs, NGOs, and other institutions all shape behavior of the parties relative to implementation, monitoring, and compliance.

The institutional framework is set in place from the start and parties must adjust their behavior accordingly. A strong foundation for a successful MEA is laid in the first

step of the treaty process. It is in this negotiation phase that representatives from the various organizations meet to work out the provisions of the agreement including the institutional framework. By establishing this framework through negotiation, no one country or party has more say than any other. The will of one nation is not imposed upon another. Once this foundation has been laid it is important to maintain the integrity of the institutional framework in the MEA. This is what makes them work. Decisions are made by and for groups rather than individuals.

Historical institutionalism is an ideal theory for evaluating implementation of MEAs. As Steinmo and Thelen say, "what has made this approach so attractive is the theoretical leverage it has provided for understanding policy continuities over time within countries and policy variation across countries" (Steinmo, Thelen, and Longstreth, 10). They continue, "institutional analysis also allows us to examine the relationship between political actors as objects and as agents of history. Institutionalism provides the theoretical 'bridge between men [who] make history and the circumstances under which they are able to do so" (Steinmo, Thelen, and Longstreth, 10). Historical institutionalism focuses on the process of politics and policy-making within given institutional parameters and how these processes occur is central to this approach. (Steinmo, Thelen, and Longstreth, 7-9). New institutions may be added with amendments but the basic structure remains intact. As Pierson and Skocpol point out:

> "historical institutionalists demonstrate the ways in which institutions are remade over time. Because of strong path dependence effects, institutions are not easily scrapped when conditions change. Instead, institutions will often have a highly 'layered' quality. New initiatives are introduced to address contemporary demands, but they add to, rather than replace, pre-existing institutional forms. Alternatively, old institutions may persist but be turned to different uses by newly ascendant groups. In either case, the original choices are likely to figure heavily in the current functioning" (Pierson and Skocpol, 14).

The focus of this study is not how actors shape institutional behavior but how institutions shape actors' behavior, particularly parties to the Conventions. How do the institutions responsible for implementation, monitoring, and compliance gain compliance?

There is some precedent for the use of historical institutionalism in the international community. In a 2002 International Political Economy Group (IPEG) paper, the group uses a historical institutionalist framework to chart "the fortunes of the labour standards debate within the WTO across its first four ministerial meetings" (IPEG, 2002). Within this context, "institutions are seen as intervening variables between wider events in the global political economy and social, political and economic life. The core assumption is that institutions matter; they are not neutral, autonomous entities; rather, they exist within a specific context to which they are intimately and inextricably related" (IPEG, 2002).

The IPEG also addresses the issue of continuity and change in institutions and that historical institutionalism helps us to understand institutional development. This understanding is achieved:

> "through a set of tools which enable distinctions to be made in the way in which institutions evolve. It assumes that much of the way in which institutions evolve is incremental – that is, changes tend to be a the margins and 'in keeping with existing formats and ways of operating.' However, at particular 'moments' fundamental change has the capacity to take place. These moments can result from exogenous and endogenous factors (or combinations thereof); or, they can arise from the development of a critical mass nurtured by ongoing incrementalism. Nevertheless, these moments contain within them the potential to produce a fundamental, qualitatively distinct shift in trajectory" (IPEG, 2002).

It is believed that historical institutionalism is the best choice for this study. A central focus of this research is that institutions play a key role in influencing

implementation, monitoring, and compliance. Although new institutions may be added at any time the core institutional structure remains the same. The secretariats, the COPs, and the scientific and/or technical bodies are put in place at the beginning of the negotiation process. Other institutions, such as NGOs and IGOs may be added later on. The structure allows the MEA to maintain some semblance of stability and yet allow for flexibility as well. .

More than anything else, implementation is a process that occurs over time. In the case of MEAs, this process may take years to occur. It may take several years before the institutional framework is put in place for implementation, monitoring, and compliance. Each MEA may go at a different pace depending upon the resources available. MEAs also deal with large groups and many different kinds of groups. How these groups interact with each other has a direct influence on the implementation process. Environmental problems are also "macro" problems that involve many interrelated institutions.

For these reasons, historical institutionalism was chosen as the framework for this study. By viewing the MEAs in this study through the lens of historical institutionalism we may be able to look at other MEAs and predict how parties and institutions will behave when implementing, monitoring, and complying with other agreements such as the Kyoto Protocol.

Sovereignty and Collective Action

Sovereignty

Webster's New World Dictionary defines sovereignty as "supreme and independent political authority" (411). One common notion of sovereignty is that all

states are equal in that they govern their own territory with "absolute" power. States are often seen as "sovereign actors in the international arena, meaning that they are free to act as they find necessary, unrestricted by any external authority or rules" (Vig and Axelrod, 140). For this reason, sovereignty is often seen as being at odds with environmental issues because MEAs are often seen as putting constraints on state autonomy. But as one scholar says, "because ecosystems and environmental processes do not respect state borders, sovereignty itself becomes a key institution of global scale environmental destruction. It creates a scale for decision-making, adjudication, and authority that does not coincide with fundamental ecological realities and thus frustrates ecologically responsible management" (Conca and Debalko, 86). One author even goes so far as to say, "implementation is assumed to be difficult or impossible because of the strictly voluntary relationship between sovereign states and international organizations" (Getz, 2).

Throughout history there have been definitions, doctrines, and principles written to try and codify the meaning of sovereignty. Jean Bodin in 1577 defined sovereignty as "the absolute and perpetual power of a commonwealth and a nation's practical capacity to maximize its influence in the world." F. H. Hinsley defined sovereignty as "the final and absolute authority in the political community." According to Waltz, "to say that a state is sovereign means that it decides for itself how it will cope with its internal and external problems. And finally there was the Harmon Doctrine of 1895. According to the Harmon Doctrine, 'the fundamental principle of international law is the absolute sovereignty of every nation, as against all others within its own territory; rights rather than responsibility, entitlement rather than obligation' (Liftin, 277). These all define

sovereignty as a principle rather than a practice and at the center of all of these definitions is the concept of absolute sovereignty.

More recently, sovereignty has come to be defined in a more practical sense. Today, "the general principle of good neighborliness stands at the heart of contemporary conceptions of sovereignty and environmental protection" (Liftin, 278). Principle 21 of the Stockholm Declaration states:

> "in accordance with the Charter of the United Nations and the principles of international law, states have the sovereign right to exploit their own resources pursuant to their own environmental policies, and the responsibility to ensure that activities within their jurisdiction of control do not cause damage to the environment of other states or of areas beyond the limits of national jurisdiction" (Liftin, 279).

In other words, states have the right to do what they want provided they do not cause harm to any other states in the process. States have the right to sovereignty, but this right is not absolute.

Principle 2 of the Rio Declaration echoes this sentiment. Principle 2 states that "states have the right to pursue resource policies within their domains without outside interference and, in doing so, that they must consider the external effects on other states" (Liftin, 279). Both of these principles strive to maintain a balance between a state's sovereign rights and its responsibility to preserve the environment, within and without its own boundaries.

This may be easier said than done. On paper it may sound reasonable but whether states adhere to these principles is something different. States may still be more likely to consider their own interests first and "will not easily assume responsibility for the ecological well being of the globe. Global interests will often be advanced only when they clearly coincide with the national ones" (Liftin, 280). States may agree to certain

provisions but may balk at relinquishing sovereignty when it comes to implementation. And, unfortunately, "there is no supranational organization to oversee compliance or enforce obligations. When violations occur there are very few mechanisms built into agreements for evaluating and adjudicating responsibility" (Liftin, 283).

Environmental issues bring new challenges to the concept of sovereignty. According to Liftin, "the trend towards international cooperation in the face of 'the seamless web of nature' has resulted in something more subtle but perhaps equally profound: a shift in the practices and norms of sovereignty" (Liftin, 167). Countries need to adapt to the changing world of environmental problems and the policies being developed to deal with these problems. This growing number of environmental agreements has led to what Liftin refers to as "sovereignty bargains" (Liftin, 167). Sovereignty bargains are in essence trade-offs for states. Rather than ceding the larger principle of sovereignty, states accept some limitations in exchange for certain benefits (Liftin, 169-70). The end result, though, may be to alter the norms and practices of sovereignty by changing expectations about autonomy, control, and legitimacy (Liftin, 170).

The issue of sovereignty adds complexity to dealing with MEAs. As more international agreements are signed, absolute sovereignty tends to become moot. The flip side to the argument presented above is the view that MEAs can actually be good for state sovereignty. These types of agreements "do not inevitably erode state sovereignty and may even strengthen it. By placing states at the center of institutional responses and strengthening their capacity to act collectively, it is argued, the menu of choices available to states is being expanded, not restricted" (Conca and Debalko, 86). The European

Union (EU) is a good example of countries relinquishing some of their sovereign rights for a "greater" good. The EU often speaks with one voice for all members, especially in MEAs, yet all members still have the capacity to govern themselves and make their own decisions. Many thought that adopting one currency, the Euro, would infringe upon the sovereignty of member countries. Even so, twelve out of the fifteen members converted to the Euro anyway. Most feel the remaining three will follow soon. In other words, it is possible to reconcile the concept of sovereignty and MEAs.

Sovereignty is a principle but it is also a practice. As such, it is in constant flux. For this reason, Liftin argues that rather than view sovereignty as just a "juridical conceptualization", we should look at the operational dimensions of sovereignty. This view she argues "is far more likely to generate useful insights into the impact of environmental and other interdependencies on political structures and practices" (Liftin, 171). Sovereignty is no longer viewed simply as a static principle. It is now seen as a historical institution whose norms and practices have changed significantly over time. (Liftin, 195). Liftin continues that, "taken as a unitary concept, sovereignty is not particularly useful theoretically because it is too easily reduced to either a rhetorical tool or a monolithic reification. Taken as a cluster of practices undergoing multiple processes of unbundling, contestation, and reconfiguration, it offers greater heuristic value" (Liftin, 196). This seems to echo the choice often offered between obeying the letter of the law or the spirit of the law. Is the US Constitution a static document or does it breath and change over time as the US changes over time? Sovereignty is not a concept that can simply be taken at face value.

One approach to sovereignty is the concept of sovereignty bargains. Sovereignty

bargains are those that involve trade-offs and/or concessions made by countries in dealing with environmental problems. One problem in dealing with the issue of sovereignty is that it is understood to mean different things to different people. How the term is understood influences how it is applied. Liftin says that sovereignty should be understood as involving rights, capacities, and responsibilities in three realms: (1) those under a state's jurisdiction, (2) those under other states' jurisdictions, and (3) those in the commons. Sovereignty bargains affect all three elements in all three realms (Liftin, 171)

The "sovereignty bargains" argument put forth by Karen Liftin may be particularly relevant to this research for a few reasons. First, Liftin says that, "the concept of sovereignty bargains is likely to be particularly useful for those focusing on international environmental institutions because these typically represent trade-offs among sovereignty's multiple dimensions. One avenue of inquiry is the extent to which sovereignty bargains are structured differently for different states" (Liftin, 196). The role of institutions is a key focus of this research and the view is that the same institutions may function differently in different states and yet still allow for the level of cooperation necessary for MEAs to function effectively. Some level of trade-off is necessary for this to occur and more likely than not, this trade-off comes in the area of sovereignty.

There are other factors that may affect the outcome of sovereignty bargains. The nature of the environmental problem itself may play a role. Transboundary environmental problems have a more far-reaching impact than local issues. How much states are willing to give up in order to address these issues is not always clear. How much influence on sovereignty norms do they assert through implementation, monitoring, and compliance with a brokered solution? Sovereignty is often assumed to be eroded by efforts to address

transboundary environmental problems. While states may claim sovereignty over the resources and activities within their territories, they have come under mounting pressure to manage their resources according to internationally agreed upon norms (Liftin, 1). "When the physical effects of decisions made elsewhere manifest themselves in your sovereign space, your ability to exercise sovereignty has been problemitized" (Liftin, 32). How large a problem this is depends upon the type of issue being addressed and the institutions already in place to deal with the issue.

Liftin specifically mentions that sovereignty bargains can help deal with transboundary environmental problems. Transboundary environmental problems are those that occur in one state or country but the impacts are felt across borders. The Kyoto Protocol is an MEA designed to deal with such a problem. The effects of Greenhouse Gases are felt everywhere, not just in the offending countries. This type of problem requires an international response but many countries may be reluctant to sign on to an agreement if they do not consider themselves an offender. And yet 163 countries have signed on to the Kyoto Protocol with the understanding that some concessions on sovereignty are going to have to be made for Kyoto to succeed. Kyoto is a good example of an agreement where sovereignty bargains are likely occurring.

States may view sovereignty as an inherent right. Within this right of sovereignty is the right to decide how they will deal with environmental issues. But "while sovereignty suggests that states have authority and control over their own territories, those territories themselves are part and parcel of the global ecosystem and cannot be violated in any meaningful fashion" (Liftin, 277). In other words, the logic of sovereignty goes out the window when it comes to environmental issues and states are expected to

adjust accordingly. This does not mean, however, that all states will respond with the same level of enthusiasm and responsibility. Thus, "the challenge for states is how to appropriate understandings and practices that reconcile the seeming mismatch between territoriality and ecological protection" (Liftin, 277)

Because of the nature of MEAs, the traditional view of sovereignty is slowly changing. The parties to these agreements will have to relinquish some sovereignty in order for them to be successfully implemented. Faure and Lefevere refer to this as the "new approach to sovereignty. States are no longer seen as completely sovereign entities but have to accept limitations on their originally sovereign rights for the benefit of the environment, future generations, or the international community as a whole" (Vig and Axelrod, 140). One problem is that not all parties approach environmental problems with the same level of enthusiasm. In many cases "cooperation is greatly affected by wide-ranging differences over what the major problems are, who caused them and who will pay to resolve them. Priorities as seen in the industrialized world are not invariably supported by the poorer countries and versa" (Piddington, 19). The notion of self-interest of the state will have to be reconciled with the collective good of the international community.

Collective Action

Collective action in general terms is the pursuit of a goal or set of goals by more than one person. Transboundary environmental problems are collective action problems on a global level and "organizing collective action at a worldwide scale to address transboundary pollution spillovers and to manage the shared resources of the global natural commons represents a major challenge" (Esty, 2). Getting countries to cooperate

on environmental issues is a double edge sword. On the one hand, countries do not want to do anything to interfere with national self-interest. On the other, transboundary environmental problems require a global response and

> "individual countries cannot manage the resource or limit the harm acting on their own. Protecting shared natural resources and preventing environmental spillovers at a global scale only makes sense in the context of a shared sense of destiny – countries moving together as a 'community' to address common threats" (Esty, 3).

According to Hurrell and Kingsbury, "collective environmental management poses a severe, and therefore politically sensitive, challenge because it involves the creation of rules and institutions that embody notions of shared duties, that impinge heavily on the domestic structures and organizations of states, that invest individuals and groups within states with rights and duties, and that seek to embody some notion of a common good for the planet as a whole" (Hurrell & Kingsbury, 6-7). This is a tricky issue because once again countries are being asked to give something up in order to promote the common good. The focus is not on how the problem affects the individual but rather how it affects the country, the continent, the world, or the planet as a whole. MEAs seek to address the issue of what is best for the common good through collective action.

Based on the paper interview results it seems parties are willing to relinquish some sovereignty in order to pursue the greater good. But what is the "greater good"? This may be answered differently by different parties. The perception of what constitutes the greater good may influence the level of obligation a state feels to fix the problem. Edith Brown Weiss points out that, "traditionally only areas not subject to national jurisdiction have been considered a global commons. But from the intergenerational

perspective, the planet is a 'global commons' shared by all generations... there is a planetary trust by which we are all bound, which gives us certain rights and obligations" (Liftin, 193).

A phrase often associated with the environment issues is the "tragedy of the commons". The phrase comes from an article by the same title that was written by Garrett Hardin in 1968. Hardin's concept of the tragedy of the commons is perhaps one of the most pervasive in environmental studies today and as one author says, "Hardin's conclusion in the "Tragedy of the Commons" has been accorded by some the status of scientific law. The tragedy of the commons has become part of the conventional wisdom in environmental studies, resource science and policy, economics, ecology, political science and is featured in textbooks. It has also been used in formulating resource-management policy" (Conca and Debalko, 56).

Hardin relates the story of an open pasture used by several farmers to make his argument for the tragedy of the commons. Each herdsman wants to maximize his own gain and continues to add cattle, first one, and then another and then another to the commons. In the beginning this arrangement may work but eventually, "comes the day of reckoning. The day when the long-desired goal of social stability becomes a reality. At this point, the inherent logic of the commons remorselessly generates tragedy" (Conca and Debalko, 40). The result is too many cattle and not enough land. A resource that once seemed limitless, has now reached its limits. And "therein is the tragedy. Each man is locked into a system that compels him to increase his herd without limit – in a world that is limited. Ruin is the destination toward which all men rush, each pursuing his own best interest in a society that believes in the freedom of the commons. Freedom in a

commons brings ruin to all" (Conca and Debalko, 41).

Hardin's tragedy of the commons has been an enduring concept in the literature on environmental studies and was revisited not long ago by Elinor Ostrom in her 1990 book, <u>Governing the Commons: The Evolution of Institutions for Collective Action</u>. In Ostrom's analysis of managing natural resources, she begins with an analysis of Hardin's model of the tragedy of the commons, the prisoner's dilemma game, and Mancur Olson's logic of collective action. As Ostrom points out, these three models tend to be the most commonly used to develop policy prescriptions for managing natural resources.

Ostrom's book centers on common-pool resources. Common-pool resources or CPR refer to a natural or manmade resource system that is sufficiently large as to make it costly to exclude potential beneficiaries from obtaining benefits from its use (Ostrom, 30). Ostrom is concerned with how these resources are managed and governed by individuals who jointly share these resources. She uses the three models as a starting point for her own research and says that "these models are extremely useful for explaining how perfectly rational individuals can produce, under some circumstances, outcomes that are not 'rational' when viewed from the perspective of all those involved" (Ostrom, 6). She continues, however, to argue that by relying too heavily on only one of the three original models, those attempting to use these models as the basis for policy prescription frequently achieved little more than a metaphorical use of the models. (Ostrom, 6-7). Ostrom's point is that these models, although good, have limited explanatory capabilities. Because of this limitation, policy analysis may become flawed and may not accurately predict policy results. According to Ostrom, "many observers have come to assume most resources are like those specified in the three models. As

such, it has been assumed that the individuals have been caught in a grim trap. The resulting policy recommendations have had an equally grim character" (Ostrom, 8).

Ostrom does not dismiss the usefulness of the three models. Rather, she points out the limitations of each and the danger of taking them at face value. According to Ostrom:

> "what makes these models so interesting and so powerful is that they capture important aspects of many different problems that occur in diverse settings in all parts of the world. What makes these models so dangerous – when they are used metaphorically as the foundation for policy – is that the constraints that are assumed to be fixed for the purpose of analysis are taken on faith as being fixed in empirical settings, unless external authorities change them" (Ostrom, 6-7).

Environmental situations, in Ostrom's case common-pool-resources, require a more in-depth analysis than these models can provide.

The basic problem that Ostrom examines in her book is how to collectively manage shared resources. She writes, "the central question in this study is how a group of principals who are in an interdependent situation can organize and govern themselves to obtain continuing joint benefits when all face temptations to free-ride, shirk, or otherwise act opportunistically" (Ostrom, 29). If the three most common models used do not effectively address these problems, then what model can? In answer to this question, Ostrom does not offer a new theory of collective action (although she does believe one is needed). Instead she offers an alternative framework upon which to build in future research. This framework is based upon the notion of cooperation. Common pool resources are often overexploited and misused by individuals acting in their own self-interests. Traditional solutions to this problem involved either governmental regulation or privatization. These solutions left the actual users of the resources out of the loop which Ostrom believes leads to bad policy. A better approach, according to Ostrom, is to create cooperative institutions that are organized and governed by the resource users

themselves.

This in essence is what MEAs are doing. The treaties are creating institutions that are meant to cooperate amongst themselves and with others outside of the treaty to develop solutions to today's environmental problems. Much of what is done in terms of compliance with and implementation of MEAs is done on a voluntary basis by the parties to the treaties. For the most part, there are no heavy-handed government regulations that force countries to comply with or implement MEAs. Some treaties do not even provide for dispute resolution. Implementation guidelines are spelled out in the treaties and countries are encouraged to comply but as previously stated, only in rare cases are countries forced to comply with things such as sanctions. The International Court of Justice is always a last resort measure for dispute resolution.

Ostrom concludes by saying that the three models are not wrong, only limited in their explanatory capability. She calls them "special models that utilize extreme assumptions rather than general theories" (Ostrom, 183). These models look at situations being the extreme rather than the norm. Louis Weschler says that:

> "Ostrom rightly shows that conventional approaches to CPRs assume the most extreme and unlikely situations. Their range is limited. Worst of all from Ostrom's perspective, the conventional models miss the smaller scale CPRs that are the focus of her inquiry and that may well be the more common experience" (Weschler, 491).

Her solution is further theoretical development to help build "a general framework that can help to direct analysts' attention to important variables to be taken into account in empirical and theoretical work" (Ostrom, 183). Even if you disagree with Ostrom's solution to the problems with these three models, the importance of her work cannot be overlooked. Her analysis tells us that we need to look outside of the "box" in

policy analysis. This is always good advice for the policy analyst. There are many models

and theories in policy research today. Few, if any, ever fully explain anything.

MEAs involve collective action problems on a very large scale. The temptation to

"free-ride, shirk, or otherwise act opportunistically" is ever present. According to Esty,

> "In a global marketplace, countries face economic incentives to 'free ride' on the environmental efforts of others. Any nation that disregards transboundary problems and ducks its share of the burden of a global policy intervention can reduce the pollution control costs borne by its own industries. In doing so, the shirking nation may improve the competitive position of its companies in international markets. But when some nations choose this path, others may respond by declining to carry out their share of international environmental obligations. The commitment to cooperation quickly unravels, leaving global-scale problems unabated. This 'lose-lose' dynamic leads to a 'tragedy of the commons.' Without international cooperation on management of the shared resources of the global natural commons in a sustainable fashion, we risk overexploiting resources and permitting pollution spillovers that might be individually rational (from a single nation's comparison of costs and benefits) but which are collectively damaging when viewed from a worldwide perspective" (Esty, 3).

Again using the Kyoto Protocol as an example, despite not abiding by its original

signature, the US will benefit from the ratification and enaction of the treaty, as will any

other country that opts not to ratify. The trick is to offer the parties some other benefits

that make it worthwhile for them to abide by the treaties.

Hardin's concept once again appears in the recent literature on global climate

change. Once again we are dealing with a resource that may at first seem limitless but in

reality has definite limits. This is an issue addressed by Luterbacher and Sprinz in their

study, International Relations and Global Climate Change. According to these authors,

"global climate change raises the issue of the relationship between the general use of

resources by human populations and the ultimate limits of this use" (Luterbacher and

Sprinz, 9). They add that Hardin's tragedy of the commons could "be a useful way to

think about the barriers hindering the international community from initiating actions on global climate change" (Luterbacher and Sprinz, 9).

Like Elinor Ostrom, though, they see the limits of Hardin's model when explaining the global climate change problem. Ian Rowlands is one of the contributing authors to Luterbacher and Sprinz's book. According to Rowlands, "some have imagined the global climate change challenge as akin to a 'tragedy of the commons' but it may not actually be accurately represented as a global tragedy of the commons" (Luterbacher and Sprinz, 56). Rowlands comes to this conclusion because he says that motivation to endorse climate change policies varies depending on the costs or benefits of abatement. This, in turn, leads countries to adopt different strategies. Thus, he says, "a paradigm case of a tragedy may not be occurring, for 'ruin [may not be] the destination toward which all men rush' and 'freedom in a commons [may not bring] tragedy to all' " (Luterbacher and Sprinz, 56).

Despite its shortcomings, Hardin's tragedy of the commons does have a place in both the climate change challenge as well as all international environmental agreements. Deforestation, increasing levels of CO_2 in the atmosphere, and dumping of hazardous wastes in our oceans are all examples of moves toward a "tragedy of the commons" at its most basic level. But international agreements meant to address these issues become increasingly more complex than the problem of simply "overgrazing". Therefore, the solutions also need to be more complex. One of the major points of Ostrom's book is that traditional solutions are not always the answer. Regulation alone will not solve environmental problems. As Ostrom concludes, "if this study does nothing more than shatter the convictions of many policy analysts that the only way to solve CPR problems

is for external authorities to impose full private property rights or centralized regulation, it will have accomplished one major purpose" (Ostrom, 182).

How far will states go to protect the commons? The territorial exclusivity upon which state sovereignty is premised appears to be fundamentally violated by transboundary environmental problems and the logic of collective action suggests that sovereign states will be highly reluctant to engage in the kind of cooperative endeavors required for environmental protection (Liftin, 168). Are states strictly self-serving entities? The mere fact that today there are more than 900 international legal instruments related to the environment would seem to indicate otherwise. The fact that states are willing to be parties to multilateral environmental agreements does indicate that states are concerned about certain environmental issues. Whether this concern is motivated by politics, money, or a genuine desire to fix the problem is difficult to say. The end result though is that states are willing to accept some responsibility for the problem.

What does motivate states to act? As Mancur Olson points out,

"there is obviously no purpose in having an organization when individual, unorganized action can serve the interests of the individual as well as or better than an organization. But when a number of individuals have a common or collective interest - when they share a single purpose or objective - individual or unorganized action will either not be able to advance that common interest at all, or will not be able to advance that interest adequately. Organizations can therefore perform a function when there are common or group interests, and though organizations often serve purely personal, individual interests, their characteristic and primary function is to advance the common interests of groups of individuals" (Olson, 7).

With the onset of so many transboundary environmental problems, states are realizing that individual solutions will not solve these problems. The fact that a state did not help create the problem does not prevent it from spreading across borders. Nor should that preclude a state from being a part of the solution. The effects of transboundary

environmental problems are far-reaching. In April 1986, one of the four reactors at the Chernobyl nuclear power plant exploded releasing radioactive material into the air. The accident killed 30 people and produced high radiation levels within a 20 mile radius of the accident. Although "most of the released material was deposited close by as dust and debris, the lighter material was carried by wind over the Ukraine, Belarus, Russia and to some extent over Scandinavia and Europe" (Uranium Information Center, 2006). People who had never heard of Chernobyl were feeling its effects. Acid rain presents a similar problem. Wind can carry pollutants hundreds of miles away before they join water to form acid rain. A plant in Illinois may produce sulfur dioxide that forms acid rain over Massachusetts. States and countries are not immune from transboundary environmental problems simply because they did not contribute to them.

By the same token, the benefits received from the solution to the problem are just as far reaching. Signing onto an MEA does not obligate a state to actually implement it but even those states that do not implement the agreement will benefit from those that do. As Olson points out, "the very fact that a goal or purpose is *common* to a group means that no one in the group is excluded from the benefit or satisfaction brought about by its achievement" (Olson, 15).

These benefits, however, do not come without cost. Olson says that although all members have a common interest in obtaining the collective benefit, they have no common interest in paying the cost of providing that collective good (Olson, 21). Olson is referring to monetary costs but in the case of MEAs, the costs involve more than just money. For states, part of the cost for cleaning up environmental problems may be relinquishing some level of sovereignty.

The Challenge of the Global Commons

The global commons present new challenges for collective action. The major drawback of Hardin's Tragedy of the Commons and Ostrom's "CPRs" is that they deal with small-scale local and regional problems. Global challenges require a global response including establishing "global institutions to manage biodiversity, climate change, and other ecosystem services (Ostrom, et al, 281). Ostrom, et al, list six reasons that make these new challenges especially difficult:

1) the scaling-up problem: having more participants increases the difficulty of organizing, agreeing on rules, and enforcing rules and global environmental resources now involve 6 billion inhabitants of the globe.
2) Cultural diversity challenge: cultural diversity can increase decrease the likelihood of finding shared interests and understandings. The problem is exacerbated by 'north-south' conflicts stemming from economic differences between industrialized and less-industrialized countries;
3) Complications of interlinked CPRs: As we address global issues, we face greater interactions between global systems. From our increasingly specialized understandings and particular points on the globe, it is difficult to comprehend the significance of global CPRs and how we need to work together to govern these resources successfully;
4) Accelerating rates of change: Population growth, economic development, capital and labor mobility, and technological change push us past environmental thresholds before we know it;
5) Requirement of unanimous agreement as a collective-choice rule: The basic collective-choice rule for global resource management is voluntary assent to negotiated treaties. This allows some national governments to hold out for special privileges before they join others in order to achieve regulation, thus strongly affecting the kinds of resource management policies that can be adopted at this level;
6) We have only one globe with which to experiment: historically, people could migrate to other resources if they made a major error in managing a local CPR. At the global level, there is no place to move.
(Ostrom, et al, 281-282).

Conclusions

Both sovereignty and the issue of collective action have the potential to cause

problems for successful implementation. In terms of sovereignty, parties may need to be convinced to give up some of their sovereignty in order to protect the environment. Parties may be willing to give up some sovereignty for the "greater" good. There is a limit to the Earth's natural resources and the responsibility for preserving these resources often falls on the international community in the form of MEAs. What these agreements try to do is strike a balance between a country's desire to preserve its sovereignty and a desire to help protect the environment. This is no easy task and it adds to the challenge of implementation of such agreements. The four MEAs in this study seem to have met that challenge and done so fairly successfully. The Parties to these MEAs seem to be aware that environmental resources are limited and are willing to cooperate to preserve these resources. More importantly, sovereignty and collective action can also be considered as part of the institutional framework of the MEA itself.

Inherent to all MEAs is the possibility of free-riding, shirking responsibilities, and acting opportunistically. Parties that do not sign on or ratify will still reap the benefits of the MEA. But consider this; there are 191 member states of the United Nations. The number of parties signed on to each of the MEAs in this study break down as follows: Ramsar - 145, CBD - 176, MP - 189, and the UNCCD - 191. Signing on to an MEA is voluntary and those that sign on are aware of their obligations when they do so. A review of the National Reports used in this study gives no indication of free-riding, shirking, or acting opportunistically (at least in terms of the data available in English). The countries that are parties to these agreements seem to take their responsibilities seriously and do what they can to live up to them. Based on the paper interview responses, there is no evidence to indicate free-riding, shirking, or acting opportunistically is occurring in these

MEAs. In responses to the paper interview question relating to capacity and intent of

parties, all four MEAs said that parties have the intent to comply but lack the capacity to

do so. None said they had the capacity but not the intent.

<u>Chapter IV: Case Selection Criteria</u>

All of the MEAs selected for this study have been entered into force for at least 10 years and have an established record for implementation, monitoring, and/ or compliance. They are all considered major treaties and have a large number of contracting parties. They all have at least one year's worth of National Reports for evaluation. The Montreal Protocol (MP) was selected specifically because of its known track record for being one of the most effective MEAs in force today. It was believed that this would provide a good basis for comparison with the other MEAs about which very little was known.

<u>The MEAs</u>

1) Montreal Protocol on Substances that Deplete the Ozone Layer (1987): The MP opened for signature on 16 September 1987 and entered into force on 1 January 1989. As of October 2004, 189 parties had ratified the Vienna Convention, 188 had ratified the MP, 175 had ratified the London Amendment, 164 had ratified the Copenhagen Amendment, 120 had ratified the Montreal Amendment, and 82 had ratified the Beijing Amendment (UNEP/OzL.Pro.16/4). The Montreal Protocol is one of the international environmental accords to which members most universally adhere . One hundred and eighty-nine countries are party to it.

Implementation: States have been unusually aggressive and effective in implementing the Montreal Protocol. A regime was established to address issues of noncompliance that includes the Implementation Committee of ten states and specific noncompliance procedures.

Structure: There are two separate secretariats, one for the protocol and one for the Montreal Protocol Fund. The secretariat plays an important role in facilitating compliance

with the Protocol. The Implementation Committee reviews reports submitted by the parties and addresses the possible violations of targets and timetable obligations.

Dispute Resolution: The Montreal Protocol contains an elaborate article on the settlement of disputes involving its interpretation or application. Differences are resolved through negotiation. If that is unsuccessful, parties need to involve a third party. States can also agree at the time of ratification to accept compulsory dispute settlement procedures of arbitration or referral to the International Court of Justice (this has never been invoked). **(Source: Weiss and Jacobson, 135-157)**

2) Convention on Biological Diversity (1992): The CBD opened for signature on 5 June 1992 and entered into force on 29 December 1993; 176 countries have ratified it and 6 have signed but not ratified. It is one of the most extensive international agreements ever reached. CBD has three overall objectives: (1) conservation of biological diversity, (2) sustainable use of the components of diversity, and (3) fair and equitable sharing of the benefit that can be derived from genetic resources.

Implementation: Implementation is the responsibility of the Conference of the Parties (COP). Each party is responsible for submitting reports on measures that it has taken for the implementation of the provisions of this convention and their effectiveness in meeting the objectives of this convention.

Structure: The Secretariat is responsible for arranging and servicing meetings of the COPs. The COPs are responsible for implementation, reviewing reports, and adopting protocols and amendments. The COP is the highest decision-making forum of the convention. The Subsidiary Body on Scientific, Technical, and Technological Advice (SBSTTA) provides timely advice relating to the implementation of the convention.

Dispute Resolution: This involves negotiation first. If negotiation fails, parties may jointly seek the good offices of, or request mediation by, a third party. If both measures fail, the parties may submit to arbitration or submission of dispute to the International Court of Justice.

(Source:http://www.internat.naturvardsverket.se/documents/nature/biodiv/biodiv.htm and the text of The Convention on Biological Diversity)

3) The United Nations Convention to Combat Desertification (1994): The UNCCD was adopted on 17 June 1994 and opened for signature from October 1994 to October 1995. It entered into force on 26 December 1996 and currently has 179 contracting parties. The objective of the Convention is to combat desertification, particularly in Africa, through effective action at all levels, supported by international cooperation and partnership arrangements in the framework of an integrated approach which is consistent with Agenda 21, with a view to contributing to the achievement of sustainable development in affected areas (UNCCD text).

Implementation: The Parties work closely together in the implementation of action programmes. Implementation is overseen by the Committee for the Review of the Implementation of the Convention (CRIC). The CRIC is a subsidiary body of the COP.

Structure: The COP is the supreme body of the Convention. It makes all decisions (within its mandate) necessary to promote its effective implementation. The Secretariat makes arrangements for meetings of the COPs and other subsidiary body established under the convention, and provides them with services as required. The Committee on Science and Technology provides the COP with information and advice on scientific and technological matters relating to combating desertification and mitigating the effects of

drought.

Dispute Resolution: The Parties are responsible for settling disputes among themselves through negotiation or other peaceful means. **(Source: www.unccd.int/convention)**

4) Ramsar (1971): Ramsar was adopted on 2 February 1971. It entered into force in 1975 and has 145 contracting parties. The official name of the treaty is the Convention on Wetlands of International Importance especially for Waterfowl Habitat. The original emphasis of the Convention was on conservation and wide use of wetlands primarily to provide habitat for water birds (Ramsar). The Convention has since broadened its scope to cover all aspects of wetland conservation and wise use. The Convention is now commonly referred to as the Convention on Wetlands or simply Ramsar (the city in Iran where is it was adopted).

Implementation: Implementation is a partnership between the Contracting Parties, the Standing Committee, and the Convention Secretariat, with the advice of the Scientific and Technical Review Panel (STRP) and the support of the International Organization of Partners.

Structure: The Conference of the Contracting Parties (COP) is the policy making organ of the convention. As such, it reviews the general trends in the implementation of the Convention as reflected in the national reports and adopts decisions to improve the way in which the convention works. The COPs of Ramsar are known to be highly effective and allow active participation by the non-governmental and academic community. There is also a Standing Committee, a Secretariat which carries out day-to-day activities, Scientific and Technical Review Panel (STRP), and International Organization Partners (both IGOs and NGOs) which contribute on a regular basis.

Dispute Resolution: Ramsar has not established any formal procedure for dispute resolution but based on the language of the Convention the most likely candidate for handling dispute resolution would be the COPs. (**Source: www.Ramsar.org**)

Data Collection

The study is based on data collected from a paper interview completed by representatives of the four MEAs mentioned above. The respondents included a legal advisor for the CBD, the Deputy Executive Secretary for the Ozone Secretariat of the MP, a communications officer for the Ramsar Convention Secretariat, and an associate public information officer for the UNCCD. Two sets of paper interviews were sent out. The first group was mailed in November of 2003 to the World Heritage Convention, The Montreal Protocol, and the Convention on International Trade in Endangered Species. Only one response was received from this group from the MP. A second group of paper interviews was sent out in January of 2004. This second group included the CBD, the International Tropical Timber Agreement, the London Convention of 1972, the UNCCD, and Ramsar. Three additional paper interviews from the CBD, the UNCCD, and Ramsar were received from this second group. A response was also received from the London Convention but the respondent indicated that most questions on the paper interview were not applicable to his MEA so there was no usable data from this paper interview.

The second source of data for the study was the National Reports submitted by the parties. The frequency of reporting is spelled out in each MEA. The most recent National Reports available were used and were found online on the websites for each of the four MEAs used in this study. National Reports are not all in the same format therefore the type of information taken from each varies. Statistical data was taken from the CBD,

Ramsar, and the MP National Reports. For the UNCCD, a more qualitative approach was
taken. Only those questions or information relevant to implementation, monitoring,
compliance, and resources were used. Of the ones used for this study, the most complete
information came from the CBD. The CBD National Reports are designed more like a
survey and are more quantitative in nature. Most of the statistical data in this study came
from the CBD National Reports. The National Reports from the UNCCD tend to give the
details of implementation, monitoring and compliance with words rather than with
information that lends itself to statistical analysis. The actual National Reports for the MP
were not used; however, the MP provides summaries of progress which provided
information regarding implementation, monitoring, and compliance. Table 4.1 gives a
breakdown of the National Reports used.

TABLE 4.1

NATIONAL REPORTS USED FOR ANALYSIS					
	Year of Reports	**Number Submitted**	**Number Used**	**Number of Developed Countries**	**Number of Developing Countries**
1. CBD	2005	56	54	15	39
2. UNCCD	2004	78	38	15	23
3. RAMSAR	2002	116	116	22	94
4. MP	2004	156	156	38	118

1. Of the 56 countries reporting data for 2005, two reports were not used because they
were in Arabic.
2. Of the 78 reports submitted for 2004, 40 were not used: 28 were in French, two were in
Spanish, one was in Arabic, and nine countries did not report for 2004.
3. Information on implementation, monitoring, and compliance taken from the COP8
Global Statistics; an analysis of the COP8 National Reports.
4. The actual reports were not used for the MP. A summary of the data was taken from
UNEP/OzL.Pro.156/4: Report of the Secretariat on data and consideration of compliance
issues, 22-26 November 2004.

Within the context of the four MEAs, the interaction between the parties and the implementing institutions are examined to determine the effectiveness of implementation, monitoring, and compliance of the MEAs. The secondary data from the National Reports is used to supplement the primary paper interview results. Because there were only four cases used in this study, the National Reports will offer more specific details regarding the responses received on the paper interviews. The data from the National Reports will also help to verify responses on the interviews; does the reality of the reports match up with the perceptions of those responsible for completing the paper interviews?

Chapter V: Research Design and Data Analysis

The previous chapters in this research have examined the relationship among implementation, monitoring, and compliance as it relates to the effectiveness of multilateral environmental agreements. The findings presented in these chapters support the view of this study that compliance is a measure of effectiveness of MEAs. The limited number of cases used in this study limits the ability of it to make any broad generalizations regarding these three processes but it can serve as a starting point for future research in this area and give some indication of the direction that future research should take. This is true particularly in the role institutions play in implementation, monitoring, and compliance and the importance of looking at institutions from a historical perspective.

Summary of Research Design

This study relied primarily on four paper interviews received from the Convention on Biological Diversity, the Montreal Protocol, the United Nations Convention to Combat Desertification, and the Convention on Wetlands (Ramsar). Because of the limited number of cases used, additional data was necessary to support these findings. For this reason, data taken from the National Reports of each MEA was used as secondary data. The four original paper interviews were collected over a period of four months. The four MEAs deal with four different environmental problems but are all closely related. The primary responsibility of the CBD is biological diversity. The MP deals with controlling ozone depletion and preserving the ozone layer. The UNCCD is working towards controlling desertification primarily in African Nations. Finally, Ramsar is concerned with wetland preservation. The MP is known for being a "model" MEA. It

has been extremely successful with implementation, monitoring, and compliance.

The four MEAs were studied within the framework of historical institutionalism to determine the role institutions play in implementation, monitoring, compliance, and, ultimately, the effectiveness of the MEA. Each MEA provides an institutional framework in which to address implementation, monitoring, and compliance. Some agreements are more specific than others but all provide at least a basic outline. The issues of collective action, sovereignty, and resources were also taken into consideration within this same context. The study looked at the role each of these, if any, plays in implementation, monitoring, and compliance.

Summary of Paper Interview Findings

Although the results on the paper interviews do not allow for extensive generalizations regarding MEAs, they do provide some interesting and useful information regarding the four MEAs used in this study.

Implementation

When asked to rate the success of implementation the respondents for the CBD, UNCCD, and the MP, all selected "successful." The Ramsar respondent selected "somewhat successful." Implementation is taking place in all four MEAs but they appear to be in different stages. The most complete example of implementation is the MP. With specific guidelines in place, including the creation of the MLF, the MP has an established record of implementation. It also has one of the most successful records of implementation. Numerical standards and limits for ozone depleting substances have been set and countries are required to take the necessary steps to see that those standards and limits are met. The language of the Protocol is very specific about acceptable levels

of CFCs, halons, carbon tetrachloride, methyl chloroform, hydro chlorofluorocarbons, hydrobromofluorocarbons, methyl bromide, and bromochloromethane and how these acceptable levels are going to be achieved. Of the four MEAs in this study, the MP has the one with the most specific language in terms of what it is that is being monitored. How to implement the changes to meet these requirements is not specifically spelled out but the time frame for achieving these goals is. And parties to the MP are expected to meet the deadlines set or have an explanation for not doing so. The extensive reporting that is required of the parties to the MP help ensure that implementation is taking place.

Implementation of the CBD is also taking place but faces a number of challenges. In the National Reports, the parties indicated that in all cases challenges to implementation were either high or medium. Very few responded that the challenge has been successfully overcome. The low numbers indicate that parties are not meeting these challenges successfully. This is a problem for implementation. For an MEA to be effective, the challenges of implementation must be successfully overcome. Despite characterizing its implementation as "successful" the CBD has some problems to overcome when it comes to implementation. The effort seems to be there on the part of the parties but the challenges they face when it comes to implementation are great based on the data in the National Reports.

The UNCCD also chose "successful" to characterize implementation. Based on information from the National Reports, it is more likely that "successful" characterizes implementation at the party level rather than at the MEA level. Unlike the other MEAs, the UNCCD serves more as a facilitating agency for implementation. Each party to the Convention is responsible for developing a separate framework (the NAP) for

implementing the Convention locally. This involves setting up an entirely separate institutional framework for implementation. Implementation takes place at two levels; within the framework of the NAP and within the framework of the UNCCD. Although a high percentage of projects have been implemented within the framework of the NAP only 37% have been implemented within the framework of the UNCCD. At the party level there is success with implementation but this success has not yet translated to the MEA level.

The UNCCD is also unlike the other MEAs in that developing and developed parties have different obligations when it comes to implementation. While it is the responsibility of the developing parties to create the NAPs which will establish the guidelines for and institutions responsible for implementation, it is the responsibility of the developed countries to provide the financial and technical resources to assist in implementation. Since desertification is generally not a problem in developed countries, they assist those parties most at risk. This reliance on developed parties to supply the resources necessary for implementation can be a hindrance to implementation if these resources are too little or do not come at all. The National Reports seem to indicate that most parties are in the early stages of implementation but are making progress none-the-less.

Ramsar was the only respondent to characterize implementation as "somewhat successful." Although the Ramsar National Reports are not as clear as some of the others, there is an indication in the responses that implementation is slow in coming. The Ramsar National Reports divide the responses into two categories: PCTYES, percent of contracting parties answering YES, and PCTPRG, percent of contracting parties

answering YES, or PARTLY, or IN PROGRESS. The second category is not very specific and leaves a great deal of room for interpretation. This is the category where most responses to the questions of implementation fell. This could explain Ramsar's "somewhat successful" response. Parties are obviously making some progress but to what extent is unclear based on the Reports. The lower percentages in the PCT YES category may be a better indication that there are currently some problems with implementation.

<div align="center">**Monitoring**</div>

In the section on monitoring, the respondents were asked, "How would you rate the success of monitoring for your MEA?" The respondents from the UNCCD and the MP said "very successful." The respondent from Ramsar said "somewhat successful." The respondent from the CBD said "not very successful." The "very successful" answer from the MP respondent is not surprising. Of the four MEAs in this study, the MP has the most advanced and organized systems for monitoring compliance. The MP respondent also answered "very frequently" when asked, "How frequently do you monitor compliance?" Again, this is not a surprising response. The MP collects reports from parties once a year and will request follow-up reports if parties are found to be in noncompliance. Lapses must be explained and they must be explained satisfactorily. Noncompliance issues are also expected to be corrected. The MP stays on top of the situation to see that it is resolved quickly.

A review of the UNCCD National Reports shows that most parties do not currently have a formal system in place for monitoring but all are working towards that goal. For this reason, the UNCCD respondent's answer is a bit of a surprise. Because each party has at least a plan for monitoring, the respondent may believe this makes

monitoring a success. Of all the MEAs in this study, the UNCCD has the farthest to go in terms of monitoring.

The text of Ramsar makes provisions for reporting problems but it may be that this is not done in any systematic way. Since the Ramsar respondent answered "somewhat successful" and "infrequently" to the monitoring questions there is an indication that there are problems with monitoring.

The CBD respondent rated the success of its monitoring as "not very successful" and did not even respond to the frequency question so this obviously indicates some problems with monitoring of the CBD. The National Reports of the CBD indicated that monitoring systems are in place and that parties give monitoring high priority. The reason for the discrepancy between the National Reports and the CBD respondent's answers is unclear. It may be that despite the fact that systems are in place and parties give monitoring high priority, the system simply does not work as it should.

Institutions

Agreements adopted after 1972 "generally have the following institutional elements: a COP, a secretariat, advisory bodies, a clearing-house mechanism, and a financial mechanism" (UNEP, 2001). In the four MEAs, compliance is handled by a variety of institutions. The responsibility for compliance with the MP falls to the Secretariat and the Implementation Committee. Compliance with Ramsar is the responsibility of the Secretariat and the COPs. Under the CBD and the UNCCD, this responsibility falls to the COPs. NGOs, IGOs, Scientific and Technical Bodies, and Private Sector Organizations also play a role in implementation, monitoring, and compliance. One or more of the respondents selected at least one of these institutions as

playing a role in implementation, monitoring, and compliance (The MP respondent did

not answer this question so the responses discussed are from the respondents of the CBD,

the UNCCD, and Ramsar). Although the level of influence varies, all the institutions

named in these questions are involved in the process. As the number of MEAs grow it is

expected that the involvement of these institutions, particularly NGOs, will also grow.

The support of NGOs is especially important for the CBD, the UNCCD, and Ramsar

where support at the national and local levels is crucial to successful implementation.

Both the CBD and the UNCCD have specific language in their texts to address this issue.

NGOs are not as important to the MP because it has the MLF and the ImpCom to assist

with implementation. The MLF provides a source of funding to assist with

implementation whereas the other three agreements lack this kind of source. A lack of

resources is an area where increased involvement of NGO's can be very helpful.

The Guidelines on Compliance with and Enforcement of Multilateral

Environmental Agreements says this about institutional framework:

> "States should consider an institutional framework that promotes designation of
> responsibilities to agencies for: (1) enforcement of laws and regulations, (2)
> monitoring and evaluation of implementation, (3) collection, reporting, and
> analysis of data, including its qualitative and quantitative verification and
> provision of information about investigations, (4) awareness raising and publicity,
> in particular for the regulated community, and education for the general public,
> and (5) assistance to courts, tribunals and other related agencies, where
> appropriate, which may be supported by relevant information and data"
> (Guidelines on Compliance, 9).

When parties first meet in the negotiation phase of the treaty, they already have a set of

guidelines to help them develop the institutional framework for the MEA. It is not

something that is approached haphazardly. There is a purpose and intent to every decision

made by the parties when developing the structure of the MEA. There is some flexibility

but the guidelines help to maintain some consistency in institutional structures within and across MEAs. Where the power lies in the institutional structure is up to those negotiating the treaty, hence the flexibility mentioned earlier.

The responses to these questions demonstrate that the institutional framework of MEAs cannot and should not be viewed as taking a strictly top down or bottom up approach to implementation, monitoring, and compliance. The MEAs in this study seem to fall somewhere in-between. Even the UNCCD, which uses a bottom up approach at the party level, uses more of a mixed approach at the MEA level. Based on the paper interview results, NGOs, IGOs, Scientific and/or Technical Bodies, and Private Sector Organizations can also play a part in implementation, monitoring and compliance. The level of influence varies but this does not diminish the importance of these groups.

It is not enough, though, to simply have the institutional framework in place. Problems with monitoring and compliance may arise if the institutional structure of the MEA proves to be weak. Inadequate budgets, a shortage of trained staff, and competition among institutions can all lead to weaknesses. Involving the public in the decision-making process can help to minimize such weaknesses. This is where the importance of NGOs comes in. Recently:

> "NGOs have emerged as major players and partners at local, national, and regional levels in development and conservation activities, performing a multitude of roles including environmental education and awareness-raising among the public. NGOs have assisted in the design and implementation of environmental policies, programmes, and action plans, as well as setting out specifications for Environmental Impact Assessments (EIAs)…Many studies have noted the importance of NGOs in monitoring state behaviour and promoting compliance of MEAs" (GEO-2000, 213).

This is a relationship that needs to be cultivated by MEAs to ensure successful implementation by helping to maintain a system of monitoring thus improving

compliance. This in turn should improve the overall effectiveness of the MEAs. In

Compliance

The responses to the compliance questions indicate that all four MEAs in this

study use a management approach, or what is sometimes called a sunshine approach, to

compliance. The question on the paper interview asked, "what method or methods does

your MEA employ to gain compliance from the parties to the treaty?" The choices here

were: (1) financial incentives, (2) formal regulation, (3) formal punishments, and (4)

reporting. The CBD, UNCCD, and Ramsar respondents all chose reporting. Although the

MP respondent did not specifically respond to this question, he indicated elsewhere on

the paper interview that it also uses reporting. No where on the paper interview did any of

the respondents indicate that they use formal regulations or punishments to gain

compliance. Again, the MP respondent did not specifically answer this question but he

did say the MP uses financial incentives in the form of the MLF to assist in

implementation, monitoring, and compliance but there is no indication that funds are

withheld for non-compliance. The MP respondent also said that those countries that are

financially compensated for compliance are more compliant but did not say anything

about non-compliance being due to withholding of funds.

Sovereignty

To see if sovereignty was a problem with MEAs, the paper interview respondents

were asked specific questions about sovereignty. When asked if they saw multilateral

environmental agreements as being inherently at odds with sovereignty all four

respondents said no. The CBD did add the comment that through MEAs States cede some

amount of sovereign authority. This statement coincides with Article 3 of the CBD text

which states that "States have, in accordance with the Charter of the United Nations and the principles of international law, the sovereign right to exploit their own resources pursuant to their own environmental policies, and the responsibility to ensure that activities within their jurisdiction or control do not cause damage to the environment of other States or of areas beyond the limits of national jurisdiction" (CBD). The MP added the comment that all decisions are taken at the Meeting of the Parties by consensus. These responses indicate there is no direct conflict between sovereignty and these MEAs. MEAs can exist without trampling on a parties right to sovereignty and all parties signing these agreements know what they may or may not be giving up. All MEAs are voluntary agreements and no country is forced to sign. This is not to say there is no pressure to sign but every party has the right to simply say no.

The respondents were also asked if they felt that some level of sovereignty must be relinquished in order for MEAs to be successfully implemented. The respondents for the CBD, the UNCCD, and Ramsar all said, "no." The MP respondent said yes which would seem to indicate that there is some level of negotiation that goes on at the Meeting of the Parties in order to get consensus. Some decisions must require the Parties to give a little so that a consensus must be reached. Considering the success of the MP though, this does not hinder implementation, monitoring, and compliance. When it comes to environmental agreements parties seem to be willing to make concessions, including ceding some level of sovereignty if it means things like clean air or water.

The responses given on the paper interview seem to coincide with Liftin's idea of sovereignty bargains. The responses and additional comments do point to a trade-off in relation to issues of sovereignty. The CBD respondent said that through MEAs, States

cede some amount of sovereign authority and the MP respondent talked about reaching consensus on decisions. Both of these statements imply that some sort of trade-off occurs when states cede "some" amount of sovereign authority or try to reach a "consensus."

The MEAs in this study seem to have overcome any obstacles that sovereignty may have placed in their way. It may be as Conca and Debalko say that the agreements have actually strengthened state sovereignty. Institutions become a central focus here. The strength of the institutions created at the state level allows the parties to handle implementation, monitoring, and compliance. If the parties handle this process well, they may actually help to preserve their sovereignty because the MEA does not have to step in and tell them how to do it.

In the case of MEAs, states must be flexible on sovereignty issues because as stated previously, "environmental processes do not respect state boundaries" (Conca and Debalko 86). Liftin viewed sovereignty as a "historical institution whose norms and practices have changed significantly over time" (Liftin 195). Her view is echoed by that of Jonsson and Tallberg who say that "sovereignty is often conceived of as an attribute of states; we speak of 'sovereign states.' Another understanding of sovereignty, with resonance in contemporary IR scholarship, is in terms of an institution that defines and empowers the state" (Jonssen and Tallberg). Both of these views fit in well with the historical institutionalist framework of this study. Sovereignty is another institution in the MEA process and should be examined as such. As an institution, it helps to shape the behavior of the parties involved. In the case of the four MEAs in this research, that seems to be in a positive way. As an institution, sovereignty may serve a different function in different states but that does not mean it must hinder the implementation of the MEA.

The concept of absolute sovereignty seems to have gone by the wayside as MEAs have become more prevalent. Liftin's notion that today "the general principle of good neighborliness stands at the heart of contemporary conceptions of sovereignty and environmental protection" (Liftin 278) seems to be the rule rather than the exception in the case of these four MEAs.

Although Principle 21 and Principle 2 give states the right to pursue their own environmental policies, they do expect that states will act responsibly as far as their actions affect those around them. This is what MEAs do. They give states guidelines for implementation, monitoring, and compliance but they also give them some flexibility in deciding how this will be done. UNCCD parties must develop a National Action Plan (NAP) to outline implementation, monitoring, and compliance but the plans are individualized by each contracting party. If states do not feel as though they are being "forced" to do things, compliance with these agreements may come more easily.

Collective Good

One question on the paper interview dealt with collective good. The question asked, "in the case of MEAs, do you feel that the collective good they may produce outweighs the parties' self-interest?" The respondents were split on this question. The Ramsar and MP respondents answered yes and the CBD and UNCCD respondents answered no. The Ramsar respondent also added the comment that self-interest should normally coincide with collective good. This may be the prevalent view in MEAs. The self-interest of the party and what is best for the collective good should be one in the same.

Resources

Each respondent was asked if the MEA included separate allocations for implementation, monitoring, and compliance; all four respondents said, "yes." When asked if they felt they had adequate resources available for implementation, monitoring, and compliance the respondents from the CBD and the MP answered, "yes." The respondents from the UNCCD and Ramsar said, "no." A follow up question asked if increased funding would improve implementation, monitoring, and compliance rates. The UNCCD and Ramsar respondents answered, "yes." The CBD respondent answered, "no." The MP respondent said, "perhaps." The Ramsar respondent also clarified his response by saying that increased funding would improve implementation but not compliance.

The fourth question in the resources section of the paper interview asked if there was a particular area where additional resources could make a noticeable improvement. The CBD respondent said capacity building in developing countries. The UNCCD respondent said implementation. The Ramsar respondent said increased funding for small grant programmes would help.

Finally, the question was asked, "where applicable, are countries that are financially compensated for compliance more compliant than those that are not?" The only respondent to answer yes was the MP's. The CBD, UNCCD, and Ramsar respondents all chose "N/A." Again, the MLF provides a financial outlet for the MP. The MLF is able to fund programs to increase implementation, monitoring, and compliance. The other three agreements simply do not have this kind of fund at their disposal.

Effectiveness

Probably the most important question on the paper interview is the one on

effectiveness. The Guidelines on Compliance do not define effectiveness but they do say that, "the conference of the parties of a multilateral environmental agreement could regularly review the overall effectiveness of the agreement in meeting its objectives, and consider how the effectiveness of a multilateral environmental agreement might be improved" (Guidelines on Compliance, 4). It is important to note the use of the word "could" in this statement rather than "would" or "should." At the beginning of this document the authors state that:

> "the guidelines are advisory. They provide approaches for enhancing compliance with multilateral environmental agreements and strengthening the enforcement of laws implementing those agreements. It is recognized that parties to the agreements are best situated to choose and determine useful approaches in the context of specific obligations contained in the agreements. Although the guidelines may inform and affect how parties implement their obligations under the agreements, they are non-binding and do not in any manner alter these obligations" (Guidelines on Compliance, 1).

It would seem that the use of the word "could" is intentional so as not to sound confrontational. This may go back to the issue of respecting a party's sovereignty. Presented in this manner, parties are more likely to accept these guidelines than if it were presented in a more forceful manner. Acceptance of these guidelines is important since effectiveness of the MEA is the ultimate goal.

In regards to effectiveness, the question on the paper interview asked, "currently, do you consider your MEA to be (1) very effective, (2) effective, (3) somewhat effective, or (4) ineffective. Three of the respondents answered, "very effective" and one respondent answered, "somewhat effective." The Ramsar respondent actually chose both "very effective" and "effective." The "effective" response was in regards to compliance whereas the "very effective" response was in regards to cooperation, awareness, and capacity building.

Of all the respondents, the one for the CBD seems to have the least amount of confidence in the MEA. This would explain the "somewhat effective" response on this last question. The CBD is one of the more recent MEAs and it may be that it is taking a while for its institutional structure to function as it should. A lack of resources and the need for capacity building may be having an impact on effectiveness as well.

How effective an MEA is depends upon several things that occur in a sort of chain reaction. The first requirement is effective implementation. The second is to have a system in place for monitoring. The third is to gain compliance from the parties. A lapse at any stage of the process diminishes the overall effectiveness of the MEA. Implementation did not appear to be a problem for any of the MEAs in this study. Although they may be in various stages of the process, implementation is occurring. The problems for these MEAs seem to be coming in the areas of monitoring and compliance. According to the Global Environment Outlook 2000:

"policy assessment is made particularly difficult because of uneven monitoring, poor and missing data, and a lack of indicators. Continuous reporting and data on the environmental situation before and after implementation of policies are virtually non-existent" (GEO-2000, 198). Without a formal monitoring system in place there is really no way to enforce compliance. For this reason, monitoring may be the most important step in the process. Through reporting:

> "implementation of MEAs generally improves effectiveness by making parties
> more accountable, diffusing information on successful strategies and methods,
> helping to direct assistance if needed, and providing information and assessments
> to guide any future development of the MEAs" (GEO-2000, 204).

Without monitoring, evaluating the effectiveness of the MEA becomes very difficult.

Summary of Data from National Reports and Paper Survey

The data for this section comes from both the paper interview and the National Reports. The data is compared and contrasted to draw general conclusions about the four MEAs in this study in regards to implementation, monitoring, and compliance.

Implementation

The implementation questions on the paper interview dealt with who in the organization is responsible for implementation and the rate of success of implementation. Responses were received from the Montreal Protocol (MP), The Convention on Biological Diversity (CBD), The Convention on Wetlands (Ramsar), and the United Nations Convention to Combat Desertification (UNCCD). All four respondents said that their organizations held regular meetings to discuss implementation, monitoring and compliance. In providing a more in-depth response, the CBD respondent said that COP meetings provide guidance to Parties on implementation. The UNCCD respondent said that they assess progress made in the implementation of the convention every year through meetings of the COP and Subsidiary bodies. The Ramsar COP meets every three years. The Secretariat reports problem issues to the COP, which may or may not choose to discuss them and may agree on a recommendation. Finally, the MP secretariat arranges and services two meetings annually of the IMPCOM (Implementation Committee) that deals with compliance issues. None of the respondents suggested that the Secretariat was "in charge" of implementation, monitoring, and/or compliance.

When asked who in the organization is primarily responsible for implementation, the responses varied. The CBD respondent said that both groups at the top and local groups were responsible for implementation. Based on the agreement, implementation is

primarily the responsibility of the COPs. Each party is responsible for submitting reports on measures that it has taken for the implementation of the provisions of the Convention and their effectiveness in meeting the objectives of the Convention. On the CBD National Reports, respondents were asked to rate the level of challenges they faced when addressing implementation issues. The majority of the responses come in the categories of High Challenge (3) and Medium Challenge (2) while some of the lowest responses come in the Challenge has been Successfully Overcome (0) section. Although the CBD respondent says that its rate of success of implementation is "successful," based on the National Reports, it faces challenges to implementation by the parties and these challenges are great and not easily overcome. These challenges can create problems for monitoring and compliance. Successful implementation does not necessarily equate to successful monitoring and compliance. This in turn, has an effect on the overall effectiveness of the MEA.

When asked more generally, "currently, do you consider your MEA to be: very effective, effective, somewhat effective, or ineffective?" The CBD respondent selected "somewhat effective." CBD considers implementation a success but considers the overall effectiveness of the MEA to only be "somewhat successful." This would seem to indicate a problem with compliance. The MEA is being implemented successfully but are parties complying with it? This issue will be addressed later under the Monitoring and Compliance section.

Article 26 of the UNCCD, Communication of Information, spells out the requirements for reporting on implementation of the UNCCD. Affected country parties must, "communicate to the Conference of the Parties for consideration at its ordinary sessions, through the Permanent Secretariat, reports on the measures which it has taken for the implementation of the Convention" (UNCCD Text). This includes a description of strategies and detailed descriptions of programmes relevant to implementation (UNCCD). According to the Convention, "developed country parties shall report on measures taken to assist in the preparation and implementation of action programmes, including information on the financial resources they have provided, or are providing, under the Convention" (UNCCD).

The UNCCD respondent chose "successful" to describe its implementation. This is probably due in large part to the fact that implementation has been successful at the party level. Looking at the National Reports it is apparent that implementation at the MEA level has not been as successful. This is most likely due to the fact that the UNCCD is a facilitating agency and the governments themselves implement the Convention. Unlike the other three agreements, the UNCCD serves as a guideline more than anything else and each party develops its own implementation plan. Each party creates a National Action Plan (NAP) and programs set up under the NAP must be implemented within the NAP and also within the framework of the UNCCD. This two step process takes time and resources to develop.

It is significant to note that although 73% of UNCCD projects have been implemented within the framework of the NAP, only 37% of the projects have been implemented within the framework of the UNCCD. All but two of the affected parties evaluated, Mauritius and Seychelles, have established a NAP. This local level response most likely accounts for the success rate of implementation at the party level. As one party says, "as the primary tool for planning the application of the UNCCD at the national level, the NAPs represent the first stage in establishing effective programs to address land degradation and desertification. The low percentage of implementation within the framework of the UNCCD, however, demonstrates that this local success has not translated yet to the MEA level. Because the UNCCD is a facilitating agency perhaps too much responsibility is left to the parties for implementation. In essence, the Parties must comply with the guidelines for developing their NAPs before being able to measure actual compliance with the goals of the Convention.

Implementation activities of the developed parties of the UNCCD come through financial and technical resources and assistance in implementing the NAPs. They give support to NGOs, IGOs, and civil organizations. This type of participation, "enhances the capacity of local populations directly affected by desertification and drought to share their concerns, and propose locally adapted solutions based on concrete experience and know-how" (UNCCD National Reports - Canada).

Under Ramsar, the Secretariat encourages implementation at the National and local levels but has no direct responsibility. When asked to rate the level of success of implementation, the Ramsar respondent said, "somewhat successful." To evaluate implementation, a review of the COP8 National Reports Global Statistics was

undertaken. An explanation of how the data was analyzed is given in Appendix 5. There were 116 parties whose national reports were included in the analysis. Twenty-two of these were from developed countries and 94 were from developing countries.

There were several questions in the analysis that directly asked about implementation or included some aspect of implementation in them. There were two responses used in the analysis: "PCTYES, percent of contracting parties answering YES, and PCTPRG, percent of contracting parties answering YES or PARTLY or IN PROGRESS. That is, some progress in relation to the relevant indicator has been made" (Ramsar).

The majority of respondents when asked about implementation specifically, responded PCTPRG. This means that the majority of the contracting parties are only making "some" progress in relation to implementation. This may be where the "somewhat successful" response comes from. Only 31.1% of contracting parties answered PCTYES to these two statements regarding implementation.

Despite choosing "somewhat successful" to describe implementation, the Ramsar respondent chose "very effective" to describe the overall status of the MEA. Again, simply because implementation has some level of success does not mean that it will be effective. This gap between implementation and effective implementation is bridged by how successful the MEA is at gaining compliance. If those Parties that are having success with implementation are also having success with compliance, then the Ramsar respondent may view the MEA as very effective.

Finally, implementation of the MP is the responsibility of each national government, assisted by the implementing agencies. The MP has an Implementation

Committee which is assisted by the Secretariat. The ImpCom provides recommendations to the MOPs. The primary task of the Implementation Committee is to consider the issue of non-compliance which includes both cases of non-reporting and non-compliance with control measures. The MP also has a financial mechanism for the implementation of the Montreal Protocol called the Multilateral Fund of the Montreal Protocol (MLF). This fund "finances incremental costs incurred by developing countries in phasing out their consumption and production of ozone-depleting substances" (Ozone.unep.org). The MP respondent rated the implementation as successful and it is considered to be one of the most universally adhered to international environmental agreements.

Each respondent was also asked if their organizations hold regular meetings to discuss implementation, monitoring, and compliance. All respondents answered yes. The UNCCD assesses progress made in the implementation of the Convention every year through meetings of the COP and subsidiary bodies. CBD COP meetings provide guidance to parties on implementation. The Ramsar COP meets every three years. The Secretariat reports problems to the COP, which may or may not choose to address them. The MP Secretariat arranges and services two meetings annually of the IMPCOM that deals with compliance issues.

Monitoring and Compliance

The second section of the paper interview dealt with monitoring and compliance issues. The first question asked if the respondents had a system in place for monitoring and compliance. All four answered yes. Each was then asked to explain what kind of system was in place. The CBD has established the National Reporting System under Article 26 of their convention. They have not, however, established a compliance

regime. The UNCCD has a committee for the review of implementation of the Convention and meets every two years. Ramsar parties are required under Article 3.2 to report problems. The Secretariat interprets this to mean they can make inquiries of the Parties based on citizen and NGO problems as well. The Parties' replies can be reported to the COP under Article 8.2. The MP provides provisions within the Protocol for a system to monitor compliance. All four MEAs use National Reporting to monitor compliance.

Although all respondents have a system in place for monitoring, the frequency of monitoring varies. The respondents were asked to choose very frequently (more than once a year), frequently (at least once a year), infrequently (less than once a year), or not at all. The MP respondent chose very frequently, the UNCCD respondent chose frequently, and the Ramsar respondent chose infrequently. The CBD respondent did not make a specific choice but did comment that National Reports are submitted by Parties according to the format and intervals established by the COP. In terms of what institution or institutions are responsible for compliance, the CBD and UNCCD respondents chose COPs, The Ramsar respondent chose Secretariat and COPs, and the MP respondent chose Secretariat and Implementation Committee.

When asked about the level of priority given to identification and monitoring, 100% of developed nations give it high or medium priority compared to 82% of developing countries. Overall, almost 60% of both developed and developing countries give a high level of priority to monitoring.

When asked about the percentage of countries that have a mechanism to maintain and organize data derived from inventories and monitoring programmes and coordinate

information collection and management at the national level, the majority of parties here answered some degree of "yes." There is again a discrepancy between developed and developing parties. While 53% of developed parties answered, "yes, some mechanisms or systems in place," only 31% of developing parties answered the question the same. Conversely, for the response, "yes, a relatively complete system is in place," 13% of developing countries chose this answer as opposed to 7% of developed countries.

The CBD respondent rated the success of monitoring as "not very successful." It could be that he considers anything less than 100% of systems or mechanisms in place a failure. When the majority of both developed and developing countries give a high priority to monitoring and a majority of both have some systematic monitoring programme in place, then there is at least some base level of success with monitoring. However, the CBD respondent states that it has no compliance regime so perhaps without any formal way to measure compliance, they also have no way to really measure the success of the monitoring programmes in place.

Ramsar seems to have a system in place for monitoring compliance but since the Ramsar respondent's answer to the frequency of monitoring question was "infrequently," it would seem that this system is not adhered to on a regular basis.

The responses indicate that for the most part monitoring systems are in place or some progress is being made towards establishing a system for monitoring. Ramsar's response that compliance is monitored infrequently, though, would seem to indicate that although a system is in place, it is not used that often and/ or not that efficiently. This could be why Ramsar rated the success of monitoring only "somewhat successful." These two "somewhat successful" responses in relation to implementation and monitoring could

indicate that there will also be problems with compliance. This issue will be looked at later in the chapter.

Monitoring of the UNCCD is inconsistent at best. As part of the NAP, each country is required to list mechanisms for monitoring implementation. Of the 23 reports analyzed, only 9 have any sort of active monitoring program. These include collecting data and maintaining databases, tracking the rate of reduction of certain benchmarks, and creating institutions to monitor progress. Uganda has the Poverty Eradication Action Plan (PEAP) which is "reviewed every three years to assess performance, achievements, and failures" and is considered "a monitoring mechanism for all sectors" (UNCCD National Reports - Uganda). Zimbabwe has a "Department of Monitoring" which is located in the Office of the President and Cabinet. The Department of Monitoring is:

> "responsible for overall Government Policy implementation. In the environment sector the national environmental monitoring and observation capacity has been improved by   the formulation of the National Environmental Policy and the Environmental Management Act. These policy and legal instruments clearly indicate the areas to be monitored, the responsibilities for monitoring and production of state of the environment reports, etc. In addition they stipulate the formulation of environmental management   plans that will provide ongoing baseline information for monitoring. It is however not clear how effective the monitoring mechanism at sub-national level will be given the limited staff capacity in existing institutions. There is also a capacity gap between the national institutions and district, ward and village level institutions in terms of their capacity to develop indicators and apply these to monitor environmental changes" (UNCCD National Reports- Uganda).

Nigeria has actually launched a satellite into space to help with monitoring. NIGERIASAT 1 was launched on September 27, 2003. It monitors and provides "real time information on the distribution of environmental resources and incidence of land degradation. A Ground Station has been established in Abuja to receive and collate data from the satellite. In addition a Remote Sensing Center (Centre for Remote Sensing) has

been established in Jos, in Plateau state to analyze and interpret satellite imageries" (UNCCD National Reports - Nigeria). This is one of the more high-tech approaches to monitoring seen from a UNCCD party. In addition to the use of technology for monitoring, Nigeria also has an annual state of the environment report which facilitates monitoring and evaluation of projects (UNCCD National Reports - Nigeria).

In contrast to these countries which seem to at least have baseline programs in place for monitoring implementation, there are a handful struggling with getting monitoring programs up and running. Ghana is one country that "lacks any systematic benchmarks or indicators for assessing implementation of the convention or the extent of desertification …since change is in relation to some previously existing state the first task for national resource and other environmental monitoring is to ascertain some baseline conditions for monitoring" (UNCCD National Reports - Ghana). Mauritius has set evaluation parameters for monitoring but none have become operational yet. Mozambique has "no single harmonized mechanism to monitor the implementation of the NAP and drought related activities in the country. However, individual sectors have their own system to monitor different areas" (UNCCD National Reports - Mozambique). Swaziland and Zambia both say a lack of financial resources, trained personnel, and equipment has constrained their abilities to monitor implementation.

A review of the National Reports of the UNCCD showed that few countries have a system in place for monitoring. Those that do not are currently working towards establishing some kind of monitoring system. When asked to rate the success of monitoring the UNCCD respondent's answer was "very successful" but this would seem to be at odds with what the National Reports actually say. As previously stated, only nine

out of 23 countries have an established system for monitoring. These numbers would not seem to warrant a response of "very successful." Analysis of the National Reports, however, do indicate that countries have made this a priority. Most of the countries that do not have a structured monitoring system already in place have either a plan developed or some components already set up.

The MLF of the MP is a fund that "provides funds to help developing countries (also known as Article 5 countries) to comply with their obligations under the Protocol to phase out the use of ozone-depleting substances (ODS) at an agreed schedule" (Multilateral Fund).The MP was the first international treaty to contain a financial mechanism like the MLF and it "embodies the principle that countries have a common but differentiated responsibility to protect and manage the global commons" (Multilateral Fund). Contributions to the MLF come from industrialized nations and there are four implementing agencies responsible for distributing the funds: United Nations Environment Programme (UNEP), United Nations Development Programme (UNDP), United Nations Industrial Development Organization (UNIDO), and the World Bank. The fund is replenished every three years and from 1991 - 2005 funds amounted to US$ 2.1 billion (Multilateral Fund).

Under guidelines established by the MLF, monitoring of the MP is done by recording reductions in production and consumption of the controlled substances identified in the Annexes of the Protocol itself. Ground based measurements and satellite based measurements are used to take readings. With this approach, the MP has one of the more accurate and complete systems for monitoring compliance which leaves little room for error providing the equipment used is reliable. The parties are required to submit this

data based on the schedule laid out in the agreement. The agreement also requires the parties to "establish an Executive Committee to develop and monitor the implementation of the specific operational policies, guidelines and administrative arrangements, including disbursement of resources, for the purpose of achieving the objectives of the Multilateral Fund" (Montreal Protocol Text). Projects that experience delays or those that carry financial balances "are monitored more closely and are reported to each Executive Committee meeting" (Multilateral Fund). Of the four MEAs in this study, the MP has one of the more formalized monitoring systems in place. It is also the only one in the study to mention any sort of follow-up to non-compliance outside of waiting for the next National Reports to be submitted.

When asked to rate the success of monitoring, the MP respondent chose "very successful." Evidence in the summaries of the National Reports would seem to back up this assertion. The MLF not only aids in implementation of the MP but also in monitoring and evaluation of the programs being financed. In this way, "the process of monitoring and evaluation not only ensures that the funds disbursed are actually being used to meet the project objectives but it is also a tool to assess the overall effectiveness of the Fund in phasing out ozone depleting substances" (Multilateral Fund).

Each respondent was also asked to identify the tools used to measure compliance. The CBD and the UNCCD respondents said they use National Reports. The Ramsar respondent said it also uses National Reports and a Sites Database (the Montreux Record) that includes data on reported threats but it is not systematic. The "Montreux Record" is a list of Ramsar sites requiring special attention but including a site on the record is voluntary. However, including a site on the Record makes it eligible for international

assistance and a Ramsar Advisory Mission. The MP has annual reports (National

Reports) of the Parties per Article 7 of the Montreal Protocol and the Ozone Secretariat at

ODS Database. Although the CBD uses the National Reports to measure compliance they

also noted that they had no formal compliance regime in place. According to the CBD:

> "the CBD does not have any procedures and mechanisms for addressing cases of non-compliance. However, Article 26 requires parties to submit national reports regarding measures taken to implement the Convention. This provides and avenue for assessing Parties' compliance with the provisions of the Convention. The Convention, however, does not specify what is to happen where cases of non-compliance are detected through the national reporting system. The COP regularly reviews the national reports provided by the Parties. On the basis of this review, the COP develops additional guidance to Parties on the implementation of their obligations under the Convention. The responses provided in the document do not relate to compliance but rather to implementation"

When asked the follow-up question, "if you have limited or no success with compliance,

to what do you attribute this?" the Ramsar respondent selected problems with

implementation (the Ramsar respondent added the note, "resources usually") and the

CBD respondent selected problems with monitoring and problems with implementation.

The UNCCD and MP respondents did not answer this question.

In the case of the MP, the overall tone of the respondent to the paper interview is

that he considers all aspects of the MEA to be successful at some level, including

compliance. The National Reports of the MP give the most specific details in regards to

compliance. Of the four MEAs in this study, the MP is the only one to use statistical data

to assess compliance. Compliance data was taken from the United Nations Environment

Programme Sixteenth Meeting of the Parties to the Montreal Protocol on Substances that

Deplete the Ozone Layer (22-26 November 2004): Report of the Secretariat on data and

consideration of compliance issues (UNEP/OzL.Pro.16/4 and 16/4/Add.1). The

information used in the report was received between 18 October 2004 and 11 November

2004.

The Implementation Committee considers all issues of non-reporting of base year data. All parties are required to report data each year to the Secretariat (under the MP, Article 5 parties are developing countries). In regards to compliance, "the Secretariat has checked the status of data reporting for the years 1986 -2003 which is the period for which parties are required to have reported data, and a total of 156 Parties, 38 non-Article 5 Parties and 118 Article 5 Parties have complied fully with the ozone-depleting substance reporting requirements under Article 7, paragraphs 3 and 4, of the Protocol" (UNEP). In an effort to obtain outstanding data, the Secretariat sends out reminders regarding missing data to the Parties concerned (UNEP). There are four Parties listed in the report that have never reported any data: Afghanistan, Bhutan, Cook Islands, and Niue.

The UNEP/OzL.Pro.16/4 report indicates how well parties to the MP are complying with required reporting deadlines and how well they are maintaining production and consumption levels of ODS. Of note in Table 5.12 is the number of parties that have complied with the reporting requirement. With the exception of 2003, the compliance rate for reporting is approximately 97%. Even for 2003 the rate is still almost 84%. Those are astonishing numbers. The combination of successful implementation and successful monitoring leads to high rates of compliance. Complying with reporting though, does not necessarily mean Parties are doing what they are supposed to be doing but evidence shows that Parties to the MP are complying with the guidelines set out in the Protocol. When you look at production levels versus consumption levels (or zero consumption) Parties are not only complying with reporting

requirements but also with production and (zero) consumption requirements. According to the report, fewer numbers of Parties are producing or exporting ODSs while greater numbers are reporting zero consumption. It is interesting to note that the MP respondent answered "partially" when asked about countries complying with the MP. It may be that there should have been another choice to that question; almost completely because that is a more accurate description of compliance with the MP. Between 1986 and 2003, 155 Parties (both Article 5 and Non-Article 5 Parties) have fully complied with the reporting requirements of the MP. Only 4 Parties out of 189 have never reported any data. The MP is a highly effective MEA.

Ramsar uses the National Reports and on-site monitoring to assess compliance. Article 3.2 of the Convention says that, "each contracting party shall arrange to be informed at the earliest possible time if the ecological character of any wetland in its territory and included in the List has changed, is changing, or is likely to change as a result of technological developments, pollution or other human interference. Information on such changes shall be passed without delay to the organization or government responsible for the continuing bureau duties specified in Article 8" (Ramsar). This does not make as strong a statement as the compliance requirements of the MP but this does not mean it is any less effective. The Monitoring Procedure was adopted in 1990 and "is presented as a scientific, technical, and management assistance process rather than as a noncompliance procedure. Its purpose is not to 'detect noncompliance' but to 'assist implementation'" (Victor, et al 68). Presenting it in this manner takes away the negativity of the concept of noncompliance and may actually encourage compliance. If Parties are not afraid of repercussions for noncompliance, they are more likely to report problems

and receive the assistance they need to fix them.

Ramsar also uses the Montreux Record to document sites requiring special attention. The Ramsar respondent noted in his paper interview response that including a site on the Record is voluntary but if a site is reported and included on the list, it becomes eligible for international assistance. This would seem to encourage compliance as well since, in essence, Parties are going to be "rewarded" for reporting problems. The combination of the on-site monitoring and the Montreux Record make for a very effective system for monitoring compliance.

The UNCCD also uses National Reports to assess compliance. It also has a committee for the review of the implementation of the Convention which meets every two years. The UNCCD only entered into force in 1996 and it has already been shown that its record on implementation is not that good. It may be too early to assess the compliance record of the UNCCD. The UNCCD has a two stage implementation process which begins with the development of the NAP. The second stage deals with implementing the UNCCD through the NAP. Many of the affected parties have yet to develop or institute an NAP without which implementation cannot really take place. Some may have systems in place for monitoring, but again, without implementation occurring, there is little to monitor. And yet, when asked the overall status of its MEA, the UNCCD respondent said "very effective." It is difficult to accept this statement as true when so much work still needs to be done on implementation, monitoring, and compliance.

Like the previous three MEAs, the CBD uses National Reports to assess compliance but the comment was made on the paper interview that the CBD has not

established a compliance regime. The Convention does not specify what happens in the case of non-compliance. Much like the UNCCD, the CBD has not been in force as long as the MP and Ramsar. It entered into force in 1993. In its National Reporting guidelines, the CBD says that, "the objective of National Reporting, as specified in Article 26 of the Convention, is to provide information on measures taken for the implementation of the Convention and the effectiveness of these measures. The reporting process is therefore not intended to elicit information on the status and trends of biological diversity as such in the country concerned, except in so far as such information is relevant to the account of the implementation measures" (National Report Analysis). In other words, the CBD is not interested in the small details. It wants to see the overall picture as it relates to implementation and ultimately, compliance.

The National Reports for the CBD are extremely lengthy and very detailed so although it has no formal compliance regime the Reports offer a great deal of information in regards to implementation, monitoring, and compliance. All the CBD is saying is that it has no system for dealing with noncompliance. The National Reports are still a good indicator for those Parties that are complying. Based on the information in the National Reports, programs have been implemented by both developed and developing countries and monitoring systems are in place to evaluate implementation. The level of noncompliance should be fairly low. Even so, the CBD respondent chose "somewhat effective" when asked about the overall effectiveness of the MEA. Perhaps the respondent feels that the CBD would need some sort of compliance regime in place before it could be considered more effective.

The paper interview also asked more specific questions in regards to compliance

and individual countries. The question asked was, "Do you find that for the most part, countries comply: completely, partially, or not at all?" The Ramsar, CBD, and MP respondents chose partially. Only the UNCCD respondent selected completely. This seems like an odd choice considering the gaps in implementation, monitoring, and compliance evident in the National Reports but it may be basing its response on the number of countries that have submitted National Reports rather than what is actually in the reports. Of importance to note is that no respondent chose "not at all." In these four cases, countries are at least making an effort to comply, either by submitting reports or actually following the guidelines laid out in their respective MEAs.

Still another question asked, "if you find your compliance rate to be mostly complete or partially complete, to what do you attribute your success? The choices here were implementation, successful monitoring, or successful cooperation of Parties involved. The Ramsar and UNCCD respondents chose successful cooperation of Parties involved. The MP respondent chose successful implementation and attributed compliance to successful implementing of programs of institutional strengthening by UNEP/ DTIE and other implementing agencies. The existence of the MLF and the Implementation Committee in the MP goes a long way in assisting in implementation, monitoring, and compliance of the MP. The CBD respondent did not answer this question.

The question was also asked, "for your specific MEA, do you find that most parties: have the capacity and intent to comply, have the intent to comply but lack the capacity to do so, or have the capacity to comply but no intent to do so." All four respondents chose countries have the intent to comply but lack the capacity to do so. According to Agenda 21, Section 37.1, National Mechanisms and International

Cooperation for Capacity-building:

> "the ability of a country to follow sustainable development paths is determined to a large extent by the capacity of its people and its institutions as well as by its ecological and geographical conditions. Specifically, capacity-building encompasses the country's human, scientific, technological, organizational, institutional and resource capabilities. A fundamental goal of capacity-building is to enhance the ability to evaluate and address the crucial questions related to policy choices and modes of implementation among development options, based on an understanding of environmental potentials and limits and of needs as perceived by the people of the country concerned. As a result, the need to strengthen national capacities is shared by all countries" (UNEP.org).

The National Reports of the CBD ask specific questions regarding capacity building. The responses to these questions appear to be mixed. Measures have been taken to strengthen the capacity of indigenous and local communities and mechanisms have been put in place for this purpose. But when asked, "has your country assisted indigenous and local community organizations to hold regional meetings to discuss the outcomes of the Conference of the Parties and to prepare for meetings under the Convention?", the responses show that there remains a disconnect between the local communities and the Conference of the Parties. An overwhelming 78% of both developed and developing countries responded "No" to this question. If these regional meetings are not being held, how are the Parties supposed to know what is going on? If they are not aware of the outcomes of the COPs, it would be difficult for them to know what is expected of them. And if they do not know what is expected of them, how can they possibly prepare for meetings under the Convention?

Ramsar also addresses the issue of capacity building in its National Reports. The responses here indicate that the majority of the Parties are working towards improving capacity building. High percentages of both "yes" responses and those making progress given in response to "promotion of local stakeholder management of wetlands" and "govt

support to site managers (and local communities) in monitoring ecological character of Ramsar sites" are particularly important because they show that local communities are taking responsibility for implementation and monitoring at the local level and are getting the support that they need to do so.

The UNCCD is the only MEA whose Convention text specifically mentions capacity building. Under Article 19, "the Parties recognize the significance of capacity building - that is to say, institution building, training and development of relevant local and national capacities - in efforts to combat desertification and mitigate the effects of drought" (UNCCD). Article 19 then lists several ways to promote capacity building including full participation at all levels of local people with the cooperation of NGOs and local organizations and "more effective operation of existing national institutions and legal frameworks and, where necessary, creation of new ones, along with strengthening of strategic planning and management" (UNCCD). Evidence that capacity building is occurring can be seen in the National Reports. Several parties mention the creation of specific offices or institutions to handle implementation and monitoring at all levels. For example, Tanzania has an Environmental Working Group (EWG) with members from the private sector, NGOs, development partners, and the private sector (UNCCD National Reports - Tanzania). In Kenya, "the various relevant actors involved in funding and management activities to combat desertification include the government, private sector, civil society, international partners and the community. The government provides funds, technical support and the enabling environment; the private sector, civil society, and international partners provide funds and technical support; while the community provide funds, indigenous knowledge and management skills" (UNCCD National Reports -

Kenya). Most of the other reports mention capacity building in some way. This is particularly important for the UNCCD because it takes a bottom-up approach with implementation, monitoring, and compliance. The responsibility for laying the groundwork for implementation falls to the local communities first.

Capacity building under the MP comes through the United Nations Development Programme's (UNDP) Montreal Protocol Unit (MPU) which "works closely with relevant stakeholders at the national level to ensure sustainability of programming and contribute to capacity development and works with public and private partners in developing countries to assist them in meeting the targets of the MP" (UNDP.org). MPU/UNDP is one of the implementing agencies for the MLF and is working in 91 countries to help them phase out the use of ODS. They do this by providing assistance to governments "in developing more effective national policies and programmes to meet compliance targets for eliminating ODS including, development of country programmes, refrigerant management plans, national and sector phase-out strategies and, institutional strengthening" (UNDP.org).

Respondents were also asked if certain parties were particularly problematic and to identify them. The Ramsar, CBD, and MP respondents all said that there were problematic parties. The UNCCD respondent said no which would make sense if they truly do get countries to comply completely. When asked for specific examples, the CBD respondent said that developing countries and transitional economies have problems with implementation due to lack of capacities. The MP respondent said that out of the 184 parties only 175-176 report data but that still means that approximately 95% of parties are reporting data. A few of the problem countries named by the MP respondent were Central

African Republic, Lesotho, Liberia, the Marshall Islands, Turkmenistan, and Liechtenstein. All but one of these is a developing country. The UNCCD respondent answered no to this question and added that these are issues under negotiation and not for the Secretariat to prejudge.

Finally, in regards to compliance, respondents were asked what methods were used to gain compliance: financial incentives, formal regulations, formal punishments, or reporting. All respondents chose reporting.

The influence of outside institutions on implementation, monitoring, and compliance was also addressed in the paper interview. The term "outside" was used because these institutions are not normally part of the institutional framework of the MEA itself. In the course of this research, however, it was discovered that three out of the four agreements do have a scientific and/or technical body as part of their institutional framework. The CBD has a Subsidiary Body on Scientific, Technical, and Technological Advice (SBSTTA). Ramsar has the Scientific and Technical Review Panel (STRP). Finally, the UNCCD has the Committee on Science and Technology.

The institutions specified on the paper interview were non-governmental organizations (NGOs), inter-governmental organizations (IGOs), scientific and/or technical bodies, and private sector organizations. NGOs and IGOs are the two main types of international organizations. Non-governmental organizations are private organizations that do not have the legal status as a government. They are considered independent of governments but many NGOs are recognized as important political institutions. Greenpeace, the International Red Cross, and the International Olympic Committee are all examples of important NGOs. Inter-governmental organizations, in

contrast to non-governmental, have national governments as members. The European Union (EU), the World Trade Organization (WTO) and the United Nations (UN) are all examples of inter-governmental organizations.

Two questions were asked. First, do any of these outside institutions play a role in implementation, monitoring, and/ or compliance? The UNCCD respondent said all four play a role in implementation and scientific and/or technical bodies play a role in monitoring. The UNCCD respondent's answer is not surprising for two reasons. First, the text of the Convention is very specific about cooperation among institutions and organizations at all levels. Article 3, Section c states, "the Parties should develop, in a spirit of partnership, cooperation among all levels of government, communities, non-governmental organizations and landholders to establish a better understanding of the nature and value of land and scarce water resources in affected areas and to work towards their sustainable use" (UNCCD). This is a key principle of the UNCCD agreement. Participation of government, communities, non-governmental organizations and landholders is not only encouraged but expected.

The second reason is that the UNCCD uses a bottom-up approach when it comes to implementing the NAP, and, ultimately, the UNCCD. Using a bottom-up approach would require that implementation start at the local level and work its way up. This would involve local governments and private organizations first. The National Reports for the UNCCD ask parties to give information regarding implementation of the National Action Plan (NAP). The report submitted by Ethiopia said that, "significant strides have been made to implement the UNCCD. The finalization of the NAP through wider stakeholder participation including NGOs and CBOs, government institutions, and

concerned civil societies is one of the major achievements that paved the way for the

UNCCD/NAP implementation in Ethiopia" (UNCCD National Report - Ethiopia). Ghana

has a similar statement in their report that says, "all these structures were involved in the

elaboration of the NAP through the bottom-up approach where information was

generated from the community to district, regional and national levels for the preparation

of the NAP. The people were also actively involved in taking decisions at the local,

district, regional, and national consultive for a on the NAP" (UNCCD National Report -

Ghana). The Sudan's report states, "a National Action Plan (NAP) to combat

desertification was completed in 1998 for 13 states classified as degraded. In the NAP

formulation process, a bottom-up approach was adopted. Workshops were organized at

state levels, followed by a series of workshops at national level. Draft proposals from

states and national workshops were synthesized to come up with a national action plan

document… the NAP also provides framework for involvement of private sector, donors

and local communities in efforts of desertification control" (UNCCD National Report -

Sudan). Benin's report stated that, "it is worthy to underline that, some of the Non

Governmental Organisations accredited to the United Nations for the Convention's

implementation, other NGOs, grassroots community and associations are deeply involved

in the implementation of projects and programs" (UNCCD National Report - Benin).

The UNCCD is unique on two levels. First, unlike most MEAs, participation of

developed countries is mostly through financial and technical resources. Developed

countries are not directly impacted by desertification and drought on a daily basis. For

this reason, developed countries provide the funding and technical assistance to assist the

countries most in need with implementing the UNCCD. Canada for example, "has

provided considerable financial and technical support to partner countries to ensure the involvement of civil society and NGO representatives. Such participation enhances the capacity of local populations directly affected by desertification and drought to share their concerns, and propose locally adapted solutions based on concrete experience and know-how" (UNCCD National Reports - Canada). The contribution of developed countries to the UNCCD will be discussed further later on.

The second unique characteristic of the UNCCD is that each country develops its own institutional framework to implement the UNCCD. Each country must develop a National Action Plan (NAP) within the framework of the UNCCD. This means implementation takes place on two levels; within the framework of the NAP and within the framework of the UNCCD. Kenya has a list of 17 institutions that are involved in implementation starting with the national coordinating body (NEMA) which serves as the focal point for UNCCD and other MEAs and ending with the private sector. Also included on the list are local authorities, civil society organizations (NGOs and CBOs), and public universities. Lesotho has also created specific institutions to deal with implementation; "the National Environment Secretariat (NES) was established in 1994 and is responsible for overseeing the formulation and implementation of the National Action Programme (NAP) on the CCD. The National Desertification Steering Committee (NDSC) oversees the elaboration and implementation of the NAP. The NDSC operates under the auspices of the NES. Its principle objective is to serve as the main organ through which the NES advises and guides the Government, private and public sectors on the conservation, protection and sustainable use of the country's natural resources" (UNCCD National Reports - Lesotho). Lesotho also has district level desertification

steering committees to handle things at the district and local levels. Parties to the UNCCD have to operate not only within the framework of the UNCCD but within the framework of their own NAPs.

The Ramsar respondent said that NGOs play a role in implementation, monitoring, and compliance. Scientific and/or technical bodies were involved in implementation and monitoring and private sector organizations in implementation only. Ramsar allows NGOs, private industry, civic groups, local communities and indigenous groups to participate in the deliberations of the Parties (Global Development Research Center). Two areas address this issue on the National Reports. Although the percentages are fairly low for these responses, it does indicate that both private sector organizations and NGOs are involved in the process.

The CBD respondent said that NGOs play a role in implementation and monitoring. In particular, the CBD respondent specified indigenous and local community organizations. Article 23 specifies that "any other body or agency, whether governmental or non-governmental, qualified in fields relating to conservation and sustainable use of biological diversity, which has informed the Secretariat of its wishes to be represented as an observer at a meeting of the Conference of the Parties may be admitted unless at least one third of the Parties present object. The admission and participation of observers shall be subject to the rules of procedure adopted by the Conference of the Parties" (CBD). So, although the CBD respondent said that NGOs play a role in implementation and monitoring, it would seem that other than those organizations specifically mentioned on the paper interview, other institutions and organizations were never intended to play a very active role. Also, despite having the SBSTTA, the CBD respondent indicated they

play no role in implementation, monitoring, or compliance.

The MP respondent did not answer this question specifically but did say that, "the Multilateral Fund established under Article 10 of the Montreal Protocol, together with the Implementing Agencies funded by the MLF, play a crucial role in the implementation and compliance with the provisions of the Montreal Protocol." The MP also addresses this issue in the text of the Convention with almost the exact same wording as in the CBD. Article 11, section 5 specifies that, "any body or agency, whether national or international, governmental or non-governmental, qualified in fields relating to the protection of the ozone layer which has informed the Secretariat of its wishes to be represented at a Meeting of the Parties as an observer may be admitted unless at least one third of the Parties present object. The admission and participation of observers shall be subject to the rules of procedure adopted by the Parties" (MP). Here again, the wording of this statement implies a very limited role for NGOs and IGOs. The MP respondent makes no mention of them in any of the paper interview question responses which would seem to indicate that they do not consider them important in implementation, monitoring, and compliance. Unlike Ramsar and the UNCCD, it would seem that their participation is not actively sought out by the MP or the CBD.

The second question asked if the respondents considered the role these outside institutions play to be very influential, somewhat influential, or not very influential. In terms of NGOs, both the UNCCD and Ramsar respondents chose very influential, the CBD respondent chose somewhat influential, and the MP respondent chose not very influential. For IGOs, the UNCCD respondent chose very influential, the Ramsar respondent chose somewhat influential, and the MP respondent chose not very

influential. The UNCCD and Ramsar respondents both said that scientific and/ or technical bodies were somewhat influential. The MP respondent's response was again not very influential. With respect to private sector organizations, the UNCCD, Ramsar, and MP respondents all chose not very influential. These responses coincide with the information listed above.

The issue of resources was also addressed on the paper interview. The first question asked if respondents believed they had adequate resources for implementation, monitoring, and compliance. The MP and CBD respondents answered "yes" while the Ramsar and UNCCD respondents answered "no." They were next asked if their funding included separate allocations for implementation, monitoring, and compliance. All responded "yes" to this question. A third question asked if increased funding would improve implementation, monitoring, and compliance. The UNCCD and Ramsar respondents answered "yes" while the CBD respondent answered "no." The MP respondent simply commented, "perhaps." The Ramsar respondent also added that increased funding would improve implementation but not compliance.

The respondents were also asked if there were particular areas where additional resources could make a noticeable improvement in outcomes. The UNCCD respondent noted implementation while the CBD respondent said capacity building in developing countries. The Ramsar respondent noted that, "we have small grants programmes to enable conservation work on the ground by governments and NGOs in developing countries, but they are chronically underfunded compared to the good proposals received."

The CBD National Reports have several questions that address the issue of

incentive measures and resources, including the level of priority given to incentive

measures. The results here are mixed. When combined, only 28% of both developed and

developing countries gave the issue high priority. Low priority was chosen by 30% of

both developed and developing countries. Although 44% of both chose medium level of

priority that is still not a majority of the respondents. In response to the question, "has

your country established programmes to identify and adopt economically and socially

sound measures that act as incentives for the conservation and sustainable use of

components of biological diversity?" Seventy-four percent of both developed and

developing countries said that some programmes or comprehensive programmes are in

place. So, although it is given a low or medium priority, 74% say they have done it.

However, establishing the programs is not the same as implementing them.

When asked, "has your country developed training and capacity-building

programmes to implement incentive measures and promote private-sector initiatives?"

58% of both the respondents basically answered, "No." Only 35% said that "some"

programmes were in place and only 5% said the "many" programs were in place. The

groundwork has been laid but there does not seem to be much follow though at this point.

Ramsar National Reports also address the issue of incentive measures. Section 8.1

of the National Reports Analysis addresses the issue of promoting incentive measures

that encourage the application of the wise use principle, and the removal of perverse

incentives. The percentages here are fairly low. Much like with the CBD, incentive

measures under Ramsar do not seem to be given a very high priority.

The texts of the CBD, the MP, and the UNCCD all contain specific articles to

address the issue of financial mechanisms to assist with implementation. The wording in

all three is similar. A financial mechanism will be established to assist the developing

parties to carry out their responsibilities under the individual conventions. The three texts

are very specific that these financial mechanisms are to assist the developing parties only.

Funding for the MP comes from the MLF. The fund is replenished every 3 years

and between 1991 - 2005 contributions to the fund from 49 industrialized nations totaled

approximately US 2.1 billion. These funds are used to help Article 5 Parties which

currently account for 143 of the 189 Parties to the MP (Multilateral Fund). The MLF has

been very successful in assisting these Parties with implementation and it lists several of

its achievements on its webpage:

The achievements of the Multilateral Fund can be measured through the rate of payment   of contributions, technology transfer, ODS phase-out, and the behavioural and   institutional changes it has stimulated.
- Donor countries have held to their commitments to provide funding with more than 90 per cent of the pledged contributions having been paid, amounting to US $1.865 billion out of a total of US $2.1 billion between 1991 and 2005.
- By December 2004, the Fund had supported the transfer of technology and capacity building through about 5000 projects and activities in 139 developing countries.
- Projects approved through 2004 have already eliminated the consumption of nearly 169,800 ODP tonnes and the production of 74,600 ODP tonnes.
- National Ozone Units have been established in 139 developing countries, raising understanding of how to implement environmental regulations and the capacity and confidence to do so.
- Virtually all Parties to the Protocol have been able to meet their phase-out targets, and prospects are good that this success rate will be continued in the future.
- This, in turn, will result in a lowering of levels of ODS in the stratosphere.
- **Achievements of international significance**
- The Fund has played a pivotal role in demonstrating that international environmental agreements can be highly successful.
- The idea of funding only 'incremental costs' has been very successful and could have widespread implications for other agreements.
- The Fund is an excellent model of how to achieve successful technology transfer which could make both economic and environmental sense.

(Source: Multilateralfund.org)

The funding to assist affected Parties of the UNCCD comes from developed

Parties. In Article 21 of the UNCCD, the text states that:

> "the Conference of the Parties shall promote the availability of financial mechanisms and shall encourage such mechanisms to seek to maximize the availability of funding for affected developing country Parties, particularly those in Africa, to implement the Convention. In order to increase the effectiveness and efficiency of existing financial mechanisms, a Global Mechanism to promote actions leading to the mobilization and channeling of substantial financial resources, including for the transfer of technology, on a grant basis, and/ or on concessional or other terms, to affected developing country Parties, is hereby established. This Global Mechanism shall function under the authority and guidance of the Conference of the Parties and be accountable to it" (UNCCD).

Without financial assistance from the developed Parties, the affected Parties would be unable to implement, monitor, or comply with the UNCCD. Although developed Parties offer assistance in other ways, help comes primarily through financial donations. The information on financial resources comes from the National Reports completed by the developed Parties.

Several million US dollars and Euros have already been given to affected Parties under the UNCCD. But implementation of the UNCCD is a slow process and more money is needed to help speed the process along. As the UNCCD indicated on the paper interview, increased funding would improve implementation, monitoring and compliance, and particularly implementation. Affected Parties to the UNCCD are still developing their NAPs and until those are complete true implementation of the UNCCD cannot take place. Hopefully additional funding can improve this developmental process.

The financial mechanism of the CBD is controlled by the Conference of the Parties. In Article 21 the mechanism for the provision of financial resources is laid out. Accordingly, "the Conference of the Parties shall determine the policy, strategy, program priorities as well as detailed criteria and guidelines for eligibility for access to and

utilization of the financial resources including monitoring and evaluation on a regular basis of such utilization" (CBD). The COP is also responsible for monitoring the effectiveness of the established financial mechanism.

There are several questions on the National Reports that relate to financial resources. The percentages of both developed and developing countries that give both financial resources and financial mechanisms either high or medium priority is 72% and 74% respectively. Fifty percent of both give high priority to financial mechanism. Based on these numbers, these are important aspects of the Convention for both developing and developed parties.

There were two very interesting questions asked on the CBD National Reports. The first was for developed countries only. It asked, "on article 20(2), has your country provided new and additional financial resources to enable developing country Parties to meet the agreed incremental costs to them of implementing measures which fulfill the obligations of the Convention?" The responses are encouraging. Sixty-seven percent of developed countries said "Yes" while only 33% said "No." The second question, for the developing countries only asked, "has your country received new and additional financial resources to enable it to meet the agreed full incremental cost of implementing measures which fulfill the obligations of the Convention?" Logically the answers here should coincide with those of the developed countries but this is not the case. The opposite is actually true. Fifty-one percent of developing countries said "No" while only 33% said "Yes." On the one hand it seems that developed countries are providing the necessary funds but on the other, they are not reaching the intended recipients.

The issue of mechanisms for gaining financial support was also addressed in the

National Reports. There are two things that are of importance to note. First, the majority

of respondents to both of these questions answered "No." It could be that there is a

disconnect between the National level and the local level that is preventing resources

from being distributed more efficiently. The CBD respondent was one of two to say that

it had adequate resources available for implementation, monitoring, and compliance and

the only respondent to say that increased funding would not improve implementation,

monitoring, and compliance. Perhaps it is not the funding level that is the problem but

how it is getting distributed.

The second important aspect to note is the use of the term "perverse" incentives.

This is the second time this term has come up in the analysis of the National Reports. The

term was also used in the Ramsar National Reports. Although incentives are an important

aspect of the implementation process, using perverse incentives can do more harm than

good. The incentive must be beneficial. It if it is not, then it needs to be removed. Both

CBD and Ramsar make provisions for this removal in their National Reports.

Ramsar is the only MEA whose convention text does not contain a separate article

for a financial mechanism. Article 6, section 5 does say that "the Conference of the

Contracting Parties shall establish and keep under review the financial regulations of this

Convention. At each of its ordinary meetings, it shall adopt the budget for the next

financial period by a two-third majority of Contracting Parties present and voting"

(Ramsar).

In the Ramsar National Reports, the issue of resources is addressed in two

sections: section 15.1 and 18.1. Much like with the CBD, the results here are mixed. The

allocation of funds is high in some cases and low in others. There does not seem to be

any systematic approach for requesting funds or allocating them once received. The Ramsar respondent was one of two that said the MEA had inadequate resources available for implementation, monitoring, and compliance and that increased funding would improve implementation, monitoring, and compliance.

The final question on the paper interview regarding resources asked if countries that are financially compensated for compliance are more compliant than those that are not. The MP respondent was the only one to answer "yes." The CBD, Ramsar, and UNCCD respondents all responded "N/A." The reason for the N/A responses is not clear but it could indicate that no mechanism is in place for compensating more compliant Parties. The existence of the MLF probably precipitated the "yes" response from the MP. The MLF is capable of providing the kind of compensation needed to assist the Parties in compliance and probably has more funds at its disposal. The MLF is also part of the institutional structure of the MP itself. Although the CBD and the UNCCD have articles that specifically address financial mechanisms, they tend to be vague and provide no institutional framework to house the mechanism. The UNCCD does mention the Global Mechanism but no specific information is given as to how the mechanism will function other than "under the authority and guidance of the Conference of the Parties" (UNCCD). Ramsar, because it has no specific article for financial mechanism, is even more vague on how funds will be provided. It is apparent when comparing the four MEAs that the MP is by far the most successful when it comes to implementation, monitoring, and compliance and this is due in large part to the success of the MLF.

Table 5.1 serves as a summary of key findings for each of the four MEAs in this study. Evidence presented in this chapter demonstrates that institutions are important to

the successful implementation of these agreements. Without the establishment of a strong

institutional framework, the MEA has little chance of succeeding. It is also evident that

implementation is a process that takes time and is not going to happen over night. If we

are going to evaluate "outputs" of these agreements, we need to give them time to

establish a record of implementation, monitoring, and compliance. Otherwise, they tell us

very little about the true nature of MEAs.

TABLE 5.1: Key Findings for Each MEA

MEA	Key Findings	Aspects of HI that can help
MP	Most successful of the four MEAS in the study; has successfully managed implementation, monitoring, and compliance. Has the most developed system for distributing resources to assist in implementation, monitoring, and compliance. At this point in time the most effective MEA in force.	Serves as an example of how viewing implementation as process over time helps to understand how the MEA works. Focuses on the importance of the institutional structure.
Ramsar	Seems to have all the elements in place for implementation, monitoring, and compliance but have had trouble bringing it all together. Better organization and follow through would probably help as would additional resources.	The three remaining MEAs all emphasize the importance of the institutions involved in the process of implementation and stress that successful implementation cannot occur without their participation in the process. These include IGOs, NGOs, and private sector organizations. They also stress that implementation is a process which takes time and the timelines for many of these agreements stretches out over years. MEAs are also macro issues that require international responses that involve many groups and interests.
UNCCD	Still in the early stages of implementation and monitoring. Parties are still in the process of building the institutional frameworks at the local levels through their NAPs. Cannot consider compliance issues until implementation and monitoring have been successfully addressed. A lack of resources is probably a stumbling block as well.	
CBD	On the right track but still has a ways to go. Implementation seems to be taking place and monitoring devices are in place but there seems to be a lack of follow through right now. There also appears to be a disconnect between national and local levels as well as between developed and developing parties. They currently have no compliance regime in place.	

Chapter VI: Implications of Findings

The paper interview and national report findings indicate that the four MEAs used in this study are in various stages of the implementation process and are experiencing varying levels of success. The MP is without a doubt the most successful and effective of the four MEAs. It has been successfully implemented for many years now, has an established system for monitoring in place including the ImpCom and the MLF, and ensures compliance by regular reporting and follow-up. As the research in this study has shown, the MP has an exceptionally high rate of compliance. Ramsar also has a monitoring procedure in place that has proven to be highly effective. The CBD and the UNCCD appear to be in the early stages of implementation and in establishing monitoring systems and compliance regimes.

The overall tone of the paper interview was optimistic. Generally the respondents seem to have confidence in their MEAs and the ability of the MEA to perform as expected and produce results. The CBD respondent seemed a bit tentative in some of his responses but it may just be that the agreement is early on in the process for the CBD. The CBD did have the most involved National Reports so they are definitely heading in the right direction. It may just be that it is too soon for the parties to the CBD to have any sort of established record. The same is probably true of the UNCCD.

Even with a small number of cases the findings of this research are still significant. First, all MEAs follow the same the general guidelines when they are established. The negotiation process adds the specifics but the basic structure, including the institutional framework, of all MEAs is the same. For this reason, even only looking at four cases can give us a general idea of how MEAs function. Although the goals of the

MEAs may be different, the process for attaining those goals is generally the same.

Second, because these four MEAs are considered core MEAs, they will be looked at as either examples of what to do or what not to do when implementing an agreement. Their success or failure in various aspects of the process should help to set standards for future agreements. MEAs have been around for several years but we are still in the learning process. Since MEAs have become the chosen method for addressing environmental issues, they need to be effective. The only way this is going to happen is if we understand what works and what does not. Even with a limited number of cases, we can begin to understand how the process of implementation occurs and how that process translates into effectiveness. Although this research is not generalizable it does serves as a starting point for future studies and does offer some insight into certain aspects of the MEA process.

Historical Institutionalism

This study of MEAs was done with an eye towards historical institutionalism. Historical institutionalism generally "argues that outcomes are the product of the interaction among various groups, interests, ideas, and institutional structures" (Koelble, 1995). This very much describes what occurs in the MEA process. There are two key aspects of MEAs that make them ideal candidates for historical institutionalism. The first is that institutions are central to the agreements. Sven Steinmo says that:

> "in the broadest sense, institutions are simply rules. As such, they are the foundations of all political behavior. Some are formal, some are informal, but without institutions, there could be no organized politics" (Steinmo, 2001).

In the case of MEAs, institutions lay the foundation for how these institutions will interact with the parties during implementation, monitoring, and compliance. This

interaction is key to the success and effectiveness of the agreement.

The second key aspect is that implementation is a process that occurs over time and it is important to understand this process in order to know what works and what does not work when implementing these agreements. As Pierson and Skocpol point out:

> "historical institutionalists take time seriously, specifying sequences and tracing transformations and processes of varying scale and temporality. Historical institutionalists likewise analyze macro contexts and hypothesize about the combined effects of institutions and processes rather than examining just one institution or process at a time" (Pierson and Skocpol).

It may be years before the effects of any MEA are felt or understood. Looking at them from a historical institutionalism perspective allows us to see what happens with these agreements over time. The institutional framework of these agreements also take time to develop and the "issues of long-term institutional development are also central to historical institutional research agendas" (Pierson and Skocpol). Not only that but "historical institutionalists see institutions as the legacy of concrete historical processes" (Thelan, 1999).

A central theme to this research was that institutions matter greatly in the treaty process. The institutional structure is established at the outset through a process of negotiation and this structure remains in place for the life of the MEA. Although new institutions may be added in the future, the core institutions remain the same. An MEA is really only as strong as the institutions that are responsible for implementation, monitoring, and compliance. Strengthening institutions, strengthens the MEA as a whole. The general stability of the institutional framework is what makes the MEA function as it should. According to Jonsson and Tallberg:

> "the distinctive feature of historical institutionalism is that it allows for the contingencies of history, emphasizes path dependency, and thus tends to focus on

the persistence of institutions" (Jonsson and Tallberg).

This notion of "persistence of institutions" is one that makes historical institutionalism so relevant to the study of MEAs. These agreements rely on their institutional framework to stand the test of time. Implementation does not occur over night and it is important that the institutions involved in this process remain fairly stable.

Studying MEAs as a snapshot in time serves little purpose. Without looking at an established record of implementation, monitoring, and compliance, very little can be known about the effectiveness of the MEA. Negotiation, to ratification, to implementation is a long process and it is this process over time that needs to be evaluated if we are to learn anything about the nature of MEAs. Historical institutionalism allows us to do that. Historical institution is "not just looking at the past but looking at processes over time" (Pierson and Skocpol, 2002, 5). It is not enough to simply look at the history of the development of MEAs. This tells us little about how MEAs "act." We need to look at the development process from the beginning, see how it progresses over time, and observe the patterns of behavior that result.

Institutions are at the core of every MEA. Looking at human behavior in MEAs tells us very little about the process itself. Through historical institutionalism we can see how an MEA functions from beginning to end. The ongoing nature of MEAs almost requires that we evaluate them from the historical institutionalists' perspective.

Sovereignty

Although the small number of cases in this study does not allow for any sweeping generalizations about MEAs, there are several important things to take away from this research. First, the issue of sovereignty does not seem to be a hindrance to establishing an

MEA. Although parties may give up some level of sovereignty to sign on to these agreements, they sign none-the-less. By striking a more conciliatory note when negotiating the treaty, parties are more likely to make concessions. MEAs are not a list of demands on parties. They are guidelines with built in flexibility so as not to constrain the parties. All four respondents on the paper interview did not see MEAs as being inherently at odds with sovereignty. These parties feel that the problems addressed in the MEAs are important enough to override any fear of giving up some amount of sovereignty.

Sovereignty has the potential to be a huge stumbling block in the MEA process but those responsible for drafting the agreements have somehow found a middle ground. This does not mean the negotiating process is easy but it seems to be fairly successful. Countries are still signing on to MEAs and those that are already in force appear to be working.

<div align="center">**Collective Action**</div>

Collective Action also has the potential to be problematic for MEAs. There is an expectation that parties will act in their own self interest. If that were the case then fewer parties would be signing on to these agreements. For many of the parties to MEAs the initial costs far outweigh the benefits. Finding the resources to implement an agreement can be difficult, especially for developing countries. Not all agreements have an established financial mechanism built in. Some benefits will not be seen for years down the road. Parties that sign on are trusting that these agreements are going to be able to deliver what they say they can. Countries are willing to put in a great deal of effort for as yet unseen results. And the benefits rarely benefit just one party. Whatever efforts a party makes will affect all those signed on to the agreement.

The Ramsar respondent made an interesting comment on the paper interview regarding collective action. The question on the paper interview asked if the respondents felt that the collective good that MEAs produce outweighs the parties' self interest. In responding yes to the question, the Ramsar respondent also said that, "self interest should normally coincide with collective good." This seems to be a general view when it comes to MEAs. It is in the best interest of parties to comply because they are part of the collective good. There are the problems of shirking and/or free riding but this may not be relevant to several MEAs. If Tanzania decides to take its responsibilities of the UNCCD seriously and Namibia does not, Tanzania is the only party that is going to benefit from that. Namibia will still be faced with desertification in its own country. Unless all of Namibia is going to relocate to Tanzania, then it is in Namibia's best interest to take its responsibilities seriously as well.

A desire to enhance the collective good seems to be the prevailing theme, at least in terms of the four MEAs in this study. The large number of MEAs in force and the large number of signatories to these agreements would seem to indicate that it is a theme of many of the MEAs today. There really is no room for self interest when parties are dealing with transboundary environmental problems. If the global natural commons is going to be managed and managed well, local, national, and supranational organizations are all going to have to be involved. This will require a high level of cooperation from all parties and this is where the MEA helps. But the MEA alone is not enough. One author suggests creating a Global Environmental Organization to oversee these global commons problems (Esty, 2004). This was initially supposed to be the role of UNEP but with the increase in MEAs, UNEP has become overwhelmed and under funded.

Creating a global environmental organization would help to centralize the process at the top but the implementation process would need to remain a decentralized process. Too much interference from a "higher" authority may hinder effectiveness and could decrease the willingness of the parties involved to do their part. If it could be possible to centralize the distribution of resources, including funding, technology and staff training, in one institution but decentralize the implementation process to allow parties the flexibility to deal with these issues to the best of their abilities, then many of these agreements may see an increase in not only successful implementation but effectiveness as well.

At the very least, an effort should be made to strengthen the role of UNEP in the MEA process. Currently UNEP suffers from a narrow mandate, a limited budget, and limited political support (Esty, 2004). These in turn hamper effectiveness. Presently:

> "UNEP is nominally the focal point for MEAs but in practice has limited authority and budget and therefore struggles to provide adequate support or advocacy to MEAs" (Banks, 2006).

It may be easier to focus on improving the role of UNEP than trying to create a new organization to oversee MEAs but it is clear that something needs to change if MEAs are to have a chance at being successful.

Every MEA begins as a collective action problem. The question is asked, "how do we deal with issue 'x'?" Usually issue 'x' is one that affects the global commons and requires an international response. This comes in the form of an MEA. In the process of establishing an MEA, parties must decide whether they are willing to relinquish some level of sovereignty for the common good. Members of the negotiating process must work hard to develop an agreement that works for all parties involved without impinging

too much on a party's right govern its own territory. An institutional framework must be developed that can stand the test of time and not collapse under pressure while still leaving room to adjust if necessary. And all of these elements must come together successfully to lay the foundation on which the future of the MEA will be built. This is why viewing MEAs through a historical institutionalists perspective can be so beneficial. The key elements are all a part of the MEA process: importance of history, process over time, a focus on institutions and big, broad issues.

Contribution of this Research to the Literature and Scholarship

This research offers no new theories or models but does lay a solid foundation for future research in the area of MEAs and historical institutionalism. MEAs are designed to address problems within countries and across countries. The focus is not on the individual. A guiding theme for most MEAs is that they will benefit the collective good in some way. Institutions are essential to successful implementation, monitoring, and compliance and it is necessary to evaluate these processes over time in order to find patterns of behavior that will offer explanations as to why some MEAs are more effective than others.

This research adds a new dimension to the existing literature on MEAs. It offers a foundation on which to build future research. To truly understand how MEAs work, we need to look more closely at the broader picture. We must look more carefully at the institutions involved in the processes of implementation, monitoring, and compliance. Weak institutions lead to ineffective MEAs. Strong institutions create effective MEAs. It is important to know what factors weaken institutions and what factors make institutions strong. It has already been shown that sovereignty and collective action may not

adversely affect the effectiveness of MEAs. However, a lack of resources and inexperienced staff within the institutions may.

Problems Faced by Future Research

Historical institutionalism offers an excellent framework for evaluating MEAs and future research in MEAs should focus on the role of institutions and how the process of implementation develops over time. This study only looked at four cases. A study involving more cases would probably be more beneficial. The use of historical institutionalism offers a new avenue for the field of implementation theory. MEAs, however, are not without their problems and these problems also need to be addressed in future research.

Capacity building must occur for any MEA to truly be successful and effective. Many developing countries lack the capacity to deal with local environmental problems, let alone global environmental problems. Developed countries, including private sector organizations, must step up and be willing to provide the resources necessary for developing countries to be truly active participants in the process. This is often referred to as "common but differentiated responsibilities." In this case:

> "compliance assistance by developed countries to developing countries under multilateral environmental agreements is one of those forms whereby the obligation of some state Parties to assist others through capacity building is part of their commitment to comply with the objectives of the agreement" (Bankobeza).

If an MEA is going to achieve international cooperation it will need a "multi-tiered multi-dimensional structure that engages local and national as well as international authorities as well as local communities, NGOs, and the business community" (Esty, 2004).

There are also problems with monitoring and compliance that need to be

addressed. Many agreements are vague on exactly how parties are to address monitoring

and compliance and many have no benchmarks for measuring performance of an MEA.

Although most agreements provide for some sort of compliance reporting, these reports

are not standardized and each MEA determines the format of their reporting. This makes

if very difficult to do any across the board analysis of the effectiveness of MEAs. As

Werksman points out:

> "because most MEAs operate on the basis of self-reporting according to poorly designed reporting formats submitted to understaffed secretariats, there is a lack of accurate, complete, and objective information on parties' performances. Effective compliance information systems depend on the willingness and capacity of parties to accurately and objectively gather and report data" (Werksman).

This in turn requires resources; something many developing countries often are lacking.

As well as centralizing the distribution of resources, it might be helpful to also

centralize and standardize the national reporting. Since the national reports are currently

the only way to really track the progress of implementation and evaluate effectiveness, it

would be helpful if all MEAs used the same standards to measure these things.

The key here is to have something to measure – some sort of policy outcome or

output. As Steinmo points out, "historical institutionalists are first interested in explaining

an outcome" (Steinmo, 2001). This is important because outputs and outcomes:

> "represent the end result of a particular policy process. They are quantifiable. We can operationalize, observe, and analyze them at one point in time or over different intervals. Through this evaluative process we can measure how well a given policy process works, since we can compare actual outputs to some expected measure. An analysis of a policy output can therefore tell us if the goals and objectives of the policy process or program under study are being achieved. For this reason, policy outputs are critical evaluative criteria in examining any policy process" (Waterman and Wood, 1993).

How we explain this outcome may vary. Although much of the analysis in this research is

qualitative in nature, a more quantitative approach to the national reports might allow

policy outputs to be more accurately assessed and enable us to see more clearly if the

MEAs are being effective. This is one reason that the MP is so effective. Its national

reports produce this type of "quantifiable" data which allows the parties to see if the

measures they are taking are making a difference or not. According to Werksman, the

MP:

> "is a landmark multilateral environmental agreement providing a precedent for
> new regulatory techniques and institutional arrangements in each stage of the
> compliance cycle, including mechanisms for adopting new rules, for reviewing
> compliance with those rules, and for financing the incremental costs of
> developing country implementation. Although threats to the ozone layer from
> ODS emissions are still substantial, the rules, institutions, and procedures put in
> place by the Protocol are generally regarded as having significantly reduced this
> threat" (Werksman).

The problems with capacity building, resources, monitoring, and compliance are

particularly problematic for countries with limited resources and can have a trickle down

effect. According to Rosemary Banks, New Zealand Permanent Representative to the

United Nations:

> "in countries with limited resources and technical capacity to devote to
> environmental protection the demands of participation in multilateral
> negotiations, coupled with compliance and onerous reporting requirements can
> and does detract from domestic implementation of MEAs and addressing
> nationally assessed environmental priorities" (Banks, 2006).

These are the types of issues that really need to be addressed before more MEAs are put

into effect. MEAs have the potential to successfully address the global environmental

problems that we face today and many already have. But they must also be effective.

Evaluating the MEAs that are currently enforce can help us to see what works and what

does not. If the areas that we find lacking are addressed properly then future MEAs

should have a better chance of succeeding.

There is also a problem of definitions in MEA research specifically and in

implementation research generally. What do we mean when we ask the question, "are MEAs effective?" Varying definitions can be found within the research and this can lead to inconsistencies. Many view effectiveness in terms of whether the MEA has helped to solve the problem it was created to address "but effectiveness can also be assessed according to a range of different policy objectives" (Werksman). A definition of effectiveness developed by UNEP would be helpful and should be specified within the agreement itself.

Defining successful implementation can also be a problem. This is why it is useful to have some sort of policy output to evaluate. As Waterman and Wood point out;

> "there is general disagreement in the literature over precisely what is meant by the term implementation success. By focusing directly on enforcement outputs, we avoid a normative judgment over what is meant by implementation success or failure. Instead, we can directly observe how the bureaucracy responds to specific stimuli" (Waterman and Wood, 2004).

Although UNEP does define what it believes to be implementation it is still a very generic definition. Perhaps a more specific definition would allow us to come to more specific conclusions about whether MEAs are being successfully implemented.

Conclusion

According to a 2000 International Environmental Governance Briefing Paper, despite the advances we have made in the area of environmental protection, "the state of the environment continues to decline and the divide between developed and developing countries continues to expand" (IEG, 2000). This is attributed to "weak international environmental governance and the lack of political will" (IEG, 2000). We have figured out how to address the issue of transboundary environmental problems. Now we have to figure out to do this successfully and effectively. This is the reason that research like this

study is so important today. This research attempts to introduce a new concept into the field of implementation theory. Historical institutionalism can be an effective framework for evaluating the role of institutions in MEAs and the effect they have on implementation, monitoring, and compliance. As many researchers point out, historical institutionalism has its faults, as do most other theories in political science. It also has much to offer though and is ideal for evaluating MEAs. Much of the research in this area has come in the field of International Relations from authors such as Oran Young and Christoph Knill. But implementation of MEAs can have broad appeal to all implementation theorists and further research is warranted in all areas of implementation theory.

APPENDIX 1: Paper Interview

14 November 2003

Dear Sir or Madam:

My name is Patricia Crouse and I am a Ph.D. Candidate at the University of Oklahoma in Norman, Oklahoma in the United States. I am presently writing my dissertation titled "Multilateral Environmental Agreements: The Challenge of Implementation" under the direction of Dr. Jill Tao in the Department of Political Science. The attached survey and your response to it will be an integral part of this research project. Your treaty is one of only three case studies, therefore your response will be of great importance to scholars of implementation who wish to better understand how environmental treaties might best achieve national and international goals.

.   This survey is being conducted strictly for academic purposes and all survey responses will be kept completely confidential.

A self-addressed return envelope has been provided for your convenience. Your prompt response would be greatly appreciated.

If you would like a copy of the research results upon completion of my dissertation, one will be provided to you.

Should you have any questions or concerns regarding this survey, please feel free to e-mail me at pacrouse@yahoo.com.

I would like to thank you for taking the time to complete this survey. The information that you provide will make an important contribution to the literature.

Sincerely,

Patricia A. Crouse
Graduate Student, University of Oklahoma
PSC 7 Box 416
APO AE 09104

Implementation questions:

1. What tools do you use for implementation?
   _____

2. Who in your organization is primarily responsible for implementation?
   - Groups at the top
   - Local groups
   - A combination of both

3. What body or bodies in your organization is/ are responsible for implementation?
   - Please check all that apply:
     - Secretariat
     - Implementation Committee
     - COPs
     - Other (please name) _____

4. Does your organization hold regular meetings to discuss implementation, monitoring and compliance? **YES/ NO**

5. Why or Why not?
   _____
   _____

6. How would you rate the success of implementation of your multilateral environmental agreement?
   - Very successful
   - Successful
   - Somewhat Successful
   - Not very successful

7. If you answered "very successful" or "not very successful", why do you think this   is true?
   _____
   _____

Monitoring and Compliance Questions:

1. Do you currently have a system in place for monitoring compliance with MEAs? **YES/ NO** (Please circle one)

2. If yes, what kind of system do you have in place?
   _____
   _____

3. How frequently do you monitor compliance?
   - Very frequently (more than once a year)
   - Frequently (at least once a year)
   - Infrequently (less than once a year)
   - Not at all

4. What institution or institutions in your organization is/ are responsible for compliance?

> Please check all that apply:
>   Secretariat
>   Implementation Committee
>   COPs
>   Other (please name) _____

5. What tools (i.e. reports, logs, databases, etc.) does your organization use to measure compliance?

   _____
   _____

6. How would you rate the success of monitoring for your MEA?
>   Very successful
>   Successful
>   Somewhat Successful
>   Not very successful

7. Do you find that, for the most part, countries comply:
>   Completely
>   Partially
>   Not at all

8. Are there parties that you find to be particularly problematic when it comes to compliance? **YES/NO**

9. Can you give some examples?

   _____
   _____

10. If you find your compliance rate to be mostly complete or partially complete, to what do you attribute your success? (you may choose more than one)
>   Successful Implementation
>   Successful Monitoring
>   Successful Cooperation of Parties Involved

11. If you find you have limited or no success with compliance, to what do you attribute this? (you may choose more than one)
>   Problems with Implementation
>   Problems with Monitoring
>   Non-cooperation of the Parties Involved

12. Currently, do you consider your MEA to be:
>   Very Effective
>   Effective
>   Somewhat Effective
>   Ineffective

13. For your specific MEA, do you find that most parties:
>   Have both the capacity and intent to comply
>   Have the intent to comply but lack the capacity to do so

Have the capacity to comply but no intent to do so

14. What method or methods does your MEA employ to gain compliance from the parties to the treaty?

        Financial Incentives

        Formal regulations

        Formal punishments (such as sanctions)

        Reporting

Influence of Outside Institutions or Organizations:

1. Do any of the following "outside" institutions play a role in implementation, monitoring, and/ or compliance (please check all that apply and the areas in which they apply)?

   NGOs

        Implementation   Monitoring   Compliance

   IGOs

        Implementation   Monitoring   Compliance

   Scientific and/ or Technical Bodies

        Implementation   Monitoring   Compliance

   Private Sector Organizations

        Implementation   Monitoring   Compliance

2. Would you consider the role these outside institutions/ organizations play to be:

   NGOs:

        Very Influential   Somewhat Influential   Not Very Influential   N/A

   IGOs:

        Very Influential   Somewhat Influential   Not Very Influential   N/A

   Scientific and/ or Technical Bodies:

        Very Influential   Somewhat Influential   Not Very Influential   N/A

   Private Sector Organizations:

        Very Influential   Somewhat Influential   Not Very Influential   N/A

Sovereignty Issues:

1. Do you see multilateral environmental agreements as being inherently at odds with sovereignty? **YES/ NO**
2. Do you feel that some level of sovereignty must be relinquished in order for MEAs to be successfully implemented? **YES/ NO**
3. In the case of MEAs, do you feel that the collective good they may produce outweighs the parties' self interest? **YES/ NO**

Resource Questions:

1. Do you believe you have adequate resources available for implementation, monitoring and compliance? **YES/NO**
2. Does funding for your MEA include separate allocations for implementation, monitoring and compliance? **YES/NO**
3. Would increased funding improve implementation, monitoring and compliance rates for your MEA?   **YES/NO**

4. Is there a particular area (i.e. implementation, monitoring, and/or compliance) where additional resources could make a noticeable improvement in outcomes?
   _____
   _____

5. Where applicable, are countries that are financially compensated for compliance more compliant than those that are not?   **YES/NO**

Demographic Information:
   1. What is your current job title? _____
   2. How long have you been at your current position?_____
   3. For which organization or institution do you work ?_____
   4. What is your role in:
         a. Implementation _____
         b. Monitoring _____
         c. Compliance _____

If you would like to make any additional comments, a separate sheet has been attached. Thank you for taking the time to complete this survey. Your input is extremely valuable.

Additional Comments:

APPENDIX 2: List of MEAs Paper Interview was Mailed to:

Convention on International Trade in Endangered Species (CITES)
International Environment House
Chemin Des Anemores
CH -1219 Chatelaine
Geneva, Switzerland
John Sellar, Legislation & Compliance Unit Senior Enforcement Officer
Marceil Yeater, Chief of Unit
cites@unep.org

Convention on Biological Diversity
Secretariat of the Convention on Biological Diversity
World Trade Centre, 393 St. Jacques Street
Office 300
Montreal Quebec
Canada H2Y 1N9
Secretariat@biodiv.org

International Tropical Timber Agreement
International Tropical Timber Organization
International Organizations Center, 5th Floor
Pacifico-Yokohama 1-1-1
Minato-Mirai, Nishi-ku
Yokohama 220-0012 Japan
itto@itto.or.ip

London Convention of 1972
International Maritime Organization
Office for the London Convention 1972
4 Albert Embankment
London SE1 7SR U.K.

The Montreal Protocol
The Secretariat for the Vienna Convention and the Montreal Protocol
PO Box 30552
Nairobi, Kenya
Michael Graber, Deputy Executive Secretary, Ozone Secretariat
Michael.graber@unep.org

Ramsar Convention on Wetlands
Ramsar Convention Secretariat
Rue Mauverney 28
CH 1196
Gland, Switzerland
ramsar@ramsar.org

United Nations Convention to Combat Desertification
UNCCD Secretariat
PO Box 260129
Haus Carstanjen
D-53153 Bonn Germany
secretariat@unccd.int

World Heritage Convention
World Heritage Centre
UNESCO
7, Place de Fontenoy
75352 Paris 07 SP France
Francesco Bandarin, Director
wh-info@unesco.org

APPENDIX 3: Glossary of Key Terms and Definitions:

1. **date of acceptance**--when a state becomes a party to a treaty; may mean *either* by "signature subject to acceptance" (analogous to ratification) or by acceptance without prior signature (analogous to accession). The text of the treaty usually establishes which meaning of "acceptance" is meant.
2. **date of accession**--when a state becomes a party to a treaty *of which it is not a signatory.* The right of accession is independent of the entry into force of the treaty; that is, a state may accede to a treaty which has not yet entered into force.
3. **date of adoption**--when states participating in the negotiation of a treaty agree on its final form and content. This usually occurs before signature.
4. **date of denunciation**--when a state expresses that it is no longer willing to be bound by a treaty.
5. **date of entry into force**--when a treaty becomes binding upon the states which have expressed their willingness to be bound by it. This is usually triggered by a clause in the text of the treaty saying something like "this treaty shall enter into force when *n* states have signed it ..."
6. **date of ratification**--when a state makes a final formal expression of its consent to be bound by a treaty. This usually occurs after signature.
7. **date of reservations**--when a state makes "a unilateral statement, however phrased or named, ... , when signing, ratifying, accepting, approving or acceding to a treaty, whereby it purports to exclude or to modify the legal effect of certain provisions of the treaty in their application to that State"
8. **date of signature**--when a state expresses its consent to be bound by a treaty. Such consent is expressed "when (a) the treaty provides that signature shall have that effect; (b) it is otherwise established that the negotiating States were agreed that signature should have that effect; or (c) the intention of the State to give that effect to the signature appears from the full powers of its representative or was expressed during the negotiation."
9. **date of succession**--when a newly constituted state becomes a party to a treaty by expressing its willingness to be bound by international agreements that were entered into by a predecessor state or states. E.g. Russia might state its willingness to be bound by treaties entered into by the former Soviet Union.
10. **party**--a State which has consented to be bound by the treaty and for which the treaty is in force (Article 2, paragraph 1[g]).
11. **treaty**--"an international agreement concluded between States in written form and governed by international law, whether embodied in a single instrument or in two or more related instruments and whatever its particular designation" (Article 2, paragraph 1[f]).
12. **(SOURCE: http://sedac.ciesin.org/pidb/guides/sec2.html)**

References:

Alanko, Jennifer. "The Baltic Sea Region in an Enlarged EU: Building on the Northern Dimension Initiative?" Paper presented at the European Union Studies Association Ninth Biennial International Conference, Austin, TX, 2005.

Bankobeza, Gilbert. "Strengthening the Implementation of Multilateral Environmental Agreements." www.inece.org/conference/7/vol1/Bankobeza.pdf.

Banks, Rosemary. "The Institutional Framework for UN Environment Activities." http://www.mfat.govt.nz/speech/minspeeches/19apr06.html. 2006.

Bhandari, Surendra. "International Environmental Instruments." www.lawassociatesnepal.com/publication/nepalmea.pdf.

Biodiversity - The Web of Life. http://www.biodiv.org/doc/publications/guide.asp.

Chernobyl Accident Nuclear Issues Briefing Paper 27. Uranium Information Center, March 2006. www.uic.com.au.

Church, Thomas W. and Robert T. Nakamura. *Cleaning Up the Mess: Implementation Strategies in Superfund*. Washington, DC: The Brookings Institution, 1993.

Conca, Ken and Geoffrey D. Dabelko. *Green Planet Blues: Environmental Politics from Stockholm to Kyoto*. Boulder, CO: Westview Press, 1998.

The Convention on Biological Diversity. http://biodiv.org.

The Convention on Biological Diversity. http://www.internat.naturvardsverket.se/documents/nature/biodiv/biodiv.htm.

Dodds, Felix. "Inter-Linkages Among Multilateral Environmental Agreements." Paper presented at the World Summit for Sustainable Development. 3-4 September 2001, pp. 1-20.

Environmental Treaties and Other Policy Instruments. http://sedac.ciesin.org/pidb/guides/sec2.html.

Gaddie, Ronald Keith and James L. Regens. *Regulating Wetlands Protection: Environmental Federalism and the States*. Albany, NY: State University of New York Press, 2000.

Getz, Kathleen A. "Implementing Multilateral Regulation." *Business & Society,* 34 (3) (DEC): 1995, pp. 280-317.

Global Environmental Outlook 2000, London, UK: Earthscan Publications LTD, 1999

Goggin, Malcolm L. "The 'Too Few Cases/Too Many Variables' Problem in Implementation Research." The Western Political Quarterly, 39 (2) (JUN): 1986, pp. 328-347.

Grant, Wyn, Duncan Matthews and Peter Newell. *The Effectiveness of European Union Environmental Policy*. London, UK: MacMillan Press LTD, 2000.

Guidelines on Compliance with and Enforcement of Multilateral Environmental Agreements
www.unep.org/DEC/docs/UNEP.Guidelines.on.compliance.MEA.pdf

Harris, John. "Notes on a Historical Institutionalist Approach to the IPPG Agenda." Discussion Paper Series: No. 1. APR 2006.

Hurrell, Andrew and Benedict Kingsbury. *The International Politics of the Environment*: *Actors, Interests, and Institutions*. Oxford University Press, 1992.

"Institutional Aspects Regarding Inland Navigation: EBU Position on the EFIN Report." www.ebu-uenf.org/img/press/EBUpositionEFIN.doc. July 2005.

International Environmental Governance: A Briefing Paper. www.unedforum.org/publications/reports/IEG-SFpaper.pdf.   2000.

International Environmental Governance: Multilateral Environmental Agreements (MEAs). http://www.ramsar.org/key_unep_governance1.htm.

Kato, Junko. "Institutions and Rationality in Politics - Three Varieties of Neo-Institutionalists." *British Journal of Political Science*, 26 (4) (OCT): 1996, pp. 553-582.

Katznelson, Ira and Barry R. Weingast. *Preferences and Situations*. New York, NY: Russell Sage Foundation, 2005.

King, Gary, Robert O. Keohane and Sidney Verba. *Designing Social Inquiry*. Princeton, NJ: Princeton University Press, 1994.

Knill, Christopher, *The Europeanisation of National Administration*. Cambridge, UK: Cambridge University Press, 2001.

Koelble, Thomas A. "The New Institutionalism in Political Science and Sociology." *Comparative Politics*. 27 (2) (JAN): 1995, pp. 231-243.

Lester, James P. and Joseph Stewart, Jr. *Public Policy*. Belmont, CA: Wadsworth Thomson Learning, 2000.

Lifton, Karen T. *The Greening of Sovereignty in World Politics*. Cambridge, MA: The

MIT Press, 1998.

Lipsky, Michael, *Street-Level Bureaucracy*. New York, NY: Russell Sage Foundation, 1980.

Luterbacher, Urs and Detlef F. Sprinz. *International Relations and Global Climate Change*. Cambridge, MA: The MIT Press, 2001.

Matland, Richard E. "Synthesizing the Implementation Literature: The Ambiguity-Conflict Model of Policy Implementation." *Journal of Public Administration Research and Theory*, 5 (2) (APR): 1995, pp. 145 – 174.

MEA Enforcement and Compliance Meeting Bulletin. International Institute for Sustainable Development (IISD), 121 (1) (JAN): 2006.
http://www.iisd.ca/ymb/unepmea/ymbvol121num1e.html.

Mickwitz, Per. *Implementation of Key Environmental Principles: Experiences from the Protections of the Baltic Sea*. Copenhagen, Denmark: Nordic Council of Ministers, 1998.

Miller, Clark A. and Paul N. Edwards. *Changing the Atmosphere: Expert Knowledge and Environmental Governance*. Cambridge, MA: The MIT Press, 2001.

The Montreal Protocol on Substances that Deplete the Ozone Layer. Ozone Secretariat United Nations Environment Programme. 2000. http://hq.unep.org/ozone.

Moore, Scott T. "Street-Level Tasks: A Decision-Making Approach." Paper delivered at the American Political Science Association Annual Meeting. Chicago. 2-6 Sep 1987.

"Multilateral Environmental Agreements." http://www.mfe.govt.nz/laws/meas/.

Multilateral Fund for the Implementation of the Montreal Protocol.
http://www.multilateralfund.org.

Oberthur, Sebastion and Herman E. Ott. *The Kyoto Protocol: International Climate Policy for the 21st Century*. Berlin, DE: Springer, 1999.

Ostrom, Elinor. *Governing the Commons: The Evolution of Institutions for Collective Action*. Cambridge, UK: Cambridge University Press, 1990.

Ostrom, Elinor, Joanna Burger, Christopher B. Field, Richard B. Norgaard and David Policansky. "Revisiting the Commons: Local Lessons, Global Challenges." *Science*, 284 (5412) (APR): 1999, pp. 278-282.

O'Toole, Laurence J. "Research on Policy Implementation: Assessment and Prospects." *Journal of Public Administration Research and Theory*, 10 (2) (APR): 2000, pp. 263-288.

O'Toole, Laurence J. and Robert S. Montjoy. "International Policy Implementation: A Theoretical Perspective." *Public Administration Review*, 44 (6) (NOV-DEC): 1984, pp. 491-503.

Peters, B. Guy. *Institutional Theory in Political Science*. New York, NY: Continuum, 1999.

Piddington, Kenneth W. "The New Context of Multilateral Environmental Negotiations." *Harvard International Review,* 12 (4) (SUM): 1990, pp. 19-21.

Pierson, Paul and Theda Skocpol. "Historical Institutionalism in Contemporary Political Science." Harvard University, 2002, pp. 1-33

The Ramsar Convention on Wetlands. http://www.ramsar.org.

Rest, Alfred. "Enhanced Implementation of the Biological Diversity Convention by Judicial Control." *Environmental Policy & Law,* 29 (1): 1999, pp. 32-43.

Rowlands, I.H. "The Fourth Meeting of the Parties to the Montreal Protocol: Report and Reflection." *Environment* 35 (6): 1993, pp. 25-34.

Sabatier, Paul A. *Theories of the Policy Process*. Boulder, CO: Westview Press, 1999.

Schreurs, Miranda A. "International Environmental Negotiations, the State, and Environmental NGOs in Japan." http://www.gdrc.org/ngo/jp-envi-ngo.html.

Skocpol, Theda. "Why I Am a Historical Institutionalist." *Polity*, 28 (1) (Autumn): 1995, pp. 103-106.

Steinmo, Sven, Kathleen Thelan and Frank Longstreth. *Structuring Politics: Historical Institutionalism in Comparative Analysis*. Cambridge, UK: Cambridge University Press, 1992.

Steinmo, Sven. "The New Institutionalism" in Barry Clark and Joe Foweraker, (eds). *The Encyclopedia of Democratic Thought*. London: Routlege, 2001.

Szell, Patrick. "Compliance Regimes for Multilateral Environmental Agreements." *Environmental Policy & Law,* 27 (4) (AUG): 1997, pp. 304-308.

Tallberg, Jonas. "Paths to Compliance: Enforcement, Management, and the European Union." *International Organization*, 56 (3) (SUMMER): 2002, pp. 609-643.

Tallberg, Jonas and Christer Jonsson. "Institutional Theory in International Relations." Forthcoming in Guy Peters, Jon Pierre and Gerry Stoker (eds), *Institutional Theory in Political Science*. http://ask.lub.lu.se/archive/00025998/01/jonsson_tallberg_institutional-theory2001.pdf.

Thelen, Kathleen. "Historical Institutionalism in Comparative Politics." *American Review of Political Science*, 2: 1999, pp. 369-404.

UNEP/OzL.Pro/ImpCom/35/10*

United Nations Environmental Programme. "International Environmental Governance: Multilateral Environmental Agreements (MEAs)." 2001.
http:// www.ramsar.org/key_unep_governance1.htm.

United Nations Environment Programme (UNEP). The Ozone Secretariat. 1987. *The 1987 Montreal Protocol on Substances that Deplete the Ozone Layer*.
http://www.unep.ch/ozone/mont_t.shtml.

United Nations Environment Programme. Report of the Secretariat on data and consideration of compliance issues. 2004. http://www.unep/Ozl.Pro.16/4.

United Nations Environment Programme. Report of the Secretariat on data and consideration of compliance issues. 2004. http://www.unep/Ozl.Pro.16/4/Add.1.

United Nations Convention to Combat Desertification. http://www.unccd.int.

United Nations Framework Convention on Climate Change. 1992.
http://unfccc.int/resource/conv/html.

Victor, David G. and Eugene B. Skolnikoff. "Implementing Environmental Commitments: How Governments, Industry and NGOs Put International Environmental Agreements into Practice." http://web.mit.edu/polisci/research/skolnikoff/implementing-environmental.pdf.

Victor, David G., Kal Raustiala, and Eugene B. Skolnikoff. *The Implementation and Effectiveness of International Environmental Commitments: Theory and Practice*. Laxenberg, Austria: International Institute for Applied Systems Analysis, 1998.

Vig, Norman J. and Michael E. Kraft. *Environmental Policy in the 1990's, Third Edition*. Washington, D.C.: CQ Press, 1997.

Vig, Norman J. and Regina S. Axelrod. *The Global Environment: Institutions, Law, and Policy*. Washington, D. C.: CQ Press, 1999.

Waterman, Richard W. and B. Dan Wood. "Policy Monitoring and Policy Analysis." Journal of Policy Analysis and Management, 12 (4) (Autumn): 1993, pp. 685-699.

Weiss, Edith Brown. "Strengthening National Compliance With International Environmental Agreements." *Environmental Policy & Law* 27 (4) (AUG): 1997, pp. 297-305.

Weiss, Edith Brown and Harold K. Jacobson. *Engaging Countries: Strengthening Compliance with International Environmental Accords*. Cambridge, MA: The MIT Press, 1998.

Werksman, Jacob. "Five MEAs, Five Years Since Rio: Recent Lessons on the Effectiveness of Multilateral Environmental Agreements." http://www.ecouncil.ac.cr/rio/focus/report/english/field.htm. 1997.

Weschler, Louis. "Taming the Common Pool." *Journal of Public Administration Research and Theory,* 1 (4) (OCT): 1991, pp. 488-492.

Wilkinson, Rorden. "A Tale of Four Ministerials: The WTO and the Rise and Demise of the Trade-Labour Standards Debate." An IPEG Paper in Global Political Economy No. 3, 2002.