In January, I asked in a blog post's title "Will There Be a Global Environmental Constitution?" and wrote that "some observers are concerned that international environmental law remains insufficient in its scope, depth of commitments, and breadth of participation. Some legal scholars, activists, and others advocate for a comprehensive Global Pact for the Environment." In response, the UN General Assembly appointed an ad hoc working group to

> discuss possible options to address possible gaps in international environmental law and environment-related instruments, as appropriate, and, if deemed necessary, the scope, parameters and feasibility of an international instrument, with a view to making recommendations...

Notably, this statement of task did not reference a "global pact" per se. A few weeks ago, the working group held its third and final planned meeting. There, it negotiated and agreed upon a two page document [MS Word doc] whose thirteen substantive objectives are a far cry from bold. Among these, the group:

> calls for renewed efforts at all levels to enhance the implementation of existing obligations and commitments under international environmental law, stressing the importance of enhanced ambition...
>
> invites the governing bodies of the Multilateral Environmental Agreements... to increase their efforts to promote policy coherence across environmental instruments at all relevant levels and to consider identifying and addressing implementation challenges in their regimes, with a view to strengthening implementation at the national and international level...
>
> encourages all that have not done so to consider ratifying Multilateral Environmental Agreements and to effectively implement them...
>
> encourages States members of the United Nations and all members of the specialized agencies to strengthen, where needed, environmental laws, policies and regulatory frameworks at the national level, as well as the capacities across all sectors for the effective implementation of international environmental law...



In other words, the working group encourages the relevant actors in international and national environmental governance to continue what they are doing and to increase their ambition. There is no mention of a possible new instrument, much less a quasi-constitutional Global Pact for the Environment. It appears that Betteridge's Law of Headlines – "Any headline that ends in a question mark can be answered by the word no" – applies to my original blog post.

What happened? In January, I suggested three reasons to expect little progress, and I stand by these. First, one should not expect international agreements with both wide participation and deep commitments, as states' preferences vary and international law is based on their consent. Second, states' current (non)participation in multilateral agreements presumably reflects their preferences. After all, they've had fifty years to ratify the agreements that they wish to, and little has substantively changed in recent years to alter that calculus. Third, the original draft Global Pact for the Environment that some international legal scholars (mostly from developed countries, especially the French Club des Juristes) was tone-deaf to developing countries' interests.

The Earth Negotiations Bulletin's detailed summary and analysis notes that

> fear played a role and ultimately shaped the outcome: fear of losing sovereignty, fear of complicating existing [multilateral environmental agreement] regimes, fear of opening up established principles and their varied/contested application, and, significantly for developing countries, a fear of committing to steps that they lack the capacity to implement. The latter issue was reflected in enduring controversies over common but differentiated responsibilities and means of implementation. It came as no surprise that resistance to the negotiation of a future agreement—binding or otherwise—was strongly asserted by some delegations…. [S]ome delegates reported that "the dragon has been slain," once proposals for a new binding instrument were taken off the table. It seemed, from this

> point onwards, that just keeping the process on track became the benchmark of ambition for advocates of change.

It offers two additional reasons for the Pact's failure, the first of which concerns procedure:

> Some observed that the French champions of the agenda "skipped the line" by avoiding the traditional procedural routes. This is said to have ruffled feathers in parts of the multilateral system and has contributed to a sense that the "pact" concept has not been properly embedded or fully understood.…

ENB's second reason regards the identity of the Pacts' original proponents:

> The Club des Juristes are representative of many in the legal and academic professions who work in the frontlines of implementing IEL [international environmental law] and environment-related instruments and have come to understand demands for far-reaching change. Many legal practitioners and scholars advocating a re-imagined role for IEL are also environmental defenders of the most threatened communities and have seen core ecological principles enshrined in some national constitutions in some regions of the world.

That is, these legal scholars are relatively activist and have seen in some states' constitutions provisions that they pushed to be globally adopted. Yet legal scholars, especially those who operate in international and environmental domains, too often fail to realize is that multilateral agreements typically reflect states' diverse interests, not vice versa. These advocates of a Global Pact cannot put the cart in front of the horse and expect it to go forward. Nevertheless, they hope to bring their proposal back to the UN General Assembly, perhaps in conjunction with the fiftieth anniversary of the UN Conference on the Human Environment in 2022. The proponents repeat "We demand a binding environmental treaty from States!" Setting aside the question of who are they to *demand* particular action from states (including where they neither live nor vote), if an agreement is reached, it will not have both near-global participation and substantially deep commitments.