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INSTITUT D'ÉTUDE DU
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***FROM THEORY TO PRACTICE:
PROCESS AND PERSONALITY IN
INTERNATIONAL ENVIRONMENTAL AGREEMENTS***

International Environmental Agreements – Bridging the Gap

**Center for Interuniversity Research and Analysis of Organizations
Montréal**

21 September 2018

Timothy J. Hodges



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OVERVIEW

- Background
- Theme: 'Role of Personality and Process'
- Reflections: The Making of an IEA (MEA)
- Implications for IEA Development and Implementation
- MEAs: Advantages and Disadvantages





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BACKGROUND

Currently

- Professor of Practice, Strategic Global Affairs, Institute for the Study of International Development (ISID), McGill University (Montréal)
- Adjunct Professor, School of Liberal Arts and Sciences, TransDisciplinary University (Bangalore)
- Proprietor, Timothy J Hodges & Associates (Ottawa, Bogota, Geneva, Stockholm)

Previously

- President, Professional Association of Foreign Service Officers (PAFSO)
- Co-Chair, Working Group on Access and Benefit Sharing (Ottawa, Montréal)
- Co-Chair Federal-Provincial-Territorial Committee on Genetic Resources and Traditional Knowledge (Ottawa)
- Career Diplomat:
 - Bogota, Geneva, New York, Washington, D.C.
 - Head of Environment and Fisheries Section, Canadian Embassy to USA
 - Head of Canadian Delegations to UN: CBD; CSD. WIPO. OAS.



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BACKGROUND

- UN FCCC
- Basel Convention
- UNECE LRTAP
- POPs
- CBD
- CSD
- Cartagena Protocol
- Nagoya Protocol
- UNGA
- NAFTA
- WTO
- FAO
- APEC
- CITES
- ITPGRFA
- OAS
- Arctic Council





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BACKGROUND



St. Patrick's Day Parade in Montréal, Québec

(BY SANDRA COHEN-ROSE AND COLIN ROSE, VIA WIKIMEDIA COMMONS)



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PERSONALITY AND PROCESS

ANATOMY OF A NEGOTIATOR

- Issue expert vs. negotiator
- Environment ministry vs. foreign ministry
- Role of lawyer vs. policy
- Nature of “success”
- Motivations
- Rent seekers
- The unsung hero





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PERSONALITY CHARACTERISTICS

There are people who make things happen, there are people who watch what's happening, and there are people who haven't the slightest idea what's happening.

Oliver Wendell Holmes

- Types of Leaders: Styles; Skills, Purpose, Motivation
- Common Characteristics
 - Motivated, motivating
 - Hard working
 - Results oriented
 - Vision
 - Courage
 - Strategist
 - Planner
 - Communicator
 - Others?





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PERSONALITY AND PROCESS

CONVENTION ON BIOLOGICAL DIVERSITY

- One of the three Rio Conventions
- 1992
- Three Objectives (a virtuous circle)
 - Conservation of biological resources
 - Sustainable use of its components
 - Fair and equitable sharing of the benefits arising out of the utilization of genetic resources
- Consensus decision making
- Framework agreement
- Inclusiveness
- **But is it an IEA?**





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PERSONALITY AND PROCESS

THE PROBLEM WITH Access to Genetic Resources and Benefit-Sharing (ABS)

Access to genetic
resources

IN
EXCHANGE
FOR:

Fair and equitable share of the
benefits derived from their
utilization

= RECONCILIATION



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PERSONALITY AND PROCESS

ABS: A COMPLEX ISSUE, A PERFECT STORM BUT AN MEA?

- + Paradigm shift
- + North vs. South
- + Indigenous Peoples
- + Human rights
- + Intellectual Property
- + Big pharma
- + Big agriculture
- + Public researcher interests
- + Multiple fora
- + Polarized/conflictual positions
- + Intra-regional splits
- + Technological development vs policy development
- + Transboundary in nature
- + Interconnected

Fairness
Equity
Public Good
Redistribution of benefits
Human rights



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PERSONALITY AND PROCESS

‘TROUBLE’ IN GRANADA (February 2006)

- Exposed deep divisions within and across regions
- Highlighted the two-track nature of the talks (tortoises vs hares)
- Confirmed myriad interests at play
- Underlined profound distrust amongst negotiators
- Witnessed shortcomings of host-country chair
- Resulted in the ‘Granada text’





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PERSONALITY AND PROCESS

A LIFE LOST (CURITIBA, BRAZIL MARCH 2006)



Courtesy: SCBD



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PERSONALITY AND PROCESS

LEADERSHIP: A POISONED CHALICE?



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“Plenary elected by acclamation Fernando Casas (Colombia) and Tim Hodges (Canada) as Co-Chairs of the Working Group on Access and Benefit-sharing, to preside over the negotiations of the international regime on access and benefit-sharing.”



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PERSONALITY AND PROCESS

WHEN IN DOUBT RETREAT: Co-Chairs' Long-Term Approach

- Concept: ABS=opportunity
- Leadership: Full-time, dedicated
- Service: Answer to all
- Principles: Transparency, predictability, openness, practicality
- Engagement: Parties, IPLCs, regions, stakeholders
- Build close relationships
- Communication: All levels
- Process: Clear, responsive
- Expectation: Management
- Draft protocol



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PERSONALITY AND PROCESS

CAN YOU PLEASE EVERYONE?

Negotiating blocs and groups:

- GRULAC*
- Africa*
- Asia*
- WEOG* (EU and JUSSCANZ)
- CEE*
- G77+China
- Like-minded Megadiverse Countries
- Like-minded Asia and Pacific Countries
- Like-minded in Spirit Group of Women
- « Indigenous and local communities » (IIFB)
- Stakeholders: Industry, Public Research, Civil Society



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PERSONALITY AND PROCESS

AFTER TWO YEARS NOT MUCH TO SHOW

MAY 2008, BONN, COP 9





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PERSONALITY AND PROCESS

AFTER TWO YEARS, NOT MUCH TO SHOW ...EXCEPT FOR TEXT



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“Annex

THE INTERNATIONAL REGIME I. OBJECTIVE 1/

Effectively implement the provisions [in Articles 15, 8(j), 1, 16 and 19.2] of the Convention [and its three objectives], specifically by:

[[Facilitating] [regulating transparent] access to genetic resources, [their derivatives] [and products] [and associated traditional knowledge];]

Ensuring [the conditions and measures for] the [effective,] fair and equitable sharing of benefits arising out of their utilization, [their derivatives] [and products] [and associated traditional knowledge] [and to prevent their misappropriation and misuse];

[Securing compliance in user countries with national laws and requirements, including PIC and MAT, of the country [of origin] providing those resources or of the Party that has acquired those resources in accordance with the CBD].

[taking into account all rights over those resources, including the rights of indigenous and local communities, and ensuring compliance with PIC.]”



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PERSONALITY AND PROCESS

WHEN THINGS ARE AT AN IMPASSE

SOME OPTIONS

- Stand back and identify the obstacles
- Bring order to chaos, make a plan
- Engage and empower others through consultation
- Display passion, emotion
- Create solutions
- Mitigate risk
- Delegate
- Take charge, by doing
- Know your limits
- Turn to others





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PERSONALITY AND PROCESS

WHAT TO DO? WHERE TO GO? CREATE A ROADMAP. LEAD!

2008:

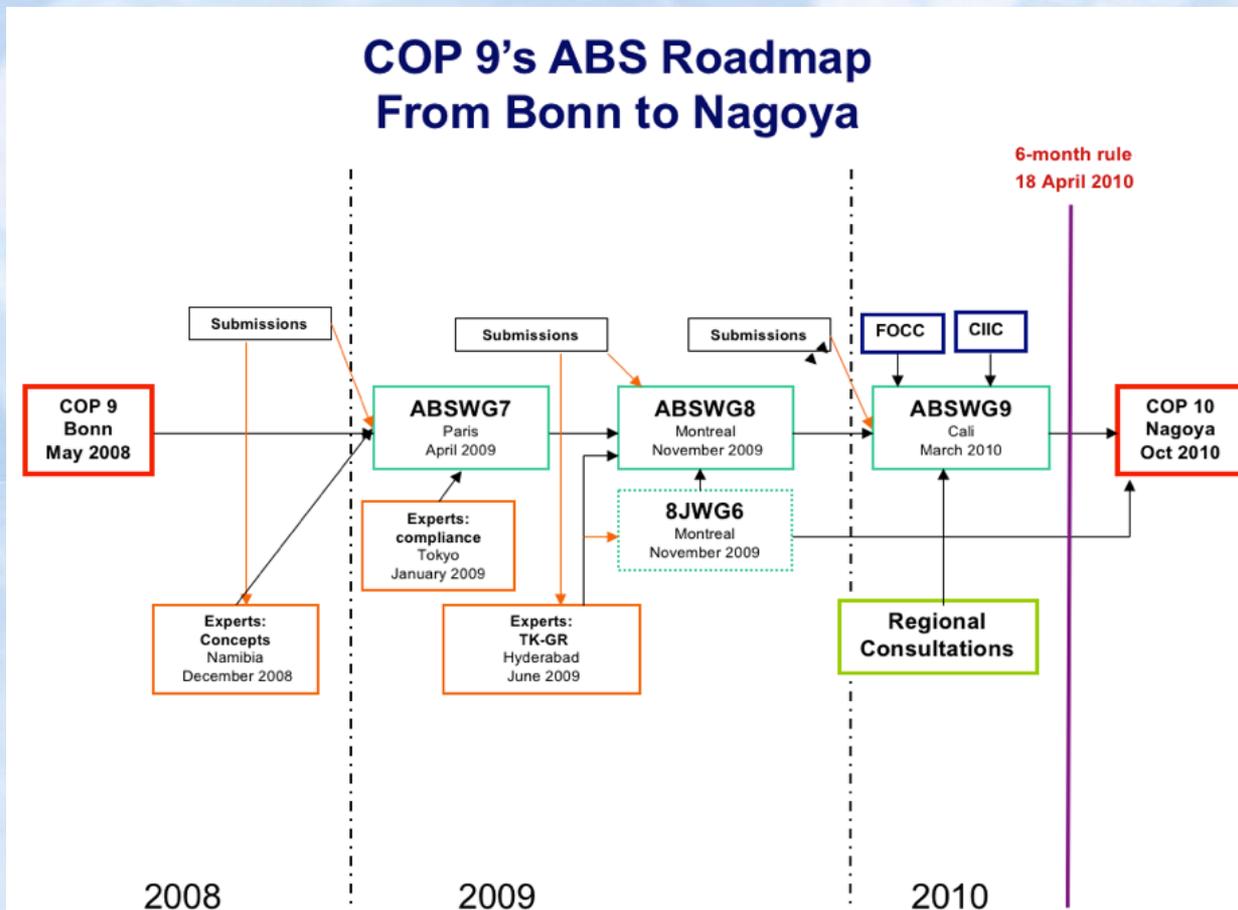
- COP 9
- Experts Meeting on Concepts, Terms, Definitions and Sectoral Approaches

2009:

- Experts Meeting on Compliance
- ABSWG7
- Experts Meeting on Traditional Knowledge Associated with Genetic Resources
- ABSWG8
- Business & Science Workshop

2010:

- ABSWG9
- COP 10





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PERSONALITY AND PROCESS

INVEST, CONSULT

Inputs

- \$
- GHG
- Hours in the Air

Purpose:

Awareness raising

Exchange information & views

Improve co-ordination

Regional Consultations (Dec 2009-Mar 2010)

Schedule:

5-6 Dec	Asia	Siem Reap
15-16 Jan	GRULAC	Panama
9-10 Feb	CEE	Vilm
15-16 Feb	Pacific	Auckland
4-10 Mar	Africa	Windhoek

Result

- Good will
- Improved understanding
- Jet Lag
- Draft Protocol



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PERSONALITY AND PROCESS

TAKE CHARGE

Mandate:

Identify key issues and potential solutions (e.g., main components)

Input:

Co-Chairs' think piece on key issues

**Friends of the
Co-Chairs**
(26-29 Jan 2010,
Montréal)

Composition:

19 participants from Parties
2 participants each from IPLCs, industry, non-commercial users, civil society
1 representative each from COPIX and COPX Presidencies

Result:

Co-Chairs' guidance
(no operational text,
no formal report)



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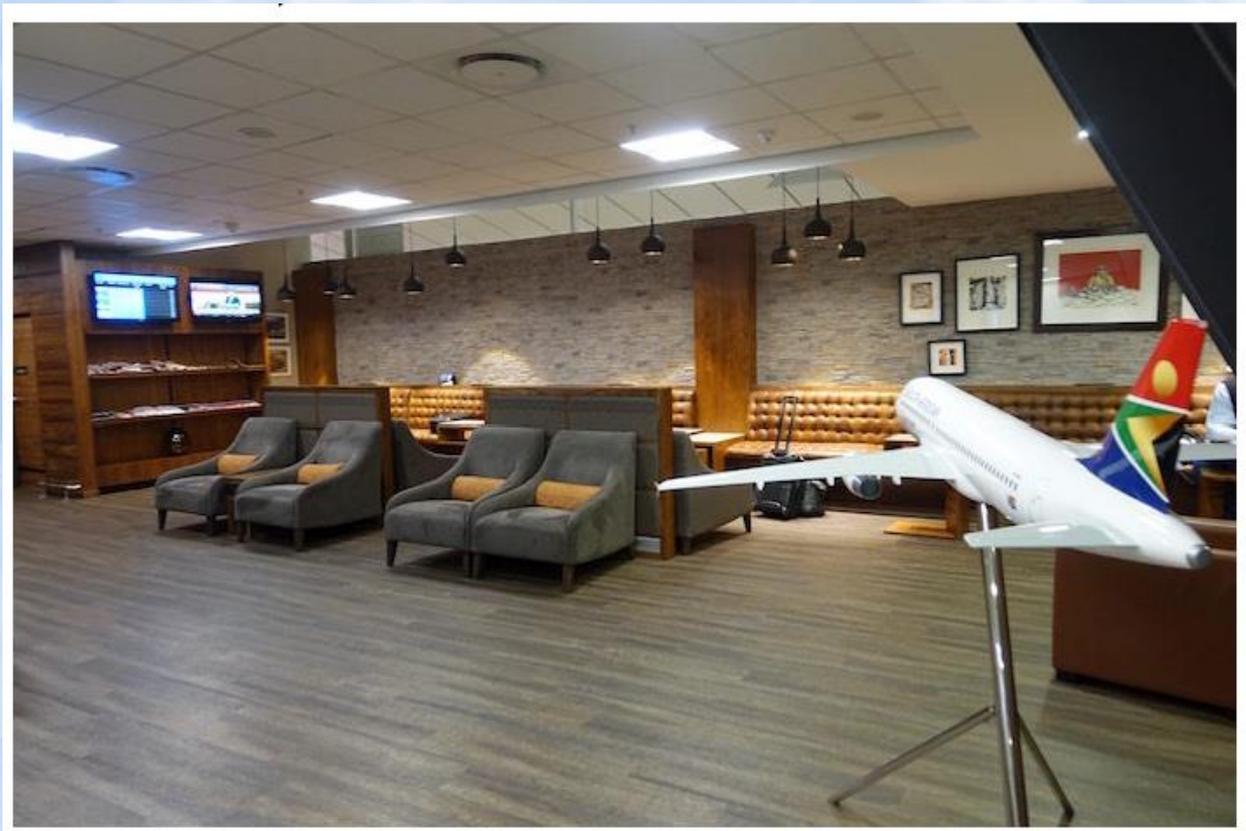
PERSONALITY AND PROCESS

CREATE

**BIRTH OF THE
NAGOYA
PROTOCOL**

**SAA LOUNGE
JNB**

11 MARCH 2010





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PERSONALITY AND PROCESS

MITIGATE RISK, DELEGATE

CALI ABSWG-9, MARCH 2010



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PERSONALITY AND PROCESS

RE-GAIN THE HELM AT THE 'RIGHT' TIME

JULY 2010 MONTRÉAL WGABS-9 (RESUMED)



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PERSONALITY AND PROCESS

KNOW YOUR LIMITS

NAGOYA, JAPAN OCTOBER 2010





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PERSONALITY AND PROCESS

TRUST IN COURAGE AND JUDGEMENT OF OTHERS

NAGOYA, JAPAN OCTOBER 2010



Success!



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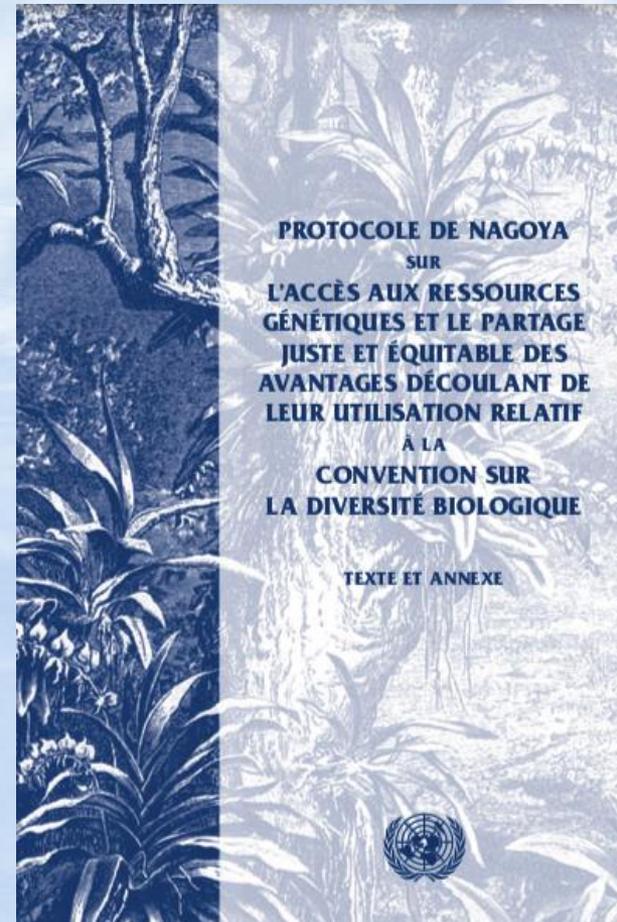
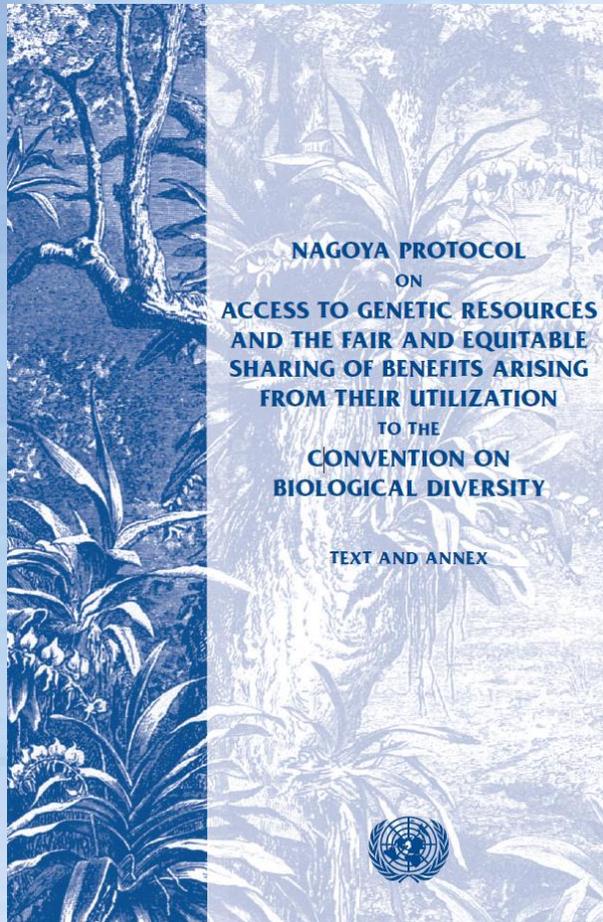


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PERSONALITY AND PROCESS

THE NAGOYA PROTOCOL

Entered into force on 12 October 2014
(90 days after its ratification by 50
countries)





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PERSONALITY AND PROCESS

WHAT HAPPENS WHEN MINISTERS TAKE OVER?

Funny business =

Article

10

GLOBAL MULTILATERAL BENEFIT-SHARING MECHANISM

Parties shall consider the need for and modalities of a global multilateral benefit-sharing mechanism to address the fair and equitable sharing of benefits derived from the utilization of genetic resources and traditional knowledge associated with genetic resources that occur in transboundary situations or for which it is not possible to grant or obtain prior informed consent. The benefits shared by users of genetic resources and traditional knowledge associated with genetic resources through this mechanism shall be used to support the conservation of biological diversity and the sustainable use of its components globally.



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IMPLICATIONS FOR IEAs

Co-Chairs can provide:

- Balance
- Mutual support
- Energy
- Synergies
- Continuity
- Independence
- Doubled experience
- Voice
- Memory
- Engagement: Beyond governments
- Responsibility
- Commitment
- Risk distribution
- Holistic purview



Resulting in:

- Greater fairness
- Transparency
- Predictability
- Openness



Leading to:

- More coherent text
- Speedier conclusions
- Wider, faster implementation



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IMPLICATIONS FOR IEAs

ADVANTAGES OF MEAs

- Global solutions to global problems
- Inclusivity (beyond governments)
- Indigenous Peoples
- Flexibility
- Lack of “teeth”
- Collaborate vs. regulate
- Less political interference
- Non-government participation
- SDG-relevance
- Supporting positive outcomes in other policy areas
- Role of “soft law”



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Geopolitical Climate

IMPLICATIONS FOR IEAs

CHALLENGES

Geopolitical Climate!!

- Complexity, nature
- Institutional silos: global, national
- Political involvement
- Resources
- Scientific evidence
- Performance measures
- Enforcement measures
- Negotiators vs. implementors
- Accountability
- Public understanding
- Political leadership
- S&T development
- Anticipatory capacity
- Mutual support
- Long-term nature
- 'Clients' unable to advocate
- Western philosophy and religion
- Urbanization

Whither the Global Pact for the Environment?



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THANK YOU! MERCI!

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