

Making Treaties More Effective: Mechanisms to Induce Compliance

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I. Abstract:

Why do some environmental treaties appear to be more effective than others? What factors determine why one treaty leads to prompt changes in behavior and corresponding improvements in the underlying problem while others seem to have no effect at all? This paper identifies three sets of factors that influence a treaty's effectiveness: the compliance mechanisms a regime uses, the structure of the problem the regime addresses, and the international and domestic forces that make up the context within which the regime must operate. The paper examines the experience of several treaties that have used different compliance mechanisms to explore their impact. Particular focus is placed on the contrast between the use of sanctions, rewards, and information as tools for influencing state and substate actor behavior.

II. How to Design Effective Treaties?

- A. Effectiveness, compliance, and behavior change
- B. Reasons for non-compliance
- C. Reasons for compliance
- D. Mechanisms for inducing compliance
- E. Influence of strategic structure
- F. Influence of domestic and international factors

III. Policy Scholarship Disconnect

- A. Practitioners need a range of options, plus specification of:
 1. Relative effectiveness - "which one works best"
 2. Problem structure - "to remedy which types of problems"
 3. Context - "under what conditions"
- B. Common limitations of scholarship for policy
 1. Categorical theories: but unlikely one strategy always succeeds
 2. Conditions that facilitate/hinder success: but can't manipulate conditions
 3. Descriptions of single case anecdotes: but environmental problems differ
 4. Prescriptions of untried innovations: but sound ideas can fail in practice

IV. Effectiveness, compliance, and behavior change

- A. Effective: were goals achieved
- B. Compliance: were rules followed
- C. Correlated but not equivalent
 1. High compliance - low effectiveness, e.g., regulating catch when pollution is the problem (good compliance with wrong rules)
 2. High effectiveness - low compliance, e.g., instituting a full moratorium early (low compliance with ambitious and violation-tolerant rules)
- D. Behavior change: include good faith noncompliance, overcompliance, and coincidental compliance

V. Why Do States (and Firms)

Comply with Treaties?

- E. Independent self-interest
 1. Treaty reflects their interests
 2. Treaty requires no change in behavior
- F. Interdependent self-interest
 1. Prefer compliance so long as enough others comply
 2. Prefer unilateral defection but transparency and reciprocity make it unlikely to succeed
 3. Coerced by stronger state(s)

V. Why Don't States (and Firms) Comply with Treaties?

- A. Range of explanations for why actors don't comply
- B. Noncompliance as preference
 - 1. Goal not shared, or costs exceed benefits
 - 2. Goal not prioritized
 - 3. Desire to take advantage or avoid being suckered
- C. Noncompliance due to incapacity
 - 1. Government: economic, administrative, technological
 - 2. Firms, fishers: no alternatives to over-fishing in LDCs
- D. Noncompliance due to inadvertence
 - 1. Good faith noncompliance - compliance attempted but failed
 - 2. LDC fishers: potentially illiterate or unaware of restrictions

VI. Mechanisms for Inducing Compliance

- A. Sticks (Punitive) - punish undesirable behaviors
 - 1. Surveillance and sanctions - e.g., common to most fisheries regimes
- B. Carrots (Remunerative) - reward desired behaviors
 - 1. Surveillance and rewards - e.g., fur seal treaty
- C. Locks (Preventive) - preclude existing opportunities
 - 1. Control of "upstream" activities - e.g., regulate fishnet production
- D. Inventions (Generative) - create new opportunities
 - 1. Design attractive technologies - e.g., turtle and dolphin "gates" in nets
- E. Labels (Cognitive) - provide new information
 - 1. Clarify self-interest - e.g., educate fishers regarding recruitment rates
- F. Sermons (Normative) - promote new norms
 - 1. Dialogue regarding goals - e.g., increase concern re: non-economic goals

VII. The Influence of Situation Structure

- A. Fisheries problems (& environmental problems) differ
 - 1. Coordination: all prefer CC & can comply; weak incentives to cheat
 - 2. Collaboration: all prefer CC & can comply; strong incentives to cheat
 - 3. Asymmetric problems: some prefer DD but all can comply; very strong incentives to cheat
 - 4. Positive externalities plagued by incapacity: all prefer CC but some cannot comply; no incentives to cheat
- B. Situation structure make different types of noncompliance likely
- C. Effective regulation needs to match mechanisms to likely sources of noncompliance

VIII. The Influence of Domestic and International Factors

- A. Domestic factors differ across states and firms
 - 1. Levels of concern about problem
 - 2. Levels of financial, technical, and administrative capacity
- B. International factors differ across time and regions
 - 1. Level of international conflict
 - 2. Support and interweaving with other regimes
 - 3. Willingness to respond to noncompliance by other states
 - 4. General normative legitimacy of activity

IX. Conclusions

- A. Be more aware of diverse sources of compliance and noncompliance
- B. Consider broader range of mechanisms to induce compliance
- C. Choose mechanisms that reflect influence of situation structure
- D. Choose mechanisms that reflect domestic and international influences on effectiveness