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**The Interplay
of International Regimes:
Putting Effectiveness Theory to Work**

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Sammendrag/Abstract <p>This report examines the relationship between institutional interplay and the effectiveness of international regimes. It provides an overview of the present literature on regime interplay, arguing that concepts and propositions developed to date fail to relate sufficiently to broader theoretical and substantive knowledge on international institutions. Scholars must be more explicit about whether they address the significance of interplay for regime formation, regime maintenance, or regime effectiveness. This is necessary in order to move forward, because a taxonomy of interplay that works in one of those domains is likely to fail in one of the others.</p> <p>The effectiveness-oriented taxonomy of interplay proposed here is derived from the general literature on regime effectiveness. It distinguishes between utilitarian, normative, and ideational interplay and highlights the significance of interplay management. By mobilizing findings in the fields of economic institutionalism, international legitimacy, and the study of policy transfer, this taxonomy permits the elaboration of well-based propositions on how regime interplay affects regime effectiveness.</p>	
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Introduction

During the past decade, the focal point for research on international regimes has moved from formation and change to effectiveness – *i.e.*, to whether regimes contribute to the reduction or solution of the problems they address.¹ Establishing causal relationships between institutional features and socio-economic or environmental problem solving is difficult enough when singling out distinct issue regimes, which is the conventional approach in regime analysis. Still, the growing attention to the social impacts of regimes and to processes of national implementation has heightened awareness of how several separate international regimes interact in shaping behaviour that influence problem-related behavior.² Some regimes reinforce and support rules and activities upheld by another regime, whereas other regimes display relationships of normative conflict, counteracting efforts or duplication of activities. This desire to identify and exploit potential gains from better management of the cross-institutional relationship is an important rationale for the study of regime interplay.

So far, however, there have been severe limitations to making headway in the study of regime interplay. There is no consensus on how to classify the varieties of interplay, and very few propositions have been forwarded that aim at defining how, and under what conditions, regime interplay affects international governance. There are several reasons for this situation: Interest in regime interplay is fairly recent; research on the topic has been somewhat haphazard and non-cumulative; and much of the work has been animated by politically salient clashes between trade and environmental regimes, such as the tuna/dolphin cases that caused international controversy in the early 1990s (Schoenbaum, 1997). These cases inspired an inquiry not on regime interplay in general but rather on how apparently conflictual regimes can be reconciled (Runge, 1994). The few authors who have addressed institutional linkages conceptually have done so without relating explicitly to the theoretical advances that have been made in the established sub-fields of regime analysis: regime formation, regime maintenance, and regime effectiveness.

This report gives a short overview of the present literature on regime interplay, argues that the concepts and hypotheses developed so far leave considerable room for improvement, and proposes a way to advance the study of *one* aspect of regime interplay – the latter being achieved essentially by addressing only one of the regime problems mentioned above, regime effectiveness.³

¹ See Haas et al. (eds. 1993), Keohane and Levy (eds. 1996), Stokke and Vidas (eds. 1996), Victor et al. (eds. 1998), Young (ed. 1999), Miles et al. (2001).

² See Brown Weiss (1993), Young (1996, 1999, 2000ab), United Nations University (1999), Gehring and Oberthür (2000), Stokke (2000a), Rosendal (2001).

³ An earlier version of this article was presented at the Final Conference of the Concerted Action Programme on the Effectiveness of the International Environmental Agreements and EU Legislation, Barcelona, 9-11 November 2000, sponsored by the EU. I would like to thank Regine Andersen, Steinar

The notion of regime interplay

Regimes are social institutions that define practices, assign roles and guide the interaction of occupants of such roles within given issue areas. (Young, 1994: 3). The association of regimes with specific issue areas, defined by activity and geographic area, is one of the factors that permit reasonably clear delimitation of regimes (Potter, 1980; Evangelista, 1989). This delimitation is in turn important for the analysis of interaction between regimes.⁴ Regimes comprise a substantive component of rights and rules and usually also an operational component that supports the establishment and implementation of such rights and rules. An issue regime is typically upheld by a network of legal instruments and customary rules. For instance, when the regime governing fisheries in the Northwest Atlantic is addressed, at least two major sources must be examined: the accord by which the Northwest Atlantic Fisheries Organization (NAFO) was established, and the elements of the Law of the Sea Convention that codify customary law regarding resource management in exclusive economic zones and the high seas, respectively.⁵ Relations between these various sources could be labelled intra-regime linkages, and a high level of normative coherence is a *sine qua non* for any regime.

In contrast, regime *inter*-play refers to situations when the contents, operation or consequences of one institution (the recipient regime) are significantly affected by another (the tributary regime).⁶ Sometimes, institutional interplay implies that the contents of a regime is changed, as in cases where components of one regime are used as a model for emulation by actors negotiating another. However, in other instances the regimes remain unchanged while their ability to shape the behaviour of target groups may be enhanced or hampered by the contents or operation of another. For a period of time, the restrictions on trade in ozone-depleting substances under the Montreal Protocol were rendered less effective by the fact that the harmonized system of customs

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⁴ The activity/geography approach conventionally used in the regime literature, based on the *substance* regulated rather than the nature of the decision-making process, is strong precisely in identification of the boundaries of an issue area. It is much weaker than process-oriented definitions, such as Lowi's (1964) distinction between regulative, distributive, and redistributive issues, in providing a basis for general hypotheses about the significance of issue area differences for various outcomes.

⁵ Convention on Future Multilateral Cooperation in the Northwest Atlantic Fisheries (1978), reproduced in *Official Journal of the European Communities*, L 378; and the Convention on the Law of the Sea (1982) (LOSC), UN Doc. A/Conf.62/122, especially Arts. 55-75 and 116-120.

⁶ Here, the term interplay is used interchangeably with others that frequently appear in the literature, such as linkage, interaction, interconnection, and relation. The dichotomy tributary/recipient (Stokke, 2000) is preferred to source/target (Gehring and Oberthür, 2000) because it is more open as to whether or not the interplay is intentional.

codes of the World Customs Organization were poorly equipped to single out products containing such substances thus permitting effectiveness gains by coordination (Oberthür, 2001).

The study of regime interplay: achievements and limitations

When reviewing various contributions to the study of institutional interplay and its significance for international governance, it can be useful to look more closely at how interplay is framed and classified in the literature.

Negative framing

Whereas the regime literature in general is often criticized for giving insufficient attention to turf struggles and conflictual interests (Strange, 1982; Mearsheimer, 1994), the opposite charge is more appropriate for the sub-field addressing institutional interplay. Here, the typical points of departure are instances of normative discord, duplication of work, and institutional competition; hence the liberal use in the literature of negatively charged terms like ‘treaty congestion’ and problems associated with increased ‘regime density’.⁷ In contrast, recent studies of regime effectiveness in a wide range of issue areas are generally much less alarmist with respect to the need for greater cross-regime coordination (Young ed., 1999; Miles et al., 2001; Stokke ed., 2001). Similarly, summarizing a series of case studies on environmental governance, Keohane et al. (1993: 15) found it ‘somewhat surprising, but heartening, to discover that in our cases, cooperation among agencies is more salient than interinstitutional conflict.’ A few, much publicized cases of inter-regime tension should not lead scholars and practitioners to conceive of regime interplay as a generally problematic phenomenon to be circumscribed whenever possible. Frequently, cross-regime linkages are supportive. Commitments taken on under one regime can be confirmed or extended geographically under another; and negotiators often make productive use of various solutions that have emerged in other regime processes in efforts to overcome barriers to agreement on difficult matters (Young, 1994: 110-11). To its credit, whenever rules or programmes compete, the negative framing of regime interplay studies to date has drawn attention to the range of response options; however, this has not been conducive to learning more about how and under what conditions regimes may complement and support each other.

A more balanced approach to institutional fragmentation that is attentive to both the positive and negative impacts on problem-solving capacity is also fostered by attention to the costs of cross-regime coordination. Some studies highlight the financial

⁷ See for instance Brown Weiss (1993: 697-702), UN Doc. A/53/463 1998, Andresen (2001), Rosendal (2001).

burdens associated with preparation, organization, and reporting of inter-agency meetings (Brown Weiss, 1993: 702; Hyvarinen, 1999). Others are concerned that coordination could stifle the political energy of separate processes and argue that whatever harmonization is necessary should be left to national delegations (Victor, 1999).⁸ According to the latter lines of reasoning, some duplication or normative discord is inevitable and the costs are justified. An important challenge for the study of regime interaction, therefore, is to help clarify when the costs of managing regime interplay are likely to be high and when they will be low – and juxtapose this with costs associated with institutional fragmentation.

Taxonomies of interplay

There is no dearth of taxonomies in the study of institutional interplay. Young (1996), for instance, has proposed a distinction between embeddedness (relationships to overarching principles and practices), nestedness (relationship to functionally or geographically broader regimes), clustering (deliberate combination of several regimes), and overlaps (unintentional influences). The limitations inherent in using these categories of interplay for taxonomic purposes – as many authors do (Rosendal, 2001; Selin and VanDeveer, 2001) – is that they were developed for a range of different purposes. The notion of embedded regimes was originally launched to make an empirical point: we would misread the global trade regime unless we recognize its embeddedness in a more fundamental institution – sovereignty – that counters many of the norms openly expressed in the General Agreement on Tariffs and Trade (Ruggie, 1982). Nestedness was introduced in regime analysis to indicate a constraint on change in normative systems, posed by the fact that such systems are typically linked hierarchically to more encompassing rules and power relationships (Aggarwal, 1983: 620-1). Clustering, for its part, was conceived primarily as a strategy for international negotiators who were seeking to overcome barriers to agreement by means of package deals and is thus placed within Young's (1989, 1994, 1999) larger effort to illuminate the process of institutional bargaining. Only the overlap category has been introduced with a primary view to explain regime effectiveness. It would be highly improbable that a set of concepts developed for such differing purposes could adequately cover the most relevant parts of the discourse on, say, regime effectiveness. Likely to be overlooked, for instance, is institutional interplay which affects the crucial translation of international commitments to behavioural change among target groups in national societies: that particular process is marginal in the study of formation and maintenance of international regimes.

⁸ Exception is made for programmatic activities related to implementation; see p. 13.

When evaluating a taxonomy, three criteria are generally important: categories should be jointly exhaustive of the relevant domain of discourse and in addition should be both mutually exclusive and fruitful in supporting the elaboration of specific propositions regarding the theme under consideration (Vedung, 1998: 30-8). By implication, any successful taxonomy of regime interplay must be tailored to the substantive focus of the analysis. Lack of restraint here, as evidenced in efforts to create all-purpose taxonomies of interplay, will leave the matter of institutional interplay analytically overstretched – with excessively broad categories that fail to link with the causal processes involved.

In a later work, Young (1999) focuses more restrictively on effectiveness when investigating the role of interplay, specifically by emphasizing the distinction between the two categories of ‘functional’ and ‘political’ linkages. Two regimes are functionally linked if the operation of one influences the effectiveness of the other; they are politically linked if the actors involved in the regime decide to treat both arrangements as part of a broader but normatively coherent complex (Young, 1999: 50). Although these categories make sense intuitively, certain ambiguities must be clarified before they can serve as guidelines to systematic analysis. Functional linkage, laid out as ‘facts of life’, refers partly to the fact that different activities addressed by separate regimes can be substantively connected. This would be true, for example, in cases where discharges of pollution into the marine environment spur biophysical processes that jeopardize the sustainability of fisheries in the region. However, functional interplay also refers to the situation where the *same* activity falls within the scope of two or more regimes with competing rules.⁹ For instance, the Montreal Protocol to the 1985 Vienna Convention prohibits the import of certain ozone-depleting substances from non-parties to the Protocol, whereas global and regional trade regimes typically reject differential treatment among its members irrespective of their relations to international environmental regimes.¹⁰ These two situations present policy-makers with very different problems, one involving externalities, the other normative tension – an important distinction that is blurred by the notion of functional linkage.

The second category proposed by Young, political linkage, is also excessively comprehensive. On one hand, it refers to instances where the pattern of coordination is amended to better match the interdependence of the activities regulated – *i.e.*, deliberate responses to functional linkages. Associated with this distinction is the plausible proposition that political linkages are most likely to occur where the activities that are regulated by the regimes are highly interdependent, and that under such circumstances

⁹ Young (1999: 50) highlights incompatibilities between national and local-level institutions for management of common pool resources.

¹⁰ For concise overviews of these and other regimes, see *Yearbook of International Co-operation on Environment and Development 2001-2002*.

effectiveness will suffer without it (Young, 1999: 49-50). However, the validity of this proposition is jeopardized by a subsequent expansion of the term to embrace situations where 'actors...couple distinct institutions for reasons of managerial efficiency or political expediency when there is no compelling functional reason for proceeding in this way' (Young, 1999:50). But if political linkages are partly defined by absence of functional interdependence, the proposition that such linkages are most likely when functional interdependence is high, is no longer compelling. In short, the problem with the functional/political dichotomy is that these categories are too broad to provide more than rough starting points for analyses of institutional interplay. They mask distinctions that are vital to understanding how institutional interplay affects the effectiveness of international regimes, and they cannot sustain even very general propositions about where interplay is likely and how it may affect regime effectiveness.

In a study of interplay between biodiversity and trade regimes, Rosendal (2001: 97-8) advocates another two-dimensional taxonomy based on whether the interplay involves the general norms or the specific rules of regimes and whether these principles and rules are diverging or compatible. Rosendal's purpose is to distinguish interaction situations that are easy to deal with from cases of interplay where reconciliation is difficult. Investing heavily in the distinction between norms and rules can be risky, however, partly because delineation of the broad norms, or principles, upheld by a regime cannot be made without attention to the specific rules produced by it. For example, the specific rule that introduced in 1986 a moratorium on all commercial whaling, irrespective of the health of the various stocks,¹¹ also implied that the principle upheld by the global whaling regime was changed from a traditional blend of conservation and utilization to one of preservation of whales. Accordingly, the categories underlying this dimension of the taxonomy are not mutually exclusive.

Gehring and Oberthür (2000), for their part, propose a much more complex taxonomy of institutional interplay with variation across six dimensions. They first distinguish interaction that originates in functional interdependence among regulated activities from interaction induced by overlaps and differences in membership.¹² Beyond this, cases of interplay are differentiated according to whether regime interaction is intentional or non-intentional, synergetic or obstructive, unilaterally inductive or requiring consent under the tributary regime – and according to whether states respond to the interaction individually or by means of international regimes, and through modification of one of the regimes or by cross-regime coordination. Some of these distinctions, especially those that highlight intentionality and coordination, seem

¹¹ See *Yearbook of International Co-operation on Environment and Development 2001-2002*, p. 163.

¹² Membership-induced interplay refers to the emulation of policy solutions and strategic choice among policy arenas that are based on differences in interest heterogeneity; Selin and VanDeveer (2001), in a study of institutional interplay regarding management of airborne pollution in Europe, call this 'actor linkages'.

promising to the study of regime effectiveness because they can be readily linked to processes widely believed to affect governance of problem-relevant behaviour. The elaboration of these causal processes should be among the priorities of a multinational research project presently engaged in applying this conceptual apparatus on a set of interactions between EU environmental legislation and broader-based international regimes.¹³ Given that any six-dimensional space will be hard to use in comparative analysis, more explicit attention to how the underlying variables influence effectiveness may also prove useful in the process of simplifying the taxonomy.

Limited attention to causal relevance also impedes many of the efforts to classify cases of interaction on the basis of the *form* of the linkage:¹⁴ is it horizontal or vertical – that is, does it involve regimes on the same or on different levels of societal organization; is it unilateral or reciprocal – and in the latter case, symmetrically so or not? The real question is whether or not such formal distinctions can support the elaboration of theoretically informed and empirically testable hypotheses regarding the relationship between institutions and problem solving. Consider Young's (2000b) category of vertical interplay, which refers to interaction between regimes located at different positions on the scale from international to local levels of management – via federal, state and municipal. The fundamental differences that exist between these vertical dyads, such as the degree of hierarchy involved and the location of authority, make it a high-risk endeavour to scale up findings about the interface between local and municipal levels to the interplay that occurs between national and international institutions. Awareness of these barriers to scaling up and down frequently leads authors to formulate verticality propositions at a level of abstraction that is too high to guide empirical analysis or political practice, as for instance in statements to the effect that the 'compatibility' of an international regime with domestic institutions will promote its effectiveness.¹⁵ The more general difficulty is that an instance of regime linkage cannot be described well without attention to the substantive phenomena that are linked. Accordingly, distinctions based on formal rather than substantive aspects of interaction are likely to produce excessively heterogeneous categories: a category is too wide when the only statements that can be made validly about all members are either trivial or vacuous (Eckstein, 1973: 1149).

¹³ The project 'Institutional Interaction: How to Prevent Conflicts and Enhance Synergies between International and EU Environmental Institutions' (2000-2002), directed by Oberthür, is funded by the EU Commission; see www.ecologic.de/english/interaction.

¹⁴ Conceptual contributions with pronounced attention to formal aspects of regime interplay are found in Herr and Chia (1995), Young (1996, 2000b), and Rosendal (2001).

¹⁵ This proposition has been forwarded by several authors who address vertical interplay, notably Ruggie (1975: 564, 576), Princen (1998: 404-11), and Young (2000b: 22-6).

Summary: the challenge

One barrier to progress in the study of regime interplay to date is the lack of restraint regarding the number of research questions that are addressed at any one point in time. Those who enter the field with an interest in regime effectiveness will, for instance, find an excessive orientation towards disruptive aspects of interplay and little attention to the ways in which regimes can reinforce each other's effectiveness. Numerous distinctions between types of interplay appear in the literature, but few relate directly to the question of how the interplay of international regimes can modify behaviour in ways that are relevant to problem solving. Whether the forms of interplay being defined are based on substantive distinctions (such as between functional and political interplay) or on formal distinctions (such as between vertical and horizontal interplay), categories tend to be too heterogeneous to support theory-based, or even roughly plausible, propositions regarding the impact of institutional interaction on regime effectiveness.

Nevertheless, important advances have been made in recent years. While research is certainly not organized around a set of well-defined concepts and propositions that can be challenged, refined, or rejected, a number of analytical themes have been identified that are likely to nourish the study of regime interplay in the years ahead. Among the most prominent themes are (1) the potential gains of better coordination across functionally interlinked regimes and the ways in which they can be realized, (2) the different ways in which normative conflict between regimes can be prevented or reconciled, and the factors which decide which norms will prevail in such instances, and (3) the different ways in which separate regime processes can stimulate and reinforce each other.

In order to capitalize more on these advances, however, it is necessary to exert more energy than hitherto in placing the various elements of interplay analysis within the broader theoretical contexts in which they belong. Instead of compiling distinctions that have been made in the literature, taxonomy construction should begin with a distinct research question and the relevant theoretical and substantive knowledge that has been accumulated about it. Since the principal issue discussed in this report is regime effectiveness, the analytical strategy proposed below is to begin with the set of broad causal connections between institutions and problem-solving behaviour that is substantiated in effectiveness studies to date and examine the significance of regime interplay in shaping those connections.

Regime interplay and effective international governance

Since the early 1990s, when regime effectiveness emerged as a dominant theme in the study of international institutions, a series of transnational collaborative projects have been conducted. Most of these have been structured as intensive, loosely comparative

case studies that embrace a process-sensitive ‘mechanism approach’ to the formulation and substantiation of causal claims (Hedström and Swedberg, 1998). For instance, in a project directed by Young on the impact of environmental regimes on problem-related behaviour, contributors agreed to ‘frame a set of models that appear important on theoretic grounds and then turn to the case studies to assess the relevance and relative importance of the behavioral mechanisms associated with each of the models under real-world conditions’ (Young and Levy, 1999: 21). Similarly, a project headed by Keohane et al. (1993: 19), which also addressed environmental regimes, organized their causal analysis around ‘concrete mechanisms around which institutions can alter the behaviour of state actors, and in turn improve environmental quality’. In the same vein, Stokke and Vidas (1996: 18) instructed case-study contributors in a project on Antarctic regimes to bring out the fine details of how a particular outcome came about, noting that certain specified ‘mechanisms can be invoked when spelling out this process, accounting for *how* international regimes may affect behaviour.’

The sets of mechanisms proposed in regime effectiveness studies so far vary considerably in specificity and comprehensiveness, but at the high end of generality they can be subsumed under three categories. Firstly, regimes may affect problem-solving behaviour by altering the utility actors assign to behavioural options within an issue area, for instance by providing incentives for rule-adherence or adding costs to non-compliance.¹⁶ Secondly, regimes may affect perceptions about what is right and proper conduct within an issue-area; that is, by altering the normative compellence of prescriptions upheld by the regime.¹⁷ Thirdly, regimes may affect the priorities that actors assign to various goals or the actors’ knowledge about various ways in which the goals can be realized, namely by altering the cognitive prominence of certain ends and means.¹⁸ Interestingly, a rather parallel trichotomy has emerged in the literature on policy instruments, which tends to distinguish between economic means, regulation, and information (Vedung, 1998: 30-1).¹⁹ The same three dimensions are often invoked when

¹⁶ In Young and Levy’s (1999) apparatus, this refers to the mechanisms ‘utility alteration’ and ‘cooperation enhancement’. Keohane et al. (1993) capture the latter element by their term ‘contractual environment’. A large number of more specific versions of the incentive alteration mechanisms appear in the regime literature, including sanctions (Downs et al., 1996), issue-linkage (Keohane, 1984), decoupling of difficult issues (Stokke and Vidas, 1996), capacity enhancement (Haas et al., 1993) and cooptation (Stokke, 1996).

¹⁷ This general mechanism is subdivided to ‘authority endowment’ and ‘role modification’ by Young and Levy (1999); it is dealt with as ‘legitimization’ by Stokke and Vidas (1996), whereas Keohane et al. (1993: 21-3) treats normative compellence as a sub-category of ‘concern’.

¹⁸ This mechanism is coined ‘learning’ by Young and Levy (1999) and Stokke and Vidas (1996); it is partly covered by the ‘concern’ category of Keohane et al. (1993).

¹⁹ A slight difference should be noted in that the policy instrument literature, which tends to address domestic rather than international contexts, includes as a defining characteristic of regulation not only obligation but also potential *coercion*. It is clear from Vedung’s (1998: 31) discussion, however, that obligation is the fundamental component.

classifying various types of power: Dahl (1986), for instance, highlights the presence and nature of sanctions (positive or negative), the degree of normative obligation, and the relative influence of information means.

There appears to be a convergence, therefore, in several bodies of relevant literature on incentives, compellence, and prominence as keywords when describing parsimoniously the various ways in which institutions shape human and social behaviour. These terms are thus well suited as a basis of division for an effectiveness-oriented taxonomy of institutional interaction: instances of interplay are classified by asking which of those general mechanisms, or combination thereof, are triggered or inhibited by the tributary regime.

Three types of interplay

According to this line of reasoning, a case where rules or programmes that are undertaken within one regime alter the costs or benefits of behavioural options addressed by another regime would exemplify *utilitarian* interplay. Consider for instance the funds that were made available under a Norwegian-Russian nuclear cooperation regime for the enhancement of a treatment facility for liquid low-level radioactive waste in Murmansk. That project removed one of the impediments to Russia's implementing the ban on nuclear dumping under the London Convention 1996 (Stokke, 2000b). Since the most likely effect of the interplay on the relevant behaviour is conducive to problem solving, this instance of utilitarian interplay is supportive of effectiveness. Other cases could be disruptive.

Correspondingly, an international regime may confirm or contradict the norms upheld by another institution and thus affect its *normative* compellence. While such normative interplay may occur deliberately, it can also be the result of mutual unawareness. There is little to suggest, for instance, that those who negotiated the inclusion of trade measures into the compliance portfolio of certain environmental regimes had any desire to undermine the compellence of global or regional trade regimes; yet many fear this as a likely consequence.

A third type of regime interaction, *ideational* interplay, involves processes of learning. Thus, one regime can support the effectiveness of another by drawing political attention – domestically or at the international level – to the problems that are addressed by the recipient regime. Ideational interplay may also refer to instances where the tributary regime provides solutions of various sorts that are emulated or adapted for problem-solving purposes under the recipient regime. Consider the rapid diffusion of certain norms of management to a wide range of environmental issue areas the past two decades. For example, the precautionary principle received global recognition in the 1985 Vienna Convention for the Protection of the Ozone Layer, was then endorsed in the 1992 Rio Declaration, and was subsequently applied in a number of other contexts, including

management of marine living resources (Stokke 2000a). It is the *cognitive* process of adaptive emulation that explains this diffusion and not the normative nature of the precautionary principle – the fact of having accepted precaution in ozone management does not oblige states to apply it in fisheries.

Ideational interplay can also impede cross-regime diffusion of institutional features. The eagerness among many wealthy states to avoid the principle of a common heritage of mankind when devising resource management regimes for the Antarctic was much due to the redistributive connotations that this concept had acquired during the Law of the Sea negotiations (Vidas, 1996). Nor is there any basis for believing that ideational interplay will always be conducive to regime effectiveness. If the contexts differ markedly, the ready availability of particular solutions from another regime may even crowd out options that would have been more appropriate, thus undermining ability to solve the problems addressed.

Interplay management

Whether the interplay between two regimes is utilitarian, normative, or ideational, its impact on regime effectiveness is presumably affected by whether the actors involved are aware of the relationship and seek to influence it. More generally, *interplay management* refers to deliberate efforts by participants in tributary or recipient regimes to prevent, encourage, or shape the way one regime affects problem solving under another.²⁰ This distinction underlies the differentiation between clustered and overlapping regimes and that between political and functional linkages (Young, 1996, 1999); and two of the dimensions of interaction emphasized by Gehring and Oberthür (2000) are generated on the basis of how the regimes involved are adapted in response to initial, non-managed, interplay.

The instance of utilitarian interplay noted above between regional and global levels of nuclear management is acknowledged and encouraged by regime members. Management of normative interplay is inherent in the recent proposal that the World Trade Organization (WTO), the United Nations Environment Programme, and the secretariats of major environmental agreements jointly draw up guidelines on the use of conservation-related trade measures in order to avoid normative conflict.²¹ Similarly, the diffusion of certain regime solutions can be furthered or impeded by individuals or organizations assuming leadership roles in international negotiations. The FAO, for instance, draws heavily upon experience within existing regional management regimes

²⁰ Such efforts have also been coined ‘operational interplay’ (Stokke, 2000). Presenting them as sub-categories within a more general mechanism-based typology, as done here, brings out more clearly that management of interplay intervenes in the processes that are driven by those three mechanisms.

²¹ *International Environmental Reporter*, 23 (2000), 822.

when providing advice to developing countries on how to establish cooperative structures to cope with shared or straddling fish stocks.

Interplay management could take the simple form of exchange of information between decision-making bodies, but it sometimes takes the more ambitious form of comprising joint planning of programmes or even the coordination of substantive decision-making or implementation activities.

Table 1 An effectiveness-oriented taxonomy of regime interplay

<i>Underlying mechanism</i>	<i>Type of interplay</i>	
	<i>Non-managed</i>	<i>Managed</i>
<i>Incentive structure</i>	Utilitarian interplay	
<i>Normative compellence</i>	Normative interplay	
<i>Cognitive prominence</i>	Ideational interplay	

Table 1 outlines a taxonomy of interplay that is tailored to the study of regime effectiveness. By referring to distinct behavioural mechanisms, the three categories of interplay – each of which may occur in managed or non-managed versions – are mutually exclusive. This is not to say, of course, that actual cases of institutional interplay cannot display elements of more than one type; the categories are analytical, not empirical. For example, scientific modelling of air pollution flows in the 1990s, funded under the Cap directive of the European Union, revealed that the United Kingdom was a much greater importer of pollution than earlier believed (Wettestad, 2002). The interplay between the EU process and the regime under the broader Convention on Long-Range Transported Air Pollution (CLRTAP) was partly ideational and partly utilitarian. This was because policy-relevant knowledge generated under one regime influenced the cost/benefit ratio associated with more forceful abatement efforts as perceived by the state that had been the most prominent laggard under CLRTAP.

We have seen that, jointly, the three categories are reasonably exhaustive of the scholarly discourse on how international regimes affect problem-related behaviour. The next section argues that these categories also meet the *fruitfulness* criterion by referring directly to sophisticated bodies of literature that can support the elaboration of theory-based propositions regarding the conditions that determine whether interplay is supportive or obstructive.

Utilitarian interplay

The study of how the institutional environment can structure purposive behaviour by adding costs to some options and rewarding others has informed the mainstream of

regime analysis for two decades.²² Three specific versions of the incentive mechanism are particularly relevant to regime interplay: cost-efficiency, externalities, and competition (Underdal, 1987). While space permits only anecdotal substantiation here, all of them are useful in identifying conditions for supportive interplay and for deliberate management of that interplay.

If activities under separate regimes are overlapping or involve economies of scale, then deliberate coordination across regime boundaries is likely to be supportive of effectiveness by enhancing the *cost-efficiency* of their operation (Brown Weiss, 1993: 697-9). This insight has generated proposals on the back-to-back organization of multilateral conferences that address related subjects and have partly overlapping attendance (Holst, 1999) as well as on the improved inter-regime coordination of monitoring and review activities where international agreements have partly overlapping scopes (Kimball, 1999). It has been demonstrated, similarly, that greater streamlining of the information flows among five major biodiversity-related environmental agreements could be achieved by constructing reporting modules that would capitalize on partly-overlapping information requirements (Harrison and Collins, 1999: 57-9). For their part, economies of scale in environmental management are particularly relevant for programmatic activities that involve considerable sunk costs, such as the systematic accumulation over time of relevant environmental data. Thus, the Convention for Conservation of Antarctic Marine Living Resources (CCAMLR) identified the FAO as a natural cooperation partner precisely because the latter had for years been engaged in scientific investigations and the compilation of catch reports that were seen as relevant to fisheries management in the region (Stokke, 1996).²³ More intangible sunk costs can also be relevant, such as the building of a reputation for well-functioning procedures for coping with the science/politics interface in environmental management. This may to some extent explain why the International Council for the Exploration of the Sea (ICES) is requested by a number of North-East Atlantic fisheries regimes to coordinate the generation of scientific advice (Stokke, 2000a).

Such tapping of cost-efficiency potential by cross-regime coordination constitutes a rather simple, or 'benign', cooperation problem (Underdal, 1987).²⁴ The interplay management level that is needed tends to be low or moderate. Explicit cross-regime harmonization is usually necessary, but only with respect to support activities and not substantive regulatory or allocative decisions. The same is true for the

²² See Stokke (1997); leading contributions to this strand of regime contributions include Young (1979, 1982), Keohane (1984), Snidal (1985), Oye ed. (1986), and Underdal (1987, 1998, 2001).

²³ This has been followed up in practice by the regime members who have granted the FAO observer status to CCAMLR Commission meetings and involved this organization in the work of the Scientific Committee.

²⁴ Note that such programmatic coordination can be more complicated if both regimes have a track record of conducting the activities in question and in the process have developed turf interests; see the comments below on institutional competition as a particularly 'malign' cooperation problem.

realization of cost-efficiency gains that result from synergetic differences between regimes in institutional capacity. Here, a mutually supportive division of labour may easily emerge even in the absence of explicit interplay management. The relationship noted above between the global dumping regime, which does not have a strong capacity-enhancement component, and a regional Norwegian-Russian nuclear cooperation regime is an example.

If certain activities conducted under one regime involve significant negative *externalities* relevant to another regime, *i.e.*, costs that were not considered when the decision to conduct those activities was made, then by definition the interplay between the regimes is obstructive to the effectiveness of the recipient regime. One illustration is the interplay involved when industrial firms, in response to the ban under the Montreal Protocol on ozone-depleting substances, shift to alternative input factors with much higher global warming potential and thus aggravate the problem addressed by the climate regime (Oberthür, 2001). If available substitutes for ozone-depleting substances vary in their climate impact, such obstructive interplay could be counter-balanced by the introduction of commitments under one or both of the regimes, this would direct industry to the most climate-friendly options. If there is little such variance, interplay management could take the form of a cross-regime process of weighing climate costs against ozone benefits with a view to reaching a decision on whether rules under one regime, or both, should be modified accordingly. Of course, some externalities are positive. If a project in support of timber plantations serves to reduce the pressure on nearby natural forests, this may implement biodiversity commitments and at the same time enhance carbon absorption and thus promote the objectives of the climate regime (Paris, 1999). Interplay management can be relevant in such instances as well: the Global Environmental Facility, which provides additional grant and concessional funding for certain environmental projects, operates the financial mechanism of both the climate and the biodiversity regimes.

It is usually more difficult to realize cooperative gains that are based in externalities than those originating in cost-inefficiency (Underdal, 1987: 173-4). This is partly because the required level of coordination is high, often involving substantive regulatory or allocative decision-making, and partly because actors engaged in separate regimes tend to assign different priorities to the main objectives pursued under the respective regimes. If, in the example above, the plantation project will absorb less carbon than a competing project that has no biodiversity gains, then internalization of the latter requires a politically difficult trade-off between these two goals. Cross-regime differences regarding how various options are ranked are to be expected, especially if the segments of government and industry that are involved in the tributary regime differ from those taking part in the recipient regime. Under these circumstances, the weighing of interests that may be involved in cross-regime coordination can be complicated by intra-governmental struggles between the sectors involved (Tollison and Willet, 1979).

Such problems of domestic aggregation are even more staggering if, as is frequently the case for climate measures, there is considerable uncertainty regarding the societal and environmental costs and benefits: such uncertainty enhances the position of those who are asked to carry the abatement cost (Sebenius, 1983).

If the relationship between interacting regimes is marked by *competition*, or turf struggle, interplay management is presumably even more difficult. As defined here, competition differs from externality in that consequences of a decision under one regime for objectives pursued under another are indeed considered by participants in the tributary regime but ascribed a value that is opposite from that of participants in the recipient (Underdal, 1987: 169). Although the states and territories that established the North Atlantic Marine Mammals Commission (NAMMCO) have avoided challenging the International Whaling Commission (IWC) directly and have addressed programmatic rather than regulatory aspects of whaling management, an important purpose of NAMMCO has been to strengthen the negotiating position of the pro-whaling minority in the whaling commission (Andresen, 1997). In order to serve that purpose, NAMMCO must be perceived by those who hold the key to the IWC moratorium as having at least a remote possibility of emerging into a competing arena for legitimate regulation of whaling activity in the region. Accordingly, there is every reason to anticipate that the anti-whaling majority in IWC will oppose any moves that might enhance the acceptance of NAMMCO in the international community. This would seem to account for the role of the United States in blocking early attempts by NAMMCO to obtain an observer position in the Arctic Council.²⁵ Another expression of inter-institutional tension include the sharp criticism that was launched by the IWC Scientific Committee of the regional organization's estimate of the North Atlantic central stock of minke whales based on a 1995 survey.²⁶ Similarly, NAMMCO's recent unilateral introduction of an observer and inspection scheme could be seen as competing with the proposed IWC scheme, over which negotiations have been deadlocked for years.²⁷

To sum it up, a series of theoretically based and empirically testable propositions can be developed with regard to utilitarian interplay, identifying conditions for supportive interaction as well as the likelihood that deliberate efforts to manage the regime interplay will succeed. When different regimes address the same issue area with complementary resources, supportive interplay is likely even when there is no coordination across regimes. When activities undertaken within different regimes overlap or involve economies of scale, supportive interplay usually requires explicit

²⁵ NAMMCO now has observer status in the Council following an informal *quid pro quo* that involved a corresponding removal of objections to a non-governmental organization with a pronounced anti-whaling profile.

²⁶ On the survey, see www.nammco.no/news97b.htm.

²⁷ For two competing views on the NAMMCO scheme, see www.nammco.no/pr-obs98.htm and www.sea-red.org/dan/publishing.nsf/allweb/F7686505E89FDEAE80256893005791DD011011kl.

coordination; but because these situations frequently do not involve conflicting interests, coordination is relatively easy to realize. Externalities from one regime to another may constitute supportive or obstructive interplay, and the impact can be modified by collaboration across regime boundaries. This type of collaboration can be rather difficult to achieve, however – especially if the regimes differ markedly in sectoral representation. In cases where the regimes in question compete for the same regulatory ground, there is scanty reason to expect that efforts aimed at enhancing supportive interplay or counter-balancing obstructive interplay will be successful.

Normative interplay

Whereas the analysis of utilitarian interplay benefits from the theoretical achievements of economic institutionalism, how one regime can strengthen the normative compellence of another is elucidated in the extensive and sophisticated legal and political writings on international legitimacy. In what is now a classical account, Franck (1990: 16) defines legitimacy in the international domain as ‘a property of a rule or rule-making institution which itself exerts a pull towards compliance on those addressed normatively because those addressed believe that the rule or institution has come into being and operates in accordance with generally accepted principles of right process’. He moves on to extract from the legal literature on international legitimacy certain ‘building blocks of due process’ – determinacy, coherence and various types of procedural validation – all of which imply distinct propositions about the contingent significance of regime interplay for legitimacy.

The *determinacy* of a rule affects its compliance pull because ‘due process’ requires a clear message about what is expected of those addressed by the rule. A vague or elastic formulation fails to direct behaviour unequivocally and may indicate disagreement among those who created the rules, making it easier to justify non-compliance (Franck, 1990: 53-4, Mitchell, 2001). It follows that regulatory activities that help clarify the contents of a muddled principle underpinning an international regime are likely to enhance its compliance pull. This type of normative interplay is most relevant for regimes with partly overlapping scope, such as global and regional regimes within the same issue area. Consider for instance the broad obligation under the 1982 Convention on the Law of the Sea that coastal states and distant water fishing states ‘shall seek’ to cooperate on management of fish stocks that migrate from national zones into high seas areas.²⁸ The looseness of this obligation made it difficult indeed to determine who was responsible whenever states failed to engage in cooperative management of straddling stocks; the indeterminacy of the duty to cooperate enfeebled its compliance pull and created severe non-member harvesting problems for regional

²⁸ LOSC, Art. 63(2); also Arts. 116-20.

management regimes (Stokke, 2000a). The 1995 UN Fish Stocks Agreement greatly improved this situation by linking the general obligation to cooperate to specific institutional mechanisms: parties to the Agreement that fail to become members of an existing regional regime and that refuse to apply the conservation and management measures taken by that regime, can legally be denied access to the relevant fishery.²⁹ When parties agree to such specification of a vague rule, this will, according to Franck and other scholars of international law, not only enhance the legitimacy of the rule but, by extension, also the compliance pull of regional management regimes in place. An indication of the empirical tenability of this proposition may be obtained by examining whether states that had failed to join, or failed to adhere to the rules of regional straddling stocks regimes, have changed their practice after the strengthening of the global norm.

A second building block of legitimacy is *coherence*, which refers to the connectedness of a rule or institution to other norms acknowledged by the international community. International organizations are often called upon to manage the normative interplay of separate regime processes that address the same or similar issues. Consider the coordination conducted between the FAO and the UNCED Secretariat in the preparation of relevant parts of Agenda 21, which led to the subsequent negotiation of the Fish Stocks Agreement (Marashi, 1996). Prior to this negotiation, the FAO had already been vital in several other major concerted norm-building efforts regarding high seas fisheries management, including the Cancun Declaration, a series of technical consultations on reporting and monitoring, and the 1993 Compliance Agreement (Stokke, ed. 2001).

Since within the same issue area, such as fisheries, government delegations are likely to overlap and share an interest in consistency, cross-regime coordination of the making and application of rules is presumably rather uncomplicated. Whenever regimes in question involve participants from different sectors, each with their distinct priorities, management of normative interplay is much more demanding. Nowhere is this more evident than in the interface between trade and environmental regimes. During the past decade there has been increased focus on a possible conflict between certain trade-related measures authorized by international environmental regimes and global or regional rules of free trade.³⁰ For instance, several United States trade measures to discourage foreign bycatch-intensive harvesting methods in the fisheries sector, justified partly by international conservation agreements, have been challenged under global and

²⁹ Fish Stocks Agreement, Art. 8, paras 3 and 4.

³⁰ Some multilateral environmental agreements require that parties impose trade restrictions on certain products, either generally as in the case of the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) or directed at non-members and non-compliers of environmental regimes as in the 1987 Montreal Protocol to the Ozone Convention; see e.g. *Yearbook of International Co-operation on Environment and Development 2001-2002*.

regional trade agreements (Joyner and Tyler, 2000). Accordingly, normative incoherence between trade and environmental regimes may soften one of the few ‘hard’ compliance mechanisms applied under international environmental regimes. Note that this obstructive interplay is reciprocal. Advocates of free trade warn that conservation-related trade measures are dangerous, slippery slopes into protectionism: unless they are consistently applied, checks on trade restrictions may lose their compliance pull.

There is more to coherence than consistency, however. The litmus test of a rule’s coherence is whether states, when unable to apply the rule consistently in all contexts, can justify the deviation in terms of principles that are capable of generalization (Franck, 1990: 144-8). For this reason the legitimacy of conservation-related trade measures has been addressed on the basis of certain explicit exemptions from the general ban on quotas and embargoes according to the General Agreement on Tariffs and Trade (GATT). Requiring first that ‘arbitrary or unjustifiable discrimination between countries’ shall not occur, these exemptions permit trade measures that are ‘*necessary to protect human, animal or plant life or health*’ or ‘*relating to the conservation of exhaustible natural resource if such measures are made effective in conjunction with restrictions on domestic production or consumption*’.³¹ These exemptions constrain the use of trade measures but also provide directions as to how such measures can be designed to avoid obstructive interplay from other regimes. Measures that imply no particular benefits to domestic actors relative to foreigners are much less liable to be challenged as unfair trade practices.

Another type of collision rule, often relevant within the same issue area, is evident when the relevant legal instruments provide explicit rules of pre-eminence that can remove the apparent dilemma. This is illustrated by Article 4 of the Fish Stocks Agreement, which states that ‘[t]his Agreement shall be interpreted and applied in the context of and in a manner consistent with the Convention.’³² Along the same line of reasoning, some have called for the introduction of an ‘environmental waiver’ in GATT that would allow certain, clearly defined deviations from the general rule (Schoenbaum, 1997). In other cases, customary rules of pre-eminence may be relevant. Unless otherwise stated, more recent rules generally take precedence over older rules that address the same subject matter; and the same is true for specialized rules over more general ones.³³

Because exemptions and rules of preeminence tend to be vague or at least open to different readings, management of such normative interplay can be a contested matter

³¹ GATT (1947), Art. XX (b) and (g) in conjunction with chapeau; emphasis added. These exemptions were central in both of the tuna-dolphin cases (Schoenbaum, 1997) and in the shrimp-turtle case under WTO (Joyner and Tyler, 2000).

³² The ‘Convention’ referred to here is the Convention on the Law of the Sea.

³³ The *lex posterior* rule is codified in Art. 30 of the Vienna Convention on the Law of Treaties (1969); 1155 *UNTS* 654; for a discussion of this rule as well as the *lex specialis*, see Wolfke (1993: 94-5).

and thus difficult to achieve through negotiations. This is why the dispute settlement system under the WTO – which, unlike counterparts in most environmental regimes, is compulsory and binding – is so prominent in the debate over trade/environment issues. This system serves to enhance the likelihood that actors will fight out inter-regime controversies on the basis of trade rules rather than environmental rules.³⁴ In the same vein, Rosendal (2001: 110-11) emphasizes the fact that the global trade regime has a stronger portfolio of compliance measures, including direct sanctions, when analyzing the upshots of divergencies between the Convention on Biological Diversity and WTO rules on trade in intellectual properties. Efforts to *avoid* normative conflict – proactive interplay management – is presumably easier to achieve. We have noted the recent proposal for a code of conduct on the use of conservation-related trade measures to be drawn up jointly by WTO and representatives from major environmental agreements. Should such cross-institutional coordination succeed in clarifying the principles on which deviation from a liberalist rule can be founded, this would inhibit opportunistic and non-principled deviations and thus add to the coherence of the rule.

A third building block of legitimacy is *procedural validation*, which refers to the way in which the rule was created. Franck (1988: 727) points to symbolic acts that serve to tie the rule to authoritative institutions; the compliance pull of non-binding resolutions passed by the United Nations General Assembly is largely based on this. Another important procedural building block is the adherence of a rule to a normative infrastructure that ranks sources of law and provides standards for how to make, apply, and interpret rules (Franck, 1990: 184; Wolfke, 1993). Validation by adherence occurs, for instance, when a rule is interpreted in a unanimous decision by the International Court of Justice or when the relative weight of competing norms, as in the trade/environment instance noted above, is determined in accordance with treaty-based or customary rules of preeminence.

Critics have pointed out that Franck's treatment of procedural validation ignores several classical themes in the broader study of legitimation, especially the significance of inclusiveness and transparency of decision-making and the extent to which governance is informed by relevant and impartial expertise (Alvarez, 1991; Bodansky, 1999). In fisheries management, for instance, a high degree of involvement of target groups in decision making is widely perceived as supporting the compliance pull of the rules (Jentoft et al., 1998; Hønneland 2000). Another example is the role of ICES in providing scientific recommendations for management decisions under several fisheries regimes in the North-East Atlantic (Churchill, 2001). The international peer review of national scientific

³⁴ This is one way in which the recent establishment of the International Tribunal for the Law of the Sea (ITLOS) can be significant. A recent dispute between Chile and the European Community regarding the lawfulness of certain Chilean trade-related measures for protection of swordfish was presented for consideration both under WTO and ITLOS; the parties have subsequently reached a provisional agreement.

contributions involved here adds to the perception that recommendations are impartial. It presumably also improves the quality of scientific work, which is largely conducted within national programmes.

In *summary*, the study of international legitimacy supports the elaboration of a series of theoretically based and empirically testable propositions on how institutional interplay may affect regime effectiveness. We may expect, for example, that normative interplay supports the normative compellence of a regime if it adds to the determinacy of crucial rules or their coherence with other norms held in esteem by the international community, or if it reinforces the perception that regime outputs have been reached in the right and proper way. Various forms of interplay management can sometimes be crucial for these building blocks of legitimacy. Delegating the generation of scientific advice to broader-based organizations may enhance the quality, or the perceived impartiality, of the knowledge that informs decision making under international environmental regimes. Within issue boundaries, cross-regime coordination of rule making is often feasible or relationships can be regulated by treaty or customary law 'collision' rules. Although such interplay management may be relevant across issue areas as well, this usually requires more political energy. We have also seen that when rules are contested, the relative availability of institutional capacity within the regimes can be important for the management of normative interplay, in determining which of the regimes will provide the normative basis for authoritative interpretation or adjudication.

Ideational interplay

Regime activities that enhance the cognitive prominence of certain issues or behavioural options can be relevant to problem solving under another regime in essentially two ways. They can increase societal or bureaucratic concern for the problems addressed by the recipient regime and thus add political energy to further development and implementation of the regime (Keohane et al., 1993: 21-2); and they can increase awareness of relevant solutions to problems by stimulating policy innovation or the transfer of successful responses.

The process of raising *concern* for issues addressed by other regimes is illustrated by efforts to combat marine pollution in the North-East Atlantic. Until the mid-1980s, those efforts were centred on the European Community and the Oslo and Paris Commissions on, respectively, dumping and land-based pollution. Frustrated by the ineffectiveness of these regimes, in 1984 a smaller group of states organized the first ministerial-level International North Sea Conference. The development of norms under the International North Sea Conferences succeeded in breathing political energy into the EC and the North-East Atlantic commissions by combining four features that are favourable to ideational interplay. (1) The conferences could draw upon considerable

scientific and other preparatory work undertaken by the existing regimes in the region; (2) they were held at a high political level, conducive to media coverage and societal mobilization in the littoral states; (3) they generated only non-binding declarations, which lowered the threshold for agreement; and (4) available to the conferences were institutional apparatuses for transforming goals and principles, once they were formulated and legitimized at a high political level, into binding commitments under the EC and the Oslo and Paris Commissions (Skjærseth, 2000: 69-75).

The scope for this type of ideational interplay is largely confined to regimes that address partly-overlapping issue areas, such as regional and global regimes that govern the same activity. While deliberate cross-regime coordination can be useful in pooling efforts to push issues to the front burner of international diplomacy, it is not strictly required. In the North Sea case, representatives of the regional commissions were not invited to participate at the ministerial conferences and have attended only as observers (Skjærseth 2000, 72).

As regards the role of regime interplay in enhancing the *diffusion* of successful solutions to the problems addressed, a first observation is that this version of ideational interplay is not always supportive of effectiveness. The temptation to take language that has already received approval in the earlier context from one treaty and transplant it into another always carries the risk that such readily available solutions will truncate the search for more appropriate responses (Brown Weiss, 1993: 699). This is especially true if parties are negotiating under time pressure. A second observation is that some features of international institutions tend to flow easily from one regime to another. We have noted the rapid spread of certain general principles of management in the environmental domain, such as precaution, ecosystem management, and sustainability. The high diffusibility of such broad principles is largely explained by the fact that until they are further specified, they touch only lightly on matters of controversy under international regimes. Far more interesting from a regime-effectiveness point of view is the diffusibility of solutions that are directly relevant to controversies that impede the operation or effectiveness of the recipient regime. The challenge, therefore, is to specify the conditions that promote diffusion of specific and potentially controversial regime features.

Fortunately, there is no need to begin exploring from scratch the factors that are conducive to diffusive interplay. Recent literature on policy transfer (Bennett, 1997, Evans and Davies, 1999) suggests that cross-institutional learning or emulation tends to involve solutions that (1) have emerged under political circumstances similar to those of the recipient context and therefore not more divisive here than where they originated, and (2) are actively promoted by participants in relevant transnational policy

communities.³⁵ When examining the empirical tenability of these propositions, it can be instructive to look for the elements of a model that are filtered out from instances of diffusion (Evans and Davies, 1999: 382). Similarity and exposure are especially high when the regime processes involved are *close* in time, participation, or functional orientation. Accordingly, one would expect that fisheries negotiators in search for good models tend to pay particular attention to other fisheries regimes, especially to geographically close regimes or regimes that involve partly-overlapping sets of actors. The relationship between two Atlantic high seas fisheries management bodies is of relevance here. The agreement that established NAFO was drawn up in 1978, two years before the convention on the North-East Atlantic Fisheries Commission (NEAFC).³⁶ The considerable overlap in membership of those organizations, and the fact that they both responded to the new situation of extended coastal state jurisdiction, go a long way in explaining why large parts of the NEAFC Convention track its northwestern counterpart literally word by word. However, a notable feature of NAFO that was *not* emulated when the NEAFC was drawn up was the advanced compliance control apparatus of NAFO, which includes reciprocal inspection rights on the high seas. This was necessary for the effectiveness of NAFO, because much of the fishing on the Grand Banks off Canada involved high seas areas. However, incorporation of such an intrusive and thus controversial feature was less pressing in the North-East Atlantic where catches would overwhelmingly be taken inside the newly established 200-mile zones. Interestingly, the circumstances faced by the two regimes became much more similar when in the 1990s the Norwegian spring-spawning herring recovered, implying high seas access to a substantial fishery. In response, NEAFC established a high seas control and enforcement arrangement and a scheme to promote compliance by vessels of non-members, both of which were modelled on recent NAFO provisions (Churchill, 2001: 239-40).

The level of cross-regime cooperation required for emulation is rather low; procedures for exchange of information may be relevant, but deliberate efforts on the part of actors in the recipient regime are usually sufficient. This is not to argue that the encouragement of such ideational interplay is always a simple matter. If the feature that is emulated touches upon difficult controversies in the recipient regimes, considerable skill and energy may be required to marshal sufficiently broad support for the feature, whatever its apparent success in other contexts. In the study of multilateral negotiations,

³⁵ The policy transfer literature draws heavily upon the study of organizational learning (Simon, 1976; Cyert and March, 1963: 116-22). On the role of structural similarity, see Bennett (1997: 213-6, 228), Evans and Davies (1999: 369-70), and Walt (2000: 40-1). The significance of active policy networks that connect tributary and recipient institutions are highlighted by Adler and Haas (1992), Bennett (1997: 228), Evans and Davies (1999: 374-6), and Walt (2000: 39).

³⁶ Convention on Future Multilateral Cooperation in North-East Atlantic Fisheries (1980), reproduced in *Official Journal of the European Communities*, L 227.

there is growing attention to the need for such ‘entrepreneurial’ leadership and the conditions believed to be conducive for such leadership (Young, 1991, Underdal, 1994).

In *summary*, ideational interplay is particularly relevant to regime effectiveness when it serves to raise the prominence of certain problems on the political agenda or when it draws wider attention to certain solutions to those problems. International or societal concern for an issue area tends to be short-lived, however: taking full advantage of such episodes of ideational interplay usually requires an institutional apparatus that can translate temporary enthusiasm into binding, or at least specific, commitments. Emulation of substantive or operational solutions that have been tried out successfully in other contexts is a pervasive practice among negotiators of international regimes. Vague, general principles tend to flow easily, but from an effectiveness point of view, diffusive interplay is more interesting when it facilitates agreement on matters of controversy in the recipient regime. Whenever the substantive or operational regime feature in question has considerable distributive impacts, as do intrusive compliance mechanisms in high seas fisheries regimes, diffusive interplay requires not only greater efforts on the part of those who favour emulation but also generally that the structure of interests in the regimes be comparable.

Conclusions

Although the study of institutional interplay is important, and in the study of international regimes, belated, the state of knowledge on this phenomenon leaves much to be desired. Because contributions so far have failed to place interplay systematically in any larger theoretical context, the field is marked by fragmentation and scanty cumulative work. To improve this situation, students of regime interplay must be much more focused than in the past regarding which of the larger governance questions institutional interplay is set to illuminate – regime formation, regime maintenance, or regime effectiveness. Concepts and taxonomies that are justified by reference to all of these theoretical domains typically fail to connect satisfactorily to any of them.

This report has examined interplay in the context of regime effectiveness, and it has done so by closely linking up to bodies of theoretical work that have been generated or applied in the regime effectiveness field. The taxonomy of interplay proposed here distinguishes among utilitarian, normative and ideational interplay and highlights the significance of interplay management. While the propositions briefly laid out here must be further refined and made subject to empirical examination, they serve to demonstrate the primary edge held by this taxonomy over existing alternatives. This taxonomy facilitates identification of circumstances that are *conducive* for various types of interplay to occur as well as conditions that influence whether such interplay will be *supportive or obstructive* to problem-solving efforts under international regimes. This is

accomplished by mobilizing sophisticated work within economic institutionalism, the study of international legitimacy, and the literature on policy transfer. As such, this taxonomy responds to the key challenges faced in the study of institutional interplay and regime effectiveness.

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