

The Regime Environment of Environmental Regimes: International Regime Conflicts on Environmental Issues

Fariborz Zelli

Center for International Relations / Peace and Conflict Studies

University of Tübingen

Melanchthonstraße 36

72074 Tübingen

Germany

fariborz.zelli@uni-tuebingen.de

**Paper prepared for the 2004 Berlin Conference on the Human Dimensions
of Global Environmental Change, 3 - 4 December 2004**

Contents

<i>Acronyms</i>	II
<i>Abstract</i>	IV
Introduction	1
I. Background	2
I.1. Starting Assumption: Increasing Compatibility Problems among International Regimes	2
I.2. State of the Art	3
II. Definition of International Regime Conflicts	4
III. Types and Examples of International Regime Conflicts	7
III.1. Main Types	7
III.1.1. Latent Conflicts	8
III.1.2. Manifest Conflicts	10
III.1.2.1. Direct Conflicts	11
III.1.2.2. Indirect Conflicts	12
III.2. Further Distinctive Criteria	14
III.2.1. Properties of Involved Regimes	14
III.2.1.1. Problem Structure: Single-issue Conflicts or Cross-issue Conflicts	14
III.2.1.2. Geographical Scope / Jurisdiction: Global or Regional	15
III.2.1.3. Further Regime Properties	16
III.2.2. Properties of Regime Conflicts	16
III.2.2.1. Time and Place: Internal Conflicts about Regime Change or External Conflicts due to Regime Compliance	16
III.2.2.2. Actors: Bureaucracies, States, or Non-state Actors	19
III.3. Overview of Types and Examples	19
IV. Solution Strategies for International Regime Conflicts	21
V. Assumptions about the Effect of International Regime Conflicts	24
V.1. Potential Variables and Indicators	24
V.2. Analytical Problems	27
Conclusion	28
<i>References</i>	32

Acronyms

BSP	-	Cartagena Protocol on Biosafety to the Convention on Biological Diversity
CAN	-	Andean Community
CBD	-	Convention on Biological Diversity
CCALMR	-	Convention on the Conservation of Antarctic Marine Living Resources
CCD	-	United Nations Convention to Combat Desertification
CEIT	-	Countries with Economies in Transition
CITES	-	Convention on International Trade in Endangered Species of Wild Fauna and Flora
COP	-	Conference of Parties
CTE	-	WTO Committee on Trade and Environment
DBU	-	German Federal Foundation for Environment
DEC	-	UNEP Division of Environmental Conventions
DRD	-	EU Directive on the Deliberate Release of Genetically Modified Organisms
EEC	-	European Economic Community
EU	-	European Union
FAO	-	Food and Agriculture Organization of the United Nations
FCCC	-	United Nations Framework Convention on Climate Change
FIELD	-	Foundation for International Environmental Law and Development
GATS	-	General Agreement on Trade in Services
GATT	-	General Agreement on Tariffs and Trade
HFC	-	hydrofluorocarbon
ICAO	-	International Civil Aviation Organization
ICCAT	-	International Commission for the Conservation of Atlantic Tunas
ICJ	-	International Court of Justice
ICNAF	-	International Convention for the Northwest Atlantic Fisheries
ILO	-	International Labour Organisation
IMO	-	International Maritime Organization
IPR	-	intellectual property rights
IWC	-	International Whaling Commission
LRTAP	-	Convention on Long-Range Transboundary Air Pollution
MEA	-	multilateral environmental agreement
NAFO	-	Northwest Atlantic Fisheries Organization
NAFTA	-	North American Free Trade Agreement
NGO	-	non-governmental organization
OAU	-	Organization of African Unity
ODS	-	ozone-depleting substances
OECD	-	Organization for Economic Cooperation and Development
OSPAR	-	Convention for the Protection of the Marine Environment of the North-East Atlantic
PAA	-	parts of assigned amount
PAM	-	policies and measures
PICCP	-	Rotterdam Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade
SPS	-	Agreement on the Application of Sanitary and Phytosanitary Measures
TAC	-	total allowable catch
TBT	-	Agreement on Technical Barriers to Trade

TREM	-	trade-related environmental measures
TRIPS	-	Agreement on Trade-related Aspects of Intellectual Property Rights
UN	-	United Nations
UNCLOS	-	United Nations Convention on the Law of the Sea
UNCTAD	-	United Nations Conference on Trade and Development
UNDP	-	United Nations Development Programme
UNEP	-	United Nations Environment Programme
UNESCO	-	United Nations Educational, Scientific and Cultural Organization
VCLT	-	Vienna Convention on the Law of Treaties
WHO	-	World Health Organization
WSSD	-	World Summit on Sustainable Development
WTO	-	World Trade Organization

Abstract

The paper addresses one of this year's Berlin Conference's major focuses, namely problems of regime integration and joined-up policy-making on the horizontal level. It intends to contribute to existing institutions theory by developing a comprehensive analytical framework for the analysis of a particular dimension of the increase in institutional intersections, namely for the study of conflicts between international regimes in the empirical domain of environmental protection.

Based on the examination of several cases of conflicts between environmental regimes and free trade regimes, as well as drawing on various literatures including the theoretical and empirical findings of the few pioneering projects on institutional interplay (Institutional Interaction Project, UNU Inter-linkages Initiative), the paper conceptualizes inter-regime conflicts in two steps. First, starting from Keohane's definition of international regimes, it develops a definition of regime conflicts which does not only refer to the contradiction of rules, but also allows for the inclusion of regime conflicts which exceed the legal level. Second, it identifies distinctive criteria (including the degree of conflict manifestation [latent, manifest], conflict arenas [internal, external], actors involved [bureaucracies, member states, etc.], policy fields of conflicting regimes [single-issue conflicts, cross-issue conflicts] as well as their geographical intersections), thereby differentiating between various types of regime conflicts. Furthermore, a second typology distinguishes between different solution strategies for regime conflicts.

Building on these typologies, sketches for relationally framed assumptions will be presented at the end of the paper. These hypotheses could help gain explanatory knowledge about the impact of international regime conflicts on the effectiveness of the involved regimes. Potential independent variables include some of the typological criteria (e. g. the degree of functional or geographical intersection), but also other regime properties such as the respective degree of legalization. The application of this analytical framework might prove useful when it comes to uncovering supportive conditions for the strengthening of involved environmental regimes.

Introduction

The present paper reflects first results of a dissertation project, which is funded by the German Federal Foundation for Environment (DBU) and which focuses on international regime conflicts about issues of environmental protection. The general objectives of this project are *1. the systematic capturing of conflicts on environmental issues between international regimes and 2. the gaining of first theoretical assumptions about the impact of these conflicts*. Following Keohane's definition, regimes are conceived as a particular type of institutions, namely "institutions with explicit rules, agreed upon by governments that pertain to particular sets of issues in international relations" (Keohane 1993: 28). Conflicts, i. e. incompatibilities between international regimes, may either appear *between the rules* of different regimes, or in the form of debates and clashes *between actors* who justify their behavior by referring to different regimes.

On the one hand, the paper will focus on international environmental regimes. i. e. regimes which have been particularly designed for the purpose of setting rules to the dealing with transboundary environmental problems; on the other hand, it will also take into account international free trade regimes, since the latter – due to the cross-cutting scope of their subject matter – may prove highly relevant for the political approach to ecological challenges – and thus, for the effectiveness of environmental regimes.

More concretely, the project seeks answers to the following questions:

- 1a. To what extent have conflicts among international regimes on issues of international environmental protection appeared so far (= taking stock)?
- 1b. To what extent can these conflicts be distinguished systematically, based on significant criteria? In other words: Which types of international regime conflicts exist?
2. Based on such a typology: Which theoretical assumptions can be gained with regard to the effect of these conflicts on the involved regimes? Which regime prevails under which conditions?

In the *first chapter* of the present paper, I will outline the background of the research project, by presenting its starting assumption of an increasing incompatibility between international regimes (Ch. I.1) as well as the state of the art of the discipline of international relations regarding the research about international regime conflicts (Ch. I.2). The *second chapter* develops a definition of the research subject, drawing from existing definitions of international regimes and regime overlaps. *Chapter III*, which hosts the key part of the present paper, addresses the first two of the above questions: it will develop a typology of regime conflicts based on distinctive criteria, and it will as well offer several examples in order to illustrate the different conflict types. The *fourth chapter* will briefly concentrate on the issue of solution approaches by offering a systematic overview of different strategies designed to cope with regime conflicts. Building on these typologies as well as on neo-institutionalist theory, the *fifth and final chapter* presents first sketches for assumptions about the impact of regime conflicts on the effectiveness of the involved regimes, thereby addressing the second major research question of the underlying project.

I. Background

I.1. Starting Assumption: Increasing Compatibility Problems among International Regimes

Since World War II, international relations have been marked by a growing interdependence in the most different policy areas. This tendency is reflected by the dramatic increase in the number of international regimes whose substantial scope eventually has been extended beyond the “classical” issues of international security and economic integration—with further impetus given by the ending of the Cold War.

Whereas – apart from different paths of interpretation – this overall tendency is not subject to serious doubts in today’s academic community, the starting assumption of this paper might face more dissent. It states that the ongoing regulation process in international relations has to some extent led to – partially detrimental – substantial and functional overlaps between regimes, i.e. the various rules addressing a specific issue area do not always make up a coherent and complementary system. Instead, most of these rule systems have been developed independently of each other, do cover different geographic and substantial scopes, and are partly marked by very different patterns of codification, institutionalization and cohesion including different compliance mechanisms and sanctioning capacities.

The emphasis on such incompatibilities, however, should not be mistaken for a return to a classical realist’s view of world politics as an anarchic environment (cf. Mearsheimer 1994); quite on the contrary, there basically is no area in today’s international relations which is not in some way regulated (although there certainly exist significant differences in the regulative density across issue areas). The assumed problem, therefore, rather is one of new – and still evolving – obstacles to the implementation and effectiveness of international law, caused by this very tendency toward regimentation. Accordingly, the starting assumption holds that though world politics is not or no longer anarchic in the first place, it tends to be chaotic (Bernauer/Ruloff 1999: 18).

A further background assumption holds that potential interactions between international regimes are likely to be found between environmental regimes and free trade regimes due to the cross-cutting nature of both subject matters. On the one hand, environmental issues affect such different fields as technology, industry and lifestyle. On the other hand, also trade issues have a cross-cutting nature, which is well exemplified by the world trade regime whose agenda has been steadily expanding; thus, since the early 1990s, several agreements which today are under the auspices of the WTO produced a number of intersections and overlaps with the norms and rules of both national and international environmental law. This notion is supported by prominent cases of incoherence between national legislation and WTO rules, one of the first ones being the well researched first tuna-dolphin-case between Mexico and the United States which appeared before the GATT in 1991.¹

¹ Tuna-Dolphin Case I (1991/92): Based on its Marine Mammal Protection Act, the U.S. banned the import of tuna caught with driftnets harmful to dolphins. Mexico (also on behalf of Venezuela) appealed to the GATT Panel which ruled that production “processes” must not be considered when justifying import bans.

I.2. State of the Art

There can be no doubt that international relations theory, in particular the neo-institutionalist school of thought, has profoundly captured the increasing interconnection and “complex interdependence” (Keohane/Nye 1977) on the international level. In fact, since its beginnings during the 1970s, research on international regimes has steadily been widening its focus: after a first stage of dealing with the formation of separate trade and security regimes, scholars eventually tended to address regimes operating in other issue areas such as human rights, environment, transport and communication, including studies on regime robustness and effectiveness (Mayer/Rittberger/Zürn 1993). The rather recent consideration of regime overlaps appearing at issue area intersections could be at the core of an emerging “third wave” of research on international regimes (Bernauer/Ruloff 1999: 17f.). Of course, this new horizontal or relational approach to international regimes is a complementary one: it will have to rely on the continuing and indispensable analyses of the formation and effectiveness of *separate* regimes.²

One of the first scholars to draw attention to the problem of regime interaction in a comprehensive manner was Oran Young (1996) with his first typology of institutional linkages.³ Since then, further steps have been taken by scholars both of international law and of international relations, mostly in the form of studies on conflicts between *national* regulations and international regimes.

As for the incoherence between international regimes on both sides, only few studies have been carried out so far, mostly focusing on singular case studies, e. g. on conflicts between the Kyoto Protocol and international trade regimes (Chambers 2001a) or on the overlap between the Convention on Biological Diversity (CBD) and the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS) (Rosendal 2000, 2001, 2003, 2003a). The conclusions of these studies coincide in the notion “that much interesting work remains to be done to formulate and examine assumptions about how and when overlap between international institutions will affect the effectiveness of international environmental cooperation” (Rosendal 2001: 113).

As for larger and more comprehensive research projects, two are particularly noteworthy: first, the Inter-Linkages Initiative of UN University (Chambers 2001; Velazquez/Piest 2003)

Two other well researched cases of conflicts between national environmental law and international trade law are the second tuna-dolphin case and the shrimp-turtle case:

- Tuna-Dolphin Case II (1992): The EEC (mainly France) picked up the issue of U.S. import bans for tuna since these restrictions also applied to intermediate trade. Surprisingly, the GATT Panel rejected the EEC’s argument with the notion, that dolphins are an exhaustible natural resource which may be saved outside national jurisdiction. This was a clear contradiction to the Panel’s ruling in the first case.

- Shrimp-Turtle Case (February 1997): The U.S. (based on its law to protect sea turtles which prescribes the use of “turtle excluder devices”) banned import of shrimps from Malaysia and Thailand. Subsequently, Thailand appealed to the WTO whose Appellate Body, in October 1998, ruled U.S. behaviour as an unacceptable discrimination of free trade, however after testing the application of GATT Article XX (see also footnote # 9).

² Including most valuable publications such as the forthcoming Underdal/Young (2004) which also addresses the problem of regime interaction (in particular the contribution by Gehring/Oberthür), Pamela Chasek’s analysis of three decades of environmental diplomacy, developing a phased process model of regime formation and implementation (Chasek 2001), or the multi-variate analyses carried out by the groups around Young (1999) and Miles/Underdal et al. (2002), the latter evaluating the effectiveness of as much as 14 environmental regimes.

³ Another early comprehensive approach to the problem of regime overlaps was provided by Herr/Chia (1995).

which focuses mostly on interactions between different environmental regimes (including potential negative effects) and second, the Institutional Interaction Project of four research institutions (Ecologic, Institute for European Environmental, Foundation for International Environmental Law and Development [FIELD], Fridtjof Nansen Institute), coordinated by Thomas Gehring and Sebastian Oberthür of the University of Bamberg, Germany (Gehring/Oberthür 2003, 2004, 2004a). Though this project, which comprises 59 case studies mostly concerning the interaction of international treaty systems and EU environmental instrument, has a general outlook on regime interplay, i. e. not only on incompatibilities, but also and for the most part on synergetic or redundant constellations, its generation of systematic knowledge via distinctive criteria provides a useful framework for the study of regime conflicts. Thus, the present paper will build on some of these criteria and use the project's sample of conflict cases.

Finally, looking beyond the discipline of international relations, it is particularly international lawyers who have addressed the incompatibilities of rules of different international regimes. Given their comprehensive approach, two recent publications by Neumann (2002) and Pauwelyn (2003) on the conflicts and co-ordination strategies between WTO law and other international legal systems are particularly noteworthy.

Thus, especially in the last three years, several studies have been published on regime interplay by scholars of different disciplines. What is still missing though is 1. a synopsis which particularly and in greater detail focuses on regime conflicts; 2. comparative analyses of the effect of regime conflicts, i. e. of the mechanisms by which these conflicts alter the effectiveness of the involved regimes; and 3. comparative studies about (reasons for) the genesis of regime conflicts.

As the aforementioned research questions of my project reveal, I intend to contribute to the first two of these issues. Likewise, the present paper will mostly deal with the first challenge by presenting a typology of regime conflicts, but will also try to address the second research issue by developing assumptions about the impact of regime conflicts. In further in-depth studies, these and other assumptions could be put to the test; the results could prove relevant for the articulation of policy propositions regarding the harmonization of present regulative systems.

II. Definition of International Regime Conflicts

As indicated at the beginning, this paper builds on Robert Keohane's definition of regimes as "institutions with explicit rules, agreed upon by governments, that pertain to particular sets of issues in international relations and which are referred to in an affirmative manner by governments, even if they are not necessarily scrupulously observed" (Keohane 1993: 28). The last part of this definition takes into account that rules might have become obsolete without having been altered or abolished. But what is more important about his definition, and

what distinguishes it from Krasner's broader understanding of the term,⁴ is its straight focus on the explicitness of rules. For the purpose of the project underlying the present paper, this concentration proves useful when it comes to assessing the impact of regime conflicts on the effectiveness of the involved regimes: since rules partially include precise behavioral instructions, they allow for measuring changes in the compliance or non-compliance with the respective regime (Müller 1993: 41). The focus on explicitness further implies that – in the course of this paper – the terms “environmental regime” and “multilateral environmental agreement” (MEA) will be used synonymously.

Furthermore, while distinguishing international regimes from other types of international institutions, Keohane (1989: 3) states that, unlike organizations, regimes are not “purposive entities [...] capable of monitoring activity and of reacting to it.” Nevertheless, by focusing on incompatibilities between international regimes, the research project will necessarily also capture conflicts between organizations. Regimes are what organizations collide about: they can be part of organizations which can initiate, administer or enforce them. In many cases, regimes are even forerunners of organizations (e. g. GATT for the WTO). Therefore, the research project will also use the term “regime conflict” for collisions of two international organizations as long as these collisions can be traced back to the incoherence between regimes under their respective auspices (e.g. the conflict between the CBD [UNEP] and the TRIPS agreement [WTO]).

Starting from this understanding, the next step towards a definition of regime conflicts is to look at the more general phenomenon of regime interactions. In his taxonomy, Oran Young (1996: 2ff.) differentiates between four types of such “institutional linkages”:

- 1. “*embedded institutions*” (= issue-specific regimes embedded in overarching institutional arrangements, i. e. “a whole suite of broader principles and practices that constitute the deep structure of international society as a whole”); example: the 1992 CBD being predicated on an “understanding of international society as a society of states possessing exclusive authority over their own domestic affairs, enjoying sovereign equality in their dealings with one another”;
- 2. “*nested institutions*” (= specific arrangements restricted in terms of functional scope, geographical domain, etc. “are folded into broader institutional frameworks that deal with the same general issue area but are less detailed in terms of their application to specific problems”); example: the integration of several protocols regarding different chemical substances into the 1979 Convention on Long-Range Transboundary Air Pollution (LRTAP);
- 3. “*clustered institutions*” (= regimes combined with other regimes of other issue areas into “institutional packages”, i. e. a common and more generic framework), example: the 1982 UN Convention on the Law of the Sea;

⁴ Krasner (1983: 2) defines regimes as “sets of implicit or explicit principles, norms, [binding] rules, and decision-making procedures around which actors' expectations converge in a given area of international relations. Principles are beliefs of fact, causation, and rectitude. Norms are standards of behaviour defined in terms of rights and obligations. Rules are specific prescriptions or proscriptions for action. Decision-making procedures are prevailing practices for making and implementing collective choice.”

- 4. “*overlapping institutions*” (= regimes formed for different purposes and largely without reference to one another intersecting “on a de facto basis, producing substantial impacts on each other in the process”).

Unlike the first three types of regime linkages, the overlap of institutions is “often unforeseen and unintended by the creators of individual regimes” (ibid.: 6). International regime conflicts belong to this fourth type. However, *they are not to be equated with it, since the mutual impact of an unforeseen intersection could also prove to be positive, i. e. synergetic.* (Example: the dynamics and trigger effects between the non-binding North Sea Conferences, the binding Oslo and Paris Conventions for the Prevention of Marine Pollution and different binding EC directives, e. g. on nitrates and urban waste-water).

Hence, for a proper definition of regime conflicts, one more aspect needs to be added to Young’s understanding of this fourth type of overlapping institutions. This missing link is the aspect of “negative externality”. The term “negative” borrows from Dahrendorf’s definitions of “conflict” as any kind of relation between elements which is characterized by objective (latent) or subjective (manifest) contradictions (Dahrendorf 1961: 201). Negative *externality* implies that another regime – *outside* the behavioral complex of an environmental regime – can have a (mostly non-intended) negative impact on the effectiveness of this environmental regime.⁵

Subsequently, a regime conflict can be defined as:

a functional overlap among two or more international regimes (formed for different purposes and largely without reference to one another), producing substantial negative impacts on the development and the effectiveness of at least one of the regimes involved.

Before proceeding, I like to address three implications of this definition:

- First, the fact that the negative impact of regime conflicts is part of their definition, does not imply that these effects cease to be potential objectives of an empirical analysis. Indeed, this definition does not prejudge aspects such as the extent of this negative impact for the involved regimes, nor does it prejudge which regimes will rather prevail in the course of the conflict. Furthermore, since it leaves open when, in which form and between whom the functional overlap appears and materializes, the definition extends to conflict cases beyond the letter of the law. In other words: the definition does not only apply to the contradiction of rules, but also to potential disputes between actors which are induced by such contradictions.
- Second, dealing with “regime conflicts on environmental issues” does not necessarily foreclose that only one regime involved in the conflict is an environmental regime. In fact, as will be shown, single-issue conflicts, i. e. conflicts between two environmental regimes, are equally possible. Furthermore, of course, the “other” regime does not have to be a trade

⁵ The understanding of “external” follows the study of Young/Levy (1999) on regime environmental effectiveness. There, the terms “internal” and “external” refer to the behavioral complex each regime is embedded in, i. e. the problem to be solved, the different stakeholders and their interests, etc. However, Young/Levy are pointing at consequences of a single regime in relation to its own effectiveness. Unhelpful external effects are, thus, non-intended consequences outside of the regime’s geographic and/or substantial scope, contradicting the objectives of the very regime, producing, in the worst case, boomerang effects (e. g. LRTAP’s geographical limits: Soviet leaders moved some production facilities to Siberia instead of introducing cleaner technology).

regime. As Dinah Shelton (2001: 257) has shown, MEAs can also collide with ILO resolutions or with UN human rights regimes (e.g. about the right to reproduce which is attested in the final document of the UN International Conference on Population and Development in Cairo).

- Third, the definition is also unspecified in temporal terms, meaning that it takes into account that a conflict can appear at different points in the “history” of a regime (during the negotiation process, before or after entering into force, before or after the establishment of certain regime organs, etc.). In fact, it must be assumed that the time of its occurrence is an important determinant both for the evolution of a conflict and for the form and the success of potential solution strategies. Furthermore, after appearing, a regime conflict’s shape is not carved in stone; incompatibilities don’t show up at some point in time and stay this way until they are solved (if at all). Often, they exist as a dormant or latent conflict (i. e. a contradiction between rules without any further consequences) for a long time until becoming manifest, for example in a clash between states parties.

III. Types and Examples of International Regime Conflicts

In the following, I will identify distinctive criteria in order to differentiate between various types of international regime conflicts. With my own survey still on the way, I will mostly utilize in this paper the samples of the UNU Interlinkages Project (Chambers 2001) and the Institutional Interaction Project (Gehring/Oberthür 2003, 2004, 2004a) in order to illustrate the characteristics of each type of conflict. I will first (Ch. III.1) define and illustrate main types of regime conflicts which I will distinguish by their degree of manifestation and directness (see Figure 1). In a second step (Ch. III.2), I will introduce further criteria in order to refine this typology. Finally, I will summarize the different types and examples in an overview chart (Ch. III.3).

III.1. Main Types

The aforementioned rather broad definition of international regime conflicts in terms of negative externalities⁶ makes it possible to account for more cases than it would have been with a more narrow, i. e. merely legal definition. Since the research project wants approaches the subject from a political scientist perspective, the objective is to particularly account for types of conflicts *beyond* the mere collision of rules. Thus, I will distinguish a rather legal (or latent) type of regime conflicts from what I term political (or manifest) types of conflicts. This distinction will also prove useful for analytical reasons when it comes to testing assumptions about the negative effect of regime conflicts. However, in reality, the variability of regime conflicts over time implies that one rather has to expect mixes or, put more aptly, sequences of the different types.

⁶ See above: Ch. II.

Latent Conflicts	Manifest Conflicts	
	Direct Conflicts	Indirect Conflicts

Figure 1: Main Types of International Regime Conflicts

III.1.1. Latent Conflicts

Latent conflicts are “solely” incompatibilities of rules, i. e. they are not manifested in an immediately perceivable conflictive behaviour of actors. Building on the aforementioned general definition of regime conflicts, I define a latent conflict as:

a functional overlap among international regimes (producing substantial negative impacts on the development and the effectiveness of at least one of the regimes involved) taking shape in the form of a significant contradiction of rules, but without being manifested in the contradicting behavior of actors.

Latent conflicts are, for the time being, the regime conflicts mostly under consideration by scholars, especially those of international law. Latent conflicts are preceding most cases of what further below will be defined as manifest conflicts. Therefore, it should not come as a surprise that for the type of latent conflicts, a number of *examples* can be given which might be well familiar to the reader.

The most prominent cases are those of conflicts between the trade provisions of MEAs on the one hand and GATT rules on the other hand. Already in 1996, the WTO Committee on Trade and Environment (CTE) identified “about 20” MEAs containing trade provisions. Of these MEAs, three in particular authorize measures that clearly violate GATT rules through so-called TREMs (trade-related environmental measures), namely the Convention on International Trade in Endangered Species of Wild Fauna and Flora (**CITES**), the **Montreal Protocol** (as well as other protocols and amendments to the Vienna Convention for the Protection of the Ozone Layer) and the **Basel Convention** on the Control of Transboundary Movements of Hazardous Wastes and Their Disposal. All three regimes collide with **GATT** “by banning the import of various substances on the basis of the status of the country of origin (e. g. countries that are not Parties to the MEA, Parties to the MEA that fall into particular categories, and Parties not in compliance with the MEA).” (Werksman 2001: 183).⁷

⁷ In its Articles III, IV and V, **CITES** requires the “prior grant and presentation of an export permit” for the export of any specimen of a species included in the appendixes of the convention, no matter whether the importing country is a party or non-party. Apart from GATT, **CITES** also collides with the International Whaling Commission (IWC). Already during the negotiations of **CITES**, the anticipation of this collision has led to a reduction of Appendix I, respecting the IWC moratorium on five species of whales. In the following, also Appendix II has been scaled down. However, initiatives by Japan and Norway to exclude further species of whales have been rejected. Despite **CITES** regulations, each year between \$20 billion and \$50 billion specimen are traded, about a quarter of them illegally.

Article 4 of the 1987 **Montreal Protocol** (to the 1985 Vienna Convention) deals with the “Control of trade with non-parties”. It obliges each party to ban the import and export of the substances controlled in the different annexes of the Protocol from or to “any State not party to this Protocol”. Furthermore, it grants developing countries a special status (Article 5: “Special situation of developing countries”), entitling them “to delay for ten

More precisely, the three MEAs collide with GATT's most-favored nation treatment under Article 1 which promotes equal import or export conditions for the same good to all parties.⁸ Nevertheless, supposing a strict collision of rules in these three cases would turn out too simplistic, since certain provisions in GATT might tone down the respective rule contradictions. Most importantly, GATT Article XX grants "general exceptions" to the agreement's regulations. Among these exceptions are measures "necessary to protect human, animal or plant life or health" (XXb) and measures "relating to the conservation of exhaustible natural resources if such measures are made effective in conjunction with restrictions on domestic production or consumption" (XXg).⁹ However, both of these exceptions are phrased very abstractly; especially with respect to Article XXb, one has to reason what the term "necessary" implies (*ibid.*). So far, this has only happened on a case by case basis, and only with regard to conflicts between *national* regulations and GATT: whenever the Panel or the Appellate Body referred to Article XX in their rulings, they solely produced *ad hoc*-interpretations which fell short from any long-term harmonization of colliding rules, let alone solving these legal conflicts in favor of the environmental regulations.¹⁰

Despite the contradiction between the abovementioned TREMs and WTO rules, so far, there has never been a WTO challenge to a trade-related measure authorized by an MEA. This rather surprising evidence justifies the classification of these incompatibilities as merely "latent conflicts".¹¹

years" the compliance with the control measures, i. e. standards and phase-out dates under Article 2. The 1999 Beijing Amendment obliges its parties to ban trade in HCFCs with all countries not parties to the Copenhagen Amendment.

In its Article 7, the 1989 **Basel Convention** extends the obligation to notify states of import to the transboundary movement from a party to a non-party of the convention "mutatis mutandis". The 1995 amendment to the Convention (Decision III/1) bans exports from OECD to non-OECD countries for final deposit. However, it is still far from entering into force.

⁸ "(...) any advantage, favour, privilege or immunity granted by any contracting party to any product originating in or destined for any other country shall be accorded immediately and unconditionally to the like product originating in or destined for the territories of all other contracting parties."

⁹ Another possibility to avoid conflict apart from GATT Article XX is the granting of a waiver to MEAs on a case-by-case basis under Article IX of the WTO. However, this requires the votes of three quarters of the WTO member countries.

¹⁰ In the first Tuna-Dolphin case (1991/92) between the U.S. and Mexico/Venezuela, the GATT Panel decided that parties cannot invoke Article XX to protect the global commons, but only to protect resources under their national jurisdiction. On the other hand, the Panel remarked that the U.S. had not "exhausted all options reasonably available (...) in particular through the negotiation of international cooperative agreements." This ruling implies "that internationally adopted standards such as those pursuant to MEAs could be grounds for justifying an exception" (Chambers 2001a: 94).

As for Article XXg, the 1998 Shrimp-Turtle decision (U.S. vs. Thailand/Malaysia) of the WTO Appellate Body used more tests to determine the term "exhaustible", thereby regarding "endangered" as a synonymous term. Furthermore, it applied a so-called "chapeau" test to sub-paragraph XXg, setting out certain basic provisions that the measure must meet. However, this is easier said than done, since it assumes a possible compromise between the exception and the general rights of the members to WTO provisions.

¹¹ Werksman (2001: 183f.), without further testing these assumptions, offers three possible explanations for the absence of manifest disputes in the three cases: 1. the self-restraint by WTO members that are also Parties to these MEAs; 2. the broad participation on both sides (all three MEAs have a high number of parties); 3. the minor economic impacts of the trade in endangered species, ozone-depleting substances (ODS) and hazardous waste.

Below, in Ch. III.2.2.1., I will briefly address some strategies which have been taken to solve these three incompatibility cases.

Apart from these three examples, the entry into force (scheduled for 16 February 2005) of the **Kyoto Protocol** to the United Nations Framework Convention on Climate Change (FCCC) will literally activate another case of legal incompatibility between an MEA and WTO rules. This incompatibility concerns the trade in emissions, or, put more precisely, the trade in parts of assigned amount (PAAs) – “assigned amount” meaning the total amount of greenhouse gas emissions that each developed country (listed in Annex B of the protocol) has agreed not to exceed. Unlike the three MEAs mentioned before, the Kyoto Protocol indeed introduces a completely new product to be traded. Moreover, the protocol keeps this trade within certain limits (“caps”) and, in Article 17, restricts it to Annex B countries.¹² However, as Chambers (2001a: 103) has rightly observed, whatever can be traded, also falls under WTO agreements.¹³ It therefore remains to be seen whether the conflict between the Kyoto Protocol and WTO rules will for a long time remain a latent conflict as is the case with the three other examples given above. “In the absence of express rules limiting PAA-related issues to the FCCC, difficulties may arise because there is no legal barrier preventing a country from bringing the case before the WTO dispute settlement” (ibid.).

III.1.2. Manifest Conflicts

Unlike latent conflicts, manifest conflicts don’t or do not *only* appear among rules, but have materialized in the form of disputes or behavioral contradictions among actors. Accordingly, I define a manifest conflict as:

¹² The differentiated responsibility between developed and developing countries under the Kyoto Protocol (greater flexibility for countries with economies in transition [CEIT], no reduction obligations for non-Annex-B countries) collides with the WTO provision for equal or fair treatment of domestic and foreign products. This is even more severe, if two countries are parties to the WTO, but only one of them would be a member of the Protocol. The WTO’s CTE stated in its 1996 Report to the Singapore Ministerial Meeting that disputing parties which are members in both the WTO and an MEA should first try to resolve their dispute through the MEA’s mechanisms; however, the report “is decidedly vague on disputes pursuant to an MEA arising between Parties and non-Parties” (Chambers 2001a: 102f.).

¹³ In fact, the discussion is rather marginal whether PAAs should be considered “goods” at all, or whether the classification as “services” is more appropriate: though, in the latter case, they would not fall under GATT, another WTO agreement would apply, namely the General Agreement on Trade in Services (GATS) which, in its Article II, like the GATT, promotes the “most-favored-nation treatment”.

Moreover, the issue of PAA-trading might further be complicated by the concrete measures which could be applied in case of non-compliance. So far, Article 18 of the Kyoto Protocol only asks the Conference of Parties (COP) “to approve appropriate and effective procedures and mechanisms to determine and to address cases of non-compliance”. Such mechanisms could include trade-related sanctions which, then, again would collide with GATT or GATS (Chambers 2001a: 104f.).

Finally, Chambers (ibid.: 100) points out another area where conflict can arise, namely the so-called PAMs under Article 2 of the Protocol. These are “policies and measures” which parties should apply in order to meet their quantified emission limitation and reduction commitments. Among these PAMs are fiscal incentives, tax and duty exemptions and subsidies in all greenhouse gas emitting sectors. Therefore, “PAM-guided regimes are likely to affect the competitiveness of national industries” (ibid.). This could lead to a conflict with GATT Article III concerning the “National Treatment on Internal Taxation and Regulation”, stating that imported products “shall not be subject, directly or indirectly, to internal taxes or other internal charges of any kind in excess of those applied to (...) like domestic products.” In other words, the GATT does not take into account the life-cycle of products.

a functional overlap among international regimes (producing substantial negative impacts on the development and the effectiveness of at least one of the regimes involved) manifested in disputes between actors who are referring to these regimes.

The term “referring” leaves open *when* in a regime’s life-cycle (e. g. during negotiations or after entry into force), *where* (e. g. within regime organs or before courts of third parties) and, most of all, in which context or *why* (e. g. because of their initiatives for regime change or because of their compliance with contradicting rules) certain actors come into conflict with each other. Moreover, the definition does not foreclose *who* these actors are (e. g. states [parties, non-parties] or bureaucracies). This calls for the introduction of further distinctive criteria which I will present below.¹⁴ At this point, a first major distinction shall be applied according to another question, namely the extent to which manifest conflicts are preceded by a latent conflict, i. e. how far they are linked to an explicit incompatibility of regime rules.

III.1.2.1. Direct Conflicts

Direct manifest regime conflicts are manifestations of immediate incompatibilities of the rules of different regimes (Bernauer/Ruloff 1999), in other words: a direct manifest regime conflict is preceded by the appearance of a latent conflict. Thus, a direct manifest conflict is defined as:

a dispute or behavioral contradiction among actors who are justifying their actions by explicitly referring to the colliding rules of different regimes.

In order to illustrate the type of direct manifest regime conflicts, I will briefly sketch the *example* of a dispute between two states, namely between Canada and Spain. In accordance with the definition, this dispute has been the consequence of a latent conflict between two international regimes. The conflict had become manifest when the Canadian Navy arrested a Spanish flag halibut-fishing vessel in the high seas, just outside the Canadian 200-mile zone, in March 1995. Canada justified this action by referring to the rules of the **Northwest Atlantic Fisheries Organization (NAFO)**¹⁵ which promotes the conservation of several fishery resources¹⁶ in the “waters of the North-west Atlantic Ocean north of 35°00’ latitude” (Article I.1). The Canadians claimed that, at the time of the incident, NAFO’s annual total allowable catch rates for halibut had already been exceeded. On the other hand, Spain, though indirectly being a NAFO member (via the European Union), interpreted the Canadian behavior as a violation of the **UN Convention on the Law of the Sea (UNCLOS)** which grants countries the right to protect their marine environment only within their 200-mile zones

¹⁴ See below: Ch. III.2.2.

¹⁵ More precisely, Canada referred to its national Coastal Fisheries Protection Act which again is based on the multilateral agreement underlying NAFO. This agreement, the Convention on Future Multi-Lateral Co-operation in North-East Atlantic Fisheries, entered into force in 1979. It has 18 members, including the European Union, Canada, USA, Russia and Norway. (The preceding document was the 1949 International Convention for the North-West Atlantic Fisheries [ICNAF]).

¹⁶ “with the following exceptions: salmon, tunas and marlins, cetacean stocks managed by the International Whaling Commission or any successor organization, and sedentary species of the Continental Shelf” (Article 1.4).

(“exclusive economic zones”). What made things even more complicated was that at that time, Canada – unlike Spain – had not yet ratified UNCLOS.¹⁷ The conflict was finally settled by an agreement in April 1995 between Canada and the EU, regarding control and enforcement measures such as a satellite tracking system.¹⁸ Nevertheless, Spain appealed to the International Court of Justice (ICJ) who, remarkably, in its December 1998 ruling, stated that “the Spanish submissions no longer have any object” (Article 215) and that the court lacked jurisdiction to adjudicate the dispute (Bernauer/Ruloff 1999: 13f., 35ff.).

III.1.2.2. Indirect Conflicts

The definition of regime conflicts as negative externalities makes it also possible to account for unintended consequences of certain rules. An indirect manifest regime conflict shall be defined as:

a behavioral contradiction among actors whose actions have been (unintentionally) induced by otherwise non-colliding rules of different regimes.

This implies: unlike in the case of direct conflicts, there is no direct contradiction among rules of two different regimes which precedes this contradiction in behavior. However, at least one of these regimes may include rules which promote a certain behavior running contrary to the objectives of the other regime. Therefore, one could also term this type “disincentive type” or “behavioral type”.¹⁹

Three noteworthy examples for indirect regime conflicts are what I term “single-issue conflicts”,²⁰ i. e. cases of behavioral incoherence which have occurred between two environmental regimes. The first case exists between the **Kyoto Protocol** and the **Montreal Protocol**. On the one hand, both regimes, the climate change regime and the ozone regime, are based on common principles of environmental concern, specifically with regard to threats to the global atmosphere. On the other hand, an evident incompatibility exists with regard to so-called hydrofluorocarbons (HFCs). After the phasing-out of several ozone-depleting substances (ODS) by the Montreal Protocol and the following amendments to the Vienna Convention,²¹ HFCs were left as one of the major substitutes with no indication of an ozone-depleting effect. Thus, though none of the conventions explicitly mentions HFCs, the treaties

¹⁷ Though UNCLOS had already entered into force on 16 November 1994, Canada only ratified the convention in November 2003.

¹⁸ In fact, this agreement even confirmed NAFO’s 27.000 ton total allowable catch rate (TAC) for Greenland halibut. Furthermore, Spain and Portugal were excluded from Canadian Coastal Fisheries Protection regulations.

¹⁹ This type should not be confused with the type of “behavioral interaction” used by Gehring/Oberthür (2004: 21f.) which rather comes close to the present paper’s general type of manifest conflicts.

NB: Strictly speaking, at this stage of the project, it is not completely accurate to assign all of the following examples to the sub-type of indirect *manifest* conflicts: this reservation concerns those examples in which a contradictory behavior of states parties is considered highly *probable*, but which still lack empirical evidence of such manifest behavior. Thus, for the time being, those cases rather would fall into a twilight category of “indirect *latent* conflicts”. However, in order to avoid confusion and having high hopes for the relevant evidence to be gained, I have done without such a provisional category.

²⁰ See below: Ch. III.2.1.1.

²¹ The ODS banned by the Montreal Protocol and the following treaties are listed in Articles 2A-2I (CFCs, halons, other fully halogenated CFCs, carbon tetrachloride, methyl chloroform, hydrochlorofluorocarbons, hydrobromofluorocarbons, methyl bromide, bromochloromethane).

have given a significant incentive for respective companies to use HFCs. However, while HFCs are important substitutes for ozone-depleting substances and, thus, are part of the solution within the ozone regime, they also represent destructive greenhouse gases to be phased out within the climate regime (Rosendal 2001: 99).

The second example for an indirect single-issue conflict again involves the **Kyoto Protocol**, this time revealing a potential incoherence with the **CBD** on the issue of reforestation. In its listing of “policies and measures” (PAMs) suggested to parties in order to meet their commitments, the Kyoto Protocol names the “protection and enhancement of sinks and reservoirs of greenhouse gases” and, more specifically, the “promotion of sustainable forest management practices, afforestation and reforestation” (Art. 2[i]). This regulation – specifically with regard to the compromise reached later, during the conference of parties held at Bonn, Germany, in July 2001 (COP 6.2) – gives Annex B-countries an incentive for rapid and uniform reforestation measures by fast-growing tree species in order to provide CO₂ sinks. However, such practice collides with the CBD’s overall objective to enhance biodiversity (Rosendal 2001: *ibid.*).

Another single-issue case, which takes place between a global and a regional regime, is the indirect conflict between the climate change regime and the 1992 Convention for the Protection of the Marine Environment of the North-East Atlantic (**OSPAR**)²²: as Skjaereth (2002: 4) points out, the **FCCC and the Kyoto Protocol** induce a behavior contradicting OSPAR objectives, since they do not explicitly rule out the sequestration of CO₂ in marine oil fields, e. g. in the North Sea, in order to reach national emissions goals.

Apart from these indirect *single-issue* conflicts between environmental regimes, a number of indirect conflicts have taken place between MEAs and trade regimes. One example is a conflict involving the 2000 **Cartagena Protocol on Biosafety (BSP)** which safeguards the right of nations to regulate and to be notified about the import of living modified organisms. On the other side, several WTO agreements – the **GATT**, the 1995 Agreement on the Application of Sanitary and Phytosanitary Measures (**SPS**) and the 1995 Agreement on Technical Barriers to Trade (**TBT**) – promote the rights of exporters such as equal treatment in labeling, etc. (Chaytor/Palmer/Werksman 2003:7). However, unlike the Basel Convention or the Montreal Protocol, the BSP does not collide directly with these agreements since it does not include explicit trade-related measures. Nevertheless, such measures could be derived from some of the practices suggested by the protocol, in particular since the document also does not explicitly *exclude* them.

Another case of an indirect cross-issue conflict exists between **GATT** and the Rotterdam Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides of the Marine Environment of the North-East Atlantic (**PICCP**). Like the BSP, the PICCP does neither include nor exclude compulsory trade restrictions, but instead leaves the initiative for concrete measures to the states parties (Neumann 2002: 262).

²² The acronym takes into account the convention’s preceding documents, namely the 1972 Oslo Convention for the Prevention of Marine Pollution by Dumping from Ships and Aircraft and the 1974 Paris Convention for the Prevention of Marine Pollution from Land-based Sources.

III.2. Further Distinctive Criteria

In the following, I will introduce additional criteria in order to complement and refine the typology of regime conflicts presented up to this point. These additional criteria can be divided into two groups: one group of properties of the regimes which are involved in a conflict (e. g. their functional and geographical scopes), the other group including properties of the conflicts as such (e. g. conflict time and conflict place/arena).

Before getting into detail, I would first like to point out an important epistemological difference between these two groups: whereas the criteria of the second group, i. e. conflict properties, are already situated at an interactive level, the criteria of the first group, i. e. regime properties, originally are situated on the “unit-level” of *separate* regimes. In order to make these properties useful for the analysis of regime interaction, they first need to be framed in a relational way. In other words: they have to refer to the relational difference between the conflicting regimes with regard to their respective properties. For example, depending on the geographical scope of conflicting regimes (if one simply differentiates between global range and regional range), three relational constellations are possible: global-global, global-regional, and regional-regional.

III.2.1. Properties of Involved Regimes

III.2.1.1. Problem Structure: Single-issue Conflicts or Cross-issue Conflicts

As mentioned in the preceding chapter on indirect conflicts, there are exceptions to the intuitive assumption that international regime conflicts only take place between regimes designed for different policy fields or problem structures, such as environmental protection, free trade, human rights, etc. In fact, the effectiveness of an environmental regime can also be hampered by overlaps with another environmental regime, though, as Gehring/Oberthür (2003: 26) have shown, synergy effects between overlapping regimes of the same policy fields are much more frequent. Thus, based on the criterion of (relational!) problem structure, this paper distinguishes between *single-issue conflicts*, taking place among environmental regimes, and *cross-issue conflicts*, taking place between an environmental regime and a trade regime.

The constellation of problem structures of conflicting regimes is not only a useful typological criterion. As I will show below, it also offers a potential independent variable for explaining the impact of a conflict on the involved regimes;²³ it might also serve as an explanatory factor when analyzing the effect of solution strategies, since one could assume that conflicts between environmental regimes are easier to be solved than conflicts between regimes from different issue areas.²⁴

However, there are more analytical implications to the distinction between single-issue and cross-issue conflicts which I briefly like to point out (though this outlook clearly exceeds the

²³ See below: Ch. 5.1.

²⁴ This assumption could be the starting point for an analysis of the work of UNEP’s Division of Environmental Conventions (DEC), especially of its Synergies and Interlinkages Unit.

focus of the present paper and its underlying project). First of all, as insinuated earlier, cross-issue conflicts on environmental protection issues also exist between MEAs and regimes from policy fields other than trade, e. g. human rights or international security. Furthermore, the distinction between single-issue and cross-issue conflicts should prove useful for studies on regime conflicts which completely concern issue areas other than environmental protection, e. g. international regime conflicts on security issues (cf. Daase 2004; Grigorescu 2004; Hardy/Phillips 1998; Wallander/Keohane 1999). And finally, the criterion of relational problem structure opens up a whole new research agenda for neo-institutionalist theory, since it makes it possible to lift up the so-called problem-structural approach of neo-institutionalism to the level of inter-regime conflicts: this approach originally predicts that conflicts among actors on welfare issues could rather be overcome than conflicts on security issues (Rittberger/Zangl 2003). Lifted up to the inter-regime level, the equivalent research question would be whether this prediction might hold true not only for conflicts among actors, but also for conflicts among regimes, i. e. are regime conflicts on welfare issues more likely to be solved than regime conflicts on security issues?

III.2.1.2. Geographical Scope / Jurisdiction: Global or Regional

A second important property of the affected regimes apart from their problem structure or policy field, is their geographical scope, and, subsequently the range of their jurisdiction. Roughly, one can distinguish between regimes operating on a global level such as the GATT or the CBD, and regional regimes such as the International Commission for the Conservation of Atlantic Tunas (ICCAT) or the Convention on the Conservation of Antarctic Marine Living Resources (CCALMR). As mentioned before,²⁵ when framing this distinction relationally, it opens up three possible conflict constellations: among two or more global regimes (*global-global*), among two or more regional regimes (*regional-regional*) – here, one still would need to determine the geographical intersection of the involved regimes –, and among global and regional regimes (*global-regional*).

To give an example for the latter constellation: the two regional regimes which have just been named, **ICCAT and CCALMR**, both include import bans (based on production methods) which – just like in the cases of CITES, the Basel Convention, and the Montreal Protocol – contradict **GATT**'s most-favored nation principle without having become manifest so far (Chaytor/Palmer/Werksman 2003: 7f.). Therefore, these examples can be assigned to the subtype of latent global-regional regime conflicts.

Another example for this subtype which also has been researched by the Institutional Interaction Project is the conflict between the 1990 EU Directive on the Deliberate Release of Genetically Modified Organisms (**DRD**) and the **SPS** which is under the auspices of the WTO. Whereas the former insists on an appropriate scientific precautionary risk assessment before granting the release of modified organisms, the SPS allows for the release even if this assessment cannot be temporarily provided (von Homeyer 2002: 5ff.).²⁶

²⁵ See above: introduction of Ch. III.2.

²⁶ Von Homeyer (2002: 5f.) also detected a conflict between the DRD and the TBT agreement on the issue of labeling and traceability provisions, since the TBT does not prescribe these measures in a similarly strict way.

Like the relational problem structure, also the relational geographical scope, i. e. the geographical intersection of colliding regimes, could be tested as an explanatory factor for the impact of regime conflicts.²⁷

III.2.1.3. Further Regime Properties

Other useful distinctive criteria are the **degree of legalization** and the **membership patterns** of the affected regimes. In order not to carry too far the typological complexity of this paper, I have not included them in the overview chart below (see Figure 2). However, they will play an important role for the theoretical assumptions presented in Chapter V.1.

III.2.2. Properties of Regime Conflicts

Unlike the aforementioned regime properties, the criteria presented in this section are only applicable to the type of direct manifest regime conflicts, since they refer to features of immediate disputes between actors.

III.2.2.1. Time and Place: Internal Conflicts about Regime Change or External Conflicts due to Regime Compliance

The major reason for the introduction of the double criterion “time/place” is that, in the literature and in the course of my own analysis up to now, I could hardly find cases in which a direct regime conflict had solely taken place “outside” a regime. By “outside” I understand: not appearing within regime organs, but instead occurring “in the field” when parties comply with contradictory regime rules. In fact, the only pure example of such a case is the abovementioned dispute between Canada and Spain on the issue of halibut fishing.²⁸

Hence, rather than in the form of conflicts between states parties when *abiding* to regime rules (= **regime-external conflicts**), regime conflicts tend to become manifest in a different setting, namely when *reflecting* rules *within* regime organs (= **regime-internal conflicts**).²⁹ More precisely, a regime-internal conflict appears whenever the (hitherto latent) contradiction between rules is explicitly reflected and debated by actors, including active *attempts to alter or amend the rules* of at least one of the affected regimes.

Such attempts can take place in two kinds of constellations: first, they can be launched *within the organs of one and the same regime* (i. e. on the intra-regime level), e. g. when one or more states parties push for certain regime changes such as the inclusion of priority clauses

²⁷ See below: Ch. V.1. Several studies suggest that greater differences of geographical validity – in particular when combined with different degrees of legalization – rather go along with synergetic effects (Young 1996; Shelton 2003; Skjaerseth 2002).

²⁸ See above: Ch. III.1.2.1.

²⁹ This distinction of regime-external and regime-internal conflicts partly follows Gehring/Oberthür (2003: 8f.; 2004: 9f.) who name different causal mechanisms of one (source) institution’s impact on another one (target): on the one hand this impact can take place on the *output* level, i. e. on the level of the decision-making process within institutions, and on the other hand, on the *outcome* level, i. e. the level of regime performance and consequences.

explicitly referring to other regimes;³⁰ second, respective attempts can also be made *between the organs of the conflicting regimes* (i. e. on the inter-regime level), e. g. when the secretariat of one regime explicitly requests changes in the documents of another regime. Furthermore, regime-internal conflicts can occur at different stages of a regime's life-cycle, for instance during the primary negotiations as well as after the adoption of the relevant documents, and even after their entry into force when debating treaty changes, amendments or protocols (cf. Andersen 2002).

Before naming examples for regime-internal conflicts at different points in a regime's history, it is important to clearly point out that not *any* kind of internal reflection of contradictory regime rules justifies the classification as a manifest internal conflict. In fact, each rule collision, i. e. each latent conflict analyzed so far, has at least appeared in one way or another on the agenda of an affected regime; or it has even become the subject of consultations between the involved regimes. However, dealing with incompatibilities does not automatically implicate that subsequent active attempts to amend or alter a regime have taken place.

Let me illustrate this important difference by coming back to some of the latent regime conflicts mentioned earlier in this paper.³¹ For example, during the negotiations of the Montreal Protocol, the parties agreed on the establishment of an *Ad Hoc* Working Group of Legal and Technical Experts which should detect and prevent potential collisions of the Protocol with GATT rules. Surprisingly though, this Working Group did not see any need for immediate action such as modifying the text of the protocol (Chambers 2001a: 102f.).³² Still, this was not the only reflection on the matter: in 1999, a cooperation agreement between the secretariats of the WTO and UNEP was signed which included the regular exchange of information on legal issues. Furthermore, following the compatibility request of Article 31 of the Doha Declaration, the WTO's Committee on Trade and Environment (CTE) discussed several models of harmonizing the contradictions between GATT and the trade-related measures of MEAs (von Moltke 2003). However, in all of these cases, no direct attempts to alter a regime, let alone direct confrontations between bureaucracies, have taken place which would justify the classification as *manifest* conflicts (Santarius/Dalkmann et al. 2004: 25ff.).

Coming now back to cases where such attempts have been launched (and which therefore can clearly pass for manifest internal conflicts), the following examples will demonstrate that such conflicts indeed can take place at different points in a regime's life-cycle. An example of an internal conflict occurring **during regime genesis** (in this case during the genesis of only one of the affected regimes) is the inter-regime conflict between the **Kyoto Protocol** on the one hand and the International Civil Aviation Organization (**ICAO**) and the International Maritime Organization (**IMO**) on the other hand. Long before entering into force, the Kyoto Protocol, in Article 2.2, explicitly asked the two organizations to take action regarding the reduction of greenhouse gas emissions by planes and oil tankers. Both organizations have

³⁰ NAFTA Article 104 (and, for bilateral agreements, Article 104.1) is an example for such a priority clause. It states that in cases of inconsistency between NAFTA on the one hand, and CITES, the Montreal Protocol or the Basel Convention on the other hand, "the obligations of the latter prevail."

³¹ See above: Ch. III.1.1.

³² The Working Group considered the exceptions under GATT Article XX and rules of the 1969 Vienna Convention on the Law of Treaties (VCLT) as sufficient in order to avoid conflicts.

reacted to this demand by discussing the topic in their respective environmental committees, however, besides some preliminary suggestions for an open emissions trading system by the ICAO, no serious steps have been taken so far. Thus, for the time being, the Kyoto Protocol's request has *de facto* been turned down (Oberthür 2003: 7ff.).

An example for a regime-internal conflict appearing **after the documents' entry into force** has been researched by Coffey/Richartz (2003), namely the conflict between the **EU Structural Funds** and the 1992 **EU Habitats Directive** – which is also an example for a regional-regional conflict with a maximum jurisdictional intersection. By promoting the social and economic development of structurally weak regions via measures of industrialization, the Funds' projects have contributed to the deterioration of natural habitats which the Habitats Directive aims to protect. Therefore, after engaging into negotiations with the respective Commissioners for Regional Policy and Environment, the EU Commission established an ecological code of conduct which was included into the Funds guidelines in 1999.

Finally, the well researched (cf. Rosendal 2000, 2001, 2003, 2003a) incompatibility between the Convention on Biological Diversity (**CBD**) and the Agreement on Trade-Related Aspects of Intellectual Property Rights (**TRIPS**) presents an **ambiguous case** in temporal terms since conflicts between actors took place **during and after regime genesis**. Both regimes differ in their view on property rights to genetic resources. TRIPS seeks to strengthen and harmonize intellectual property rights systems, whereas the CBD reaffirms “that states have sovereign rights over their own biological resources” (4th preambular) and advocates the equitable sharing of benefits from utilization of genetic resources (Article 1).³³ This contradiction of rules has so far not led to disputes between states on the regime-external level, but instead, it has been the subject of several conflicts within regime organs. This goes back to the negotiation processes of both regimes: though the CBD had originally been advocated by several OECD countries (including the United States!), eventually, its content was strongly influenced by developing countries. On the other hand, the genesis of the TRIPS agreement in the course of the Uruguay Round has clearly been dominated by the U.S. and Western European countries (Rosendal 2003: 11f.). After negotiations had ended and both documents had entered into force, these regime-internal disputes were continued on an inter-institutional level: further regional conventions which run counter to TRIPS rules were adopted by the Andean Community (CAN) and by the Organization of African Unity (OAU) (Raghavan

³³ As for more specific rules, TRIPS (Section 5, Article 27.1) calls for patent legalization in all technical fields including biotechnology: “patents shall be available for any inventions, whether products or processes, in all fields of technology, provided that they are new, involve an inventive step and are capable of industrial application.” TRIPS excludes plants and animals from patentability in Article 27.3, however stating that, until 2000 (developing countries until 2005), “members shall provide for the protection of plant varieties either by patents or by an effective *sui generis* subsystem or by any combination thereof”. This more or less implies the introduction of Intellectual Property Rights (IPRs) for plants.

The CBD has established a different type of property rights regime “where national sovereignty is introduced to counterbalance intellectual property rights” (Rosendal 2001: 107). More specifically, the CBD advocates the transfer of environmentally safe technology, including biotechnology and technologies covered by intellectual property rights, on “fair and most favorable terms” (Article 16.2). It also calls for the fair and equitable sharing of benefits arising from the utilization of knowledge (Article 8 and 12th preambular) from research and development (Article 15) and from biotechnologies (Article 19). Most remarkably, the CBD even explicitly refers to a potential regime conflict in its Article 16.5, stating that other IPR systems should “not run counter to [the convention's] objectives”.

2000); and the United States – being not a party to the CBD – voted against the CBD secretariat’s request for observer status during TRIPS conventions (Rosendal 2003: 13ff.).

III.2.2.2. Actors: Bureaucracies, States or Non-state Actors

When it comes to distinguishing which actors predominantly engage into manifest regime conflicts, the findings so far point at **bureaucracies** (in particular secretariats, specialized committees such as the CTE, and working groups) or **states**. This paper will thus roughly differentiate between manifest conflicts among bureaucracies and manifest conflicts among states, which is an analytical distinction, since in reality, such disputes can include both kinds of actors to a certain extent. Furthermore, though this goes beyond the focus of the present research project, one could well assume that also **non-state actors** such as NGOs and corporations play a significant role in such disputes (cf. Wapner 1996, 1998). In particular, non-state actors might be important in regime-external arenas, since as stakeholders (or shareholders) they are immediately concerned by contradictory rules, e. g. companies which through their behavior (e. g. import of goods prohibited by an MEA, but granted by WTO rules) trigger the manifestation of a latent conflict.

As for bureaucracies, an analysis of their motivations and their importance for the outcome of regime conflicts could also provide a relevant contribution to the rather young research on the role of regime bureaucracies in international politics (cf. Bauer 2004; Sandford 1994, 1996). Whereas such bureaucracies can only appear in disputes on the regime-internal level, conflicts between states are possible within regime structures, e. g. during conferences or meetings of parties, or outside regime structures, when complying with contradictory regimes. Most importantly, the constellation of conflicting states actors can vary according to their membership, i. e. depending on whether they are parties to both regimes, members of only one of them or non-parties.

The respective examples for conflicts between these different types of actors have been given above when illustrating other conflict subtypes. Cases of conflicts between states include the NAFO-UNCLOS case between Canada and Spain (regime-external) and the CBD-TRIPS case (regime-internal) whereas an example for a conflict between bureaucracies is the Kyoto Protocol-ICAO/IMO case.³⁴

III.3. Overview of Types and Examples

Figure 2 combines the different types and subtypes along with the examples presented in this paper. Since I mostly have relied on samples of preceding projects in order to illustrate my typology, blank spaces in this chart should not yet be interpreted as a definite or predominant absence of respective cases. Some gaps might indeed be closed in the course of future empirical findings of the present project. This is particularly to be expected for conflicts involving regional regimes.

³⁴ For the first case, see above: Ch. III.1.2.1; for the two other cases, see above: Ch. III.2.2.1.

Latent Conflicts			Manifest Conflicts						
			Direct Conflicts			Indirect Conflicts			
Single-issue	Cross-issue		Single-issue	Cross-issue		Single-issue		Cross-issue	
	Regional-Global	Global-Global		Regime-internal	Regime-external (= between states)	Regional-Global	Global-Global	Reg. - Global	Global-Global
				between bureauc.	between states				
	ICCAT <> GATT CCALMR <> GATT DRD <> SPS/TBT	Basel Convention <> GATT Montreal <> GATT CITES <> GATT FCCC/Kyoto <>GATT/GATS		FCCC/Kyoto <> ICAO/IMO EU Habitats Directive <> EU Structural Funds	CBD <> TRIPS CAN IPR Regime <> TRIPS OAU Model Law <> TRIPS	NAFO <> UNCLOS	OSPAR <> FCCC/Kyoto	Montreal <> FCCC/Kyoto CBD <> FCCC/Kyoto	BSP <> GATT/SPS/TBT PICCP <> GATT

Figure 2: Examples of International Regime Conflicts

However, other blank spaces might be harder to fill. This might hold true with respect to the striking absence of single-issue conflicts in the latent and direct types, which could be explained by the increase of coordination attempts among MEAs in recent years, often initiated by UNEP's Division of Environmental Conventions. For example, in August 2001, a Liaison Group was formed consisting of members of the secretariats of the FCCC, the CBD and the UN Convention to Combat Desertification (CCD). This group especially aims at avoiding negative results from overlapping rules (Hoffmann 2003: 23).³⁵

Another particularity revealed by the overview is the existence of only one case of a direct regime-external conflict, namely the dispute between Canada (referring to the NAFO) and Spain (referring to UNCLOS). Since this case wasn't even included in the samples of preceding studies, and since one can assume that disputes between states (especially when leading to respective settlement procedures of international courts or appellate bodies) should be discovered rather easily, it seems unlikely to expect many more cases for this subtype. One could carefully presume that such conflicts are anticipated and, thus, avoided by regime-internal conflicts either between bureaucracies or between states parties.

Furthermore, Figure 2 does not display all possible combinations of the criteria introduced in this paper. In some cases, this simply depends on their respective definition: for instance, the distinction between regime-internal and regime-external conflicts only makes sense for the type of direct manifest conflicts, i. e. for conflicts occurring between *actors*. In other cases, further graphical differentiations have simply been omitted for the purpose of avoiding over-complexity; for example, I have not further classified direct manifest conflicts according to the time of manifestation (during primary negotiations, after adoption, after entry into force, etc.) or to the relational geographical scope of the involved regimes (global-global, regional-regional, global-regional). In fact, the subtype "regional-regional" is completely missing in Figure 2, since the consulted samples only included one eligible case (DRD vs. EU Structural Funds).

IV. Solution Strategies for International Regime Conflicts

In this chapter, I will briefly distinguish different kinds of approaches which can be taken in order to solve or tone down international regime conflicts. To be more precise, the term "conflict regulation" might be more appropriate than "conflict solution", since, given the complexity of the problem, it cannot be expected that adequate mechanisms for a sustainable harmonization can be found for every case. More importantly, such regulations should not be confused with positive outcomes for all involved regimes. In fact, certain measures can also impair the effectiveness of one regime by clearly favoring the other regime, e. g. by granting priority rights. Thus, changes of rules or amendments often imply a trimming of original treaty objectives. Therefore, as will be shown in the next chapter, the character of such

³⁵ This cooperation has also led to first measures in order to solve the abovementioned (Ch.III.1.2.2) indirect conflict between the Kyoto Protocol and the CBD (Oberthür 2003: 6).

“solutions” need to be considered when measuring and assessing the impact the effectiveness-related impact of regime conflicts. In short: the “solution” often is part of the problem and does not necessarily mark the end of a conflict, but might instead perpetuate or aggravate its effects, at least for one of the affected regimes.

The following typology (Figure 3) presents a preliminary overview without any examples. This overview is based on solution strategies which have already been applied, but is also taking into account *possible* instruments which are discussed in the literature (Neumann 2002: 317ff.; Young 1996: 18f.). Depending on the empirical findings of the ongoing research project, it should soon be possible to assign examples to this typology. Once this has happened, **it remains to be seen whether certain regularities between conflict types and solution types can be revealed, i. e. whether conflicts of the same type are predominantly addressed by the same sort of solution strategy.** Furthermore, with respect to the analysis of the impact of regime conflicts, these findings **could show whether certain types of solutions tend to favor or impede the effectiveness of environmental regimes which are involved in a conflict.**

The typology draws a general distinction between 1. strategies for long-term solutions, which are designed in order to anticipate and avoid any future conflict manifestations (sustainable or *ex ante*-solutions), and 2. measures which simply aim at solving a particular case after it appeared (singular or *ex post*-solutions). Furthermore, for each of these categories, strategies can be differentiated according to whether they immediately affect the wording or meaning of rules (legal approaches) or whether they involve the active coordination or cooperation between regime organs (political approaches).

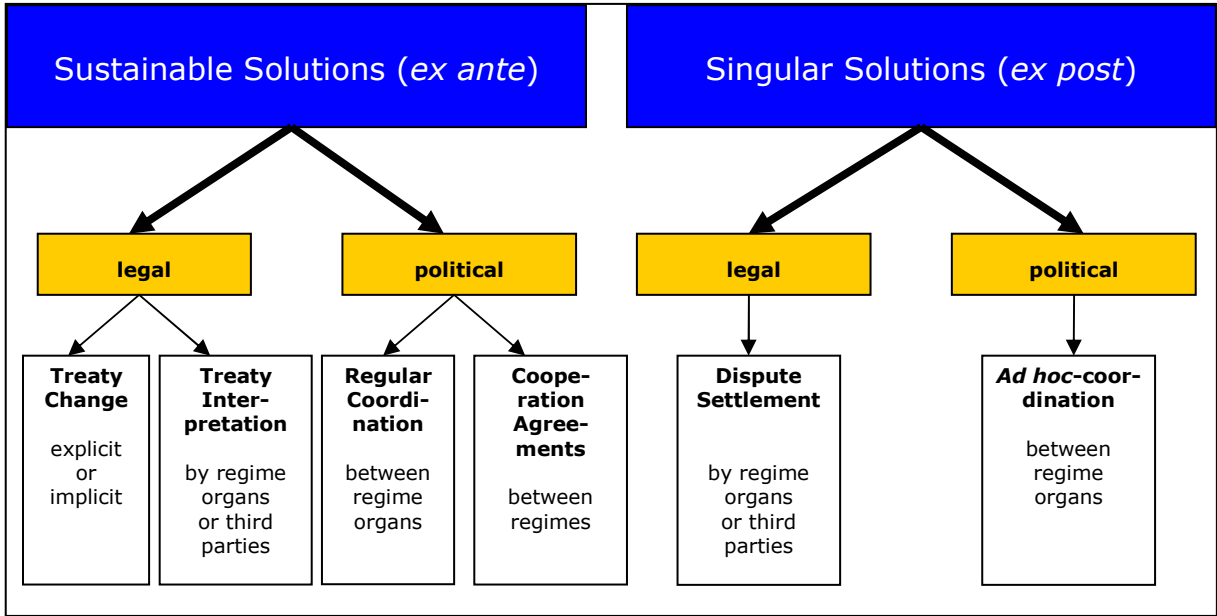


Figure 3: Solution Strategies for International Regime Conflicts

Legal approaches: The modification of regime rules can be considered as the most classical case of a long-term solution. Such treaty *changes* cannot only occur explicitly, e. g. by

integrating or altering certain clauses, but also in an implicit way, e. g. through shifts in customary law.

Like direct changes, concrete *interpretations* of treaty rules can also provide sustainable harmonization between regimes, but they can also facilitate a singular settlement of a specific case. Treaty interpretations can be either decided by the respective majority of states parties or they can be provided by regime organs designed for dispute settlement. Moreover, if appealed to, third parties such as regime-external dispute settlement agencies (e. g. the ICJ), which refer to superordinate regulatory systems (e. g. the Vienna Convention on the Law of Treaties [VCLT]), might provide interpretations of overlapping rules (Neumann 2002: 343ff.).

Political approaches: The most common types of political long-term solutions are the coordination and the cooperation between regime organs. While the former only includes frequent consultations between single regime organs or some states parties, the latter comprises continuous and intensive relations between several regime organs – often institutionalized by cooperation agreements and accompanied by the establishment of special agencies such as the abovementioned Liaison Group of the CBD, the FCCC and the CCD (ibid.: 92f.).³⁶ Cooperation agreements exist between the International Labour Organization (ILO) and the Food and Agriculture Organization of the United Nations (FAO), or between the World Health Organization (WHO) and the United Nations Educational, Scientific and Cultural Organization (UNESCO). Unfortunately, the most ambitious attempt to date to reach a large scale cooperation agreement between several trade and environmental regimes has failed; the respective initiative had been launched during the preparations of the 2002 World Summit on Sustainable Development (WSSD), but never materialized in the final documents of the summit.³⁷

Neumann (ibid.: 106f.) further distinguishes cooperation agreements based on whether they concentrate on *technical and administrative cooperation* (information exchange, scientific advice, etc.) or on *political cooperation* (observer status, project coordination, etc.). Agreements which intend to clarify the jurisdictional limits of overlapping regimes would fall into the latter category, i. e. the subtype of political cooperation agreements.

Unlike coordination or cooperation agreements, political short-term solutions don't exceed the level of *ad hoc*-coordination in order to settle singular conflict manifestations. Such approaches include the establishment of problem-oriented *ad hoc*-working groups and the consultation of experts across regimes (Young 1996: ibid.).

³⁶ See above: Ch. III.3.

³⁷ The Draft Plan of Implementation of the World Summit on Sustainable Development, which had been issued at the fourth PrepCom in Bali on 12 June 2002, contained the heavily bracketed Paragraph 122c. This paragraph stated that the international community should “promote initiatives to ensure the coherence and mutual supportiveness between the rules of the multilateral trading systems and the rules of multilateral environmental agreements.” It called for “further collaboration between on the one hand the WTO and on the other ILO, UNCTAD, UNDP, UNEP and other relevant agencies”. This harmonization should be “consistent with the goals of sustainable development”. Unfortunately, none of these several formulas ever was included into the final document.

V. Assumptions about the Effect of International Regime Conflicts

Apart from its typological objective, the project underlying the present paper also aims at gaining theoretical assumptions about the impact of regime conflicts on the involved regimes. **At the present stage of the project, please consider such assumptions to be only preliminary**, particularly when identifying potential independent and intervening variables. In a first step, I will briefly sketch how these assumptions could look like in the light of the typology of regime conflicts presented in this paper, also building on institutionalist theory, or, more precisely, on theories of international regimes. Originally, these theories are not framed appropriately to capture inter-regime relations, but have been designed in order to analyze the genesis or effectiveness of *separate* regimes (cf. Hasenclever/Mayer/Rittberger 1997, 2000). In a second step, I will refer to considerable obstacles which might severely hamper both the performance and the significance of the tests of such assumptions.

V.1. Potential Variables and Indicators

The *dependent variable*, regime effectiveness, shall first of all be understood in a narrow sense as “compliance”, i. e. what Young/Levy (1999: 4ff.) termed “legal effectiveness”, namely the degree to which contractual obligations are met by the states parties.³⁸

Compliance is a suitable concept when measuring the effect of the rather young phenomenon of regime conflicts in the course of before/after studies, since it captures short-term impacts on regime effectiveness whereas other indicators such as the problem-solving capacity of regimes or behavioral changes of parties and institutions rather take into account middle- and long-term impacts.

However, concentrating on legal effectiveness only would miss another important indicator for the potential impact of regime incompatibilities – an indicator which can appear prior to the problem of compliance or non-compliance –, namely the nature of solution strategies, in particular the character of legal strategies such as **regime change or interpretation**. As insinuated in the preceding chapter, where I distinguished between several solution strategies, some legal approaches could significantly modify or lead away from the original objectives – mostly stated in the preambles – of the respective agreements. Whenever this is occurring, the mere focus on compliance patterns comes too late in order to capture the consequences of a regime conflict.

³⁸ Altogether, Young/Levy (1999: 4ff.) distinguish between five possible approaches to the concept of regime effectiveness:

1. *Problem-Solving Approach* (= degree to which the problem that prompts regime creation is eliminated)
2. *Legal Approach* (= degree to which contractual obligations are met)
3. *Economic Approach* (= compliance [i. e. legal approach] + degree of economic efficiency)
4. *Normative Approach* (= degree of achievement of normative principles, e. g. fairness, participation, etc.)
5. *Political Approach* (= degree of causing changes in the behavior/interests of actors and in the policies/performances of institutions)

In short: compliance alone is only a reliable indicator, as long as no legal changes have taken place, which is definitely the case with latent regime conflicts. However, once a conflict has become manifest, one first has to make sure whether the dispute between actors – be it internal or external – has or has not prompted any changes or interpretations to the rules of the respective regimes.

As for the conceptualization of potential *independent variables*, the distinctive criteria presented in Ch. III, i. e. properties of both regimes and regime conflicts, could also turn out as plausible explanatory factors for the extent of negative effects caused by such conflicts. One criterion suitable for this purpose is the **problem structure**, i. e. issue area, for which the colliding regimes have been predominantly designed for. This criterion appears particularly promising, since it also is the major explaining variable of the so-called problem-structural approach of neo-institutionalist theory (cf. Hasenclever/Mayer/Rittberger 1997: 59ff.).

A first problem-structural hypothesis could be derived from the fact that regimes designed for similar issue areas mostly aim at similar objectives. This leads to the following causal connection:

(Ia) Rather than a cross-issue conflict, a single-issue conflict between environmental regimes can meet solutions which are less harmful to the effectiveness of the involved regimes.

Moreover, the focus on the relation of subject matters is linked to the problem of **public or collective goods**. According to Olson (1971), a single actor's willingness to pay for public goods is very low, since this actor cannot be excluded from the consumption of these goods.³⁹ Following this deductive approach, one can assume that actors will rather comply with regimes designed for private goods instead of abiding to environmental regimes which regulate public goods such as clean air or biological diversity, in other words:

(Ib) In case of a conflict between a regime regulating a private good and a regime regulating a public good, the former will prevail.

Yet, one could argue that, at second glance, this assumption does not seem very helpful, since free trade could as well be classified as a public good. However, there is an essential difference between the character of the public good "free trade" and environmental public goods. In order to point out this difference, one has to go beyond the classical understanding of the term given by Samuelson (1954) who had based his definition of public goods on the non-rivalry and non-excludability of benefits. Kaul/Conceição et al. (2003: 22f.) expanded this definition by distinguishing between goods which are public due to their innate properties ("pure public goods", e. g. peace and security or environmental sustainability) and goods which are "de facto public" or "designed to be public". The "publicness" of the latter type of goods is the result of a social construction, for instance because special rules guarantee their non-exclusiveness (e. g. laws providing free access to education). Subsequently, there are different kinds of publicness, and, even more important, different roles that regimes can play with regard to publicness: in the case of "designed" public goods, regimes can be the major provider of the quality of publicness itself, as in the case of trade liberalization. Therefore,

³⁹ For early adaptations of the free rider problem (in cases of collective action) to the issue of environmental protection, cf. Ostrom (1977) and Hardin (1968; "tragedy of the commons").

one can assume that with respect to designed public goods, the costs of free riding, i. e. non-compliance, for each actor are slightly higher (since such behavior endangers the non-exclusiveness of the good) than in cases where regimes regulate pure public goods such as biological diversity or ozone layer protection, because even non-compliance would not put the publicness of the good at stake. A hypothesis which takes this re-definition of public goods into account reads:

(Ic) In case of a conflict between a regime regulating a designed public good and a regime regulating a pure public good, the former will prevail.

Another potential independent variable provided by neo-institutionalism is the **degree of legalization** of the affected regimes. Abbott/Keohane et al. (2000) distinguish three dimensions of legalization: obligation (i. e. the degree to which actors are bound by sets of rules), precision (i. e. the degree to which rules unambiguously define the conduct they require), and delegation (i. e. the degree of institutional setting, meaning the extent to which third parties have been granted authority to implement, interpret, and apply rules). The third dimension comprises the design of dispute resolution (e. g. a regime's sanctioning capacities or settlement procedures) and the mechanisms of rule making and implementation (e. g. decision-making procedures, monitoring capacities, etc.). With this three-fold approach, the authors take into account that relying on one of these dimensions alone does not lead to stable predictions. For example, regarding the dimension of obligation, Shelton (2003) has shown that soft law can meet similar or sometimes higher compliance rates than binding rules. Hence, including all three dimensions (in particular delegation which accounts for the strength of WTO rules due to the organization's dispute settlement mechanism) leads to the following assumption:

(II) In case of a conflict among international regimes, the regime(s) with the higher degree of legalization will prevail.

Two further regime properties which could be tested as explaining variables are the geographical scopes and the membership patterns of conflicting regimes. Though being linked to each other, both features should not be confused, since membership patterns can significantly vary between regimes of similar territorial range. With regard to geographical scopes, an intuitive assumption, which assigns greater importance to the regime with the wider range, might read:

(IIIa) In case of a conflict between a regional and a global regime, the latter will prevail.

However, this assumption will hardly pass as a stable prediction when put to the test, since – unlike the other independent variables presented so far – the geographical scope is merely a formal criterion with no substantial connotation. It could therefore be considerably devalued by cross-cutting properties such as problem structures and degrees of legalization; for example, a regional regime might possess higher degrees of obligation, precision and delegation than the global regime it is colliding with.

On the other hand, the focus on membership patterns might offer a more promising approach (cf. Gehring/Oberthür 2004: 17f.). Apart from the mere number of states parties, this factor

also accounts for the importance of particular members in respective issue areas. Hence, it builds on power-based regime theories which partly follow neo-realist tenets by focusing on hegemonies and relative gains (cf. Hasenclever/Mayer/Rittberger 1997: 83ff.). This approach does not only apply to familiar cases where the United States have not ratified major MEAs (e. g. the CBD or the Kyoto Protocol), but also to cases involving more peculiar regional regimes (e. g. Norway not being a member to the ICCAT). Thus, whenever a key player is party to only one of the regimes involved in a conflict and reveals a clear preference for the objectives of this regime, the regime has higher chances to succeed.

(IIIb) In case of a conflict between two regimes, the one endorsed by the more powerful constellation of members will prevail.

Again, for the time being, these hypotheses should only be regarded as preliminary assumptions. This caveat is further stressed by the need to identify proper *intervening variables* before engaging into tests. First of all, after choosing the independent variable to be tested, all other potential explanatory factors presented in this chapter have to be controlled for. Moreover, further possible intervening variables include secondary factors, which have been introduced and tested by neo-institutionalist scholars, such as **external shocks** (e. g. natural disasters) or the **climate among relevant actors** within and between regimes (Rittberger/Zürn 1990; Zürn 1992). Moreover, the so-called “**shadow of the future**” (Axelrod 1984: 54ff.) should be taken into account which refers to the effect that an interaction can have on future interactions. Finally, **domestic factors** like changes in government could as well influence the effectiveness of the regimes under consideration.

V.2. Analytical Problems

Any testing of the aforementioned or other assumptions on the impact of regime conflicts will be confronted with two major obstacles which are both rooted in the complexity of the research subject. These obstacles are 1. the variability of conflicts over time and 2. the considerable length of causal chains, i. e. the high likeliness of third factor relevance. The first problem rather aggravates the analysis of manifest conflicts whereas the second one is particularly hampering the study of latent conflicts.

As for the **variability of conflicts over time**: it is obvious that all direct manifest conflicts have started out as latent conflicts before having materialized in the form of disputes between actors. Moreover, as demonstrated by the conflict between the CBD and TRIPS,⁴⁰ the constellation and the predominant type of actors (bureaucracies or states) can vary as well. Finally, different attempts might be made at different points in time in order to solve regime conflicts, which does not only alter the properties of regimes, but also their effectiveness, thus influencing the values of the previously presented independent and dependent variables alike. This flexibility makes a clear-cut comparative analysis of manifest conflict cases highly difficult.

⁴⁰ See above: Ch. III.2.2.1.

The second problem, the **length of causal chains**, especially appears in cases of latent conflicts, i. e. whenever the dependent variable, the (negative) change in effectiveness of the involved regimes, can only be indicated by changes in the compliance with these regimes. It is evident that there are several other reasons – beside the regime conflict – which can be held accountable for shifts in the compliance behavior of states parties, e. g. the abovementioned intervening variables such as external shocks or domestic changes of government. Unfortunately, it seems rather improbable that these numerous factors can be controlled for in a way that ensures representative results.

Given these obstacles set by the complexity of the research subject, Gehring/Oberthür (2003: 26ff., 2004: 6f.) suggest a type of analysis which is based on Coleman (1990): regime interactions shall be disaggregated into an adequate number of bilateral cases of unidirectional impacts from a source to a target regime. After the collection of empirical data has come to an end, these cases could be re-aggregated into causal chains or clusters. However, following the suggestion of Gehring/Oberthür might miss the relational aspect of regime-conflicts: due to the disaggregation, the variables for the “mini-cases” would also be framed in a unidirectional way; thus, even a final re-aggregation (whose procedure still needs to be elaborated in further detail) would not avoid reductionist conclusions.

A more suitable alternative could be based on Hovi/Sprinz/Underdal (2003, 2003a) and their “Oslo-Potsdam solution”, a counter-factual approach designed to measure regime effectiveness. One could think of applying this approach in order to assess the impact of regime conflicts on the involved regimes, by determining the fictitious effectiveness of a regime in the absence of the regime(s) colliding with it. However, this is easier said than done, since any potential mutual effect between the regimes has to be singled out.

To sum up: it remains to be seen whether, with the methodical possibilities at hand, in-depth analyses of the impact of regime conflicts can be led out of the **significance-representativity dilemma** they are currently stuck in: on the one hand, the results of studies of manifest conflicts are more reliable, since less intervening factors have to be accounted for; on the other hand, it is latent regime conflicts which represent the major group of cases.

Conclusion

In *Chapter I*, I have outlined the starting assumption of the research project, namely the assumption of an increasing incoherence among international regimes. This trend gained momentum with the ending of the Cold War and the subsequent intensification of multilateral negotiations on various issues, including international security and free trade, but also on topics such as environmental protection; since most of the resulting regimes developed independently from each other, functional and substantial overlaps were inevitable, sometimes producing contradictory and incompatible rules. Having outlined this assumption, I have briefly documented the state of the art, i. e. the current status of research on

international regime conflicts in the disciplines of international relations and international law. Despite significant progress in the last three years, including comprehensive studies on regime interactions, I concluded that three research challenges still have to be met: 1. the provision of a synopsis which in greater detail focuses on regime *conflicts*; 2. comparative analyses of the effects of such conflicts, i. e. of the mechanisms by which these conflicts alter the effectiveness of the involved regimes; and 3. comparative studies about (reasons for) the genesis of regime conflicts.

In my own ongoing project, I intend to contribute to the filling of the first two of these research gaps by developing a typology of regime conflicts on environmental issues, and by gaining assumptions – based both on existing regime theories and empirical findings – about the impact of regime conflicts. In the present paper, I have mostly concentrated on progress made with regard to the first objective, by presenting a two-fold conceptualization of regime conflicts. *Chapter II* has documented the first step of this conceptualization, namely the development of a definition of international regime conflicts. This definition is drawing from three important sources, namely the understanding of regimes as sets of explicit rules (Keohane 1989, 1993), the distinction of different types of institutional linkages provided by Oran Young (1996), and the conception of conflict as a negative externality. Subsequently, regime conflicts have been defined as functional overlaps among two or more international regimes which produce substantial negative impacts on the development and the effectiveness of at least one of the regimes involved.

The second step of the intended conceptualization, as presented in *Chapter III*, consists in the introduction of criteria in order to differentiate between various types of international regime conflicts. After distinguishing major conflict types according to their degree of manifestation and immediacy (latent conflicts, direct manifest conflicts, indirect manifest conflicts), I have presented further distinctive criteria in order to refine the typology. These additional criteria include properties of the conflicting regimes (e. g. the intersection of their problem structures and geographical scopes) as well as properties of the conflicts as such (e. g. the time [during negotiations, before/after entry into force, etc.] and place of their appearance [within/between or outside regime organs], or the constellation of conflict parties [bureaucracies, states parties, non-parties, etc.]). The resulting types and subtypes have been illustrated by examples which were mostly taken from the samples of the UN University's Inter-Linkages Initiative (Chambers 2001; Velazquez/Piest 2003) and the Institutional Interaction Project (Gehring/Oberthür 2003, 2004, 2004a). Finally, Figure 2 has displayed an overview of types and respective examples, representing the *preliminary* status of my research project. Therefore, blank spaces in this chart should not be interpreted as a definite or predominant absence of respective cases, since some gaps might indeed be filled by future empirical findings.

Chapter IV has introduced another typology, this time with respect to possible solution strategies for international regime conflicts. I have classified such strategies depending on whether they are designed in order to anticipate and avoid future conflict manifestations (sustainable solutions) or whether they solely intend to settle a particular dispute (singular solutions). Furthermore, solution strategies have been grouped into legal approaches (treaty change, treaty interpretation, and dispute settlement) and political approaches (coordination

and cooperation among regimes). At present, this typology is not yet directly linked to the two major goals of the research project. However, depending on the nature of the project's empirical findings, the typology might prove useful for both objectives: first, it might contribute to the goal of mapping regime conflicts, provided that certain regularities between conflict types on the one side and solution types on the other side could be discovered (i. e. the analysis might reveal to what extent conflicts of the same type are predominantly addressed by the same sort of solution strategy); second, with regard to the intention of analyzing the (negative) impact of regime conflicts, the typology might help to determine whether certain sorts of solutions tend to favor or, respectively, curtail the effectiveness of environmental regimes.

Building on these typologies, but also drawing from assumptions provided by the neo-institutionalist school of thought (more precisely: by theories of international regimes), *Chapter V* has presented first steps towards relationally framed hypotheses about the impact of regime conflicts (Again, at the current project status, these hypotheses should only be considered as preliminary assumptions.). As for measuring the *dependent variable*, i. e. the impact on the effectiveness of the involved regimes, I have presented two suitable indicators. First, I have suggested to look for changes in the compliance patterns of the two colliding regimes after the appearance of the conflict. However, when analyzing conflicts to which (legal) solution strategies have already been applied, the focus on compliance alone might lead to misleading observations. In these cases, instead of solely assessing shifts in compliance rates, one also has to take into account the effects of changes or interpretations of regime rules, since such changes might imply the trimming of original regime objectives. With respect to potential *independent variables*, I have referred to some of the typological criteria presented in Chapter III (e. g. the problem structure of the involved regimes), but also to other relative regime properties such as the respective degree of legalization. Finally, potential *intervening variables* include external shocks or domestic changes in key countries. At the end of the fifth and last chapter, I have pointed out some *major analytical problems* (1. the variability of conflicts over time, and 2. the considerable length of causal chains) which endanger the significance and/or representativity of comparative studies about regime conflicts.

To sum up, the present paper has clearly documented that international regime conflicts confront scholars with a highly complex research object, setting serious obstacles to any kind of systematic comparative analysis. Nevertheless, this should not deter, but rather attract scholars, since the potential theoretical and practical rewards are equally tempting. First of all, dealing with regime conflicts can significantly contribute to institutionalist theories, be it by framing and adapting some of the existing theories in order to lift them up to the inter-regime level, or by gaining additional and innovative theoretical assumptions about the genesis or consequences of regime conflicts. Second, not only with respect to theoretical merits, but also with regard to empirical findings, the topic has much to offer, since – apart from a couple of well researched cases – many regime conflicts have not yet been thoroughly analyzed, and a number of them might have not even been discovered.

Finally, and most importantly, the study of international regime conflicts can have immediate *practical* relevance regarding the question of effective global environmental governance. Some of the research findings could be translated into policy propositions regarding the harmonization of present regulative systems. In fact, as long as the existing environmental regimes will not be backed up by the (rather unlikely) establishment of a (powerful) World Environment Organization (cf. Biermann/Bauer 2004), their robustness depends on appropriate data and suggestions on how to actively handle their conflicts with other regimes. Put in pessimistic terms (from an ecological point of view), only the analysis of intersections and frictions between regimes can substantially confirm the intuitive assumption of relatively “weak” environmental regimes. Put in optimistic terms, the inter-regime approach might uncover supportive conditions for the strengthening of environmental regimes as well as for synergetic effects of free trade and global environmental protection.

References

- ABBOTT, Kenneth W., KEOHANE, Robert O., MORAVCSIK, Andrew, SLAUGHTER, Anne-Marie, and SNIDAL, Duncan 2000: *The Concept of Legalization*, in: *International Organization* 54:3, pp. 401-419.
- ANDERSEN, Regine 2002: *The Time Dimension in International Regime Interplay*, in: *Global Environmental Politics* 2:3, pp. 98-117.
- AXELROD, Robert 1984: *The Evolution of Cooperation* (New York, NY: Basic Books).
- BAUER, Steffen 2004: *Does Bureaucracy Really Matter? The Authority of Intergovernmental Treaty Secretariats*. Paper presented at the 45th Annual Convention of the International Studies Association, Montréal (Quebec), Canada, 17-20 March 2004.
- BERNAUER, Thomas, and RULOFF, Dieter 1999 : *Handel und Umwelt. Zur Frage der Kompatibilität internationaler Regime* (Opladen, Germany: Westdeutscher Verlag).
- BIERMANN, Frank, and BAUER, Steffen (eds.) 2004: *A World Environment Organization: Solution or Threat for Effective International Environmental Governance?* (Aldershot, UK: Ashgate).
- CHAMBERS, W. Bradnee (ed.) 2001: *Inter-linkages. The Kyoto Protocol and the International Trade and Investment Regimes* (Tokyo: United Nations University Press).
- CHAMBERS, W. Bradnee 2001a: *International Trade Law and the Kyoto Protocol. Potential Incompatibilities*, in: Chambers, W. Bradnee (ed.): *Inter-linkages. The Kyoto Protocol and the International Trade and Investment Regimes* (Tokyo: United Nations University Press), pp. 87-118.
- CHASEK, Pamela S. 2001: *Earth Negotiations. Analyzing Thirty Years of Environmental Diplomacy* (Tokyo: United Nations University Press).
- CHAYTOR, Beatrice, PALMER, Alice, and WERKSMAN, Jacob 2003: *Interactions with the World Trade Organisation. The Cartagena Protocol on Biosafety and the International Commission for the Conservation of Atlantic Tunas* [http://www.ecologic.de/download/projekte/850-899/890/in-depth/world_trade_organization.pdf] Rev. 2004-04-29.
- COFFEY, Clare, and RICHARTZ, Saskia 2003: *The EU Habitats Directive. Generating Strong Responses* [http://www.ecologic.de/download/projekte/850-899/890/in-depth/eu_habitats_directive.pdf] Rev. 2004-04-29.
- COLEMAN, James 1990: *Foundation of Social Theory* (Cambridge, MA: Belknap Press).
- DAASE, Christopher 2004: *Interlocking Institutions and the 'War against Terrorism'*. Paper prepared for the Annual Convention of the International Studies Association, 17-20 March, 2004 in Montreal, Canada.
- DAHRENDORF, Ralf 1961: *Gesellschaft und Freiheit. Zur soziologischen Analyse der Gegenwart* (Munich: Piper).
- GEHRING, Thomas, and OBERTHÜR, Sebastian 2003: *Investigating Institutional Interaction. Toward a Systematic Analysis*. Paper for the 2003 International Studies Association Annual Convention, Portland, Oregon, 26 February – 1 March [http://www.ecologic.de/download/projekte/850-899/890/isa/isa_institutional_interaction_systematic_analysis.pdf] Rev. 2004-04-27.
- GEHRING, Thomas, and OBERTHÜR, Sebastian 2004: *Interaction between International Environmental Institutions. Causal Mechanisms and Effects*. Paper prepared for the Annual Convention of the International Studies Association, 17-20 March, 2004 in Montreal, Canada.
- GEHRING, Thomas, and OBERTHÜR, Sebastian 2004a (fc.): *Exploring Regime Interaction: A Framework of Analysis*, in: Underdal, Arild, and Young, Oran R. (eds.): *Regime Consequences. Methodological Challenges and Research Strategies* (Dordrecht, NL: Kluwer).
- GRIGORESCU, Alex 2004: *Cooperation and Competition Among International Organizations in the Promotion of Anti-Corruption Policies*. Paper prepared for the Annual Conference of the International Studies Association, Montreal, Canada, March 17-20, 2004.
- HARDIN, Garrett 1968: *The Tragedy of the Commons*, in: *Science* 162, pp. 1243-1248.
- HARDY, Cynthia, and PHILLIPS, Nelson 1998: *Strategies of Engagement. Lessons from the Critical Examination of Collaboration and Conflict in an Interorganizational Domain*, in: *Organization Science* 9:2, pp. 217-230.

- HASENCLEVER, Andreas, MAYER, Peter, and RITTBERGER, Volker 1997: *Theories of International Regimes* (Cambridge, UK: Cambridge University Press).
- HASENCLEVER, Andreas, MAYER, Peter, and RITTBERGER, Volker 2000: *Integrating Theories of International Regimes*, in: *Review of International Studies* 26:1, pp. 3-33.
- HERR, Richard A., and CHIA, Edmund 1995: *The Concept of Regime Overlap. Toward Identification and Assessment*, in: Davis, Bruce (Hrsg.): *Overlapping Maritime Regimes. An Initial Reconnaissance* (Hobart, AUS: Antarctic CRC and Institute of Antarctic and Southern Ocean Studies), pp. 11-26.
- HOFFMANN, Hanna 2003: *The Joint Liaison Group between the Rio Conventions. An Initiative to Encourage Cooperation, Coordination and Synergies*, in: *UNU Work in Progress* 17:1, pp. 23-25.
- HOVI, Jon, SPRINZ, Detlef F., and UNDERDAL, Arild 2003: *The Oslo-Potsdam Solution to Measuring Regime Effectiveness. Critique, Response, and the Road Ahead*, in: *Global Environmental Politics* 3:3, pp. 74-96.
- HOVI, Jon, SPRINZ, Detlef F., and UNDERDAL, Arild 2003a: *Regime Effectiveness and the Oslo-Potsdam Solution. A Rejoinder to Oran Young*, in: *Global Environmental Politics* 3:3, pp. 105-107.
- KAUL, Inge, CONCEIÇÃO, Pedro, LE GOULVEN, Katell, and MENDOZA, Ronald U. 2003: *How To Improve the Provision of Global Public Goods*, in: Kaul, Inge, Conceição, Pedro, le Goulven, Katell, and Mendoza, Ronald U. (eds.): *Providing Global Public Goods. Managing Globalization* (Oxford, UK: Oxford University Press), pp. 21-58.
- KEOHANE, Robert O. 1989: *International Institutions and State Power. Essays in International Relations Theory* (Boulder, CO: Westview Press).
- KEOHANE, Robert O. 1993: *The Analysis of International Regimes. Towards a European-American Research Programme*, in: Rittberger, Volker (ed.): *Regime Theory and International Relations* (Oxford, UK: Clarendon Press), pp. 23-45.
- KEOHANE, Robert O. (ed.) 1995: *Local Commons and Global Interdependence. Heterogeneity and Cooperation in two Domains* (London: Sage).
- KEOHANE, Robert O., and NYE, Joseph S. 1977: *Power and Interdependence. World Politics in Transition* (Boston; MA: Little Brown & Co.).
- KRASNER, Stephen D. 1983: *Structural Causes and Regime Consequences. Regimes as Intervening Variables*, in: Krasner, Stephen (ed.): *International Regimes* (Ithaca, NY: Cornell University Press), pp. 1-21.
- MAYER, Peter, RITTBERGER, Volker, and ZÜRN, Michael 1993: *Regime Theory. State of the Art and Perspectives*, in: Rittberger, Volker (ed): *Regime Theory and International Relations* (Oxford, UK: Clarendon Press), pp. 391-430.
- MEARSHEIMER, John 1994: *The False Promise of International Institutions*, in: *International Security*, 19:5, pp. 5-49.
- MILES, Edward L., UNDERDAL, Arild, ANDRESEN, Steinar, WETTESTAD, Jorgen, SKJAERSETH, Jon Birger, and CARLIN, Elaine M. 2002: *Environmental Regime Effectiveness. Confronting Theory with Evidence* (Cambridge, MA: MIT Press).
- MÜLLER, Harald 1993: *Die Chance der Kooperation. Regime in den internationalen Beziehungen* (Darmstadt, Germany: Wissenschaftliche Buchgesellschaft).
- NEUMANN, Jan 2002: *Die Koordination des WTO-Rechts mit anderen völkerrechtlichen Ordnungen. Konflikte des materiellen Rechts und Konkurrenzen der Streitbeilegung* (Berlin: Duncker & Humblot).
- OBERTHÜR, Sebastian 2003: *Interactions of the Climate Change Regime with ICAO, IMO, and the EU Burden-Sharing Agreement* [<http://www.ecologic.de/download/projekte/850-899/890/in-depth/unfcc.pdf>] Rev. 2004-04-29.
- OLSON, Mancur 1971: *The Logic of Collective Action* (Cambridge, MA: Harvard University Press).
- OSTROM, Elinor 1977: *Collective Action and the Tragedy of the Commons*, in: Hardin, Garrett, and Baden, John (eds.): *Managing the Commons* (San Francisco, CA: Freeman), pp. 173-181.
- PAUWELYN, Joost 2003: *Conflict of Norms in Public International Law: How WTO Law Relates to Other Rules of International Law* (Cambridge, UK: Cambridge University Press).

- RAGHAVAN, Chakravarthi 2000: *Andean pact's new IPR regime shaped in US interests?*, in: Third World Network Online [<http://www.twinside.org.sg/title/andean.htm>] Rev. 2004-05-01.
- RITTBERGER, Volker, and ZANGL, Bernhard 2003³: *Internationale Organisationen. Politik und Geschichte* (Opladen, Germany: Leske + Budrich).
- RITTBERGER, Volker, and ZÜRN, Michael 1990: *Towards Regulated Anarchy in East-West Relations. Causes and Consequences of East-West Regimes*, in: Rittberger, Volker (ed.): *International Regimes in East-West Politics* (London, UK: Pinter Publishers), pp. 9-63.
- ROSENDAL, G. Kristin 2000: *The Convention on Biological Diversity and Developing Countries* (Dordrecht, NL: Kluwer).
- ROSENDAL, G. Kristin 2001: *Impacts of Overlapping International Regimes. The Case of Biodiversity*, in: *Global Governance*, 7:1, pp. 95-117.
- ROSENDAL, G. Kristin 2003: *Interacting International Institutions. The Convention on Biological Diversity and TRIPs – Regulating Access to Genetic Resources*. Paper for the 2003 International Studies Association Annual Convention, Portland, Oregon, 26 February – 1 March.
- ROSENDAL, G. Kristin 2003a: *The Convention on Biological Diversity and TRIPs. Different Approaches to Property Rights to Genetic Resources – Cause for Worry?* [http://www.ecologic.de/download/projekte/850-899/890/in-depth/convention_on_biodiversity.pdf] Rev. 2004-04-30.
- SAMUELSON, Paul A. 1954: *The Pure Theory of Public Expenditure*, in: *Review of Economics and Statistics* 36:4, pp. 387-389.
- SANDFORD, Rosemary 1994: *International Environmental Treaty Secretariats. Stage-Hands or Actors?*, in: Bergesen, Helge Ole, and Parmann, Georg (eds.): *Green Globe Yearbook of International Co-operation on Environment and Development 1994* (Oxford, UK: Oxford University Press), pp. 17-30.
- SANDFORD, Rosemary 1996: *International Environmental Treaty Secretariats. A Case of Neglected Potential*, in: *Environmental Impact Assessment Review* 16:1, p. 3.
- SANTARIUS, Tilman, DALKMANN, Holger, STEIGENBERGER, Markus, and VOGELPOHL, Karin 2004: *Balancing Trade and Environment. An Ecological Reform of the WTO as a Challenge in Sustainable Global Governance* (Wuppertal: Wuppertal Institut für Klima, Umwelt, Energie) [http://www.wupperinst.org/globalisierung/pdf_global/balancing_trade.pdf] Rev. 2004-04-30.
- SHELTON, Dinah 2001: *Environmental Rights*, in: Alston, Philip (ed.): *Peoples' Rights* (Oxford, UK: Oxford University Press), pp. 185-258.
- SHELTON, Dinah 2003: Introduction: *Law, Non-Law and the Problem of 'Soft Law'*, in: Shelton, Dinah (ed.): *Commitment and Compliance. The Role of Non-Binding Norms in the International Legal System* (Oxford, UK: Oxford University Press), pp. 1-18.
- SKJAERSETH, Jon Birger 2002: *Protecting the North-East Atlantic. One Problem, Three Institutions* [http://www.ecologic.de/download/projekte/850-899/890/in-depth/north-east_atlantic.pdf] Rev. 2004-04-29.
- UNDERDAL, Arild, and YOUNG, Oran R. (eds.) 2004 (fc.): *Regime Consequences. Methodological Challenges and Research Strategies* (Dordrecht, NL: Kluwer).
- VELAZQUEZ, Jerry / PIEST, Uli 2003: *Introducing the UNU Inter-Linkages Initiative. Focusing on the Implementation of Sustainable Development*, in: *UNU Work in Progress* 17:1, pp. 1-3.
- VON HOMEYER, Ingmar 2002: *Deliberate Release Directive. Precautionary Interactions* [http://www.ecologic.de/download/projekte/850-899/890/in-depth/deliberaterelease_directive.pdf] Rev. 2004-04-29.
- VON MOLTKE, 2003: *Information Exchange and Observer Status. The World Trade Organization and Multilateral Environmental Agreements. Paragraph 31 (ii) of the Doha Ministerial Declaration* [http://www.ecologic.de/download/verschiedenes/2003/documents/paper_moltke.pdf] Rev. 2004-10-24.
- WALLANDER, Celeste A., and KEOHANE, Robert O. 1999: *Risk, Threat, and Security Institutions*, in: Haftendorn, Helga, Keohane, Robert O., and Wallander, Celeste A. (eds.): *Imperfect Unions. Security Institutions over Time and Space* (Oxford, UK: Oxford University Press), pp. 21-47.

- WAPNER, Paul 1996: *Environmental Activism and World Civic Politics* (Albany, NY: State University of New York Press).
- WAPNER, Paul 1998: *Governance in Global Civil Society*, in: Young, Oran R. (ed.): *Global Governance. Drawing Insights from the Environment Experience* (Cambridge, MA: MIT Press), pp. 65-84.
- WERKSMAN, Jacob 2001: *Greenhouse-Gas Emissions Trading and the WTO*, in: Chambers, W. Bradnee (ed.): *Inter-linkages. The Kyoto Protocol and the International Trade and Investment Regimes* (Tokyo: United Nations University Press), pp.153-190.
- YOUNG, Oran R. 1996: *Institutional Linkages in International Society. Polar Perspectives*, in: *Global Governance*, 2:1, pp. 1-24.
- YOUNG, Oran R. (ed.) 1999: *The Effectiveness of International Regimes. Causal Connections and Behavioral Mechanisms* (Cambridge, MA: MIT Press)
- YOUNG, Oran R., and LEVY, Marc A. 1999: *The Effectiveness of International Environmental Regimes*, in: Young, Oran R. (ed.): *The Effectiveness of International Regimes. Causal Connections and Behavioral Mechanisms* (Cambridge, MA: MIT Press), pp. 1-32.
- ZÜRN, Michael 1992: *Interessen und Institutionen in der internationalen Politik. Grundlegung und Anwendungen des situationsstrukturellen Ansatzes* (Opladen, Germany: Leske + Budrich).