

international responsibility of the organization concerned. In both cases, however, the discharge of their respective responsibilities may be hindered by jurisdictional immunities. This area of international law is thus caught in the familiar dilemma between the imperative of holding the perpetrators of international crimes to account and to compensate private individuals for injury or damage they have sustained on the one hand, and the need for jurisdictional immunities to guarantee the effective conduct of international relations on the other hand. The proliferation of peace support operations and the increasing complexity of their objectives suggest that this dilemma is here to stay. Whereas Marten Zwanenburg's work offers an excellent guide to these matters, Geert-Jan Alexander Knoops' book, regrettably, does not.

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Denise K. DeGarmo. **International Environmental Treaties and State Behavior. Factors Influencing Cooperation.** New York & London:

Routledge, 2004. Pp. 194. £60 ISBN: 0-415-97181-0.

Olav Schram Stokke, Jon Hovi and Geir Ulfstein (eds). **Implementing the Climate Regime. International Compliance.** London: Earthscan, 2005. Pp. 240. £54 ISBN: 1-84407-161-8.

International environmental co-operation has given impetus to an increasing number of books, articles, and studies in a range of disciplines, most notably law, international relations (IR), international politics (IP), and economics. This has happened for a good reason: international and regional environmental treaties have grown in number and significance since the mid-1980s and have developed into distinct multilateral regimes. Studies on state behaviour with respect to international regulatory instruments, their

creation, implementation, compliance, and enforcement, have proliferated, thanks to the nature of global environmental co-operation that forms an excellent laboratory for examining state behaviour within international society. The creation, maintenance, and further development of multilateral environmental agreements (MEAs) is an extremely interesting field of study for many disciplines.

In this context, any new book in the discipline has to justify its usefulness and convince the readers of its originality. Ideally, the book should be an original contribution to the existing knowledge in the field, providing insights and inspiration for scholars and even for the diplomats and people who are effectively engaged in MEA negotiations. The two books under review here approach the issue of international environmental co-operation from different angles: the book by DeGarmo, *International Environmental Treaties and State Behavior. Factors Influencing Cooperation*, deals with state behaviour generally under international environmental agreements and is more an academic contribution. *Implementing the Climate Regime: International Compliance* by Stokke *et al.*, on the other hand, is concerned with the issue of compliance under one particular regime and as a scholarly work has perhaps more direct practical value.

For a non-expert, it would actually be beneficial to have previously acquired some familiarity with the literature on state behaviour, based on international relations and international politics, before reading the book on Kyoto compliance. Indeed, the latter heads directly for the main issue without much of a theoretical overview on state behaviour under international regimes in general. The DeGarmo book could serve that purpose and it does introduce the reader to the basics of the theories of international relations and the history of international environmental co-operation despite its brevity (121 pages + annexes and indexes).

DeGarmo asserts that what is missing from the literature on international law is a more developed discussion of why states become parties to international environmental agreements in a more general context (at 24). This question is of course different from compliance,

an issue that arises only after a state has become a party to a treaty. The initial decision on participation in an MEA is a good example of state interaction and attempts by states to influence each other's behaviour. The issue has previously been dealt with in passing in books concerned with explaining state behaviour and compliance with MEAs, but there is a niche for a book of international law and politics that is exclusively focused on the question of what initiates state participation. DeGarmo's own book makes an effort to fill the gap with an IR and IP focus to the issue. However, a slight problem with the book is that it starts with an overtly broad approach, describing much that is familiar from basic textbooks, and that is moreover not specifically relevant to the issue at hand. The North–South conflict, for example, is highlighted throughout the text, giving the impression that it could work as the major explanatory factor for the questions raised by the title of the book. It is also stated that Southern states' (meaning developing countries') behaviour has changed little over the years (at 68). I would, however, emphasize the increased bargaining power and the growing international role of these countries, which has somewhat changed their behaviour in international environmental arenas. For instance, in recent years developing countries have managed to extract various MEA provisions for financial and technology transfers. The increased bargaining power of developing countries has been evident in the climate change negotiations where both the North and the South have been advocating, from their own perspectives, for 'common but differentiated responsibilities' in the commitments. In any case, the historical background of environmentalism provides the context for the development of international environmental regimes.

The actual topic of DeGarmo's book, the determinants of state participation in international environmental agreements, is approached through an empirical study whereby a set of variables and their potential influence on the probability that a state will become a party to an MEA are examined. The

exercise considers the following variables: international environmental treaty type; military interests of a state; equitable distribution of the costs associated with an MEA; power distribution in the international system; governmental type of a state; and vulnerability to an environmental problem. The empirical study confirms, not so surprisingly, most hypotheses (such as 'more open or free governmental types are likely to become parties to international environmental treaties than less free types'), although it is not always clear from the text how each factor was judged to have influenced each MEA and state participation in it.

To reinforce the argument, for example, DeGarmo presents a short account of a couple of case studies conducted within the study. The part on the military effects of MEAs as an alternative explanatory factor for MEA participation is quite interesting. Clearly drawn from the tradition of international relations, the question focuses on something that is not usually given much attention to when state co-operation in global environmental matters is examined. The author recognizes that environment is a critical component of national and international security. At the same time, international environmental problems are different from traditional military issues and threats: they challenge the continuing existence of the whole of humankind and cannot be resolved through coercive military tactics and strategies. This military factor actually produced an unexpected result in DeGarmo's study: there appears to be an increased probability of a state becoming a party to a treaty that requires behavioural changes or imposes constraints on the military interests of the state (at 91). Of course, only a very limited number of rather small international environmental treaties can be regarded as having potential military effects. An example of such a treaty would be the Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons, and on their Destruction from 1972 which has obvious direct effects on the military behaviour of states. In addition to military considerations, there are

naturally a host of other factors and treaty details that influence the picture of state participation in MEAs. Thus, the correlation observed by DeGarmo may be somewhat coincidental, or at least it makes the drawing of a strong conclusion on the matter an arbitrary exercise. In fact, a closer examination of the issue through the case studies in the book suggests that it is probably not the potential military effects of the treaties that induced state participation but rather various other factors such as the emergence of crises (at 108–109). The question itself, however, is interesting and probably worthy of deeper elaboration.

*Implementing the Climate Regime* focuses on the different but nonetheless important and complementary issue of compliance. It can be expected to bring new fuel to the current debate about the Kyoto Protocol. Indeed, the topical nature of the 1997 Protocol to the UN Framework Convention on Climate Change is obvious: the Protocol continues to be in the headlines worldwide even though it was concluded already nine years ago. The Protocol entered into force in February 2005 and thus its compliance system has also become effective. Moreover, negotiations are ongoing as the Protocol in its current form provides emission reduction targets only for the period 2008–2012 and, hence, the commitments beyond that are very much open.

The consequences of state non-compliance will surely be a factor when states consider the targets they can commit themselves to. This was very much the case with the Kyoto Protocol as evidenced by the expert reviews in the book by Stokke *et al.* It is interesting that DeGarmo in her book does not discuss the compliance regime at all as a potential explanatory factor for state (non-)participation in international environmental treaties. Compliance is, of course, a sum of a great many factors and thus a difficult variable to include in an empirical study, but still one would have hoped that some attention would have been paid to the issue. Actual treaty obligations, state prospects of compliance, and the potential consequences for treaty breaches are surely a factor when states are contemplating

whether to join an international environmental regime or not.

Many aspects of the book by Stokke *et al.* deal with international environmental treaties in general and the book is, thus, a valuable contribution to the compliance discussion even beyond the climate change regime. The opposite is also true: the analysis on the compliance regime of the Kyoto Protocol benefits from comparisons made with other international environmental regimes and their experiences with compliance mechanisms. In fact, the approach taken in the book fluctuates from an actual comparative study (chapters 9 and 10) to a more situational analysis of experiences and identification of lessons to be learnt from previous systems, most notably the non-compliance institutions and procedures of the 1987 Montreal Ozone Protocol and the 1979 Convention on Long-range Transboundary Air Pollution along with its subsequent protocols. It is pointed out throughout the book, explicitly or implicitly, that there is ample potential to learn from the design and experiences of other international environmental regimes. Indeed, the Kyoto Protocol negotiations were testimony to the influence of accumulated knowledge on issues of compliance.

*Implementing the Climate Regime* explores the nature and effectiveness of the climate regime's compliance system. The book, or its individual chapters, does not explicitly claim to draw from any particular general approach. It is easy for the reader to notice, however, that the approach is strongly multidisciplinary, as is the case generally with the literature on compliance: international politics and economic arguments are often at the forefront, while the legal framework of the Kyoto Protocol naturally forms the basis for the whole effort.

It is notable that many of the earlier books dealing with climate change compliance were somewhat deficient because the compliance system of the Kyoto Protocol was actually finalized only a few years after the conclusion of the Protocol itself. Overall, the topic of Kyoto compliance is challenging as we are talking about an MEA protocol that entered into force only relatively recently and the first commitment period of which will not begin

until 2008. That means that state compliance with the prescribed emissions reduction targets will not be assessed before 2012 when the commitment period has ended. Consequently, one question that arises is whether it is too early to evaluate the compliance system of the Protocol. The book recognizes this problem (at 4) but still claims that an analysis of the system's effectiveness is possible by extrapolating from knowledge and experience gained under other international environmental treaties. It is important to remember, however, that the Kyoto Protocol compliance system includes some innovations. In addition, the environmental problems raised and, consequently, the economic dilemmas behind the regimes are different. Global warming cannot in any way be characterized as a 'benign' problem, as was largely the case with, e.g., ozone depletion that turned out to be relatively easy to solve. The challenges in front of states in implementing the Kyoto commitments will be unprecedented. Thus, any analysis on the issue has to be taken with certain reservations.

*Implementing the Climate Regime* is divided into four parts, consisting of a total of 10 articles written by both well-known names in the field of international environmental compliance study and newer scholars. The analyses on the compliance system of the Kyoto Protocol reveal the theoretical and political positions that underpin the regime. The emphasis is more on enforcement side aspects than the so-called managerial approach which is focused on different facilitative measures to promote compliance, including, e.g., provision of technical and financial assistance to a party. Jacob Werksman, for example, argues that there may be a shift away from management in the compliance systems of MEAs (at 23). The development is clearly visible with the Kyoto Protocol, which is a remarkably tough regime among MEAs. Indeed, the means available under the Enforcement Branch, such as a deduction of a party's allowed amount of emissions in the next commitment period, are (at least potentially) really punitive and meaningful for parties. Werksman observes that many of the assumptions of the managerial approach are no longer considered by policy-

makers to be of general application. It would appear, then, that in the future compliance systems of MEAs the managerial focus is giving way to a tougher attitude. Under that new perspective, cases of treaty breaches are looked at more critically and countries are not unnecessarily 'pampered' if it is clear that the fault lies elsewhere than in a lack of resources.

Elsewhere in the book, Jørgen Wettestad ends up, after conducting a comparative study of compliance measures used in other international environmental regimes, with a slightly different lesson for climate change compliance. Although Wettestad does not reject the possibility of enforcement as a 'hidden stick', his recommendation is to concentrate on assistance and facilitation as the central challenges. In general, the conclusions drawn by Wettestad, ranging from greater transparency and wiser institutional engineering to exploring ways to engage civil society, are largely in line with previous literature on the subject.

Sanctions as the core of the enforcement approach to ensuring compliance with MEAs are extensively discussed by a number of authors in *Implementing the Climate Regime*. One point made by some authors is that sanctions can work as double-edged swords by bringing costs and disadvantages also for those who impose them. A potential example under the Kyoto Protocol would be the effect of sanctioning measures to the market mechanisms of emissions trading through changes in the price of the commodity, i.e., tonnes of CO<sub>2</sub>. Cathrine Hagem and Hege Westskog argue that the costliness of sanctions is one cardinal reason to be wary of the motives of the members of the Enforcement Branch of the Protocol which makes the decisions on sanctions. The members are supposed to serve the body in their individual capacities, but the authors note that the temptation to act according to the interests of their home countries may become too big. There are no well-known previous cases of this kind of conduct under MEAs but the threat arguably looms out there as the stakes are probably higher in the climate change issue than in any global environmental regime before it.

Another core issue in the Kyoto compliance is external enforcement of the commitments. The concept refers to enforcement measures that are taken outside the official mechanisms and structures of the particular treaty regime in question. An example would be a unilateral trade sanction imposed by one country against a non-compliant state. External enforcement measures have certain advantages over the official compliance system, yet there are also serious downsides to them. The justification most frequently mentioned for such external sanctioning measures is that they bring significant additional deterrence for potential non-compliers. Jon Hovi asserts that the sanctions offered by the Kyoto Protocol may in some cases be without teeth and therefore external enforcement may be needed (at 135–136). In the case of the Kyoto Protocol, it can be assumed that the political threshold to impose a strong sanction on a key party to the Protocol would be prohibitively high. In addition, external measures are subject to strong fairness concerns, among others. Chapters 6 and 7 of *Implementing the Climate Regime* draw good examples from other international environmental regimes and the World Trade Organization, where external enforcement has been used and extensively debated.

Compliance promotion and external enforcement are increasingly often handled by non-governmental organizations (NGOs). In general, the role of NGOs and business entities in international environmental governance has been growing over the years, and nowadays no MEA can be negotiated or implemented without these 'external' actors. NGOs are considered as influential players for the Kyoto Protocol and its compliance system, all the way from the negotiations to internal and external enforcement of the commitments. The literature in this field generally emphasizes that it is important not only to consider the official rules and mechanisms relating to compliance in MEAs but also to examine more informal means for compliance-promotion. These include first and foremost the arsenal that various NGOs draw on, such as a variety of 'naming and shaming' strategies.

A related issue to compliance is the claimed dangers of the potentially overt flexibility of the Kyoto Protocol. This flexibility is manifested in the so-called Kyoto mechanisms (joint implementation, clean development mechanism and emissions trading) that were created to give industrialized countries less expensive means to reduce their greenhouse gas emissions. However, the technical design of the mechanisms as well as the managerial focus of the Protocol's compliance system are, arguably, not likely to alter much states' behaviour in protecting the climate. The intentional flexibility can, thus, endanger the effectiveness of the Kyoto compliance system and the environmental effectiveness of the whole regime. Mitchell argues that the emissions reduction obligations of the Protocol are, at least at first, too shallow for countries and therefore compliance will be relatively easy. This means that the compliance system will not face a real test for some time to come. Moreover, the environmental effectiveness of the Protocol will suffer because of the attempts to reach political effectiveness i.e. moderate commitments that are acceptable to most of the countries. According to Mitchell, the flexibility integrated into the Kyoto Protocol can have longer-term effects that will not be visible until later. This would happen through the 'logic of consequences' whereby states are supposed to adopt an internalized or externalized behavioural norm to the effect that actions to avert climate change are seen as appropriate obligations. Fundamentally, the issue comes down to the dilemma on the desired nature of an MEA: is it better to have a substantively rather shallow but politically widely accepted regime, or a deep (ambitious obligations) one but with lesser participation? With the Kyoto Protocol, states appear to have chosen the former option.

Overall, the two books under review here have the same subject matter, i.e. international environmental co-operation, but their treatment of the issues differs. The substance of *International Environmental Treaties and State Behavior. Factors Influencing Cooperation* is based on a study conducted by the author, examining, with the help of variables drawn

from international relations theory, factors that influence state behaviour vis-à-vis multilateral environmental treaty arrangements. One of the stated objectives of the book is to 'propose a new, more comprehensive framework for understanding state behavior in the international environmental realm' (at 30). Another fundamental purpose (indeed even maybe the primary one) of the book is to 'evaluate the applicability of international relations theory to international environmental politics' (at 111). These tasks are arguably accomplished through the empirical and statistical exercise of analysing the reasons why states become parties to international environmental agreements. From this perspective, the book at times appears to serve more as an academic exercise and an argument for the alliance of international environmental politics and international relations than a comprehensive study on factors influencing state behaviour as such. *International Environmental Treaties and State Behavior* has the merit of suggesting new variables as determinants of state participation in multilateral environmental regimes and of using the acquired research results to define the role of international relations in the study

on international environmental politics and co-operation.

*Implementing the Climate Regime. International Compliance* is clearly more practically-oriented than DeGarmo's book. It has a clearer focus although also a more multi-faceted approach to the issue. The book by Stokke *et al.* is also one of the first to focus exclusively on compliance with the Kyoto Protocol. It is notable, however, that the chapters of the book were written before the entry into force of the Protocol or even before there was certainty about its coming into effect. In spite of this, the chapters do not generally appear outdated or seriously deficient. The authors have written their contributions as if the Protocol were indeed to enter into force at any time and the collapse of the Kyoto system, as predicted by some scholars, is not seen as an option. This attitude has proved to be well-advised in light of later developments with the Protocol. In general, the book meets the initial challenge and manages to bring new insights and ideas to the nowadays quite popular and topical field of state compliance with international environmental agreements.

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