

## PAPERS

# The issue of an International Forest Regime

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Regime theory is a theory of international cooperation. It is a theory that describes how national strategies based on the optimization of individual interests are converted into international strategies based on the optimization of collective interests. It analyzes this transformation *via* the concept of regime.

### A SHORT HISTORICAL BACKGROUND

Regime theory took shape in the early 1980s in a highly specific political and intellectual context. The political context was that of the Reagan years and the rising wave of neoliberalism that was, already, reflected by a profound crisis in multilateralism as well as in international organizations. A need therefore arose to consider new modes of international cooperation that differed from those that were codified by international law or emanating from intergovernmental organizations. The notion of regime takes into account the fact that there are international social norms that are not set out as legal obligations but that nevertheless weigh on the behavior of states. The intellectual context was characterized by the liberal neo-institutionalist trend in vogue at the time in the United States. This current took root in economic theory with names such as Ronald Coase, Oliver Williamson, etc. I cannot go into detail about its main arguments, I will simply recall that it stemmed from a reflection on the market's role in international regulation, given the different types of market imperfections, and considers that due to the asymmetrical distribution of information among economic agents, perfect competition and true prices can never be said to exist, and so organizations are necessary. In fact, since no individual agent alone can put into play all the procedures required to obtain all the information necessary to make economic decisions, institutions are needed to reduce the cost of transactions due to market imperfections. Once created, these institutions have structural effects. They modify the way in which actors define their interests and they modify the very functioning of the market.

This so-called new institutionalist approach was introduced into American political science by the great political sociologists March and Olson. It was very much in fashion in the United States in the early 1980s. Regime

theory was simply the transposition to international relations of the vocabulary, approach and arguments of the neo-institutionalist current in economics.

### WHAT IS A REGIME?

I will privilege the definition given by Philippe Le Prestre, who in his major work on the evolution and implementation of the Convention on Biological Diversity, provides a useful synopsis of the various definitions given for the past 20 years.

“A regime is generally understood as a set of interrelated norms, rules and procedures that structure the behavior and relations of international actors so as to reduce the uncertainties that they face and facilitate the pursuit of a common interest in a given issue area” (Le Prestre 2002). Regimes are international social institutions in that they constitute “persistent and connected sets of rules and practices that prescribe behavioral roles, constrain activity and shape expectations” (Keohane *et al.* 1993).

The advantage of the notion of regime and what explains its success is its malleability. All sorts of practices, all sorts of “nonbinding but authoritative” arrangements, as they call them, can constitute a regime; everything that has to do with custom or soft law enters into a regime.

Advocates of the regime approach tend to see regimes everywhere. Since practically all areas of international life are the object of international discussions and declarations, it is always possible to find a set of broadly recognized principles that emerge from these encounters.

There are all kinds of international regimes in all kinds of areas. Some are regulatory in nature, that is the simplest case: rules of action are clearly spelled out and the conditions of their application are provided for: the Antarctica regime, the regime protecting the ozone layer, the regime for trade in endangered species, etc. Others instead emphasize procedures to follow to reach collective choices; still others are mainly programmatic in nature, aiming to generate common projects. Regimes vary enormously in terms both of actors and binding obligations. Each regime applies to a specific issue area and has its own dynamics. Each regime corresponds to a particular configuration of interests, knowledge and power.

For this reason the study of regimes has engendered a plethora of literature discussing whether the definition of regimes was precise enough, how regimes come about how to recognize them when they do, etc. For 20 years, regime research was a sort of cottage industry in the discipline of international relations. The fad has somewhat died out, and the question now is to know what impact regimes have on the actors' behavior and how they help solve the urgent problems facing us, such as the vanishing of tropical forests, the topic of our discussion today.

I will touch on three types of questions: 1) how do regimes come about and how to recognize them when they exist? 2) what are the criteria of a regime's effectiveness? 3) and lastly, the question of the boundary of regimes and interactions between regimes.

### HOW DO REGIMES COME ABOUT?

Regarding the origin of regimes, there are three major theoretical approaches, which I will outline roughly at the risk of caricaturing them. There is the realist approach, which is the state-centered approach. This approach views the most powerful actors as being the ones to impose their interests and determine the rules of the game. It views the game of international relations as inherently conflictual, making it pointless to seek to pursue common interests. The definition of rules, norms, and procedures is tied to the distribution of power on the international scene. The machine is based on the engagement of a dominant player, a hegemon, a state or a group of states that ensures what has been called "hegemonic stability" even if this means assuming a certain cost for that.

In this approach, the function of the regime is not to maximize the common good but to share out the costs and benefits associated with cooperation.

The second approach is based on rational choice. In this approach, international relations are not a zero-sum game or a problem of distributing power and the costs and benefits of cooperation. The international game can be a positive-sum game if the actors are aware that a problem exists, if they have a clear vision of their identity and their interest, and if they have the skill required to implement solutions. In this case, the actors cooperate to take action to solve the problem. The common good and individual interests are bound to intersect. Cooperation in a given area can result in mutually advantageous arrangements. In this approach, the regime's function is to help actors maximize their interests on a rational basis and thus achieve the common good.

The third approach, the one I prefer, is a constructivist approach. This approach emphasizes the social construction of reality as opposed to the ideology of power and the ideology of rational choice. This approach gives considerable importance to non-state actors. It stresses perceptions, knowledge and communication; the role of science and epistemic communities; the logics of a two-level game, i.e. the need for states to maintain an equilibrium between domestic imperatives and the requirements of the

international sphere.

In this approach, the function of the regime is to encourage actors to express their own conceptions of their own interests, prompt states to alter their perceptions through a learning and socialization process and in the long run give rise to a discourse that reflects a common perception of the issue area.

### HOW DO WE KNOW THAT A REGIME EXISTS?

From everything that has just been said, it appears obvious that the notion of regime is a very hazy notion under which very different things are placed. The result is that in assessing the effectiveness of a regime, there are very different sets of criteria, each reflecting a particular conception of the regime.

The regime approach is supposed to be a theory of cooperation between states. But one of the major weaknesses of this theory is that it is tautological. If you look at Krasner's definition, the best known, there is a regime when actors' behavior and expectations are influenced by it: International regimes are "sets of implicit or explicit principles, norms, rules and decision-making procedures around which actor's expectations converge in a given area of international relations" (Krasner 1983).

That means that regimes are defined as a set of norms that guide the behavior of actors and that this behavior is explained by the existence of a regime. This reasoning is completely circular, and it assumes that all the problems are resolved: if regimes are, by definition, that towards which expectations converge, they cannot explain how the reciprocal engagement is constructed in a cooperative social game that will foster this convergence.

Furthermore, by definition, regimes are necessarily successful. As long as there is a regime, it's a good thing, as if the regime was an end in itself. No one looks into the nature of the cooperative order that has been institutionalized. This approach to international relations tends to be very conservative.

To escape this circular reasoning, we have to distinguish the question of a regime's existence from the question of its implementation and compliance. But there again I totally agree with Philippe Le Prestre in his analysis of the CBD (Convention on Biological Diversity), when he believes that it's the structure of the regime that should be taken into account, its content, in other words the content of the arrangements constructed between actors, the type of behavior that they recognize as acceptable, and what according to the regime constitutes a cooperative attitude and what constitutes an attitude of defection.

A regime is defined by norms of behavior: it exists when actors can no longer make their decisions in a totally independent manner. That doesn't mean that actors' behavior will be in compliance with what is contained in the regime, but that there is a sort of overarching law with respect to which they are bound to define themselves, and that they may have a certain price to pay if they openly stray from it. In short, they are no longer totally free to do whatever they

like; transgression can be costly.

A regime can be proven to exist when it can be shown that participants refer to principles, rules, procedures, and that when they don't obey them and the principles are violated, the others react. This sets off a whole cycle of protestation, apologies and justifications.

The existence of a regime does not boil down to restrictions imposed on the autonomy of the participating actors. A regime also implies procedures and modes of interaction that rely on the socialization of actors rather than on conflict, constraint, the use of force and sanctions.

To sum up, there can be regimes that are totally ineffective. I tend to believe that this is the case for the international forest regime.

#### WHAT ARE THE CRITERIA OF EFFECTIVENESS?

Criterion number 1, the most obvious, is the resolution of the problem at hand. A regime is effective when it contributes significantly to solving the problem that brought it about: for instance, protection of the ozone layer. It's too simple, and especially, too rare.

Another criterion of effectiveness is implementation. For a regime to be effective, it has to be implemented: implementation can be measured by the way in which the provisions of the regime are translated into legislative or public policy measures. With these implementation criteria, we come back to criterion number 1: the solution to the problem is directly linked to the respect of the contracted obligations.

There is another criterion, that of compliance: a regime's effectiveness is measured by the degree to which actors adhere to the provisions of the regime and follow its procedures. A regime is effective if it leads to the internalization of behavior norms in a given area and the strengthening of desire for cooperation in this area.

It must be admitted that such cases are rare. The great weakness of the regime theory is to be based on the postulate that there are lasting behavior norms known to the actors and considered by them as legitimate for forming a framework within which they will seek to attain their objectives. This postulate is disproved every day. I don't mean that the mechanisms of international exchange are completely unpredictable, but in the international game like in other social games, the rules are never set in stone, they are constantly being developed and altered as actions are carried out.

So we lower our standards for a regime's effectiveness criterion and we say: a regime is effective if it helps to improve the situation a little. The current situation may not be perfect, but it's better than if there were no regime.

What's more, the secondary impacts of regimes should also be taken into account: the increase in knowledge, the initiation of learning processes, the strengthening of civil society, the increased awareness of actors, etc.

In short, a regime is considered effective if its existence brings about changes in behavior, if it helps institute policies that would not have come about if there had been no regime.

#### How can a regime be made more effective?

That raises the question of implementation mechanisms. Regimes generally do not provide for sanctions. There can be financial incentives, via compensation funds, but it's rare. It is the very existence of a regime that is supposed to encourage actors to comply with the rules.

On the other hand, regimes often provide for compliance monitoring mechanisms, in other words state support for the provisions of the regime, its spirit and its procedures. These are essentially mechanisms by which the participants in a regime gather, exchange and verify information pertaining to their action and their performance in the given issue area. This frequently involves the obligation to make country reports on the measures taken to respect the arrangements that were made; sometimes, monitoring mechanisms by NGOs are expressly provided.

The question of assessing the impact of regimes raises considerable difficulties. There is a vast body of literature discussing what variables to take into account, what assessment criteria to apply, what methods to use. But it is usually more of an academic debate, more a task that researchers set for themselves than a serious guideline for action.

It is very hard to know whether the relations between actors would have been different if regimes had not been set up; it is very hard to determine what is due to the regime and what is attributable to changes in domestic or international context.

The last problem and perhaps the most significant one for the subject at hand:

#### THE QUESTION OF A REGIME'S BOUNDARIES AND INTERACTIONS BETWEEN REGIMES

To me this is the most important question and the one that best reveals the weaknesses of regime theory. I have already indicated several drawbacks, but I believe this one is the most damning.

The regime approach to international cooperation implies a totally decentralized and incremental management of issue areas. An international regime applies to a certain type of issue area and then we look at how the actors make their arrangements in a particular area without worrying what is going on in other issue areas. For each regime, there is a specific number and type of actors, a particular dynamics, a specific timing and more or less binding arrangements.

The proliferation of regimes raises the question of the harmonization of aims and obligations. When we think regime, we think of specific regimes and we study them in isolation. But it's their interaction that needs to be studied.

There is a dual integration problem: vertical and horizontal. Vertical, because the question of harmonizing local needs and international needs must be posed; horizontal, because actors' activities are part of multiple regimes of which the relative impacts are difficult to untangle. The norms and functions associated with the various regimes are not integrated; they can even be contradictory. Furthermore,

objectives included in each regime are not always precise. There are not always clear indicators of what one is seeking to achieve; objectives change over time; and mainly, most of the time, a regime's objectives do not address the fundamental causes of the problem at hand.

The notion of regime does not help to take into account the complexity of the world. It ends up breaking down international life into little individual segments, whereas in a globalized world all these regimes form a system. In my opinion, it is these complex systems of interdependence that should be studied.

In conclusion, with regard to forests, there's a proliferation of particular regimes that pertain more or less specifically to forests. David Humphreys describes them in detail in his most recent book: a regime for the CBD, for protected areas, indigenous and tribal people, sustainable and management, trade liberalization of forest products, etc. (Humphreys 2006). There is an accumulation of a huge number of scattered and competing aims and principles. At the same time, no regime tackles the fundamental cause of forest destruction: the ever-growing consumer thirst for wood, meat and fuel that exerts more and more pressure on the resource to convert land.

We have everything we need in terms of rules, norms and procedures to have an international forest regime, but as David Humphreys stands: "In the absence of a forest convention, the consensus on forest-related issues is fragmentary and incomplete" (Humphreys 2006). Humphreys describes the situation perfectly when he writes "the international forests regime is disconnected and multicentric; it has developed at different speeds and in different directions rather than strategically and holistically along a common front."

One couldn't imagine a better conclusion to this short presentation on regimes or a better introduction to the issue of tropical deforestation.

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