
Managing Compliance: A Comparative Perspective

Abram Chayes, Antonia Handler Chayes, and Ronald B. Mitchell

What analytic framework should we use to evaluate treaty compliance?¹ This chapter draws on our research into compliance with multilateral, bilateral, and regional treaties addressing the principal regulatory agreements dealing with economic, political, environmental, and social problems that require cooperative action among states over time. Specifically, we examine how treaty provisions and the operation of international institutions help make treaties work. The chapter highlights the error of conceptualizing most compliance problems as being due to intentional violations that can, and should, be responded to through enforcement and sanctions. We then argue that strengthening regulatory regimes requires a strategy of integrated, active management of compliance that addresses the real sources of noncompliance, without necessarily expecting to achieve perfect implementation and compliance.

What We Mean by Compliance

We use "compliance" to describe those instances when an actor's behavior conforms to an explicit rule of a treaty (Mitchell 1994). This implies evaluation of compliance with individual provisions rather than with the treaty as a whole. Compliance goes beyond implementation. A government may fulfill requirements to implement the treaty in national law, but not provide required copies of the law to the secretariat of the treaty organization. Nonreporting is often small in itself, but may prove to be indicative of more significant forms of noncompliance. Often the governing rule takes the form of a general standard or principle, so that measuring performance against its requirements is not a simple mathematical exercise. Even when the obligation is embodied in a more explicit rule, the normative content of the language is often far from clear, either to the state when it is taking action or to subsequent critics and observers. Although an international law treaty's obligations apply only to states, environmental treaties seek to influence the behavior of subsidiary governmental units and private actors, and our definition recognizes that the behavior of such actors can also be described in terms of its compliance with a treaty

provision. We believe it is rarely the case that noncompliance results from calculated governmental decision, as in the traditional realist assumption. The sources of non-compliance are much more complex and varied. We can ask several questions about treaty-related behavior to improve our evaluation of treaty effectiveness.

Questions Relating to the Behavior Itself

First, does the observed behavior conform to that required by the treaty provision? Behaviors can be compliant, noncompliant, or ambiguous, because some treaty provisions clearly distinguish compliance from noncompliance whereas others do not. Second, what is the degree of compliance? Even under a clear treaty standard, some actors will barely meet the standard while others will substantially exceed it. Actors may be “overcompliers,” going beyond what is required; “good faith non-compliers,” striving for compliance but falling short; or “intentional violators,” who intentionally fail to comply. Third, was the compliance or noncompliance significant? Arms-control debates have frequently focused on the “military significance” of alleged violations. For example, unlike clandestine weapons deployments, accidental releases from nuclear weapons tests have been viewed as noncontroversial, technical noncompliance because they were less important to core treaty goals.

Questions About the Sources of, and Factors Influencing, the Behavior

Each type of behavior—compliant, noncompliant, ambiguous—raises different questions. In cases of compliance, was the behavior “treaty-induced” or “coincidental”? Many countries’ compliance with the Nuclear Non-proliferation Treaty’s proscriptions reflect their lack of desire or ability to acquire nuclear weapons, rather than regime pressures. Often, behaviors reflect exogenous “coincidental” forces—economic factors, domestic politics, diplomatic pressures, the impacts of the treaty rules and regime.

In cases of noncompliance, was the behavior deliberate? Was a good-faith effort made to comply? Did behavior change? Was some progress made toward the established standard? Noncompliance may be intentional but may also reflect inadvertence, incapacity, or a failure to understand treaty provisions. Even a developed government desiring to fulfill treaty commitments may inadvertently fail to do so because of the inherent uncertainty of its chosen policy instruments. It may fail to meet an emission reduction target because of inaccurate estimates of the necessary enforcement or taxation level. As several country studies demonstrate, governments often fail to comply because they lack the financial, administrative, informational, or regulatory capacities. The problem can be especially acute when the treaty targets private and individual behavior not directly under a government’s control, even when the government has strong incentives to comply, as is evident in violations of nuclear export-control agreements. Between incapacity and intentional non-

compliance are cases where states expend resources on higher-priority goals to provide their citizens with other forms of improved social welfare and, as a result, compliance with the treaty slips. We believe deliberate treaty violations are the dramatic, but rare, exceptions rather than the rule.

Approaches to Compliance: "Enforcement" or "Management"

What types of treaty provisions *ex ante* and compliance management strategies *ex post* induce compliance in a context where noncompliance stems from the range of sources just discussed? Our research indicates that, in the face of noncompliance, coercive sanctions are not only ineffective but inherently unsuitable.

Although an enforcement model of compliance rests on the availability and use of sanctions to deter violations, systemic features of international society severely constrain the use of sanctions. Only two treaties, the United Nations Charter and the Organization of American States Charter, authorize the use of concerted military or economic measures, and these have been invoked in only a dozen or so cases. More frequently, economic sanctions have been used unilaterally to advance particular foreign policy goals, not to enforce treaty obligations. Only powerful states or coalitions of states can use them, and only against weaker states.

States face high political and economic costs at home, collective-action-type difficulties in building international coalitions, and a strong empirical record that their efforts will be ineffective (Martin 1992). What is surprising (and hard to explain) is the persistent predilection of scholars and practitioners for sanctions as a routine way of enforcing regulatory treaties. In our view, efforts to negotiate sanction clauses into treaties and to invoke unilateral sanctions for violations are largely a waste of time.

In contrast, a managerial model of compliance suggests that regimes usually keep noncompliance at acceptable levels by an iterative process of discourse among the parties, the treaty organization, and the wider public. Most states enter agreements intending to comply. Compliance often serves the state interests that led to, and were shaped by, the negotiation process. Treaties legally bind the member states and carry a presumptive obligation to comply. Moreover, compliance reduces decision costs and conforms to bureaucratic modes of action.

States, like other actors, call on each other to justify behavior that departs from agreed-upon norms. The ensuing discourse progressively elaborates the meaning of relevant obligations through cooperative processes of consultation, analysis, and persuasion, rather than coercive punishment. Even in the rare treaty that adopts formal dispute-resolution processes, as did the World Trade Organization (WTO) agreement, parallel processes of review and assessment have been introduced that are more cooperative (Agreement Establishing the Multilateral Trade Organization 1993). Skillful and imaginative treaty organizations and institutions devise *ex ante*

and ex post measures, building on the deep economic and political interdependence of modern states to enhance compliance.

We believe that effective compliance management requires establishing and maintaining a transparent information system and a response system. The information system must produce adequate and accurate information about actors' behaviors under the treaty. The managerial response system must then produce discriminating responses to different types of noncompliance, using both multilateral, treaty-based and unilateral actions to induce behavioral change.

Norms: The Foundation for Compliance

Norms provide the foundation for this compliance process. Here we use "norms" to refer generally to "prescriptions for action in situations of choice, carrying a sense of obligation, a sense that they ought to be followed" (Chayes and Chayes 1995: 113). Treaties embody either a previously established or a recently created set of norms that reflects the relative power and interests of the negotiating states, including their interests in creating and maintaining certain norms.

If a normative consensus on an issue area exists, then much initial compliance may be motivated by this consensus rather than by treaty compliance mechanisms. The international norm of *pacta sunt servanda*, "treaties must be obeyed," and the voluntariness of treaty signature provide further pressures for compliance. Even with the deep inequities in the distribution of power, countries accept agreements that discriminate in favor of powerful states as legitimate, when they have participated in the negotiation, because those agreements may be preferable to available alternatives. For example, the Nuclear Non-proliferation Treaty is viewed as binding on nonnuclear signatory states even though it allows five major powers to remain nuclear "haves" while prohibiting the "have-nots" from attaining such status.

Treaties do not simply reflect norms, however, but can create and strengthen norms that did not previously exist. Treaties banning deployment of nuclear weapons on the seabed, in outer space, and in Antarctica created new international norms. It is easy to imagine that arms races would have developed in these areas had the treaties not generated expectations that others would abide by the norm. Treaties also can widen a norm's scope, as is evident in the human-rights arena, where nations may initially sign a treaty because of public and diplomatic pressures, but over time internalize the norms embodied in the treaty. The almost universal signature of the Chemical Weapons Convention and the United Nations Conference on Environment and Development agreements suggests powerful public international pressures to sign treaties that establish new norms, with the costs of compliance playing a minor role in most countries' calculus regarding signature. Nevertheless, the treaty norms are likely to constrain future behavior.

Even a hegemon may feel constrained by the norms of the regimes it creates. The United States regularly accepted General Agreement on Tariffs and Trade (GATT) decisions that went against its position (Meyer 1978; Lipson 1982). Negotiating and signing a treaty creates a standard, deviation from which demands an explanation to other states, publics, and nongovernmental organizations (NGOs). The seemingly endless discussions in international organizations of the scope and meaning of norms enhance their authoritative character. Actors regularly appeal to legal norms in their justification of behavior, thus legitimizing those norms and reinforcing expectations that will constrain their own future behavior.

The treaty and treaty secretariat need not rely exclusively on norms to alter behavior, however. Several more active means are available to them. The two key components of successful efforts at eliciting compliance are a transparent information system and a managerial strategy of responses to induce compliance.

Developing a Transparent Information System

To manage compliance effectively, the treaty regime must have a transparent information system. We use "transparency" to mean the adequacy, accuracy, availability, and accessibility of knowledge and information about the policies and activities of parties to the treaty, and of the central organizations established by it on matters relevant to compliance and effectiveness, and about the operation of the norms, rules, and procedures established by the treaty.

An information system's transparency can be evaluated against several standards. First, does the system collect a wide range of relevant information on compliance and effectiveness? Second, is the available information perceived as accurate, reliable, and legitimate? Third, does information available to the secretariat get analyzed and processed effectively? Fourth, is the information available to the secretariat made available to industry, NGOs, and publics as well as governments?

The Functions of Transparency

Transparency fosters compliance by permitting actors to coordinate their behavior, reassuring actors who desire to cooperate but fear being "suckered," and deterring actors contemplating noncompliance. In many instances, the actor's independent responses to these forces will assure compliance. Where strategic interaction is insufficient, transparency allows other parties to observe deviations from prescribed conduct and to require that those deviations be accounted for and justified.

Coordination. In simple cases where actors care more that a single rule govern the activity, than which rule governs it, treaties facilitate cooperation by creating and publicizing an agreed-upon rule. Some rules are literally rules of the road, such as

rules established for air transport, marine navigation, and satellite communication allocation. Once the parties understand the rules, no actors have incentives to violate them. In other cases, regimes produce collective information that participating states would find it impossible, or prohibitively expensive, to assemble on their own. Various commodity agreements and the International Monetary Fund (IMF) have produced industrial, financial, and economic databases that facilitate numerous loans and private economic transactions. Periodic reporting on SO₂ emissions under the Long-Range Trans-Boundary Air Pollution (LRTAP) Convention led most parties to limit their emissions by some 30 percent unilaterally; only subsequently was a protocol to that effect negotiated. The credible, integrated database that was essential to common scientific judgment and coordinated action would not have emerged in the absence of the regime (Ausubel and Victor 1992).

Reassurance. Transparency also reassures parties that others are meeting their obligations; and if they are not, it permits a timely response. Reassurance is needed when actors otherwise inclined to comply are concerned that they will be placed at a disadvantage if their compliance is not matched by others. To preserve a common pool resource, actors must adopt a “contingent strategy” of committing to follow the rules as long as others do so, but such actors must have “information about the rates of rule conformance adopted by others” (Ostrom 1990: 187). Treaties banning deployment of nuclear weapons in certain environments worked by reassuring each side: since each side had incentives to place weapons in these areas only if the other side did, ordinary surveillance reassured each side of the other’s compliance.

Regimes for confidence-building measures in Europe required states to give notice of military maneuvers to assure all Europeans that neither the North Atlantic Treaty Organization nor the Warsaw Pact was preparing a surprise attack. If the conditions of an assurance problem hold—that is, if the benefits to a state exceed its costs of contribution so long as others also comply—transparency supplies the reassurance needed for parties to make safe, advantageous, and credible commitments to follow the rules.

Deterrence. Deterrence is the obverse of reassurance. A party disposed to comply needs reassurance. A party contemplating violation needs to be deterred. Transparency supplies both. The probability that conduct departing from treaty requirements will be discovered operates to reassure the first and to deter the second, and that probability increases with the transparency of the treaty regime. Deterrence succeeds if discovery entails penalties that increase the costs of defection enough to exceed the expected gains. Penalties can involve loss of the anticipated benefits of the regime. Even when direct retaliation seems unlikely, exposure alone can cause behavior to change.

When the United States raised questions about activation of surface-to-air missile (SAM) radars at test ranges in violation of Article VI of the Anti-Ballistic Missile (ABM) Treaty, the Soviets admitted nothing, but the practice stopped a few weeks later. Transparency often can be used to prevent a defector from achieving the benefits of defection. For instance, the ABM regime prohibits precursor activities that the opposite side can readily, quickly, and accurately detect, and to which it can readily respond in ways that would erase any potential gain from the original defection.

In a multilateral setting, the delinquent may suffer more diffuse negative reactions from states and other groups with a stake in the treaty regime. Some of the country studies demonstrate that even fear of negative reputational impacts and diffuse reciprocity may be adequate to deter (Charny 1990; Keohane 1986).

Assembling the Database

Creating a successful transparent information system crucially depends on the types of behavior the treaty seeks to regulate, the way the treaty defines those behaviors, and the available means for identifying whether a proscribed action has occurred.

The framing of the treaty's rules has at least three implications for regime transparency. First, it determines the number of actors whose behavior must be verified. For example, treaties regulating habitat destruction seek to restrain relatively large numbers of actors whose behaviors face little if any regulation, whereas those regulating chlorofluorocarbon (CFC) manufacturing need monitor only a few chemical plants that already face considerable regulation of their activities for other reasons. Second, information regarding certain actors that is already available through other regulatory infrastructures reinforces and facilitates transparency. The International Labor Organization's (ILO) Committee of Experts uses a variety of existing informational sources to identify violations of the many conventions it administers. Third, the type and level of standards must match the capacities of existing monitoring technologies. Transparency regarding compliance increased dramatically in treaties regulating intentional oil pollution when rules limiting discharges at sea were replaced with rules requiring installation of specific equipment to prevent such discharges (Mitchell 1994).

Once the rules are established, transparency requires developing data on the behavior of the parties with respect to the principal treaty norms. Independent data collection by a central organization is rare, and most regulatory treaties contain provisions for some kind of voluntary reporting by the parties, exchange of information, or joint research and data collection (Ausubel and Victor 1992; Chayes and Chayes 1995). Indeed, establishing a database is often the primary initial objective of a framework-type agreement.

Self-reporting

Self-reporting on measures taken to implement the treaty is often central to efforts to create a transparent information system and assure compliance. Examples of requirements for self-reporting are ubiquitous in international regimes of all stripes, from early agreements on slavery to almost all recent environmental accords. However, such requirements do not equate with actual reporting (General Accounting Office 1992b; Mitchell 1994). Reporting is one of the few provisions common to all five treaties in the study, a fact that permits analysis of the extent to which differences in reporting provisions and systems influence the level of actual reporting. Requirements that parties report on planned programs and policies designed to bring them into compliance with a treaty can become the basis for the iterated management process of policy review and assessment, described below. The wide reliance on self-reporting raises two principal issues: failure to report and inaccuracy of reporting.

The principal problems with respect to self-reporting seem to be less the deliberate flouting of reporting requirements than limitations of capacity and of the bureaucratic setting in which reports are generated. Occasionally a country will skip its report to avoid revealing a serious violation, as was apparently the case with Panama and the whaling convention (Birnie 1985). An ILO working group concluded that reporting failures usually stem from administrative and technical difficulties or personnel changes rather than from deliberate refusal. The country studies in this volume provide further support for this conclusion.

The ILO has strong management procedures of blacklisting countries that fail to report, because it views reporting as essential to the compliance process (International Labor Conference 1980). As a result, the ILO has received reports from over 80 percent of its members in every year since its inception, despite long and burdensome requirements (International Labor Conference 1992). Likewise, enforcement data collected in and agreement among fourteen industrialized members of the International Maritime Organization (IMO) permit effective performance of inspections, which is a high priority of the port agencies, and has close to 100 percent reporting rates (Mitchell 1994). In contrast, compliance with the various reporting requirements of the International Convention for the Prevention of Pollution from Ships (MARPOL) is quite low, because the IMO secretariat does not facilitate reporting, makes little use of the information it does receive, and does not censure failures to report (Mitchell 1994).

Why would a state report information that shows it to be out of compliance? We assume that countries usually prepare reports to represent the facts as known, although some nations face difficulties in collecting and analyzing complete and accurate data sets. For most functional agreements, middle- or lower-level officials within relevant ministries prepare reports that are reviewed by officials concerned

about their international "audience." This bureaucratic setting provides some insulation against deliberate misreporting. Day-to-day policy-making and administration require reliable statistical data. Indeed, nations often report to international secretariats only data that they already collect for other reasons. This circumstance undoubtedly means that much information frequently remains unreported, but it also makes it somewhat more difficult to "cook the books."

On the other hand, incentives exist to make performance look good. The Soviet Union systematically exceeded international quotas on important whale species, and deliberately misreported kills to the International Whaling Commission. In more open societies, bureaucrats will generally face more checks, and even direct challenges to the accuracy and completeness of their reports. In the human-rights area, NGOs even in closed societies have regularly produced information to challenge reports filed by parties to human-rights treaties, and efforts have recently been made to create such procedures in environmental treaties (Navid 1979; Greenpeace 1990; Chayes and Chayes 1995). The country studies provide some evidence of both the political pressures from domestic legislatures, citizens, and NGOs, and pressure from international groups to make reports available and accurate.

Independent Reporting and Verification

Although environmental treaties usually require only national self-reporting, ways of skirting the "self-incrimination" problems inherent in such systems are increasingly being recognized and put to use. Agreements regulating trade in coffee, endangered species, and weapons require both the exporting and the importing party to report on each transaction (Chayes and Chayes 1994; Trexler 1989). NGOs commonly help verify human-rights treaties. Even in the security-shrouded world of arms control, advocacy NGOs such as the Federation of American Scientists, as well as research organizations such as the Stockholm Institute of Peace Research, Jane's, and the International Institute for Strategic Studies, have developed impressive credentials as independent sources of authoritative information (Laurance et al. 1993). Environmental NGOs have made it their business to collect information on treaty-related behavior and to sponsor scientific measurements of atmospheric conditions, ozone depletion, and species populations, thus providing information independent from that provided by their governments.

The Commission on Sustainable Development explicitly created a legitimate channel for NGOs to provide reports to secretariats in order to facilitate evaluation of compliance and noncompliance. Even industry may provide independent information on compliance. The International Chamber of Shipping, a private consortium of shipping companies, has regularly identified ports that have not provided reception facilities as required by MARPOL, and much CFC production information is provided directly by industry (Mitchell 1994).

The availability of other sources for the same data sometimes facilitates verification of national data. Data from one country can be compared with those from other countries and validated against information available on highly correlated independent statistics. The LRTAP Secretariat develops, and to an extent verifies, emissions reports by comparing them with fuel consumption statistics converted into sulfur emission estimates (Levy 1993). A similar procedure may prove useful for verifying parts of the Framework Convention on Climate Change. Scientific monitoring devices are available and of increasing utility in measuring emissions both directly and indirectly (Ausubel and Victor 1992).

Finally, a secretariat can provide independent verification by direct inquiries. Almost all arms-control treaties signed since the path-breaking Intermediate-Range Nuclear Forces (INF) Treaty have intrusive inspection procedures. Human-rights committees often appoint a rapporteur for a particular problem, with a mandate to gather evidence and information from all available sources, and often to make country visits. The 1971 Convention on Wetlands of International Importance (Ramsar Convention) established on-site monitoring procedures that have been used dozens of times to verify noncompliance and assist countries in identifying strategies to encourage compliance (Ramsar Convention Bureau 1990).

Analysis, Evaluation, and Dissemination

Collected data contribute to compliance management only if the regime provides analysis, evaluation, interpretation, and dissemination of the information acquired. Some regimes make extensive use of the data they collect. As already noted, the IMF compiles, analyzes, and publishes data in formats not otherwise available; the European marine enforcement regime creates a useful real-time database, and commodity agreements produce valuable industry and sector data. The Convention on International Trade in Endangered Species (CITES) makes extensive use of the reports of TRAFFIC, an NGO, to attempt to identify trends in wildlife trade.

However, several factors inhibit secretariats' analysis of the data available to them. First, they lack resources. Secretariats, particularly of environmental treaties, often have huge demands placed on their limited personnel and financial resources. Although all concerned may view analyses of compliance and effectiveness as essential, the need to prepare for the next conference of the parties or to type the transcripts of the last conference often takes priority. Independent analyses, by NGOs or academics, occur episodically at best, often reflect the analyst's agenda, and lack the "impartiality" and "legitimacy" that a secretariat analysis would carry. Indeed, they may fail to fully understand the real sources of the problem.

Second, the secretariat may lack the incentives to conduct certain types of analyses, and may even be directed by member states not to do so. For example,

although the European marine enforcement regime requires each state to inspect 25 percent of the ships entering its ports, the annual reports do not analyze inspections on a country-by-country basis because of a desire by signatories to avoid being subject to “shaming” for failing to meet the requirements. Even when such analyses are conducted, they may not be disseminated beyond the governments of the member states because of diplomatic deference and each party’s willingness not to publicize another’s noncompliance in exchange for not having its own noncompliance identified.

A Managerial Model of Compliance

Most regulatory regimes should be regarded as instruments to manage an issue area over time, rather than as sets of prohibitory rules. Just as private companies and public bureaucracies commonly produce and review information about past performance in order to measure and manage their own progress, so creating transparency in international treaties generates information for assessing compliance of individual parties as well as evaluating overall regime effectiveness.

Essentially, the tasks of managing compliance are threefold:

1. Reviewing and assessing the performance of the parties in order to identify problems with the regime itself and to distinguish intentional violations from other types of noncompliance.
2. Ensuring that appropriate responses to noncompliance and violations produce and maintain a level of compliance “acceptable” to the regime parties.
3. Adjusting the rules to improve regime performance.

As in other managerial settings, the approach is not primarily accusatory or adversarial. In fact, regime management frequently starts with education and building a public constituency and awareness. Although effective regime management requires distinguishing willful violation from unintentional noncompliance, the process starts with the assumption that all regime members are engaged in a common enterprise. Initially, assessments seek to discover how to improve individual and system performance. Secretariats and other parties give states ample—sometimes, it seems, excessive—opportunities to explain and justify their conduct. Technical or financial assistance may be provided. Promises of improvement contain increasingly concrete, detailed, and measurable undertakings. If resistance persists, however, states and the secretariat may take more confrontational stances and intensify pressures for compliance. This process creates pressures to correct suspect conduct attributable to inadvertence, misunderstanding, or inattention while identifying, exposing, and isolating deliberate offenders.

Regime management usually involves three different levels of treaty evaluation. The first, review and assessment, evaluates each member state’s performance and

seeks to improve it while holding the regime rules relatively constant. The second, dispute resolution and interpretation, helps to clarify those areas of regulation and behavior that, at least initially, pose ambiguities. The third, adaptation and revision, entails the less frequent reappraisal of whether alternative rules would prove more effective at inducing compliance and achieving treaty goals.

Review and Assessment

Review and assessment involves evaluating the performance of the parties with an eye to improving compliance with the existing regime rules and structure. Treaties as diverse as the International Monetary Fund, the INF agreement, human-rights conventions, the Uruguay Round trade agreements, and the recently adopted Framework Convention on Climate Change have adopted review and compliance as central to their compliance systems. These systems involve evaluation of data from self-reporting, assessment of information collected from various sources, and analysis of member performance with respect to treaty requirements. In a well-managed treaty, steps may be taken, if performance is found wanting, to bring about improvement. These steps range from technical and administrative assistance to public exposure and "blacklisting." Together they comprise a powerful set of tools.

The ILO well exemplifies such review and assessment processes. Its Committee of Experts reviews government responses, comments on them, and reports findings to the conference of the parties. Another committee takes up cases of noncompliance, calling on noncomplying countries to explain and defend their behavior. A state may request "direct contact," a site visit by ILO staff to try to work the problem out on the ground. This is similar to the Ramsar Convention monitoring procedure noted above. Finally, persistent violation within defined categories can cause blacklisting, a form of "shaming." This final stage is preceded by a warning phase of a "special paragraph," which puts pressure on a member to come into compliance. Such procedures seek to distinguish noncompliance from intentional violation while simultaneously providing both the ability and the incentives necessary to increase compliance.

In IMF surveillance of national monetary policies, staff teams cooperate closely with local officials in detailed periodic reviews of members' economic performance. The Organization for Economic Cooperation and Development (OECD) elicits compliance with its Codes of Liberalization of Capital Movements and Invisible Transactions through a ratcheting process of assessment and review. States frequently take reservations to obligations under these codes. Those that do, are called upon by the relevant OECD committee to justify existing restrictions and to indicate their plans for removing such reservations in periodic reports. The OECD secretariat's review of the reports provides the foundation for discussion at quarterly meet-

ings of the committee. Because of the pressures, states often remove reservations in the course of this process or on a faster schedule than initially proposed. The OECD has begun to conduct similar systematic reviews of the environmental policies of its members, evaluating them in terms of international commitments, OECD guidelines, and national declaratory policies. A similar policy review and assessment approach was adopted by the GATT in its Trade Policy Review Mechanism, and is now incorporated by treaty in the WTO.

Determining Acceptable Compliance Levels

International treaties, like other legal rules, can withstand significant noncompliance so long as it does not threaten basic objectives (Chayes and Chayes 1994). Not all violations, even persistent ones, threaten the life of the regime. At some point, the benefits of obtaining improved compliance fall below the costs of efforts needed to induce compliance, and the parties will accept the situation as it is. On the other hand, actors view certain defections as so serious that leaving them unaddressed would undermine the regime. For example, although as a general rule CITES tolerates a certain amount of noncompliance, most states viewed the defection of Japan, a major importer, from the ban on ivory trade as a threat to the credibility of the regime as a whole. The treaty legally allowed Japan to opt out. But pressures brought against it, including threats to change the plans to hold the next conference of the parties at Kyoto, induced Japan not to do so.

Levels of acceptable compliance depend upon such factors as the urgency of the issue and the degree of reliance placed by the parties upon the performance of others. The compliance of certain members may prove more crucial to effective treaty operation than that of others, whose noncompliance may be ignored or downplayed. Time matters, too—acts of noncompliance that are unremarked early in a treaty's history may receive quick and harsh responses later on. Treaties may even go through cycles of low-compliance "legislation stages"—during which states negotiate rules whose value stems from the distance between the "good" rules and the "bad" current behavior—and high-compliance "implementation stages"—during which activist states exert strong pressures to bring behavior into line with existing regulations.

Under most circumstances, strict and immediate compliance with every provision of an agreement is neither necessary nor feasible, as the record of domestic regulatory programs makes clear. Nor is there an invariant standard less than 100 percent. When member states perceive the current level of compliance as below the "acceptable" level, they often seek to improve compliance by some of the managerial techniques described here.

Capacity-Building

As traditionally conceived, treaties govern the actions of states. Treaty compliance involves making state behavior conform with treaty rules. However, environmental treaties also seek to change the actions of private actors. The problem of incapacity presents itself at several steps in such a compliance process. (On the importance of capacity-building in improving environmental treaty effectiveness, see Levy, Keohane, and Haas 1993.) First, compliance may require a state to enact legislation regulating the conduct of its corporate and individual citizens in accordance with the stipulations of the treaty. That capability may be deficient in some states, particularly those in transition to democracy. Technical assistance and advice from other states can help to develop workable and appropriate legislation, as shown in experience with the ILO, IMF, and CITES agreements (International Labor Conference 1982; Strange 1974). (The International Union for the Conservation of Nature's Environmental Law Center in Bonn, Germany, catalogs existing legislation and promotes the adoption of model legislation for CITES. [Burhenne-Guilmin 1992].)

The next step is harder. The state must mobilize an effective administrative and political effort to translate the legislation on the books into the reality of changing the behavior of private parties in accordance with treaty norms. Environmental treaties implicate the capacity of the state to govern—to enforce its own rules in significant ways. These problems can arise in developed as well as developing countries and in a wide range of subjects. Pakistan's nuclear weapons program relied heavily on suppliers in industrialized states that were signatories to the Nuclear Non-proliferation Treaty and that had stringent export-control laws. Even on such a high-salience issue, the United States, Germany, France, Great Britain, and other developed countries with interests in and programs for controlling nuclear-related exports failed to control the actions of their private corporate citizenry. Many advanced industrialized countries fail to secure full compliance with domestic clean-air and other pollution regulations, and adoption of a treaty seems unlikely to cure such problems.

Economic instruments, such as taxes and charges, will place new strains on existing infrastructures. Tax collection requires public discipline and a well-functioning bureaucracy. Despite the widely touted efficiency of taxes as a regulatory instrument, economists cannot accurately forecast the exact magnitude of behavioral response to a tax, a situation creating the possibility that a well-planned tax may fail to achieve an emissions target (Epstein and Gupta 1990).

Similarly, compliance with CITES requires customs officers to make fine distinctions among species while simultaneously preventing imports of drugs and other contraband, and moving legitimate shipments rapidly through the customs process.

Even customs officials in countries strongly committed to CITES, like the United States, may lack the necessary abilities and training.

In developing countries, the problem of enforcement capacity is often particularly acute. Inadequacies may exist in the administrative structures, available manpower, procedures for statistical record-keeping, the priority given to enforcement, and financial resources. To remedy such problems, the World Health Organization (WHO), the Food and Agriculture Organization (FAO), and the World Meteorological Organization (WMO) provide technical assistance as a main programmatic activity. The International Atomic Energy Agency spends half of its budget on technical assistance to developing countries in order to promote peaceful uses of nuclear energy. IMF surveillance procedures enhance the technical and professional capacities of finance ministries and central banks. Even when such assistance comes without explicit conditionality clauses, the organizational commitment to the treaty pushes recipients to conform to treaty goals.

Environmental treaties increasingly make assistance conditional on improving compliance. The Montreal Protocol multilateral fund, the Climate Fund of the Framework Convention on Climate Change, and the Global Environmental Facility proceed on the premise that developing countries need technical and financial assistance to facilitate compliance. All these mechanisms are designed to finance the "incremental costs" of compliance, including not only operating projects but also education, training of national enforcement officials, improvement of scientific facilities, assistance to planning departments, enhancement of data systems, and the like.

Reliance on project funding to remedy noncompliance may be misplaced, however. The supply of such funding is subject to classic "public goods" problems: although each treaty party wants other parties to comply, none wants to pay for another party's compliance. Mandatory contribution provisions themselves present compliance problems. Whether the mechanisms established, or those proposed, will maintain the flow of funds necessary for significant increase of treaty compliance remains to be seen.

Finally, the capacity to elicit compliance from domestic actors depends on the nature of treaty rules. Revising treaty rules to match existing monitoring and enforcement capabilities can sometimes prove to be the easiest and cheapest means of "increasing" capacity. MARPOL's discharge requirements proved difficult to enforce because, although aerial observation could detect oil slicks that violated treaty provisions, authorities often could not make the links to particular ships that are necessary for prosecution. Later agreement to require construction of tankers with separate tanks for oil and water ballast allowed much easier verification of compliance through inspection in port. The easing of the enforcement burden has boosted compliance to figures approaching 100 percent (Mitchell 1994).

Similarly, an on-line data collection system for customs documents aids German enforcement of export controls by simplifying processing and analysis of documentation (Reinicke 1994). Peter Haas recounts that in the Mediterranean Action Plan, France first sought pollution measurements that were beyond the range of laboratories and monitoring stations in developing countries on the Mediterranean's south shore. The policy harmonization process revealed that effective pollution control did not require such fine measurements, and produced new rules that allowed the developing countries to monitor their own emissions (Haas 1990).

The Ad Hoc Group of Experts on ozone reporting identified many problems common to other treaty reporting systems that arise from the reporting provisions rather than from national incapacity: reports were unnecessarily complicated, requested useless information, and the like. At its first meeting, the Group concluded that countries lacked the knowledge and technical expertise necessary to collect or provide the relevant data, and made a detailed series of recommendations for addressing the problem (see UNEP 1992; Peet 1994).

Dispute Resolution and Interpretation

Many analysts regard dispute settlement as a side track to, rather than an integral part of, a compliance strategy. But, as we have stated, treaties, like most other legal instruments, are rarely self-defining. When differences over meaning arise in the concrete circumstances of a particular case, whether or not they take the form of a "legal dispute," their resolution serves a dual function. It clarifies the meaning of the norm for all parties, and specifies the performance required of the disputants in the particular circumstances.

As in all legal systems, parties settle most treaty disputes by negotiation without recourse to available formal processes. The question is, What happens when negotiation fails? The United Nations Charter rehearses a familiar sequence of settlement methods: negotiation, inquiry, mediation, conciliation, arbitration, and judicial settlement. Yet the Charter does not require states to invoke any of these, apart from a generalized obligation of peaceful settlement. International lawyers make claims for the value of binding adjudication, either in the International Court of Justice or through a specialized tribunal or arbitral panel. Despite their alleged virtues, the Court and binding arbitration have played a minor role in treaty compliance to date, and seem unlikely to do more in the future. Besides being costly, contentious, cumbersome, and slow—the usual defects of litigation—they have the additional unattractive features of raising the political visibility of the problem and failing to be subject to party control.

Most treaty regimes turn to a variety of relatively informal mediative processes if the disputants cannot resolve the issues themselves. In multilateral regimes outside

the security context, institutionalized processes provide scope for the secretariat or uninformed parties to play an intermediary role. For example, the Convention on International Civil Aviation commits decisions on disagreements over interpretation or application to its Council (Convention on International Civil Aviation 1944). Many bilateral air traffic agreements provide for dispute settlement by the same Council. Since the thirty-three-member body is of an awkward size for carrying out judicial functions, the predominant mode of settlement is informal conciliation. Thomas Buerghenthal concludes that "in dealing with disputes arising under the Chicago Acts, the . . . Council has been guided by a policy that favors settlement by political and diplomatic rather than judicial means" (Buerghenthal 1969: 195).

Based on the experience reviewed, we conclude that the legal stature of the form that dispute settlement takes or the decisions that come out of such efforts makes little difference, so long as parties treat the outcome as authoritative. Nevertheless, recent trends suggest a reversion to more compulsory and binding methods. The most important instance is the WTO, which, after almost two decades of incremental tinkering in GATT, adopted a new procedure in the Uruguay Round that amounts to binding adjudication. Panel opinions are automatically adopted, subject to an appeal on questions of law to a special panel of legal experts. Compulsory adjudication for some issues is also stipulated in the Canadian–United States Free Trade Agreement and in the North American Free Trade Agreement.

An important middle ground is emerging in the form of compulsory conciliation, culminating in a nonbinding recommendation from the conciliators on the issues in dispute, if the parties fail to agree. It avoids the adversarial quality of more formal adjudicatory procedures while at the same time assuring that the regime will be able to address the entire range of disputes without being blocked by a stonewalling respondent. Although the conciliators cannot pronounce a binding decision, their publicly reported view is likely to carry considerable weight both with the disputants and with the parties in general. Such a procedure preserves the niceties of sovereignty and avoids forcing the parties to accept a decision.

In regimes managed by international organizations, the preferred alternative for the resolution of disputes involving legal issues is authoritative or semiauthoritative interpretation by a designated body of the organization, often the secretariat or a legal committee. This provides a far less contentious method for dealing with disputes about the meaning of treaty provisions, and also may help prevent disputes by stemming potentially noncompliant behavior before a party has committed itself to activities that clash with regime goals. A state will tend not to disregard the answer to a question it has submitted, especially if such a nonadversarial context encourages working out differences or misunderstandings. In addition, the interpretative process can provide the ongoing clarification and elaboration of the governing legal rules

that courts and administrative agencies perform in domestic legal systems. At the extreme, "interpretation" can provide a means for adapting the norms to significantly changed circumstances.

Of the 125 treaties reviewed by Chayes and Chayes, over half have some sort of provision for nonjudicial interpretation. Beyond those with explicit provisions, many implicitly grant the power of interpretation to a treaty body. Even an unsystematic examination of the practices of some of the governing organizations suggests that, unlike adjudication, member states do avail themselves of procedures for treaty interpretation. Experience under many regulatory regimes indicates that interpretation is a valuable tool for managing treaty implementation, and can avoid some of the contentiousness of traditional dispute-resolution mechanisms.

Adaptation and Revision

A less frequent part of treaty maintenance involves the long-term attempt by the parties to identify ways to improve treaty provisions so as to induce higher levels of compliance. Treaties do not remain static. To endure, they must adapt to inevitable economic, technological, social, and political changes. Traditionally, this required formal treaty amendment, but many recent environmental agreements have adopted a "framework and protocol" approach. The LRTAP regime has adopted protocols on sulfur dioxide, nitrogen oxides, and volatile organic compounds. The 1985 Vienna Convention on the Protection of the Ozone Layer provided only that the parties will cooperate in research and will exchange legal, technical, and scientific information on matters concerning the ozone layer (Vienna Convention for the Protection of the Ozone Layer 1985). Only two years later did the Montreal Protocol provide for cutbacks in consumption of CFCs. In 1990, nations amended the protocol to extend the controlled substances list and to speed up the phaseout. A similar framework-and-protocol approach is being considered in proposals for regimes to govern the size and character of conventional military establishments (Chayes and Chayes 1992).

Because protocols face the same ratification process as the original treaty, dissatisfied parties can block their entry into force. To skirt this problem, some treaties provide for rule adaptation without such formal procedures. The simplest device involves vesting the power to "interpret" the agreement in an organ established by the treaty. The United States Constitution has kept up with the times not primarily through amendments but through the Supreme Court's interpretation of its broad clauses. The IMF Agreement gives similar power to the Governing Board, and numerous key questions, including whether drawings against the Fund's resources could be made conditional on the economic performance of the drawing member, have been resolved by this means (International Monetary Fund 1945, 1952).

Experience under the ABM Treaty illustrates how initial hopes to avoid disagreements by careful treaty phrasing can fail. Article VI of the treaty prohibited "testing in an ABM mode." If the Soviet Union could upgrade its SAM systems for ABM use, the numerous and widely distributed SAM installations would constitute the nationwide ABM system that the treaty prohibited. The United States appended a unilateral statement to the treaty declaring that it would interpret collocation of SAMs at intercontinental ballistic missile (ICBM) test sites and testing of SAM radars concurrently with ICBM reentry as prohibited testing, since these practices were necessary to designing ABM upgrades for SAMs. After the United States observed the Soviet Union continuing these practices, lengthy negotiations in the Standing Consultative Commission in 1978 produced agreement by the Soviets with the American interpretation of Article VI. The two states further refined this interpretation in 1985, after the United States continued to observe concurrent operations of SAM radars and missile tests.

A second mechanism for adaptation used under several treaties is the adoption of "technical" regulations by vote of the parties (usually by a special majority of more than 51 percent), which then bind all parties that do not choose to opt out. The International Civil Aeronautics Organization has such power with respect to operational and safety matters in international air transport (Convention on International Civil Aviation 1944). CITES and the International Convention for the Regulation of Whaling make use of such technical appendices to ensure that changes to species listings and whale quotas, respectively, can take effect without long ratification delays. IMO treaties contain "tacit acceptance" provisions whereby certain amendments adopted by the relevant committee enter into force automatically within sixteen months for all parties that do not explicitly object. In many regulatory treaties, "technical" matters may be relegated to an annex that can be altered by vote of the parties (see 1987 Montreal Protocol on Substances That Deplete the Ozone Layer, art. 2(9); 1990 London Amendments to Montreal Protocol). Even recent United States-Russian arms-control treaties have authorized modifications regarding "technical matters" by executive agreement without reference to the legislative bodies (Koplow 1992).

Treaties characteristically contain self-adjusting mechanisms by which, over a significant range, they can, and in practice commonly do, adapt to changes in the interests of the parties. The need for, and direction of, such adaptation will depend on evaluations of the level of compliance. Compliance deemed adequate to achieve existing goals of the major parties can lead to parties' viewing the treaty as a success. This may then lead them to agree on new treaty goals and rules that establish higher standards for behavior. The adoption of new protocols for nitrogen oxides and volatile organic compounds under LRTAP, and the adoption of earlier phaseout

dates for CFCs under the London Amendments to the Montreal Protocol reflect efforts to build on evidence of treaty success.

If the treaty information system reveals high levels of noncompliance due to inadvertence, ambiguity, incapacity, and other unintentional factors, the parties may adopt new rules and procedures that attempt to address these problems. Effective treaty alteration requires sufficient analysis to ensure that the new rules address the true sources of current noncompliance. For example, if the real reason for noncompliance is lack of financial resources, then adopting more specific language is unlikely to improve compliance.

Information may show, however, that noncompliance actually stems from intentional violation. But even in such situations, "deliberate" failure to comply may reflect nothing more than a lack of interest in the goals of the treaty (Lyster 1985). If powerful parties maintain an interest in the treaty goals, however, these parties may succeed in replacing ineffective treaty rules with rules that facilitate the monitoring and enforcement necessary to bring coercive pressures to bear on the violating parties. MARPOL's replacement of discharge standards with equipment standards reflected pressures from the United States and other countries for rules that provided greater transparency and were designed to elicit greater compliance.

New rules may not always improve compliance. They may exacerbate tensions between those seeking effective compliance and those who prefer a more lax treaty regime. The International Whaling Commission adopted an International Observer Scheme in the early 1970s, after years of debate and concern over inaccurate reporting; however, whaling nations' resistance led to a watered-down provision involving voluntary inspections by the personnel of one whaling nation of the catch of another whaling nation (Birnie 1985).

The Role of International Organizations and Nongovernmental Organizations

The activities described above do not arise and operate spontaneously. Their effectiveness depends heavily on the organizational setting in which they are deployed. The parties to treaties, acting on their own, can sometimes activate these instruments. NGOs often can heighten and intensify such efforts. Such a diffuse model has certain appealing features in an era of extreme skepticism about the capacities of government and bureaucratic institutions. However, it is no coincidence that the regimes with the most impressive compliance experience—ILO, IMF, OECD, GATT—depend upon substantial, well-staffed, and well-functioning international organizations. In the contemporary international system, both nongovernmental and intergovernmental organizations play essential roles in the management of compliance.

NGOs began to become involved in international affairs with the emergence of economic and social issues on the international agenda after World War I. They now

perform parallel and supplementary functions at almost every step of the regime management process we have described. They provide independent information and data. They verify party reporting, and evaluate and assess party performance. They often provide technical assistance to enable developing countries to participate in negotiating treaties and to comply with reporting and substantive requirements. When noncompliance occurs, they prove crucial to exposure, shaming, and motivating public responses. They enhance pressures on governments to comply both from within and from without. Because they are outside governmental control and have their own goals and definitions of compliance, their actions are not always appreciated.

NGOs within countries can use international treaties to appeal for enforcement of treaty norms. In 1987, for example, two Nigerian lawyers founded the Civil Liberties Organization to represent common prisoners held without charges or trial for extended periods. It soon was bringing class actions on behalf of groups of detainees and publishing reports on individual prisons. Its 1992 report on conditions in Nigerian prisons, *Behind the Wall*, documented the degree to which the country's prisons failed to meet the provisions of numerous human-rights agreements. Shortly thereafter, the government granted amnesty to 5,300 prisoners, doubled prison budgets, and made other policy changes.

A year after the 1973 coup in Chile, documentation by Amnesty International and the International Commission of Jurists of arbitrary detention and arrest, torture, and disappearances provided the basis for charges by the Soviets and others in 1974 before the United Nations Human Rights Commission. By the next year, the Commission gave NGOs the right to appear before it in their own name, rather than as information suppliers to governments, and set up an ad hoc working group to investigate the Chilean abuses. Although the progress was slow and halting, human-rights NGOs and their counterparts within Chile played important roles in providing both the information and the motivation for the progress that has been made.

In whaling, in the 1970s, NGOs conducted an extensive membership drive among anti-whaling states that created the three-quarters majority needed to pass the moratorium on commercial whaling in 1982. American NGOs also consistently pressed for application of United States domestic legislation authorizing sanctions against actions that "diminished the effectiveness" of the whaling convention. Most of these cases did not involve treaty violations, and many involved attempts to pressure nations to join the International Whaling Commission. Various NGOs have regularly undertaken letter-writing and advertising campaigns, consumer boycotts, and sometimes more drastic measures to urge governments and whaling companies to halt whaling.

In all these cases, NGO activities made a difference, although it is sometimes an open question whether their contribution was positive. The development and

elaboration of norms and states' compliance with existing norms cannot be explained without reference to NGO actions. Their impact stems from an ability to influence the domestic policy process in many states, as well as an ability to appeal directly to international organizations and the international community over the heads of governments.

International organizations are arenas for almost continuous interactions among the members, their representatives, and the staff. This process involves persuasion and an important element of exchange. They generate a continuous stream of transactions that serve as counters in an unending game of political bargaining and diffuse reciprocity (Keohane 1986). Lisa Martin argues that the involvement of an international institution facilitates a state's efforts to mobilize international support for economic sanctions it seeks to impose against another state, as happened in Britain's use of the European Community to build support for sanctions against Argentina in the Falklands/Malvinas conflict (Martin 1992).

The secretariats of international organizations wield considerable power through their control of the agenda. In the international context, Dr. Mostafa Tolba, the executive director of the United Nations Environment Programme, defined much of the environmental treaty-making agenda in the 1970s and 1980s despite his small budget and the absence of any formal power. Director General Hans Blix took the disclosures of Iraqi nuclear sites as an opportunity to strengthen the IAEA safeguard system. Simply proposing such strengthening to the Board of Governors in that climate forced important progress. The bureaucrats of the European Commission play this role regularly in the politics of the European Union.

International organizations can also influence the policies of their members more directly. During the debates of the 1970s over population growth and family planning, WHO officials successfully resisted the effort to characterize population issues as broad social and economic matters by mobilizing its formidable constituency of health ministries, medical groups, and NGOs to persuade governments and the international community to keep family planning and population issues under the control of the health sector (Finkle and Crane 1976). Bureaucratic alliances between international organizations and the relevant ministries can exert considerable influence on domestic governmental policies. The IMF and WHO use their extensive network of loyal contacts within domestic bureaucracies to promote their policies, and provide information and support to actors pushing for greater compliance.

The industrial states that provide much of the financial support have become increasingly skeptical of international organizations, and this is reflected in their unwillingness to provide funds or establish structures in new treaty regimes capable of developing the treaty mandate. Part of the reason is the well-known ills of

bureaucracies that appear in heightened form in the international arena. But part is also that a strong secretariat can attain considerable autonomy from the control of member states. Thus, often, the consent granted by states to regulation by an international regime has not been accompanied by the delegation of authority to a central body with sufficient staff and resources to manage the implementation of the obligations undertaken. In most contemporary environmental treaties, the operational arm of the regime is the conference of parties, not only nominally but in practice. Special committees or working groups staffed by country representatives do much of the preparatory and staff work. The secretariats, consisting of a few officials, are too small to be capable of much policy initiative.

This design is already leading to concerns about "institutional overload" (Levy, Keohane, and Haas 1993). The demand for intensive and extensive party participation strains the resources of even the largest and most dedicated foreign policy establishments. Without modification of this stance, the increasingly complicated and complex tasks facing organizations in many international issue areas will likely go unfulfilled. Implementation, compliance, and enforcement are the quintessential tasks of bureaucracies in all organizations. Reducing the resources available for these purposes will not improve performance. Creating lean, effective, and politically responsive organizations should not be beyond the capacities of the international community at the end of the twentieth century. It will be essential to increasing compliance with international treaties.

Conclusion: Toward an Active, Integrated Management Strategy

The elements of management just discussed are powerful, but to date they have not been perceived as part of a coherent or comprehensive strategy for managing compliance. Few, if any, regulatory agreements display all of them. Particular treaties have developed some of these features quite fully, but others, such as capacity-building, remain rudimentary. Despite some impressive recent developments, current efforts do not yet constitute a comprehensive strategy of active compliance management. For the most part, the authority and resources to create the forms of issue management traditionally found in national governments and in the corporate world have not been made available. More important, the notion that treaty regimes can actively manage compliance through a comprehensive strategy remains neither widely understood nor widely accepted. It begins to emerge only by piecing together disparate efforts to manage the treaty implementation process. We believe this conceptual failure needs correcting. The elements we have described are not merely discrete useful practices; they need to be integrated into a comprehensive management strategy. Ideally, such a management strategy would include implementation with the support of a strong and effective international organization.

The foregoing discussion reflects a view of noncompliance as expected rather than deviant, and as inherent rather than deliberate. This in turn leads to deemphasis on enforcement measures or coercive sanctions, whether formal or informal, except in the most egregious cases. It shifts attention to sources of noncompliance that routine international political processes can manage. Thus, improved dispute-resolution procedures address problems of ambiguity; technical and financial assistance can mitigate, if not eliminate, capacity problems; and transparency and review processes increase the likelihood that national policies are brought progressively into line with agreed international standards.

These approaches merge in a process of “jawboning”—an effort to persuade a state to change its ways that is the characteristic form for eliciting international compliance. Jawboning exploits the *de facto* necessity for alleged violators to explain and justify suspect conduct. These justifications are evaluated in many forums, both public and private, formal and informal, domestic and international. This process distinguishes justifiable or inadvertent noncompliance—those instances that comport with a good-faith compliance standard—from those relatively rare cases of willful violation. Most compliance problems yield to this process. For those that do not, the process confronts the offending state with the stark choice between conforming to the rule as defined and applied in the particular case, or openly and explicitly flouting its obligation. The discomfort of such a position proves sufficient in most circumstances to get the transgressor to bring its behavior in line with its obligations.

Our analysis leads away from the search for better enforcement measures—“treaties with teeth”—and toward better management of compliance problems. It requires focusing on and improving the mundane, day-to-day interactions and discussions that persuade actors to comply, rather than dramatic episodes of sanctions as a response to clear violations. Treaties will elicit greater compliance when they look for ways to improve the former processes than when they demand the latter.

Notes

1. The framework and much of the material and arguments in this chapter have been developed more fully in Chayes and Chayes (1995).