

Cambridge University Press
978-0-521-76572-5 - Trading Fish, Saving Fish: The Interaction between Regimes in International Law
Margaret A. Young
Table of Contents
More information

Contents

Foreword			p	age xi
Acknowled	lgen	nen	ts	xiv
Table of co	ases			xvii
Table of C	onve	enti	ons, Declarations and procedures	xxiii
List of abb			-	xxxi
Part I:	Tra	di	ng Fish, Saving Fish	1
Chapter	1	Int	roduction	3
1		A	Trade law and fisheries sustainability	5
		В	Fragmentation of international law	8
		C	Scope, methodology and use of terms	16
			1 A case-study approach	16
			2 The vocabulary of regimes	19
			3 The legal framework for regime interaction	1 22
			4 The stakeholders	24
	-	D	Outline of the book	29
Chapter	2	Rel	evant laws and institutions: an overview	32
		A	The law of the sea	33
			1 UNCLOS and the EEZ regime	34
			2 UNCLOS's high seas, fish stocks and regiona	ıl
			regimes	38
			3 FAO fisheries management regime	46
			4 Interdependencies with other regimes	50
			5 Further links: the UN Consultative Process	53
		В	International environmental law	56
			1 Convention on the International Trade in	
			Endangered Species	56
			2 Convention on Migratory Species	61

v



Cambridge University Press 978-0-521-76572-5 - Trading Fish, Saving Fish: The Interaction between Regimes in International Law Margaret A. Young Table of Contents More information

vi CONTENTS

		3 Convention on Biological Diversity	63
		4 Interdependencies with other regimes	65
		5 Further links: UNEP	67
	C	International trade law	68
		1 The WTO Agreements	70
		2 Interdependencies with other regimes	75
		3 Further links: the General Council	
		and the CTE	79
	D	Conclusions	81
Part II: S	ele	cted Case Studies	83
Chapter 3	Th	e negotiation of WTO rules on fisheries	
	su	bsidies	85
	A	Subsidies and overfishing	87
	В	The forum shop: regimes of relevance	89
		1 The WTO's SCM Agreement	91
		2 The Doha negotiations	94
		3 Opposition to the role of the WTO	96
		4 Responses	99
	C	Inter-regime learning	105
		1 WTO members as conduits	105
		2 Participation and observership by others	108
		3 Other forums including UNEP	111
	D	Entrenching interaction	113
		1 Notifications	114
		2 Classifying subsidies using fisheries	
		standards	115
		3 Conditionality through benchmarking	
		and peer review	119
	E	Settling disputes	124
	F	Conclusions	129
Chapter 4	Th	e restriction of trade in endangered marine	
	spe	ecies	134
	A	Endangered marine species	135
	В	The forum shop: regimes of relevance	138
		1 Listing marine species in the CITES	
		Appendices	139
		2 Opposition to the role of CITES	141
		3 Responses	146



Cambridge University Press
978-0-521-76572-5 - Trading Fish, Saving Fish: The Interaction between Regimes in International Law
Margaret A. Young
Table of Contents
More information

		CONTENTS	vii
	С	The Memorandum of Understanding	
		between CITES and the FAO	154
		1 Legal status	155
		2 Evolution of the MOU	158
		3 Substantive and procedural constraints	169
		4 National policy coordination	174
	D	Entrenching interaction through the MOU	176
		1 Information-sharing and observership	176
		2 Capacity building	179
		3 Involvement in CITES listing criteria	179
		4 Consultation and review of listing proposals	181
		5 Reporting and resource allocation	184
	E	Settling disputes	184
	F	Conclusions	186
Chapter 5	Ad	judicating a fisheries import ban at the WTO	189
	A	Shrimp fisheries and marine by-catch	190
	В	The forum shop: regimes of relevance	190
		1 The US ban on shrimp products	191
		2 Complaint at the WTO	193
	C	Settling the dispute: scope for regime	
		interaction	195
		1 Applicable law	195
		2 Treaty interpretation	197
		3 Relevant facts	204
	D	Settling the dispute: methods of regime	
		interaction	206
		1 Panellists, AB members and the Secretariat	206
		2 The parties' submissions	209
		3 Consultation with scientific experts	211
		4 Consultation with IGO secretariats	215
		5 Amicus curiae briefs from NGOs and others	220
	E	Problems and challenges	224
		1 Selection of the adjudicators	226
		2 Framing by the parties	227
		3 Parallel membership of treaties and	
		organisations	229
		4 Legitimacy and the need for guidance in the	
		use of exogenous sources	235
	F	Conclusions	239



Cambridge University Press 978-0-521-76572-5 - Trading Fish, Saving Fish: The Interaction between Regimes in International Law Margaret A. Young Table of Contents More information

viii CONTENTS

Part III:	Tow	vards Regime Interaction	241
Chapter 6	From fragmentation to regime interaction		
	Α	From forum shopping to interaction	244
	В	The promotion of regime interaction	249
		1 National policy coordination	249
		2 Learning and information-sharing	253
		3 Allocation of resources	256
	C	Impediments to regime interaction	258
		1 Exclusivity of forum	258
		2 Lack of transparency and openness	261
		3 Need for parallel membership	262
	D	Conclusions	266
Chapter 7	A 1	egal framework for regime interaction	267
	Α	The multiple bases of regime	
		interaction	267
		1 Parallel membership	268
		2 Mutual agreement	269
		3 Institutional arrangements	270
	В	Legitimacy of regime interaction	271
		1 Consent and sovereignty	271
		2 Express and implied powers	272
		3 The risk of managerialism	276
	C	Accountable regime interaction	278
	D	Duties to take others into account	284
	E	Conclusions	287
Chapter 8	Im	plications for international law	288
	A	Appropriate regime interaction	
		in practice	288
		1 Law-making	289
		2 Implementation	292
		3 Dispute settlement	295
	В	Further implications	298
		1 The ILC fragmentation study	298
		2 Beyond fisheries governance	299
		3 Confronting managerialism	302
		4 Situating the participants	304



Cambridge University Press 978-0-521-76572-5 - Trading Fish, Saving Fish: The Interaction between Regimes in International Law Margaret A. Young Table of Contents More information

CONTENTS	ix
Appendices	307
A: Draft consolidated text of the proposed fisheries subsidies	
disciplines	307
B: Final text of the FAO-CITES Memorandum of Understanding	316
Bibliography	318
Books and edited collections	318
Articles	325
Policy papers, news sources and unpublished works	333
Papers submitted to or produced by international organisations	334
Selected websites	342
Index	344