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STRATEGIC TREATY MANAGEMENT

While little recognized in international law scholarship, multilateral treaties in diverse fields have begun to apply strategic management techniques to make them more effective and responsive. This examination of those practices and their interplay with associated international organizations considers the application of strategic management across treaties' planning, financing, implementation, and evaluation activities. The study leads to a new appreciation of the intricacies of multilateral treaty activities and a better understanding of their operations within complex webs of networked international institutions. In considering different approaches to steering treaties through this dispersed global governance landscape, Thomas F. McInerney draws on current strategic management literature to explore the utility of nonlinear, emergent models of strategy and gain insights from strategy as practice research. While recognizing strategic management's potential value in facilitating more flexible applications of multilateral agreements, he also emphasizes the need to maintain their normativity as international legal obligations.

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Practice and Implications

THOMAS F. MCINERNEY
Loyola University of Chicago

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To my parents, Ann and Tom, who have given me the strength and encouragement to pursue my various quests, and my wife Emma, who has been a steadfast supporter of this project

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PREFACE

When I began this project, I was interested in learning how multilateral treaties could be made more effective.[1] I thought that understanding techniques that would enable treaties to meet the terms of their mandates would also provide insights into how the normative agendas of international organizations (IO) and even soft law instruments could be fulfilled. The centrality of multilateral treaty obligations in global governance meant that, if successful, the study could generate insights with wide implications. Improving the performance of these instruments might enable progress towards addressing massive global problems. Once I began the research, I discovered that despite widespread laments about multilateral treaty performance, there appeared to be significant innovation among some treaties, most notably involving strategic management, which was not reflected in existing scholarship.

After further investigation, I found that strategic management practices were not isolated to specific fields such as environmental law, but had also been adopted for arms control, human rights, labour, and maritime agreements. While my inquiry began focusing on specific treaty bodies, I learned that strategic management of treaties was also occurring indirectly through IO integration of them in their strategies, plans, and programmes. What's more, these strategic approaches were not confined to strategic planning – sometimes erroneously taken as synonymous with strategic management – but cut across all areas of treaty practice. In fact, prominent in these strategic processes were national implementation, finance, synergies, scientific research and data, and performance monitoring and evaluation.

As I came to understand these processes, the strategic management techniques that treaties were applying raised questions about practice. On one level, the practices appeared to be top down, assuming a linear

[1] For the definition of multilateral agreement, see Anthony Aust, *Modern Treaty Law and Practice* (Cambridge University Press, 2000), p. 9 (a 'multilateral treaty is a treaty to which three or more sovereign states are parties').

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chain linking strategy formulation, execution, and results. While intuitively this seemed a recipe for failure, a body of research on organizational strategy was devoted to just this proposition and offered some grounds for believing that such methods could enable organizations to carry out their missions and achieve high levels of performance through exactly this type of process. Similarly, the ten-year strategic plans undertaken by some treaties seemed completely out of step with today's global realities of constant change; yet, here too, I confronted examples of organizations effecting significant change processes, which took precisely that long to accomplish. I examined in depth the strategic management practices being applied within treaties to better understand their merits or shortcomings. Yet as I traced the details of the processes and contents of these efforts, a different perspective came into view.

While these strategic management practices adopted the language of rationality and hierarchy, the underlying systems they were operating – and which they were creating – were anything but hierarchical. In fact, consistent with what many other observers have found, they were networked.[2] While network-based conceptions of global governance are well recognized, the use of strategic management as an analytical lens clarified the intricacies and interconnections of the different actors and institutions. Functionally speaking, the strategic management practices developed at the global level were integrating numerous dispersed actors and normative systems into relationships of greater coherence.

The systems developed for managing multilateral treaties often involved the integration of multiple separate treaties, international organizations, and non-state actors. These strategic processes reflected treaty bodies' efforts to steer rather than cajole or coerce actors and institutions. What's more, the processes were circular. Treaty bodies' strategic actions in relation to strategic planning, national implementation, financing, data collection and research, and performance monitoring generated corresponding changes in other strategic priorities and actions. Strategic management practices supplied the tools for managing this intricate ecosystem while also constituting the basis upon which such an ecostructure was emerging.

In reflecting on the practice of strategic management among these instruments and entities, the treaty parties and international

[2] See, e.g., Peter Drahos, 'Intellectual Property and Pharmaceutical Markets: A Nodal Governance Approach', 77 *Temple Law Journal* (2004), pp. 404–405.

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organizations appeared unaware of the extent to which the underlying change processes that would occur through these systems would be nonlinear or would involve unpredictable feedback loops. As such, the strategies adopted did not explicitly consider these dynamics.

What I realized was that a balance between, on the one hand, rational direction with established structures such as agreed objectives and targets, and, on the other hand, flexibility, openness, and reflexivity, was essential to making international agreements work effectively.

This book tries to understand the degree to which these different approaches are reflected in current treaty practices and whether such balance can be achieved. Rather than being in conflict, this book argues that both perspectives are needed to achieve the ambitions of international law and institutions. Experience with strategy in a variety of contexts confirms its 'part science, part art' nature. Reconciling these competing perspectives will require clear thinking, flexibility, an ability to prioritize, and an awareness of the dynamics that complex interdependencies may create.

While possible, achieving such balance is not a foregone conclusion. The positive contributions to management that many treaty strategic processes have accomplished, such as clarifying goals and priorities, have in other cases resulted in incredibly complicated systems that eat up increasing amounts of parties' and secretariats' time and resources. Avoiding these unintended consequences while realizing the potential benefits of the processes requires critical thinking and practical responses.

In reflecting on these developments, I saw that strategic management practices were a potential advance on the hierarchical principal–agent conception of multilateral institutions towards one better adapted to the networked reality of global governance today. It is in the spirit of provisional optimism that I begin this inquiry.

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GLOSSARY

AHTEG	Ad Hoc Technical Expert Group
APM Convention	Anti-Personnel Mine Convention
ATCM	Antarctic Treaty Consultative Mechanism
BIP	Biodiversity Indicators Partnership
BLG	Biodiversity Liaison Group
CBD	Convention on Biological Diversity
CCM	Convention on Cluster Munitions
CCW	Convention on Certain Conventional Weapons
CITES	Convention on the International Trade in Endangered Species of Fauna and Flora
CLRTAP	Convention on Long-Range Transboundary Air Pollution
CMS	Convention on the Conservation of Migratory Species
COP	Committee of Parties
COSP	Committee of State Parties
CRPD	Convention on the Rights of Persons with Disabilities
CSAB	Chairs of the Scientific Advisory Bodies (CSABs) of the Biodiversity-related Conventions
CSO	Civil Society Organization
DAC	Development Assistance Committee
DFID	UK Department for International Development
DWA	Decent Work Agenda
DWCP	Decent Work Country Programme
ECOSOC	UN Economic and Social Council
ERW	Explosive Remnants of War
FAO	United Nations Food and Agriculture Organization
FCTC	Framework Convention on Tobacco Control
GBIF	Global Biodiversity Information Facility
GBIO	Global Biodiversity Informatics Outlook
GBO	Global Biodiversity Outlook
GEF	Global Environmental Facility
GEO-BON	Group on Earth Observations Biodiversity Observation Network
GICHD	Geneva International Centre for Humanitarian Demining
GIS	Geographic Information System

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IACG-MA	Inter-agency Coordination Group on Mine Action
IASG	Inter-agency Steering Group/Inter-agency Support Group
IATF-TC	Inter-agency Task Force on Tobacco Control
IFAD	International Fund for Agricultural Development
IFS	Integrated Framework Strategy
ILO	International Labour Organization
IMF	International Monetary Fund
IMO	International Maritime Organization
IMSMA	Information Management System for Mine Action
IO	International Organization
IPPC	International Plant Protection Convention
ISU	Implementation Support Unit
JIU	Joint Inspection Unit
MDG	Millennium Development Goal
MDTF	Multidonor Trust Fund
MEA	Multilateral Environmental Agreement
MLC	Maritime Labour Convention
MOP	Meeting of Parties
MOU	Memorandum of Understanding
MSP	Meeting of State Parties
MTBF	Medium-Term Budgetary Framework
MTEF	Medium-Term Expenditure Framework
MTPF	Medium-Term Performance Framework
NAP	National Action Programme
NBSAP	National Biodiversity Strategy and Action Plan
NCD	Non-Communicable Disease
NDS	National Development Strategies
NGO	Non-Governmental Organization
NIEO	New International Economic Order
NORMES	ILO Labour Standards Department
NPFE	National Portfolio Formulation Exercise
NPPO	National Plant Protection Organization
NTIS	National Treaty Implementation Strategies
ODA	Official Development Assistance
ODI	Overseas Development Institute
OECD	Organization for Economic Cooperation and Development
OHCHR	Office of High Commissioner for Human Rights
OIOS	Office of Internal Oversight Services
OSH	Occupational Safety and Health
OUV	Outstanding Universal Value

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PACT	Partnership for Conservation Initiative
PCD	Policy Coherence for Development
PEST	Political, Economic, Social, and Technological
PFM	Public Financial Management
PF Strategy	Ramsar Convention Strategic Framework for Partnerships
PIU	Project Implementation Unit
PRSP	Poverty Reduction Strategy Paper
PRTR	Pollutant Release and Transfer Registers
PSC	Port State Controls
QM	Quality Management
SAICM	Strategic Approach to International Chemicals Management
STAR	System for Transparent Allocation of Resources
STM	Strategic Treaty Management
STRP	Scientific and Technical Review Panel
SWOT	Strengths Weaknesses Opportunities Threats
TOC	Theory of Change
TOR	Terms of Reference
UN	United Nations
UNCCD	United Nations Convention to Combat Desertification
UNCT	United Nations Country Team
UNDAF	United Nations Development Assistance Framework
UNDG	United Nations Development Group
UNDP	United Nations Development Programme
UNEP	United Nations Environmental Programme
UNESCO	United Nations Economic, Social and Cultural Organization
UNMAS	United Nations Mine Action Service
UNODC	United Nations Office on Drugs and Crime
UNPRPD	UN Partnership to Promote the Rights of Persons with Disabilities
VCLT	Vienna Convention on the Law of Treaties
VTF	Voluntary Trust Fund
WHA	World Health Assembly
WHC	Convention Concerning the Protection of the World Cultural and Natural Heritage
WHO	World Health Organization
WTO	World Trade Organization
WWF	World Wildlife Fund for Nature

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