

Integrating Integration Theory: Neo-functionalism and International Regimes

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It is common to juxtapose inter-governmentalism and neo-functionalism as the two most important, and seemingly mutually exclusive, frameworks to interpret the phenomenon of "European integration" and its institutional dimension, the European Community.¹

Inter-governmentalism promises to offer a broadly applicable concept for the analysis of international cooperative institutions.² It recognises that the Community emerged from the self-help based international system and emphasises the continuing central role of the member states. However, conceiving of the Community as one international institution among many others it tends to disregard the specificities of this particular institution. Moreover, inter-governmentalism is conceptionally founded on a state-centred and static approach to institutions and cannot, therefore, cope with integration as a process of development over time, nor does it readily accommodate the role of non-state actors within the Community system.

1. A single European Community did not formally exist prior to the Maastricht Accord, while the same treaty established the "European Union" in which three original Communities are now embedded. To avoid confusion, the present article uses the term "European Community" for the comprehensive institution both in its pre-Maastricht and post-Maastricht (i.e. Union) stage.

2. Stanley Hoffmann, "Obstinate or Obsolete? The Fate of the Nation-State and the Case of Western Europe", *Daedalus*, Vol. 95, No. 3 (1966), pp. 862-915; Stanley Hoffmann, "Reflections on the Nation-State in Western Europe Today", *Journal of Common Market Studies*, Vol. 21, No. 1 (1982), pp. 21-37; Robert O. Keohane and Stanley Hoffmann, "Institutional Change in Europe in the 1980s", in Robert O. Keohane and Stanley Hoffmann (eds.), *The European Community: Decisionmaking and Institutional Change* (Boulder: Westview, 1991), pp. 1-39; Andrew Moravcsik, "Negotiating the Single European Act: National Interests and Conventional Statecraft in the European Community", *International Organization*, Vol. 45, No. 1 (1991), pp. 651-688; Andrew Moravcsik, "Preferences and Power in the European Community: A Liberal Inter-governmentalist Approach", *Journal of Common Market Studies*, Vol. 31, No. 4 (1993), pp. 473-524.

A body of literature that is more or less related to the ideas of neo-functionalism avoids these mistakes.³ It is interested in the process of increasing integration rather than in the interaction of actors in a fairly stable environment. It emphasises the dynamics of integration and identifies the role of supranational, transnational and sub-national actors in this process. Not least, it is capable of taking account of the particularities of the European Community. However, beyond description of the Community system neo-functionalism has difficulties in accommodating the role of the member states within the integration process. Even more problematic, the now exclusive focus on the European Community jeopardises theory building because serious theory cannot be built upon and tested against one and the same empirical case.⁴

Hence, analysts frequently conclude that neither of the two perspectives is clearly superior to the other and that both of them contribute to explaining empirically observed outcomes.⁵ Under these conditions theoretical anarchy and eclecticism proliferate.

A closer look at the existing divide reveals that it is made up of two interrelated aspects. At the theoretical level a static and state-centred theory is juxtaposed with a dynamic theory emphasising the role of supra-national and non-state actors. And at the empirical level a broad perspective on a wide range of similar institutions is confronted with a view on a phenomenon *sui generis* that is perceived as not really being comparable to anything else. Against this backdrop, two questions may be posed: If it is accepted that the European Community is an empirically unique phenomenon, does it really need its own theory? And vice versa: if it is true that modern neo-functionalism focuses on phenomena other than traditional inter-governmentalism, is the European Community the only empirical subject that may be examined in this way?

The present paper answers both questions in the negative. It suggests that a closer focus on the impact of institutions for governance offers opportunities for a fruitful integration of the main approaches to European integration. From an institutional perspective the European Community may be interpreted both as an institution that has been established by the member states within the horizontally organised international system to facilitate and stabilise cooperation, and as a polity within which intra-institutional decision processes take

3. Wayne Sandholtz, "Choosing Union: Monetary Politics and Maastricht", *International Organization*, Vol. 47, No. 1 (1993), pp. 1-39; Anne-Marie Burley and Walter Mattli, "Europe Before the Court: A Political Theory of Legal Integration", *International Organization*, Vol. 47, No. 1 (1993), pp. 41-76; Gary Marks, "Structural Policy in the European Community", in Alberta M. Sbragia (ed.), *Euro-Politics: Institutions and Policymaking in the "New" European Community* (Washington DC: Brookings, 1992), pp. 191-224; Jeppe Tranholm-Mikkelsen, "Neo-functionalism: Obstinate or Obsolete? A Reappraisal in the Light of the New Dynamics of the EC", *Millennium*, Vol. 20, No. 1 (1991), pp. 1-22. On the original neo-functionalism, see Ernst B. Haas, *The Uniting of Europe* (Stanford CA: Stanford University Press, 1958); Joseph S. Nye, "Comparing Common Markets: A Revisited Neo-Functionalist Model", in Leon N. Lindberg and Stuart A. Scheingold (eds.), *Regional Integration: Theory and Research* (Cambridge MA: Harvard University Press, 1971), pp. 192-231; Philippe C. Schmitter, "A Revised Theory of Regional Integration", in *ibid.*, pp. 232-264.

4. James A. Caporaso and John T.S. Keeler, "The European Community and Regional Integration Theory", in Carolyn Rhodes and Sonia Mazey (eds.), *The State of the European Union*, Vol. 3 (Boulder: Lynne Rienner, 1995), p. 36.

5. Alberta M. Sbragia, "Introduction", in Alberta M. Sbragia, *op. cit.*, pp. 1-2; David R. Cameron, "The 1992 Initiatives: Causes and Consequences", in Sbragia, *op. cit.*, pp. 25-30.

place that allow the participation of non-state actors and, to some degree, even hierarchical governance.

The paper looks first into the common roots of neo-functionalism and regime theory and locates them in the middle ground between realism and legalism. Subsequently, it develops a concept of institutionalised international governance that introduces an institutional perspective into the dominant approach to international regimes and applies it to the European Community. Finally, it opens the static concept for feedback effects and development over time.

The paper concludes that the analysis of institutionalised international governance within the horizontally structured international system may in fact develop an international relations perspective that focuses on horizontal coordination among states without simply disregarding the institutional particularities of the Community. Rather, this perspective helps draw attention to the differences between regular dynamic international regimes and the Community. It is apt to explain why (some) hierarchical governance is possible even without serious accumulation of power at the top of the hierarchy.

From Neo-Functionalism to International Regimes: The Common Roots of Theories of Institutionalised Cooperation

Unlike modern domestic systems (or at least the conceptional model derived on their basis) the international system is horizontally, not hierarchically ordered. It lacks a powerful entity above its component units (i.e. states) that would be able to establish and enforce collectively oriented norms. However, while the "anarchy" of the international system relates to this lack of hierarchy, it does not necessarily imply absence of order.⁶ Rather, the evaluation of the consequences of international anarchy constitutes a central concern of international relations theory.

Between Legalism and Realism

Legalism and classical institutionalism start from the assumption that international anarchy (or its adverse affects) may be overcome by the establishment of international organisations and the development of international law.⁷ Within the context of European integration it is reflected in the belief that the adoption of a European constitution would itself constitute the key step for transforming the European Community into a true federal state.⁸ Approaches of this type attribute a considerable amount of independent influence to international institutions even without a powerful sanctioning apparatus to enforce collectively oriented norms and policies. They assume that an appropriately designed institution is capable of steering the decisions of the units and, consequently, of taming their otherwise self-interested and occasionally conflict-raising behaviour. Hence, the establishment of international institutions itself may be con-

6. Helen Milner, "The Assumption of Anarchy in International Relations Theory: a Critique", *Review of International Studies*, Vol. 17, No. 1, pp. 67-85.

7. For example, Grenville Clark and Louis B. Sohn, *World Peace through World Law* (Cambridge MA: Harvard University Press, 3rd edn, 1966).

8. Carl J. Friedrich, *Europa—Nation im Werden?* (Bonn: Europa Union, 1972).

ceived of as an important step for the progressive development of international relations.

In contrast, political realism argues that the existence of international anarchy will almost automatically lead to a self-help system in which the survival of the units (i.e. states) depends first and foremost on their own behaviour.⁹ Stable institutions are believed to constitute merely an epiphenomenon of the already existing constellation of power and interests that is not capable of exerting independent influence. Therefore, realism warns against following the idealistic recommendations of legalism and institutionalism. States are advised to accumulate power resources and enhance their position within the system vis-à-vis their counterparts as far as possible. In this view it is far less important whether cooperation produces mutual gains than how these gains are distributed.¹⁰ After all, a powerful entity does not exist above the state-level to protect the weaker units from adverse action by the stronger ones. Any trust in the ordering power of international institutions is completely misconceived and may even aggravate conflict if it generates unrealistic expectations.

These two approaches constitute the extremes on a continuum. While one of them believes in the relevance of institutions and recommends their establishment, the other denies their power and warns against relying on them. The middle ground between these extremes is occupied by theories which are less optimistic than legalism and traditional institutionalism but also less pessimistic than political realism. Generally, they are based on the assumption that situations frequently allow mutually beneficial collaboration even of self-interested actors, rather than being zero-sum. Moreover, they emphasise the beneficial role of institutions even in the absence of serious sanctioning power for the establishment, maintenance and development of international collaboration, while taking account of the limits of their influence.

Beyond the Nation-state: Functionalism and Early Neo-functionalism

There can be no doubt that functionalism¹¹ and its later refinement, i.e. early neo-functionalism,¹² set out to occupy this middle ground. They rejected both the power-orientation of realism¹³ and the "grand designs" of legalism and traditional institutionalism. Instead, they advocated a strategy of institutionally supported incrementalism. They drew attention to the distinction between power issues ("high politics") and welfare issues ("low politics") and argued that the latter, in contrast to the former, bore the potential for the collective pursuit of common interests. Over time, progress in "low politics" would

9. Edward H. Carr, *The Twenty Years Crisis, 1919-1939: An Introduction to the Study of International Relations* (London: Harper, 1939); Hans J. Morgenthau, *Politics Among Nations: The Struggle for Power and Peace* (New York: Knopf, 5th edn, 1973); Kenneth Waltz, *Theory of International Politics* (Reading: Addison-Wesley, 1979).

10. Waltz, *op. cit.*, p. 105.

11. David Mitrany, *A Working Peace System* (Chicago: Quadrangle, 1966).

12. Haas, *The Uniting of Europe*, *op. cit.*; Leon Lindberg, *The Political Dynamics of European Economic Integration* (Stanford: Stanford University Press, 1963); Leon Lindberg and Stuart A. Scheingold, *Europe's Would-Be Polity. Patterns of Change in the European Community* (Englewood Cliffs: Prentice-Hall, 1970).

13. Ernst B. Haas, *Beyond the Nation-State: Functionalism and International Organization* (Stanford CA: Stanford University Press, 1964).

produce fundamental political consequences. If peace could be built on its basis, it would be a "working peace system", "not a peace that would bring the nations quietly apart, but a peace that would bring them actively together".¹⁴

In the highly technocratic functionalist perspective of world politics the proper administration of things was expected to produce more appropriate results than political governance. Organisations should be established and invested with competencies to execute the common interest. Therefore, institutions should be shaped according to the functions which they were actually intended to perform for (and that is, in the interest of) the actors concerned, i.e. "form should follow function".¹⁵ Under these conditions institutions were indispensable instruments to instigate and support the process of integration and could operate without a concentration of sanctioning power.

Functionalist and neo-functionalist theories focus on the progressive development of integration and therefore emphasise the role of "spill over" effects. They emphasise the relevance of early institutionalisation of limited cooperation and expect its later expansion. From an institutional perspective, "spill over" amounts to a (positive) feedback mechanism stressing the possibility of self-supporting social processes that start modestly, gain dynamics and may over time produce dramatic outcomes.¹⁶ (Neo-) functionalism also draws attention to the relevance of sub-national actors for this process, be they citizens or interest-groups. For Haas, political integration was immediately linked to the emergence of "a new political community superimposed over the pre-existing ones"¹⁷ and based on the anticipated shift of the loyalty of elites from the national to the supranational setting. Accordingly, the establishment of appropriate institutions and the transfer of the necessary competencies would decrease the role of the participating nation-states at least in relative terms, because other actors were expected to partially take over control both at the supranational and at the sub-national level.

However, it should be recalled that Haas developed his argument in direct response to the European Coal and Steel Community (ECSC), an institution of a particularly functionalist shape governing a limited sector of regional relations according to criteria quite clearly outlined in the Paris Treaty. Against this empirical background he put forward an ideal-type process which should eventually lead to federation.

Collective Decision-making and Integration

A few years later Lindberg drew a significantly different conclusion from his study of European integration. "My own investigations have led me to adopt a more cautious conception of political integration, one limited to the development of devices and processes for arriving at collective decisions by means other than autonomous action by national governments".¹⁸ It seemed to him that "it is logically and empirically possible that collective decision-making procedures

14. Mitrany, *op. cit.*, p. 51.

15. *Ibid.*

16. Later scholars of regional integration discovered also negative ("spill back") and indifferent ("spill around") feedback effects; see Schmitter, *op. cit.*

17. Haas, *The Uniting of Europe*, *op. cit.*, p. 16.

18. Lindberg, *The Political Dynamics of European Economic Integration*, *op. cit.*, p. 5 (emphasis added).

involving a significant amount of political integration can be achieved without moving toward a "political community" as defined by Haas".¹⁹

It is worth noting that Lindberg did not induce this modification of the concept of integration from the dramatic events caused by French foreign policy later in the 1960s. Rather, he derived it from his empirical examination of the European Economic Community, the one original Community founded on general, instead of sector-specific, integration. Apparently, this type of integration caused different governing mechanisms, presumably because it required a constant stream of political, and not merely administrative, decisions. It was precisely this Community which unfolded by far the most rapid and dynamic development during the past three decades. Accordingly, the integration mechanism of the Economic Community that was based on collective decision-making could be expected both to dominate the future integration process and to move into the centre of academic interest.

Lindberg's modification disentangled political integration from the fate of the participating nation-states and opened neo-functionalism for a more inter-governmental perspective. While it did not rule out that political integration might lead to the emergence of a "new political community", it emphasised the possibility that it could remain in a state dominated by collective decision-making (supplemented with some delegation of power). It already envisaged a Community that was primarily characterised by coordination among the member states.²⁰ It was thus not very far from the later conception of a "confederal" system in which actors at the supranational (i.e. Community organs), national (i.e. governments of the member states), and transnational level (i.e. interest groups) operated side by side.²¹ In a system of this type, which might be stable over time without necessarily becoming a true federal state in the medium term,²² many problems of coordination and implementation among states arose in a similar manner as they did in other settings of international relations.²³

When regional integration as a specific field of academic observation and theorising lost its relevance during the early part of the 1970s and was eventually declared obsolete²⁴ because the hope for the rapid emergence of a Haasian "political community" had vanished upon the actual events, two developments had blurred the theoretical distinction vis-à-vis the study of international relations. Lindberg's turn in perspective and the confederal approach suggested that

19. *Ibid.*, p. 5.

20. Not surprisingly, Lindberg employed later on a system-theoretical approach to integrate both dimensions. See Leon Lindberg, "The European Community as a Political System: Notes toward the Construction of a Model", *Journal of Common Market Studies*, Vol. 5, No. 4 (1967), pp. 344-387.

21. On confederalism, see Donald J. Puchala, "Of Blind Men, Elephants and International Integration", *Journal of Common Market Studies*, Vol. 10, No. 3 (1972), pp. 267-284, and Paul Taylor, "The Politics of the European Communities: The Confederal Phase", *World Politics*, Vol. 27, No. 3 (1975), pp. 336-360.

22. William Wallace, "Less than a Federation, More than a Regime: The Community as a Political System", in Helen Wallace, William Wallace and Carole Webb (eds.), *Policy-Making in the European Community* (Chichester: Wiley, 1983), pp. 403-436.

23. Donald J. Puchala, "Domestic Politics and Regional Harmonisation in the European Communities", *World Politics*, Vol. 27, No. 4 (1975), pp. 496-520; Donald J. Puchala, *Fiscal Harmonisation in the European Communities: National Politics and International Cooperation* (London: Pinter, 1984).

24. Ernst B. Haas, *The Obsolescence of Regional Integration Theory* (Berkeley CA: Berkeley University, Institute of International Studies, 1975).

the development of integration within the European Community might be more state-centred and therefore conceptionally less unique than assumed. And (neo-) functional ideas had gained so much relevance within international relations theory at large that Haas expressly called for the inclusion of regional integration into, and its subordination to, the study of changing patterns of interdependence.²⁵

Interdependence and Issue Area-specific Cooperation

Central neo-functional ideas were especially blossoming in the study of international interdependence.²⁶ Like neo-functionalism, this area of international relations theorising was clearly directed against the traditional narrow power orientation of realism. It paid attention to the relevance of functional cooperation in world politics and the participation of non-state actors therein. It emphasised the role of lower level communication among functional bureaucracies²⁷ and the importance of "organisation" and multilateral negotiations as independent explanatory factors beyond power.²⁸ Keohane and Nye developed "complex interdependence" as an ideal type of relationship within the international system diametrically opposed to the realist type.²⁹

The interest in "international regimes" as a new area of study was rooted in this neo-functionally informed branch of international relations theorising.³⁰ When Ruggie proclaimed that "international relations were institutionalised",³¹ it had become clear for some years that the horizontal structure of the international system did not preclude the emergence of institutions that mattered because they were capable of influencing the behaviour of actors, and accordingly the outcomes of situations. However, the concept of international regimes was far from clearly outlined. Originally regimes were not more than somehow stabilised patterns of interdependence.³² Only much later they became expressly understood as outcomes of negotiations, that is as arrangements that were deliberately established by the actors concerned to foster their own interests.³³ In contrast to realists, regime theorists assumed that states have separate interests in different issue-areas and not a stable hierarchy of interests with security at its top. Opportunities for cooperation would then depend on the particular condi-

25. *Ibid.*, p. 88.

26. Robert O. Keohane and Joseph S. Nye (eds.), *Transnational Relations and World Politics* (Cambridge CA: Harvard University Press, 1972).

27. Robert O. Keohane and Joseph S. Nye, "Transgovernmental Relations and International Organizations", *World Politics*, Vol. 27, No. 1 (1974), pp. 39–62.

28. Ernst B. Haas, "Is there a Hole in the Whole? Knowledge, Technology, Interdependence, and the Construction of International Regimes", *International Organization*, Vol. 29, No. 3 (1975), pp. 827–875.

29. Robert O. Keohane and Joseph S. Nye, *Power and Interdependence: World Politics in Transition* (Boston/Toronto: Little Brown, 1977).

30. See, for example, Ernst B. Haas, "On Systems and International Regimes", *World Politics*, Vol. 27, No. 2 (1975), pp. 147–174; Keohane and Nye, *Power and Interdependence*, *op. cit.*

31. John G. Ruggie, "International Responses to Technology: Concepts and Trends", *International Organization*, Vol. 29, No. 4 (1975), pp. 557–583.

32. Keohane and Nye, *Power and Interdependence*, *op. cit.*

33. See Robert O. Keohane and Joseph S. Nye, "Power and Interdependence Revisited", *International Organization*, Vol. 41, No. 4 (1987), pp. 725–753; Robert O. Keohane, "The Analysis of International Regimes: Towards a European-American Research Programme", in Volker Rittberger (ed.), *Regime Theory and International Relations* (Oxford: Clarendon, 1993), pp. 23–45.

tions prevailing within a given issue-area. Accordingly, international regimes were necessarily issue-area specific and their shape was largely determined by the structure of the respective issue-area (hence, again "form followed function").

However, while it was clear that technological, economic, and later environmental cooperation would almost throughout affect the interests of sub-national actors, the regime concept did not pay particular attention to interest groups and other sub-national actors. Moreover, the assumed issue-area specificity of international regimes made it difficult to accommodate another central concern of functionalism, namely the "spill over" concept. While the possibility of dynamically expanding substantive cooperation within the international system was not denied, it was expected normally to take place in the form of the emergence of new regimes within separate issue-areas. Conceptionally, dynamics was beyond a theoretical approach that took specific arrangements as its units of analysis.

These modifications hardly reduced the importance of the new approach because it was precisely the highly overestimated relevance of spill over in the case of the European Community and the lacking emergence of a Haasian "new political community" that had led to the revocation of neo-functionalism. In essence early regime theory primarily dropped the unsuccessful elements of the original neo-functionalism. Hence, the regime concept of the late 1970s did not only attract some important neo-functionalists,³⁴ it may be considered as the true successor of neo-functionalism. The central message of regime theory toward neo-functionalism was that states might (in their own interest) play a positive role in organising international relations, rather than merely being the opponents and victims of political integration. Implicitly, international relations theory offered international regimes as the suitable units of comparison for the European Community.

Regime theorists claimed that institutions could matter and change behaviour even under conditions of international anarchy. When Waltz³⁵ developed structural neo-realism and submitted a theoretically clarified version of the realist argument based on a clear epistemology, some institutionalists accepted the Waltzian methodology and reacted in defence of the institutionalist argument.³⁶ The "cooperation under anarchy" approach produced a lot of theoretical and, on that basis, empirical insights about the opportunities and limits of cooperation in the horizontally structured international system.³⁷ Eventually it decided the long "neo-realist—neo-institutionalist debate" of belief about the power of institutions in its favour.³⁸

34. This is especially true for Haas and Nye while other scholars of regional integration, for example Schmitter and Lindberg, retained the interest group orientation and directed their attention toward the study of neo-corporatism in domestic political systems.

35. Waltz, *op. cit.*

36. Duncan Snidal, "The Limits of Hegemonic Stability Theory", *International Organization*, Vol. 39, No. 4 (1985), pp. 579–614; Robert O. Keohane, *After Hegemony: Cooperation and Discord in the World Political Economy* (Princeton: Princeton University Press, 1984). Keohane, *ibid.*, p. 67, expressly endeavoured to avoid the "smuggling in" of idealistic assumptions.

37. Kenneth Oye, "Explaining Cooperation under Anarchy", *World Politics*, Vol. 38, No. 1 (1985), pp. 1–24; Robert Axelrod and Robert O. Keohane, "Achieving Cooperation under Anarchy", *World Politics*, Vol. 38, No. 1 (1985), pp. 226–254.

38. Robert Powell, "Anarchy in International Relations: The Neo-realist—Neo-liberal Debate", *International Organization*, Vol. 48, No. 2 (1994), pp. 313–344.

In contrast to Waltzian neo-realism, the mainstream approach to regimes is still an institutional concept that is firmly located in the middle ground between realism and legalism. It emphasises the positive role of institutionalised cooperation in the international system and draws attention to the opportunities for mutually beneficial cooperation depending on the constellation of interests among the participating actors within the issue-area concerned. However, its strict individualist methodology generates a practically state-centred and largely static concept of governance that precludes the exploration of feedback mechanisms and the dynamics inherent in institutions.

Although dominating the study of international regimes, the rationalistic mainstream does not monopolise it.³⁹ A heterogeneous "reflective" (or better, "constructive") branch that has not yet been synthesised into a coherent rival approach to international regimes, emphasises a number of other aspects, for example the autonomous influence of institutions beyond cooperation among states, the relevance of norms and law and the possibility of (positive) feedback.⁴⁰ Reflective contributions are in one way or another closer to the interdependence-oriented origins of the regime concept of the 1970s than the dominant mainstream. They centre around the argument that an existing institution may (as an independent variable) affect not merely the behaviour, but also the interests of the member states. Hence, international regimes as empirically observable phenomena might be more than cooperative arrangements among rationally behaving state actors. And as a field of study international regimes must not be confused with a particular theoretical perspective. In short, the domination of the rational choice-based perspective toward international regimes does not invalidate the suitability of these institutions as units of comparison for the European Community.

The New Wave of European Community Studies

Since the latter part of the 1980s the theoretically informed study of European integration attracted considerable renewed interest. Generally, contributions refrain from speculating about the institutional end-state of the integration process as well as from measuring integration. They take account of the lasting role of the member states, but generally emphasise the importance of sub-state and non-state actors. Surprisingly, it has been observed that the traditional divide between inter-governmentalism and neo-functionalism continues to

39. Robert O. Keohane, "International Institutions: Two Approaches", *International Studies Quarterly*, Vol. 32, No. 4 (1988), pp. 379-396.

40. Oran R. Young, *International Cooperation: Building Regimes for Natural Resources and the Environment* (Ithaca/London: Cornell University Press, 1989); Friedrich Kratochwil, *Rules, Norms and Decisions: On the Conditions of Practical and Legal Reasoning in International Relations and Domestic Affairs* (Cambridge: Cambridge University Press, 1989); Andrew Hurrell, "International Society and the Study of Regimes: A Reflective Approach", in Volker Rittberger (ed.), *Regime Theory and International Relations* (Oxford: Clarendon, 1993), pp. 49-72; Thomas Gehring, *Dynamic International Regimes: Institutions for International Environmental Governance* (Frankfurt/M: Lang, 1994).

structure the debate,⁴¹ with Moravcsik at one side,⁴² and Sandholtz, Marks and Sbragia at the other.⁴³

However, a second look reveals that this divide closely resembles the dispute between the rationalistic and the "reflectivist" (or "constructivist") branch of regime theory. To begin with, Moravcsik's "liberal inter-governmentalist" approach is not at all "realist" in the international relations understanding of the term. It does not in any way contradict the conception of the outcomes of the major European bargains as cooperative arrangements. Unlike Waltz, Moravcsik does not focus on positional advantages, nor does he derive state interests from the structure of the international system. Implicitly, he considers mutually beneficial cooperation generally possible. He supplements a "cooperation under anarchy approach" with a second level of analysis at which state interests are generated. In this way he may incorporate the generation of state interests into the analysis, but not the genesis of the preferences of the constitutive sub-state actors (i.e. powerful interest groups). Thus, Moravcsik's approach remains statist despite the far-reaching reduction of states to intermediaries of the interests of sub-state actors, because only states are assumed to bargain at the Community level. It is also static, because there is no feedback mechanism that would open the approach for (positive or negative) influence of an already established institution on the later generation of actors' preferences. Development does not take place within a concept of this type because it lacks a time perspective.

In contrast, other contributors attribute more relevance to established institutions and their effects for later rounds of decision-making.⁴⁴ Significantly, for Sandholtz modern neo-functionalism is institutionalism,⁴⁵ probably not least because in the case of the European Community institutional effects include the establishment and empowerment of supranational, subnational and transnational actors. These actors are assumed to be capable of influencing the collective (supranational) decision process independently of the member states, rather than of merely acting through them. Accordingly, the assessment of the relevance of non-state actors is inseparably intertwined with the exploration of the impact of the established institution on outcomes. After all, the very existence of the Commission as the predominant supra-national actor may be attributed to the past integration process, and the role of regions as actors of a specific type may be interpreted as a direct effect of the preceding regional policy.⁴⁶ From a theoretical point of view the institutional issue is clearly superior to the actor-centred one. This implicit setting of priorities may be taken as indicating where the principal distinction between the European Community and "normal" international regimes might be found, namely in the realm of institutionalised organisation of collective decision processes.

41. Caporaso and Keeler, *op. cit.*

42. Moravcsik, *Negotiating the Single European Act, op. cit.*; Moravcsik, *Preferences and Power in the European Community, op. cit.*

43. Sandholtz, *Choosing Union, op. cit.*; Marks, *Structural Policy in the European Community, op. cit.*; Alberta M. Sbragia, "Thinking about the European Future: The Uses of Comparison", in Sbragia, *op. cit.*, pp. 257-291.

44. Wayne Sandholtz and John Zysman, "1992: Recasting the European Bargain", *World Politics*, Vol. 42, No. 1 (1989), pp. 95-128; Marks, *Structural Policy in the European Community, op. cit.*

45. Sandholtz, *Choosing Union, op. cit.*, p. 2.

46. Marks, *Structural Policy in the European Community, op. cit.*

The preceding discussion allows some conclusions to be drawn about the state of integration theory. The present debate is not a matter of prediction about whether the process of European integration will eventually lead to the emergence of a full-fledged federal state. It is not conducted between those flatly denying the influence of institutions in the horizontally structured ("anarchic") international system and those endeavouring to discover factors that might nevertheless allow institutionally supported cooperation to partially overcome international anarchy. It is not a dispute between those predominantly focusing on high politics and relative gains and those advocating progress in positive sum "low politics" areas. In short, it is not the debate of the 1950s and 1960s between realists and neo-functionalists, nor is it the debate of the 1980s between realists and neo-institutionalists (regime theorists). Rather, the dispute is between those denying the independent influence of institutions beyond the mere stabilisation of mutually beneficial cooperation among states on the basis of a given constellation of preferences and those attributing to institutions a certain degree of influence on the generation of actors' preferences. Hence, the dispute takes place within the intermediate theoretical camp and centres around the appropriate conception of the present European Community. In this regard, it seems to repeat a very similar debate between rationalists and reflectivists about the influence of international regimes on state actors.

Institutionalised International Governance

The discussion of the last sub-section suggests that the institutional analysis of the Community, rather than the issue of the relative importance of state and non-state actors within the Community might constitute the key to the solution of the dispute.⁴⁷ From Lindberg's early observation of the relevance of collective decision-making it may be concluded that institutions of this type are not least of interest because they organise and support collective decision processes. Finally, the regime concept reminds that there must be substantial advantage for the actors concerned for institutionalised cooperation to emerge under conditions of international anarchy. The present section endeavours to develop a clear-cut concept of "institutionalised international governance" that accommodates these three dimensions.

International Anarchy and the Demand for Cooperation

The major success of mainstream regime theory within the past 15 years may be attributed not least to its conceptual clarity that requires theoretically rigorous argumentation because it is based on parsimonious modelling rather than description of empirically observed complexity. It allows the theoretical argument to start from an assumed "state of nature", namely the anarchy of the international state system in which the relations of the units are not yet institutionalised (as they in fact are). It also makes quite simple and very little demanding assumptions about the state-actors, namely that they behave as unitary and rational utility maximisers. An approach of this type is thus

47. Surprisingly, the institutional dimension of European Community studies has been recognised as being seriously underdeveloped so far, see Caporaso and Keeler, *op. cit.*, pp. 49–51.

designed to help analyse why actors may deliberately engage in establishing institutions even if they lack collective orientation.

Under conditions of international anarchy rational egoists will usually not care about deliberate coordination and collective decision-making for its own sake. They will take the behaviour of their co-actors into account, but they will decide and act unilaterally. Similar to a market, outcomes of decision situations will emerge automatically as a consequence of decentralised decision-making and subsequent action. In many cases this implicit (market-like) coordination mechanism will produce results that cannot be improved in the absence of hierarchy because every change would disadvantage at least one actor involved. These situations lack a sufficiently high incentive for the participating actors to deliberately organise their interaction differently from market-like coordination.

However, the analysis of strategic action reveals that there are situations in which all actors could be better off, if they chose a different behaviour than their myopic interests (preferences) recommended.⁴⁸ In these situations the participating actors are collectively trapped in a dilemma. Even though they are still assumed to be exclusively interested in maximising their own utility, they have "mixed motives". Collective action would improve their individual outcomes, if it could be brought about. Hence, cooperation among egoistic and rational actors is not entirely impossible, but it may be difficult to establish and sustain.

Cooperation theory draws attention to the substantive dimension of establishing institutions that facilitate cooperation, namely the desire to realise mutual benefits. It emphasises that the demand for cooperative institutions depends on the particular constellation of preferences prevailing within a given issue-area. And it outlines the substantive function of these institutions. They should help overcome the cooperation problem and for that purpose modify the preferences of the member states so that individually rational behaviour and collective demands coincide and the actors are motivated to adapt their behaviour in a way that promises improved outcomes both collectively and individually. Implicitly, cooperation theory already indicates what international governance may be about, namely the establishment of a mechanism by which actors may purposively coordinate their behaviour in a way that overcomes the failures of market-like coordination.⁴⁹

48. Mancur Olson, *The Logic of Collective Action: Public Goods and the Theory of Groups* (Cambridge CA: Harvard University Press, 1965); Russel Hardin, *Collective Action* (Baltimore/London: Johns Hopkins University Press, 1982); Keohane, *After Hegemony*, *op. cit.*; Duncan Snidal, "The Limits of Hegemonic Stability Theory", *op. cit.*; Michael Zürn, *Interessen und Institutionen in der Internationalen Politik. Grundlegung und Anwendungen des situationsstrukturellen Ansatzes* (Opladen: Leske & Budrich, 1992); Otto Keck, "Die Bedeutung der rationalen Institutionentheorie für die Politikwissenschaft", in Gerhard Göhler (ed.), *Die Eigenart der Institution: Zum Profil politischer Institutionentheorie* (Baden-Baden: Nomos, 1994), pp. 187–220.

49. On international governance, see James N. Rosenau, "Governance, Order and Change in World Politics", in James N. Rosenau and Ernst-Otto Czempiel (eds.), *Governance without Government: Order and Change in World Politics* (Cambridge: Cambridge University Press, 1992), pp. 1–29; Beate Kohler-Koch, "Die Welt regieren ohne Weltregierung", in Carl Böhret and Göttrik Wewer (eds.), *Regieren im 21. Jahrhundert—Zwischen Globalisierung und Regionalisierung* (Opladen: Leske & Budrich, 1993), pp. 109–141; Thomas Gehring, "Regieren im internationalen System. Verhandlungen, Normen und internationale Regime", *Politische Vierteljahresschrift*, Vol. 36, No. 2 (1995), pp. 197–219.

International Governance and Collective Decision-making

Outlining the demand for cooperative institutions within a group of actors does not yet indicate the process by which a collective-action dilemma is transformed into cooperation. Axelrod argued from a behavioural point of view that cooperation may emerge from repeated interaction alone,⁵⁰ especially if direct reciprocity⁵¹ is applicable. In this case the cooperation problem dissolves tacitly. Over time optimal outcomes are realised by market-like coordination alone. However, there may be instances in which cooperation is not realised automatically or as rapidly as desirable. In such cases a group of actors may be inclined actively to intervene and facilitate its emergence. These actors would desire to coordinate their behaviour differently from the established market mechanism.

A group of actors commonly intending to deliberately bring about collectively and individually improved outcomes must actively influence the decisions and behaviour of its members. It requires appropriate instruments for this purpose. At this state of social development the group is not at all able to act independently of its members. It does also not (yet) dispose of power and resources (e.g. money) independently of them. However, within the group of actors social norms may develop that orient the decisions of actors and influence their behaviour. Norms are under collective "control" inasmuch as they are beyond the grip of the single actors, even the more powerful, in horizontal societies. They may constitute a basic instrument for purposive collective governance.

Norms are an almost ubiquitous phenomenon. Even the automatic emergence of cooperation from repeated interaction according to Axelrod does not exclude that norms ("conventions") arise tacitly or "spontaneously". Although these norms do not demand active adaptations of actors' behaviour, they may be relevant for rational egoists. They reflect and stabilise expectations about appropriate behaviour and delimitate the boundary between cooperation and defection.⁵² If the rationality of the deciding actors is "bounded" by the limitation of their information processing capacity and the complexity of decision situations,⁵³ spontaneous norms may intervene into the decision process. They become independent sources of influence to the degree to which decision-makers rely on their assistance.⁵⁴ Institutions of this simple type are conceptionally unproblematic because they emerge solely from repeated action among a number of actors. The relevant actors interact exclusively by a sequence of unilaterally determined action and generate social norms as a by-product of their interaction.

50. Robert Axelrod, *The Evolution of Cooperation* (New York: Basic Books, 1984).

51. On the difference between direct and diffuse reciprocity, see Robert O. Keohane, "Reciprocity in International Relations", *International Organization*, Vol. 40, No. 1 (1986), pp. 1-27.

52. See Niklas Luhmann, *Rechtssoziologie* (Opladen: Westdeutscher Verlag, 2nd edn, 1980); Keck, *Die Bedeutung der rationalen Institutionentheorie für die Politikwissenschaft*, *op. cit.*

53. On bounded rationality, see Herbert A. Simon, "Theories of Bounded Rationality", in C.B. McGuire and Roy Radner (eds.), *Decision and Organization* (Amsterdam: North Holland, 1972), pp. 161-176; reprinted in Herbert A. Simon, *Models of Bounded Rationality*, Vol. 2 (Cambridge MA: MIT Press, 1982).

54. On the relevance of norms for interest-driven actors, see Uwe Schimank, "Erwartungssicherheit und Zielverfolgung. Sozialität zwischen Prisoner's Dilemma und Battle of the Sexes", *Soziale Welt*, Vol. 43, No. 2 (1992), pp. 182-200; Gehring, *Dynamic International Regimes*, *op. cit.*, pp. 370-373; Thomas Plümper, "Quasi-rationale Akteure und die Funktion internationaler Institutionen", *Zeitschrift für internationale Beziehungen*, Vol. 2, No. 1 (1995), pp. 49-77.

"Spontaneous regimes"⁵⁵ generated in this way may contribute to stabilising established behaviour, but they are not suited for the purpose of active governance because by definition they follow the emergence of patterns of interaction. If norms are to become instruments for purposive intervention, they must be shaped independently of the interaction which they are intended to affect and their moulding must precede the adaptation of behaviour. These norms cannot emerge from action alone. Rather, the actors concerned must collectively establish a second sphere of interaction at which they do not immediately act but merely communicate about norms. A group of states may, for example, continue to pollute a regional sea (sphere of action) and simultaneously negotiate about a cooperative arrangement on the reduction of pollution (sphere of communication). Thus, the clear separation of a sphere of communication in which the actors collectively mould norms from a sphere of action in which they operate according to their unilaterally determined decisions is a prerequisite for purposive international governance.⁵⁶

The establishment of a sphere of communication has dramatic consequences for the social organisation of the relevant group of actors. It is this step that invests the group with the ability to adopt collective decisions beyond the control of the single members and independently of their individual behaviour. It establishes an institutional apparatus by which a group of state-actors may govern a limited sector of international relations. This institutional apparatus is a collective entity. It does not comprise the member states, because they continue to exist independently of it and do not sacrifice their ability to decide unilaterally about their behaviour. These states merely take part, in their common and individual interest, in the collective employment of instruments that make certain options of behaviour less attractive than others.

It may be concluded that institutionalised international governance does not only comprise a substantive component relating to the gains of mutually beneficial cooperation but also a procedural component that relates to the making of collective decisions about norms within a sphere of communication. Cooperative arrangements, that is sets of norms, will be the outcome of this procedural component. In contrast, cooperation is realised within the sphere of action, if actors adapt their behaviour accordingly.

Organising the Collective Decision Process

The establishment of an institutional apparatus for international governance does not transform the horizontal structure of the international system into a hierarchical order. Generally, successful international governance relies on three conditions, namely: (a) that collective decisions are actually adopted (procedural dimension); (b) that they are acceptable to the actors concerned and do not preclude implementation (substantive dimension); and (c) that they actually affect behaviour. The first two aspects may be directly affected by the appropriate organisation of the collective decision process, while the last one is merely

55. Oran R. Young, "Regime Dynamics: The Rise and Fall of International Regimes", *International Organization*, Vol. 36, No. 2 (1982), pp. 277-297.

56. Gehring, *Regieren im internationalen System*, *op. cit.*

subject to indirect influence because it remains under control of the single actors concerned.

Negotiations constitute a form of communication that is particularly well-suited for coordination in horizontal societies. It allows collective decision-making in the mode of bargaining. Rational egoists may pursue their interests by resorting to their power resources that are in international negotiations generally reflected in credible threats to use the "exit-option".⁵⁷ Within negotiations, bargaining is directed at balancing existing preferences and distributing joint gains. It is a necessary component of the communicative process of collective norm-moulding because it ensures that cooperation does not leave the area of overlapping interests. Even if negotiations are limited to pure bargaining, organisation of communication matters. The relevant constellation of interests may be collectively manipulated by adding or subtracting actors and subjects.⁵⁸ Moreover, in the case of multilateral negotiations the sheer complexity of bilateral relations may motivate the actors to, implicitly or explicitly, accept limits to participation in the initial round.⁵⁹ Even then, exclusive bargaining may jeopardise the successful conclusion of negotiations because it threatens to engage the actors in a zero sum (i.e. purely distributive) conflict.⁶⁰

However, negotiations constitute a form of verbalised interaction and therefore allow the exchange of reasonable arguments.⁶¹ Negotiators may attempt to convince their co-actors of the reasonableness of their proposals on the basis of commonly accepted criteria. Hence, the actors may mobilise a second source of influence (beyond bargaining power) to pursue their individual interests. This mode of interaction, arguing, is directed at the convergence, and that is, active modification, of actors' preferences. It may contribute not only to identifying but also to developing the area of common interests of the actors concerned.⁶²

Obviously, decision-making in negotiations will be facilitated if bargaining is as far as possible limited to the distribution of joint gains, while arguing is employed to identify areas of mutual cooperation. Generally, even rational egoists will accept decisions derived at by arguing based on compelling criteria that are relevant for their own decision-making. This is especially true for issues

57. Albert O. Hirschman, *Exit, Voice, and Loyalty—Responses to Decline in Firms, Organizations, and States* (Cambridge MA: Harvard University Press, 1970).

58. James K. Sebenius, "Negotiation Arithmetics: Adding and Subtracting Issues and Parties", *International Organization*, Vol. 37, No. 2 (1983), pp. 281–316.

59. Fritz W. Scharpf, "Positive und negative Koordination in Verhandlungssystemen", in Adrienne Héritier (ed.), *Policy-Analyse: Kritik und Neuorientierung, Politische Vierteljahresschrift, Sonderheft 24* (Opladen: Westdeutscher Verlag, 1993), pp. 57–83; M.W. Pinto, "Modern Conference Techniques: Insights from Social Psychology and Anthropology", in R.St.J. MacDonald and Douglas M. Johnson (eds.), *The Structure and Process of International Law: Essays in Legal Philosophy, Doctrine and Theory* (The Hague: Martinus Nijhoff, 1983), pp. 305–339.

60. David A. Lax and James K. Sebenius, *The Manager as Negotiator: Bargaining for Cooperation and Competitive Gain* (New York: Free Press, 1986).

61. Jürgen Habermas, "Wahrheitstheorien", in H. Fahrenbach (ed.), *Wirklichkeit und Reflexion, Festschrift für Walter Schulz* (Pfullingen: Neske, 1973), pp. 211–265; Jürgen Habermas, *Theorie des kommunikativen Handelns, Vol. I: Handlungsrationalität und gesellschaftliche Rationalisierung* (Frankfurt/M: Suhrkamp, 2nd edn, 1982).

62. Thomas Gehring, "Arguing und Bargaining in internationalen Verhandlungen zum Schutz der Umwelt. Überlegungen am Beispiel des Ozon schutzregimes", in Volker von Prittwitz (ed.), *Verhandeln und Argumentieren: Dialog, Interessen und Macht in der Umweltpolitik* (Opladen: Leske & Budrich, 1996), pp. 207–238.

of pure knowledge (cognitive issues), while matters of pure preference and parochial choice are less suited for mutually acceptable settlement by arguing. A group of rational utility maximisers desiring to realise cooperation may thus in their own interest agree to collectively establish a fair procedure to settle some issues according to acceptable criteria, while retaining other issues for settlement by power-based bargaining. Accordingly, a collective decision process may be fostered by its separation into a number of semi-autonomous decision processes that discharge limited, functionally dependent tasks within a comprehensive negotiation.⁶³

Expert committees are a typical example for this type of semi-autonomous decision-making. Functionally, they are set up to relieve the core negotiations from discussing technical issues on which the actors are uncertain. They reduce the danger that these issues become intermingled with the pursuit of parochial interests by the negotiating state actors. Therefore, expert groups may discharge their task only if they do not operate according to the same criteria as political negotiations do. For that reason they may open the negotiation system beyond the limited group of member states and provide some leverage for non-governmental actors, for example scientists and relevant industries.

Eventually the results of a functionally dependent decision process must be introduced into the core political negotiations. In a horizontal structure, states cannot usually be forced to accept the outcome of an expert deliberation (this would already constitute a hierarchical dimension). However, results constitute themselves "arguments" that force the negotiators to decide. Either they prefer to exploit the relief function—and accept the results; or they reject them and sacrifice the assistance offered by the expert group.

Hence, horizontal coordination and collective decision-making among states does not imply that states merely balance their unilaterally established interests. It does not even mean that they decide all issues themselves. The skilful organisation of collective decision processes matters, non-state actors may participate in semi-autonomous decision processes and state preferences may be affected during collective decision processes. But these sources of influence are relevant only within the framework of a comprehensive negotiation process that is itself part of the endeavour of a group of state-actors to govern a limited area of international relations.

International Regimes as Institutions for International Governance

If international regimes are conceived of as institutions for purposive international governance, they will necessarily be composed of two different elements, namely a communication process about norms and the result of this process, a set of commonly moulded norms to regulate a given issue-area in the common interest.⁶⁴

63. Alfons Bora, "Gesellschaftliche Integration durch Verfahren. Zur Funktion von Verfahrensgerechtigkeit in der Technikfolgenabschätzung und-bewertung", *Zeitschrift für Rechtssoziologie*, Vol. 14, No. 1, pp. 55-79.

64. Gehring, *Dynamic International Regimes*, *op. cit.*, pp. 379-400. In contrast, the widely applied "consensus definition" defines international regimes merely as "sets of implicit or explicit principles, norms, rules and decision-making procedures around which actors expectations converged in a given area of international relations"; Stephen Krasner, "Structural Causes and Regime Consequences", *International Organization*, Vol. 36, No. 2 (1982), p. 186.

The substantive component must be closely adapted to the constellation of interests in the issue-area in order to become effective, because self-interested actors will refuse to implement norms that run counter to their interests—and in the absence of hierarchy nothing would prevent them from doing so. For that reason the participating states must in the end voluntarily agree on the cooperative arrangement hammered out during the preceding negotiations. Yet, this does not imply that other (i.e. non-state) actors are precluded from intervening into the collective decision process, it merely means that they may be successful only to the degree to which the negotiating states accept (i.e. are convinced by) their interventions. In short, in this type of international negotiations states may argue and bargain, while other actors are limited to pursuing their interests by arguing. Also, it does not imply that non-compliance with agreed upon norms will be costless. It merely means that the group as a collective entity will hardly be able to enforce its norms against states in the Weberian sense.⁶⁵ Rather, the power to sanction compliance and enforce non-compliance must come from other member states, and that is, it will be channelled horizontally, not vertically.

There is another important aspect about regime-supported cooperation in the horizontally structured international system. The benefits of cooperation may be realised only if the participating states implement the commonly agreed norms and adapt their behaviour accordingly. However, in numerous low-politics areas measures to achieve cooperation do not only require immediate state action but also affect the behaviour (and the interests) of relevant sub-state actors. Cooperating states must therefore be powerful enough to enforce appropriate behaviour domestically. Accordingly, successful international governance relies—at least to some degree—on a sufficiently strong hierarchical relationship between the participating states and their sub-units.

Altogether regime-supported international cooperation in low politics issue-areas may be conceived of as operating according to the following three-level model. In the upward (norm-moulding) process unit-level interests influence the aggregate national interests which governments pursue during an international negotiation. The national interests of the participating states influence, in turn, the collective decision process about norms that defines the common interests of the participating state-actors. In the downward (norm-applying) process collectively agreed norms orient decision-making by states. State-action, in turn, commands sub-unit actors to adapt their behaviour accordingly. Beyond this general relationship there may be some direct impact of sub-state actors on the collective decision process and some direct impact of regime norms on sub-state actors.

It is important to note, however, that there need not be any actor at the collective level. This level is the location for collective decision processes and collectively agreed norms. Conceptionally, the community of states decides and acts exclusively through its members.⁶⁶

65. Max Weber, *Wirtschaft und Gesellschaft: Grundriß der verstehenden Soziologie* (Tübingen: Mohr, 5th edn, 1972), p. 28.

66. However, real-world multilateral international regimes usually comprise a, generally weak, secretariat that forms the nucleus of an independent actor located at the collective level.

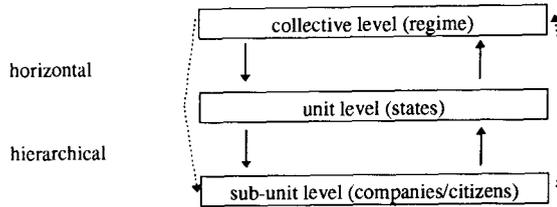


Figure 1. Regime-supported international cooperation in low politics issue-areas.

The European Community as a Regime-like International Institution

This conception applies to virtually all international regimes, including sophisticated ones like the world trade regime (World Trade Organisation—WTO) and the regime for the protection of the ozone layer. From an international relations perspective the model also seems to fit the European Community surprisingly well. Like an international regime the Community has been founded by its member states to realise mutual gains in certain areas of international relations. Like an international regime, it has emerged from international anarchy. Like lasting international regimes of the WTO-type it consists of several cooperative arrangements that were hammered out in successive rounds of inter-governmental negotiations. The most important of these arrangements are the Paris Treaty on the establishment of the Coal and Steel Community (ECSC), the Rome treaties on the establishment of the two other Communities, the Single European Act with its Single Market programme, and the Maastricht Treaty with the agreement on Monetary Union.

In this type of cooperation the group of original actors remains limited to the member states, despite the influence of non-state actors on certain aspects of the negotiations.⁶⁷ Only the member states are able to promote their interests within the collective decision process by arguing and by bargaining. For them the exit option is the primary source of bargaining power. A member state will refuse to accept the outcome of a negotiation unless it anticipates benefits. As in regular international negotiations the actors may react in three ways on the threat of exit by one member state. They may accept a higher degree of compromise. They may (threaten to) cooperate within a smaller group, or they may accept the failure of negotiations. In the final result, the major cooperative arrangements hammered out within the framework of the European Community constitute packages that carefully balance the interests of the member states. Moreover, like an international regime the Community lacks almost any serious sanctioning power against its member states. In the hypothetical case that a member state considers its interests better protected outside rather than within the Community, nothing would hinder it to leave the institution, irrespective of the

67. Sbragia, *Thinking about the European Future*, *op. cit.*, pp. 272.

formal legal situation.⁶⁸ Hence, similar to other cases of international cooperation the availability of the exit-option effectively relates the sphere of action where commonly adopted norms will have to be implemented, to the sphere of communication, where actors negotiate cooperative arrangements.

All actors other than the member states do not dispose of immediately applicable power resources during this type of negotiations. Even if they have direct access to the negotiation forum, they are constrained to affecting the decision process either by arguing or by first influencing the interests of a state-actor. None of them is able to bargain and "force" the member states to adopt an agreement which they do not collectively desire. Hence, even though the European Community comprises actors at the collective level, for example the Commission, these actors do not dispose of independent power resources. Last but not least, like international governance in low-politics areas European governance relies almost entirely on the hierarchical structure of the member states vis-à-vis their sub-units. Generally it is for the member states to ensure that economic actors and citizens comply with European law.

Accordingly, the European Community may be interpreted as a particularly successful case of international cooperation.⁶⁹ The member states "pool their sovereignty"⁷⁰ in areas in which they expect mutual gains, but they do not lose their exclusive role as powerful actors within the system, nor their ability to act independently, if appropriate.⁷¹

Institutionally Created Hierarchical Governance within the European Community

Despite these striking similarities to regular international regimes wide-spread doubt exists whether the Community is really in the first place an international institution for the promotion and maintenance of horizontal cooperation among states. Is not the role of Community-specific actors, like the Commission and the Court, as well as that of non-state actors so important that the Community system reflects some undeniable aspects of hierarchical governance vis-à-vis its member states despite the lack of sanctioning power? May the member states still be perceived as unitary actors despite their action through a multitude of sub-unit actors (e.g. functional bureaucracies, national banks, courts)? Does not decision-making within the Community in many respects resemble more closely domestic political decision processes than international negotiations, and is not the Community therefore more appropriately compared with a federal state than with an international governing institution?⁷²

68. Joseph H.H. Weiler, "The Transformation of Europe", *Yale Law Journal*, Vol. 100, No. 8 (1991), p. 2412. This is the basis for the "confederal" argument according to which the Community has not yet tacitly transformed into a federal state; Paul Taylor, *The Limits of European Integration* (New York: Columbia University Press, 1983), pp. 269-294.

69. Moravcsik, *Negotiating the Single European Act*, *op. cit.*; Moravcsik, *Preferences and Power in the European Community*, *op. cit.*

70. Keohane and Hoffmann, *op. cit.*, pp. 10-13.

71. Taylor, *The Politics of the European Communities*, *op. cit.*; Hoffmann, *Reflections on the Nation-State in Western Europe Today*, *op. cit.*

72. Sbragia, *Thinking about the European Future*, *op. cit.*; Samuel Krislov, Claus-Dieter Ehlermann and Joseph Weiler, "The Political Organs and the Decision-Making Process in the United States and the European Community", in Mauro Cappelletti, Monica Secombe, Joseph Weiler (eds.), *Integration Through Law: Europe and the American Federal Experience* (Berlin: de Gruyter, 1986), Vol. 1, Book 2, pp. 3-110.

Theoretically, the question arises why the surprising similarity of the Community with international regimes diminishes as soon as decision processes within the institution are explored. From an institutionally informed perspective the characteristically incoherent perception of the Community may be attributed to the peculiar distribution of substantive cooperation and related decision-making at two different levels.⁷³ It is not uncommon in international relations that a regime defines the terms of cooperation and assigns executive and administrative decisions to a regime-specific decision-making apparatus.⁷⁴ This is basically what the two sectoral communities on coal and steel and on nuclear energy did. However, the EEC-Treaty spells out detailed obligations only for some limited areas (e.g. the initial common market) while it assigns wide-spread competencies to the new decision-making apparatus in numerous other areas.⁷⁵ This is illustrated by the fact that, in principle, the central elements of the two recent inter-governmentally negotiated cooperative arrangements, namely the Single Market programme and the Monetary Union, might well have been agreed upon within the framework of the established Economic Community. Consequently, far-reaching substantive cooperation may be achieved at two different levels, namely the upper level of inter-governmental negotiations and the lower level of intra-institutional decision-making.⁷⁶

The emergence of a lower level of cooperation does not deprive the member states of their central role as the original actors of the institution, but it turns them into multiple stake-holders. On the one hand, they have interests in cooperation at the upper level. Therefore, they will be inclined to avoid unnecessary destabilisation of the related major cooperative arrangements, even though these arrangements determine the procedural rules for lower-level decision-making. On the other hand, they have varying interests in numerous secondary issue-areas in which additional cooperative gains may be made by secondary cooperation. The institution forces a state-actor to subordinate one of his interests to the other. If he is primarily interested in upper level cooperation, he must confine himself to pursuing his interests in the lower level decision processes within the limits of existing procedural rules. If he considers his interests within a lower-level process important enough to disobey these limits and reject the procedural rules, he must withdraw his prior agreement at the upper level and may have to put into question his future participation in the institution at large. The French "policy of the empty chair" in 1965/66 illustrates this effect and draws attention to the enormous costs involved in employing this mechanism.⁷⁷

73. Thomas Gehring, "Der Beitrag von Institutionen zur Förderung der internationalen Zusammenarbeit. Lehren aus der institutionellen Struktur der Europäischen Gemeinschaft", *Zeitschrift für internationale Beziehungen*, Vol. 1, No. 2 (1994), pp. 211-242.

74. Thomas Gehring, "International Environmental Regimes—Dynamic Sectoral Legal Systems", *Yearbook of International Environmental Law*, Vol. 1 (1990), pp. 35-56.

75. Taylor, *The Politics of the European Communities*, *op. cit.*

76. Below these two levels of legislative activity, there are other levels of executive and adjudicative decision-making.

77. On the "policy of the empty chair", see Hans von der Groeben, *Aufbaujahre der Europäischen Gemeinschaft. Das Ringen um den Gemeinsamen Markt und die Politische Union (1958-1966)* (Baden-Baden: Nomos, 1982), pp. 268-285; John Lambert, "The Constitutional Crisis", *Journal of Common Market Studies*, Vol. 4, No. 3 (1966), pp. 195-228.

Hence, the particular organisation of the collective decision process merely forces a member state to choose among his various interests. It does not automatically close exit for lower-level decisions. However, the more important overall cooperation is compared to the interests at stake in a single lower level decision process, the less credible will be the threat of exit. Consequently, the closure of the exit option will become more effective with increasing differentiation of lower-level decision-making. The numerous functional councils of which the Council of Ministers is composed⁷⁸ and the participation of uncounted civil servants in the "bureaucratic politics" of the Community⁷⁹ underline the current high degree of differentiation of the decision-making system.

The effects of the closure of the exit-option are far-reaching.⁸⁰ Now lower-level cooperation takes place under the protection of a strong international institution, rather than in the shadow of international anarchy. Governance is not limited to horizontal coordination of behaviour among the member states any more, it may become hierarchical to some degree. If the original state actors are inclined to accept decisions irrespective of their substantive content provided that they are adopted according to the accepted procedural rules, applicable power will no longer depend on resources beyond the institution. The member states may still bargain to pursue their interests, but they will do so on the basis of institutionally allocated power resources. It depends on the results of upper level negotiations, for example, whether the institution assigns veto power to every single member state or grants a certain number of votes that may be used to influence decisions under majority voting.⁸¹

The closure of the exit option and its replacement by procedural rules as the principal source of power for intra-institutional decisions has another important consequence. If the original state-actors depend on institutionally assigned power, other actors may be invested with the same sort of power. Accordingly, sub-state actors, such as companies, citizens as well as regions, derive certain powers from the institution. Probably even more important, new actors may be institutionally created and invested with power. The Commission with its exclusive right to initiate legislation, the Court of Justice with its competence to deliver binding judgements and the Parliament with its right to intervene substantially into the legislative decision process belong into this category.

Even though these artificially created actors entirely owe their existence to the institution established within the international system, they become full-fledged participants in intra-institutional decision processes. Within these processes they fulfil certain functions. Hence, the Commission helps accelerate the cumbersome and time-consuming negotiation mechanism and serves as inferior-level (executive) decision-maker. The increasingly relevant Parliament contributes to

78. Wolfgang Wessels, "The EC Council: The Community's Decisionmaking Center", in Robert O. Keohane and Stanley Hoffmann (eds.), *The European Community: Decisionmaking and Institutional Change* (Boulder: Westview, 1991), pp. 133-154.

79. Guy B. Peters, "Bureaucratic Politics and the Institutions of the European Community", in Sbragia, *op. cit.*, pp. 75-122; Maurizio Bach, "Eine leise Revolution durch Verwaltungsverfahren. Bürokratische Integrationsprozesse in der Europäischen Gemeinschaft", *Zeitschrift für Soziologie*, Vol. 21, No. 1 (1992), pp. 16-30.

80. Joseph H.H. Weiler, "The Community System: The Dual Character of Supranationalism", *Yearbook of European Law*, Vol. 11 (1981), pp. 267-306, identified an auxiliary closure of exit in the stage of implementation following from a well-operating adjudication mechanism that precludes free riding.

81. Peters, *op. cit.*, p. 83.

legitimizing legislative decisions (even though it is still hardly responsible for their content). The Court removes normative (legal) ambiguities and thus serves to settle disputes and enhance compliance.

The establishment of powerful institutional actors for intra-institutional decision-making has important consequences. These actors cannot fulfil their functions properly unless they dispose of a margin of independent decision-making determined by their position within the Community system. Outcomes of decision processes do not emerge any more exclusively from interaction among the member states, although the states still control the upper level process. The Council of Ministers becomes one organ of the European Community among others rather than an ordinary state conference.⁸² And that is, the collective level within the three-level-model is considerably strengthened vis-à-vis the unit (state) level. In a typical international regime the collective level exists predominantly in the form of joint decision-making of the member states. Within the EC it acquires its own voice separately from the states, although not independently of them.

The relevance of powerful institutional actors operating at the collective level is not limited to the relationship between the group of states and its members. These actors provide new inlets for interventions of sub-state actors. In some areas sub-unit actors enjoy a formal standing which provides them with direct access to intra-Community decision processes.⁸³ Beyond that, interventions are not limited to be channelled via state actors any more. A projected directive may be effectively influenced by non-state actors through the Commission and, in some cases, the Parliament.

All these effects increase the leverage of non-state actors at the supra-national and sub-national level. Inevitably they decrease, at least in relative terms, the ability of the original state actors to control the collective decision process. Yet, in a comprehensive approach toward the European Community one should not overlook that they rely on the peculiar organisation of the collective decision process that combines substantive cooperation at two different levels and firmly closes the exit option for lower-level decision-making. It is this specifically organised communication about norms that fundamentally distinguishes the Community from (other) international cooperative institutions.

From Cooperation to Integration: Recognising the Relevance of Development Over Time

The concept as developed so far is still static. It takes account of the relevance of the established institution and may help structure empirical inquiry into the

82. Wessels, *op. cit.*

83. For example the "new approach" to standardisation envisages a central role for interest group negotiations within European standardisation organisations, see Christian Joerges, Josef Falke, Hans-Wolfgang Micklitz and Gert Brüggemeier, *Die Sicherheit von Konsumgütern und die Entwicklung der Europäischen Gemeinschaft* (Baden-Baden: Nomos, 1988); Volker Eichener and Helmut Voelzkow, "Ko-Evolution politisch-administrativer und verbandlicher Strukturen: Am Beispiel der technischen Harmonisierung des europäischen Arbeits-, Verbraucher- und Umweltschutzes", in Wolfgang Streek (ed.), *Staat und Verbände, Politische Vierteljahresschrift Sonderheft 25* (Opladen: Westdeutscher Verlag, 1994), pp. 256-290. Likewise, the Art. 177 procedure assigns to interested private parties a central role in the judicial control of compliance with EC-norms, see Weiler, *The Transformation of Europe, op. cit.*

origins of specific events taking place within the institution as well as into the state of integration at a certain point in time. Integration itself, however, is a notion of process rather than status. It requires a perspective of development over time. If the institution, i.e. the combination of the specific organisation of collective decision-making and cooperative norms as outcomes of this process, constitutes the core of the phenomenon, integration will have to do with institutional change. Hence, a concept of integration must accommodate institutional development.

Path-dependence and Institutional Development

Some theoretical concepts, like the "cooperation under anarchy" approach and Moravcsik's "liberal inter-governmentalist approach", reduce governance to substantive cooperation among a group of actors and the underlying constellation of preferences prevailing within a given issue-area.⁸⁴ From this perspective a significant change of the underlying constellation of preferences produces a new situation that replaces the original one. The new situation is conceived of as not being connected in any way to the original one. Likewise, a later cooperative arrangement is not related to a preceding one but emerges from "international anarchy". Accordingly, changing patterns of cooperation must be interpreted either as a series of successive arrangements or as the proliferation of parallel cooperation in different issue-areas. This may lead to the conclusion that institutional development over time is not an important aspect of institutionalised international governance. Yet, this conclusion is largely related to the fact that development of cooperation over time cannot be analysed on the basis of these concepts.

To be sure, from an actor-oriented (i.e. methodologically individually informed) theoretical perspective an institution does not gain a life of its own, even though it may appear to develop. It will merely influence decision-making by relevant actors in a way that relates otherwise unrelated successive events in a meaningful way. Accordingly, a twin set of interrelated issues arises, namely: (a) how does an existing institution affect the decisions of relevant actors; and (b) how do these decisions modify the institution in turn.⁸⁵

Once again, the limitation of information processing capacity of the participating actors and the complexity of decision situations have an important impact. Norms do not necessarily determine the decisions of actors deciding under conditions of bounded rationality. Single actors may well fail to comply and stir conflict over originally accepted norms. In international governing institutions with a permanently established collective decision-making apparatus these conflicts may be made subject to new, i.e. secondary collective decisions. If the existing norms are still accepted as valid standards, these decisions would amount to interpretations in light of the specific circumstances of the case.

A dispute may also indicate that the original cooperative arrangement does not sufficiently reflect the actual constellation of preferences any more. In this

84. Oye, *op. cit.*; Axelrod and Keohane, *op. cit.*; Moravcsik, *Preferences and Power in the European Community, op. cit.*

85. Hartmut Esser, *Soziologie. Allgemeine Grundlagen* (Frankfurt/M: Campus, 1993); Zürn, *op. cit.*

case the conflict reaches beyond the closure of regulatory gaps in light of existing norms. It involves the challenge of a, possibly outdated, cooperative arrangement. Certain cooperators may threaten to abandon cooperation and jeopardise the existence of the cooperative institution altogether unless costs and benefits are satisfactorily re-allocated. All actors may remain interested in continued collective governance of the relevant issue-area to realise improved outcomes, but some of them insist on an adjustment of the terms of the governing cooperative arrangement. Consequently, the governing institution continues to enjoy support, but a new arrangement must be negotiated within its framework. Although there is no general limit as to the issues that may be tabled by the participating actors in these negotiations, the existing agreement will be highly relevant for the negotiation process. The reason is the peculiar relationship between collective and individual interests in international governance.

A core group of actors will continue to support the original terms of cooperation, unless the net gains realised under the original arrangement diminish because of the exit of too many or too important cooperators. That is, the community as a collective entity will stay alive and cooperation will continue to flourish (albeit presumably at a lower level of net gains due to increased free riding) although some community members may drop out. In this typical situation of gradual decay a new cooperative arrangement may not replace the original one unless it wins a higher degree of support.⁸⁶ This will be more likely and less risky if the original arrangement is adapted to the new situation, rather than abandoned and re-established. Accordingly, the existing arrangement establishes institution-specific baseline criteria that may be invoked during the negotiations. It structures the collective decision process even though it is the task of this process to identify a new arrangement that is better adapted to the new situation. Surprisingly enough, within a community of actors deciding under conditions of bounded rationality substantive norms establish a link between decision situations over time both when they are intended to be kept and when they are intended to be replaced.

There are two other mechanisms that relate decision situations over time. Established cooperative arrangements always enshrine a regulatory solution to a common problem⁸⁷ which may be used as a point of reference when dealing with similar problems. A group of actors deciding and acting under conditions of bounded rationality will not always be aware which one out of a number of competing regulatory approaches will best exploit the existing margin for cooperation.⁸⁸ For the group at large a mutually agreed solution in a parallel field will constitute a widely acceptable standard for the appraisal of proposals, despite the fact that individual preferences vary according to differing cognitive

86. If the threshold for decision-making is high and the group of participants is firmly established, the cooperators may alternatively find themselves locked in the "joint decision trap"; see Fritz W. Scharpf, "Die Politikverflechtungs-Fälle: Europäische Integration und deutscher Föderalismus im Vergleich", *Politische Vierteljahresschrift*, Vol. 26, No. 4 (1985), pp. 323-356.

87. Giandomenico Majone, "Policies as Theories", *OMEGA*, Vol. 8, No. 2 (1980), pp. 151-162.

88. Geoffrey Garrett and Barry R. Weingast, "Ideas, Interests and Institutions: Constructing the European Community's Internal Market", in Judith Goldstein and Robert O. Keohane (eds.), *Ideas and Foreign Policy: Beliefs, Institutions and Political Change* (Ithaca: Cornell University Press, 1993), pp. 173-206.

insights and parochial interests. An existing regulatory approach which might not have been intended to influence later decisions may thus be taken as the foundation for community-specific arguments that may be refuted only by proposals that are "better" either because they are more appropriate to the substantive problem or more acceptable to the community of actors. Hence, an existing solution to a parallel problem may exert influence on the structure of a later decision process,⁸⁹ whether or not it is eventually adopted. In this sense, solutions may precede problems rather than follow them.⁹⁰

Lastly, procedural norms constitute a form of linkage between decisions over time. They reflect collective decisions that are most directly intended to affect later collective decisions. It is well-known that procedures may have an impact on the outcome of decision processes if the actors concerned are inclined to accept the decisions rendered on their basis. Obviously, it matters whether a subsequent decision ought to be adopted by consensus or by a qualified majority of votes, and whether votes are weighted or distributed on a one-country-one-vote basis. Likewise, it will affect the decision whether a dispute is settled by an adjudicative dispute-settlement organ, or by the stake-holders themselves. The task of procedures is to facilitate decision-making, to accelerate and/or rationalise (in a discursive understanding) the cumbersome and time-consuming negotiation process, and to define the bargaining space.⁹¹

To conclude, there are several mechanisms by which an established institution may exert influence on rational egoists as soon as they are forced to decide and act under conditions of bounded rationality. In all these cases an existing institution intervenes into the calculation of preferences of these actors and the collective process of hammering out secondary decisions. Under bounded rationality it matters whether a group of actors endeavours to establish a cooperative arrangement out of a state of anarchy, or whether it develops, elaborates or adapts to new circumstances a governing institution that already exists. Every decision made within the framework of an existing institution adds to that institution and modifies its future appearance. Over time the institution develops because of the numerous collective decisions adopted at the various levels of its decision-making apparatus.

Positive Feedback and Integration

Many important international regimes, such as the WTO or the regime on long-range transboundary air pollution dispose of a twin structure that links several parallel or succeeding cooperative arrangements to a comparatively

89. Johan P. Olsen, "Political Science and Organization Theory. Parallel Agendas but Mutual Disregard", in Adrienne Wind hoff-Héritier and Roland Czada (eds.), *Political Choice. Institutions, Rules, and the Limits of Rationality* (Frankfurt/M: Campus, 1991), pp. 87-119.

90. International governing institutions with a permanent decision-making apparatus may thus reflect aspects of the "garbage can" phenomenon originally observed in domestic organisations; see Michael D. Cohen, James G. March and Johan P. Olsen, "A Garbage Can Model of Organizational Choice", *Administrative Science Quarterly*, Vol. 17, No. 1 (1972), pp. 1-25.

91. Niklas Luhmann, *Legitimation durch Verfahren* (Neuwied: Luchterhand, 3rd edn, 1978); Gehring, "Arguing and Bargaining" *internationalen Verhandlungen zum Schutz der Umwelt, op. cit.*

stable institutional framework.⁹² In these cases, collective decision-making about norms continues upon adoption of a first set of governing norms. Therefore, it may lead to the adoption of further sets of norms that prescribe different behaviour to realise other common interests of the actors as soon as the relevant constellation of interests so requires or allows.

It is the combination of the original cooperation-centred mainstream approach with an institutionally oriented concept of international governance that opens the regime concept for inquiry into this dynamic development of international governing institutions. The conceptional separation and functional re-integration of interest-based cooperation and institutions established to organise cooperation draws attention to reflexive (feedback) mechanisms by which regimes may affect their own future development. In this regard, the present approach re-introduces a central functional and neo-functional idea into the analysis of international institutions. Empirically informed studies especially from the highly dynamic field of international environmental relations emphasise the relevance of feedback mechanisms for the development of cooperation over time.⁹³ Obviously, institutional development and feedback effects also matter in the case of European integration.

Three categories of sources for dynamics and reflexive development may be distinguished analytically although they may actually appear in combination. First, an established international governing institution may foster future cooperation due to its very existence. Interested actors may simply exploit an already existing collective decision process that has proven to be effective in previous cases, once a new issue comes up for cooperation. For example, increased economic competition between Europe and the Pacific region may lead to the adoption of the Single Market programme,⁹⁴ or German unification may remove interest-based obstacles to the acceptance of Monetary Union.⁹⁵ The existing institution offers, in the case of the Community rather actively, its own solution to the new problem: expanding cooperation within its established framework. Without some responsiveness to changes in the environment an established institution may be expected either eventually to break down or lose its relevance for the actors concerned. However, in this pattern the relevance of feedback is still limited because the main cause of the expansion of cooperation is located beyond the institution's confines.

Second, feedback may occur between the collective level and that of the units (member states). Purposive governance and collective decision-making may always lead to a (partial) redefinition of actors' preferences. Verbalised exchange

92. Gehring, *Dynamic International Regimes*, *op. cit.* On the "nesting" of institutions, see the rather preliminary remarks by Robert O. Keohane, "The Demand for International Regimes", *International Organization*, Vol. 36, No. 2 (1982), p. 334; and Vinod K. Aggarwal, *Hanging by a Thread: International Regime Change in the Textile/Apparel System, 1950-1979* (Stanford: Ph.D., 1981), pp. 8-16; Vinod K. Aggarwal, "The Unraveling of the Multi-Fibre Arrangement, 1981: An Examination of International Regime Change", *International Organization*, Vol. 37, No. 4 (1983), p. 620.

93. Peter Haas, *Saving the Mediterranean: The Politics of International Environmental Cooperation* (New York: Columbia University Press, 1990); Ronald B. Mitchell, "Regime Design Matters: International Oil Pollution and Treaty Compliance", *International Organization*, Vol. 48, No. 3 (1994), pp. 425-458; Sebastian Oberthür, *Der Beitrag internationaler Regime zur Lösung von Umweltproblemen* (Berlin: Ph.D., 1995).

94. Sandholtz and Zysman, *op. cit.*

95. Sandholtz, *op. cit.*

during negotiations may draw attention to—originally underestimated or misinterpreted—aspects of the substantive problem underlying cooperation (“arguing”). For example, the establishment of the international regime on global climate change may contribute to raising the awareness of the participating state actors for the underlying problem and, consequently, affect an actor’s perception of the problem. Likewise, commonly adopted norms may have a stabilising effect, if effective, because they converge the expectations of the Community members and orient their decisions of behaviour. This is true for international governing institutions at large. However, within the European Community this type of feedback is dramatically strengthened because the Community acquires the ability to intervene into collective decision-making separately from the member states. The participation of the Commission and the Parliament in norm-moulding and, even more fundamental, the rulings of the Court on the basis of valid norms are examples. Accordingly, the dramatic development of European law may be conceived of as a consequence of interaction between the collective and the unit (state) level.⁹⁶ Moreover, the different actors operating at the collective level may themselves interact and attempt to reinforce the impact of this feedback mechanism.⁹⁷

Third, arrangements designed to bring about cooperation in a dilemma situation will cause adaptations to the behaviour of the actors concerned, if effective. In all low-politics issue-areas in which the cooperating states do not, or do not fully, control the regulated activities this mechanism automatically affects the interests of sub-state actors. If sub-state actors adjust to the new requirements and subsequently lose their interest in its modification this may have a stabilising effect. If it triggers activities of sub-state actors that provide, in turn, additional margins for cooperation in later rounds, it may have a dynamising effect.⁹⁸ In both cases adaptation of state behaviour has a long-term impact on the preferences of the relevant state. While developments of this third category come about as a consequence of an established institution and produce effects on that institution later on, they involve intermediate changes of substantive interests at the sub-state level. They are thus very close to the traditional functional and neo-functional “spill-over” mechanism.

To conclude, the present concept is not at all static. It appreciates institutional development over time as well as the sources of changes. It is applicable to international governing institutions that combine substantive cooperative arrangements and permanent collective decision-making processes. This is true for dynamic international regimes as well as for institutions with a “supra-national constitution”⁹⁹ and even for a federation in the analytical understanding of the

96. Hence, the margins of freedom enjoyed by the European Court need not be interpreted either as virtually unlimited, or as non-existent. For the two positions, see Burley and Mattli, *op. cit.*, and Geoffrey Garrett, “International Cooperation and Institutional Choice: the European Community’s Internal Market”, *International Organization*, Vol. 46, No. 2 (1992), pp. 533–560. Rather, being strictly limited in respect of a single decision, rulings may over time produce dramatic consequences, if accepted by the member states.

97. Karen J. Alter and Sophie Meunier-Aitsahalia, “Judicial Politics in the European Community: European Integration and the Pathbreaking Cassis de Dijon Decision”, *Comparative Political Studies*, Vol. 26, No. 4 (1994), pp. 535–561.

98. Oberthür, *op. cit.*

99. Alec Stone, “What is a Supranational Constitution? An Essay in International Relations Theory”, *Review of Politics*, Vol. 56, No. 3 (1994), pp. 441–474.

term.¹⁰⁰ Despite all their differences, these types of international governing institutions have central conceptional features in common that recommend a common approach.¹⁰¹

However, the present concept does not predetermine the standard for measuring and appraising the state of integration achieved at a given time. It keeps open the decision whether the success of European integration is best assessed according to its substantive dimension—the expansion of cooperation—or according to its transnational dimension—the role of non-state actors compared to that of the member states within the decision-making system—or according to its systemic dimension—the strength of the institution in the light of irritations within its environment.

Conclusion

The present approach is inter-governmental in as far as it attributes a central role to states. Only states may establish international governing institutions in the shadow of international anarchy, like the six original members of the European Community did in 1951 and 1957. And only states may enter an existing international governing institution as did the three most recent members of the Community in 1995. By entering the Community these actors do not at all sacrifice their nature as states. Hence, states constitute a very special class of actors within the Community.

However, the present approach is also institutional in the sense that it attributes particular relevance to institutions. Institutions do not act themselves vis-à-vis their members, but they influence the decisions of relevant actors, may lead to the emergence of institutional actors and open new opportunities for action by other actors. Lastly, the approach is neo-functional not only because it recognises the relevance of non-state and sub-state actors within intra-institutional decision-making processes but also because it accounts for development over time and feedback effects that might promote and accelerate the process of integration.

Accordingly, inter-governmentalism on the one hand and institutionalism as well as neo-functionalism on the other hand are not at all two mutually incompatible concepts for the analysis of European integration. Rather, they focus on two sides of the same coin. Accordingly, the conceptional priority for the member states as the original actors does not necessarily entail the empirically explorable priority within a specific decision process. On the contrary, an international institution established by states may differentiate so much that non-state and sub-state actors actually begin to dominate relevant decision processes. However, this is not a suitable matter for deductively generated assumptions but an issue that should be settled by empirical investigation.

The accommodation of the two rival approaches within a theoretically coherent concept allows one to draw on the insights of the lasting debate on

100. Sbragia, *Thinking about the European Future*, *op. cit.*

101. However, the very notions seem to imply that a state may be a member of numerous international regimes but only of one "federation" simultaneously. Therefore, the decision to join, or to retreat from, a federation will have a larger effect on a state compared to a similar decision in relation to a single international regime.

international regimes. If the regime perspective is employed, it is of little assistance to ascertain that the European Community is "more than a regime",¹⁰² or that only its sectoral arrangements could be conceived of as regimes.¹⁰³ The central issue is of course not the purely definitional matter whether or not the European Community is an international regime. Rather, the core question might be how the existing institution actually affects the outcomes of particular decision processes. To put it differently, how would similar states have decided on the same matter in the shadow of international anarchy outside the institutional framework of the European Community? From this perspective, the theoretically derived ideal-type of a cooperative arrangement might constitute the baseline-hypothesis, while differences would point at particular institutional influences.

102. Wallace, *op. cit.*

103. Carole Webb, "Theoretical Perspectives and Problems", in Helen Wallace, William Wallace and Carole Webb (eds.), *Policy-Making in the European Community* (Chichester: Wiley, 1983), p. 36.