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New institutionalism and the governance of the Single European Market¹

Simon J. Bulmer

ABSTRACT This article examines the new institutionalist research agenda in the context of the European Union (EU). Specifically, it examines the *historical* institutionalist approach, setting out different aspects of EU governance that it may be able to capture: systemic change; differentiated governance structures across policy subsystems; policy evolution; and the normative dimension. The article then examines these different aspects, drawing on evidence associated with the Single European Market programme, launched in 1985.

KEY WORDS European Union; governance; historical institutionalism; new institutionalism; single market.

INTRODUCTION

Analysis of the governance of the European Union (EU) has become a growth area in recent times. Among the principal frameworks that have emerged to examine different facets of EU governance have been:

- liberal intergovernmentalism (Moravcsik 1993a);
- multi-level governance (Marks *et al.* 1996; Kohler-Koch 1996);
- policy network analysis (Peterson 1995; Richardson 1996);
- new institutionalism, with its various different strands (Bulmer 1993; Jachtenfuchs 1995; Pierson 1996; Pollack 1996);
- the ‘fusion thesis’ explanation of integration (Wessels 1997).

This focus upon the analysis of EU governance has marked a shift away from the grander-scale theorizing of earlier eras: from examining the *telos* of integration to looking at more closely defined research problems. However, this move runs the risk that the field of study becomes very fragmented. We may end up with a bewildering set of policy cases explained by a further array of analytical frameworks so that the ‘big picture’ of integration is lost from view.

This article seeks to suggest a way in which the different levels of research

analysis can be linked up through application of a middle-range theory, namely new institutionalism. The article draws on the methods used in, and findings of, a study of the governance of the Single European Market (SEM) (1985–96) (Armstrong and Bulmer 1998).

What follows has four parts. The first simply seeks to identify what ‘the governance of the EU’ is, and how to have a complete picture of it. The second part looks at new institutionalism – specifically its historical institutionalist variant – and locates this approach at the intersection of comparative politics, international relations and legal theory: the core areas affected by EU governance. Can historical institutionalism benefit from this location to ‘capture’ the different facets of EU governance? And if so how? In the third part attention is focused on the SEM, with a view to showing how historical institutionalism may encompass the scope of EU governance. Finally, the article aims to draw some conclusions about whether historical institutionalism is ‘up to the job’.

IDENTIFYING THE GOVERNANCE OF THE EU

‘Governance’ has become a fashionable term in political science for analysing the pattern of rule generally and in the EU specifically. Although the term has been criticized as imprecise (Rhodes 1996: 652), it has particular value in examining the pattern of rule in the EU. The EU does not resemble, or have, a government, so governance offers some descriptive purchase on the character of the polity. Moreover, within Europe the integration process has been inextricably bound up with the transformation of both the traditional system of ‘nation states’ and of the role of individual member states. This transformation has not been solely the product of integration but has derived from other developments such as globalization, new developments in economic management, notably the move towards the regulatory state, and domestic moves towards ‘new public management’ as a way of better administering policy. Beate Kohler-Koch has seen the transformation of governance as affecting: the role of the state; the rules of behaviour; the pattern of interaction; and the level of action (1996: 371). Above all, the task for those utilizing the term governance as a research tool is to exploit its greater flexibility (while taking care with definitions, of course). The term ‘governance’ also problematizes the pattern of rule within the EU polity. This exercise need not be post-modern deconstruction; rather, it may facilitate the re-connection of: macro- and micro-level studies of the EU; of policy-making and policy administration; of the political and legal aspects.

The last of this trinity is worth underlining, for neither in the EU nor in individual member states has the transformed pattern of governance left the role of the judicial system untouched. The regulatory state seems to bring with it an increased juridification of economic management. The EU has not escaped this trend, with a continuing heavy caseload for the European Court of Justice (ECJ), and a big growth in the workload of the Court of First Instance, established in 1989. The ECJ also stands entrusted with resolving some of the disputes about the level of action.

In this literature on governance it is argued that the state’s role has moved from

'authoritative allocation and regulation "from above" to the role of partner and mediator' (Kohler-Koch 1996: 371). That perspective underlines the character of EU governance: of finding joint solutions through multi-levelled partnerships and through mediating the claims of affected interests. This mediating role is precisely the one assigned to institutions by those employing new institutionalist analysis, as will be seen below.

The focus on governance is important also because it highlights the problems of the traditional nation state in managing the policy problems with which it is confronted. The EU, of course, is precisely one available arena for managing such problems. If we are to analyse EU governance, therefore, what empirical dimensions do we need to take into account?

First, it is important to encompass change in EU governance. In recent times especially, EU governance has been subject to considerable evolution. Following a political set of dynamics, the Single Act, the Maastricht Treaty and, in 1997, the Amsterdam Treaty have recalibrated the framework of governance. They can be seen as part of a longer-term set of such changes (see Wallace 1996). Judicial integration has contributed a parallel dynamic of change, contributing to a constitutionalism of the EU (Weiler 1997). However, changing EU governance is not just a product of 'history-making' decisions (Peterson 1995). Much of it is evolutionary and takes place between such step-changes. Illustrative of this pattern are: the rolling medium-term policy programmes, such as the Framework programmes in research and technology, environmental action programmes and others in such areas as social affairs or equal opportunities, or the Lomé conventions; institutionalized iteration, whereby negotiators explicitly include a time-specific review clause in legislation in recognition of the fact that the agreed legislation is as far as the negotiating parties could go at the time; and the inevitable trial-and-error aspect of policy-making. In each of these cases there is a strong logic of incrementalism. The close relationship between the judicial process and EC pillar policy-making can also be a source of iteration, as ECJ jurisprudence clarifies the legal situation, creates regulatory 'gaps', perhaps offering a better basis for the Commission to propose strengthened policy provision. We also need to be aware of institutional inertia, the extreme version of what Paul Pierson has termed 'lock-in': where particular avenues for policy have been excluded because of bias mobilized, and institutionalized, in the system of governance (Pierson 1996).

Second, as John Peterson has argued (1995), EU governance is multi-tiered: from the super-systemic decisions at intergovernmental conferences to meso-level decisions within a specific policy area. Just as it has become well established in the comparative public policy literature that patterns of governance vary within states, so this view has taken hold in analysis of EU governance. Dependent on the level of decision and, at the meso level, dependent on the policy area concerned, the balance of power between the EU institutions is recalibrated, as is the involvement of interest groups, subnational government and so on. The diversity of governance between the three pillars of the EU is striking but within the EC pillar it is as much so. This diversity of EU governance is a further factor which must be taken into account.

Third, although they are still young, the institutions of the EU are not free of values. Embedded within them are values and norms which evolve gradually. Such institutional norms may have a significant impact on how functions allocated to the EU are in fact operationalized. They may also be subject to stronger, political change. That was the effect of the SEM/SEA (Single European Act) package in increasing the presence of neo-liberal values in the work of the European Community (EC); or of the Maastricht Treaty in inculcating the notion of subsidiarity in the EU's institutions. New guiding principles, such as 'flexibility' in the context of the Amsterdam Treaty, can come to play an important role in shaping the pattern of EU governance. These aspects should also be taken into account in any study of governance, whether of the EU or of a nation state. They may be difficult to quantify and thus represent a challenge to those whose theory-building tends towards the algebraic. Nevertheless, they represent an important check on 'rational-actor' interpretations of politics. We cannot talk of an EU political culture, for that is some way off. However, that does not mean that ideas, norms and values have no explanatory value in analysing the governance of the EU.

The above considerations can be summarized by restating the different dimensions of EU governance that any theoretical framework must encompass:

- its political and legal character;
- the different types of change which are characteristic of a comparatively fragile system of governance like the EU;
- the embedding of policy-level governance structures within an overarching, systemic structure (the EU); and
- the normative dimension of governance.

Most of these considerations would apply to the analysis of policy developments in the national context, so an approach derived from comparative social science appears to have much to offer. Specifically, we will deploy some of the insights offered by new institutionalism. Our attention now turns to outlining that approach.

HISTORICAL INSTITUTIONALISM AND EU GOVERNANCE

New institutionalism is a middle-range rather than a fully blown grand theory. Unlike neo-functionalism and neo-realist (or intergovernmentalist) theories its institutionalist focus does not entail a teleology of integration. Rather, new institutionalism is agnostic on the end-goal of the integration process. The most modest sales pitch for new institutionalism is that it offers a methodology for research. This methodology generates research questions and orientations rather than mapping out a macro-social model of integration. The core assumption of this approach is that *institutions matter*.

This assumption, it should be noted, is shared with the 'institutionalists' in international relations theory. Particularly linked to the analysis of international regimes, this view of international relations argues that institutions represent 'persistent and connected sets of rules (formal and informal) that prescribe

behavioural roles, constrain states, and shape expectations' (Keohane 1989: 3). By adopting a comparative approach we do not wish to contribute to the balkanization of social science, for we believe that, in the past, the analysis of European integration has suffered from such fragmentation.

New institutionalism

New institutionalism is one of the principal methodological approaches to have emerged in the recent comparative social science literature. There are different variants of new institutionalism, so it should be regarded as something of an umbrella term. The most obvious question is: what is 'new' about the approach? Two aspects are particularly distinctive to new institutionalism.²

One is a wider interpretation of what constitutes institutions. Thus, there is a shift away from formal constitutional-legal approaches to government, with their tendency to be configurative. It is possible to take into account some of the less formalized arenas of politics. A new institutionalist concern, therefore, encompasses these broader aspects of governance: a wider remit than the formal institutions of state or government. In including the less formal arenas of politics new institutionalism can be sensitive to the valuable findings of the 'policy community' and 'policy network' literature that has exposed the interconnectedness between formal state organizations and communities and networks of actors with an expertise and interest in a given policy area (see Peterson 1995).

A second distinction is a concern with the 'beliefs, paradigms, codes, cultures and knowledge' embedded within the institutions (March and Olsen 1989: 26). This concern with institutional values is important, for the machinery of government is steeped in norms and codes of conduct and it is difficult to isolate formal institutional rules from the normative context. Of course, nobody would read the EU treaties and expect to gain an accurate impression of the operation of the institutions: witness the divergence of the practice of decision-making in the Council from treaty rules following the Luxembourg Compromise. To be sure, we did not need the invention of new institutionalism to provide that insight. On the other hand, it helps to organize analysis of the evolution of ideas within institutions; of differing institutional cultures embedded within different parts of, say, the European Commission; of the change in institutional values brought about by the commitment to complete the SEM by the end of 1992; and similar normative changes. March and Olsen's work, it will be recalled, was *inter alia* an attempt to 'correct' overly rationalist and functionalist interpretations in political science.

New institutionalism places the analytical focus on the polity. Thus, we can understand politics as comprising three separate components: politics, polity and policy. The presumption is that the polity structures the inputs of social, economic and political forces and has a consequential impact on the policy outcome.³

POLITICAL FORCES → POLITICAL STRUCTURES (INSTITUTIONS) → POLICY

In such an approach institutions play a key mediating role. What do we consider to be ‘institutions’ for the purposes of this study? They are taken as meaning formal institutions; informal institutions and conventions; the norms and symbols embedded in them; and policy instruments and procedures. This definition helps us to incorporate the traditional constitutional-legal notions of governance. But it also enables us to bring in the culture of political institutions; the informal decisional arenas – the ‘smoke-filled rooms’ of politics; the accumulation of jurisprudence and the development of legal norms as factors contributing to institutional and policy norms; and, finally, it allows us to incorporate the role of ‘soft law’ and political declarations as further influences upon policy outcomes.

An additional issue upon which we must comment is that of institutional autonomy: of how much autonomy institutions possess in the political process. Most analysts see institutions as playing a mediating role. That is why the simple model of politics outlined above sees political (and socio-economic) forces as the starting point of governance. We certainly are not proposing that institutions provide the fundamental dynamics of politics. However, we do not see institutions as neutral arenas within which political forces are played out. First, institutions structure the access of political forces to the political process, creating a kind of bias. Thus institutional rules, norms, resources or symbols shape actors’ behaviour. Second, institutions can themselves develop endogenous institutional impetus for policy change that exceeds mere institutional mediation. This second aspect enables us to take into account the active contributions of the ECJ to the governance of the EU or of the Commission as an agenda-setter (see, respectively, Weiler 1991 and Peters 1994).

Historical institutionalism

Following these general remarks on new institutionalism, we now adopt a specific variant from within this literature, and examine the kinds of issue which it can help to analyse. The approach adopted is historical institutionalism, which has a particularly encompassing interpretation of the role of institutions, as will be seen below. The particular distinction made here is with so-called rational choice institutionalism, which takes into account institutions and their rules but only in so far as they modify an essentially rational choice model of politics (see Thelen and Steinmo 1992: 7–10). That essentially rationalist approach may be described as being at the ‘thin’ end of institutionalism. By contrast, our historical institutionalism is at a ‘thicker’ end of institutional analysis by virtue of including the normative and cultural dimensions which go beyond rationalist calculations. In order to show the potential insights of historical institutionalism, we identify four particular dimensions of EU governance which it can help to ‘capture’: systemic change, governance structures, policy evolution, and the role of values and norms.

Historical institutionalism and systemic change

An important research terrain of new and historical institutionalism has been concerned with the state's role in macro-social change. Reacting to the society-centred, behaviouralist analysis of the 1950s and 1960s, some political scientists moved, in the 1980s, to 'bring the state back in' as the focus of analytical attention (see Evans *et al.* 1985). These analysts were particularly concerned with the evolution of political systems, and with the question of the degree of state autonomy in such developments.

The European integration literature has concentrated in particular on the issue of macro-level change: on the patterns of overall development. However, the attention paid to the role of the supranational institutions or to the embryonic European 'state' has been skewed by the two predominant narratives. Neo-functionalism tended to underplay state dynamics in the integration process. By contrast, a concern with the state is much more at the heart of realist or neo-realist interpretations of the integration process (see, for example, Hoffmann 1966, 1982). In such analyses, however, it is the resilience of the *nation states* that is the focus of attention. In other words, European integration is seen as a dependent variable of state development at the *national* level. Nevertheless, this approach has enjoyed something of a resurgence in the last decade, notably through the historical research of Alan Milward (1992) and Andrew Moravcsik (1991, 1993b). Their work, with its emphasis upon the 'rescue' and 'strengthening' of the nation state respectively, argues a particular line about where state power lies.

What does historical institutionalism have to offer in this context of systemic transformation? Essentially it places the focus upon those formal and informal institutions where systemic change is negotiated. Moreover, it presupposes no particular teleology of development. Hence, while the research agenda may be compatible with those of Milward and Moravcsik, the prescriptions of historical institutionalism are not concentrated on whether nation states are the winners or losers of the process but more neutrally on the way in which the negotiating fora shape the outcome of negotiations in a process of state reconstruction (see Bulmer 1996).

In the context of systemic change an historical institutionalist perspective comes closest to the work of analysts who examine the reconstruction of state authority over time. The work of Wolfgang Wessels, with its strong rooting in continental European writing on the state, displays consistency with historical institutionalism. The connection is formed by the emphasis which Wessels places on how the EU is the product of the 'logic' of the European state system, with supranational solutions being sought for the problems of managing welfare states in an increasingly interdependent Europe (Wessels 1992, 1997). Although his work uses the terminology of 'fusion', which implies a convergence of state power on one level, he does take into account multiple levels of governance. His approach aims to capture the dynamics of change, while recognizing that the integration process is open-ended. Paul Pierson (1996) explicitly employs historical institutionalism to explain characteristics of the integration process. He offers a corrective to inter-governmental analysis and does so by explaining the importance of evolutionary change at the systemic level.

The principal value of historical institutionalism in respect of systemic change is twofold. It can explain, through institutionalist lenses and without a teleology of integration, the involvement of key institutions and actors in the transfers of competence at particular junctures of the integration process. It can also explain systemic change *between* those critical episodes of integration, such as the SEM/SEA, the Maastricht Treaty and so on, for much systemic change is evolutionary in character and judicial-normative in form (Pierson 1996; Weiler 1982; Dehousse and Weiler 1990). Consequently, this form of change may be omitted from the research focus of those who only examine so-called history-making decisions. Analysts focusing upon such decisions also bias their research data away from the constitution-building that derives from the judicial process.

Historical institutionalism and governance structures

Historical institutionalism is not only an analytical approach which is helpful to examining systemic change, it can also assist analysis of subsystemic governance. In this case the emphasis is upon how different institutional *configurations* – between political systems or between policy subsystems – can impact upon governance capacity.⁴ In the context of the governance of the SEM, two particular research issues are highlighted in this way.

The first is the governance capability of the EC/EU. Weaver and Rockman (1993a: 5–7) have identified various ways of measuring governance capability, and how the structural properties of the decision-making system may affect that capability. The SEM/SEA package-deal was a specific attempt to increase the EC's governance capability, both generally and with a view to ensuring the necessary legislation for the SEM programme. It is important, therefore, if we are seeking to analyse the governance of the SEM, to review performance in achieving that goal. Did the SEM/SEA package enhance the governance capability of the EC; and how? Thus, an institutionalist agenda is concerned with the impact of the polity upon putting the market integration into operation.

The second research issue is one which is well established in the literature on policy-making in the EU, namely the different dynamics of governance at the meso level (Wallace *et al.* 1983; Wallace and Wallace 1996). The particular contribution of historical institutionalism is to attribute varying policy outcomes to the different institutional arrangements. In order to highlight the different character of these arrangements, we term them 'governance regimes'.

Historical institutionalism and policy evolution

Historical institutionalism emphasizes the cumulative nature of policy-making, a feature explored by Pierson (1996). Thus, initial policy choices may restrict subsequent evolution so that a kind of path-dependency influences the course of policy. The result may be a policy which outlives its usefulness, or which does not correspond to the requirements of a new era. Nevertheless, it may have its own internal 'logic'. The common agricultural policy (CAP) may be seen in these terms. With an emphasis upon institutions, an interpretation of the CAP's character would

be that those engaged in agricultural policy-making were able to isolate themselves *institutionally* from broader issues of public policy – including the financial aspects – and thus exploited supranational policy-making to enhance their own power resources. Only with the imposition of financial constraints from 1988, trade policy constraints arising from the Uruguay Round and the need for reform in the context of eastward enlargement, has the institutional insulation of the CAP been restricted.

More broadly, historical institutionalism offers a number of insights into the dynamics of the policy process.

First, it helps us to organize an exercise in process-tracing in policy case studies. Much policy-making is iterative and incremental. Thus, most of the legislation associated with the internal market White Paper and with many of the flanking measures did not simply emerge in the mid-1980s. Rather, new strategies were adopted to achieve goals already set out in the Treaty of Rome. And a new ‘bargain’ gave renewed political impetus. Thus, while historical institutionalism often reveals path-dependency and policy solutions outliving their usefulness, there is also the possibility that lessons may be drawn from past experience, resulting in new strategies being put forward. Thus, the rationality of policy changes is understood to be a bounded rationality based on the endogenous construction of experience: ‘learning by doing’.

At the policy level, we are able to encapsulate this iterative process by examining the development of ‘governance regimes’.⁵ From the modest beginnings of the first Commission initiative in an illustrative (EC pillar) policy area, perhaps reflected in a ‘mere’ recommendation and itself preceded by a phase of agenda-setting, interest groups establish their claims to consultation.⁶ National officials are also engaged in many meetings before the first piece of legislation is agreed. Gradually a governance regime is established. Then comes the learning process of how implementation by the national authorities corresponds to intentions. Further, ECJ jurisprudence develops legal norms. New legislation may be proposed, reflecting pressure from affected interests and incorporating the benefits of institutional learning. And so policy evolves in a manner which is structured by the institutional capacity of the EU generally and of the specific governance regime as well. In this way an historical institutionalist perspective rejects the idea that European integration is just about the SEA and the Maastricht Treaty. It rejects the notion that politics can be separated from public administration, for the putting of policy into practice is an essential part of the whole: the experience of administration may start a new cycle of policy development.

Second, historical institutionalism helps to forge a link between jurisprudence of the European Court and the legislative process. Unlike some areas of EU activity, notably the second (Common Foreign and Security Policy) and third (Justice and Home Affairs) pillars established under the Treaty on European Union (TEU), the first (EC) pillar is regulated by EC law. In consequence, disputes between private parties, or disputes involving the supranational institutions or the member governments, can lead to the establishment of important policy principles. Since the Commission’s role is to act as the conscience of ‘Europe’, it follows that its staff closely monitor the work of the European Courts (the ECJ and the Court of First Instance (CFI)). Indeed, they may have intervened in litigation brought before the

Court and thus be well placed to draw lessons from consequent jurisprudence. Historical institutionalism offers a framework for understanding the judicial and legislative processes as complementary to one another. This situation is illustrated by the Commission seizing upon mutual recognition as a regulatory strategy for market integration in the wake of the *Cassis de Dijon* judgment.

A third contribution of historical institutionalism is through illustrating the ways in which institutions structure the policy process. Here we expand on the point made earlier on new institutionalism generally: that institutions are not mere neutral arenas.

In their analysis of the governance of the American economy, Lindberg and Campbell alert us to three ways in which the institutional structure shapes the policy process through a kind of mobilization of bias (Lindberg and Campbell 1991: 357–61).⁷ The first means of influence derives from the fact that the supranational institutions do not provide equal access for influencing the policy process. Thus the strong position of the Council of Ministers privileges national governments and their civil servants in the policy process, although increased power-sharing with the European Parliament (EP) and varying rules on voting in the Council qualify this statement. Another instance of bias deriving from the institutional structure can be shown by a further reference to the CAP. The weakness of consumer responsibilities within the Commission and, for that matter, in national governments has been another factor explaining why broad public interests, as well as those of taxpayers, were for a long time scarcely heard in the CAP governance regime.

A second means of institutional influence derives from the fact that the supranational institutions are not mere arbitrators but are key *players* in their own right. The Commission is an obvious example, for it is charged with finding supranational solutions to policy problems. As the initiator of policy, it has useful cards to play in setting the policy agenda (Peters 1994). So, too, do other institutions: the European Council (Bulmer 1996), but also the presidency of the Council of Ministers.

A third means of institutional influence derives from the fact that ‘the state’ has its own distinctive configuration which predisposes it to certain types of activity. Within the EC pillar that distinctive configuration is its regulatory character. Hence the whole character of the White Paper was to legislate or regulate within the context of a small EC budget. Regulatory costs are borne by the member states and the regulated. They are hardly borne by the supranational institutions at all, since implementation is left overwhelmingly to national arrangements, apart from in competition policy. The configuration of the EU institutions and the rather untypical set of policy instruments available predispose the Union to certain types of policy action but limit the scope for others, especially involving large financial transfers.

Historical institutionalism and the norms of governance

A major intellectual input into new institutionalism derives from the work of James March and Johan Olsen (March and Olsen 1984, 1989). Their work had its roots in

organization and decision theory. Their criticism was of the utilitarianism and rationalism implicit in much of the existing literature rooted in neo-classical economics. Their view of institutional analysis is perhaps best encapsulated thus:

political actors are driven by institutional duties and roles as well as, or instead of, by calculated self-interest; politics is organized around *the construction and interpretation of meaning* {our italics} as well as, or instead of, the making of choices; routines, rules, and forms evolve through history-dependent processes that do not reliably and quickly reach unique equilibria; the institutions of politics are not simple echoes of social forces; and the polity is something different from, or more than, an arena for competition among rival interests.

(March and Olsen 1989: 159)

What is particularly important here is the importance of norms, values and routines embedded within institutions: what they term a 'logic of appropriateness' that shapes individuals' actions within institutions (March and Olsen 1989: 160–2). What, then, can historical institutionalism offer by highlighting the normative dimension of EU governance?

Three contributions are particularly worthy of note. The first is to go beyond the idea of the institutional structure of the EC/EU being important and to look at the internal organizational features of individual institutions. This 'micro-institutional' (or *organizational*) analysis allows us to focus on the routines, norms and symbols within individual institutions. Thus, the internal processes of decision-making in the European Commission, the committee structure of the EP, comitology and a range of other specific organizational features may help to explain policy outcomes. These features, or what Burch and Holliday have termed the 'disposition of an institution', also privilege certain policy actors over others because they define a pattern or distribution of power potential (Burch and Holliday 1995). In one sense this is simply giving a micro-level focus to institutionalism. However, the addition of March and Olsen's second contribution – the role of norms and values – goes beyond mere structure to include such aspects as administrative culture.

March and Olsen highlight the norms and values held within organizations. Cultural explanations of the politics of the EU are problematic because we cannot identify a European culture.⁸ However, within individual institutions norms and values accumulate and create a kind of institutional culture. These institutional norms, codes of conduct and values provide stability to a political system which is very fluid in character (see Mazey and Richardson 1996: 54). We can identify systemic norms associated with the EU, for example efforts by all institutions to respect the subsidiarity principle. Equally, norms and values may be attached to individual institutions. For example, they explain the informal voting practices in the Council of Ministers whereby attempts are made to reach a consensus and not overrule 'significant minorities', even where qualified majority voting (QMV) is specified in the treaty rules. Taking another example, the Commission has a pro-integration mission which is partly inculcated by its rules and partly by its

institutional culture. Lord Cockfield, responsible in the first Delors Commission for the SEM programme, adopted such a missionary approach that he was deemed by the Thatcher government to have 'gone native'. He adopted the institutional role and culture of the Commission to such an extent that he was not re-nominated for a further term. It is by linking together the micro-institutional and normative dimensions of March and Olsen's work that one can also analyse the different values held in different parts of the same institution (see Bulmer 1993: 363–4; Cini 1996).

A third normative issue which historical institutionalism can highlight extends March and Olsen's work into the domain of ideas, an area which has been examined by Jachtenfuchs (1995). The spread of policy ideas may be facilitated as much by institutional or organizational positions and values.⁹ For example, the elevation of market integration as a predominant norm within the Commission, reinforced by the member governments' commitment to the SEM programme, was a factor behind new policy dynamics.

Historical institutionalism – a summary

There is an analytical core which runs through the four dimensions of EU governance discussed above. Centrally, the analysis is institution-centred rather than being actor-centred and behavioural in character. For March and Olsen a more organizational focus is adopted, with the endogenous organizational features structuring politics (1984, 1989). Further, informal and formal institutions are seen as structuring actors' political behaviour. Another recurrent feature is an historical focus; past choices restrict subsequent policy action. Finally, the values and norms embedded within institutions are ascribed explanatory value. *Emphatically, none of this means that our empirical concern is just with institutions.*

Historical institutionalism is not some kind of grand theory. Nevertheless, it offers a method for deriving analytical insights. And this method allows us to focus on different aspects of the SEM/SEA, summarized in Box 1. Above all, historical institutionalism offers a method which helps to bring together the high-profile politics of the SEM/SEA, on the one hand, and the day-to-day policy-making, policy administration and judicial dynamics of the EC pillar, on the other. In the next section we explore further the various political insights of historical institutionalism, using the SEM/SEA as empirical material.

THE SINGLE MARKET: AN HISTORICAL INSTITUTIONALIST ANALYSIS

In examining the development of the governance of the SEM, concentrating on the period 1985–96, we sought to examine both the step-change brought about by the decision taken at the Milan European Council in June 1985 together with the institutional changes brought about by the Single Act, and the operationalization of the programme. As regards the latter, we selected six illustrative case studies.¹⁰ Space precludes a detailed account of our findings.¹¹ However, we can summarize them in

- How the SEM/SEA package came to be agreed (systemic change).
- How changes to the EC's institutional structure contributed to the realization of the SEM (governance structures).
- How institutional structures shape the governance of individual policy areas and issues into governance regimes (governance structures).
- How EC/EU policy is shaped over time as the product of both rule-making and judicial methods of regulation (policy evolution).
- How the institutional structure of the EU is not purely and simply a neutral arena but structures the policy process (policy evolution).
- How organizational disposition as well as institutional norms, values and ideas shape policy outcomes (normative dimension).

Box 1 Historical institutionalist insights into the SEM/SEA package

respect of the four dimensions of EU governance where we argued that historical institutionalism has analytical purchase.

Systemic change and the single market

Our starting-point was to identify the single market as not being confined to the Milan European Council agreement on the Cockfield White Paper. This package of measures was a somewhat arbitrary collection and by no means sufficient to complete a process of market liberalization in the EC. Further, it is necessary also to take into account the SEA, with its flanking measures and institutional reforms. This might seem self-obvious but it can highlight two particular institutionalist points. The first of these is revealed by the need for negotiators to make accurate judgements on the boundaries of reform proposals. This fate befell the British negotiating team at the Milan summit. It was of the view that the White Paper was a free-standing programme which could be accepted without the need to embrace other reform proposals that were afoot. In part this view derived from a persistent British wish to avoid constitutionalized reform. Moreover, where the UK government was motivated by neo-liberal economic ideas, other member states had other norms: some sought to forge a strong linkage with side-payments through the structural funds; some sought to press ahead with institutional reforms already broached in 1983 at Stuttgart and then explored by the Dooge Committee. It is important to take care here because we may fall into the rationalists' trap of seeing the SEM and the SEA as the tidy reconciliation of member state preferences over the period from Milan to the signing of the SEA in February 1986. Such rational-actor analysis is dangerous, however, for the calling of the intergovernmental conference at Milan was achieved by a deft manipulation of European Council procedures by the Italian presidency in a way that surprised several states.¹² This point reminds us, then, that institutional rules can amount to important contingencies. Without that vote, who knows how successful the White Paper would have been? Member state preferences may not suffice in accounting for systemic change.

A second point to derive from defining the shape of the package is that it is crucial

for analysts, just as for negotiators, correctly to identify the boundaries of developments. Garrett and Weingast (1993) are correct to emphasize the importance of the *Cassis de Dijon* decision to the development of the internal market programme, in part perhaps as a corrective to Moravcsik's under-emphasis of this aspect in his original analysis (1991). However, they see the EC's legal arrangements as the guarantee for the SEM and neglect the log-rolling and linkages with other policy areas. The latter were also part of the SEM's guarantee.

A further key finding was that neo-functional and realist accounts of the SEM/SEA package amount to incomplete narratives of what happened. Member states' preferences were important but so were: the ECJ's *Cassis* ruling; Commission entrepreneurship (only partially covered by Sandholtz and Zysman 1989); and the role of transnational interests (see Cowles 1995). The key to getting a balance for us was to focus on the institution where the key decisions on systemic change were taken: the European Council. The Commission has 'insider status' in this institution and availed itself of all the available opportunities to project its agenda. Hence, while Moravcsik is formally correct to interpret the Cockfield White Paper as merely a response to the wishes of government heads (1991: 66), the question is whether they all supported market integration. The skill of Delors and Cockfield was to turn their ritualistic declarations back on the government heads; the latter could not then reject the internal market programme since 'they' – and it was some more than others – had called for its completion at a series of summits, and they could scarcely turn down a reworking of the objectives of the Treaty of Rome. The missing item in integrating the various factors behind agreement on the White Paper is the way in which the underlying ideas gained a foothold in the European Council and could be exploited there by an astute Commission president. *The institutional framework mattered.*

Finally, our analysis went forward from agreement on the White Paper to see what happened. How was it put into operation? Again, much detailed evidence must be condensed. The vast majority of White Paper measures were agreed before the end of 1992. The thrust of market liberalization adjusted over time. Concerns with subsidiarity, competitiveness and the regulatory burden on business led to new preoccupations. The first of these emerged from the Maastricht process but the others reflected concerns, such as with the competitiveness of the European economy, which found expression at various subsequent sessions of the European Council. Concerns about compliance were one factor behind the UK government's uncharacteristically supranational contribution to the Maastricht Treaty, namely the provision to fine states flouting ECJ rulings. As these overarching policy concerns have evolved, so has the EU's understanding of what the single market is. In its review of its achievements, the Commission comes round to including social regulation as well as a set of sectoral liberalization programmes – for example electricity, telecommunications – and a general understanding of the scale of the SEM which has grown considerably since 1985 (CEC 1996). However, our analysis went further than this generalized overview of the SEM because it looked at the translation of the SEM into action at the policy level. In other words, our examination went beyond the grand bargains to include the more routine stuff of the EC: regulative politics.

The single market, the SEA and governance structures

What was the impact of the SEM/SEA upon the governance of the EU? In short it was profound, for economic governance was transformed over the period from 1985. Among the factors assisting the dynamizing of the market integration were: a clear programme (the White Paper); the 1992 deadline; a 'philosophical framework'; an emphasis upon removing barriers without confronting sovereignty; and the Cecchini Report as a guide to the anticipated benefits.¹³ These factors reinforced institutional 'missions', especially on the part of Directorate-General III (DG III) (originally containing the internal market portfolio) and of successive Council presidencies, which sought to post a good score on the board. For policy transposition, the use of league tables ensured an openness of information in pursuit of putting the SEM into practice. An associated development was the ECJ's handing down of key decisions on SEM matters. All our case studies were affected to some degree, facilitating major regulatory reform, for instance in air transport liberalization (the *Nouvelles Frontières* and *Ahmed Saeed* judgments). Policy and judicial norms were transformed.

The formal institutional changes brought about by the SEA complemented these factors. Of particular importance were: the significant shift to provision for qualified majority voting in the Council; and the designation of clearer legal competences, something important for the Commission's authority.¹⁴ The EP was also mobilized through its stronger powers in those parts of the SEM that were subject to the co-operation procedure. These developments also reinforced dynamism in the institutions.

Finally, the supporters of market liberalization were swimming with the tide. These economic ideas were already establishing themselves in the global political economy. Hence the direction of the EC was in conformity with these developments. Larger-scale enterprises and their interest groups were already exposed to liberalization and globalization; they were amenable to persuasion of the benefits of supranational regulation. In short, the norms of informal integration were in step with those of the formal integration structure.¹⁵

If the governance structure and capability of the EC/EU was transformed over time, the pattern was not identical across all the cases we examined. The exact balance of forces in policy-making varied considerably according to policy issue and the prevailing procedures and rules, from which national governments and interest groups took their cues. For example, the Merger Control Regulation of 1989 required unanimous agreement but some national governments were reluctant to give up their national regulatory powers (see Bulmer 1994). Business interest groups were vociferous in pressing for the Commission to have maximum authority so that cross-border mergers and acquisitions would be subject to one regulatory authority. Finding a balance was not easy and national preferences were of considerable importance. By contrast, in air transport liberalization, subject to QMV, the ECJ ruled existing bilateral interstate, inter-airline regulatory arrangements to be illegal, whereupon the Commission used its new-found competition policy powers to threaten legal proceedings against national flag-carrying airlines until liberalizing legislation was in place. The Commission had as

its principal allies only the governments (and, to a lesser extent, the airlines) of the United Kingdom and the Netherlands. A rolling three-package programme of legislation offered some side-payments to other states and some time for their industries to adapt.

In short, there was a broad picture of the dynamizing of the policy process, but the form was shaped by the governance regime prevailing for the issue concerned.

The single market and policy evolution

A first point to make regarding policy evolution was that neither the SEM nor the majority of the case studies represented new policy issues. The common market was reinvented as the single market. The Commission's proposed merger legislation, which had languished in the Council for over a decade, was given greater new pertinence by industrial restructuring (and the ECJ's *Philip Morris* ruling). The free movement of goods benefited from a new SEM route map: mutual recognition (following the *Cassis* ruling); harmonized minimum legal requirements; the hiving-off of standard-setting to independent European agencies and so on. Of the six cases examined, it was only with the transport of toxic waste that a substantially new issue came on to the policy agenda: and that because the internal market's removal of frontier controls opened up the possibility for the uncontrolled transport of hazardous materials across borders. The overwhelming character of the SEM was not one of starting from scratch but of 'dusting down' pre-existing provisions and proposals, up-dating them and judging their feasibility in the changed institutional and normative context. The single market was largely a story of a step-change affecting multiple policy issues. However, a path-dependency of policy was maintained.

As has already been identified, each of our case studies proved to entail a close interaction between evolving judicial norms emanating from the ECJ and the negotiated policy process. Our cases were not selected to yield such results, and we have no reason to think they are unrepresentative of the broad range of SEM issues (including flanking measures). This interaction was of considerable importance to air transport liberalization, the movement of goods and merger control.

Policy evolution was found to be shaped by the prevailing institutional structure. We already highlighted the contrasting circumstances of merger control and air transport liberalization. In the former case the institutional rules privileged those states with pre-existing national merger control regimes. Under unanimity their demands, based on domestic experience, had to be met to secure agreement. In consequence, Germany, the UK and France were the decisive governmental players in merger control. In air transport, the EC had played next to no regulatory role until the 1980s. The ECJ's ruling that existing bilateral regulatory arrangements were illegal, combined with the QMV introduced by the SEA, made liberalization inevitable and thus skewed things in favour of states advocating, and with expertise on, such a policy (the UK and the Netherlands). It was fortunate for these states that they held the presidency of the Council in 1986, the year of the *Nouvelles Frontières* ruling.

In the development of policy proposals, the Commission was in many cases not

a mere arbitrator but a key player. In the case of the Maternity Directive the Commission used an expansive reading of Article 118a, EC Treaty to include the regulation of maternity pay levels on the basis of its SEA-created competence in health and safety matters. Some of its ideas in fact derived from the work of the EP, whose Women's Rights Committee has acted as a ginger group on equal opportunities matters. This legislation, subject to QMV and the co-operation procedure, entailed a real power struggle between the EP, the Commission, and resistant governments, chiefly the UK. All this had to be presided over by the President of the Social Affairs Council, the UK minister, Gillian Shephard. The British government sought as few meetings as possible of this formation of the Council. It was perhaps symbolic, therefore, that the legislation was adopted by Fisheries Ministers. The EC's Maternity Directive, it is worth noting, directly prompted the establishment of a new interest group in this policy area: the European Women's Lobby.

Finally, in considering policy evolution, attention is drawn to the institutional configuration of the EC/EU. The SEM had a big impact on the character of governance. It underlined the notion of a supranational regulatory state with a rather unbalanced set of policy instruments. The predominance of interest-driven, élite-level politics has been reinforced. And it was a kind of reaction to this type of supranational governance that contributed to the popular unease during the Maastricht ratification exercises. Governance capability was strengthened by the SEM/SEA in terms of efficiency measures. In terms of democratic rule this episode also highlighted problems such as subsidiarity and transparency that continue to plague the EU today.

The single market and the normative dimension

In this story of the SEM the role of norms, values and ideas should not be underestimated. The SEM programme infused a new set of values among policy-makers and business élites alike. This was most clear in the supranational institutions. Illustrative of this is Lord Cockfield's note that Fernand Braun (his director-general for the internal market) considered that 'at long last and for the first time in many years . . . {the staff} knew exactly what was expected of them' (Cockfield 1994: 42).

The SEM dispersed throughout the EC the ideas of economic liberalism. One concrete example of that was the decision, taken in early 1986 by Lord Cockfield, to ask Paolo Cecchini, a former deputy director-general of DG III, to undertake a report on the benefits of creating the SEM (Cockfield 1994: 90). Cecchini's findings, *The European Challenge 1992. The Benefits of a Single Market* (Cecchini *et al.* 1988), succeeded in constructing positive values around the SEM programme at a very crucial stage in the White Paper's operationalization. Not only did this report have a wide impact on economic actors but it proved to be a major factor in giving purpose to DG III itself. Together with the White Paper and other studies on 'the costs of non-Europe', it became a crucial factor in shaping the administrative culture of DG III (which held responsibility for the SEM at that time).

In different policy subsystems of EC governance, 'logics of appropriateness'

were redefined by socio-economic and institutional actors. Alternatively, such logics took on new significance. Thus, to take an illustration relating to air transport, we find that state aids in this sector of economic activity are handled by DG VII (transport policy). This situation is quite different from what applies to state aids in general, for they are dealt with by DG IV (competition policy). This division of responsibility means that airlines seeking approval of state aids are dealing with a DG and a set of officials whose task is to oversee a functioning transport infrastructure. Their institutional remit is thus different from that of DG IV, whose concern is with competition rules. DG VII has traditionally been seen as more industry-friendly and more likely to be sympathetic to state aids than DG IV. Suffice it to note here that the organizational role – the organizational logic and administrative culture – of DG VII staff may affect the character of their decisions. Before the SEM programme's implementation, state aids to airlines was a non-issue in a sector deemed to be excluded from the competition rules. Once that situation had changed, the different norms and values outlined above came into play. Such organizational roles, norms and values affect the access points open to lobbyists and other political forces.

CONCLUSION

This article has sought to advance historical institutionalism as a method of analysing the multifaceted nature of EC/EU governance. The analytical focus is placed upon the institutional aspect of governance but not to the neglect of wider political forces. We have sought to summarize some of the findings from an application of the method to the governance of the single market. We argue that the insights outlined above can be extended from the single market across the whole of the EU. Recalibration would be necessary, of course: for instance, to reflect the lack of impact of EC law in the second and third pillars of the EU.¹⁶

Of course, we have not discovered the holy grail. Historical institutionalism cannot get to the very mainsprings of integration. It offers an explanation based on intermediating factors rather than going to the underlying sources of macro-social change. In more modestly doing this, however, we have argued that it offers a balanced and inclusive 'reading' of European integration. We argue that it is 'up to the job' defined at the outset of the article.

The one question surrounding historical institutionalism is this: is it a theory with predictive qualities? While it certainly cannot predict the destiny of the integration process, it can make more localized predictions. In particular, it can predict that institutions take on their own dynamics, norms and values. Beyond that, its predictive claims require more research. In the mean time, historical institutionalism can offer a research methodology and a middle-range approach which connects up the key facets, and levels, of EU governance outlined earlier in the article.

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NOTES

- 1 This article was written by Simon Bulmer but is based on research conducted with Kenneth Armstrong and published in Armstrong and Bulmer (1998). I wish to acknowledge Kenneth Armstrong's extensive input into the thinking expressed in this article. We both thank the UK's Economic and Social Research Council for financial support of the research reported here under award no. W113251014. Earlier versions of this article were presented at the European Community Studies biennial conference, Seattle, 29 May–1 June 1997, at the University of Ulster and the ARENA research seminar, Oslo (where it was produced as a working paper). I am grateful for comments received on these occasions, particularly from Helen Wallace at Seattle, but also from John Peterson and the Journal's referees.
- 2 On new institutionalism in general, see the surveys by Hall and Taylor (1996); Lowndes (1996); and March and Olsen (1996). For applications of new institutionalism to different aspects of European integration, see Armstrong (1995, 1998, forthcoming); Armstrong and Bulmer (1996); Bulmer (1993, 1994, 1996); Kerremans (1996); Pierson (1996); Wincott (1995).
- 3 For a more elaborate view of this chain in connection with the issue of governance capabilities, see Weaver and Rockman (1993a: 7–11).
- 4 For an application of this approach, comparing the American political system with others, see Weaver and Rockman (1993b).
- 5 See also Campbell and Lindberg (1991) for comparable analysis of the governance of the US economy.
- 6 This illustration is just that: it does not claim to incorporate all the possible variations in the development of governance regimes. The pattern would differ in each of the other two pillars of the EU.
- 7 We substitute the term 'institutional structure' for what, in an American context, they term 'the state'.
- 8 Different national cultures do meet in the Council of Ministers, of course. See Shackleton (1991) for an application of cultural analysis to the EU.
- 9 For an illustration of this in British economic policy – namely the shift from Keynesianism to monetarism – see Hall (1992). Also see Finnemore (1993) for discussion of how international organizations may 'teach norms' to states.
- 10 The case studies included two from the Cockfield White Paper (the free movement of goods and public procurement in the utilities sector). We also chose a policy sector, namely air transport liberalization, which was mentioned in very modest terms in the White Paper but has now become emblematic of other important sectoral exercises in liberalization, such as telecommunications. A fourth case examined the merger control regulation, which was not in the White Paper but amounted in 1985 to an important gap in the EC's instruments for regulating corporate behaviour, especially in light of the encouragement given to industrial restructuring. Our final two cases considered aspects of social regulation which flanked market integration: the regulation of toxic waste (was it to be considered as a 'good', for which free movement should be assured, or as an environmental hazard, whose cross-border movement should be regulated?); and the regulation of pregnant women at the workplace, considered to be a matter falling under the health and safety competence introduced by the SEA.
- 11 For a fuller account, see Armstrong and Bulmer (1998).
- 12 See, for example, the account of this episode offered by Lord Howe, the then British Foreign Secretary, in his memoirs (Howe 1994: 409). The Italian presidency called a vote in the European Council, using the argument that the calling of an IGC was a procedural matter.
- 13 See also the account by Lord Cockfield himself (Cockfield 1994).
- 14 Significantly, the principal remaining problem areas of the White Paper retain unanimous voting: free movement of persons and indirect taxation matters.

- 15 On informal and formal integration, see Wallace (1990).
 16 Some illustration of extending analysis into other pillars of the EU is offered in Bulmer (1993).

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