

Locating the European Parliament

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(We record our thanks to Fiona Macintyre for producing the diagrams)

Paper prepared for presentation at the European Community Studies Association Sixth
Biennial International Conference, June 2-5 1999, Pittsburgh, USA

This paper seeks to 'locate' the EP within the comparative study of legislatures and within the wider analyses of the EU as a political system. The first perspective – on legislatures – prompts an examination of what the European Parliament (EP) 'does', or is expected to do; and the second perspective – on the EU itself – prompts an analysis of how and why it does what it does or is expected to do within the context of the European Union. In trying to locate the European Parliament in terms of these perspectives there is the immediate problem, which emerges in any study of the institutions of the European Union, and this is that there is no exact institutional counterpart in national political systems. This is the *sui generis* issue of whether the European Union is unique in its institutional form and in its trajectory of development.

The starting point of this paper, therefore, is to identify the characteristic features of legislatures and to decide whether the EP conforms to those characteristics, or whether it is indeed truly *sui generis*. Surprisingly, few attempts have been made to locate the EP in the wider analytical frame provided by comparative studies of legislatures (one early, and partial, attempt was provided by Herman and Lodge 1978; and one very recent exception is provided by Scully 1999). Equally surprisingly, few attempts have been made to locate the EP within the context of the wider discussions of the institutional complex of the EU (a notable exception is provided by Wessels and Diedrichs 1999). This paper seeks to redress this relative neglect first by locating the EP comparatively within the categorisation of parliaments across time, and then second by locating the EP of the late-1990s within models of the institutional complex of the EU.

SECTION 1: THE EUROPEAN PARLIAMENT AS A LEGISLATURE

The European Parliament is easily misperceived as the Community equivalent of a national legislature. Most members of the European Parliament (MEPs) think that the EP *should* be the Community's legislature, or at least its colegislature alongside the Council of Ministers. (Dinan 1994:257)

Problems emerge in the study of the institutions of the European Union, the EP included, precisely because they have no exact counterparts in national political systems. This leads immediately to the *sui generis* issue of whether the European Union is unique in its institutional form and in its trajectory of development. Most concern with the *sui generis* issue, or the 'n=1' problem, has been expressed by theorists of regional integration (for an overview see Caparaso et al 1997:1-5). However, the issue is of direct relevance to the EP because of the continuing belief that the European Parliament is 'a unique institution' which happens to 'have an involvement in all the roles associated with parliaments' (Corbett et al

1995:7). The starting point of any assessment of the EP, therefore, is to decide what are the characteristic features of legislatures and whether the EP conforms to those characteristics.

Characteristic Features of Legislatures

According to Philip Norton (1990:1), what legislatures have in common is that they are 'constitutionally designated institutions for giving assent to binding measures of public policy, that assent being given on behalf of a political community that extends beyond the government elite responsible for formulating those measures'. The value of Norton's definition is that it does not focus exclusively on 'law making', but instead directs attention to the wider issues surrounding the 'giving of assent' in terms of legitimation, consent and authorisation. The definition also recognises that not all legislatures are directly elected. More particularly, it acts as a directional pointer towards the two-way relationship between a legislature and its broader 'political community' as well as with its involvement with other policy making institutions.

Implicit within Norton's definition, and in fact explicit in most discussions of what legislatures 'are', is some conception of what legislatures 'do'. Attention thus becomes focused on the functions of legislatures; with Robert Packenham (1970), for example, proclaiming that 'everyone who has written about legislatures is, explicitly or implicitly, a functionalist'. Packenham, himself, developed a list of eleven functions (based upon his study of the Brazilian legislature) which ranked legitimation functions as of greatest significance in the political system; while 'decisional' functions –traditionally the primary functions associated with 'legislatures' – were deemed to be of least consequence for the political system as a whole. Packenham's delineation of functions provided the starting point for many subsequent studies (see Norton 1990; Norton 1993), but its significance for present purposes is that it directs attention away from a preoccupation with 'law-making' and refocuses attention upon the broader roles of legislatures.

What becomes clear, rapidly, in Packenham's specification, and indeed in any other listing of functions is that legislatures are seldom mono-functional bodies concerned exclusively with 'law making'. Instead, they are commonly perceived to be multi-functional institutions. The exact number of functions and their ranking in terms of importance naturally varies from author to author but it is possible to identify three key functions based loosely on the headings provided by Packenham: legitimation, linkage and decision making (see Cotta 1974:208-216; Loewenberg and Patterson 1979:43-67; Copeland and Patterson 1994:154). The general significance of this three-fold classification of 'key functions' is that:

a parliament's very reason for existence is found in them. Failure to fulfill these functions challenges the very basis for the existence of parliaments. A parliament without legitimacy may no longer be considered a parliament; a parliament that lacks any decision-making capacity hardly qualifies for the title; and an entity not formally linked to a broader population is no parliament. (Copeland and Patterson 1994:154)

What follows in this paper is a concentration upon the three 'universal' functions identified by Copeland and Patterson and an assessment of the relevance of these functions for the EP and the EU across time. In this assessment it will be apparent that the balance of importance between functions, and the relative emphasis placed upon the performance of these functions by the EP itself, has varied over time. Moreover, underpinning the following discussion is Loewenberg and Paterson's (1979:65) dictum that: 'In conceptualizing the activity of legislatures in functional terms, we are also calling attention to the relationship between what legislatures do and what is done by other structures in the political system'. In the case of the EP this statement directs attention not only to an analysis of what the EP does but also to the institutional and integrationist context in which it operates.

Legislatures: Points of comparison

Comparative studies of legislatures have rarely been successful. Almost without exception, such studies have either been content to offer typologies and classifications with little empirical investigation, or, in reverse, have provided detailed empirical studies of individual legislatures in a cross-national rather than a comparative framework. Where typologies have been offered, the focus of attention has often rested largely upon the policy impact of legislatures and their respective capacities to influence or 'make' policy (see Norton 1990). As Norton acknowledges, his classification is based on a reworking of Mezey's earlier categorisation of legislatures which incorporated two dimensions: first, policy-making power; and, second, the degree of support accruing to an institution (Mezey 1979:23-37).

Norton's classification

<p>Policy-making modify/reject and formulate and substitute policy for that proposed by government</p>
<p>Policy-influencing modify and reject measures put forward but cannot substitute a policy of their own</p>
<p>Little or no policy impact can neither modify or reject measures, nor generate and substitute policies of their own</p>

Source: Norton 1990:

Mezey's Typology

<i>Policy-making power</i>	<i>Less supported legislatures</i>	<i>More supported legislatures</i>
<i>strong</i>	vulnerable legislatures	active legislatures
<i>modest</i>	marginal legislatures	reactive legislatures
<i>little/none</i>		minimal legislatures

Source: Mezey 1979

Policy Influence Dimension

The extent of policy influence exerted by parliaments is identified in Mezey's and Norton's respective three-fold categorisations as: essentially 'strong', or in Norton's preferred terminology, *policy-making*; *modest*, or *policy-influencing*, or those with little or no policy making power or impact.

It is important to note that Mezey, in defining the policy-making strength of legislatures, drew both upon Blondel's (1973) notion of the constraints operating on a legislature, and

his earlier concept of 'viscosity' (Blondel 1970:80). For Blondel, 'viscosity' reflected the degree of freedom or alternatively the compliantness of a legislature in relation to the executive's processing of legislation. Mezey refines the notion of constraint to mean not simply the 'constraints placed on the legislature that prevent it from influencing the policy-making process, but rather the constraints that the legislature is capable of placing on the policy-related activities of the executive' (Mezey 1979:24-5). In other words, he takes as an indication of the policy role of a legislature the extent to which a legislature restricts the ability of the executive to make policy unilaterally. Ultimately, therefore, Mezey maintains that the 'saliency of the legislature's policy-making role, whether ultimately evaluated as positive or negative, stems at base from its capacity to restrict the process, because that capacity is what compels other institutions to deal with it when they seek to make policy' (Mezey 1979:25).

An equally important part of Mezey's argument, however, is that any evaluation of legislative influence has to deal with 'real rather than paper powers' (Mezey 1979:25). Moreover, any evaluation of the constraints imposed upon executive policy discretion should also include informal mechanisms (for example private discussions or anticipated opposition) as well as formal procedures for legislative amendment.

The EP and Policy Influence: Cross-time movement across categories

The prototype of the institutional structure of the EU is to be found in the European Coal and Steel Community (ECSC) which was established by the Treaty of Paris on 18 April 1951. The ECSC's institutional structure reflected Jean Monnet's 'method' of institutional building which was a combination of technocracy and elitism. Moreover, it is a method now commonly associated with 'neo-functionalist' theories of integration.

This has led some commentators to maintain that there was no provision for a parliamentary assembly in Monnet's original plans (Milward 1984:409). In this view an Assembly came as a late addition and was proposed shortly after the start of treaty negotiations in order 'to blunt the technocratic edge' of the Community and the High Authority. A counter position, however, holds that there is sufficient evidence to show that Monnet acknowledged the need for a Common Assembly before negotiations on the ECSC began (see Hirsch 1987:107 cited in Featherstone 1996:160; Westlake 1994a:71). While there is no doubt, as Monnet's own *Memoirs* makes clear, that his primary objective was to ensure that the vital first political step was taken by the setting up of the High Authority (Monnet 1978:324), it was also clear that the draft treaty discussed in Paris in June 1950 incorporated 'parliamentary control' in its design. Thus, as Sir O. Harvey the British Ambassador in Paris reported on 22 June 1950:

The Authority would be submitted to Parliamentary control. There would be a Parliamentary Assembly elected by National Parliaments which would receive an annual report from the Supreme Authority for its approval. ... In general, the relations between the Authority and the Assembly would be as between a Government and a Parliament' (Bullen and Pelly 1986:216).

The Common Assembly was neither directly elected nor directly capable of influencing or authorising legislation. In terms of Mezey's categorisation it was easily located from the outset in the 'little or no legislative influence' group of legislatures. Indeed, it was the Council which was designed to play the legislative role normally ascribed to parliaments and which was to 'add to and endorse the decisions of the High Authority' (Hayes-Renshaw and Wallace 1997:9). In this respect the Assembly was designed to operate at the peripheries of the grand European design; and its formal powers as specified in Article 24 were essentially deliberative and supervisory.

Treaty of Rome: The Assembly's Formal Powers

The Parliamentary Assembly of the EEC was manifestly the child of the ECSC Assembly. The Articles of the Treaty of Rome pertaining to the Parliamentary Assembly were based on the corresponding Articles of the Treaty of Paris. The new Assembly's powers were marginally enhanced through the introduction of a formal right of parliamentary involvement in the Communities' legislative process. In 22 Articles of the EEC Treaty and in 11 Articles of the Euratom Treaty provision was made for the Assembly to be consulted on Commission proposals before adoption by the Council. Once granted a formal role in the legislative process, no matter how limited in practice, parliamentarians sought the incremental expansion of that role through *informal* internal processes and external interinstitutional agreements. Although the formal enhancement of powers did little to change the location of the Assembly in terms of the Mezey/Norton categorisation, nonetheless, the enhancement was to prove significant in the long-term.

Perhaps because the Assembly was granted such a tangential role in the legislative process its very marginality invited its members to seek alternative, informal modes of influence. Considerable institutional ingenuity and constitutional dexterity were deployed by members of the Assembly/Parliament in ensuring an incremental accretion of their influence. Such ingenuity and informal modes of influence were to prove a characteristic feature of the development of the European Parliament.

The formal powers of the Assembly over the Communities' budget was enhanced in Article 203 of the EEC Treaty and in the Euratom Treaty. Under these provisions the Assembly effectively became a twin arm of the EEC's budgetary authority (Westlake

1994a:15). Article 144 of the EEC Treaty and Article 114 of the Euratom Treaty also confirmed the right, granted initially under the ECSC Treaty, of the Assembly to censure and to force the resignation of the Commission as a body. However, the EEC and Euratom Treaties extended this right of censure beyond consideration of the Commission's annual report to include, implicitly, all aspects of the Commission's activities. Although frequently dismissed as a 'nuclear weapon' or as a 'sledgehammer' – and, moreover, criticised as a weapon wrongly targeted on the Commission rather than the Council – the linked powers of censure and dismissal were to prove vital to the evolution of the EP. But the real value of the power of censure lies in defining Parliament's relations with other EU institutions. As Westlake (1994a:114) notes, this power is 'at the heart of relations between the Commission and the Parliament'. From the outset the Commission was extremely sensitive to any suggestion that the power might be used. Article 144 thus became the parliamentary key to levering policy changes and political compromises out of the Commission. The very fact that the weapon existed was sufficient to ensure that both the Parliament and Commission had a vested interest in securing interinstitutional cooperation rather than conflict. In this sense, the negative power of censure and dismissal helped to forge a constructive relationship between Parliament and the Commission. As such it has played a central role in the political and constitutional development of the European Union.

A Directly Elected Parliament: Small Steps and Large Strides 1979-1987

Immediately before direct elections one authoritative evaluation of the European Parliament concluded that:

The European Parliament is *not* a parliament (or, more accurately *not much* of a parliament) because it fails to meet a series of basic political, constitutional and decision-making requirements concerning the performance of legislative, financial and control powers. (Herman and Lodge 1978:65)

Certainly, at the time of direct elections in 1979 there were many who were either sceptical of the EP's capacity to effect a fundamental redistribution of power without formal changes in the EP's advisory and supervisory powers, or who believed that increased 'democratisation' of the EC's policy making process was unlikely to result simply from the process of direct elections (see Dinan 1994:103; Nicoll and Salmon 1994:44). Both analyses were correct in identifying the basic fact that European elections in themselves neither altered treaty-based interinstitutional relations nor enhanced the participation of directly elected representatives in the EC's legislative process. But both analyses

underestimated the dynamic effects of direct elections in stimulating MEPs to press for more far-reaching institutional changes.

In practice, direct elections were to have a positive impact at three different levels. The first was at an 'attitudinal' level. MEPs' own expectations were reoriented and the attitudes of the other European institutions to the EP were reappraised. The second was a structural shift in the balance between national parliaments and the EP. The third was an underlining of the traditional strategy pursued by the EP in seeking a dual enhancement of its powers: indirectly, through *petits pas* (small steps); and, directly, through promotion of treaty-based fundamental constitutional revision which was to culminate, successively, in the Single European Act, and the Treaties signed in Maastricht and Amsterdam.

Focusing here upon *petits pas*, parliament revised its own Rules of Procedure in 1981 to introduce a mechanism of delay into the procedure for producing a parliamentary opinion. In order to maximise the advantage derived from the *Isoglucose* Ruling, the new Rules allowed for the almost indefinite referral of draft opinions back to the appropriate committee. The threat of delay was particularly potent on those matters requiring an urgent response by Parliament. Not only was Parliament thus provided with a mechanism to lever concessions out of the Commission but also, through pressing for the acceptance of its amendments by the Commission, Parliament sought indirectly to influence the Council's decisions. Under the consultation procedure Council could only change a revised Commission proposal by unanimity. In this manner, the rule changes affected both the practice of EP-Commission relations and the perception of each institution held by the other, as well as marking a psychological turning-point in the EP's relations with the Council. In line with Mezey's notion of constraints, the EP, in policy areas covered by consultation, began to edge away from the lowest category of legislative influence, towards the modest influence/power category.

This movement between categories was reinforced by other informal innovations even before formal treaty revisions were effected in the 1980s and 1990s. Through astute use of its own rules, the EP created for itself a right of legislative initiative. Parliament adopted procedures – most notably 'own initiative reports' – which enabled it to forward draft proposals for legislation to the Commission (see Corbett et al 1995:124-7; Judge 1993:190-3; Judge and Earnshaw 1994:264-6). In this manner, the EP was able to insert its ideas at the formulation stage of the legislative process; either to bring a new issue onto the agenda, or to express a view on matters upon which it did not have to be formally consulted by the Commission. 'This seemingly simple device when handled shrewdly by MEPs ... was to prove extremely useful: it was the basis of the draft treaty establishing the European Union in 1984. It was also a useful vehicle for increasing formal EP-Commission contact on a future legislative agenda' (Lodge 1989: 66). By the mid-1980s therefore, it was possible to locate the EP in the modest/policy influencing category of legislatures.

Formal Treaty Reforms

Single European Act 1986

The SEA introduced the 'cooperation procedure'. In effect a second reading was added to the EP's traditional legislative procedure of consultation. Alongside the 'cooperation procedure' a new assent procedure was also initiated by the 1986 Treaty which gave the EP equal rights with the Council for the ratification of accession treaties and association agreements.

While the SEA did not put the EP on a co-equal footing in the legislative process, it did, nonetheless, provide new opportunities for the EP to seek 'further refinements of the cooperation procedure, further amendments to the treaty and the revival of the draft Treaty establishing the European Union' (Lodge 1989:76). From the outset, and with increasing momentum after the elections of 1989, the EP issued a series of reports and resolutions highlighting the constitutional deficiencies of the SEA and calling for further 'democratisation' of the EC's institutional structure (see Corbett et al 1995: 303). Predictably, the EP was pro-active in seeking to widen the debate to include institutional reform. Particularly influential in this respect were the reports issued by the EP's Institutional Committee under the name of its rapporteurs David Martin and Emilio Colombo (see Lodge 1994:75; Corbett et al 1995:303-4).

Treaty on European Union (TEU)

There is little doubt that many of the new treaty provisions, particularly those concerned with the extension of the powers of the EP itself, would not have been included in the Maastricht Treaty had it not been for the unremitting pressure of the EP. Moreover, Parliament obtained significant changes in the two areas it had identified as in need of specific change: the Community's legislative procedure and its involvement in the appointment of the Commission. In the assessment of Corbett (1994:223), 'Maastricht constitute[d] an important step forward ... for the European Parliament'. A view shared by Lodge (Lodge 1994:80) who concluded that the 'TEU significantly augmented the potential scope of the European Union's popularly elected arm of the legislature'.

The details of the Treaty on European Union (TEU) need not detain us here. What is important is merely to note the introduction of the new legislative procedure – now almost universally referred to as the 'codecision procedure' – into the European Union's legislative process. Although its scope was more limited and its operation more complex than initially envisaged by Parliament (see Corbett 1994:208-10), nonetheless, it was greeted by influential commentators as 'a remarkable step forward' (Westlake 1994a:146) and 'of

fundamental importance to public perceptions of Parliament's role: it can no longer be accused of lacking teeth' (Corbett 1994:210). Parliament was now an equal partner in the legislative process, with acts adopted under the procedure jointly signed by the presidents of Council and Parliament. For the first time the EP had an absolute right of veto over significant areas of EU legislation. In Mezey's words, a right of veto is 'the most telling constraint that the legislature can place on the policy making process' (Mezey 1979:25). After Maastricht, therefore, the EP – with its capacity to 'modify and reject executive proposals' – met Mezey's analytical requirements to be located in the category of legislatures with 'strong policy making power' (Mezey 1979:26).

Maastricht also extended and enlarged the assent procedure to new areas and categories where international agreements required Parliament's assent. The powers over the appointment of the Commission were increased (see Corbett 1994:214; Hix and Lord 1996; Hix 1997). The TEU also saw further consolidations of the formal power of the EP in several other ways: first, it conferred a right of legislative initiative upon Parliament insofar as it allowed the EP to request the Commission to bring forward legislative proposals; second, it recognised the petitioning procedures of the EP and empowered Parliament to elect an Ombudsman to deal with matters falling within the competence of the EC; third, it required the President of the Central Bank to provide an annual report to Parliament and gave Parliament the right to be consulted on the appointment of the Bank's President and Board Members; and, fourth, it enabled Parliament to bring the other institutions before the European Court where its own prerogatives had been infringed.

Alongside these formal enhancements and extensions of the EP's powers Parliament also sought to maximise, through its own internal procedures and through informal pressure, its own contribution to the EU's decision making process. In conformity with the historical practice of combining 'small steps' with 'qualitative leaps', Parliament continued to work simultaneously for further practical procedural gains and more wide-ranging treaty reforms.

Locating the European Parliament after Amsterdam

The protracted process of constitutional revision which culminated in the Amsterdam Treaty is noteworthy in itself. The 1996 IGC marked the fourth cycle of revision to be undertaken in just over ten years. Certainly this rolling process of constitutional change throughout this decade facilitated the EP's self-ascribed 'system development' role (see Wessels and Diedrichs 1997:6).

If the outcomes of Amsterdam are assessed in terms of 'winners' and 'losers' then Elmar Brok MEP, a Parliament representative at the IGC, was in no doubt that 'if there is one winner in the Amsterdam Treaty, then it is the European Parliament' (quoted in Dehousse 1998:603). This view was shared by many beyond the EP itself. Thus, political scientists

Moravcsik and Nicolaidis (1998:22) maintain that what is 'particularly striking' about the Amsterdam Treaty 'is the increase in parliamentary power'. Similarly, constitutional lawyer Renaud Dehousse identifies the Parliament as 'the institution that has most benefited from the Treaty of Amsterdam' (1998:603). Overall, Nentwich and Falkner (1997:15) conclude that: 'Viewed from some distance, the Amsterdam Treaty brought to an end what the Single European Act began and the Maastricht Treaty continued: making the European Parliament a co-legislator, equally powerful than the Council ... In both regards, the Amsterdam Treaty marks a seachange'.

Under the Treaty the codecision procedure was extended to 23 new cases: eight of these referred to new provisions; the other 15 cases referred to existing Treaty provisions to which other procedures had previously applied. After Amsterdam the co-decision procedure applied to a total 38 legal bases (with a further extension to two other cases within two years of the Treaty coming into force). At the same time Article 189B of the TEC was amended to streamline the procedure. In practice, this meant that a text could be adopted definitively at the end of the first reading if the Council and the EP agreed on an identical text; the second reading was simplified; and the stage of declaring intention to reject a text was eliminated, as was the third reading. Overall, the TEC redressed the procedural imbalance in the codecision procedure between the Council and Parliament by removing the negative veto of the Council inherent in the 'third reading'. 'The elimination of this option underlines that it is only by compromise and agreement with Parliament that Council can adopt legislation' (Corbett 1998:40). But it was still a little premature to see Parliament as an equal 'co-legislator' with the Council when significant policy areas remained beyond the scope of codecision. Indeed, Garrett and Tsebelis (1996) were willing to argue that, in fact, codecision weakened the EP's legislative power by reducing its agenda-setting ability. However, the academic response to this claim was rapid and emphasised the empirical deficiencies inherent in Garrett's and Tsebelis' analysis (Scully 1997, Garman and Hilditch 1998).

Leaving aside this academic dispute, a greater interinstitutional redistribution of power was apparent, however, in the relationship between the Commission and Parliament. The extension and simplification of codecision eroded still further the ability of the Commission to control the text of proposals throughout the legislative process (see Nickel 1998; Moravcsik and Nicolaidis 1998:21); and so tipped the legislative balance still further away from the pre-Maastricht Commission-Council dialogue to a post-Amsterdam Parliament-Council dialogue.

In these circumstances, several commentators were willing to argue that Amsterdam marked a further step in the evolution of the EU towards a federal model. Dehousse (1998:624) acknowledged that the EU now had two institutional features – a bicameral legislature and an executive whose appointment and term of office depends on the support

of a majority in the lower house – which are ‘common to all political systems that seek to combine federalism and a form of parliamentary government’. Similarly, Nentwich and Falkner (1997:4) concluded that the TEC moved the EU a ‘little closer to a federal state model with a parliamentary and a state chamber’. But they immediately qualified this statement by arguing that Amsterdam had resulted, so far, in ‘a unique type of federal decision-making structure’.

This conclusion returns us to the issue of where exactly can the EP be located in models of legislatures and European integration? The simple point of the historical review in this section is that the ‘location’ of the EP as a ‘parliament’ has changed over-time. Equally, the nature of the integrationist project in Europe, and the EP’s location within that project, has also changed and been the subject of theoretical contestation.

SECTION TWO: THE INSTITUTIONAL COMPLEX OF THE EUROPEAN UNION

‘Multi-level governance’ vs ‘State-like politico-administrative system’

Scholars of integration have always been confronted and challenged by the ‘betweenness’ of the EU. (Laffan 1998:236)

Laffan’s statement raises the question of exactly what is the EU ‘between’? Her own answer is between domestic politics and international politics, between international relations and comparative politics, and between theories of integration rooted in the distinctiveness of the European project versus realist conceptions of state power (Laffan 1998:236-7). But for present purposes, the ‘betweenness’ of most importance is the institutional divide between the EU, its constituent member states and other international regimes. On the one side, ‘perhaps the single most important difference between the EU and other regionalisms is the sophistication and intensity of its institutional fabric ... institution-building is far more pronounced than in (other regionalisms)’ (Laffan 1998:238-9). On the other side, the EU’s institutional design is not directly imitative of the political system of any of its member states.

If the EU’s institutional structure is unlike that of any other international regional association and, simultaneously, unlike that of any nation state – even though there are institutional commonalities and nomenclatures, then this raises the problem of identifying the sources and nature of ‘legitimacy’ derived from representative processes within the EU. Rather than adopt an analysis of the EP and its ‘legitimacy’ based upon Mezey’s original conception in terms of levels of public support, electoral turn-out and notions of elite attitudes (Mezey 1979:27-36), it is proposed to follow Wessels and Diedrichs’ dictum that:

Assessments of the role of the EP within the EU are shaped by conceptions of the EU as a system. The schools of thought [on the EU as a system] ... orient us toward different approaches to the legitimacy of the EU. ... They represent useful points of reference for the ongoing debate about the place of the EP within the EU as a whole and its importance for the problem of legitimacy. (Wessels and Diedrichs 1999:135)

In the following review of models and approaches to EU governance, the focus is not only upon institutional issues, and the linkages and location of national and EU institutions in relation to each other; but also upon the linkages between citizens and parliamentary institutions at the various levels of EU governance. This enables the different approaches to 'legitimacy' within the EU to be identified, and it also addresses directly the second dimension – of 'support' – identified in Mezey's classification of legislatures, but does so without restricting the analysis to the simple dichotomy identified by Mezey of 'less supported' versus 'more supported' legislatures.

Multi-level Governance

An obvious feature of the EU is that it is multi-layered and operates at both supra-national and inter-governmental levels. In this sense it is appropriate to refer to the EU as a multi-level system of government and governance. The 'multi-level governance' model acknowledges the continuing importance of state-level political systems, and that 'state arenas remain ... the *most* important pieces of the European puzzle' (Marks et al 1996:346, original emphasis), but it also recognises that the state does not exercise a monopoly of decision-making competences. Instead, these competences are shared by institutions and policy actors at different levels rather than concentrated at the level of individual states. 'That is to say, supranational institutions – above all, the European Commission, the European Court, and the European Parliament – have independent influence in policy making that cannot be derived from their role as agents of state executives' (Marks et al 1996: 346). Moreover, an essential part of the 'multi-level governance' model is that states no longer provide the sole interface for national political actors – whether as individuals, groups, private and public organisations or parties – between state and supranational levels.

Another feature of this model is functional differentiation or policy segmentation (see for example Peterson 1995:76-80; Richardson 1996:6-11; Kohler-Koch 1997:2-4; Hix 1998:39-41). In these circumstances decision making in any single policy field is likely to engage the activities of sub-national, national and supra-national agencies and institutions. Moreover, decision making comes to be structured around informal contacts, networks and norms, and no longer involves clear hierarchies of power and competences. In this sense,

in its very complexity, and in its engagement of a myriad of functional and territorial constituencies at multiple levels, the system has been characterised as a system of 'governance' rather than simply of 'government' (see Jachtenfuchs and Kohler-Koch 1995:5).

To complicate matters still further the EU is a dynamic system subject to regular constitutional change and institutional innovation. Overall, therefore, 'because the EU as a political system is unique, it is an open process of trial and error to find out what kind of decision-making routines will develop and what will be the relative importance of individual institutions in the game' (Kohler-Koch 1997:3).

The 'relative importance' of the European Parliament in this model is hard to determine, allowing different assessments to be made across different policy fields and at different. One analytical perspective, of 'post-parliamentary governance' affords the EP little importance across the three functions of legitimation, linkage and decision-making (see Andersen and Burns 1996, though even here the evidence is ambiguous). Similarly, more orthodox discussions of 'networks' residualise the significance of the EP (though again some analysts identify an enhanced role for the EP in specific policy areas see Kohler-Koch 1997:6-7). Still others are willing to accord the EP an important legislative role within the process of competition and coalition formation inherent within a system of multi-level governance.

This is not the place to enter into a detailed assessment of the EP's relative institutional importance in the model of 'multi-level governance' instead, we will simply note the normative dimension of the 'new governance' model and its implications for the conception of legitimacy within the EU.

'No-demos thesis'

If the EU is 'unique'; if it is conceived as a system of governance transcending sub-national, national and supra-national levels; and if it is not 'state-like', then from a 'new governance' perspective it does not have a *demos*. As Jachtenfuchs (1997:7) argues 'models of democracy developed in the national context cannot be easily transferred to the EU'. Hence, if the political system is *sui generis*, then what is also required is a *sui generis* model of representation and accountability (Hix 1998:50). The logic of this case is founded upon the assumption that 'the central categories of political theory, such as authority, legitimacy and democracy are implicitly linked to the model of the state' (Jachtenfuchs and Kohler-Koch 1997:15). Given the extent of political, economic and social change entailed in the broad process of European integration, EU governance has already been transformed 'to such a degree that it requires a rethinking of the analytic as well as normative categories of responsible governance. It is necessary to think of equivalents to parliamentary

democracy compatible with demands for participation by citizens' (Jachtenfuchs and Kohler-Koch 1997:13). What is required are 'new or different theories of legitimation which do not necessarily find an equivalent in the nation-state, but which may lead to the acceptance of decisions of the European political system' (Jachtenfuchs and Kohler-Koch 1997:12).

But the 'no demos' thesis is also advanced by those not persuaded by the new governance perspective. Weiler et al summarise the counter position thus:

the nation and its members, the *Volk*, constitute the polity for the purposes of accepting the discipline of democratic, majoritarian governance. ... A parliament is, on this view, an institution of democracy not only because it provides a mechanism for representation and majority voting, but because it represents the *Volk*, the nation, the demos from which derive the authority and legitimacy of its decisions. (Weiler et al 1995:12)

Empirically, at the European level there is no European demos – only *demos* ('peoples') with little sense of shared collective identity; and hence by the logic identified by Weiler et al, without a demos the EU political system cannot derive authority and legitimacy for its decisions. In this respect:

Empowering the Parliament is no solution and could – to the extent that it weakens the Council (the voice of the member states) – actually exacerbate the legitimacy problem of the Community. On this view, a parliament without a demos is conceptually impossible, practically despotic. If the European Parliament is not the representative of a people, if the territorial boundaries of the EU do not correspond to its political boundaries, then the writ of such a parliament has only slightly more legitimacy than the writ of an emperor. (Weiler et al 1995:13-4)

This was the view encapsulated in the 'Maastricht decision' of the German Federal Constitutional Court (Bundesverfassungsgericht 1993) which clearly located the source of 'democratic legitimacy' in the 'parliaments of Member States' within the EU (see Wessels 1996a:62-3; Dehousse 1998:606). At its extreme, this view holds that in the absence of a demos there can be no direct democratic legitimation of decision making at the EU-level by supranational institutions. A directly elected EP cannot therefore 'dispose of "unfiltered" legitimacy similar to that of national parliaments' (Wessels 1996a: 63).

Figure 1: No demos/post-parliamentary governance/networks at European Level

Insert Figure 1 (see appendix)

At this point there is a convergence with the 'new governance' view that, precisely because there is no demos, existing conceptions of democracy and legitimation are inadequate in the context of multi-level governance. However, unlike the state-centred 'no demos' view, the 'new governance' model maintains that new conceptions of legitimacy 'beyond' the nation state are necessary in theory and can be identified in practice. What is needed is a redefinition and reconstitution of the concept of democracy at the European level. In this reconceptualisation, the EP would feature significantly. A European demos could be constructed on the basis of democratic praxis. But this praxis would not entail the simple 'parliamentarisation' of the EU. Instead, advocates of 'new governance', while envisaging the EP playing a 'highly important' legitimating role (Wessels 1997:9), do not see it exercising *the* central role. Instead, a multi-level system of governance would witness the progressive merger of various sources and dimensions of legitimacy – territorial, functional, direct and indirect. From this perspective, the exact future form remains indeterminate, but the search is on for 'a new concept of legitimacy for a new kind of parliament' (Wessels 1997:10). This paper is not the place to pursue such a search, instead our task is more modest and is simply to sketch the location of the EP in the new polity/new governance models.

Figure Two: : No demos/new governance/networks at European Level

Insert Figure 2 (see appendix)

Sui Generis

Thus, at one end of the analytical spectrum is the view of the EU as a unique phenomenon. The problem arises, however, that if 'governance in the EU is so totally unique' then 'any comparison with politics or policy-making in other systems – states or international organizations is impossible' (Hix 1998:44).

In practice, this problem has been addressed in several ways. One has been to invent a 'new vocabulary' (Schmitter 1996:133) to describe the institutional configuration of the EU. Another has been to acknowledge the uniqueness of EU institutions but to argue that viable comparisons with other 'generically-linked' institutions can still be made. The underpinning logic of this case is that, although the institutions of the EU are not directly analogous to their respective state institutions, they can, nonetheless, be viewed analytically as 'state-like instruments' and compared to other political systems (see Hix 1998:55). EU institutions are thus seen to constitute one particular example of wider political phenomena – of policy making, bureaucratic or representative institutions, or of constituent elements of a separation of powers between executive, legislative and judicial institutions. In this sense they are not unique – they might be very different – but they are part of the same genetic institutional pattern observable in other structures of government and governance. However, if the case is conceded that the institutions of the EU, and indeed the political system of the EU, can be compared with other institutions and systems, the question then arises of what are these institutions and the system 'like'. In other words, what are the most suitable comparators?

Comparators

'State-like politico-administrative system'

If EU institutions are held to constitute part of a 'state-like politico-administrative system' (Wessels 1996b:20) exactly what form of state system can they be compared with. This is both an empirical and normative question. What state form and which state institutions are close empirical approximations to those of the EU? And what state form should the EU be developing towards?

The Federal Analogy

William Wallace (1996:445) maintains that the 'federal analogy' is appropriate as 'a starting-point for understanding the institutions, politics and policy-making of the EU' (see also Laffan 1992:8). The use of the word 'analogy' is significant in that the EU is not a highly developed federal political system. Such a system is normally characterised by the existence of a sovereign state; with a constitutional division of powers between different levels of government; and with external sovereignty exercised at the higher level. A bicameral legislature is a common characteristic of such federal systems, with representation in the upper chamber based upon lower levels of government (states). The

relationship between the federal level of government and lower levels (states) is regulated through formal mechanisms for constitutional modification, often with a requirement for super-majorities; and through the existence of constitutional courts to adjudicate in disputes over the allocation and exercise of powers between different levels of government (see Elazar 1991:xv; Laffan 1992:7-9). These characteristics derive from the late-20th century American model of federalism with its strong sovereign federal government insulated from state governments. But it is as well to remember that this is only one model of federalism, as Daniel Elazar notes:

The essence of federalism is not to be found in a particular set of institutions but in the institutionalization of particular relationships among the participants of political life. Consequently, federalism is a phenomenon that provides many options for the organization of political authority and power ... a wide variety of political structures can be developed that are consistent with federal principles. (Elazar 1987:11-12)

Bearing Elazar's words in mind, a useful distinction may be drawn between a fully developed federation along the lines of a 'United States model'; a 'confederation' or a 'neo-federal model'; and a 'co-operative federal model' (see Laffan 1992: 8; Wessels 1996b: 25-7). The latter models all constitute looser institutional structures than those associated with the 'United States model'. In fact, many commentators note that government in the USA between 1787 and 1860 – the 'Philadelphian system' – was itself characterised by a loosely structured union of states rather than an integrated federal state (see Deudney 1995; Sbagria 1992: 259). Moreover there is evidence of loose confederations displaying a capacity to develop incrementally into more integrated political systems.

Federalism: United States of Europe

Taking these models in turn, the United States of Europe variant stipulates a formal/legal division of responsibilities between supra-state/EU level institutions and state/sub-state political institutions. Wessels (1996b:25-6), in sketching an institutional design for this model, maintains that there would be a separation of powers at the EU level with the Commission clearly identified as the executive branch, a directly elected EP serving as the first legislative chamber; and with the Council of Ministers acting as a second chamber in areas of concurrent competences between EU and member states. The European Court of Justice would serve as a constitutional court with major responsibilities in the adjudication of institutional disputes among the tiers of government and between EU institutions themselves. In this 'United States' model the basic source of legitimation would be a directly elected EP, with the EP serving as the formal linkage between the represented and

'their' government at the EU level. Through elections to a European parliament the will of the 'European people' would be expressed and their contribution to EU decision making would be 'unfiltered' (Wessels and Diedrichs 1997: 3). There would be no doubt that 'the EP is regarded as the main legitimizing factor of the EU system' (Wessels and Diedrichs 1997: 3). The pre-existing states and substates, in turn, would have their own designated competences and through their own democratic processes derive legitimation through 'traditional national sources'. They would, however, be 'of secondary importance' (Wessels 1996b:25).

Figure 3: Federal Analogy

Insert Figure 3 (see appendix)

Confederalism

Analysts who acknowledge that the EU has federal characteristics but is not a federal state have turned to concepts of 'confederalism', 'neo-federalism' or 'confederal consociationalism' to understand its institutional configuration. What each of these terms recognises is a division of decision-making authority among different layers of government. Unlike federalism, where there is a central source of legitimacy grounded in an identifiable demos in a 'union', a confederation is based on the concept of 'dual legitimacy' where the nation states maintain their own democratic legitimacy and continue to claim political sovereignty while allowing a 'pooling of sovereignties' at the EU level. As Laffan (1992:7-8) observes: 'The distinction between a confederation and a federation lies in the degree of sovereignty surrendered. In a confederation the participating states accept the collective discharge of limited functions while maintaining a high degree of autonomy and sovereignty'. Chrysochoou (1994; 1997) develops this distinction further in categorising the EU as a multi-centred 'confederal consociation'. By this he means:

the merging of politically organised states in some form of union to further certain common ends without losing either national identity or resigning their individual sovereignty. (Chrysochoou 1994:4)

In this system Member states seek mutual benefits through cooperation over common policies at a supra-national level. Such a system requires neither a 'sense of community' among the peoples of the confederation nor the existence of a single demos (Chrysochoou

1997:527). Moreover, the 'polycentric and multilogic pattern' (Chrysochoou 1997:530) of decision making is associated in Chrysochoou's model with a large dose of intergovernmentalism whereby both the EP and national parliaments have remained in a secondary relationship to national executives and EU executive institutions (most particularly the Council of Ministers). The result is that 'the main source of democratic legitimacy for EU decisions seems to be lying more in the Council of Ministers' representation of national governments – in turn based on their respective national parliamentary structures – than on the powers of the EP as the natural exponent of representative democracy at the regional level' (Chrysochoou 1994:7). However, in the absence of a transnational demos there is no effective mechanism for the direct democratic control of intergovernmental EU institutions, and in this lacuna are to be found the roots of the EU's 'crisis of legitimacy' and its various 'democratic deficits'. In this sense it is a model grounded within the analytical tradition of intergovernmentalism (see Wessels 1996b:23).

Figure 4: Confederal Model

Insert Figure 4 (see appendix)

Cooperative Federalism

An amended version of confederalism is offered by Wessels (1996b:27-9). While accepting the concept of dual legitimacy he locates this model within the concept of a 'merged Europe'. This concept recognises the fusion process at work in the EU. In this process supra-national, national, and sub-national institutions 'merge their instruments [eg laws and budgets] to "produce" political decisions' (Wessels and Diedrichs 1997:8). The EU is conceived, therefore, as a complex and highly differentiated institutional system which 'combines several levels of governance and a wide range of actors' and the result of which is a 'mixed polity' and an 'optimal' form of government' (Wessels and Diedrichs 1997:8). In this 'new kind of polity', legitimacy derives not from a single transnational demos, as in the federal model; nor from the demos in individual nation-states, as in the intergovernmental model. Instead, the EU comes to be conceived as a 'multi-level system of governance in which a direct representative element in the shape of the EP is having an important say, as part of a European legitimacy complementary to the national and functional one, but in which the sources and dimensions of legitimacy are progressively

getting merged' (Wessels and Diedrichs 1997:9). In other words, the institutional structure and the sources of legitimacy within the EU are not directly comparable either to national political systems nor to a supra-national model of a 'United States of Europe'. In this respect Wessels' 'fusion model' has the characteristics of a *sui generis* system. A point acknowledged explicitly by Wessels himself (see Wessels 1996a:68; Wessels and Rometsch 1996:364).

Figure 5 : Cooperative Federal Model

Insert Figure 5 (see appendix)

The cooperative federal model, based as it is upon an assumption of dual legitimacy, posits joint decision making by the European Parliament and the Council. The expectation is that the Commission would increasingly serve as the executive of the EU – with its head elected by both the EP and the European Council, and other Commissioners nominated by the head of the Commission and approved by the EP. Majority voting in all EU institutions would be the norm, with some mechanism to 'unblock' institutional impasses between the legislative institutions of equal status (the Council and the EP). In the multitudinous vertical and horizontal institutional transactions involved in the complex process of 'institutional fusion', the decision making process is 'hardly understandable' with the concomitant danger that 'its output lacks a deeper-going acceptance' (Wessels and Rometsch 1996:365). Simultaneously, national sources of democratic legitimation become obscured. Hence, the logic of Wessels and Rometsch's argument leads – in one direction – to a call for the 'extended participation of national institutions – especially of national parliaments' (1996:365). But equally their logic leads, in another direction, to the conclusion that:

A horizontally and vertically interwoven, multi-level set of actors and structures cannot provide for the same degree of transparency and participation as witnessed in national frameworks. New categories are required not only for scientific research, but also of perception by the average citizen and the political public. ... it should not surprise the observer that democratic legitimacy is not to be found in familiar terms. ... This mixture is in constant evolution, adjusting its components to the needs and demands from different direction. (Wessels 1996a:69)

In this respect the EU can be regarded as a unique phenomenon (Wessels 1996a:69).

EU as a 'Regulatory State'

Thus far in the discussion we have analysed the EU exclusively in terms of political institutions, systems and political state-forms. However the EU cannot be understood simply in terms of what it 'is' – of its institutional character – but also requires some understanding of what it 'does' – in terms of functions and responsibilities. In this latter respect, the EU's basic profile of activities and competences is radically different to that of most other nation states. At its simplest, as Caporaso (1996:39) points out, the 'EU is weak in terms of the traditional tax and spend functions of government. The extractive capacity of EU institutions is nearly zero'. On the other hand, however, the EU has a pronounced role in controlling and managing 'international externalities' associated with economic transactions (Caporaso 1996:39). This has led commentators, most notably Majone (1996; 1998), to conceive of the EU as a 'regulatory state'.

What Majone identifies is a distinctive and activist regulatory role at the EU level. This role has been inherent within the EU since the inception of the European Community and in the progressive expansion of a 'common market'. There was a reinvigoration of this role in the 1980s and 1990s through the concerted implementation of the 'Single European Market' and the '1992 project'. Indeed, Hix (1998:40) maintains that the need to regulate the SEM constituted the driving force behind the 'new governance system' examined earlier in this chapter. Majone goes further and argues that regulation has become *the* appropriate contemporary form of governance and, as such, now constitutes the 'leading edge of public policy making in Europe' (Majone 1996:47). Hence the regulatory model, which is rooted in political economy, has several notable institutional ramifications for the political system. This interconnection between economic and political development is brought home forcibly in Majone's statement:

The regulatory model of the EC shifts the focus of attention from state building or intergovernmental bargaining to the delegation to European institutions of specific functional tasks that can be tackled more efficiently and/or credibly at the supranational level.

Among the delegated tasks rule-making is by far the most important one, since the internal market would not even exist without an intricate system of regulations supplementing the prohibitions of quantitative and other restrictions to trade between Member States. Hence, the willingness of national governments to accept far-reaching limitations of their sovereignty in regulatory matters. Such is the extent of delegation in this area that it is heuristically useful to think of the EC institutions as the regulatory

branch – the ‘fourth branch of government’ to use the American phrase – of Member States. (Majone 1998:28)

Acceptance of the concept of the ‘regulatory state’ as an accurate description of the EU state-form has been widespread; but, as Caparso (1996:41) notes, acceptance of this model has several broad implications. The first is that: ‘we should not expect the EU to look like a traditional nation-state at all, nor its future development to follow the beaten path from intergovernmental relations to confederation to federation’. What can be expected, instead, is a political division of labour, with the EU focusing on regulatory policies and the Member States focusing on social and redistributive policies. What can also be expected, on the basis of present tendencies within the EU, is an uneven pattern of regulation across different policy sectors.

A second implication, and the one of most relevance to a study of the EP, is the relationship between EU regulatory structures and democracy. Majone (1996:56-7) notes the ‘stupendous growth’ and the ‘almost exponential growth of the number of directives and regulations produced by the Brussels authorities’ each year. In addition, there has been a sustained growth in the 1990s in the number of EU agencies, which along with the Commission, form the centre of growing regulatory networks (see Kreher 1997; Dehousse 1997, Majone 1997). Indeed, many important policy areas which are now subject to EU regulation – for example regional policy, research and technological development, environment, consumer protection, and cultural and audiovisual policy – were not even mentioned in the Treaty of Rome. Nonetheless, EU regulation now has a pervasive effect on member states in these areas (see Majone 1996:59); with environmental regulation providing a particularly striking illustration of the growth and scope of the ‘regulatory state’ in the EU.

This increasing trend of the delegation of regulatory functions to independent or quasi-independent administrative bodies identified by Majone raises fundamental theoretical and practical questions about the control, accountability and responsibility of these bodies. In many respects these are universal issues and are not unique to the EU. Thus, as Majone acknowledges (see Majone 1998:15; Majone 1996: 285-7), the delegation of regulatory responsibilities to institutions (typically referred to as non-majoritarian institutions) – which *by design* are not directly accountable to voters or to elected representatives – is an endemic problem of a ‘regulatory state’. The symptoms of this malaise are, characteristically: technocratic decision-making; excessive use of administrative discretion; lack of transparency; limited public participation; and inadequate mechanisms of control and accountability (Majone 1998:14-15).

Doubts as to the legitimacy of non-majoritarian institutions and their outputs tend to increase in proportion to their importance in the policy process. In essence, these are

'majoritarian' concerns, where notions of 'procedural legitimacy' prevail. 'Procedural legitimacy implies that [these institutions] are created by democratically enacted statutes which define [their] legal authority and objectives; that the regulators are appointed by elected officials ... that [regulatory] decisions must be justified, and especially that they are open to judicial review, and are adequately monitored by political principals' (Majone 1998:20). Implicit within such a conception of legitimacy is a model of majoritarian democracy, with an elected legislature as *the* source of legitimacy, or at least the main source of legitimacy. The failure of parliaments generally, and in the context of the EU specifically of the European Parliament and of member states parliaments, to exercise adequate control and oversight leads directly to notions of 'democratic deficits'. But, as noted above, when 'control' is conceived primarily in majoritarian/parliamentary terms then these deficits can be seen as endemic to the institutional design of non-majoritarian regulatory bodies. From the majoritarian perspective, the problem with regulatory agencies is that they appear as 'constitutional anomalies that do not fit well into the traditional framework of controls, checks and balances' (Majone 1998:15) in particular they come to be viewed as 'a serious threat to democracy, parliamentary sovereignty and the hallowed principle that public policy ought to be subject to control only by persons directly accountable to the elect. In essence, the regulatory state model appears to residualise the role of representative parliaments and to focus attention upon 'democratic deficits' and 'legitimacy crises'.

Figure 6 : Regulatory Model

Insert Figure 6 (see appendix)

Majone would argue that such notions of 'deficit' and 'crisis' arise from the insertion of a conception of 'non-majoritarian' institutions into a 'majoritarian' system of decision-making. Part of his argument, however, is that voters themselves are now questioning the 'legitimacy of a model of democracy which has reduced politics to a zero-sum game among redistributive coalitions' (Majone 1996:299). In Majone's view the electorate places greater emphasis upon functional efficiency (because 'efficiency-oriented policies attempt to increase the aggregate welfare of society' [Majone 1998:28]; decision-making free of 'politically motivated interference' (Majone 1996:300) (with agencies dominated by sectoral experts making decisions); and greater transparency and openness. A 'regulatory model' of the EU, therefore, 'shifts the focus of attention from state building or intergovernmental

bargaining to the delegation to European institutions of specific functional tasks that can be tackled more efficiently and/or credibly at the supra-national level' (Majone 1998:28). In this model 'new standards of legitimacy and accountability' (Majone 1998:18) need to be identified which acknowledge the 'substantive legitimacy' of regulatory agencies. This form of legitimacy recognises the grant of autonomous powers to EU regulatory institutions and creates an institutional design of control and accountability based on a multi-pronged approach – only one prong of which is parliamentary control and oversight. This 'new design' of political accountability would combine a range of 'control elements' including: 'clear statutory objectives, oversight by specialised legislative committees, strict procedural requirements, judicial review, appointments of key personnel, budgetary controls, reorganisation, professionalism, public participation, monitoring by interest groups, even inter-agency rivalry' (Majone 1998:27). In this design legitimacy would stem primarily from the 'results' achieved by independent agencies producing 'efficiency-oriented' policies. In other words, non-majoritarian sources of legitimacy – of expertise, procedural rationality, transparency and accountability by results – would prevail over majoritarian/parliamentary sources of legitimacy.

Conclusion

It has become easier in recent years to locate the EP in a typology of legislatures as its formal legislative powers have been enhanced through successive treaty amendments. The historical review of the EP's legislative powers has revealed that its 'location' as a 'parliament' has changed over-time. After Maastricht, and certainly after Amsterdam, the EP – with its capacity to 'modify and reject executive proposals' – can be located in Mezey's category of legislatures with 'strong policy making power'.

However, such an unambiguous conclusion needs to be qualified on at least two counts. First, as argued elsewhere (Judge et al 1994), global assessments of the impact of the EP upon the EU decision making process are essentially blunt analytical instruments. Stated at its simplest, the policy influence of the EP has to be disaggregated into its constituent elements. Some acknowledgement has to be made, therefore, that the EP will be more influential in some policy areas than others, and will be more influential even within the same policy area at some times rather than others. Naturally, the conclusion of this paper is not an appropriate place to begin this disaggregated analysis, but, nonetheless, it should be noted that a more elaborate analysis would incorporate the premise that parliamentary influence will vary in accordance with the type of policy under consideration.

Second, any assessment of the location of the EP as a legislature also has to locate the EP within the wider institutional complex of the EU. In reviewing models and approaches to

EU governance, the focus of this paper has been not only upon institutional issues, and the linkages and location of national and EU institutions in relation to each other, but also upon the linkages between citizens and parliamentary institutions at the various levels of EU governance. Underpinning this analysis is the recognition that 'legitimacy' is an essential variable in trying to 'locate' the EP within the institutional complex of the EU. This variable featured in dichotomous form in Mezey's classification of legislatures, but our argument here has been that such a simple division is too restrictive to comprehend the dynamic and intricate forms of EU governance. Instead, we have preferred to refract the variable of 'legitimacy' through the empirical and normative analytical prisms associated with the respective sides of the debate surrounding the EU as 'multi-level governance' or a 'state-like politico-administrative system'. In so doing, the EP (even with its policy making powers held constant at any particular time) can be located conceptually in different positions in the interinstitutional complex of EU. This observation serves to reinforce the view of Wessels and Diedrichs (1999:135) that conceptions of the EU as a system impact upon assessments of the role of the EP itself. The questions 'how' and 'why' this is the case have at least been raised in this paper, if not answered definitively!

Key to Appendices 1-6







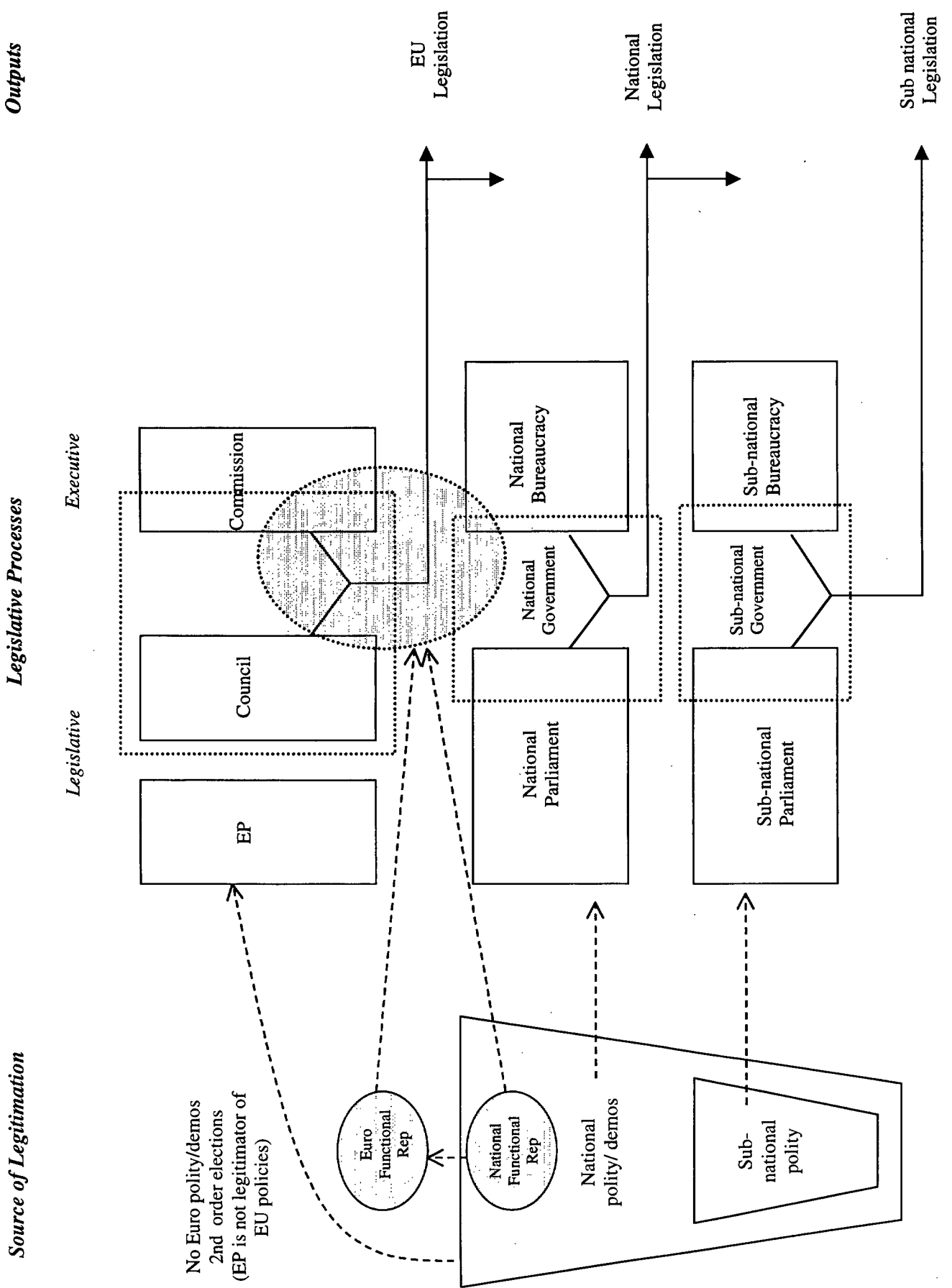
	decision making nexus
	form of legitimation
	policy outputs
	european policy network
	functional representation
	regulatory agency

Figure 1: No Demos/post-parliamentary governance/networks at European_level



Outputs

Legislative Processes

Source of Legitimation

Executive

Legislative

EU Legislation

National Legislation

Sub national Legislation

Commission

Council

EP

Euro Functional Rep

National Bureaucracy

National Government

National Parliament

National Functional Rep

National polity/ demos

Sub-national Bureaucracy

Sub-national Government

Sub-national Parliament

Sub-national polity

Figure 2: No Demos/new governance/networks at European level

Outputs

Legislative Processes

Source of Legitimation

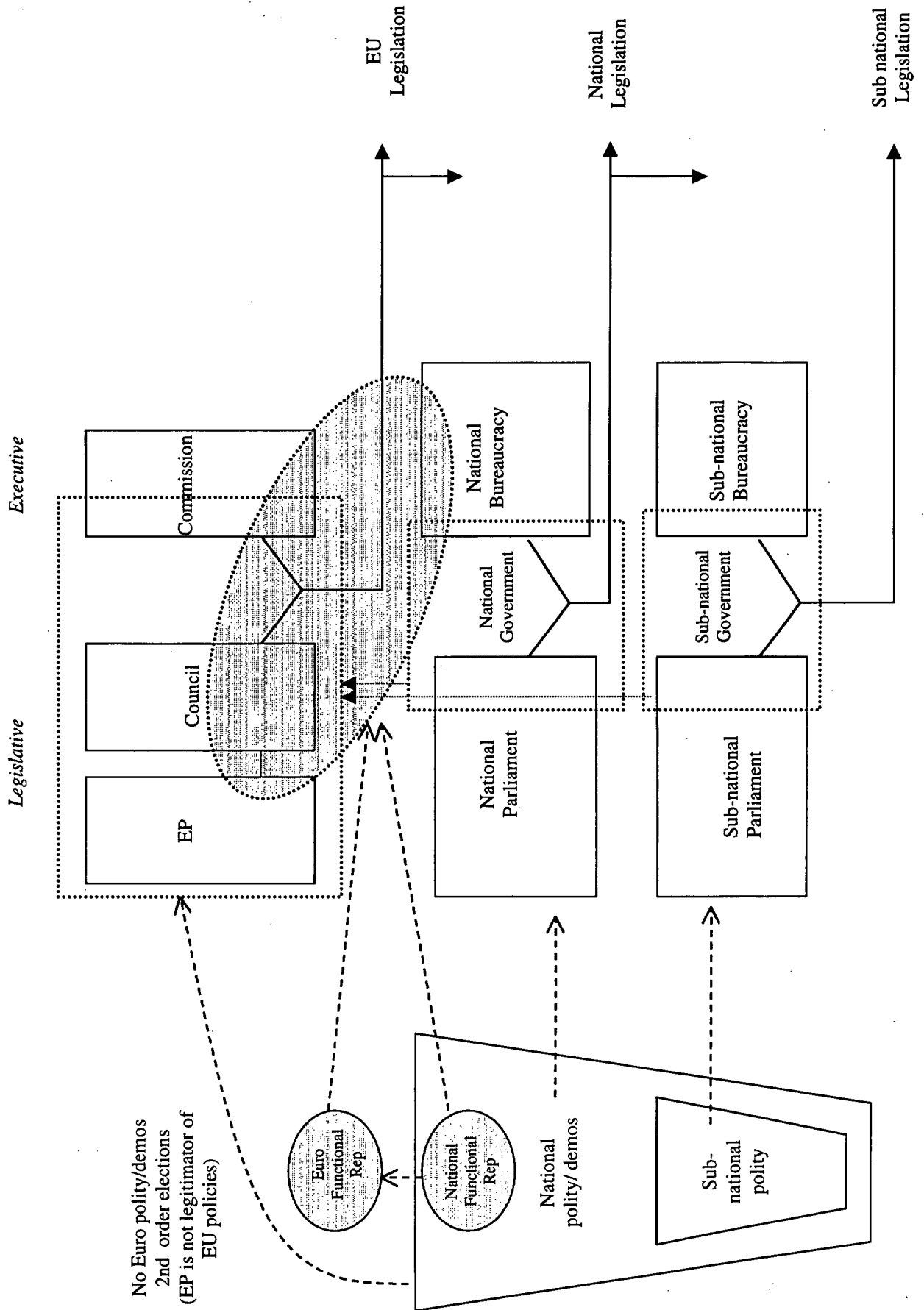


Figure 3: Federal Analogy Model: State like politics-administrative system

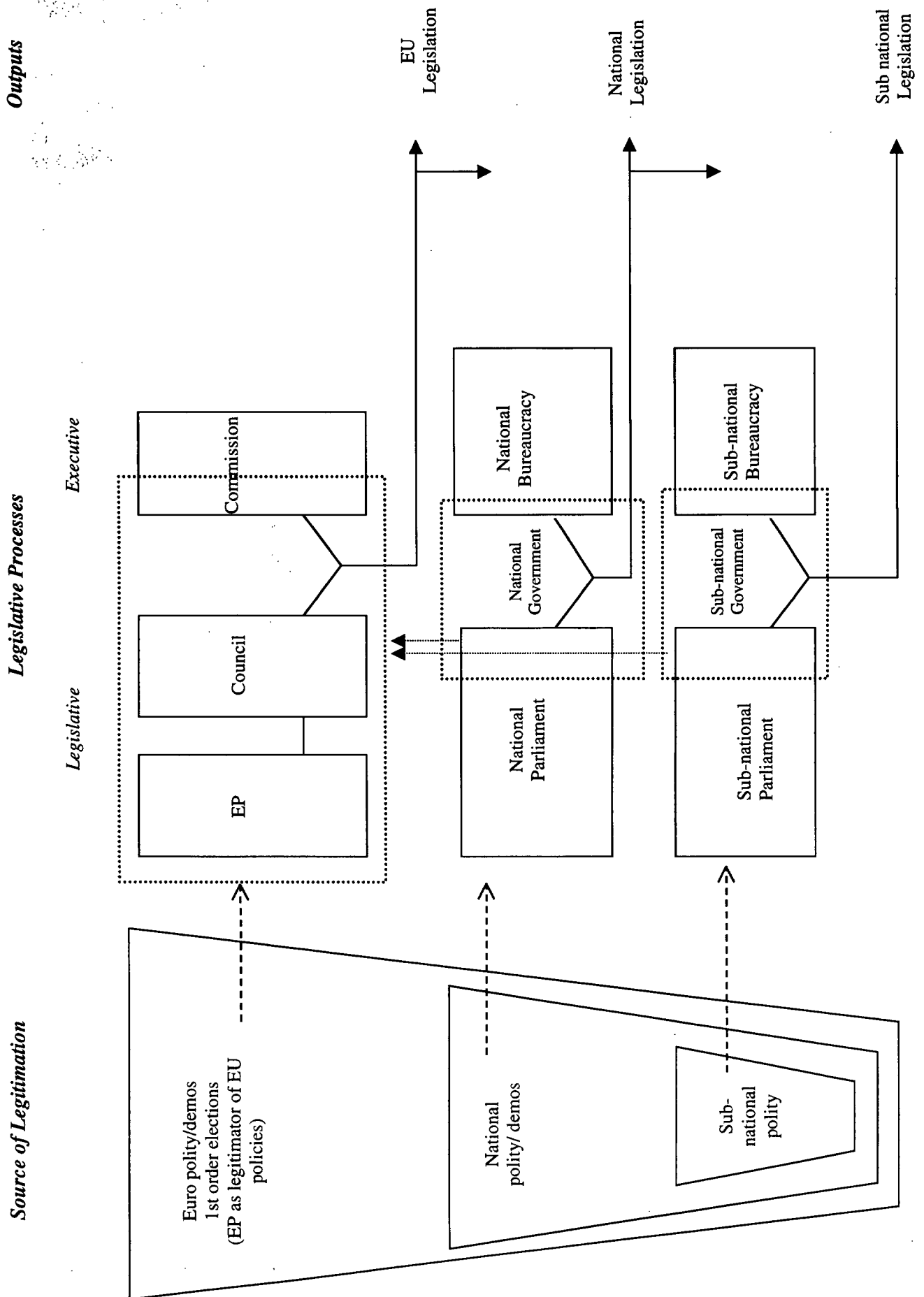


Figure 4: Confederal Model

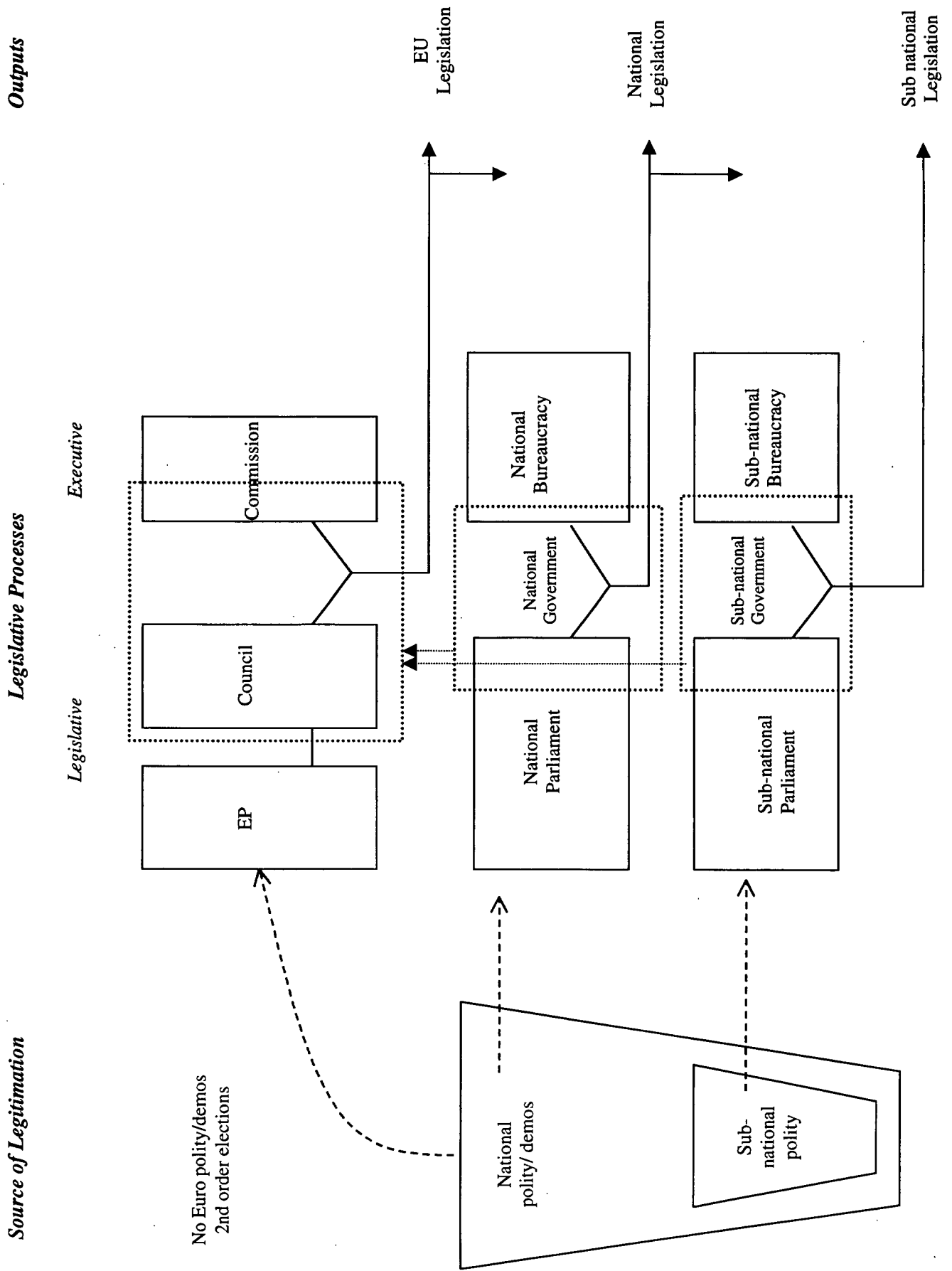


Figure 5: Co-operative Federal Model

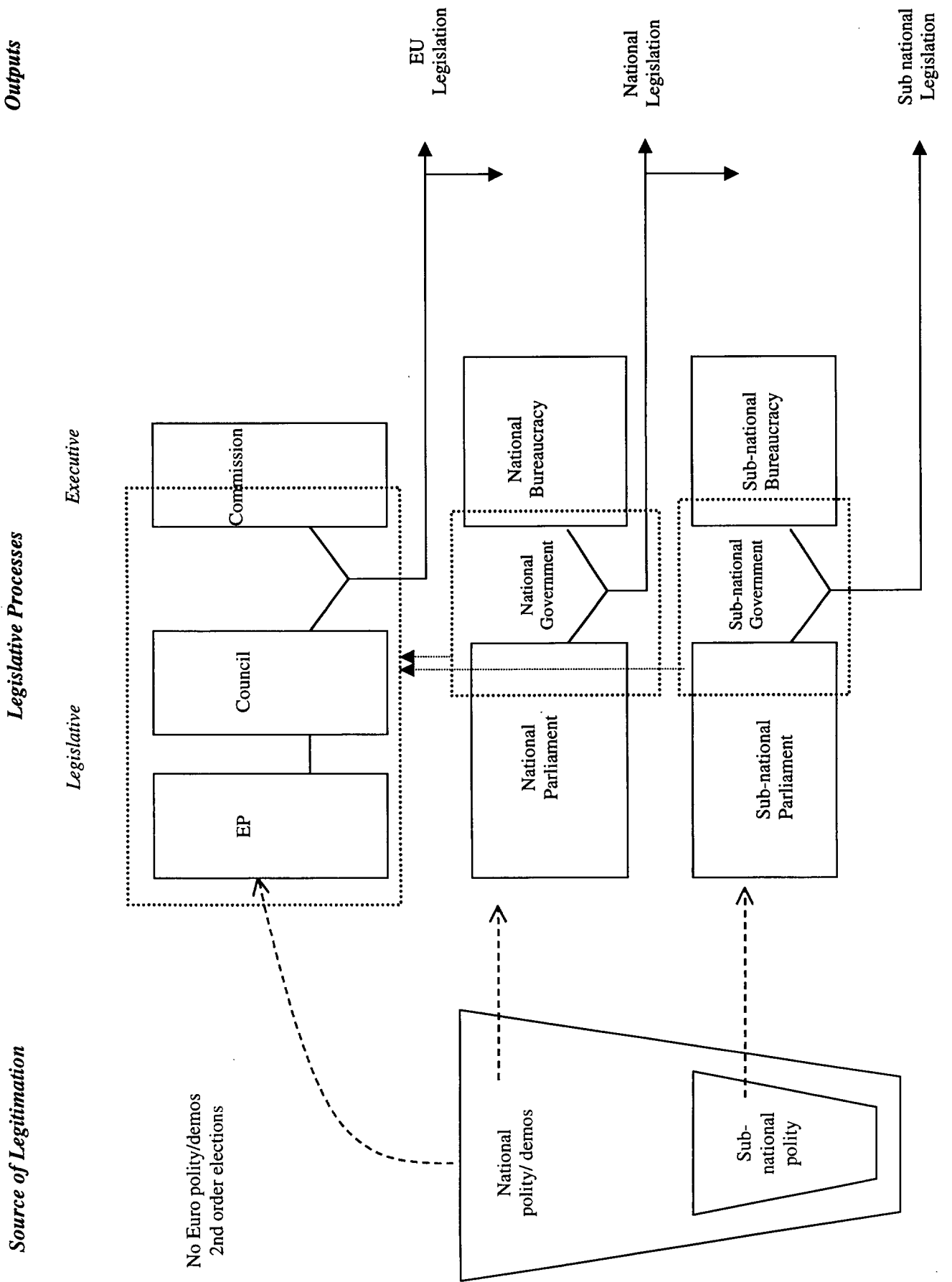
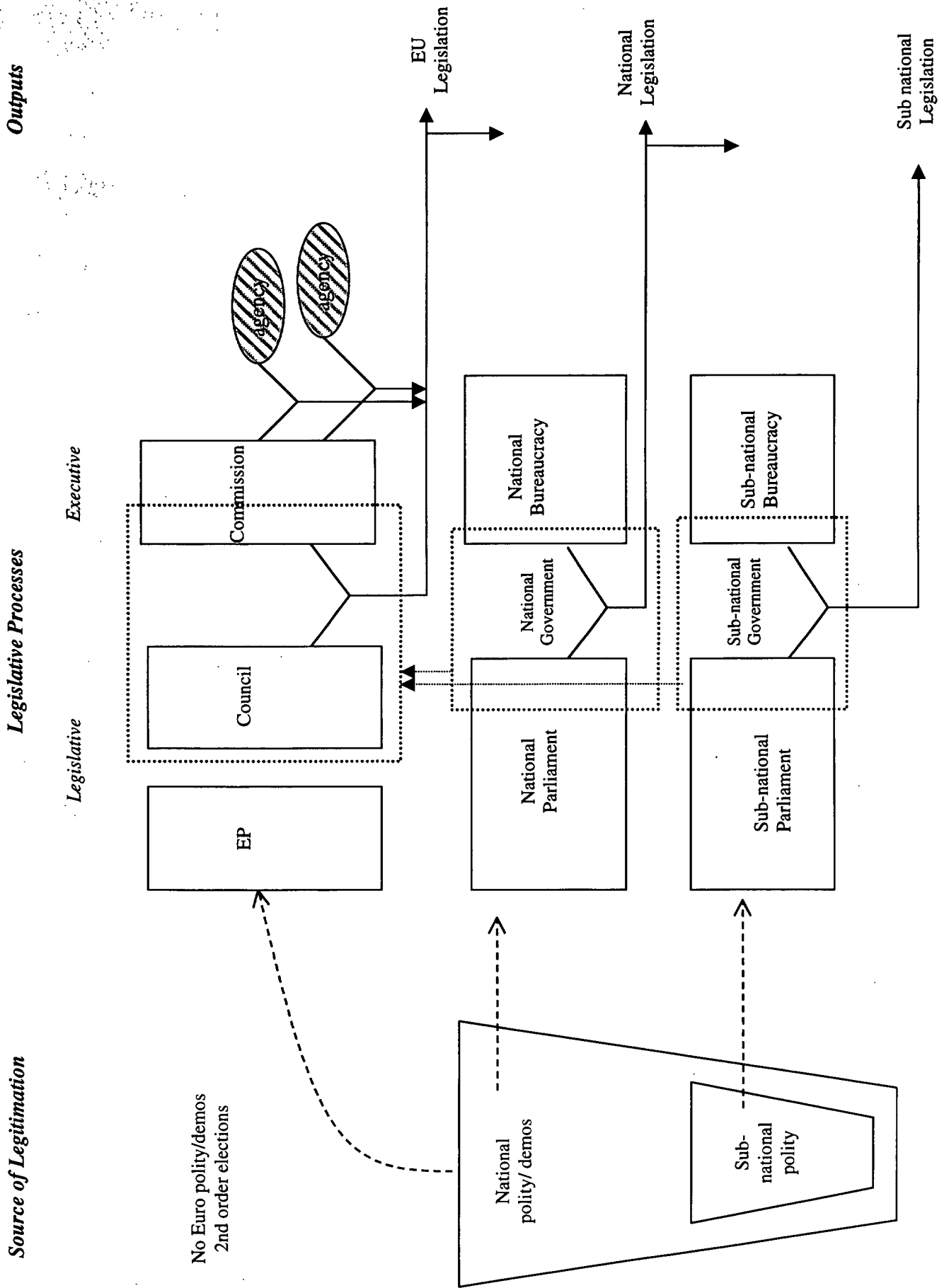


Figure 6: Regulatory State



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