

**INTEREST GROUPS, EUROPEAN INTEGRATION,  
AND THE NEW INSTITUTIONALISM**

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Prepared for delivery at the Fifth Biennial Conference of the European Community Studies  
Association, Seattle, Washington, 29 May - 1 June 1997

## **ABSTRACT**

A new institutionalist perspective is the best framework for analyzing interest intermediation in the European Union (EU). Four institutional variables are crucial to the analysis: the EU's policy-making authority, formal institutions, policy-making procedures, and decision-making rules. These constitute the context within which interest groups formulate their responses to integration. Nevertheless, these institutions do not determine interest groups' responses. Intraorganizational factors, such as intragroup bargaining, cost-benefit calculations by member, membership preferences and cohesion, the role played by national-level interest groups or firms, skillful leadership, learning, and simple desire to overcome national, regional, sectoral, ideological cultural, and policy differences also shape a group's ability to respond to increased integration.

While a new institutionalist perspective helps us understand the variety of patterns of interest intermediation in the EU, it also makes it difficult to predict the evolution of interest intermediation in the way the neo-functionalists did. We will, however, be able to answer two important questions: What institutions matter? How do they influence interest intermediation? We can thus explore the nature of policy-making and governance in the EU and shed new light on the ways the EU manages conflict between competing interests.

After examining the role institutions play and the interest group response, this paper focuses on the possibilities for rationalization of interest intermediation and on a recent institutional change - the Social Policy Protocol - and its implications for interest intermediation.

# INTEREST GROUPS, EUROPEAN INTEGRATION, AND THE NEW INSTITUTIONALISM

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## 1. Introduction and Argument: How to Study Interest Intermediation in the European Union?

How best to analyze interest intermediation in the European Union (EU)? In spite of more than forty years of research, scholars continue to debate the precise nature of interest intermediation and the role of interest groups in policy-making in the EU.<sup>2</sup> What are the sources and determinants of the variety of observed patterns of interest intermediation? What institutionalization has occurred and why? What are its consequences? This paper seeks to answer these questions by applying a new institutionalist framework to interest intermediation in the EU. I argue that we must apply a new institutionalist framework and embed our studies of interest intermediation in the EU in a larger analysis of the roles EU institutions play in order to explain why interest groups have responded to integration as they have and why patterns of interest intermediation have or have not been institutionalized. I also argue that the EU is indeed an institution, "a system of rules to produce and implement binding decisions as well as organizational structures" (Windhoff-Héritier 1991, 38). Four institutional variables are crucial to my analysis: the extent of the EU's policy-making authority, formal EU institutions - the Commission, Council of Ministers, European Parliament (EP) and the European Court of Justice (ECJ), policy-making procedures, and EU decision-making rules. These institutions have promoted interest group participation in policy-making, encouraged the formation of new groups, and presented opportunities and constraints for interest group influence. These constitute the context within which national and EU-level interest groups formulate their responses to integration.

While these four institutions may offer opportunities to influence policy, they may also limit interest group influence on policy-making. First, policy-making authority, rules, and procedures vary from issue area to issue area. Moreover, EU legislation is sometimes unclear, subject to revision, or to varying interpretations. The Social Policy Protocol discussed below is an example of such a piece of legislation. Given its ambiguities, it is not surprising that interest groups may not know quite how to respond to this new institutional arrangement. Second, the EU's decision-making rules and policy-making procedures provide varying incentives and disincentives for constructing effective EU-level organizations, for coalition-building at the EU-level, and for attempting to influence national governments. Finally, the formal institutions of the Union serve as both negotiating partners and targets of influence. Some EU-level interest groups have improved their capacity to negotiate with formal Union institutions, especially the Commission, and to coordinate their actions at the EU level. Not only EU-wide confederations concerned with general economic

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1. By interest intermediation I mean the formal (or legal) and informal procedures by which interest groups participate in the elaboration and implementation of policy.

2. The neo-functionalists were the first to draw attention to EC-level interest groups. See Haas 1964; Haas 1968; Lindberg 1963; Lindberg and Scheingold 1970; Nye 1971; Schmitter 1971; Caporaso 1972; Keohane and Nye 1972; Caporaso 1974; Haas 1975. Later scholars, recognizing that the neo-functionalist prediction that strong EU-level interest groups would replace their national-level counterparts was incorrect, focused on case studies at the peak, sectoral, and firm levels. See, for example, Meynaud and Sidjanski 1971; Kirchner 1977; Kirchner and Schwaiger 1981; Platzer 1984 and 1991; Butt Philip 1983; Barnouin 1986, Streeck and Schmitter 1991; McLaughlin et al., 1993; Gorges 1996; and the essays in Greenwood et al., eds., 1992b and Mazey and Richardson, eds., 1993b.

and social policy, but also EU-level sectoral organizations have grown more effective over time.<sup>3</sup> At both the macro and sectoral levels, the trend toward more capable and authoritative organizations is unmistakable.

This trend is not uniform, however. Interest groups in the EU react in different ways to the pressure to construct more effective EU-level organizations. To begin with, national-level interest groups have not been uniformly willing to cede power to their Brussels-level representatives. Moreover, in many sectors, interest groups compete with one another to represent that sector in Brussels. Brussels-based organizations also have difficulties imposing agreements on powerful national-level federations or ensuring that their members implement agreements struck in Brussels. Some may take authoritative decisions, others not. Why is this so?

The institutional framework within which policy-making occurs is but one element of interest intermediation in the EU. It should be clear that outcomes are not determined solely by institutional arrangements. The choices of political actors are only *shaped* by institutions. We must avoid lapsing into institutional determinism, an error to which a focus on institutions *alone* would lead us.

The eventual impact of institutions is refracted through *intraorganizational* "lenses." For interest groups in the EU, intraorganizational factors such as intragroup bargaining, cost-benefit calculations by members, membership preferences and cohesion, the presence or absence of a single powerful national-level interest group or firm, skillful leadership, learning, and simple desire or ability to overcome national, regional, sectoral, ideological, cultural, and policy differences, all determine an interest group's ability and willingness to meet the challenge posed by integration. Thus, although integration has increased the pressure for stronger EU-level organizations, these factors create formidable barriers to devising a satisfactory response.

## **2. The New Institutionalism**

New institutionalist scholars are "concerned with illuminating how institutional arrangements shape political outcomes by structuring the relationships among contending societal groups" (Thelen 1991, 22). They focus on two aspects of politics: (1) the conditions under which the institutional environment has an effect; and (2) institutionalization. Koelble (1995) has divided new institutionalism into three schools according to where each stands on these issues.

New institutionalist scholars debate the degree to which institutions matter, and the role utility maximization, structure, and culture play in individual decision-making (Koelble 1995:243). Rational choice institutionalists argue that institutions are established to help self-interested actors maximize utility, stabilize relations, and facilitate cooperative behavior. The stricter rational choice institutionalists also argue that fixed preferences are an essential part of the model. As Barbara Geddes, for example, states, most rational choice theorists assume that "(i)nstitutions, along with other structural features... shape second-order preferences (that is, strategies employed to attain goals)" (Geddes 1995, 81).

Historical institutionalists, on the other hand, contend that preferences are actually shaped by institutions; they are not fixed. Institutions structure politics by shaping actors' goals, and, by mediating among actors, leave their own "imprint on political outcomes" (Thelen and Steinmo 1992, 9). According to these scholars,

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3.A *Fédération Européenne par Branche d'Industrie* (FEBI) is the EU-level sectoral representative of industry. European Industry Committees (EICs) are the trade union counterparts of FEBIs. See Gorges 1996, Chapter 7 for an analysis of interest intermediation at the sectoral level.

institutional features of the environment shape the goals and means of participants in the policy-making process. In other words, institutions shape both behavior *and* preferences.

Sociological institutionalists share the historical institutionalists' views that institutions shape preferences. They focus, however, not only on institutional configurations, but also on "cultural and organizational "fields" or "sectors" which determine the very concept of "self-interest" and "utility" (Koelble 1995:232).<sup>4</sup>

Institutionalization, on the other hand, can be defined as "the process whereby social processes, obligations, or actualities come to take on a rulelike status in social thought and action" (Meyer and Rowan 1977, 341). Powell argues that when institutionalization occurs, practices and structures are taken for granted; they are not questioned or compared with alternatives (Powell 1991, 194). In other words, institutionalization implies that all the participants in a political process understand and accept the rules of that process, and that struggles over the framework within which politics takes place have been settled.

Institutionalization is seen as a constraining process that forces actors or organizations to "take on the formal and substantial attributes of organizations within which they interact and upon which they depend" (DiMaggio and Powell 1983, 147). This institutional isomorphism can be brought about through the coercive action of a state, through mimetic processes in which one organization recognizes the success of another and attempts to copy it, or through normative processes in which an organization adopts the "conventional wisdom" that certain forms are more "modern, appropriate, and professional" (Scott 1987, 504). Scott argues that an "institutional sector" may employ inducement strategies as incentives for organizations to conform to its wishes. A nation-state, for example, may change existing organizational forms or create new ones, either through the use of financial incentives or through outright coercion (Scott 1987, 503-504).<sup>5</sup>

The problem for some new institutionalists is that practices may become only weakly institutionalized, and that some domains may be more institutionalized than others. New institutionalism has difficulties in accounting for differential rates of institutionalization because it ignores the role of strategic calculation and choice by participants in institutional settings. Two factors account for this failure. First, new institutionalists emphasize the emergence and establishment of authoritative institutions, and on the benefits they provide, such as calculability, widened time horizons, stabilization of expectations, and information. Second, they disavow the methodological individualism and simplistic assumptions about individual preferences, satisficing, and complete information often associated with rational choice theory. This leads them away from the crucial fact that institutions do not entirely restrict the behavior of political actors. They provide both opportunities and constraints for political actors, or, as Jepperson states, "(A)ll institutions simultaneously empower and control" (Jepperson, 1991, 146). Institutions empower because they make the environment calculable and reliable. But within any institution there is room for choice, depending on an actor's resources and strength, and the degree of institutionalization of the institution itself.

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4. On Rational Choice Institutionalism, see North 1990; Levi 1988; Bates 1989, Tversky and Kahneman 1981; Elster 1979 and 1982, and the Cambridge University Press series edited by James Alt and Douglass C. North, *The Political Economy of Institutions and Decisions*. On historical institutionalism, see the essays in Steinmo, et al., eds., 1992. On sociological institutionalism, see March and Olsen 1984 and 1989, DiMaggio and Powell, eds., 1991b; Scott 1991, 1992, and 1995.

5. See Berger 1981b for an excellent study of how the French state changed the nature of interest intermediation for small businesses.

Several scholars have used these observations to suggest a more complex picture of choice and institutional constraint. Elster, for example, has suggested a two-filter model to account for choice. The first filter consists of structural constraints which determine the realm of possible alternatives, the "feasible set." The second filter is the actor's choice of an alternative among possible options, guided by individual rationality principles (Elster 1979). Ostrom et al., combine an actor-based perspective with an attention to institutional rules, intergovernmental relations, and policy decisions, successfully fusing individualist and new institutionalist social theories (Kiser and Ostrom 1982; Ostrom 1986, 1990). Czada and Windhoff-Héritier, on the other hand, have proposed combining rational choice and new-institutionalist perspectives with a focus on the environment or policy context. Institutions, incapable of completely determining action, leave room for self-interested and strategic behavior, based on an actor's "specific resources within the context of a specific policy field" (Windhoff-Héritier and Czada 1991, 14). Choice thus depends, in part, on rational expectations of how one is affected by social rules and structures, i.e., institutions, as well as by calculations of one's own payoffs (Czada 1991, 259). As Fritz Scharpf argues, given institutional conditions cannot fully determine policy choices, but they can define a set of constraints limiting the set of feasible choices. Within these constraints, choice is exercised by political actors according to their own normative goals, cognitive world views, and egoistic interests (Scharpf 1991, 56).

The perspective adopted here falls between the historical institutionalist and rational choice institutionalist positions. Institutions are not merely part of the context within which rational actors pursue strategies to realize their preferences and goals. Nor are these goals and preferences fixed. Rather, they can be produced or modified by institutions. Actors can learn, accept new norms, and modify their preferences through the process of socialization. Yet choice is not determined by institutions alone. Ultimately, political actors base their responses to particular challenges, such as the deepening of European integration, on cost-benefit analyses and ideological and policy preferences. These calculations, however, are made within a particular institutional context.

A new institutionalist perspective on interest intermediation in the EU should help answer two questions: What institutions matter? How do they influence interest intermediation? If we can answer these questions, we will also be able to explore the nature of policy-making and governance in the EU. Such a study would also shed new light on how the Union manages conflict between competing socioeconomic interests. Understanding interest intermediation in the EU is essential for an understanding of past, present, and future policy-making in the European Community (EC) and now, the EU. Moreover, current arguments in the EU over the distribution of the costs and benefits of integration and over the consequences of Economic and Monetary Union (EMU) and Political Union will be settled, in part, through the existing system of interest intermediation. A proper understanding of that system, then, is crucial to a proper understanding of future bargains in the EU.

The study of interest intermediation in general is important because the establishment of a system of interest intermediation acceptable to all parties is a necessary condition for governance and for the smooth functioning of a modern economy. The central problem of governance in advanced industrial countries is to develop policy-making procedures that provide effective solutions to societal problems, yet that also allow for interest group participation and democratic accountability. It is impossible to make policy in an advanced industrial economy without the active participation or, at the least, acquiescence (passive or forced) of important interest groups. In addition, attempting to bypass previously-established relationships harms

not only the chances of successful policy implementation, but also risks damaging social consensus and opening up the system of interest intermediation itself for renegotiation and reformulation.<sup>6</sup>

Several scholars have applied a neo-corporatist framework, itself derived from a new institutionalist perspective on politics, to the study of interest intermediation in the EC/EU.<sup>7</sup> These analyses fall into two groups. Scholars in the first group argue that there is little or no corporatism in the EU.<sup>8</sup> The conclusions of these analysts stem, to a large extent, from their definitions of corporatism as the presence of monopolistic, hierarchical representatives of labor and capital. Finding a plurality of non-hierarchical, non-monopolistic organizations, they conclude that the development of corporatism at the European level has been limited. In their view, policy-making in the EU more closely resembles the pluralism of the United States than the corporatism of the Scandinavian states in its heyday. Instead, they label policy-making in the EU "disjointed pluralism" (Mazey and Richardson 1993a, 24).

Analysts in the second group argue for a more differentiated view of interest intermediation, one that considers the diversity of bargaining and policy-making arrangements across sectors in the EU.<sup>9</sup> Their findings contradict the view that all EU-level interest groups are simply weak federations of federations. Grunert, for example, finds a neo-corporatist spirit and a neo-corporatist substance in the EC's attempts to resolve the steel crisis of the 1980s (Grunert 1987, 296). David Vogel, in his study of food safety regulations, finds quasi-corporatist arrangements similar to those in many member-states (Vogel 1991, 30-31). In the introduction to a collection of essays on interest intermediation in the EU, Greenwood et al., specifically challenge generalizations about pluralism or corporatism at the EU level. The contributors to their volume find a variety of patterns of interest intermediation in the Community. Some sectors are predominantly pluralist, others predominantly corporatist, others fall in between (Greenwood et al., eds. 1992b).

Clearly, the variety of patterns of interest intermediation prevents scholars from making easy generalizations. The way forward is clear: To analyze interest intermediation satisfactorily, we need to disaggregate the concept of interest intermediation and to examine patterns at the macro-, sectoral- and micro-levels. At each level, one must then examine individual policy areas to determine the degree of institutionalization of formal bargaining arrangements. In some policy areas, interest groups and the Commission *have* established regular patterns of consultation. In others, the Commission has not developed stable relationships with any one

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6. See, for example, Berger 1981a; Keeler 1981; Keeler 1987.

7. As Schmitter argues, neo-corporatist theory is part of a new institutionalist approach to politics because of its fundamental assumption that behavior cannot be understood on the terms of rational choice or pluralist theoretical frameworks (Schmitter 1989, 62). Neo-corporatism focuses on the institutions promoting interest group participation in policy-making and policy implementation, and on the institutionalization of that participation (Schmitter 1974). For analyses examining the utility of applying the neo-corporatist framework to the EC/EU, see Sargent 1985; Grunert 1987; Grant 1989, 1991, and 1993; Streeck and Schmitter 1991; Gorges 1996; Greenwood 1996; Greenwood and Ronit 1994; and the essays in Greenwood et al., eds., 1992b. For new institutionalist analyses of all stripes of the EU in general, see *inter alia*, Bulmer 1994a and 1994b; Pierson 1996; Pollack 1997; Garrett 1992 and 1995; Garrett and Weingast 1993; Tsebelis 1994; Garrett and Tsebelis 1996.

8. See Sargent 1985; Streeck and Schmitter 1991; Mazey and Richardson 1995, 343.

9. See Grunert 1987; Grant 1989, 1991, and 1993; Vogel 1991; Greenwood 1996; Greenwood and Ronit 1994; McLaughlin, et al., 1993; and the essays in Greenwood et al., eds., 1992b.

group in particular, and will seek input from as many interested parties as possible. In some policy areas, interest groups *are* well organized and capable; in others, they are weak and have little influence on policy development. This recognition of various patterns of interest intermediation, and the variety of case studies it has spawned,<sup>10</sup> then, are important steps forward. What we are often left with, unfortunately, is a series of sectoral case studies, with no attempt to account for this variety, or to present a more coherent picture of the nature of interest intermediation in the EU. Our attention now should be on the task of explaining the variety of patterns of interest intermediation we find. A focus on the four institutional variables outlined above - policy-making authority, decision-making rules, formal EU institutions, and the EU's policy-making procedures - allows us to do so.

### **3. Policy-Making Authority.**

Member-states have ceded policy-making authority to varying degrees in certain areas to the EU, and interest groups know that they must enter into discussions with EU institutions to influence policy as it is developed. Policy-making in most areas has not been entirely ceded to the EU, however; in some cases it has been completely transferred, in others pooled, and in still others, remains chiefly in the hands of the member-states. Nevertheless, the EU has steadily accumulated policy-making authority through the enactment of treaties - the Treaties of Paris and Rome, the Single European Act (SEA) and the Treaty on European Union (TEU) - through decisions of the ECJ and national level courts, and through regulations designed to implement legislation passed by the Council of Ministers. The EU makes policies in almost all areas traditionally considered the exclusive domain of the member-states.

### **4. Formal EU Institutions and Policy-Making Procedures**

How is EU legislation made and what roles do formal EU institutions and interest groups play in the process? According to EU rules, the Commission proposes legislation, which may become law only after European Parliament (EP) review and Council of Ministers assent.

While the Council of Ministers must eventually pass all legislation, the Commission is the only institution that may formally propose legislation. Once the Commission decides to do so, it consults informally and formally with EU- and national-level interest groups and other concerned parties, the responsible Commissioner and his/her *cabinet*, and the representatives of the national governments. It is extremely difficult, if not impossible, to alter a proposal once it is in writing, thus much activity is concentrated on this early stage of the development of proposals. Interest groups, therefore, seek early involvement in the legislative process. Monitoring the Commission's work and cultivating contacts to increase an interest group's input and decrease the element of surprise are important functions of EU-level interest groups at this point.

The Commission's preferred interlocutors are EU-level federations, either at the macro- or sectoral levels, depending upon the nature of the legislation under consideration. If there is an EU-level organization to which it can turn, the Commission expects that organization to prepare and coordinate the positions of its members. At the sectoral level, the FEBIs speak on behalf of industry, while EICs represent the trade

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10. See also Greenwood and Ronit 1994, McLaughlin, et al., 1993; as well as several of the chapters in Greenwood et al., eds., 1992b, and Mazey and Richardson, eds., 1993b.



unions.<sup>11</sup> Of all interest groups, it is the FEBIs in particular that have had the most success in influencing Commission draft proposals. Typically, FEBIs have privileged access to the earliest stages of the preparation of legislation. They are able to furnish the Commission with at least some of the information it seeks, they are already present in Brussels, many of their members are representatives of the most important actors in the particular sector, and they are able to aggregate the positions of their members rather quickly and easily. Commission consultation with established EC-level interest groups also pressures their members to cooperate with each other and to arrive at compromises that can then serve as a basis for EU legislation. This pressure to establish alliances and cooperate can benefit EU-level federations, too, in that it can promote compromises within organizations as well.

Although the Commission prefers not to consult directly with national-level groups, representatives of national sectoral federations, or of individual companies or causes, it often must. First, decision-making in EU-level interest groups can be quite time-consuming, and the Commission may require information faster than these groups can provide it, since they must consult with their members in the countries of the EU. Second, the positions of interest groups often represent lowest-common-denominator compromises that do not help policy-makers at all. Third, EU-level interest groups may not have access to the information the Commission needs. The Commission, a relatively small bureaucracy, possesses little information-gathering capabilities of its own, and must often rely on external technical expertise as it develops proposals. This reliance favors those best able to supply the Commission with the data it seeks, namely, business associations or representatives of individual firms, and gives those concerned a "valuable opportunity for *institutionalized* participation in the development and implementation of policy" (Grant 1993, 38).<sup>12</sup>

The Commission can seek the opinion of outsiders in other ways. It may request a report or commission a study from an outside research institute or university. Interest groups themselves may be asked to supply information or studies. Professional lobbyists, national-level politicians, and officials from COREPER may attempt to press their views on the Commission. Committees of the EP and members of the Economic and Social Committee may be surveyed for their ideas.

National peak and sectoral organizations are also important sources of feedback, as they have the best access to their national governments, and, therefore, to the Council of Ministers. In addition to their knowledge, interest groups also furnish the Commission with important information on the feasibility of certain proposals, and on the possibilities of adoption or rejection. This aids not only the elaboration of legislation, but also the formation of consensus that facilitates final decision-making. Thus, interest groups can play an important role in finding compromise solutions and in lending legitimacy to Commission proposals. The Commission, by consulting with national-level groups, can go to the Council of Ministers with a proposal that has obtained the agreement of both EU- and national-level interest groups, i.e., it can present the Council with a sort of *fait accompli*. This can speed a proposal's passage through the Council and inhibit one or more of the member-states from attempting to revise a proposal almost all concerned parties have already accepted. The Commission does not hesitate to remind the Council of Ministers of the fact that a proposal has already won the support of interest groups. This, the Commission hopes, increases the likelihood of the Council's adopting a proposal with few, minor changes.

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11. Examples of FEBIs would be the Liaison Organization of Metalworking Industries (Organisation de Liaison des Industries Métalliques, ORGALIME), and EUROMETAUX, the European Association of Non-Ferrous Metals. The European Metalworkers' Federation (EMF) is an example of an EIC.

12. Emphasis mine.

By consulting with a wide number of interested parties, the Commission can avoid conflict down the road, when a proposal reaches the EP or the Council of Ministers. The Commission takes into account the views of potential opponents of a policy, and may receive an idea of possible consequences it had not foreseen or of the distributional impact of a proposal.

The Commission's consultation with most interested parties also promotes its longer-run goal: to construct wide coalitions with interest groups in order to further integration. Since it is often unable to pursue its goals in cooperation with EU-level interest groups alone, the Commission has sought out new constituents/clienteles and attempted to incorporate them in EU policy-making and, thereby, indirectly in the process of integration.

As Selznick notes in his study of organizational development, organizations seek to legitimize their actions through ties to external actors (Selznick 1957, 1966). The Commission's consultation process links it with the external environment, allows it to design better policy proposals, and legitimize its decisions and *raison d'être*. In other words, this process contributes to the institutionalization of European integration.

Once a proposal has cleared all internal hurdles within a directorate general ((DG), the administrative units in the Commission), it is passed on to the *cabinet* of the Commissioner responsible for the particular policy portfolio. The *cabinet* may also make changes to a draft before submitting it to the Commissioner for approval. Here, too, an opportunity to amend a proposal presents itself: interest groups may seek to influence a member of a Commissioner's *cabinet*, or the Commissioner him/herself. Certain Commissioners and their *cabinets*, as well as the staff of certain DGs, are known to be favorably disposed to one interest group or another. The DG responsible for employment and social affairs, DG V, was led from 1985 to 1992 by Vasso Papandreou, a Greek socialist, and was considered pro-trade union, for example, while the DG responsible for competition policy, headed by the British Commissioner Sir Leon Brittan from 1985-1992, was generally considered more pro-business in its views. Nevertheless, it is a risky strategy to rely on a *cabinet* to change a proposal to one's liking. All important interest groups have usually been consulted by this point, and anyone seeking to undo months of work can probably hope only to bring up broader political issues.

If the responsible Commissioner approves a proposal, it is passed on to the heads of the *cabinets*, who meet weekly. They will review the proposal before all the Commissioners actually consider it. The Commission may then adopt, amend, reject, or refer a proposal back to the DG for further consideration. Adopted proposals are sent on to the Council of Ministers. If proposals referred to the Council of Ministers by the Commission receive preliminary approval from the Council, they are sent on to the European Parliament (EP) and the Economic and Social Committee (ESC).

Clearly, this process of consultation ensures that no single interest group can presume to have the Commission's ear, or to claim exclusive access to Commission policy development. This proliferation of contacts and the lack of regular partnership with particular groups worries participants in, and observers of, the process. First, there is simply a limit on how much time a Commission civil servant can spend meeting with the interested parties. Second, the fact that practically any interest group or individual may intervene in the process makes it difficult to keep track of agreements, and to assume that what was agreed on one day will actually be embodied in a proposal. Moreover, the Commission is highly compartmentalized, which means that an interest group must follow developments in several DGs. This compartmentalization has often resulted in the emergence of incoherent and inconsistent policy, which complicates life further for interest groups.

There has been surprisingly little change over time in the way in which the Commission seeks to involve interest groups in policy formation. True, the EU's exact policy-making authority has been a subject of debate and controversy from the beginning, and the Commission has found its right to make policies in some areas contested by the member-states and certain interest groups. Yet in those areas in which it has a recognized right to make policy, in which it has been requested to formulate a proposal, or in which it is attempting to seize the right to make policy, the Commission has consistently sought to involve interest groups in the process of policy elaboration.

To what extent does the Commission direct the process of consultation, and to what extent are policy proposals that emerge from the Commission less the expression of its own preferences and more that of the various influences channeled through it? Does the Commission simply listen to the suggestions of interest groups and then translate them into policy, or does it use these groups as a way of achieving its own policy preferences?

The Commission is not simply a mediating organization, or an honest broker, an arena over which disparate interests contend, with the most powerful emerging victorious. It also structures political debate and the participation of interest groups within that debate. It has its own view of the functions it fulfills within the EU, and of the policies it wants to pursue. The Commission uses the contributions of its various interlocutors to take account of the technical and political issues involved in a particular policy and to design legislation that the Council of Ministers will eventually accept, but it does not simply aggregate the competing interests and churn out a policy without putting its own imprint on that legislation. The Commission is a powerful agency that is autonomous from interest groups and that attempts to use their input to devise construct legislation that the Council will accept and that will further its long-run goal of deepening integration.

**The European Parliament (EP).** The powers of the EP vary according to the treaty provisions governing a particular piece of legislation. The EP votes on legislation according to four main procedures: the advisory assent, cooperation, and co-decision procedures. Different types of legislation are covered by different procedures.<sup>13</sup> Briefly stated, both the cooperation and co-decision procedures increased the power of the EP to amend or reject EU legislation.

The EP first gained a certain amount of influence over EU legislation thanks to the cooperation procedure. The introduction of the co-decision procedure and the extension of the cooperation and co-decision procedures to more types of legislation only strengthened that influence. Increasingly, the Commission and the Council tend to seek its input *before* they begin negotiations over proposals (Mazey and Richardson 1993a, 12). The EP has become an early participant in the policy process. As Hull notes, however, it is still very difficult for the EP to make fundamental changes to Commission proposals, and tends to propose amendments of a technical nature to the legislation it is considering (Hull 1993, 84). According to a report discussed in *The Economist*, between 1987, when the SEA took effect, and November 1990, the Commission accepted 1,052 of the EP's proposed 1,724 amendments to single market laws. The Council of Ministers subsequently accepted 719 of these 1,052.<sup>14</sup>

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13. See Nugent 1994, Chapters 7 and 11.

14. "It's cold in cloud-cuckoo-land," *The Economist*, 10 November 1990.

The change in the importance of the EP has prompted interest groups to focus more attention there, especially if an issue is likely to attract a lot of publicity, as is the case with social policy, environmental and consumer issues. The EP can also help interest groups place an item back on the agenda if the Commission or Council has rebuffed them. According to Article 138b of the TEU, members of the EP (MEPs) may ask the Commission to submit a proposal if they believe the legislation is needed to implement the Treaty. The Commission must respond if a majority of MEPs makes such a request (Lodge 1993).

How can interest groups influence the EP? Although MEPs are not directly accountable to representatives of EU-level interest groups, some do welcome and cultivate contacts with Brussels-based interest groups and lobbyists, and vice-versa. Representatives of EU-level interest groups may testify before EP committees, and, it should be remembered, both MEPs and their staffs, as well as representatives of EU-level interest groups interact frequently in the Brussels policy mill. Nevertheless, MEPs are generally national politicians first and foremost, which means that national-level federations are likely to be most successful at influencing them. Thus, in a coordinated strategy, an EU-level interest group would have its nationally-based member federations lobby MEPs in defense of its position. Once again, early intervention in the legislative process is crucial; it is necessary to have one's voice heard by the first reading.

MEPs are divided into political groups according to ideological preferences. Each group has a secretariat in Brussels. At times, lobbying the secretariats can be helpful, because they often provide MEPs with information about proposals. Furthermore, both the Parliamentary Committees and political groups have begun to hold Parliamentary Hearings more frequently, which has opened up policy-making somewhat. These hearings often provide important opportunities for interest groups to make their voice heard (Collie 1993). As is the case with the Commission, it is important for interest groups to be involved early on in the process, before proposals are put in writing and circulated to members.

Although the EP's power remains limited, the extension of the cooperation procedure and the introduction of the co-decision procedure are important precedents upon which it hopes to build in the Intergovernmental Conference scheduled to conclude in 1997. Attempts to influence MEPs will increase, first because of the ability of the EP to bring issues to the public's attention, second, because of its role as the only democratically elected EU institution, and finally, and most importantly, because of the increased powers with which the SEA and the TEU have endowed it. As the EP's leverage over both Commission and Council has increased, so too has the sense that its views must be taken into account as policy is formulated.

**The Council of Ministers.** The Council of Ministers must ultimately pass all legislation. While the Council is not immune to the influence of EU-level interest groups, these groups are less successful than national-level groups in directly influencing the Council. The Council of Ministers tends to consult national level groups, either through the Committee of Permanent Representatives (COREPER) or the Special Committee on Agriculture (the permanent missions of EU member-states in Brussels). EU-level interest groups do, however, maintain contact with the permanent representatives of the member-states. Since much policy-making takes place in Council of Ministers working groups before the ministers actually vote on a proposal, interest groups also try to influence officials who sit on these. Interest groups are usually forced, however, to rely on their national ministers, civil servants, and COREPER members to defend their points of view in Council deliberations. It is very difficult to change a proposal by the time the Council votes, however, and a group would be forced to use significant political resources to do so. While attempting to block legislation in the Council of Ministers is a tactic that may be successful in the short run, it is not the equivalent of influencing legislation as it is being drafted, and creates a bad impression with the Commission that may hinder a group's attempts to influence future legislation. Proposals at this stage of the process, after all,

represent a package of compromises among diverse interests, and the Commission is not anxious to begin refashioning those compromises once again.

**The European Court of Justice (ECJ).** The European Court of Justice, which interprets and enforces EU law, is also an important, albeit indirect, participant in EU policy-making. Anyone can bring a case before the court: individuals, EU institutions, member-states, non-governmental organizations. In other words, interest groups may bring cases before the court as a means of gaining from the ECJ that which they are denied in Brussels or in the national capitals. Mazey and Richardson note, for example, that environmental and women's groups have used the Court as a means of forcing recalcitrant national governments to implement EU legislation on drinking water quality and equality between working women and men (Mazey and Richardson 1993a, 15). The ability to bring cases or appeals to the Court gives interest groups some leverage over other actors in the EU legislative process.

## **5. Decision-Making Rules.**

Policy in the EU is made according to specific decision-making rules. For approximately twenty years, from 1966-1986, the Luxembourg Compromise permitted member-states to veto Community legislation if they considered their vital national interests to be at stake. In other words, a unanimous vote in the Council of Ministers was usually required to pass legislation. This rule began to weaken in the mid-1980s, as frustration with institutional gridlock grew (H. Wallace 1990, 222). The coup de grâce was issued by the SEA, which introduced a system of qualified majority voting. Although the SEA left the national veto intact in several areas, the extension of qualified majority voting to measures necessary to complete the internal market and to new policy sectors (R&D, health and safety, and the environment) led to a general reduction in veto use. Moreover, the member states seem to have agreed not to invoke the Luxembourg Compromise in those areas which the SEA brought under EC jurisdiction. Member-states were also reluctant to be perceived to be blocking legislation related to the internal market (Mazey and Richardson 1993a, 14).

The TEU not only increased the Union's policy-making authority, but also extended qualified majority voting rules to many of the newly incorporated issue areas: some aspects of environmental policy, development aid, public health, consumer protection, trans-European networks, individual research programs, some aspects of transportation and competition policy, some social policy, and the implementation of the social fund.

The very possibility of qualified majority voting has forced member-states to display flexibility throughout the policy-making process, facilitating faster decision-making. Within the Council of Ministers, the pressure to compromise has grown. The institutional norms also changed: a commitment to compromise came to be seen as an intrinsic good. These changes occurred within a context that was already predisposed towards consensus and technocratic decision-making (H. Wallace 1990).

For interest groups, the extension of qualified majority voting has increased the appeal of, and need for, rapid transnational interest definition, aggregation, and coordination. In the past, defection from a decision reached through intra- and intergroup bargaining in Brussels was relatively painless, and an interest group could "win" if it could convince one member-state to defend its position in the Council of Ministers. Now, member-states must form coalitions to block proposals; so too, must interest groups. Even then, interest groups cannot rest easy. With the loss of the national veto, and with the wider acceptance of new bargaining

norms, member-states can no longer necessarily uphold agreements reached with national-level interest groups.

## **6. The Interest Group Response**

EC-wide interest groups have existed since the foundation of the European Coal and Steel Community (ECSC) in 1952. While some appeared in response to the direct allocation of policy-making authority to the Community, others appeared in anticipation of an increase of such authority.<sup>15</sup> From 1958 to 1966, the most important interest groups in Brussels were the "federations of federations," large, EC-level confederations of peak national associations, such as UNICE (employers' association), or the ETUC (trade unions), or, at the sectoral level, the FEBIs and the EICs.

The first phase of interest group development lasted until the mid-1960s. After 1966, interest groups refocused their attention on the national level, to the detriment of their EC-level representatives. From 1966 to 1986, interest groups sought to influence EC policy by lobbying at the national level, through national political and administrative structures. Two factors contributed to this refocusing: the Luxembourg Compromise and membership dissatisfaction with the functioning of their EC-level interest groups. The Luxembourg Compromise meant that interest groups only needed to persuade their own, or another friendly government, to side with them in vetoing a measure in the Council of Ministers. Both the Luxembourg Compromise and the ensuing slowdown of integration limited both the expansion of the Community's policy-making authority and the need for all but a few interest groups to pay attention to developments in Brussels.

A persistent inability to reconcile divergent national interests and to arrive at nothing but lowest-common-denominator solutions also engendered membership dissatisfaction with these EC-level groups. As a result, members did not provide sufficient funds, so these groups could barely fulfill the minimal tasks assigned to them. In the early 1970s, several national-level peak and sectoral associations, and several MNCs, were thus prompted to set up shop in Brussels.

These developments were not unwelcome by the Commission. Its need for information, and for negotiating partners with influence at the national level, both with the governments of the member-states and with the members of nationally-based interest groups, could only be satisfied if it widened its circle of interlocutors. The years 1966-1985 thus saw the evolution of a pattern of interest intermediation in which several different actors represented socioeconomic interests: relatively weak EC-level horizontal and sectoral federations,<sup>16</sup> national horizontal and sectoral interest associations with their own offices in Brussels, consultants and lobbyists, and representatives of individual firms. Most interest groups relied on national channels to pursue their goals in Brussels.

Adoption of the SEA in 1987 brought fundamental changes in its wake, changes accelerated with the ratification of the TEU. The expansion of policy-making authority and of qualified majority voting

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15. See, *inter alia*, Haas 1968; Kirchner and Schwaiger 1981; Platzer 1984 and 1991; Kohler-Koch 1992; and Gorges 1996.

16. At the national level, horizontal peak organizations usually combine territorially- and sectorally-based interest associations, and aggregate interests on a class basis. Negotiations between peak organizations (usually business interest associations (BIAs) and the trade unions) concern major socio-economic issues which affect the interests of these classes as a whole.

significantly altered the environment in which interest groups operate. This shift in the institutional context has forced interest groups to devise a response and to evolve themselves. It has forced all interested parties - interest groups, individual firms, lobbyists, representatives of specific causes, such as the environment or consumers - to reconsider their strategies for influencing policy-making in the EU. While the national level remains an important focus for interest group activity, the EU has loomed ever larger in interest group calculations.<sup>17</sup> More and more EU-level interest groups seek access to Union policy-makers. Many national-level peak industry and employer federations now have offices in Brussels. Some national-level sectoral organizations, large European, US, and Japanese corporations, multinational companies, regional and local authorities, such as several German *Länder*, French and Spanish regions and British local authorities, non-governmental organizations and non-EU-governments have a strong presence in Brussels as well.

These changes have also prompted many EU-level interest groups to reorganize themselves. Some have sought, and received, greater resources from their members. Others have modified internal voting rules to speed up decision-making and make it possible to avoid lowest-common-denominator decisions. Business associations have opened up membership to individual firms and given them more power in the organizations, while labor organizations have sought closer ties between the ETUC and EICs in Brussels, and between both the ETUC and the EICs and their members.<sup>18</sup>

## **7. US-Style Lobbying in the European Union**

Even before the adoption of the SEA, the realization that their interests were not being served by the so-called "mastodons," i.e., the peak and sectoral EC-level and national-level associations, several like-minded large firms and groups of firms attempted to lobby EU policy-makers on their own, and established permanent organizations in Brussels. Perhaps the most prominent of these is the European Round Table of Industrialists (ERT), which was founded in 1983 by executives from several large European MNCs. The clout of its members and their access to key national and European decision-makers makes the Roundtable an important representative of business interests. In fact, the ERT takes much of the credit for placing the 1992 project on the Community's agenda, and for focusing attention on educational and infrastructural policies that should, in its view, accompany the completion of the internal market.<sup>19</sup> Another example of such an association is the Association des Grandes Entreprises Françaises (AGREF), which the executives of several large French companies established because of their dissatisfaction with the French employers' association, the Conseil National du Patronat Français (CNPFF). According to AGREF, the CNPFF tended to represent the interests of small and medium-sized companies, and faced all the usual problems of "federations of federations."

Since the mid-1980s, what many observers call a "US" or "Anglo-Saxon" style of lobbying has become a popular method for individual firms, groups of firms, or representatives of individual causes to get their position across to EU institutions. Not only representatives of traditional interest groups, but also these

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17. See Grant 1993 for an argument about the continuing importance of national channels.

18. See Gorges 1996, Chapters 3, 4, and 7.

19. See ERT 1989a and 1989b.

“new” lobbyists, find themselves under growing pressure to respond to deepening integration.<sup>20</sup> Consultants, law offices, and accounting firms have sprung up like mushrooms after a rainstorm, and individual firms are opening offices in Brussels at an increasing rate.

A firm seeking to defend its interests in Brussels may, then, pursue several strategies. It may, for example, be a member of several EU-level groups, either directly or indirectly, as a member of national-level peak and sectoral federations that are themselves members of Brussels-based groups. A French chemical company, for example, may be a member of the (national-level) Union des Industries Chimiques, which is a member of the CNPF at the national level, and of CEFIC, the European Chemical Industry Council, in Brussels. If it is large enough, the firm could also be a member of the Association des Grandes Entreprises Françaises (AGREF), and of the European Roundtable of Industrialists (ERT). It could hire a lobbyist or consulting firm, or could well have an office of its own in Brussels, too. Firms will follow both the national and European routes in the pursuit of their goals, simultaneously making use of established interest groups and acting alone on their own behalf.

The change in voting rules since 1987 has also forced those seeking to influence EU policy-making to modify their strategies. Paradoxically, the importance of aggregating interests and of coalition-building has only increased at the same time as the necessity of looking out for one's own interests. In the past, a corporate influence seeker might have used a EU-level organization to contribute to policy-making in Brussels and then shifted its attention to the national level when the Council was making a final decision. It no longer suffices, however, to have one's own government, or another friendly government, on one's side when the Council of Ministers votes. A firm would be foolish to rely solely on the national route. A German business newspaper described the changed conditions thus:

Whoever wants to defend his interests (in Brussels) can no longer achieve very much alone. Compared to national-level lobbying, European lobbying is gaining more and more importance. But this task can be carried out successfully only when timely alliances with the interest groups of other EC-member states are entered into.<sup>21</sup>

The Commission, seeking to deepen integration, sometimes forges these alliances. At other times, interest groups may take the lead. In still other cases, it may be the representatives of interested firms.

What does the increase in corporate lobbying mean for policy-making in the EU? The Commission itself does not necessarily frown upon lobbying. It needs information, and agreement from the interested parties that could stymie its efforts in the Council of Ministers. It would prefer to consult with EU-level interest groups, but consultation with national groups and individual firms remains necessary.

There is, however, a limit to the Commission's ability to grant audiences to lobbyists or representatives of interest groups. The Commission is a small bureaucracy, with approximately 3,500 senior administrators

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20. The number of guides to lobbying has also proliferated. Even the French Ministry of European Affairs under Edith Cresson got into the act, publishing a series of guides for French business. See Ministry of European Affairs, no date.

21. "Vertreter der deutschen Wirtschaft bleiben bei der Arbeit der EG-Kommission am Ball (Representatives of the German economy stay on the ball with the work of the EC Commission)," *Handelsblatt*, 6 September 1989. Translation mine.



responsible for drafting policies.<sup>22</sup> Thus, it prefers to negotiate with those who have to some degree already aggregated the positions of several groups or firms, provided they represent some *collective* interest. Unless he/she shows otherwise, the lobbyist for a particular firm represents no one but that firm. From the Commission's point of view, this requires it to solicit the opinions of other concerned actors on its own, and opens it up to criticism that it is not impartial in policy-making.<sup>23</sup> Large firms, moreover, will not hesitate to go to the Commission anyway when dissatisfied with interest group decisions. This puts interest groups in a difficult position. Unable to aggregate interests effectively, they force the Commission to turn elsewhere, which then undermines their authority and the Commission's efforts to build more effective organizations.

Fortunately for the Commission, other problems usually associated with US-style lobbying (corruption, influence peddling, etc.) have been largely avoided, in part because the Commission (DG staff, *cabinet* officials, and the Commissioners themselves) does not need funds for reelection as elected US policy-makers often do. Those seeking to influence decision-making in the EU cannot threaten to withhold campaign contributions from Commission staff or Commissioners themselves. This puts the Commission in a more powerful position vis-à-vis the influence seeker than the typical US Representative or Senator.<sup>24</sup>

More seriously, concerns over the democratic deficit and democratic accountability have produced attempts to regulate lobbying of both the Commission and the EP.<sup>25</sup> Critics of lobbying raise three objections. First, more lobbying means more players and more time spent in sounding out interested parties. Loud and media-savvy lobbyists may politicize an issue to such an extent that no satisfactory solution can be found, making inaction seem preferable. Second, some critics complain that business unduly influences policy-making. This is to be expected, since the Community and EU have been, and remain for many, primarily economic undertakings with the principle task of promoting economic integration. Yet others go further and argue that the Commission is "infiltrated by business."<sup>26</sup> Do the critics have a point? Certainly, labor organizations, environmental groups, and consumer organizations often lack the *savoir faire* and technical capacity necessary to influence policy-making effectively. Trade unions are also at a disadvantage to the extent that policy-making revolves around technical issues requiring technical solutions; they tend to go to the Commission in search of information, not to provide it. Some trade unionists, however, take solace in the argument that labor can at least compete in the quality of contacts it maintains: Delors, a former trade union official himself, was known to be a sympathetic listener, as are certain Commissioners, members of *cabinets*, and staff of some DGs.<sup>27</sup> This seems to be a slim reed on which to rely if most policy-making centers on technical issues (especially given business' ties with other DGs), and the weakness of the trade unions and other non-business interest groups rightly alarms many observers (McLaughlin and Greenwood 1995).

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22.The figure is taken from Mazey and Richardson 1993a, 4.

23.Of course lobbyists for individual firms or causes make much of their successes; it is unlikely, however, that they would claim to be ineffective.

24.The problem of former Commission officials leaving public service to work for interest groups and consultants, however, troubles both participants in, and observers of, the policy-making process in the EU.

25.See McLaughlin and Greenwood 1995, Greenwood 1997, and van Oss 1997.

26.Personal interview, representative of labor organization.

27.Personal interviews.

Finally, critics with an eye towards greater accountability have complained about the lack of parliamentary oversight, about the elite nature of policy-making, and about the exclusion of the public from the circles of Commission staff, national bureaucrats, and representatives of interest groups and individual firms busily churning away in Brussels. They propose strengthening the power of the EP, but as lobbyists turn their sights to Strasbourg, many of the same problems bedeviling the US Congress could arise.

### 8. What Would Institutionalization of Interest Intermediation Look Like?

The foregoing discussion should highlight the existence of several patterns of interest intermediation in the EU. Indeed, one might argue that these patterns of interest intermediation *are* institutionalized. Usually, however, those who speak of institutionalizing interest intermediation in the EU expect that institutionalization means a *rationalization* of the process, namely, a clearly defined manner of consultation and elaboration of policy that all interested parties understand and in which all interested parties can participate. This could mean a real reduction in the number of interest groups and influence-seekers, or perhaps official recognition by EU institutions of those authorized to lobby. Rationalization could result in more transparency and, with it, better access for traditionally excluded groups. Is this a reasonable expectation?

Certain factors are cause for optimism. Given the number of groups seeking to influence policy, it is difficult to see how the Commission will not of necessity try to impose some order on the system. Concerned with democratic accountability and transparency, policy-makers in Brussels are under pressure to manage interest intermediation more effectively. The Commission's secretary-general has announced that the Commission services have already drawn up lists of trade, agricultural, industrial, and other professional associations "as a first tool in the search for increased understanding of special interest groups."<sup>28</sup> The Commission has also formulated a set of guidelines for managing the consultation process. Several lobbying firms themselves have issued a code of conduct designed to govern relationships with those organizations that lobby the Commission. The EP has also accepted this code of conduct and insists that anyone who wants to use its "easy access pass" must sign.<sup>29</sup> On the other hand, a recent survey of the DGs by the Commission "found no evidence of any 'problems' in the relationship between Commission officials and outside interests" (Greenwood 1997, 3). According to Greenwood, this indicates that the Commission is now more interested in ensuring transparency, rather than in regulating lobbying (Greenwood 1997, 3). Finally, interest groups in almost all sectors and at the macro- and meso levels have responded to the challenge of integration. The rules of the game are fairly well understood.

But what would an institutionalized or rationalized system of interest intermediation look like? The Commission has tried to promote the establishment of organizations to represent "public affairs practitioners." Two federations were founded, but have recently been discussing a merger.<sup>30</sup> Yet such an organization would be a federation of lobbyists; other federations presumably be excluded.

Finally, the basic problems of the Commission and interest groups make any wholesale rationalization of the system of interest intermediation unlikely. Two institutional variables in particular - the character of formal EU institutions, especially the Commission, and the EU's policy-making procedures - make the task

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28.CEC 1992.

29.van Oss 1997, 1.

30.van Oss 1997, 1.

of rationalization difficult. The Commission, again, is a small bureaucracy in search of information that must build consensus to support its proposals. Interest groups and other influence-seekers, especially those with the capacity to continue to play the game, will continue to attempt to influence policy, and use any means necessary, to do so. Perhaps the Commission will be able to create order in some sectors, depending on certain variables - the number of interest groups already present, their willingness to be "rationalized", the stakes involved - but, as has already been noted, fights to change existing institutions are always very bitter, as those who benefit from them will resist any attempt at rationalization. Will the Commission be willing to spend the political capital required to impose order, or will it hope that it can continue as is and modify the system of interest intermediation around the edges?

### 9. A Recent Example of Institutional Change: The Social Policy Protocol

As a result of the growing dissatisfaction with the so-called social dialogue,<sup>31</sup> the Commission and its allies in the trade unions and national governments began to press for an expansion of EU policy-making authority and the institutionalization of the role of the "social partners" in policy-making in preparation for the intergovernmental conference to be held in Maastricht at the end of 1991. The Commission asked the social partners to form an *ad hoc* working group on their role and to elaborate a proposal for amending the social dialogue provisions of the SEA (Article 118b). While the ETUC accepted the Commission's goals, UNICE rejected them at first. It proposed instead to strengthen the existing mechanisms of the social dialogue.

Finally, at its meeting in Brussels on 31 October 1991, the *ad hoc* social dialogue working group reached agreement on the Commission's proposals.<sup>32</sup> The Commission incorporated this agreement in its final proposals submitted to the European Council at Maastricht in December 1991.

One of the most hotly contested issues at the Maastricht summit was this proposal to expand EU social policy authority and incorporate the social dialogue provisions agreed to by the social partners and the Commission into the TEU. Unable to convince the United Kingdom to amend the social policy provisions of the Treaty of Rome directly, EU members, including the United Kingdom, signed a Protocol on Social Policy to append to the TEU. Within the Protocol is an Agreement on Social Policy, commonly called the "Social Chapter." The "Social Chapter" includes the October 1991 provisions for an increased role for the social partners, but it amends that agreement by introducing a provision requiring the Commission's endorsement of proposals agreed to by the social partners before they can be submitted to the Council.

The "Social Chapter" requires the Commission to consult employers and trade unions jointly before proposing social policy or industrial relations legislation, to establish whether the legislation is necessary or appropriate. If the social partners agree that a measure is necessary, the Commission will consult them

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31. Tripartite bargaining among the Commission, UNICE and the CEEP (the public employers' confederation), and the ETUC. See Gorges 1996, Chapter 6.

32. Within days, however, the CBI asked UNICE to clarify the agreement's terms, and announced several conditions that had to be met in order for it to be able to support the proposal. The CBI said that it would refuse to accept the results of EC-level negotiations as binding in national law should the social partners submit a vetted proposal to the Commission for legislative action. The deputy director-general of the CBI emphasized that his organization lacked the mandate to negotiate on behalf of its members and that any agreement requiring it to arrive at binding agreements would be opposed. See "CBI calls for clearer plan on EC law checks," *The Guardian*, 6 November 1991; "CBI may withdraw from European pact," *Financial Times*, 25 November 1991.

again on its content, and they will have an opportunity to provide their opinions or recommendations. During the second consultation, the social partners may decide to adopt a European-level collective agreement or other joint position on the topic concerned. The social partners will have nine months to reach agreement on a proposal, but this period may be extended. The Commission may use this alternative proposal as the basis for a new proposal, although it is not obliged to do so. The social partners may then either choose to implement the measure, with or without amendment, through national agreements according to local procedures and practices, or to request EU legislation. For measures falling under Article 118a,<sup>33</sup> and with the accord of the social partners, the Commission staff may forward the agreement to the College of Commissioners and Council of Ministers. The Council of Ministers will still approve any new laws. If the social partners decide to seek legislation, the measure may still be implemented nationally by collective agreement, provided business, the trade unions, and the member-states concur. The member-states will be obligated to guarantee that any agreement meets the required deadline and achieves the required results.

The fact that the social partners could agree on any changes to the SEA at all was surprising to most observers. In effect, industry accepted the concept of using EU-level collective agreements to develop social and labor market policy.<sup>34</sup> Why? First, employers want to guarantee that social measures do not appear on the agenda before the need for them has been established and their impact on business has been properly assessed.<sup>35</sup> The agreement gives business the opportunity to prevent or slow down action by providing both social partners the right to veto a Commission proposal. There is, after all, no obligation to reach agreement, nor any plan for what to do should the social partners fail to agree. One can only assume that the normal legislative process would be followed should the Commission insist on its proposal. Yet the Council of Ministers will know that the social partners could not strike a compromise, and will, business hopes, be reluctant to accept proposals that it does not support.

Second, business seems to have realized that the treaty on political union was likely to extend EU policy-making authority over social policy, and bring more social policy issues under qualified majority voting rules. Business believed that it stood a better chance of forestalling undesirable legislation by negotiating with the trade unions within the framework of the social dialogue. The secretary general of UNICE, Zygmunt Tyskiewicz, for example, admitted that most business would prefer not to involve itself in such bargaining, but he argued that "given that the Commission is coming out with harmful directives. . . . (w) welcome the chance to offer ourselves as an alternative to the legislator."<sup>36</sup>

Third, UNICE also hoped to promote the passage of general, vaguely-worded legislation at the expense of the kind of binding, detail-filled social legislation favored by some trade unionists, Commissioners, and

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33. Employment, the right to work and working conditions, social security, work-related accidents and illness, health and safety at work, the right to collective bargaining.

34. As of this writing two measures had been agreed to under the provisions of the "Social Chapter," one on European works councils and the other on parental leave. See Falkner 1996 and Lapeyre 1996 for details. Bargaining on a third subject, a Commission initiative on atypical work, began in June 1996.

35. "Business gives some ground on Euro-deals - but with riders," *Industrial Relations Europe*, November 1991.

36. "Union comeback," *The Economist*, 23 November 1991.

Commission staff.<sup>37</sup> Moreover, unlike the ETUC, UNICE did not see such agreements being compulsory, but rather acting as broad guidelines to be applied after negotiations at the local level. This would also work to industry's advantage: the more decentralized the negotiation, the less power the trade unions are likely to be able to muster.

The trade unions, on the other hand, believe that it will be more difficult for a member-state to block a proposal in the Council of Ministers once it has received the assent of the social partners. The ETUC saw the acceptance of EU-level bargaining on general matters as another step to securing EU-level sectoral and company bargaining.<sup>38</sup> Thus, the accord may be considered proof of a new sense of realism on the part of the trade unions, who acknowledged that the time was not yet ripe for the creation of EU industrial relations or collective bargaining law, and accepted decentralized, sectoral negotiations.

Another debate focuses on the actual import of the social dialogue provisions. The ETUC contends that they clear the way for EU-wide collective bargaining and make it more difficult for member-states to veto proposals that labor and management support. Yet the SPP may also allow employers to block new legislation should they obstruct agreement in negotiations with the trade unions to keep certain legislation *off* the agenda. In an exchange of letters in the *Financial Times* newspaper shortly after the agreement among the social partners was signed in October 1991, the secretaries general of UNICE and the ETUC traded arguments over its meaning.<sup>39</sup> Zygmunt Tyskiewicz, the secretary general of UNICE, argued for a narrow interpretation of the agreement, and said that in spite of impressions in the media, there was "no support for a side extension of collective bargaining over social and employment directives." UNICE sought to limit the potential of the EU to intervene in this area. Moreover, Tyskiewicz emphasized that UNICE did not support an extension of qualified majority voting in social matters. Emilio Gabaglio, the general secretary of the ETUC insisted, however, that every draft of the treaty on political union included such an extension, and insisted that the agreement reached between the social partners opened the door to flexible implementation at the local level. The protocol may actually promote national-level bargaining, as national-level trade unions and BIAs will be obliged to negotiate over modifications to a proposal to which the ETUC and UNICE had agreed in Brussels. The decentralization of collective bargaining implied in the agreement, however, may reduce the possibility for any effective collective action at the EU level. In sum, EU-level interest groups remain divided over the goals to be pursued and the rules under which negotiations will take place, and only negotiations over substantive issues will resolve this disagreement.

Given the past failures of EC-level tripartite bargaining,<sup>40</sup> a certain pessimism regarding the possibilities for the successful institutionalization of EU-level macro-corporatism would not be misplaced. Although the "Social Chapter" offers possibilities for institutionalizing EU-level tripartite bargaining, the EU does not possess the means to maintain traditional macro-corporatism; it lacks the mandate or capacity to deliver the typical neo-corporatist goods (anti-cyclical government spending, recognition of the trade unions as

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37. "Union comeback," *The Economist*, 23 November 1991.

38. "Business gives some ground on Euro-deals - but with riders," *Industrial Relations Europe*, November 1991.

39. Zygmunt Tyskiewicz, letter to the editor, "EC intervention in collective bargaining should be limited," *Financial Times*, 12 November 1991; and Emilio Gabaglio, letter to the editor, "A breakthrough in moves on EC social policy," *Financial Times*, 22 November 1991.

40. See Gorges 1996, Chapters 5 and 6.

legitimate partners in economic policy-making) in return for labor peace and wage restraint. Only in the TEU has the EU finally acquired some real macro-economic policy authority, but only for monetary, not fiscal, policy. Yet the monetary policy to which the EU has pledged itself is resolutely monetarist and anti-inflationary. Moreover, an independent central bank will control the money supply. Thus, there is little the Council or Commission can do to reward the social partners for any good behavior.

Yet proponents of stronger EU-level social policy, while disappointed with Britain's opt-out, laud the expansion of EU social policy authority, the extension of qualified majority rule to new social policy areas and the institutionalization of EU-level tripartism as major achievements. In the future, we can expect to see legislation processed more rapidly, since there will be less need to propitiate the United Kingdom. The extension of qualified majority voting could result in stronger social policy legislation for "Social Chapter" signatories, and for British MNCs on the continent. Britain will have no influence over social legislation it will eventually have to accept if it ever "opts in" in the future.<sup>41</sup> Qualified majority voting also promotes compromise by hard liners; an opponent of a proposal knows that a veto is meaningless and may seek to limit damages by agreeing to "least bad" alternatives rather than risk seeing "worse" possibilities become law.

The social dialogue provisions can be considered breakthroughs because they also establish a precise legal framework and procedures for negotiations among the social partners and ratify their role in EU policy-making. Under the terms of the Social Chapter, they will have a privileged position in the drafting and implementing of EU social legislation. They will, however, be challenged to respond to the new conditions these provisions create by devoting adequate resources to EU-level negotiations.

The importance of the Commission in institutionalizing the participation of interest groups in EU policy-making is evidenced by the inclusion of provisions in the "Social Chapter" guaranteeing the participation of the social partners in the elaboration of some EU social legislation. The Commission has attempted to sustain and expand the Union's political system by providing information to the social partners, establishing a forum for conflict resolution. All along, the Commission pushed for a reconsideration of the role of the social partners, and supported the original framework proposal to which the 11 "Social Chapter" signatories agreed. Jacques Delors and the Commissioner for Employment and Social Affairs, Vasso Papandreou played key roles in pushing the social dialogue and in encouraging employers and the trade unions to strike a bargain; it was their vision of a social Europe, and of the social partners' role in a post-1992 Europe, that served as a basis for an eventual agreement. The Commission has always played this role: It has promoted the participation of European-level peak organizations of labor and capital while retaining for itself the right of initiative and the right to accept or reject the results of macro-corporatist bargaining. As for the future, it will be up to the Commission to goad the social partners into participating in these negotiations in good faith.

One must ask, however, whether the social partners are organizationally capable of fulfilling the functions given to them by this accord. UNICE's own members dispute its mandate to negotiate with the ETUC, and neither association has developed the capacities - information distribution, rapid decision-making ability, binding authority for the EU-level organization - necessary to negotiate agreements at the European level that their members will then implement. The Commission is still faced with the challenge of consolidating EU-level organizations of labor and, especially, capital. UNICE and the CEEP, for example, are but two

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41. A clause in the TEU requires each member-state participating in the final phase of economic and monetary union to adopt all EU legislation, including social legislation. Tony Blair, the new prime minister, has promised to sign the Social Chapter. See "A Two-Speed Social Chapter (Un chapitre social à deux vitesses)," *Libération*, 12 December 1991.

of approximately twenty EU-level horizontal business associations. Coordination among these organizations is weak, and their members, many of which are more powerful than their EU-level representatives, often directly challenge their mandates. National-level trade unions, while represented for the most part by one confederation, the ETUC, have mustered neither the necessary organizational or financial resources nor the ideological unity to establish an effective negotiating partner at the EU level. The social dialogue provisions are thus particularly important for the ETUC, which has found new legitimacy in its role as labor's voice in tripartite negotiations. This may help it to consolidate its position and to convince national-level trade unions that the time has finally come to take the ETUC and European integration seriously. Perhaps the new stakes in Brussels will help make the affiliates of the social partners to understand the benefits of well-funded, authoritative EU-level organizations, as they did in the wake of the SEA.

The ultimate effect of these institutional changes - revised policy-making authority, rules, and procedures - will depend on several factors: the Commission's skill in promoting its goals and bringing EU-level interest groups on board, on the preferences of the member-states, and on the calculations of EU-level interest groups, based on their view of likely Commission and member-state actions. Unfortunately for interest groups, they may have to adjust to yet more changes in the institutional landscape at the conclusion of the IGC in 1997.

## 10. Interest Groups and European Integration

Interest groups play a prominent role in EU decision-making and have developed a pattern of close relations with the bureaucracy. More than this, interest group participation is without a doubt a necessary condition of Union policy-making. EC/EU officials have continually sought to structure this participation. From the beginning, these officials have encouraged the formation of Brussels-based peak associations, and have attempted to grant semi-exclusive recognition to these groups. The Commission has, however, recognized the necessity of establishing contact with nationally-based groups, especially as power shifted toward the Council of Ministers in the post-Luxembourg Compromise period (1966-1985).

Formally organized interest groups are, however, not the only parties who participate in policy-making. Early on, firms, in particular, saw a need to defend their interest through individual efforts in Brussels. The expansion of policy-making authority and the change in decision-making rules in the SEA and TEU have only prompted both traditional interest groups and representatives of more particularistic interests to step up their activities in Brussels.

Nevertheless, bargaining patterns are only weakly institutionalized. The EU's decision-making process, which seeks to build consensus among different national governments and different interests, obliges influence-seekers to operate on several levels, from the supranational to the regional, or even local, depending on the issue. This multiplies the number of targets and points of entry for interested parties. Those interests with the means to do so will devise and pursue the necessary strategies, at times defecting from established relationships to seek satisfactory outcomes.

Finally, one should not forget that interest groups attempt to aggregate interests that may not be compatible. Interest groups do not always succeed at striking compromises and at devising coherent positions to defend in policy-making.

From the analysis presented here, one might conclude that interest groups in the EU have always *responded* to institutional change, to the deepening or institutionalization of European integration, and have not directly contributed to it themselves. This conclusion would be incorrect. While it has been grand bargains among

member-states that have changed the rules of the game, interest groups have also become an important constituency for expanding the EU's policy-making authority. The trade unions, of course, have always sought to expand the EU's social policy-making powers. But business interests, too, are not always opposed to the standardization that accompanies the assertion of EU authority in particular domains. The existence of fifteen or more different sets of health and safety codes, industrial relations law, tax rules, and environmental legislation, *inter alia*, adds significantly to the cost of doing business. This is not to imply that the neo-functional prediction that loyalty to and expectations of EU-level interest groups have replaced loyalty to and expectations of national-level groups. Nevertheless, interest groups may not necessarily oppose, and may actively promote, an expansion of EU policy-making authority, especially if such an expansion will reduce the uncertainty of doing business. If not the prime movers behind integration, interest groups are at least more than passively acquiescent.

## 11. Conclusions and Directions for Future Research

The new institutionalist framework used here is an improvement upon previous approaches to interest intermediation in the EU because it provides a better explanation of observed patterns of interest intermediation. It directs our attention to the institutional features of the environment, to the varied responses of interest groups to that environment, to the variety of forms of interest intermediation in the EU. It also makes sense of the evolution of interest intermediation in the EU. The implications of new institutionalist theory for interest intermediation in the EU are clear: Five factors determine patterns of interest intermediation: the EU's policy-making authority, formal institutions and policy-making procedures, decision-making rules, and the ability of interest groups to overcome the challenges of diversity. Recognition of this variety means, however, that one cannot offer predictions about the future of interest intermediation, at least not in the way that the neo-functionalists did. The institutional variables can change, prompting interest groups to reassess their responses to integration.

While new institutionalist theories have provided fresh answers to important questions about the role of institutions in public life and in calculations of individual choice, much work remains. New institutionalist analyses of interest intermediation in the EU still need to answer several questions. How do changes in the institutional environment (the EU's policy-making authority, institutions, procedures), influence the interests, goals, and strategies of interest groups? How and why do policy outcomes change while institutions remain stable (See, for example, Pontusson 1995:123)? The advantage of the new institutionalist framework offered here is that it allows one to examine the impact of institutions, rather than simply assume that they matter, as is too often the case in the new institutionalist literature.

How might we study the impact of institutions? To answer this question requires us to engage in single or comparative case studies to generate hypotheses about interest intermediation in general, or to compare interest intermediation in either different policy domains within the EU or in the same policy domain(s) in other polities. Such comparisons could involve longitudinal studies - an analysis of the development of interest intermediation in one or more sectors over time - or cross-sectional analyses - an examination of the character of interest intermediation in one or more sectors at a given point in time. Mill's Method of Agreement or Indirect Method of Difference, Pzeworski and Teune's "most similar systems" or "most different systems" method, or George's method of structured, focused comparison, would allow one to construct methodologically rigorous comparisons and to answer these important questions about the future governance of the EU.<sup>42</sup>

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42. See Mill 1959, 253-256; Pzeworski and Teune 1970, Chapter 2; George 1979 and George and McKeown 1985.



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43. When a piece from an edited volume is cited, and it is the only piece from that volume, I include the full citation for the edited volume with the citation for the piece. If more than one piece from the volume is used, I cite the edited volume separately.

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