International Institutions as Decision-making Systems

Lessons from the European Union

Paper prepared for the
8th Biennial International Conference of the European Studies Association,
Nashville, Tennessee, 27 - 29 March 2003

Thomas Gehring
University of Bamberg/Germany
Feldkirchenstr. 21
D-96045 Bamberg
email: Thomas.Gehring@sowi.uni-bamberg.de
1. Introduction

The European Union is usually conceived of as a supranational decision-making system that unique in the world. It is difficult to understand the operation of this institution without a careful analysis of its internal operations, its multifaceted decision procedures and the interaction of numerous actors of different type, i.e. supranational, national, subnational, non-governmental, from which the 'acquis communautaire' emerges. In this institutional perspective, factors that matter are not least located inside the institution. Unfortunately, it is frequently claimed that the Union is not usefully comparable to any other institution. Empirically, the uniqueness of the Union is difficult to deny, but this is true also for the Catholic Church, the political system of the United States, or the UN-Security Council. However, the 'sui generis' assumption leads to theoretical difficulties discussed under the heading of the 'n = 1'-problem (Caporaso/Keeler 1995). It precludes the generation of theoretically founded insights about the operation and consequences of the European Union. In addition, it suggests that little can be learned for the understanding of international institutions from studying the EU.

In stark contrast to the EU, international institutions are, since about 1980, almost throughout understood as international regimes. A regime is a set of norms agreed upon by states to realize and maintain cooperation (Krasner 1982, Levy et al. 1995). This approach to international institutions which is based on economic neo-institutionalism has laid the foundation for a dramatic increase in knowledge about the opportunities and limits of institutionalized international governance in the past years. However, institutions play only a secondary role in this perspective. They are conceptualized as passive normative systems that are frequently somehow related to the bureaucracies of international organizations (Barnett/Finnemore 1999). Their design and shape is largely explained by extra-institutional factors, in particular by the constellation of interests of relevant actors prevailing in a given issue-area. In this perspective, what matters is generally located outside the institution. Unfortunately, it does not tell us how an institution is able to gain influence (Martin/Simmons 1998). Moreover, a theoretically well-founded conception of international organizations, which are usually attributed the status of actors capable of acting separately from their member states and of generating their own interests, is largely missing. After more than twenty years of regime analysis, organizations are considered to be under-theorized (Abbott/Snidal 1998).

The present paper examines how our understanding of the operation and effects of international institutions can be improved if the European Union is conceived of as highly complex international institution established and maintained by the member states to govern an area of international relations. Hence, the Union is considered as a laboratory for the study of the operation and effects of international institutions. While bringing together the two fields of the analysis of international institutions and the analysis of the European Union, it abandons certain core assumptions that have been upheld in the past, but contribute to precluding new insights. On the one hand, it sacrifices the 'sui generis' assumption of the Union and attempts to generalize insights from European integration for the study of international institutions. On an abstract level of inquiry, the Union can easily be conceived of as a governance institution established by the member states:...
the international system. In this regard, it does not differ dramatically from regular international institutions like the UN or the World Trade Organization. What differs is the ways in which institutional arrangements organize decision processes and assign opportunities for the participation to actors of various type. On the other hand, international institutions are not considered as stylized inactive international regimes, but as decision-making systems like the Union. This does not mean that preferences of actors, and in particular those of the big member states, do not matter any more. Instead, it implies, that the transposition of preferences into social norms and obligations is trivial. If international institutions are theoretically conceived of as selection apparatuses that organize decision-making processes as well as the participation and sources of influence of actors, it becomes immediately obvious that real world international institutions always comprise some sort of organized decision making processes and that these processes differ considerably. It may thus be assumed that institutionally organized decision processes intervene as separate explanatory factors between actors externally given preferences and output.

The paper makes three claims:

First, the theoretical conception as well as the theoretically guided empirical analysis of international institutions can learn from integration theory that governance institutions established by states in the international system are not mere inactive sets of norms but active organizational arrangements that help produce these norms. Modern neofunctionalism which has so far focused exclusively on the European Union may thus be fruitfully exported to international relations theory - much like the regime theory of international relations was fruitfully, although with limited explanatory value, imported into integration theory in the form of liberal intergovernmentalism.

Second, the separate influence of international institutions on the behaviour of actors is grasped theoretically and empirically only if we conceive of them as decision-making systems that have the core function of making socially agreed choices between at least two viable options and of transposing these choices into collectively binding decisions. This decision-making function is obvious in the day-to-day operation of the Union, but it is also present in virtually all real-world international institutions - from a temporarily established negotiation system to a permanent and highly developed organization. The theory of international institutions can learn from the European Union that, and how, decision-making matters.

Third, the principal source of institutional influence is the organization of decision processes. It is conventional wisdom that the European Union receives its power from its impressive supranational decision-making apparatus that affects institutional choices. Choices of international institutions will also be affected by their particular decision-making arrangements. Hence, a theory of international institutions based on institutionalized interaction among the actors involved will focus on the effects of different decision-making arrangements. Moreover, it will highlight that norm-moulding interaction is not limited to the member states, although these actors establish and maintain the institution at large. Organizational rules may assign participation rights and resources to
influence institutional decision processes also selectively to non-state actors like scientists, interest groups and even individuals, and in practice they frequently do so.

The paper is organized in two main sections. Section 2 examines theoretical conceptions of the European Union and international institutions. It finds both the external and the internal perspective on institutions present in integration theory, while the latter is virtually missing in international relations theory. Section 3 outlines an interaction-oriented conception of international institutions that transfers the internal perspective of modern neo-functionalism to these institutions.

2. Theoretical Conceptions of International Regimes, International Organizations and the European Union

Institutions are not immediately accessible to scientific observation. Their existence, as well as their nature and their influence, may only be inferred from modifications of behaviour of relevant actors compared to expected behaviour in the absence of institutions. Accordingly, our understanding of institutions, including international and European institutions, is heavily affected by our theoretical conception of these entities.

In this section, I will examine two conceptions of international and European institutions that are diametrically opposed to each other. In the theories of European integration, they appear in the forms of intergovernmentalism and neo-functionalism. The former employs an external perspective on the Union in which intra-institutional interaction plays hardly any role. The latter adopts an internal perspective and examines intra-institutional arrangements of decision-making and their impact on output (1). In international relations theory, the external perspective on international institutions is present in the form of regime analysis and dominates the conception of institutions. In contrast, the internal perspective is almost totally missing. This is illustrated by the virtual absence of a theoretically well-founded theory of international organizations (2). In regard to the internal perspective on governance institutions, the theory of international institutions can learn from integration theory (3).

2.1. Two Institutional Concepts of the European Union: The External and the Internal Perspectives

Theories of European integration treat the Union either as a basically inert institutional constraint of the behaviour of relevant actors, predominantly the member states, or as a source of influence that creates its own effects and exerts influence on outcomes in addition to external sources. While all theories of European integration are in one way or another based on assumptions about the nature of the European Union and its role within the integration process, they have conceptualized this institution in very different ways. These conceptions follow one of two diametrically opposed analytical pathways. They either employ an external or an internal perspective on the EU. The present subsection focuses exclusively on this aspect and is in no way intended to give a full account of current integration theories, nor to appraise their merits and analytical value.
Liberal intergovernmentalism (Moravcsik 1991, 1993, 1998) constitutes a modern example of approaches that employ the external perspective on the European Union (also Keohane/Hoffman 1991). In a nutshell, it argues that the process of European integration is best understood as a series of 'grand bargains' with subsequent consolidation periods. Outcomes of the grand bargains are the result of bargaining processes among the member states, in particular the big ones, which follow their preferences. State preferences are basically determined by the presence and relevance of interest groups at the sub-state level (Moravcsik 1993, 1998: 18-66). Liberal intergovernmentalism borrows heavily from the analysis of international regimes (see section 2.2.). It examines the grand bargains of the European integration process in ways that are also suitable for, and widely employed in, the analysis of major deals establishing or developing international institutions, for example the Uruguay-Round results of the world trade system or the Kyoto-Protocol of the world climate change regime. Its theory of state preference formation adds a sub-state layer of analysis to mainstream regime analysis and may explain why a given state pursues particular interests and not others. However, it does not reach beyond intergovernmental bargaining because sub-state influence is exclusively channeled through state preferences and interest groups do not appear as actors at the European level.

Within the sparse institutional conception on which liberal intergovernmentalism is based, the institutional structure of the European Union plays hardly any role as an explanatory variable. Liberal intergovernmentalism is predominantly concerned with explaining why the member states agreed on a particular grand bargain under the circumstances given at that time, and why they could not agree on more ambitious proposals that were also on the negotiation table. Its main explanatory (independent) variable is the constellation of preferences of the member states, in particular the bigger ones. The particularities of the intergovernmental bargaining process itself do usually not serve as an explanatory variable. Collective decision-making becomes a mere transmission belt that transposes an externally existing constellation of interests into a collective decision without separate influence on the result. Nor does the existing institution in which a new grand bargain is embedded affect the analysis. Preferences are treated as externally given, so that learning (Haas 1990) or feedback loops and path-dependence (Pierson 1996) escape from the analysis. Implementation assumed, the obligations and commitments enshrined in a new grand bargain will henceforth constrain and shape the behaviour of member states. The institution established by a grand bargain does not really 'do' anything. It consists basically of a set of norms. Like an international regime, it 'intervenes' between state preferences and their behaviour (Krasner 1982). If the member states agree on the establishment of the single market or on a common currency, for example, they adopt appropriately institutionalized obligations (e.g. to refrain from establishing new trade restrictions or to sacrifice their national currencies), and will behave accordingly.

Liberal intergovernmentalism assigns only a limited and auxiliary role and hardly any decision-making autonomy to the impressive decision-making apparatus of the European Union. Moravcsik (1998: 73-77) argues that the member states agree on decision-making arrangements, for example the establishment of the Commission and the Court
of Justice as well as qualified majority voting in the Council, predominantly in order to increase the credibility of their commitments. It is well-known from analyses of domestic institutions (Ostrom 1992) and international regimes that cooperative commitments are frequently undermined by voluntary or involuntary non-implementation and incentives to take a free ride (Axelrod/Keohane 1985, Chayes/Chayes 1993). Within the EU, member states attempt to minimize this risk by increasingly giving up their traditional veto power, either by 'pooling their sovereignty' through majority voting (Keohane/Hoffmann 1991) or by delegating decision-making competencies to supranational actors. What matters here is that the member states are believed not only to control the institutional decision of the decision-making apparatus (this would be difficult to contest empirically). On the basis of 'principal-agent'-theory, they are also, implicitly or explicitly, assumed to be capable of controlling the actual decision-making activities of these actors. Hence, intergovernmentalists argued that the European Court of Justice did not enjoy much autonomy because it had always to take into account the interest of the bigger member states (Garrett 1992, but see Garrett et al. 1998). Moreover, the unique European comitology committee system has been explained as a device of the member states to control the executive activities of the Commission and regulatory agencies (Pollack 1996, 1997, Egan 1998). In short, even in the area of secondary (supranational) decision-making, the autonomy of the institution to influence the content of collectively binding decisions is believed to be severely limited, if not entirely absent. It would be difficult to deny that the institution does not matter when it exploits its delegated decision-making competencies and produces collectively binding decisions that might also have been produced directly by the member states. However, what the institution 'does' is widely believed to be of little relevance for the explanation of outcomes. Instead, explanation relies, once again, on state preferences and constellations of interests, i.e. variables that are external to the institution.

The external perspective on the European Union employed by a liberal intergovernmental inquiry provides powerful tools for the explanation of existing institutional arrangements. It will be most powerful in areas in which states are particularly strong in comparison to other types of actor present in the Union. And it will be most powerful in areas in which states enjoy a wide freedom of choice that is comparatively unrestricted by constraints of the existing institution. It does therefore not come as a surprise that the intergovernmentalist analysis concentrates on explaining the few grand bargains of European integration located at the top level of the European 'constitutional hierarchy'. If the member states control the negotiation process, outcomes will largely (although not entirely, see sub-section 3.1.) be determined by their preferences and the ensuing constellation of interests (Scharpf 1999). This includes decisions about the design of institutionalized procedures for secondary decision-making.

The explanatory power of liberal intergovernmentalism seems to be significantly lower in areas in which decision-making is also attended by supranational, sub-national and non-state actors and in which the institution exerts tangible influence on the choice of intra-institutional behaviour of the participating actors. In particular, it does not account for the consequences of the multifaceted supranational decision system of the Union. For these areas, even careful intergovernmental analyses reach more differentiated re-
results. While the member states, especially the big ones, may attempt to influence decisions of the European Court of Justice as is theoretically assumed, straightforward control, let alone dominance, will not always be possible (Garrett et al. 1998). Whereas the emergence of the comitology system may be explained by the intention of the member states to control executive decision-making by the Commission, a closer look may reveal that control capabilities are limited (Pollack 1996). And while the Commission may not be particularly influential in treaty negotiations (Moravcik 1999), it operates as a conditional agenda setter in legislative processes (Pollack 1997).

In conceiving of the European Union as an international governance institution established and maintained by the member states, liberal intergovernmentalism circumvents the $n = 1$ problem. It draws attention to a number of important institutional properties of the Union which render this institution comparable to (other) international governance institutions. While we do not know whether the EU will ever develop into a true federal state - and while it is not even clear any more whether this would be desirable -, it is historically evident that the institution emerged from intergovernmental cooperation like any (other) international governance institution. The founding treaties of 1950 (European Community on Coal and Steel) and 1956 (European Economic Community and European Atomic Energy Community) constituted regular intergovernmental arrangements by which the member states committed themselves to observing comparatively detailed norms that were intended to induce them to behave cooperatively. The institutional task was the restriction of behaviour necessary to bring about commonly accepted goals, predominantly market integration. This basic function of the established institution is almost identical with the function of international governance institutions, say, the world trade regime or an international environmental regime. Subsequent grand bargains, for example the Single European Act and the Maastricht Treaties, constitute supplementary cooperative arrangements concluded by the member states and ratified according to domestic procedures. By these arrangements, the institution develops - much as the world trade system develops by the agreements of the various world trade rounds (Hoekman/Kostecki 1995). The intergovernmental nature of the Union will also become apparent, if the rules of membership are explored. Despite the immediate or indirect presence of a multitude of supranational, sub-state and non-state actors in EU decision processes and despite arrangements such as a European citizenship, membership is open exclusively to states, and it is controlled by the current member states. Membership rules of the Union closely resemble those of any regular international governance institution. Hence, it is not empirically unjustified to emphasize the (still) intergovernmental nature of the institutional core of the European Union.

While the European Union was established by the member states to fulfil functions that are, by and large, very similar to the functions of international governance institutions, it differs dramatically in respect of the ways in which collectively agreed goals are brought about. This is illustrated by a brief comparison of the institutional arrangements of European single market policy with those of the World trade Organization (WTO) which is also directed at removing trade restrictions (Jackson 1999, Hoekman/Kostecki 1995) may for this purpose be considered as the 'bottom line' of traditional international cooperation. Whereas policy-making in the WTO is based on lengthy world trade
rounds of intergovernmental negotiations, EU single market policy relied on the Single Market Programme prepared by the Commission (COM 85/310). Within the Single European Act, an amendment to the EC-Treaty, the member states merely endorsed the project of a 'Europe without borders' and introduced a new decision procedure including qualified majority voting in the Council and participation of the European Parliament (Lodge 1986, 1994, Ehlermann 1987). All other decisions, in particular several hundreds of harmonization measures, were delegated to the legislative decision-making. Moreover, according to the 'New Approach' introduced at the same time, legislation is frequently limited to providing for the minimum requirements for the protection of health and safety as well as the procedures for the adoption of delegated decisions (Pelkmans 1987, Schmidt v. Sydow 1988: 94-98). Detailed regulation of particular products is then referred to yet other procedures, some of them involving European standardization organizations. Had the single market programme been realized according to the procedures established within GATT/WTO, its around 300 measures would have been prepared in the course of inter-governmental negotiations and put together to a comprehensive package to be adopted in a single encompassing decision. Accordingly, the EEA requires only a few pages in the EU-Official Journal, while the agreements of the Marrakech Round filled several thousand pages of treaty language and legally binding annexes.

The brief comparison of EU single market policy and WTO regulation demonstrates that the European Union is characterized by its far-reaching transfer of substantive decisions to lower levels of decision-making (Keohane/ Hoffmann 1991). In the terms of the 'principal-agent'-perspective (Kiewiet/McCubbins 1991, Pollack 1997), the bulk of decision-making power does not remain within the state-dominated intergovernmental bargaining system. It is delegated to the Union. Delegation allows more effective regulatory decision-making which the member states deemed necessary to realize the single market, but the member states incur agency losses, i.e. some control of the decision process (Epstein/O'Halloran 1999).

Other approaches to European integration (frequently implicitly) draw attention to the fact that the external perspective employed by liberal intergovernmentalism is not well suited for the systematic exploration of the consequences of the unique decision-making apparatus of the Union. Rational institutionalists have emphasized that the complicated multi-staged decision-making procedures of the Union (predominantly its communityized 'first pillar') link the Commission, the Council and the European Parliament in ways that are difficult to understand intuitively (Garrett/Tsebelis 1996, 2001). In recent years, there has been a debate on the precise role of the European Parliament in various modern decision procedures (Tsebelis 1994, Hubschmidt/Moser 1997). Inspired by legal research, neo-functionalists have explored how the unique European legal system has emerged primarily driven by decisions of the European Court of Justice (Weiler 1991, Sweet Stone/Brunet 1998). Of particular interest was the exploration of the sources as well as the degree of autonomy of the Court from immediate state intervention (Burley/ Mattli 1993, Alter 2000). Numerous contributions have examined how the Commission influences European decisions, be it based on its exclusive right to initiate legislation or on its relations with interest groups. Several authors have focused on the effects of the
multitude of so-called comitology-committees, in which representatives of the member states and the Commission together adopt legally binding decisions, and which characterizes European governance (Joerges 2000, Pedler/Schaefer 1996). Finally, it has been drawn attention to the fact that the decision-making processes of the Union virtually create new actors, such as regions, that did not exist before (Marks 1992).

Authors exploring these topics usually conceptualize the European Union as a complex decision-making system that assigns distinct opportunities for action to various actors of different type (e.g. supranational actors, state bureaucracies, regions, interest groups, and even individuals), thereby, gradually deprives the member states of their ability to control European decision-making. This approach to European integration is much more multifaceted and, therefore, conceptually less well developed than liberal intergovernmentalism. Frequently, the discussion focuses on the relative importance of different types of actors: How strong are the member states in light of the presence of non-state actors (Marks et al. 1996) ? Can they still be treated as unitary actors, or do they have to be disaggregated into sub-state entities, such as functional bureaucracies, courts, regions, that pursue their own goals (Sweet Stone/Sandholz 1997) ? It is also burdened with the claim that the European Union is an institution 'sui generis' which is not compatible with anything else - neither international governance institutions nor federal states.

For the argument of the present paper it is import to realize that both rational institutionalism and modern neofunctionalism conceptualize institutions, often more implicitly than explicitly, in a completely different way than does liberal intergovernmentalism. They employ an essentially "internal" perspective on European integration in which the institution itself acquires the role of the predominant explanatory variable. In their analyses, institutionalized decision processes are not at all trivial, nor are the collective decisions adopted divorced from the institution within which they are embedded. Procedures play an important role. They organize decision-making and assign opportunities for action to different actors. Even more, they constitute these entities as European actors by assigning them opportunities for action. For example, European citizens and local courts, which do usually not enjoy the status of actors within intergovernmental governance institutions, become relevant European actors through the preliminary rulings procedure of the EU-legal system (Alter/Meunier-Aitsahalia 1994). While all these actors will have their externally generated interests, situation-specific preferences are shaped by the existing institution. Hence, the process of European integration is not explained by preferences of key actors any more, but by the community-specific organization of institutionalized decision processes. If this is true, European decisions cannot readily be understood, nor explained or anticipated, without profound knowledge about the precise organization of decision processes.

In the internal perspective, the institution constitutes an organization within which relevant state and non-state actors interact with each other in order to produce collectively binding decisions. If the process of decision-making is not trivialized, as it is in the external perspective employed by liberal intergovernmentalism, interaction among the actors involved in a decision process becomes an important subject of inquiry. This in-
teraction will not only be shaped by institutional rules, it will take place within the institution. Hence, the institution acquires a completely new function, namely organizing decision processes and bringing about collectively binding decisions. Institutions of this sort are not merely inert, i.e. non-active, systems of norms that intervene between actors' preferences and their behaviour. They 'do' something actively, namely producing decisions. Moreover, as organizations they are not mere passive objects at the disposal of relevant actors, they acquire the ability to develop themselves.

I do not enter here the continued turf battles between 'rationalists' and 'constructivists' or between intergouvernementalists and neofunctionalists in which either side argues that the opposite one is wrong and should be abandoned. Instead, I argue that the external and the internal perspectives on the European Union are largely complementary to each other. They highlight different components of the 'elephant' (Puchala 1972), and may both be fruitfully employed in empirical analyses. They also highlight completely different conceptions of governance institutions both of which may be relevant for empirical analysis. Apparently, the external perspective will be most important if the process of making decisions is trivial and not significantly affected by the existence of institutions. The relevance of the internal perspective will increase with growing complexity and difficulty of decision making as well as with the importance of institutional influence on the decision situation within which the participating actors interact.

2.2. International Institutions: The Dominance of the External Perspective and the Almost Complete Absence of the Internal Perspective

In this sub-section, I will argue that the dominating conception of international governance institutions is far more limited than that of the European Union. If international governance institutions fulfill functions for their members that are broadly similar to those of the European Union, one might expect, at a very general level, quite similar empirical phenomena to occur that would suggest a similar two-sided conception of international institutions. Instead, the analysis is dominated by the external perspective which treats international institutions as 'regimes'. In contrast, the internal perspective which would focus on intra-institutional, or organizational, aspects is developing only very recently.

Since more than twenty years, the conception of international regimes provides the cornerstone of the analysis of international institutions (Keohane 1984, Rittberger 1993). A regime in this understanding is an analytically constructed entity based on the empirical model of international treaties. According to a 'consensus definition', it shall consist of "sets of principles, norms, rules, and decision-making procedures around which actors' expectations in a given area of international relations converge" (Krasner 1982). This conception focuses entirely on sets of social norms of different levels of abstractness and different function. With some modifications relating to role expectations (Young 1994, Levy et al. 1995), it is still widely used today. It is important to clearly distinguish the analytical construction of an international regime from actually existing institutions that are also called 'regimes', for example the world trade regime or the regime for the
protection of the ozone layer. The former is a stylization generated by the scientific observer that does not exist without him, while the latter are empirically observable entities that have an existence of their own.

Regime analysis became a fruitful analytical approach primarily due to its close connection to the analytical apparatus of economic institutional analysis, especially the theories of games and collective action. It employed an entirely external perspective on international institutions and trivialized intra-institutional decision processes. These analytical tools enabled systematic and theoretically oriented research into the conditions, as well as the limits, of 'cooperation under anarchy' (Keohane 1984, Oye 1985, Axelrod/Keohane 1985). They also provided insights into the difficulties of maintaining cooperation, once it had been established, in light of incentives for 'free riding'. It is probably not overstated to claim that the powerful analytical instruments of collective action theory grossly assisted the dramatic increase in knowledge about governance beyond the nation-state (Zürn 1998), especially about the conditions of cooperation and the basic functions of institutions to stabilize cooperative arrangements. At the same time, non-cooperative game theory trivialized collective decision processes. Theoretical reasoning was largely driven by well-defined and, therefore, grossly under-complex decision situations in which usually two actors choose between only two strategies. The existence, or non-existence, as well as the particular form of a cooperative arrangement was thus almost exclusively explained by the order of preferences of the participating actors, as well as the ensuing structure of the situation. The dynamics of international negotiations and more sophisticated forms of intra-institutional decision-making were beyond the theoretical interest of regime analysis, although it mattered in empirically oriented investigations (Young 1994, Victor et al. 1998). Remarkably, it has been deplored by proponents of this approach after twenty years of regime analysis that it is not yet clear how precisely international institutions become capable of exerting influence on the behaviour of actors (Martin/Simmons 1998).

The limitation of regime analysis to a strictly external perspective was intentional. The regime concept was invented to replace the traditional analysis of the governing capacity of big international organizations like the United Nations or the World Health Organization (Kratochwil/Ruggie 1985, Rochester 1986) which was far more descriptive and less well-founded theoretically. The expectations held by practitioners and scientific observers alike about the ability of organizations to improve the international system had been grossly disappointed. The governing capacity of international organizations differed dramatically. Moreover, the same organization proved to be more successful in some areas than in others. Required was an analytically more reliable conception of institutional arrangements that were actually capable of modifying the behaviour of these states based on the desire of these states to cooperate - irrespective of whether these arrangements were related to an existing international organization or not.

As an immediate consequence of the theoretically driven ambition to assign rising importance to international regimes, predominantly the substantive parts of cooperative arrangements, the role of international organizations was reduced to assisting the establishment and maintenance of international regimes. Based on the insights of non-
cooperative game theory, organizations are largely believed to gain particular relevance in ensuring that the obligations entered into by the cooperating states are respected even if incentives exist to take a free ride (Martin 1993). These functions are best fulfilled by delegation of competencies to third actors. A regime as a basically inert and inactive set of norms cannot readily fulfil this function, whereas a organization is an actor on its own right. If the organization acquires the ability to act independently from its member states, the secretariat comes to mind. It is not only the most visible component of an organization, but frequently the only one that may act without immediate interference by the member states. Unfortunately from a conceptual point of view, international organizations are up to the present frequently conflated with the bureaucracies of their secretariats especially by theoretically interested authors (Young 1986: 108, Keohane 1989: 3-4, Barnett/Pinnemore 1999, see however, Rittberger 1995). There is nothing wrong with using a secretariat as an indicator for the existence of an organization (Scharpf 1997), but others employ other indicators, for example their status as a subject of international law. Theoretically, these conceptions of international organizations are of limited assistance.

The clear conceptual distinction between international regimes and international organizations was theoretically founded in economic neo-institutionalism (transaction cost economy). Douglass North (1990: 3-5), for example, distinguishes between 'institutions' like a constitution or competition law, and 'organizations' like firms which are "groups of individuals bound by some common purpose to achieve objectives" (ibid.: 5). Analytically constructed international regimes are designed to fall into the former category. They are entirely dependent on the will of their member states and do not have the ability to develop separately from these states. They may nevertheless gain influence by constraining the behaviour of relevant addressees. International organizations (or their secretariats) fall into the latter category. They have a will of their own and acquire the ability to act on their own. Therefore, they can develop independently of their member states (Keohane 1989: 3-5).

Unfortunately, the clear conceptual distinction between regimes and organizations is empirically untenable. Robert Keohane who pursued this path of theoretical analysis furthest, observes that "the distinction among ... regimes, and organizations is not as clear in actuality as this stylization might seem to imply. ... Perhaps without exception, international organizations are embedded within international regimes: much of what they do is to monitor, manage and modify the operation of regimes (Keohane 1989: 5). And vice versa: international regimes emerge from international organizations (Kohler-Koch 1989. 5). Keohane (1989: 5) concludes: "Organization and regime may be distinguishable analytically, but in practice they are almost coterminous".

It is increasingly recognized that the organizational component of international institutions matters for international governance. However, the decision processes of international institutions will usually be far less complex than those of the European Union. If the Union with its complex and non-trivial decision processes may be usefully designed, as a decision-making apparatus (sub-section 2.1.), this might be different for international institutions. Despite this difference, theoretically guided institutional analysis has
tacitly turned to the analysis of intra-institutional decision-making in recent years. The focus shifted from non-cooperative to cooperative game theory and principal-agent theory is increasingly employed. Both approaches problematize intra-institutional decision-making even in regular international institutions. Simple negotiation (bargaining) processes have turned out to be far less trivial than assumed. They depend on information (Morrow 1994) and mutual expectations (Schneider/Cedermann 1994), as well as on the preparedness of negotiators to risk failure (Fearon 1998). Moreover, actors may also argue, i.e. give reasons, rather than bargain (Gehring 1996, Risse 2000). Under the heading of the 'rational design of international institutions', others emphasize the merits, as well as the problems, of different decision making procedures to be chosen between (Koremenos et al. 2001). Empirically, a considerable amount of research has been invested in systems of implementation review within international environmental regimes (Young 1989, Victor et al. 1998), in the new dispute settlement mechanisms of the WTO (Hoekman/Kostecki 1995), and in the highly problematic choice situation of the International Whaling Commission (Caron 1995). In short decision processes of international governance institutions appear to be not at all trivial, as soon as one looks at them carefully.

In spite of increasing demand for a theoretically well-founded internal perspective on international governance institutions, international organizations as well as the organizational components of international regimes are still grossly under-theorized (Abbott/Snidal 1998). To date, we do not really know how to conceptualize international organizations and how to deal with the organizational components of empirically existing international regimes, like the global climate regime. The external view still dominating the general conception of international institutions locates interaction among actors exclusively outside the institution proper and turns it into a non-active set of norms. Empirically, it is quite obvious that actors - besides states increasingly also non-state actors - also interact within the framework of these institutions. In this regard, actually existing international institutions closely resemble the European Union, although the precise institutional arrangements are differ quite significantly.

2.3. Consequences

The deficiency of the analytical conception of international governance institution has contributed to proliferating the assumption that the European Union constitutes an entity 'sui generis' which is not readily comparable to international institutions. An elaborate version of the external perspective focusing on international regimes as sets of norms has been successfully transferred to integration research in the form of liberal intergovernmentalism (section 2.1.). In spite of its inherent weaknesses and its limited explanatory value, it proves the general fruitfulness of the transfer of analytical approaches to international institutions to integration research. The 'sui generis' claim is made almost exclusively by neofunctionalist authors who generally emphasize the internal perspective on the European Union. It has become clear now that they do not find a suitable corollary at the international level, as long a international institutions are dominantly
conceptualized as non-active sets of norms. However, this cannot be attributed to the
general non-comparability of international institutions with the European Union. It is in
the first place a reflection of the absence of an internal perspective on international in-
stitutions.

The analysis of international governance institutions can benefit from an internal per-
spective on international institutions which borrows from the internal perspective on the
European Union especially as developed by modern neofunctionalism. The European
Union is then used as a laboratory of institutional development highlighting sources of
institutional influence that are clearly visible in the EU-context, but exist also within
international institutions. The neofunctionalist, as well as the rational institutionalist,
research program is based on the implicit assumption that institutions affect regulatory
outcomes, not only the behaviour of addressees. Related is the working hypothesis that
collectively binding decisions cannot readily be predicted exclusively from extra-
institutionally existing constellations of preferences.

An internal perspective on international governance institutions ought to conceptualize
these institutions as decision-making systems which organize interaction among actors
of various sort and assign them opportunities for action. The general function of these
institutions would be the production of collectively binding decisions. This conception
of international institutions would have to abandon the misleading distinction between
international regimes, understood as inert sets of norms, and international organizations,
reduced to their secretariats. It would have to take serious the fact that these components
of an international institution are usually inseparably interrelated and mutually constitutive. After all, the European Union (considered as an organization) were largely mean-
ingless without its acquis communautaire (the totality of valid European material and
procedural norms), and vice versa: the impressive acquis could hardly be sustained
without the organizational component of the Union.

3. **International Institutions as Decision-making Systems**

In this section, I sketch an internal perspective on international governance institutions
that focuses on interaction rather than inactive sets of norms. In its centre is the institu-
tionalized process of norm-moulding including norm-stabilization and norm-change.
This conception is complementary to the regime perspective and located at a sufficiently
high level of generality to encompass all deliberately established international institu-
tions from a simple negotiation system to a highly complex international organization
and the European Union. Therefore, the analysis of particular decision-making proce-
dures is beyond the scope of the present paper.
3.1. Establishing an Institutional-specific Sphere of Communicative Interaction

The key characteristic of deliberately established international institutions is their institution-specific sphere of interaction. It is a necessary condition for their employment as instruments for active governance and it clearly distinguishes deliberately established international institutions from spontaneously emerging ones. While the distinction between spontaneous and deliberately established ('negotiated') international institutions has been introduced into the discussion of international regimes (Young 1982) rather early, its impact for the conception of institutions has never been fully grasped. It is misleading, if not totally wrong, to assume that deliberately established institutions reflect cooperation, while spontaneously emerging ones exist in non-cooperative, or Pareto-inferior, situations. While Axelrod (1984) has demonstrated that cooperation may emerge purely from non-communicative interaction, many deliberately established international institutions do not succeed in bringing about cooperation. Likewise, both spontaneous and deliberately established institutions are related to social norms, i.e. stabilized normative expectations, of the actors involved, and social norms as collective entities always arise from interaction among actors. However, spontaneous institutions, such as sovereignty or the balance of powers, emerging from existing patterns of interaction are merely capable of stabilizing these patterns. In contrast, deliberately established institutions are designed. They may be used to actively influence (improve) undesired patterns of interaction. Only the latter type of institutions is relevant within the governance debate (Keohane 1993) as well as for this paper.

Interaction within international institutions, be they regimes (like the regime on climate change) or organizations (like the UN) or the European Union, is always exclusively based upon communication (Kratochwil/ Ruggie 1986) strictly divorced from the extra-institutional sphere. Actors submit, endorse, reject or vote on a proposal, they introduce or discuss relevant information, or they instigate court proceedings. To be sure, in doing so they will usually attempt to pursue their own extra-institutional interests, so that the intra-institutional communication process is not completely divorced from the outside world. However, outside interests are only present in the intra-institutional communication process in as far as they are actively communicated. Interests and aspects that are not communicated remain unrecognized. Moreover, communicative action within an institution and action outside its confines do not have to be consistent. Frequently, they must differ to ensure successful governance. Consider a situation in which countries fight an undesired war and simultaneously enter truce negotiations. They might continue to fight on the battle field in order not to be overrun by their enemies, while discussing options for a mutually acceptable truce or post-war order inside the institution. If they confined themselves to reproducing their outside interaction within the conference room, negotiations would immediately break down.

The essential function of deliberately established international institutions is the making of collectively binding decisions about social norms that indicate commonly expected behaviour (Coleman 1974, Vanberg 1982). Spontaneous institutions do not have to be collectively decided upon because they evolve from interaction like the price on a market. Selection is made implicitly by the practice of the actors involved, and there are no
two options to actively choose between. In institutionalized communication processes this is different. One would not need a negotiation round or a more complex institutional decision process if there were only a single option available. Contingency, i.e. the availability of at least two options that are neither necessary nor impossible, is fundamental to the operation of international institutions. Hence, prior to the cooperation problem is the problem of choice (Gehring 2000), and international institutions are devices that enable the participating actors to adopt the necessary decisions collectively.

The establishment of an institutionalized sphere of communication causes an enormous increase of options to choose between. Defining a manageable and promising negotiation space requires a number of preliminary selections related to the relevant group of actors, the subject area to be dealt with and initial decision rules. First, the group of relevant actors has to be defined. In the outside world; this group is delimited by practice and resources. Only those states disposing of effective and relevant weapons can take place in an arms race, or in interaction to stop the latter. And only those controlling sufficient pollution capacity matter for climate change. In contrast, an almost unlimited number of actors, big and small, state and non-state alike, can negotiate and decide about options to end an arms race or to stabilize the global climate. Likewise, a subject area has to be defined upon which negotiations will focus. The subjects of spontaneously emerging institutions are usually limited and clear-cut because non-communicative signals are difficult to direct otherwise and the evolution of common normative expectations is improbable. In contrast, issues in international negotiations may easily be linked to other issues. However, meaningful collective decisions can only start if not all possible sorts of actors discuss all possibly relevant issues at the same time. The delimitation of the boundaries of an institution is an answer to the complexity of the world (Luhmann 1984, 2000).

The boundaries delimitating the communication space of a deliberately established international institution have an impact on the institutional decision process, although they are created and would not exist in the absence of the institution. All international institutions govern only a part of the social relations at large, frequently reflected in a formal or informal mandate or pre-decision. Concentration on some aspects of the outside world inevitably excludes other aspects however important they may be. An institution develops its own distinct perspective on the world. It is thus not surprising that the world trade regime largely ignores environmental or human rights concerns, whereas regimes governing these areas hardly recognize trade concerns. The boundaries of international institutions as to actors and issues are contingent. They could always have been drawn differently, and they may be changed by collective decisions, e.g. through admittance of new members or the expansion of the agenda. And yet, they have an impact on the institutional decision process because they immediately affect the situation-specific preferences of the participating actors (see Downs et al. 1998). In negotiation analysis, it is well-known that adding or subtracting issues or parties changes the constellation of interests prevailing in the negotiation forum (Sebenius 1983, 1991).

The impact of the definition of an institution’s boundaries on the constellation of interest within the negotiation forum explains at least two empirically observable phenomena
which have not been recognized in the theoretical literature on international regimes, namely prenegotiations and forum shopping. The actors of the international systems, in the first place states, are aware of the fact that institutional boundaries matter for opportunities to pursue ones interest successfully within a negotiation process and they endeavour to influence the negotiation space according to their needs. Important international negotiations are, therefore, almost always preceded by intense battles on the precise mandate (subject area) as well as, occasionally, on the group of participants (Gross Stein 1989). The recent conclusion of the world trade conference in Doha was praised as a great success, although it did not constitute the end of a new world trade round, but merely its beginning. Before the mammoth law of the sea negotiations began in 1973, UN-member states had negotiated for about six years on the mandate that was gradually expanded from deep sea-bed mining to all sorts of maritime issues. And the Conference on Security and Co-operation on Europe (CSCE), having started in 1973, was preceded by several years of informal, later formal talks about the subject area (e.g. whether to include human rights as a topic) as well as the membership (whether to admit the US and Canada to the pan-European conference). If the institutional setting is more firmly established by the existence of relevant international organizations, political actors can still engage in forum shopping. When climate change became a topic on the international agenda, the developing countries succeeded in accommodating it with the UN-General Assembly, where it could be related to the topic of development, rather than with the UN-Environment Programme (UNEP), where it would have been treated as an exclusively environmental issue (Oberthur/Ott 1999). And the Nordic countries made several attempts to establish cooperation on acid rain, first bilaterally with the United Kingdom, then among the Western countries within OECD, then among the European and North American countries within the CSCE framework, and even globally within UNEP (Gehring 1994). Only one of these attempts proved to be successful and led to the creation of the Convention on Long-range Transboundary Air Pollution.

3.2. The Starting Point: Negotiation Systems

3.2.1. The Making of Decisions by International Negotiations

International negotiations are the least ambitious form of collective decision-making. They are resorted to unless, or until, the participating actors agree on a more sophisticated institutional arrangement. Therefore, they are almost ubiquitous in international relations as well as in European governance and in other social settings. They form the bottom line of institution-building. Negotiations are increasingly addressed in the literature on international institutions (Young 1989, Morrow 1994, Fearon 1998).

For the actors involved, international negotiations perform two tasks at the same time that are not always easily compatible with each other. On the one hand, the participants use negotiations to identify, or expand, opportunities for mutually beneficial cooperation. In this regard, they have common interests. On the other hand, they must distribute the cooperation gains among themselves, and in this regard, they have competing inter-
ests (Scharpf 1992). This twin task creates the "negotiators' dilemma" (Lax/Sebenius 1986) and renders negotiations cumbersome and time-consuming. Even occasional failure of European summit negotiations has been explained along these lines (Schneider/Cederman 1994). It is important to realize that real-world negotiations are usually not directed at identifying the one best or only possible solution, but to choose among a frequently large - number of possible options. Note that a car deal, i.e. a situation of a comparatively low degree of complexity, may usually be concluded by a variety of different agreements (prices) 'along the Pareto frontier' (Krasner 1991). Hence, the situation is once again contingent and requires selection. The solution eventually agreed upon is itself contingent, i.e. it could have been a different one. Therefore, it is difficult predict the precise outcome of a negotiation process even though any of the solutions available may beexplained ex post by the interests of those involved.

Within a negotiation, actors may ideally employ different modes of interaction, namely bargaining and arguing, which are related to different external validity criteria (Gehring 1996, 2002a). If they are aware of their preferences, they will attempt to influence the negotiation outcome as far as possible a desired direction. They will rely on threats and promises, in particular on the threat to reject the cooperative arrangement (exit, Hirschman 1970). The credibility of the exist-threat depends on the availability of attractive alternatives to cooperation (Elster 1989: 152-185). Bargaining of this sort is based on fixed, albeit institutionally influenced, preferences and leads to a balance of interests (compromise). If actors are not aware of all facts relevant for the determination of their preferences, negotiations may also be influenced by submitting validity claims and giving convincing reasons (Risse 2000). Upon an exchange of reasonable arguments, negotiations may acquire the nature of a Habermasian discourse which will lead to common understanding rather than compromise if agreement is reached. Real-world negotiations will frequently be made up of a mixture of these two modes of interaction (Holzinger 2001). The conditions under which real-world actors of the international system can meaningfully resort to arguing cannot be addressed in this paper. May it suffice here to observe that arguing may be useful under clearly identifiable circumstances even for rational utility maximizers (Vanberg/Buchanan 1989, Gehring 2002b).

The making of a collective decision by negotiations is a process during which shared expectations are gradually developed, rather than a timeless event. Social norms as well as cognitive insights are then mere reflections of this process. Bargaining is made up of a reciprocal submission and rejection of offers during which the participants gradually move toward common agreement. Thereby, they successively agree on the exclusion of ever more options that have been viable originally, and simultaneously develop shared expectation on how a commonly acceptable agreement would look like. A bargaining process will end with a 'decision', when the last choice is made and all options but one are excluded. Likewise, a discourse will lead the participants to scrutinize and exclude argument after argument until eventually only one, i.e. the most convincing, validity claim is left. If we want to learn why a group of actors accepts certain social norms or cognitive insights as valid, we must examine the process by which these actors shape their cognitive or normative expectations.
To conclude, a negotiation process is a fairly complex interaction process during which a group of actors makes collective choices which could hypothetically also be made differently. The process will exert the more influence on outcomes the more solutions exist that could possibly agreed upon. Hence, complexity and contingency make decision processes relevant as independent (explanatory) variables. Their importance will diminish in situations characterized by certainty and the absence of choice, as illustrated by game theoretic standard situations with dominant strategies.

3.2.2. The Negotiation System is the Minimum International Institution

If the claim is taken seriously to develop an interaction-based conception of international institutions that covers the particularly well developed European Union as well as negotiation systems as the simplest form of an international institution, we must generalize from specific forms of coordination (the particularities of European decision processes here and horizontal negotiations there) and ask what an international institution generally 'does'. This should be done at a sufficiently high level of abstraction to cover all deliberately established international governance institutions. Whereas it is obvious that the European Union 'does' something, this is far less clear for a simple negotiation system. In this regard, a negotiation system constitutes a 'hard case' for a interaction-oriented conception of international institutions. At closer inspection, it is far from obvious what precisely the European Union or a well developed international organization do (see Abbott/Snidal 1998), and the analysis of a negotiation system may more easily generate basic insights.

This sub-section investigates the functions performed by a negotiation systems for the actors when a negotiation process occurs, rather than how the actors perceive a negotiation process and act within it. While negotiations were examined from the actors' perspective in the preceding sub-section, the perspective of the institution will be adopted now. Then, do international institutions acquire an existence of their own that can readily be distinguished from the action on which they are based? Once again, this is quite obvious for complex international organizations or the European Union, while it less intuitive for negotiation systems. Even for these minimum types of an institution, it is less mysterious than it may seem at first glance. Consider Giddens' theory of structuration which claims that actors (or action) and structure are mutually constitutive. Actors interact and thereby produce structures (institutions) which affect these same actors in turn (Giddens 1984). Institutions do not exist without the (collective) interaction from which they emerged and by which they are stabilized, but they could not gain influence on actors, if they did not acquire an existence of their own which is beyond the reach of the actors individually.

Examined from an internal perspective focusing on interaction, every international institution constitutes a selection apparatus that produces collectively accepted choice between at least two available options. This is the general insight of the modern theory of social system which applies from society at large to formal organizations (like firms) and loose conversation situations (Luhmann 1984, 2000, Willke 1996, Gehring 2002a).
If there is nothing to select, an institution cannot render any service and it cannot gain influence on the behaviour of the addressees of its decisions. Decision-making is to be understood in a broad sense. It can apply, among others, to the choice of social norms, of truth between competing validity claims, of sanctions, or of the assignment of money or technical assistance, if relevant. As will become clear instantly, it does not apply to the individual choice of an addressee to comply or not, or how else to respond to an institutional decision.

In order to fulfil its selection function, an international institution must observe its environment as to relevant aspects. Observation is one of two core operations of an institution. It is obvious that an institution could not produce meaningful steering signals if it did not observe its environment as to aspects that are relevant for its decisions. It is equally obvious that a negotiation system does not have the ability to actively look into its environment. At closer inspection, this turns out to be true also for more complex international institutions and the European Union. For observation, a negotiation system depends on the negotiating interaction of the participating actors. If they interact in the mode of bargaining, they introduce information about their interests and the externally existing constellation of interests into the negotiation system. If they interact also in the mode of arguing, they introduce in addition information about the conditions under which negotiations take place (e.g. about the severity of the problem of climate change or the human rights situation in a given country) or, occasionally, perceptions of the legitimacy of certain proposals. Hence, a negotiation system is capable of developing its own image of the situation that exists outside of its own boundaries. This image is always selective and never reflects the encompassing complexity of the outside world. The institutional ability to observe its environment is entirely based on the action of the actors involved. Aspects do not exist for the institution, unless they are communicated. And yet, the institutional perspective is different from that of any one of the actors involved because it is the result of the interaction among these actors.

A second operation necessary for the performance of its selection function is the processing of information according to institutionalized procedures. An institution provides formal and informal criteria that help appraise and choose among options. These criteria emerge from interaction among actors. They reflect expectations shared among the participating actors. If actors engage in a bargaining process, in which threats and promises count, well-reasoned arguments will be filtered out as irrelevant 'noise'. If actors argue, threats and promises will have no effects on the discourse. Moreover, actors excluding option after option in a bargaining process or argument after argument in a discourse gradually generate more stringent shared expectations as to the final choice. The same argument or proposal that mattered at an early stage because it had an impact on a discourse or bargaining process may be irrelevant noise if introduced at a later stage because it does not influence the collective decision process any more. Hence, institutional selection criteria change continuously during a negotiation as do the shared expectations of the participants.

The operations of observation and information processing constitute two sides of the same coin. An institution does not seriously observe its environment unless it takes in
information that matters for its selection process. All other signals that may be communicated by the actors involved are filtered out as irrelevant noise. Communication uttered by a participant will only constitute a relevant information if it can be introduced into the decision process in a meaningful way. Note that this is important for the appraisal of the increasingly broad attendance of non-governmental organizations in international negotiations as well as the presence of interest groups in the European Union. The question is whether they find appropriate inlets allowing them to feed information into the system that is relevant because it affects the institutional decision process significantly. And vice versa: the institutional selection process is fueled by relevant communications that make a difference within this process. A negotiation process automatically ceases to exist unless the participants continuously feed in new meaningful information.

The institution can do hardly more than observing its environment and processing information in order to choose among available options and assist the development of expectations shared among the actors involved. In doing so, it creates steering signals, that may make a difference for the addressees when making choices about their own behaviour because they clarify what is collectively expected in a situation that was ambiguous and confusing before. Everything else occurs outside the boundaries of the institution. This is particularly true for the question of whether the addressees comply with, or ignore, the institutional signals, and whether compliance generates the desired cooperation gains. If negotiation systems or more complex international institutions are permanently established, they may also observe compliance activities and react to these observations by adopting new decisions.

The selection function as well as the basic operations of observation and information processing are common to all international institutions. A simple negotiation system may perform these operations and is, therefore, appropriately considered as a full-fledged international institution, although at a minimum level of intra-institutional complexity.

3.3. Complex International Institutions

More complex international governance institutions as well as the European Union fulfil the same selection function, while their basic operations of observation and information processing do not fully rely on intergovernmental negotiations. It is the core characteristic of more complex decision-making systems that the whole workload of decisions related to a cooperation project is not discharged by a single undifferentiated negotiation process any more. Instead, it is dealt with under several, occasionally many, different procedures that may involve, beside the member states, actors of different type. These actors might introduce their own perspectives and interests into the decision process, even if they do not enjoy formal decision-making power. Moreover, decision processes are embedded within an established institution and are affected by its restrictions. These modifications of intra-institutional operations may be expected to affect outcomes.
If an intergovernmental negotiation is accompanied by a scientific or expert committee to which the truth-seeking discussion of particular cognitive aspects relevant to the negotiations is assigned, the negotiation system develops a sub-system specialized on the observation of these aspects within its environment. Complex international and European negotiations frequently assign particular issues to specialized advisory committees, e.g. the definition of quality standards for drinking water (Gehring 1999). The step has two immediate consequences. On the one hand, it relieves the main body from discussing intricate issues which are ill-understood by policy-makers. Thereby, the main body automatically specializes on the other issues that are pending, e.g. those related to preferences. On the other hand, the specialized committee provides a sheltered space in which interest-based bargaining is frequently, although not throughout, superceded by discursive arguing precisely because the committee concentrates on a clearly delimited part of the entire workload. It can afford to ignore many issues related to the whole cooperation project because they are dealt with elsewhere. Frequently, scientific or expert advisory committees are attended by non-state actors, either exclusively or in addition to state representatives. If a committee reaches agreement, it will be difficult to ignore the result in the main negotiations, so that the main body operates more well-informed than to be expected otherwise. This will tend to reinforce negotiation positions that are in conformity with the findings, and undermine those that are not (ibid.). Thus, the members of the climate change regime could not agree on advisory committees similar to those of the regime for the protection of the ozone layer precisely because these arrangements had become so powerful in the latter (Oberthür/Ott 1999).

Specialized negotiation groups modify the decision-making pattern of a negotiation process in a different way. International negotiations addressing comprehensive issue-areas will usually not deal with all subjects alike in one and the same body. Regularly, decision-making is assigned to various specialized negotiation groups as well as a steering apparatus that issues mandates and appraises results. This has, again, two important consequences. Every single group specializes on some issues and can afford to ignore others because they are dealt with elsewhere. States as well as non-state actors, if attending, will tend to be represented by their experts in the relevant fields so that agreement will tend to be shaped by professional consensus in addition to state-interests (similarly Joerges/Neyer 1997). The main body acquires the additional function to integrate the sector-specific results into a whole that is acceptable to the member states. It might reject results reached by the negotiation groups, but this would require the preparedness of the main body to enter itself into protracted negotiations of detail and to jeopardize the gains expected from delegation. Hence, negotiations adjusting sector-specific results will tend to be kept at a minimum (Scharpf 1997). This will reduce the probability of large-scale package deals and increase the probability of problem-adequate solutions based on expert consensus.

Differentiation of negotiation processes may be expected to have an impact on the outcome of collective decision processes even in cases in which the final agreement is adopted by the member states at the end of the decision process as a comprehensive package. Differentiated negotiation systems acquire the ability to observe their environment more effectively through their specialized subsystems and can deal more ef-
fectively with complex, and complicated, issues. And they do so without ignoring the comprehensive set of issues dealt with in the negotiations. However, this advantage does not come without a price. Every sub-system operates according to its own rules which differ from those of a hypothetical undifferentiated negotiation process on the same set of issues. And the integration of sector-specific results follows yet other rules. The distributive consequences of an outcome of a differentiated negotiation process will, within the limits of general acceptability by the member states, only by chance be identical to that of an undifferentiated negotiation process.

Another form of differentiation in permanently established institutions is sequential decision-making rather than the adoption of a single comprehensive package. Only in rare cases is a multilateral negotiation process terminated upon adoption of a package of decisions. This will be appropriate only in areas in which further decisions are not desired, nor expected – like some border treaties. Most international institutions as well as the EU govern issue-areas that develop rapidly, like those addressing economic, environmental or technological subjects. In some others, like human rights, implementation is difficult. In these issue-areas, matters cannot be regulated once and for all. Institutions with a permanently established decision-making apparatus follow the model of an 'incomplete contract' (Williamson 1987) and allow their members to adjust, modify or expand their regulation at any appropriate time. Differentiation of a decision process over time has important consequences for governance. First, these institutions acquire the ability to observe compliance activities and react to these observations by adopting new decisions, which may, for example, modify existing norms, envisage assistance to non-complying countries, or design sanctioning measures. At the very least, observing compliance is done through reporting obligations and regular negotiations. Frequently, institutions comprise bodies like compliance mechanisms which are specialized on this task, while in other cases it is assigned to the secretariats of international institutions (Victor et al. 1998). If they dispose of a permanently established decision-making apparatus, international institutions may create a cybernetic cycle in which they respond to the responses of their own decisions (von Foerster 1992). Second, all decision processes, even if entirely limited to intergovernmental negotiations, take place in a heavily institutionalized environment. Earlier decisions frame the situation and change pay-offs of stake-holders so that developments become path-dependent. Path-dependence (Pierson 1996) implies that contingent institutional decisions are based on previous decisions that are themselves contingent (i.e. that could have been made differently). As a rule, it reinforces positions that cling to the status quo, while undermining positions that advocate change (Scharpf 1985). Hence, it is difficult to imagine that the present distribution of the permanent seats in the UN-Security Council or the awkward European agricultural policy would be agreed upon today by the states involved. They are accepted only because they are enshrined in the tight frameworks of established institutions that protect the status quo.

Finally, the members of many international institutions, as well as of the EU, sacrifice their privilege to adopt all decisions by consensus. If the whole set of regulations by which a complex international institution governs an issue-area is composed of numerous decisions of comparatively little scope, a member state will continue to support the
institution as long as the gains of membership outweigh its costs. As long as this condition is fulfilled, a single decision may well overstep the Pareto-limit. These institutions combine the two basic forms of differentiation discussed so far. First, decision making is always sequenced with the consequence that the regulation governing an issue-area is not agreed upon as a comprehensive package by the members at any point in time. In particular, decisions about the institutional design of secondary decision processes, e.g. procedures, competencies, and frequently also substantive aspects, are made by the members in the first step. It is these 'constitutional' decisions (Coleman 1990) that empower and newly establish sub-systems that subsequently produce secondary decisions. Second, subsequent decisions are assigned to sub-systems that operate in a more tightly institutionalized setting. Even if procedural modifications are limited to introducing majority voting by the member states, opportunities for bargaining will be limited by mandates and substantive conditions. If decision-making power is assigned to more independent and specialized sub-systems, new, and more focused, criteria are introduced into the decision process.

If institutional decisions are adopted by a majority against the will of some members, or by a body enjoying formal or informal independence, they cannot be attributed to the members as a whole any more and the institution acquires the status of an actor in its own right. It develops the capacity to act vis-à-vis its members separately from its members. Its action consists of the adoption of institutional decisions intended to affect behaviour of relevant actors, usually in the first place the member states, in its environment. This is the threshold which an international organization will have to meet.

More complex international institutions operate differently from simple (not differentiated) negotiation systems and thereby affect outcomes differently. They assign power in the form of voting rights or formal and informal opportunities for participation in, and influence on, decision processes to members states and non-state actors alike. The intra-institutional power of member states will not least depend on their voting power as is illustrated by the EU-Council of Ministers as well as the UN-Security Council. If an institution provides inlets for the perspectives and information of non-governmental organizations or if it assigns competencies to the secretariat, it will empower these actors in the process. In organizing the decision process, the institution will exert influence on the criteria according to which decisions are made. If procedures envisage an important role for scientific and technological deliberation, it will not only empower experts vis-à-vis policy-makers (Haas 1992). Outcomes will be also founded on a more firmly established cognitive basis shared by the member states. If the institution envisages systems of implementation review and dispute settlement mechanisms, legal criteria will gain importance and the decision process will become more legalized (Keohane et al. 2000). All these aspects have one common characteristic. They intervene between the constellation of interests and power existing outside the institution on the one hand and the institutional output in the form of substantive norms and obligations on the other hand. The more important this intervening factor is, the more relevant is the institution as an explanatory factor separate from actors and their interests.
The analysis of more international institutions suggests that intra-institutional complexity as well as the relevance of the institutional decision process on the output of substantive norms and obligations is gradual and selective. International institutions will be located on a continuum between simple negotiation systems on the one hand and highly complex decision-making systems like the European Union on the other. Moreover, an international institution may move along to more autonomous decision-making in one area of its activity while remaining close to the negotiation side in another. The World Trade Organization, for example, has moved along with its dispute settlement mechanisms in the area of collective appraisal of behaviour in light of valid obligations, while the making of these obligations takes place in fairly traditional intergovernmental negotiations.

It turns out that many international institutions that are usually not considered as international organizations have moved quite a long way from simple negotiations. As an example, consider the regime for the protection of the ozone layer with the Montreal Protocol in its centre (Gehring 1994). It is true that there have been a number of big deals among the member states in which the big states were of particular relevance (Benedick 1995). However, around these deals, a complex decision-making system has evolved. A scientific panel of experts appraises models of ozone depletion and investigates the impact of reduction scenarios on this development. A technological panel largely attended by industry examines technical options to substitute ozone depleting substances. These arrangements are generally assumed to have gained influence on the negotiations because they deprived the unwilling of the strategy to minimize risks and exaggerate costs. Moreover, the Montreal Protocol establishes a permanent decision-making apparatus within which the annual Meeting of Parties adopted numerous 'decisions' that enter into force without ratification (Ott 1991). While many of these decisions address rather technical interpretations of the treaty, some are strikingly far-reaching. In 1990, for example, the member states decided to establish a multi-million dollar Interim Multilateral Fund to assist developing countries' implementation of their obligations (Biermann 1997). The Protocol also assigns the power of deciding by a double majority about 'adjustments' of emission reduction figures to the Meeting of the Parties. These decisions are binding to all members and thus introduce a 'supranational' component into the making of substantive obligations of the regime. An implementation committee reviews the behaviour of states and processes complaints based on the regime obligations (Werksman 1998). The Multilateral Fund, meanwhile enshrined in the treaty, is supervised by an Executive Committee attended by an equal number of donor and receiver states and comprises a small secretariat located in Montreal. Finally, the regime disposes of its own secretariat accommodated with the UNEP-Headquarter in Nairobi but financed and supervised by the member states. The secretariat is, inter alia, empowered to launch the implementation review procedure and thus provides an inlet for non-governmental organizations to feed into the institutional decision process their information about implementation within, and by, the member states.

All these factors are ignored by an external perspective. I do not argue here that they are more relevant than outside interests of important member states to explain outcomes. This is an empirical questions to be investigated carefully. I merely suggest that the
ozone regime constitutes a fairly complex decision-making system that may exert influence on substantive decisions separate from outside factors.

4. Conclusion

The argument of this paper is based on two theoretical observations. On the one hand, integration theory demonstrates that the European Union can be conceived of only partly as a highly developed international regime. The complex decision-making system by which the supranational nature of the Union is shaped escapes an external perspective which draws on explanatory factors outside of the institution, mainly interests of relevant actors. For this reason, neofunctionalist analysis develops an internal perspective and treats the institution as a separate explanatory factor. On the other hand, the theoretical landscape of international relations is characterized by the absence of an adequate conception of international organizations and their operation despite the fact that organizations as well as the organizational components of real-world international regimes are empirically almost ubiquitous and of considerable relevance of international governance.

If international institutions are examined from the intra-institutional, or neofunctionalist, perspective, they turn out to be communicative systems within which actors of different types interact and produce collective decisions according to institutional rules and decision criteria. They are not merely inactive systems of norms influenced by external constellations of interest. This perspective draws attention to the fact that institutionally supported international governance does not begin only when sets of norms are established and start to influence the behaviour of addressees. Governance is the institutionally shaped process by which the actors involved generate and subsequently stabilize or modify shared normative expectations. If does not only depend on the extra-institutionally given conditions, but also on the ways in which the process of collective decision-making is institutionally organized. Every international institution that has been established to govern an area of international relations observes its own environment and processes relevant information according to its own rules in order to produce steering signals. This is true already for a simple negotiation system. The impact of an institutional decision process will increase with the capacity to closely observe specific aspects of environment and process them according to particularly well adapted decision criteria.

It is not claimed here that this conception of international institutions can explain everything. It intended to complement, not to replace the traditional regime perspective. However, it is claimed that it contributes to understanding the nature of international institutions as well as their functions and the sources of their influence on actors. Insights may be summarized in the following points.

First, we obtain a unitary theoretical apparatus for the analysis of all international institutions established by states for governance beyond the nation state. It demonstrates that we do not need separate 'medium range' theories for the analysis of international regimes, international organizations and the European Union. The empirical difficulty of
having to uphold the clear distinction between international regimes and organizations diminishes. Thus, we can better account for the fact that the new World Trade Organization does not dramatically, although in detail, differ from the old General Agreement on Tariffs and Trade or the climate change regime. Likewise, we do not have to choose whether we treat the European Union as an international regime or as an entity 'sui generis' which is not comparable to any other institution. This does not imply that there are no significant differences among international institutions, or between them and the Union - far from it. Abandoning categories that are of little analytical help opens the conceptual foundations for analysing the abundance of differences among actually existing international institutions of which every single one constitutes a particular and unique institutional arrangement. The European Union turns out to be a highly differentiated decision-making system which may be conceived of as a laboratory in which consequences of functionally differentiated decision-making may be particularly well observed which are also present, but less developed, in traditional international institutions.

Second, the internal perspective on international institutions remedies the peculiarly apolitical approach of the regime analysis to international governance which is also reflected in the intergovernmentalism of integration theory. It does not treat institutional decision processes as trivial machines or automates that transpose externally given constellations of interests into cooperative arrangements. Instead, it emphasizes the contingency of decision situations and the relevance of choosing among several contingent options. Attention is drawn to the relevance of the particular forms in which institutional decision processes are organized. International institutions may then be conceived of as devices for the exercise of authority beyond the nation state. They assign opportunities for intra-institutional action to actors of various type. One may then ask how authority is exercised by, respectively within, a particular institution, which type of actor dominates a particular decision process and what kind of resource is needed to affect the process effectively.

Third, it turns out that complex international institutions can be so designed as to deviate from producing social norms and obligations according to the distribution of bargaining power. If appropriately designed, their output may approach collective optima. Simple negotiation systems will usually be dominated by accommodation and balancing of preferences of the participating actors. In contrast, complex institutions are composed of a variety of specialized sub-systems which operate according to their own distinct decision criteria. Expert committees and specialized committees with or without formal decision-making power are frequently established in order to side-step pure bargaining and compromising. A specialized sub-system cannot fulfil its task unless it will enjoys a margin of discretion. A significant amount of the entire workload is, then, not processed according to the distribution of bargaining power. Complex institutions may be designed so as to prefer those options available (i.e. not unacceptable to their members) that are closest to collective optima.
Bibliography


Benedick, Richard Elliot 1995: Ozone Diplomacy. New Directions in Saving the Planet, Cambridge MA.


Coleman, James S. 1990: Foundations of Social Theory, Cambridge MA.


Haas, Ernst B. 1990: When Knowledge is Power. Three Models of Change in International Organizations, Berkeley CA.


Hirschman, Albert O. 1970: Exit, Voice, and Loyalty - Responses to Decline in Firms, Organizations, and States, Cambridge MA.


