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The Institutionalisation of the Treaty of Rome *

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NOTE: The paper will be substantially reworked as we solve some of the myriad problems associated with analysing time series data containing strong trends. We may decide to specify a main dependent variable (EC rules, i.e., the EC's formal institutional structure) in order to ground a first stage of analysis, before looking at the feedback effects of that dependent variable on activities (lobbying, trade, litigating) specified as

independent variables. We will also elaborate further on our three integration "stories," and use the literature to help us sharpen our hypotheses.

Introduction

With the Treaty of Rome, European states designed a set of policy domains related to trade and the regulation of markets, a complex of governmental organisations, and a binding set of substantive and procedural rules to help them achieve the construction of a European Economic Community (Fligstein and McNichol, 1998). Although the Treaty traced the broad outlines of this new Community, it was the purposeful activities of representatives of national governments (Moravcsik 1999), of officials operating in the EC's organisations, like the Commission (Pollack 1998) and the Court (Burley and Mattli 1993; Stone Sweet and Caporaso 1998a; Weiler 1991, 1994), and of leaders of transnational interest groups (Mazey and Richardson, eds., 1993) that subsequently produced the extraordinarily dense web of political and social networks that now functions to generate and sustain supranational governance (Wallace and Young 1998; Héritier 1999; Sandholtz and Stone Sweet, eds., 1998).

The overall process by which these actors have produced this dense structure is only partly documented and variously understood. From some perspectives, the building of the European polity looks to be full of starts and stops (e.g., Moravscik 1991; Taylor 1983). From others, integration_ appears remarkably steady and cumulative (e.g., Pierson 1998; Stone Sweet and Brunell 1998a). But over time, distinct modes of supranational governance_ have gradually emerged, been institutionalised, and come to be taken for granted by an ever greater range of actors, public and private, whose orientations are increasingly European.

Two premises of this project (see the Institutionalisation of European Space) are that institutions not only provide opportunities for actors to act collectively, but condition how actors actually do behave. Once established, rule systems push towards certain solutions and away from others. This push, in turn entails certain consequences for how new institutional arrangements evolve or are generated over time. In the original neofunctionalist literature (Haas 1958, 1961; Schmitter 1969, 1970), the dynamics of integration were theorised under the label, "spillover." In the European Integration and Supranational Governance project (Sandholtz and Stone Sweet 1998: 5-7, 11-15), we accepted important elements of neofunctionalism, especially its emphasis on institutionalisation,_ and we reconceptualised spillover.

In the earlier volume, we hypothesised that, under certain conditions, three sets of variables - the development of transnational society, the capacity of supranational organisations to pursue integrative agendas, and the structure of European-level rules - would bind together, within complex systems of mutual interdependence, and that this interdependence would, in turn, broadly determine the course of European integration (see also Stone Sweet and Brunell 1998a). The explanatory status of these three variables (actors, organisations, rule structures, respectively) within institutionalist theory has been elaborated on at length in the Institutionalisation of European Space paper, and underpins the project.

In this paper, we continue the effort to develop and test a macro theory of how the institutionalisation of the EC has proceeded. We take up three different but well-known stories that scholars have told about European integration, and attempt to show how they are linked together, theoretically and empirically. The first story focuses attention on the

consequences, for the development of supranational governance, of rising economic transactions across borders. The more goods, services, investment, and labor flow across national boundaries, the more governments and the EC's organisations are pushed to remove national barriers to further exchange (negative integration), and to regulate, in the form of European legislation (positive integration), the emerging Common Market (Moravscik, 1998; Stone Sweet and Sandholtz, eds., 1998).

The second story traces the causes and effects of the constitutionalisation of the Treaty of Rome, the transformation of the EC from an international regime to a federalised polity through decisive moves on the part of the European Court of Justice (Burley and Mattli 1993; Weiler 1999). Constitutionalisation has profoundly altered, within domains governed by EC law, how individuals and firms pursue their interests, how national judiciaries operate, and how policy is made (Slaughter, Stone Sweet, and Weiler, eds., 1998; Dehousse 1994). And the operation of the legal system, through art. 177 procedures (De La Mare 1999; Stone Sweet and Brunell 1998b), has pushed the integration project a great deal further than member state governments, operating under existing legislative rules, would have been prepared to go on their own (Stone Sweet and Caporaso 1998b).

Our third integration narrative concerns the growth of interest group representation at the supranational level, and the multidimensional impact of that expansion. As interest groups and Commission officials have interacted in specific directorate generals and within ongoing policy processes, the Commission has worked to develop procedures and other arrangements for consultation within the Brussels complex (Richardson and Mazey, this project). Further, a wide range of policy outcomes - from the form and content of directives to the specifics of administrative rules taken pursuant to secondary legislation - can only be understood by taking account the work of lobby groups (Wallace and Young 1998; Mazey and Richardson 1993; Andersen and Eliasson 1991, 1993) and the emergence and consolidation of comitology processes (Dogan 1997; Joerges and Neyer 1997).

To tie these three stories together, it is necessary to be more specific about what we are trying to explain. We are interested in a specific form of institutionalisation, the process through which actors come to constitute political arenas, or (what our project calls) European space. Individuals organise these arenas in order to express their interests through collective activities, to orient their behavior towards others operating in the same arena and - potentially - within a greater organisational field, and to produce specific outcomes. We will focus on three sorts of indicators of institution building: the production of EC secondary legislation; the litigation of disputes involving EC law by judges operating within the framework of Art. 177 (EEC); and the growth and activities of lobbying groups operating within the Brussels complex. These three indicators, of course, are end results of the three integration narratives to which we have just referred.

It is our view that the process through which a European political space emerged and was institutionalised has been provoked, in the first instance, by nonstate actors, particularly those who represented firms or industries, seeking to further their own sectoral interests through exploiting opportunities provided for by the Treaty of Rome. Actors often proceeded by trial and error. They had to determine which issues could (or should not) be raised, and to devise methods of attaining agreement; and they had to develop strategies

for effective lobbying of the Commission and Council, and for litigating matters of EC law before national and European judges. Of course, European organisations took part in, and helped to structure, this learning process, as EC officials figured out ways to respond to the demands placed upon them, and by interpreting treaty rules, developing lower-order norms and procedures, and by defining their own roles within new policy processes. Put simply, European political space evolved as an emerging transnational society and a new governing elite came to a set of agreements about how to use the overarching architecture of the Rome Treaty.

In this paper, we attempt to evaluate this process, from the standpoint of institutionalist theory, by testing specific hypotheses against relatively comprehensive quantitative measures of integration. We begin by elaborating on institutionalisation more generally, before turning to how we expect the peculiar EC structure to have evolved over time. We then present several propositions about how the various processes of integration have interacted with one another to produce the current structure. Finally, we present quantitative analyses of the data. Our main finding is that the construction of (1) the Brussels complex, (2) the capacity of supranational authorities to produce legislation, and (3) the EC legal system have become linked, indeed they came about through self-reinforcing processes. Increasing economic transactions helped to bind these processes together and, continuously, to push the integration project forward. Although our perspective is a macro one, we emphasise actors and agency. As increasing numbers of actors learn how to be effective in the EC, they build and consolidate new arenas for political activity, thereby bolstering the centrality of supranational governance.

Theoretical Considerations

We now discuss our theory and derive hypotheses from this discussion. To begin, two theoretical issues need attention. The first concerns microfoundations. How do we view actors and the nature of agency within the processes of institutionalisation analyzed? The second concerns the specific macro context of these processes, namely, the supposed interaction of the Treaty of Rome with previously organised political, social, and economic organisations and arenas. Why did Europe provide new opportunities for actors to pursue their interests and to construct themselves collectively, and why might we expect supranational governance to be constructed along certain paths, rather than others?

The problem of what actors want and what they can get is central to making sense of institutions. As soon as actors (individuals operating in firms, nongovernmental organisations, or parts of state apparatuses) sustain contact with one another in a specific context, the issue of collective governance is raised. We assume that all actors in such a context prefers rules that favor them (i.e., are likely to make the actor at least as well off as another posited set of rules). But we know that such a calculus depends entirely on whether actors can determine exactly what their interests are. Once they are able to do so, they will then need to decide how to attain their goals, who their allies might be in such a project, and whether or not it is possible to attain cooperation with those actors with whom they may be in conflict or competition. It is frequently the case that, even if actors have a clear view as to what their interests are, it is difficult to create collective institutions in a particular arena.

These issues of collective governance can be dealt with in a number of ways. First (assume large asymmetries in actors' resources and capabilities), powerful actors may be able to impose their will on others by coercion, or through the use of rules they create in their own interest and image. Second (assume a relatively equal distribution of power), actors may be able to negotiate collective solutions to their governance problems. Third, actors may resort to an outside party to help them resolve their differences, to construct negotiating space, or to propose or enforce an institutional solution. Fourth, actors may not be able to solve problems of collective governance at all, and anarchy, or a situation of permanent conflict and stasis might result. Finally, some skilled social actors may be able to forge new political coalitions that transform actors' interests and identities (see The Institutionalisation of European Space). These political or social entrepreneurs are able to promote a new institutional order, by convincing others that their interests will be served in the creation of new arrangements of collective governance .

In all cases, individuals are key to whatever happens in creating new institutions or transforming old ones. We assume that actors are interested in gains from forms of collective governance and this convinces them of the necessity of finding ways to do this. Further, we can assume that actors will normally respond to situations considered to be suboptimal or in crisis as political opportunities, with an eye towards resolving them. How they do so is heavily shaped, of course, by previous existing institutions and their relative position in existing systems of power. Existing institutions provide actors with powerful tools to innovate, and a legitimizing logic for constrain others. If actors have a position of power in an existing system of institutional arrangements, we generally expect them to reproduce that position of power, and to do so by employing repertoires of action and discourse whose legitimacy is more or less settled.

To apply a general view of institution-building to the EC, one must carefully identify the organisational contexts relevant to who the various actors are and what their project might be. One must also provide links between institutional spheres to suggest why actors in one sphere might try to influence action in another. We believe that the institutionalisation of the Rome treaty has been a process driven by the construction of feedback loops and other connections between spheres of action in the EC. For our purposes, we identify three sets of interactions: between firms engaged in cross border trade; between litigants, national judges, and the European Court; and between lobby groups and EC officials in Brussels.

Traders and Exchange

The biggest "black box" in our analysis are the firms that engage in trade across Europe. We assume that large European corporations have an interest in selling their goods and services across Europe in order to expand their sise and profits. Large firms learn how, and are only able, to utilise economies of scale and scope by expanded economic activities, such as extending existing, or finding new, markets. Of course, one could argue that firms that trade would prefer one set of rules to protect the home market and another to allow them to invade markets in other societies. The problem, of course, is that if the first set held sway over the second, trade would be stifled. The firms who are the most likely winners in a move to creating a common market are the ones who will support common

market rules the most. In practice what this has meant is that the integration of markets across national borders has been led by firms who will be net gainers and opposed by firms who are net losers (Fligstein and Brantley 1996). So, we observe that some goods and services are highly traded while others are not. This often reflects the relative power of national firms to block moves to establish or enforce such an order.

In our model, those who engage in economic transactions across borders influence the institutionalisation of European governance, but they are also impacted by it. Such transactors are the most likely benefactors and users of EC law, and the most likely to attack national rules and practices as violations of EC law. They are also the most likely to lobby their governments and the Commission for favorable rules to liberalise markets, or to replace national standards with European ones. But the character and scope of transnational exchange are also shaped by EC legislating and the results of litigating EC law. EC rulemaking (case law and secondary legislation) that promotes market opening projects, for example, produce opportunities for traders to expand their activities, to lower their transaction costs, and thus to increase their sise and profitability. We have good reason to expect that transnational exchange, like trade, will favor the development of European institutions, but we also expect that the development that does occur will favor more export activity.

Hypothesis 1: Increases in transnational exchange, especially economic, will provoke increases in litigation of EC law, increases in lobbying activity in Brussels, and the adoption of EC legislation by the EC's legislative bodies.

Firms involved in cross-national exchange will have the greatest interest in removing national barriers to exchange (negative integration) and in shaping the development of supranational regulation and standard-setting (positive integration). They will have a powerful interest in enforcing Treaty rules related to the Common Market through the courts, and they will have the money to use litigation as a means of evolving these rules in pro-integrative directions. They will feel compelled, or find it useful, to establish a lobbying presence in Brussels, to insure that the Euro-wide trading rules that get set up do not injure their interests. And they will encourage the EC's legislators to adopt rules that reflect their interests and expand markets.

Legal Elites and Litigation

Unlike certain "hard law" rules governing the Common Market, such as those related to the free movement of goods or workers, the EC's legal system was only partly sketched out by the Treaty of Rome. The system actors produced came about through practice: interactions between lawyers, national judges, and the ECJ, and through the feedback of the ECJ's case law on subsequent litigation. That is, legal elites (lawyers activated by their clients, and judges activated by lawyers) had to figure out exactly how to do European law. They were confronted with, and ultimately succeeded in resolving, complicated problems of who could litigate EC law, under what conditions, and with what effects within national legal orders. And national judiciaries had to negotiate their relationship to the European Court of Justice through a set of multidimensional, intra-judicial, "constitutional dialogues" (Stone Sweet 2000: ch. 6).

Legal integration has facilitated both the expansion of transnational society and supranational authority to govern (Stone Sweet and Brunell 1998a; Stone Sweet and Caporaso 1998a), a result that depended critically on the development of a system through which individual litigants could pursue their private interests, in their own national courts, through rules and procedures provided by EC law and by the rulemaking of the European Court. One does not have to assume that the Court has acted self-consciously to promote European integration to make sense of the result. Once the ECJ had announced, and national judges had accepted, the "constitutional" doctrines of the supremacy_ and the direct effect_ of EC law (within national legal orders), the legal system became a privileged site of negative integration. The doctrine of direct effect enabled private actors to bring actions against their own governments in national courts, and the doctrine of supremacy meant that national judges had to resolve these conflicts with reference to EC law. Through litigation, judges became deeply involved in conflicts pitting transnational actors (and other people who could claim that their rights under the Treaty of Rome were being violated by existing national law or administrative practice) against national legal regimes and those actors (public and private) advantaged by national rules and practices. In the Common Market for goods, foreign firms and importers will use this system to liberalise national markets (to enforce EC law against conflicting national regulation). If the legal system operates with reasonable effectiveness, some firms, usually the largest and most export-oriented, will benefited from litigating, while others will lose out. In fact, we know that governments discovered that litigation in the free movement of goods area was punching large "holes" in national regulatory frameworks, exposing to possible attack virtually any national rule that might have an adverse effect on intra-EC trade (Poiares Maduro 1998). As negative integration proceeds then, we expect mounting pressure on governments to replace national regulatory regimes with supranational ones.

Hypothesis 2: Increases in the litigation of EC law will provoke more crossnational economic activity, such as intra-EC trade, and pressure the EC's legislature to replace national regulatory frameworks with supranational ones.

Thus we have put forward an argument to the effect that the legal system and transnational exchange will develop along mutually reinforcing paths. Initially, at least, firms most likely to take advantage of EC law are those who export and those who import goods from other EC markets. As trade rises, these actors will increase in number and, therefore, so will the numbers of potential conflicts between EC rules governing the Common Market, and national regulatory regimes governing product standards, consumer safety, environmental protection, and so on.. The simple demography of trade will drive litigation by interested actors. At the same time, we know (e.g., Greif 1989, 1993; North 1981, 1990) that the expansion of markets depends heavily on (1) the construction of robust institutions, to encourage impersonal exchange and to protect traders from illiberal state action, and (2) the establishment of effective systems of third-party dispute resolution and enforcement of legal rules. Thus, we have good reason to suppose that negative integration, through litigation activity, will lead to an expansion in transnational exchange. Further, the more effective is negative integration, the more costly it will be for various actors, including government, not to legislate common European rules governing economic activity.

The Brussels Complex and Legislating

Although the Treaty of Rome outlined a political structure for the EC, based in Brussels, it did not envision how this process would actually work. There were two problems. First, the Commission is a small organisation. Given the potentially huge scope of its jurisdiction and responsibilities, the organisation possesses relatively little capacity to generate, on its own, serious study of complex issues in order to facilitate agreements, and even less capacity to enforce and administer European rules once they are adopted. Second, the Treaty did not design a system of accommodating lobbying organisations in Brussels, nor did it outline procedures for incorporating them into the policy process.

We assume that the Treaty of Rome produced, or encouraged the emergence of, two kinds of actors who had a continuous interest in producing European wide rules: Commission officials and lobbyists. We assume that the central priority of the people who work at the Commission is to build Europe, by finding new and innovative ways to attain cooperation. Of course, the Commission can only study and propose new legislative measures; it does not legislate on its own. Instead, it must convince the member-state governments (a majority, a qualified majority, or even all of them) and the European Parliament of the virtue of a proposal. The Commission's success in doing so, as Haas (1958) understood very well, may depend heavily on its ability to enlist the support of non-governmental actors and groups.

We also assume that lobbying groups have an interest in pushing Brussels for more legislation. The Rome Treaty suggested a means of attaining a Common Market, and thus for expanding economic activities. As trade increases, and as the negative integration project proceeds, firms' interests in setting up shop in Brussels is likely to increase as well. Many will want European-wide rules to govern their members' activities. Further, groups whose orientations had been largely or exclusively national - such as those organised to protect consumers, the environment, and health and safety - may discover that joining free traders in Brussels makes sense .

We see the growth of the Brussels complex partly in terms of the development of a pervasively symbiotic relationship between the Commission and lobbyists. We assume that, at a first point in time, the Commission has an interest in coopting "experts" - knowledge-based and industry-specific elites - into the policy process, to help draft new, and assess existing, legislation, and to help legitimise and drum up support in national arenas for legislation that is proposed. But as the scope and density of European legislation increases, more and more lobby groups will discover that it is in their interest to be consulted as well, and they will push, without prompting from the Commission, for more political voice in Brussels.

Hypothesis 3: The founding of new lobbying groups will be provoked by increases in transnational exchange and in the production of legislation.

As the number of NGOs and interest groups increases in a particular domain, we expect them to push for European legislation. Further, increases in trade will present the Community legislature with new problems of governance, and lobbyists and NGOs will have a role to play in framing how these problems are understood, as well as in constructing the menu of policy responses that will be put into play.

Hypothesis 4: Increases in the number of lobbying groups located in Brussels will provoke more legislation.

Finally, the production of European rules must also have a role in structuring institutionalisation processes (feedback again). We have just suggested that as the institutional structure of the EC becomes more articulated, so will the interests of lobbyists to locate in Brussels. Yet, the production of new rules also increases the opportunities that actors have to litigate. As European rules come to cover more and more interactions, they will generate, or at least become the context for, more and different kinds of litigation. Last, we expect positive integration to lower transaction costs further, thus expanding trade.

Hypothesis (5): The increasing density and scope of European rules will stimulate more litigation of EC law and transnational exchange.

Summary

Our view of institutionalisation is dynamic. The Treaty of Rome opened up the possibility for more cooperation between governments over economic issues, and created vast potential for European firms to derive benefits associated with larger and more open markets. It created two sets of organisations, one legislative and one judicial, to help governments and other actors achieve their goals. Private actors began to take decisions in light of this new institutional structure, and to orient themselves to emerging European spaces; the EC legislative organs began to operate; and the EC's legal system began to take shape. These processes, we hypothesize, do not take place in isolation from one another but, in fact, are deeply embedded in one another. Each process at least party conditions the other two.

Data and Methods

One of the most important problems in doing this research is to select our unit of observation. We are fortunate that the EC has created an organisational structure and language to guide this effort. Fligstein and McNichol (1998) have analyzed the Treaty of Rome as a set of issue arenas that were institutionalised, if in different ways, across time. Institutionalisation is partly the formalisation of these arenas in terms of organisational capacity to generate rules. The Directorate Generals of the Commission and the Council were divided into subunits to legislate and administer along these lines. The EC classifies legislation according to these issue arenas, and the European Court of Justice uses a similar system of classification. Lobbying groups (Philip and Gray, 1998) tend to lobby those parts of the Commission and Council that are relevant to their interests, thereby helping to make these policy domains real by linking what goes on in EC organizations with organized interests.

In this project, we have defined a policy domain as an arena where political actors interested in a particular issue meet to forge agreements. The organisational structure of the EC defines those domains by giving certain authority over issues to people working within particular Directorate Generals in the Commission. Those people act to organise the domain by seeking out opinions from representatives of member states and lobbying

groups. The EC also uses these "categories" to code litigation and legislation, thereby reinforcing their nature as policy arenas.

The data sets that we have constructed contain information on EC policy domains from 1958-1994 at least, and in some cases the data run to 1998. The Commission and the Court specify, if somewhat differently, 18 important arenas or competencies of the EC: financial/institutional; customs/taxation; agriculture; fisheries; employment/social policy; right of establishment; transport policy; competition policy; economic and monetary policy; external relations; energy; internal market and industrial policy; regional policy; environment, consumers, and health; science/information/culture; competition law; justice/home affairs; people's Europe (Fligstein and McNichol, 1998). There are almost no directives, court cases, or lobbying groups for justice/home affairs and the "people's" Europe, which are essentially domains located outside of the EC pillar. Thus, we have 16 domains in our data. We were able to obtain usable data for the years 1958-1994. We have 36 years and 16 domains for a total of 576 observations.

The data were compiled from various sources. The data on legislation comes from the Directory of Community Legislation in Force (European Union 1995). The directory includes all forms of secondary legislation, regulations, decisions, and directives. We coded the data into the domain that was provided by the EC. The observation reflects the total number of secondary legislation in that domain in a particular year.

We use the Data Set on Preliminary References in EC Law 1958-98, compiled by Stone Sweet and Brunell (1999) for data on litigation. Among other information, each reference has a code defining the domain of EC law being raised by the litigant. These codes can be mapped directly onto our sixteen policy domains.

The data on lobbying groups was obtained from a volume published by Philip and Gray (1997). They mailed out a survey to almost 1000 lobbying organisations in Brussels and received answers from about 500. They collected information on each organisation's name, sise, location, founding date, purposes, and on the Directorate-Generals with whom they had contact. On the basis of this data, we were able to code 436 organisations. We used the data on founding dates, and the information on whom they lobbied to attach them to a policy domain. Since the Directorate Generals mapped directly onto our policy domains, we could then attach the organisation to the domain. If organisations claimed to lobby more than one part of the Commission, we counted that organisation multiple times.

The data on trade is more aggregated. There are two problems. First, exports for particular industries do not neatly correspond to our policy domains. Categories like "customs/taxation" cut across industries. Second, the EC has expanded from 6 to 12 and now to 15 nation states. Data on exports that only measured trade within the EC zone would show big jumps as soon as the EC zone widened. We decided to use trade data for exports for all of Western Europe that originated in western Europe and ended up in Western Europe from 1958-1994 (United Nations, various volumes).

The data analysis strategy requires a complex solution. Since we are trying to study a self reinforcing system over time, this requires a structural equation model approach to this problem. We construct a series of equations where variables are lagged and operate in one equation as an exogenous variable and in others as an endogenous variable. We lag the variables one year in order to untangle "cause" from "effect." The models we estimate use a procedure that controls the correlation in errors that are likely to arise in cross

sectional-time series data (Ameniya, 1990). We use the XTREG procedure in STATA 5.0 to estimate the models.

Results

Examining the trends in the data provides some feel for what has occurred in the EC. The institutionalisation of the EC took time. The activities of lobbyists, litigators, legislators, and judges began slowly, but developed continuously between 1958 and the early 1980s. Around 1980, it seems that processes of institutionalisation slowed. Tthe integration project appears to have reached, or had nearly reached, its outward limits at this point, given existing institutional arrangements. After the Single European Act (1986), the data show that activity intensified in the EC, and integration was, in fact, "relaunched." We will explore further what we think might be a fundamental parameter shift in the development of the EC in subsequent drafts of this paper.

----- Figure 1 about here -----

Figure 1 presents the yearly total of all secondary legislation passed by the EC since 1958. The figure shows that the average number of pieces of legislation per domain over the 40 years was 19.1, with a large standard deviation (63.6). There is a gradual and continuous rise until 1977, when legislative production actually declines and then stabilises until roughly 1985. The announcement of the Single Market and the creation of the Single European Act initiated a new explosion of legislation. (The Single European Act changed the voting rules for the adoption of directives necessary for the completion of the Common Market.) Around 1990, this cooperation increased dramatically again, around the time of the Treaty on European Union (at Maastricht, qualified voting rules were extended further).

----- Figure 2 about here -----

Figure 2 presents data on the formation of lobbying groups in Brussels. The average level of foundings per year in each of the policy domains was quite low, only 1.2 a year. But, over time, we were able to code data on over 400 significant lobbying groups. At the beginning of the EC, there was a flurry of funding of lobbying groups. This decreased during the mid 1960s. The number of foundings increased in the 1970s, and began to fall in the late 1970s and early 1980s. Following the passage of the Single European Act, there foundings of new lobbying groups shot upward, to their highest levels since the early 1960s.

----- Figure 3 about here -----

Figure 3 presents the number of claims invoking European law contained in preliminary references to the ECJ from national courts pursuant to Article 177 (EEC). Such claims averaged 6.1 per domain over the period. This time series shows similar patterns to the other two. Although its announcements of direct effect and supremacy date from the first part of the 1960s, it took several years before the European Court received significant levels of references. The result is unsurprising since most of the rules governing the Common Market, such as those concerning the free movement of goods, did not enter into effect (and thus were not capable of being invoked by litigants) until January 1, 1970. Figure 3.1 shows that, by the mid 1970s, over 80 references per year were being sent to the Court, levelling off at about 120 per year 1977. After the entry into forceof the SEA,

reference rose steadily, and are now being sent at an average of well over 250 per year. Table 3.2 shows that whereas, in the early 1970s, litigation was concentrated in just two domains (agriculture and free movement of goods), references now have diffused across issue area, particular in areas now being newly regulated by European secondary legislation.

These three remarkable time series show clearly how the EC became a political system. There was a slow process by which European organisations gradually started to work. But the late 1970s, the EC had reached a stage where legislation, lobbying, and litigation were rising, but governments were having more difficulty producing agreements. As integration appeared to have reached its instituional limits, less legislation was produced and, in consequence, fewer lobbying groups formed and the increase in litigation of EC law levelled off. The Single Act reversed these trends.

----- Figure 4 about here -----

Figure 4 presents data on exports to and from states within Western Europe, measured in constant dollars. During the 1960s, trade slowly increased, picking up during the decade of the 1970s. Subsequent to 1980, trade appeared to rise even more steeply, particularly in advance of the Single Market. Negative integration, at least, clearly stimulated intra-European trade. That trade must have fed back into the political process as well. Firms that had an interest in that trade surely put pressure on their governments to adopt institutional arrangements more likely to complete the Common Market, and the resulting Single European Act stimulated subsequent increases in trade.

----- Table 1 about here -----

Table 5 presents the means and standard deviations used in the data analysis. They reflect the average level of each of the variables across domains across time. Thus, there were, on average, 10.1 pieces of legislation passed in each domain over the 1958-1994 period. The export data refer to years, not domains. Exports from European national markets to other European national markets averaged $265 billion over the period.

----- Table 2 about here -----

Table 6 contains the results of the cross sectional-time series analysis of the data. The first regression to consider is the determinants of the foundings of organisations. Here, two variables appear to be related to such findings. First, the growth of the export economy convinced actors to invest in their own capacity to lobby in Brussels. Second, the production of legislation also stimulated the founding of new lobbying groups. These results support our hypotheses. Firms and their representatives in industry were moved to join the political process in Brussels as their dependence on trade grew and as it became apparent that more and more rules governing that trade were going to be made in Brussels.

The second column considers the causes of the production of legislation over time. Here, we see that as organisations are founded in a particular domain, there is likely to be an increase in legislation in that domain. As actors were moved to found new lobbying groups, those groups had predicted effects, that is, they got more European law. Article 177 references also stimulated the production of directives in particular domains. This is consistent with our theoretical observations as well. We argued that litigation would push for more legislation. Litigation produced opportunities for political actors who were unsatisfied with how trade was being regulated. This led lobbying groups, governments,

and the Commission to pursue new legislation. Growth in exports also created opportunities for more agreement between actors in the EC.

Finally, we consider the causes of Article 177 references to the European Court of Justice. There are two factors which stimulate cases. First, at the domain level increases in exports appear to be one of the main causes of preliminary references. As trade increased over time, litigation increased as well (confirming Stone Sweet and Brunell's results [1998a] using a slightly different measure). Second, the production of legislation also stimulates litigation. This is as one would expect. As rules increase, the opportunities for actors to use them to protect themselves from national rules that might exclude them from markets increases.

Our results provide strong evidence for a complex, yet explicable, explanation for the dynamics of European integration. The political cooperation over economic issues that the EC started took 10-15 years to develop. It moved forward as opportunistic actors organized as lobbying groups, governments, and the Commission learned how toconstruct and to use new European arenas to their advantage. Overall, the production of these rules and the case law stimulated crossnational trade around Europe. And transnational exchanges stimulated the demand for more litigation, participation, and legislation. Groups who went to Brussels to lobby helped to generate legislation, and litigation pushed forward legislation as well. The data show that, although transnational economic exchanges continued to rise in the EC, existing institutional arrangements were less and less able to respond to demands for supranational governance. Groups stopped setting up shop in Brussels, litigation slowed, and legislation leveled off. But there was a set of actors in place in Brussels who had an interest in more European integration, mainly those who were involved in transnational exchange and the Commission. The lobbying groups, working with the European Commission, were successful in persuading governments to relaunch Europe with the SEA (Alter and Meunier 1994; Sandholtz and Zysman 1989), reversing stagnation. Finally, trade, not surprisingly increased in the wake of the Single European Act and the Treaty on European Union.

Conclusion

The institutionalisation of the European Union has proceeded now for over 40 years. The process, in retrospect, has been punctuated by discrete and significant political and legal events. But these events have been embedded in a larger flow. Europeanisation is about how a large number of actors, operating in a number different arenas, have produced new forms of governance for themselves. They have used the existing structures to identify and exploit opportunities for cooperation and, once successful, new structures have produced new opportunities.

Strategic actors in firms, lobbying organisations, governments, the European Commission, the legal profession, and the courts have found themselves having to confront one another in market, legal, and political arenas. They have managed to attain their interests by building institutions and organisational capacity, thus racheting up cooperation. In this way, European markets are integrated, market rules reflect European rules, European law holds sway over national law, and interested parties continue to push for new rules in Brussels.

Is there a limit to this process? Is there a way in which national governments will choose to opt out and push things back towards less cooperation? These are highly speculative issues, but our results actually suggest some insights.

One potential limit can be found in the very success of integration. As European political space has been constructed so have the webs of constraints that all actors face in seeking to pursue their interests. The new powers given to the European Parliament with legislative processes is an indicator of institutional development, but could also effect the production of legislation, by making the process less efficient. Some lobbying groups may have already attained their main ends, and act mostly to block new legislation. Governments may seek to reassert some of the dominance that they have lost. The European Commission is a relatively small organisation that is stretched thin, and has been demoralised by recent events. As in 1980, perhaps some of the limits of the current institutions have been or will soon be reached. If the EC goes forward with enlargement, these institutional problems threaten to bog down the possibility for reaching any agreement. And it is possible that anti-EC governments could come to power across Europe and push the process in this direction.

Yet there are powerful countervailing forces. European economies are now highly integrated, and exports are now critical to economic growth. Almost half of world trade occurs within the borders of the EC, making it close to a single economy. Firms presumably tell their governments and Brussels officials that European rules and institutions are generally a good thing, because they promote economic growth and work for them. Most European governments realise this. European administrative and legal systems are increasingly integrated as well. Legal systems are in some ways the backbone of European integration. National courts enforce EC law, alongside national law, and national bureaucracies implement EC legislation into their procedures and practices. It would take a major economic or political crisis for actors to want to extricate themselves from these linkages. Far more likely, if limits are reached, if the main actors begin to define the situations they are in as stagnant and anomic, they will again find creative institutional solutions to their problems.

The institutionalisation of European arenas of governance has occured through self-reinforcing processes. As one set of European institutions has grown up, it has induced integration elsewhere. Actors across many of the important political, legal, and market structures are now living in worlds where their activities are strongly oriented towards Europe. It is difficult to imagine what would cause them to recast their interests in another way. Institutionalisation is a powerful force because it serves to embed interest and identities. Today, European institutions do so by connecting arenas for economic, political, and legal decisionmaking, giving each of them strength and resilience

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Tables 1 and 2

Table 1: Means and standard deviations of variables used in the analysis.

Variable	Mean	Standard Deviation
Organisations	1.2	2.6
Legislation	19.1	63.6
Cases	6.1	12.8
Exports (in $ billions)	261.5	251.9

See text for definition and data sources.

Table 2: Regression analysis of time series-cross sectional data on the determinants of the foundings of organisations, the production of secondary legislation in the EC, and Art. 177 references brought before the European Court of Justice.

Independent Variables	Organisations		Legislation		Cases	
	b	SE (b)	b	SE (b)	b	SE (b)
Organisations (Lagged one year)			2.40	.96**	-.05	.17
Legislation (Lagged one year)	.021	.010*			.014	.006**
Cases (Lagged one year)	-.012	.008	2.02	.21**		
Exports (Lagged one year)	.005	.002*	.08	.02**	.04	.01**
Constant	2.30	.50**	4.72	7.75	5.52	1.91**
R-squared	.18		.35		.29	

*p< .05, ** p<.01, two tailed significance test

	Organisations	Legislation	Cases
Hausman Test Significance Level	.10	.69	.18

See text for details of analysis.

_ By integration (see Stone Sweet and Sandholtz 1998: 9), we mean the processes through which the horizontal and vertical linkages between actors (social, political, and economic) emerge, organize, and are stabilised by rules and procedures. Vertical linkages are the relationships (patterned interactions) that develop between actors organized at the EC level, and actors organized at or below the member-state level. Horizontal linkages are the relationships (patterned interactions), between actors organized in one member-state with actors organized in another. We understand these linkages to be institutionalised to the extent that they are constructed and sustained by EC rules (see the Institutionalisation of European Space). Thus, European integration and the institutionalisation of the EC refer to the same process.
_ We use supranational governance as the term was defined in Sandholtz and Stone Sweet, eds., 1998 (see also the discussion in Sandholtz and Stone Sweet 1999). In those policy domains in which a mode of supranational governance has been established, the EC's organizations possess jurisdiction, and EC rules authoritatively govern, throughout EC territory.
_ Haas (e.g., 1961) theorized that integration would construct complex, positive feedback loops linking the development of supranational institutions, organizational capacities, and the self-interested behavior of individuals.
_ First articulated in the Costa judgement (ECJ 1964), the doctrine of supremacy asserts the principle that in any conflict between an EC legal rule and a rule of national law, or a practice sanctioned by national law, the EC rule must be given primacy by the national judge.
_ First articulated in the Van Gend en Loos judgement (ECJ 1963), the doctrine of direct effect asserts the principle that, under certain conditions, the provisions of EC law (including directives [ECJ 1974]), confer upon private individuals legal rights that public authorities must respect, and that national courts must enforce.