
European Integration from the 1980s: State-Centric v. Multi-level Governance*

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Abstract

This article takes initial steps in evaluating contending models of EU governance. We argue that the sovereignty of individual states is diluted in the European arena by collective decision-making and by supranational institutions. In addition, European states are losing their grip on the mediation of domestic interest representation in international relations. We make this argument along two tracks. First, we analyse the conditions under which central state executives may lose their grip on power. Next, we divide up the policy process into stages and specify which institutional rules may induce various actors to deepen EU policy-making.

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I. Introduction

Developments in the European Union (EU) over the last decade have revived debate about the consequences of European integration for the autonomy and authority of the state in Europe. The scope and depth of policy-making at the EU-level have dramatically increased. The EU has almost completed the internal market and has absorbed the institutional reforms of the Single European Act (1986) which established qualified majority voting in the Council of Ministers and increased the power of the European Parliament. The Maastricht Treaty (1993) further expanded EU competencies and the scope of qualified majority voting in the Council, and provided the European Parliament with a veto on certain types of legislation. The Maastricht Treaty is a landmark in European integration quite apart from its ambitious plan for a common currency and a European central bank by the end of this century.

Our aim in this article is to take stock of these developments. What do they mean for the political architecture of Europe? Do these developments consolidate nation-states or do they weaken them? If they weaken them, what kind of political order is emerging? These are large and complex questions, and we do not imagine that we can settle them once and for all. Our strategy is to pose two basic alternative conceptions – state-centric governance and multi-level governance – as distinctly as possible and then evaluate their validity by examining the European policy process.

The core presumption of state-centric governance is that European integration does not challenge the autonomy of nation-states (Mann, 1994; Milward, 1992; Moravcsik, 1991, 1993, 1994; Streeck, 1996). State-centrists contend that state sovereignty is preserved or even strengthened through EU membership. They argue that European integration is driven by bargains among Member State governments. No government has to integrate more than it wishes because bargains rest on the lowest common denominator of the participating Member States. In this model, supranational actors exist to aid Member States, to facilitate agreements by providing information that would not otherwise be so readily available. Policy outcomes reflect the interests and relative power of Member State executives. Supranational actors exercise little independent effect.

An alternative view is that European integration is a polity creating process in which authority and policy-making influence are shared across multiple levels of government – subnational, national, and supranational (Marks, 1992, 1993; Hooghe, 1996). While national governments are formidable participants in EU policy-making, control has slipped away from them to supranational institutions. States have lost some of their former authoritative control over individuals in their respective territories. In short, the locus of political control has changed. Individual state sovereignty is diluted in the EU by collective decision-making

among national governments and by the autonomous role of the European Parliament, the European Commission, and the European Court of Justice.

We make this argument in this article along two tracks. First we analyse the variety of conditions under which central state executives will voluntarily or involuntarily lose their grip on power. Second, we examine policy-making in the EU across its different stages against the background of contending state-centric and multi-level approaches to European governance.

II. Two Models of the European Union

The models which we outline below are drawn from a large and diverse body of work on the European Union, though they are elaborated in different ways by different authors. Our aim here is not to replicate the ideas of any particular writer, but to set out the basic elements that underlie contending views of the EU so that we may evaluate their validity.

The core ideas of the *state-centric model* are put forward by several writers, most of whom call themselves intergovernmentalists (Hoffmann, 1966, 1982; Taylor, 1991; Moravcsik, 1991, 1993; Garrett, 1992; Milward, 1992; Streeck, 1996; for an intellectual history see Caporaso and Keeler, 1993).¹ This model poses states (or, more precisely, national governments) as ultimate decision-

¹ While the roots of the state-centric model lie in (neo)realism (see, for an overview, Caporaso, 1995), there are a variety of state-centric approaches to European integration which take issue with certain neorealist assumptions and which attempt to encompass domestic politics as an influence on the formation of state preferences. The most interesting of these is 'liberal institutionalism' which, despite its nuanced view of interstate co-operation and state preference formation, is firmly in the state-centric mould.

Liberal institutionalism focuses on how international institutions foster gains from co-operation where they otherwise might not arise. International institutions diminish anarchy, but the state-centric perspective remains intact: states are unitary actors and state preferences are determined exogenously or by domestic politics (Caporaso, 1995). 'The basic claim ... is that the EC can be analysed as a successful intergovernmental regime designed to manage economic interdependence through negotiated policy co-ordination. ... An understanding of the preferences and power of its Member States is a logical starting point for analysis' (Moravcsik, 1993, p. 474).

This approach allows that European institutions are strong: 'Strong supranational institutions are often seen as the antithesis of intergovernmentalism. Wrongly so' (Moravcsik, 1993, p. 507). But they are at the service of Member States, not independent: 'The unique institutional structure of the EC is acceptable to national governments only insofar as it strengthens, rather than weakens, their control over domestic affairs, permitting them to attain goals otherwise unachievable' (Moravcsik, 1993, p. 507). Milward claims that '... the political machinery of the Community resembles the court of a minor eighteenth-century German state. There is a numerous and deferential attendance around the president of the Commission. A hierarchical bureaucracy attends to the myriad facets of relationships with the surrounding greater powers, for every decision has to be finely attuned to the wishes of the real powers to which the Community's continued existence is useful. The struggles to appoint to its offices are like those within the Imperial Diet' (Milward, 1992, p. 446).

European institutions are not essentially different from other international institutions. All serve a precise function: 'Like other international regimes, EC institutions increase the efficiency of bargaining by providing a set of passive, transaction-cost reducing rules' (Moravcsik, 1993, p. 518). Consequently, supranational actors cannot achieve political autonomy. In this respect, the EU looks strikingly similar to a consociational regime: 'Consociational theory sees the state apparatus as being an umpire rather than a

promoter of any specific ideology. ... [P]ressures to enlarge the role of the Commission as umpire are increased rather than diminished as integration proceeds' (Taylor, 1991, pp.118-19).

The state-centric model claims that Member States have EU institutions firmly under control. 'The EC regime ... fixes interstate bargains until the major European powers choose to negotiate changes' (Moravcsik, 1993, p. 31). In effect, 'the most fundamental task facing a theoretical account of European integration is to explain these bargains' (Moravcsik, 1993, p. 473). To do so, one should refer back to the preferences of participating states: 'EC institutions appear to be explicable as the result of conscious calculations by Member States' (Moravcsik, 1993, p. 507). And when states choose to transfer sovereignty to supranational institutions, 'their principal national interest will be not only to define and limit that transfer of sovereignty very carefully but also meticulously to structure the central institutions so as to preserve a balance of power within the integrationist framework in favor of the nation-states themselves' (Milward and Sørensen, 1993, p. 19).

In the most general sense, European integration has served to rescue the nation-state. 'The European Community has been its buttress, an indispensable part of the nation-state's post-war construction. Without it, the nation-state could not have offered to its citizens the same measure of security and prosperity which it has provided and which has justified its survival' (Milward, 1992, p. 3). '[S]tates will make further surrenders of sovereignty if, but only if they have to in the attempt to survive' (Milward, 1992, p. 446). Stanley Hoffmann arrived at the same conclusion along somewhat different lines: 'in areas of key importance to the national interest, nations prefer the certainty, or the self-controlled uncertainty, of national self-reliance, to the uncontrolled uncertainty of the untested blender. ... The logic of diversity implies that, on a vital issue, losses are not compensated by gains on other (and especially not on other less vital) issues: nobody wants to be fooled. ... The logic of integration deems the uncertainties of the supranational functional process creative; the logic of diversity sees them as destructive past a certain threshold: Russian roulette is fine only as long as the gun is filled with blanks' (Hoffmann, 1966, p. 882).

Despite these gloomy predictions, by the early 1990s, the annual regulatory output of the European Community was greater than that of most individual states and 75-80 per cent of national legislation was subject to prior consultation with the European Commission (Majone, 1994). How do state-centrists account for this expansion? Some argue that state competencies have merely shifted: 'The European nation-state has lost some economic functions to the EC and some defense functions altogether, while gaining functions in what had previously been more private and local spheres. Overall, the bars of the [national] cage may not have changed very much. Citizens still need to deploy most of their vigilance at the national level' (Mann, 1993, p. 130). For others, state sovereignty is still intact: '... policymaking in the Community has not in itself detracted from national sovereignty: what is changed is the wish of national legislatures and governments to do certain things rather than their legal or constitutional right or capacity to do them' (Taylor, 1991, p. 123). Still others worry less about the scope as long as Member States control the depth of European intrusion. And here voluntarism and the individual veto - 'fundamental decisions in the EC can be viewed as taking place in a non-coercive unanimity voting system' (Moravcsik, 1993, p. 498) - combine to make outcomes converge to the lowest common denominator. 'The need to compromise with the least forthcoming government imposes a binding constraint on the possibilities for greater co-operation, driving EC agreements toward the lowest common denominator. 'A lowest common denominator outcome does *not* mean that final agreements perfectly reflect the preferences of the least forthcoming government - since it is generally in its interest to compromise somewhat rather than veto an agreement - but only that the range of possible agreements is decisively constrained by its preferences' (Moravcsik, 1993, p. 501). However, many outcomes cannot be characterized as lowest common denominator (see our argument below), a point that some state-centrists are now conceding (Moravcsik, 1995, fn 3).

Community institutions that try to challenge Member States do not get very far: 'As for the common organs set up by the national governments, when they try to act as a European executive and parliament, they are both condemned to operate in the fog maintained around them by the governments and slapped down if they try to dispel the fog and reach the people themselves' (Hoffmann, 1966, p. 910).

One contribution of liberal institutionalism, and of Andrew Moravcsik's work in particular, lies in the attempt to specify the conditions under which 'international cooperation ... tends on balance to *strengthen* the domestic power of executives *vis-à-vis* opposition groups' (Moravcsik, 1994, p. 7, his emphasis). However, even though the billiard ball of the nation-state is cracked open to understand state preferences, state-centrists resort to unitary actor assumptions to analyse interstate bargaining: 'Groups articulate preferences; governments aggregate them' (Moravcsik, 1993, p. 483).

makers, devolving limited authority to supranational institutions to achieve specific policy goals. Decision-making in the EU is determined by bargaining among state executives. To the extent that supranational institutions arise, they serve the ultimate goals of state executives. The state-centric model does not maintain that policy-making is determined by state executives in every detail, only that the overall direction of policy-making is consistent with state control. States may be well served by creating a judiciary, for example, that allows them to enforce collective agreements, or a bureaucracy that implements those agreements. But such institutions are not autonomous supranational agents. Rather, they have limited powers to achieve state-oriented collective goods.

EU decisions, according to the state-centric model, reflect the lowest common denominator among state executive positions. Although Member State executives decide jointly, they are not compelled to swallow policies they find unacceptable because decision-making on important issues operates on the basis of unanimity. This allows states to maintain individual as well as collective control over outcomes. While some governments are not able to integrate as much as they would wish, none is forced into deeper collaboration than it really wants.

State decision-making in this model does not exist in a political vacuum. In this respect, the state-centric model takes issue with realist conceptions of international relations which focus on relations among unitary state actors. State executives are located in domestic political arenas, and their negotiating positions are influenced by domestic political interests. But – and this is an important assumption – those state arenas are discrete. That is to say, state decision-makers respond to political pressures that are *nested* within each state. So, the 15 state executives bargaining in the European arena are complemented by 15 separate state arenas that provide the sole channel for domestic political interests at the European level. The core claim of the state-centric model is that policy-making in the EU is determined primarily by state executives constrained by political interests nested within autonomous state arenas that connect subnational groups to European affairs.²

² States or state leaders are conceived as monopolizing the interface between the neatly separated arenas of European and domestic politics. European decision-making is seen as 'a process that takes place in two successive stages: governments first define a set of interests, then bargain among themselves in an effort to realize those interests' (Moravcsik, 1993, p. 481). State-centrists make short shrift of interest group representation in Brussels: 'Even when societal interests are transnational, the principal form of their political expression remains national' (Moravcsik, 1991, p. 26). European and national politics belong to two different worlds because there is no need for direct interplay: 'If parties have organized themselves only in a superficial way in the European Parliament, that is because no more has been needed ... it is within the nation that political parties have to fulfill their task of organizing a democratic consensus' (Milward, 1992, p. 446). Other state-centrists argue that domestic and EU arenas are nested rather than interconnected because it is in the interest of state executives to keep them that way: 'the EC does not diffuse the domestic influence of the

One can envision several alternative models to this one. The one we present here, which we describe as *multi-level governance*, is drawn from several sources (Marks, 1992, 1993; Sbragia, 1992, 1993; Schmitter, 1992a, b; Majone, 1994, 1995; Pierson, 1996; Leibfried and Pierson, 1995; see also Caporaso and Keeler, 1993 for an overview). Once again, our aim is not to reiterate any one scholar's perspective, but to elaborate essential elements of a model drawn from several strands of writing which makes the case that European integration has weakened the state.

The multi-level governance model does not reject the view that state executives and state arenas are important, or that these remain the *most* important pieces of the European puzzle. However, when one asserts that the state no longer monopolizes European level policy-making or the aggregation of domestic interests, a very different polity comes into focus. First, according to the multi-level governance model, decision-making competencies are shared by actors at different levels rather than monopolized by state executives. That is to say, supranational institutions – above all, the European Commission, the European Court, and the European Parliament – have independent influence in policy-making that cannot be derived from their role as agents of state executives. State executives may play an important role but, according to the multi-level governance model, one must also analyse the independent role of European level actors to explain European policy-making.

Second, collective decision-making among states involves a significant loss of control for individual state executives. Lowest common denominator outcomes are available only on a subset of EU decisions, mainly those concerning the scope of integration. Decisions concerning rules to be enforced across the EU (e.g. harmonizing regulation of product standards, labour conditions, etc.) have a zero-sum character, and necessarily involve gains or losses for individual states.

Third, political arenas are interconnected rather than nested. While national arenas remain important for the formation of state executive preferences, the multi-level model rejects the view that subnational actors are nested exclusively within them. Instead, subnational actors operate in both national and supranational arenas, creating transnational associations in the process. States do not monopolize links between domestic and European actors, but are one among a variety of actors contesting decisions that are made at a variety of levels. In this perspective, complex interrelationships in domestic politics do not stop at the nation-state, but extend to the European level. The separation between domestic

executive; it centralizes it. Rather than "domesticating" the international system, the EC "internationalizes" domestic politics. While cooperation may limit the *external* flexibility of executives, it simultaneously confers greater domestic influence ... In this sense, the EC strengthens the state' (Moravcsik, 1994, p. 3, his emphasis).

and international politics, which lies at the heart of the state-centric model, is rejected by the multi-level governance model. States are an integral and powerful part of the EU, but they no longer provide the sole interface between supranational and subnational arenas, and they share, rather than monopolize, control over many activities that take place in their respective territories.

III. Sources of Multi-Level Governance

Why would states allow competencies to be shifted out of their own hands to supranational or subnational institutions? Why would states allow their own sovereignty to be weakened? Why would states tolerate European integration if it threatened their own political control? These questions are commonly posed by state-centrists who wish to analyse the sources of European integration. One way to answer them is to argue that states receive something important in return. They give up a measure of external control, but they are thereby empowered *vis-à-vis* domestic interests (Moravcsik, 1994). Or the loss of control is superficial. According to Milward and Sørensen, when nation-states choose to transfer sovereignty to common institutions, 'their principal national interest will be not only to define and limit that transfer of sovereignty very carefully but also meticulously to structure the central institutions so as to preserve a balance of power within the integrationist framework in favor of the nation-states themselves' (Milward and Sørensen, 1993, p. 19).

There are doubtless other answers to these questions but, before we go any further, we need to take a second look at the questions themselves, for they fulfil the dictum that 'he who asks the question, supplies the answer'. They conflate two different meanings of the term 'state'. In the first place, the state is an institution, i.e. a particular constellation of formal (and informal) rules that specify the location, extent and basis of legitimate authority in a society. From this standpoint, which reflects the normal meaning of the word in political science, the state is a set of socially accepted norms or rules that structure authority irrespective of any particular set of rulers who happen to be in positions of authority.

In its second usage, the term 'state' refers to central state executives, national governments, or whole countries as political actors. This conception is derived from international relations, and it is a legacy of the realist understanding of international relations as a system determined by countries operating as discrete and autonomous actors. This usage is ubiquitous in commentary and theoretical analysis of the EU, as when one reads that the United Kingdom wants to weaken supranational institutions, that Germany acquiesced to monetary union, or that particular Member States support or oppose expanding the role of the European Parliament. This way of framing observation is not merely shorthand, for it is

based on theoretically pregnant suppositions about how one should conceive the EU.

Our starting point in this article is to make a clear distinction between institutions and actors, i.e. between the state (and the EU) as sets of rules and the particular individuals, groups, and organizations which act within those institutions. This has the decided advantage of leading one away from reified accounts, common in the state-centric literature, of the goals, preferences, desires, and plans of states, towards an *actor-centred* approach in which one specifies particular actors as participants in decision-making.

When writers refer to the state as an actor, they usually have in mind one or more of the following: public administrators, parliamentarians, judges, the armed forces, subnational executives and, most importantly in the context of European Union decision-making, party leaders serving in national governments. From this perspective, the question is not, 'why do states give up sovereignty in the process of European integration?' but 'why do particular actors (party leaders in national governments) change institutional rules (e.g. shift competencies to the European Union)?'.

It makes little sense to conceive of whole states or national governments as the key actors in European decision-making. One cannot assume that those serving in national governments give priority to sustaining the state as an institution. This is an empirical matter. Institutions influence the goals of those who hold positions of power within them, but it is unlikely that political actors will define their own preferences solely in terms of what will benefit their institution. The degree to which an actor's preferences will reflect institutional goals depends, in general, on the extent to which an institution structures the totality of that individual's life, on how positively or negatively the institution is viewed, on the strength of contending institutional, personal and ideological loyalties, and on the length of time in which the individual expects to stay within that institution.

The key actors we are concerned with here are elected politicians in the central state executive. Their tenure of office is relatively brief. Unlike judges, army officers, civil servants – or Commission officials – they can expect to remain in their positions for a matter of years rather than decades. Many are committed to substantive policy goals that are not derived from the goal of strengthening state executive control. And, most importantly, sustaining their tenure in government requires electoral success. Whatever substantive goals a political leader has, their implementation depends on winning the next election, maintaining party (and, in some cases, coalition) cohesion, and fostering ties with strategic constituencies.

There are two sets of reasons why government leaders may wish to shift decision-making to the supranational level: the political benefits may outweigh

the costs of losing political control or there may be intrinsic benefits having to do with shifting responsibility for unpopular decisions or insulating decision-making from domestic pressures.³

1. Costs v. benefits of decisional reallocation. Reallocating competencies to the supranational level may be an effective means of providing information and other resources to meet the transaction costs involved in formulating, negotiating, and implementing collective decisions (Majone, 1995, 1994; Williamson, 1985, 1993; Moe, 1987, 1990). Decisional reallocation may have significant costs for government leaders, but these costs may (a) be less politically salient than the benefits of more efficient delivery of collective policies; or (b) they may be lagged with respect to the benefits, and therefore of less weight for political leaders having a high discount rate. The relative importance of these conditions depends on the potential efficiency gains to be realized by centralizing decision-making in a particular policy area, the domestic electoral and party-political context facing government leaders, and their substantive policy goals.

From this perspective, sovereignty is merely one goal among others. To the extent that political leaders have a short time horizon (and thus a high discount rate), and the substantive policy stream of European integration is more salient for powerful domestic constituencies than its decisional implications, so state sovereignty may be sacrificed for efficient policy provision. It is worth stressing that we are not making the argument that supranational empowerment is a Pareto-optimal outcome for Europeans. It suffices that government leaders are able to reap a private gain by instituting a Pareto-suboptimal policy (for example agricultural subsidies) as a means, say, to reward a powerful constituency.

2. Intrinsic benefits of decisional reallocation. Government leaders may shift decision-making to the supranational level because they positively wish to do so. In the first place, they may prefer to avoid responsibility for certain policies. A recent highly publicized case where a government was clearly relieved to be impotent was the conflict in the UK in 1995 over the transportation of calves to the Continent in crates for eventual slaughter. In response to the (sometimes violent) demonstrations of animal rights' advocates in British ports, William Waldegrave, the Minister of Agriculture, explained that the British government could not be blamed because effective decision-making was made in Brussels. He advised opponents of the policy to demonstrate in Brussels rather than in the UK, which they promptly did.

Second, government leaders may shift decision-making to insulate it from political pressures. The autonomy of central banks is designed on this premise. The same logic can lead a government to cede competencies to the European Commission or to an independent agency within the EU. Recent examples

³ Paul Pierson has developed an interesting set of arguments about 'gaps' in state executive control that parallel several points made in this section (1996).

include the decision on the part of national governments to give the Commission considerable authority over European mergers, and to envisage the creation of an independent European central bank with exclusive responsibility for monetary policy. By insulating policy-making in this way, government leaders seek to control policy after they have left office. To the extent that leaders face a trade-off between preserving state sovereignty and assuaging a particular constituency, shifting the electoral balance in their party's favour, or institutionalizing deep-seated preferences, they may sacrifice state sovereignty.

Historically, the creation of nation-states in Western Europe enabled rulers to mobilize and enhance their resource base. State-building was a means to more effective war making, more efficient national markets, a larger economic base, and more efficient means for ruling elites to extract taxes from it. But the fit between the institution of the state and the preferences of political elites is not written in stone. If we regard states as sets of commonly accepted rules that specify a particular authoritative order, then we need to ask how such rules may change over time and whether and how they will be defended. The point we make in this section is that states may be weakened by government elites if they seek to achieve their own policy goals and respond to competitive pressures generated within liberal democracies.

Limits on Individual State Executive Control

The most obvious constraint on the capacity of a national government to determine outcomes in the EU is the decision rule of qualified majority voting in the Council of Ministers for a range of issues from the internal market to trade, agriculture and the environment. In this respect the EU is clearly different from international regimes, such as the UN or WTO, in which majoritarian principles of decision-making are confined to symbolic issues.

State-centrists have sought to blunt the theoretical implications of collective decision-making in the Council of Ministers along two lines of argument.

The first is that while state executives may sacrifice some independence of control by participating in collective decision-making, they more than compensate for this by their increased ability to achieve the policy outcomes they want. Moravcsik has argued at length that collective decision-making actually enhances state executive control because state executives will only agree to participate insofar as 'policy coordination increases their control over domestic policy outcomes, permitting them to achieve goals that would not otherwise be possible' (1993, p. 485). By participating in the European Union, state executives are able to provide policies, such as a cleaner environment, higher levels of economic growth, etc. that could not be provided autonomously. But two entirely different conceptions of power are involved here, and it would be well to keep them separate.

On the one hand, power or political control may be conceptualized as control over persons. *A* has power over *B* to the extent that she can get *B* to do something he would not otherwise do (Dahl, 1961). This is a zero-sum conception: if one actor gains power, another loses it. This conception of power underlies Max Weber's definition of state sovereignty as the monopoly of legitimate coercion within a given territory, and although this definition has been contested, most subsequent theorists of the state have continued to view sovereignty in terms of the extent to which states control the lives of those in their territories.

By contrast, power conceived as the ability to achieve desired outcomes involves not only power over persons, but power over nature in the broadest sense. From this standpoint one would evaluate the power of an institution as a function of its success in achieving substantive goals, rather than in terms of its relations with other actors. Logically, this would lead one to say that a successful national government in a federal European state has more control than a less successful national government in a confederal state.

The latter conception is not invalid, for concepts can be used in any way one wishes to use them. However, it confuses two phenomena that we have already sought to untangle: institutionally rooted relations of power among political actors, and the ability of political actors to achieve substantive policy goals. One of the causal dynamics that may lead government leaders to shift decision-making away from the institution in which they are located, as we have argued above, is precisely that they may achieve desired policy outcomes by so doing.

State-centrists have also claimed that majoritarianism in the Council of Ministers camouflages, but does not invalidate, state sovereignty. They argue that treaty revisions, new policy initiatives, and certain sensitive areas remain subject to unanimity and hence the national veto; that the Luxembourg Compromise gives state executives the power to veto any decision under majority rule that they deem contravenes their vital national interests; and that, ultimately, a state executive could pull out of the EU if it so wished.

The Luxembourg veto is available to national governments only under restricted conditions and even then, it is a relatively blunt weapon. As we detail below, the Luxembourg veto is restricted by the willingness of other state executives to tolerate its use in a particular case. In one famous case, an attempt to veto annual agricultural prices in 1982 by the UK government was actually rejected by the other Member State executives. The Luxembourg veto is a defensive rather than an offensive weapon in that it can only be used to reject a particular course of action, not select another. The German government barred a Council decision to reduce agricultural prices for cereals and colza in 1985, but it was unable to stop the Commission from achieving the required reductions by resorting to its emergency powers (Teasdale, 1993).

From the standpoint of physical force, Member States retain ultimate sovereignty by virtue of their continuing monopoly of the means of legitimate coercion within their respective territories. If a national government broke its treaty commitments and pulled out of the EU, the EU itself has no armed forces with which to contest that decision. Here the contrast between the European Union and a federal system, such as the United States, seems perfectly clear. In the last analysis, states retain ultimate coercive control of their populations.

But monopoly of legitimate coercion tells us less and less about the realities of political, legal, and normative control in contemporary capitalist societies. A Weberian approach, focusing on the extent to which states are able to monopolize legitimate coercion, appears more useful for understanding the emergence and consolidation of states from the twelfth century than for understanding changes in state sovereignty in the latter half of the twentieth century. Although the EU does not possess armed forces, it requires no leap of imagination to argue that a national government is constrained by the economic and political sanctions – and consequent political-economic dislocation – that it would almost certainly face if it revoked its treaty commitments and pulled out of the European Union. Analyses of the ultimate sovereignty of Member States and the sanctions available to the EU under extreme circumstances have an air of unreality about them because, under present and foreseeable circumstances, they remain entirely hypothetical.

Limits on Collective State Executive Control

We have argued that government leaders may have positive grounds for shifting decision-making to supranational institutions and that they do not exert individual control over binding collective decisions in the Council of Ministers. Here we argue that there are reasons for believing that even collectively, national governments are constrained in their ability to control supranational institutions they have created at the European level.

1. The treaty process. In the first place, while state executive control of the big decisions, the treaties, is impressive, it is not complete. State executives play a decisive role in drafting the basic treaties and major legislation underlying the EU, such as the Single European Act and the Maastricht Treaty, but they are far less dominant in most areas of day-to-day policy-making.

Because state representatives are the only legally recognized signatories of the treaties undergirding the EU, they are actually empowered in the process of formulating treaties. If a domestic group wishes to influence a clause of a formal EU treaty it must adopt a state-centric strategy and focus pressure on its national government. Treaty making is the realm of negotiation among national leaders, the national veto, and side-payments to bring recalcitrant national governments on board.

In the pre-Maastricht era, the process of ratification was dominated by state executive leaders through party control of national legislatures. Not only did they determine the content of treaties, but they could be reasonably confident that those treaties would be accepted in their respective domestic arenas.⁴ European integration was a technocratic process, involving co-ordination among state executives to achieve limited and contingent policy goals. The course of European integration was pragmatic, not politicized, and state representatives dominated decision-making to the virtual exclusion of other political actors. When this incremental pattern of state executive decision-making was interrupted, as it was by de Gaulle in the 1960s and Thatcher in the 1980s, it was to reassert state sovereignty as a constraint on European integration.

In the wake of the Maastricht Treaty, the process of treaty ratification has shifted beyond the control of state executives to the politicized realms of party-political competition, parliamentary debates and mass referendums. The Maastricht Treaty itself gives only subtle hints to the intensity of response it generated. It lacks any coherent institutional blueprint or constitutional ambition, but is an assembly of discrete and vague policy initiatives that, with the major exception of proposed monetary union, are an extension, rather than an overhaul, of the existing framework. One of the hallmarks of the Treaty, and a clue to the alienation felt by many Europeans, is that it is written in opaque Euro-legalese which is virtually unintelligible to the uninitiated. But whatever the reasons for its tumultuous reception, it has implanted the expectation that state executives must submit future treaties to thorough democratic scrutiny. State executive leaders still have considerable power to frame basic alternatives, but they no longer control the treaty process as a whole.

2. *Constraints on the ability of state executive principals to control supranational agents.* From a transaction analysis standpoint, it is not feasible for Member State executives to plan for all possible future ambiguities and sources of contention, so they create institutions, such as the European Commission and the European Court of Justice, that can adapt incomplete contracts to changing circumstances (Majone, 1995; Pierson, 1996). According to agency theory, a principal exerts control by selecting his agent, creating a structure of incentives to induce the required behaviour (Williamson, 1985). If a principal finds out at some later date that an agent is not acting in the desired way, he can always fire the agent or reform the incentives. Scholars who have applied principal-agent theory to American political institutions have found that the effectiveness of such incentives and disincentives is limited (Moe, 1990). In the EU the ability of principals, i.e. Member State executives, to control supranational agents is constrained by the multiplicity of principals, the mistrust that exists among them,

⁴The only exception was the European Defence Community which was voted down in the French Assemblée in 1954. After that débâcle, the European Political Community was quietly dropped as well.

impediments to coherent principal action, informational asymmetries between principals and agents and by the unintended consequences of institutional change. We discuss these briefly in turn.

Multiplicity of principals. It is one thing for a single principal to control an agent. It is quite different for several principals to control an agent. And it is yet another thing for several principals prone to competition and conflict to control an agent. Supranational institutions in the EU are not external to conflicts among Member State executives, but are intimately involved in them and are able to extend their role as a result. One of the consequences of the multiplicity of contending principals is that basic treaties of the EU tend to be ambiguous documents providing ample room for diverse interpretations on the part of both principals and agents. The treaties are hammered out in interstate negotiations in which each state executive wishes to win domestic acclaim for having made collective progress in solving a variety of policy problems, but where each has a veto on the content of the agreement. There is a powerful incentive to ambiguity on points of contention to allow each participating government to claim success in representing national interests.

The basic treaties of the EU have legitimated Commission initiatives in several policy areas, yet they are vague enough to give the Commission wide latitude in designing institutions. This was the case in the creation of structural policy which, in the wake of the Single European Act, was transformed by the Commission from a side-payment transferring resources from richer to poorer countries to an interventionist instrument of regional economic development (Hooghe, 1996).

The European Court does not act merely as an agent in adapting Member State agreements to new contingencies, but actively adjudicates disagreements among Member State executives, a role that places it in a position of authority not merely as the supreme judiciary in Europe, but one that is above all Member State actors, state executives included (Volcansek, 1992; Burley and Mattli, 1993; Lenaerts, 1992).

Constraints on change. Because the decision rule for major institutional change is unanimity, it is often remarked that this poses a high hurdle for integration. However, unanimity applies for *any* institutional change in the EU, whether it empowers supranational institutions or reins them in. Supranational actors need only dent the united front of state executives in order to block a proposed change. The logic of lowest common denominator under unanimity voting limits the ability of state executives to shorten their collective leash on supranational institutions, as well as embark on new integrationist measures. Once a supranational institution has a power or powers beyond those necessary to serve as a mere

agent of state executives, it needs only to gain support from one or more principals to sustain its position.⁵

Informational asymmetries. Agents may gain a potent source of influence if they develop access to information or skills that is not available to principals (Majone, 1995, 1994; Eichener, 1992). As a small and thinly staffed organization, the Commission has only a fraction of the financial and human resources available to national governments, but its position as interlocutor with national governments, subnational authorities and numerous interest groups gives it a unique informational base. The Commission's job in reducing transaction costs of policy co-ordination among Member State governments provides it with unparalleled access to information and, therefore, the means for independent influence *vis-à-vis* those governments.

Detailed regulation as a response to mutual mistrust. It is in the collective interest of Member State executives to enact certain common regulations, but each may be better off if others adhere to them while it defects. To contain defection, state executives have created a Court of Justice with unprecedented powers of adjudication among Member State actors, as described below. A further consequence of mutual mistrust is the highly detailed character of European regulation. While state executives are induced to ambiguity in the high politics of treaty making, they give the Commission latitude to formulate very precise regulations on specific policies. Instead of determining general provisions that are broadly applicable ('relational contracting'), state executives allow the Commission to propose legislation that approximates a 'complete contract', legislation that is designed to straightjacket principals and so reduce their scope for evasion (Majone, 1995). This allows the Commission to legitimate its role in technocratic terms, as the hub of numerous highly specialized policy networks of technical experts designing detailed regulations.

Unintended consequences of institutional change. A final limit on the capacity of state executives to control their supranational agents lies in their inability to forecast precisely the effects of their own collective actions. The complexity of policy-making across disparate territories and multiple actors, the changing patterns of mutual interaction among policy arenas, the sensitivity of EU decision-making to international and domestic exogenous shocks – these contribute to a fluid and inherently unpredictable environment which dilutes the

⁵ As is apparently what has happened in the case of the EU's cohesion policy. The Commission managed to secure its considerable role in this policy area by gaining the support of some recipient governments, thwarting the attempts on the part of the governments of the UK, France, Germany and Spain to limit severely the Commission's power (Marks, 1996).

extent to which Member State decisions at time T_0 can control supranational actors at T_1 .

IV. Policy-Making in the European Union

The questions we are asking have to do with who decides what in European Union policy-making. If the state-centric model is valid, we would find a systematic pattern of state executive dominance. That entails three conditions. National governments, by virtue of the European Council and the Council of Ministers, should be able to impose their preferences collectively upon other European institutions, i.e. the European Commission, the European Parliament and the European Court of Justice. In other words, the latter three European institutions should be agents effectively controlled by state-dominated European institutions. Second, national governments should be able to maintain individual sovereignty *vis-à-vis* other national governments. And thirdly, national governments should be able to control the mobilization of subnational interests in the European arena. If, however, the multi-level governance model is valid, we should find, first, that the European Council and Council of Ministers share decisional authority with supranational institutions; second, that individual state executives cannot deliver the outcomes they wish through collective state executive decisions; and, finally, that subnational interests mobilize directly in the European arena or use the EU as a public space to pressure state executives into particular actions.

We divide the policy-making process into four sequential phases: policy initiation, decision-making, implementation and adjudication. We focus on informal practices in addition to formal rules, for it is vital to understand how institutions actually shape the behaviour of political actors in the European arena.

Policy Initiation: Commission as Agenda-setter with a Price – Listen, Make Sense, and Time Aptly

In political systems that involve many actors, complex procedures and multiple veto points, the power to set the agenda is extremely important. The European Commission alone has the formal power to initiate and draft legislation, which includes the right to amend or withdraw its proposal at any stage in the process, and it is the think-tank for new policies (Article 155, EC). From a multi-level governance perspective, the European Commission has significant autonomous influence over the agenda. According to the state-centric model, this formal power is largely decorative: in reality the European Commission draws up legislation primarily to meet the demands of state executives.

At first sight, the practice of policy initiation is consistent with a state-centric interpretation. Analysis of 500 recent directives and regulations by the French Conseil d'Etat found that only a minority of EU proposals were spontaneous initiatives of the Commission. Regulatory initiative at the European level is demand driven rather than the product of autonomous supranational action, but the demands come not only from government leaders. A significant number of initiatives originate in the European Parliament, the Economic and Social Committee, regional governments, and various private and public-interest groups (Majone, 1994).

Such data should be evaluated carefully. For one thing, regulatory initiative at national and European levels is increasingly intermeshed. In its report, the Conseil d'Etat estimated that the European Commission is consulted beforehand on 75–80 per cent of French national legislation. Jacques Delors' prediction that by the year 2000 about 80 per cent of national economic and social legislation would be of Community origin has a solid base in reality (Majone, 1994). Moreover, it is one thing to be the first to articulate an issue, and quite another to influence how that issue will be taken up, with whom, and under what set of rules. And in each of these respects the influence of the Commission extends beyond its formal role, partly because of its unique political and administrative resources, discussed below, and partly because the Council is stymied by intergovernmental competition.

An organization that may serve as a powerful principal with respect to the Commission is the European Council, the summit of the political leaders of the Member States (plus the President of the Commission) held every six months. The European Council has immense prestige and legitimacy and a quasi-legal status as the body which defines 'general political guidelines' (Title 1, Art. D, Treaty of the European Union). However, its control of the European agenda is limited because it meets rarely and has only a skeleton permanent staff. The European Council provides the Commission with general policy mandates rather than specific policy proposals, and such mandates have proved to be a flexible basis for the Commission to build legislative programmes.

More direct constraints on the Commission originate from the Council of Ministers and the European Parliament. Indeed, the power of initiative has increasingly become a shared competence, permanently subject to contestation, among the three institutions. The Council (Article 152, EC) and, since the Maastricht Treaty, the European Parliament (Article 138b, EC) can request the Commission to produce proposals, although they cannot draft proposals themselves (Nugent, 1994). Council Presidencies began to exploit this window in the legal texts from the mid-1980s, when state executives began to attach higher priority to the Council Presidency (Nugent, 1994). Several governments bring detailed proposals with them to Brussels when they take over the Council

Presidency. Another way for the Council to circumvent the Commission's formal monopoly of legislative proposal is to make soft law, i.e. by ratifying common opinions, resolutions, agreements, and recommendations (Nugent, 1994; Snyder, 1994).

The effect of this on the Commission's agenda-setting role is double edged. On the one hand, the Commission finds it politically difficult to ignore detailed Council initiatives or soft law, even though their legal status is vague (Snyder, 1994). On the other hand, state executives are intent on using the European arena to attain a variety of policy goals, and this gives the Commission allies for integrationist initiatives.

The European Parliament has made use of its newly gained competence in Article 138b. In return for the approval of the Santer Commission in January 1995, it extracted from the Commission President a pledge to renegotiate the code of conduct (dating from 1990) between the two institutions in an effort to gain greater influence on the Commission's pen, its right of initiative.

The European Council, the Council, and the European Parliament have each succeeded in circumscribing the Commission's formal monopoly of initiative more narrowly, though none can claim that it has reduced the position of the Commission to that of an agent. Agenda-setting is now a shared and contested competence among the four European institutions, rather than monopolized by one actor.

But the diffusion of control over the EU's agenda does not stop here. Interest groups have mobilized intensively in the European arena and, while their power is difficult to pinpoint, it is clear that the Commission takes their input seriously. The passage of the Single European Act precipitated a rapid growth of European legislation and a corresponding increase in interest group representation in Europe. An outpouring of case study research suggests that the number and variety of groups involved is as great, and perhaps greater, than in any national capital. National and regional organizations of every kind have mobilized in Brussels, and these are flanked by a large and growing number of European peak organizations and individual companies from across Europe. According to a Commission report, some 3,000 interest groups and lobbies, or about 10,000 people, were based in Brussels in 1992. Among these there are 500 'Euro-groups' which aggregate interests at the European level (McLaughlin and Greenwood, 1995). Most groups target their lobbying activity at the European Commission and the European Parliament, for these are perceived to be more accessible than the secretive Council (Mazey and Richardson, 1993).

Subnational authorities now mobilize intensively in Brussels. Apart from the Committee of the Regions, established by the Maastricht Treaty, individual subnational authorities have set up almost 100 regional offices in Brussels and

a wide variety of interregional associations (Hooghe and Marks, 1996; Hooghe, 1995a; Marks *et al.*, 1996).

Agenda-setting is therefore increasingly a shared and contested competence, with European institutions competing for control, and interest groups and subnational actors vying to influence the process. This is not much different from the situation in some national polities, particularly those organized federally.

As a consequence, it is often difficult to apportion responsibility for particular initiatives. This is true for the most intensively studied initiative of all – the internal market programme – which was pressed forward by business interests, the Commission, and the European Parliament, as well as by state executives (Cameron, 1992; Moravcsik, 1991; Cowles, 1995; Majone, 1994; Dehousse, 1992; Garrett and Weingast, 1993). Because the Commission plays a subtle initiating role, its influence is not captured by analysis of which institution formally announces a new policy. For example, the White Paper on *Growth, Competitiveness and Employment* was publicly mandated by the European Council in June 1993, but it did so in response to detailed guidelines for economic renewal tabled by the Commission President.

The Commission has considerable leverage, but it is conditional, not absolute. It depends on its capacity to nurture and use diverse contacts, its ability to anticipate and mediate demands, its decisional efficiency, and the unique expertise it derives from its role as think-tank of the European Union.

The Commission is always on the look-out for information and political support. It has developed an extensive informal machinery of advisory committees and working groups for consultation and pre-negotiation, some of which are made up of Member State nominees, but others of interest group representatives and experts who give the Commission access to independent information and legitimacy. The Commission has virtually a free hand in creating new networks, and in this way it is able to reach out to new constituencies, including a variety of subnational groups.

An example of this strategy was the creation of an Advisory Council for Local and Regional Authorities in 1988 to advise the Commission on initiatives in cohesion policy. The Commission hoped to mobilize support from below for a 'partnership' approach to structural programming in which the Commission, national and subnational authorities would jointly design, finance, and implement economic development programmes. Jacques Delors and the Commission realized that they would need significant external support to overcome the reluctance of several Member State governments to give subnational governments greater influence over economic development policy. One of the Commission's longer-term goals was to institutionalize regional participation, and a step was taken in this direction with the establishment of a Committee of the Regions in 1993. While the Commission alone was not responsible for this outcome –

pressure by the German Länder and the Belgian regions on their respective governments was pivotal – the experience of the Advisory Council laid the groundwork (Hooghe, 1996).

The extent to which the Commission initiates policy (Article 155) depends also on its alacrity. A striking example of this is the European Energy Charter, a formal agreement between Russia and west European states guaranteeing Russian energy supply after the collapse of the Soviet Union (Matlary, 1993). An EU policy came into being because the Commission pre-empted an alternative intergovernmental approach preferred by the Dutch, German, and British governments. Acting on a vague mandate of the European Council in June 1990, the Commission negotiated a preliminary agreement with the Russian government in 1991. Member State executives, presented with a *fait accompli*, accepted the European Community as the appropriate forum for the Charter and gave the Commission a toe-hold in international energy policy (Matlary, 1993), a noteworthy incursion in a policy area which had been dominated by national governments.

The Commission's capacity to move quickly is a function of its internal cohesion. An example from industrial policy illustrates the limits of the Commission's agenda-setting power when it is internally divided. In Spring 1990, Europe's largest electronics firms pressured the Commission for a European strategy in the semi-conductors' sector as a means of securing EU financial support and market protection. The Commission was paralysed for months as a result of internal disagreements. When it eventually produced a policy recommendation for a European industrial policy in the beginning of 1991, most firms had shifted their strategy to other arenas. The French firms, Bull and Thomson, had obtained guarantees from the French government for financial support, while others like Siemens and Olivetti were exploring strategic alliances with American or Japanese firms (Ross, 1993, 1995).

As the think-tank of the European Union, the Commission has responsibility for investigating the feasibility of new EU policies, a role that requires the Commission to solicit expertise. In this capacity it produces annually 200–300 reports, White Papers, Green Papers, and other studies and communications (Ludlow, 1991). Some are highly technical studies about, say, the administration of milk surpluses. Others are influential policy programmes such as the 1985 White Paper on the Internal Market (Cameron, 1992; Sandholtz and Zysman, 1989), the 1990 reform proposals for Common Agricultural Policy which laid the basis for the European position in the GATT negotiations, or the 1993 White Paper on *Growth, Competitiveness and Employment* which argued for more labour market flexibility.

As a small and thinly staffed organization, the Commission has only a fraction of the resources available to central state executives, but its position as interloc-

utor with national governments, subnational authorities and a large variety of interest groups gives it unparalleled access to information. The Commission has superior in-house knowledge and expertise in agriculture, where one-quarter of its staff is concentrated. It has formidable expertise in external trade and competition, the two other areas where Commission competence is firmly established. In other areas, the Commission relies on Member State submissions, its extensive advisory system of public and private actors, and paid consultants (Nugent, 1995).

The European Commission is a critical actor in the policy initiation phase, whether one looks at formal rules or practice. If one surveys the evidence one cannot conclude that the Commission serves merely as an agent of state executives. The point is not that the Commission is the only decisive actor. We discern instead a system of multi-level governance involving competition and interdependence among the Commission, Council, and European Parliament, each of which commands impressive resources in the intricate game of policy initiation.

Decision-making: State Sovereignty in Retreat

According to the Treaties, the main legislative body in the EU is not the European Parliament, but the Council of Ministers, an assembly of Member State executives. Until the Single European Act, the Council was the sole legislative authority. The thrust of the state-centric argument is to give great weight to the legislative powers of state executives in the decision-making stage. At this stage, state executives may be said to be in complete control. They adjust policies to their collective preferences, define the limits of European collaboration, determine the role of the European Commission and the ECJ and, if need be, curtail their activities. If previous decisions have unintended consequences, these can be corrected by the Council.

There is some plausibility to this argument, but it is one-dimensional. In the first place, one must take into account the serious constraints under which individual governments have operated since the Single European Act. Second, one should recognize that even collectively, state executives exert conditional, not absolute, control. State executive dominance is eroded in the decision-making process by the legislative power of the European Parliament, the role of the European Commission in overcoming transaction problems, and the efforts of interest groups to influence outcomes in the European arena.

The most transparent blow to state sovereignty has come from the successive extension of qualified majority voting under the Single European Act and the Maastricht Treaty. Qualified majority voting is now the rule for most policy areas covered by the original Treaty of Rome, including agriculture, trade, competition policy, transport, and policy areas concerned with the realization of the

internal market, though there are important exceptions which include the EU budget, taxation, capital flows, self-employed persons and professions, visa policy (qualified majority from 1 January 1996), free movement of persons, and rights of employed persons (Dinan, 1994; Nugent, 1994; Schmitter, 1992b). The decision-making rules are complex, but the bottom line is clear: over broad areas of EU competence individual state executives may be outvoted.

The practice of qualified majority voting is complicated by the Luxembourg Compromise and by a 'veto culture' which is said to have predominated in the Council of Ministers. Under the Luxembourg Compromise state executives can veto decisions subject to majority rule if they claim that their national vital interests are at stake. The Luxembourg Compromise features far more strongly in academic debates about the EU than in the practice of European politics. It was invoked less than a dozen times between 1966 and 1981, and it has been used even less frequently since that time.

The Luxembourg Compromise was accompanied by a 'veto culture' which inhibited majority voting if a state executive expressed serious objections. During the 1970s, this led to the virtual paralysis of the Community as literally hundreds of Commission proposals were blocked. But the effectiveness of the veto culture was its undoing. It eroded during the 1980s as a result of growing intolerance with deadlock on the part of the European Parliament and most national leaders (Teasdale, 1993). The turning point was the inability of the British government in 1982 to veto a decision on agricultural prices to extract a larger British budgetary rebate. A qualified majority vote was taken at the meeting of Council of Ministers despite British objections.

Thereafter, state executives became more reluctant to invoke the compromise or tolerate its use by others. The last successful use of the Luxembourg veto was in June 1985, when the German government blocked a Council decision to reduce agricultural prices for cereals and colza. Since the Single European Act, which made majority voting the norm in a large number of areas, there has been just one attempt to invoke the compromise, and this failed. The Greek government vetoed a Council proposal concerning adjusted green exchange rates in 1988 in order to extract a more favourable exchange rate for the green drachma, but found itself isolated in the Council and was forced to retract the veto. In 1992–93, the French government threatened to veto the agricultural package of the GATT agreement, but eventually settled for a financial compensation package to cover what amounted to a 'discreet climbdown' (Teasdale, 1993). As Nugent has observed, the Luxembourg Compromise 'is in the deepest of sleeps and is subject only to very occasional and partial awakenings' (1994).

In this context, second order rules about the adoption of alternative voting procedures are extremely important. Amendments to the Council's Rules of Procedure in July 1987 have made it much easier to initiate a qualified majority

vote. While previously only the Council President could call a vote, it now suffices that one representative – and that could be the Commission – demands a ballot and is supported by a simple majority of the Council (Nugent, 1994).

One of the most remarkable developments in the 1980s has been the transformation of the notion of 'vital national interest'. State executives wishing to exercise a Luxembourg veto have become dependent on the acquiescence of *other* state executives. They can no longer independently determine whether their vital national interest is at stake. As the British (1982), German (1985), Greek (1988) and French (1992–93) cases suggest, the conditions are restrictive (Nugent, 1994; Wallace, 1994; Teasdale, 1993). The Luxembourg Compromise has come to operate effectively only for decisions which involve some combination of the following characteristics: the perception of an unambiguous link to vital national interests; the prospect of serious domestic political damage to the government concerned; a national government which can credibly threaten to damage the general working of the European Union. While it originally legitimized unconditional defence of state sovereignty (de Gaulle vetoed the budgetary reform of 1965 on the grounds that it was too supranational), the notion of vital national interest has evolved to justify only defence of substantive interests, not defence of national sovereignty itself.

Even if a Member State executive is able to invoke the Luxembourg Compromise, the veto remains a dull weapon. It cannot block alternative courses of action, as the German Federal government experienced in 1985 after it had stopped a Council regulation on lower prices for cereal and colza. The Commission simply invoked its emergency powers and achieved virtually the same reductions unilaterally (Teasdale, 1993). Moreover, a veto rarely settles an issue, unless the status quo is the preferred outcome for the vetoing government. But even in the two cases where the status quo was more desirable than the proposed change (the German and French cases), neither government was able to sustain the status quo. The German government was bypassed by the Commission; the French government was unable to block the GATT accord and, moreover, received only modest financial compensations in return for its acquiescence (Teasdale, 1993).

All in all, since the mid-1980s, the Luxembourg Compromise has been a weak instrument for the defence of state sovereignty. The British, German, Greek and French governments did not gain much by invoking or threatening to invoke it. Each came to accept that its options were severely constrained by European decisions. The Luxembourg Compromise is now mainly symbolic for domestic consumption. In each of the four cases the ensuing crisis enabled embattled governments to shift responsibility in the face of intense domestic pressure. Although national governments were not able to realize their substantive aims, they could at least claim they fought hard to achieve them.

State executives have built a variety of specific safeguards into the Treaties. There are numerous derogations for particular states, especially on matters of taxation, state aids, monetary policy and energy policy. The Single European Act and the Maastricht Treaty preserve unanimity for the most sensitive or contested policy areas.

These qualifications soften the blow to national sovereignty. But a sensible discussion of the overall situation turns on the *extent* to which national sovereignty has been compromised, rather than on whether this has happened. Even under the doubtful premise that the Council is the sole decision-maker, it is now the case that state sovereignty has been pooled among a group of states in most EU policy areas (Wessels, 1992; Scharpf, 1994).

Collective state control exercised through the Council has diminished. That is first of all due to the growing role of the European Parliament in decision-making. The SEA and the Maastricht Treaty established co-operation and co-decision procedures which have transformed the legislative process from a simple Council-dominated process into an complex balancing act between Council, Parliament and Commission. Since the Maastricht Treaty, the two procedures apply to the bulk of EU legislation. The procedures are designed to encourage consensual decision-making between the three institutions. It is impossible for the Council to take legislative decisions without the support of at least one of the two other institutions unless it is unanimous. Moreover, the procedures enhance the agenda-setting power of the European Parliament (Tsebelis, 1994, 1995).

The co-operation procedure gives the Commission significant agenda-setting capacity (Tsebelis, 1994; Garrett and Weingast, 1993; Schmitter, 1992a; Weiler, 1991; compare with sceptical early prognoses: Bieber *et al.*, 1986). It may decide to take up or drop amendments from either the Council or Parliament, a power that makes it a broker – a consensus crafter – between the two institutions.

The intermeshing of institutions is particularly intricate under the co-decision procedure, under which the Parliament obtains an absolute veto, although it loses some agenda-setting power to the Council. If the Parliament or Council rejects the other's positions, a conciliation committee tries to hammer out a compromise. The committee consists of representatives from both institutions, with the Commission sitting in as broker. A compromise needs the approval of an absolute majority in the Parliament and a qualified majority in the Council. If there is no agreement, the initiative returns to the Council, which can then make a take-it-or-leave-it offer, which the Parliament can reject by absolute majority. So the Parliament has the final word.

Even though the outcome of the co-decision procedure is likely to be closer to the preferences of the Council than those of the Commission or Parliament (Tsebelis, 1995), it does not simply reflect Council preferences. Under both

procedures the Council is locked in a complex relationship of co-operation and contestation with the two other institutions. This is multi-level governance in action, and is distinctly different from what would be expected in a state-centric system.

The erosion of collective state control goes further than this. It is difficult for state executives to resolve transaction costs in the egalitarian setting of the Council, particularly now, given that there are 15 such actors (Garrett and Weingast, 1993; Scharpf, 1988; Majone, 1994). The Council usually lacks information, expertise, and the co-ordination to act quickly and effectively, and this induces it to rely on the European Commission for leadership (Nugent, 1995).

The Commission, as a hierarchical organization, is usually able to present a more coherent position than the Council. Furthermore, Commission officials bring unusual skills to the negotiation table. As administrators, they have often been working on a particular policy issue for years; career mobility tends to be lower than for top echelons of most national administrations (Bellier, 1994). In addition, they have access to information and expertise from a variety of sources in the European Union. They tend to be exceptionally skilled political negotiators acclimatized to the diverse political styles of national representatives and the need to seek consensual solutions (Majone, 1993; Nugent, 1995; Bellier, 1994). Formal decision rules in the Council help the Commission to focus discussion or broker compromise. While Member State representatives preside at Council of Ministers' meetings and Council working groups, the Commission sits in to clarify, redraft, and finalize the proposal – in short, it holds the pen.

While recent theoretical literature has often stressed the intergovernmental character of the European Union, most of the empirical literature has emphasized the influence of the Commission. Cowles (1995), Bornschiefer and Fielder (1995), Sandholtz and Zysman (1989), and Cameron (1992) have demonstrated this leadership/broker role for the internal market programme; Sandholtz (1992), Peterson (1991) and Pollack (1995) for technology policy (Esprit, Race); Sandholtz (1993) for telecommunications; Cram (1993), Eichener (1992) and Majone (1994) for social policy; Ross (1993) for industrial policy; Matlary for energy policy (1993); Tömmel (1992), Marks (1996) and Hooghe (1996) for cohesion policy.

Cohesion policy offers an example of how the Commission may step beyond its role of umpire to become a negotiator. In establishing the framework for structural funds for 1994–99 in the summer of 1993, Commission officials negotiated bilaterally with officials from the relevant states. It was the Belgian presidency which acted as umpire. In such cases, the Commission becomes effectively a 13th (or, since 1995, a 16th) partner around the bargaining table (Hooghe, 1996). This can even be true for the most intergovernmental aspect of

European Union politics: treaty bargaining, as an example from Maastricht illustrates. When the British government refused the watered down social provisions in the Maastricht Treaty, Jacques Delors put on the table his original, more radical, social policy programme of 1989 and proposed to attach it as a special protocol to the Treaty, leaving Britain out. Faced with the prospect that the whole negotiation might break down, the other 11 state executives hastily signed up to a more substantial document than they had originally anticipated (Pierson, 1996; Lange, 1993).

In sum, the Council is the senior actor in the decision-making stage, but the European Parliament and the Commission are indispensable partners. The Commission's power is predominantly soft in that it is exercised by subtle influence rather than sanction. Except for agriculture, external trade and competition policy, where it has substantial executive autonomy, it can gain little by confrontation. Its influence depends on its ability to craft consensus among institutions and among Member State executives. However, extensive reliance on qualified majority voting has enabled the Commission to be bolder, as it does not have to court all state executives at once.

The European Parliament's position is based more on formal rules. Its track record under co-operation and co-decision shows that it does not eschew confrontations with the Council. In return for its assent to enlargement and the GATT-agreement in 1994, it extracted from the Council a formal seat in the preparatory negotiations for the intergovernmental conference of 1996–97. In the meantime, it is intent on making the most of its power, even if it treads on the toes of its long-standing ally, the European Commission. During its hearings on the Santer Commission in January 1995, the European Parliament demanded that the Commission accept parliamentary amendments 'as a matter of course', and withdraw proposals that it rejects (reiterated by EP President Klaus Haensch in an interview for the *European*, 20–26.1.95). Commission officials have described these proposals as 'outrageous' on the grounds that the Commission 'would more or less lose its ability to operate' (*Financial Times*, 14–15.1.1995).

As a whole, EU decision-making can be characterized as one of multiple, intermeshing competencies, complementary policy functions, and variable lines of authority – features that are elements of multi-level governance.

Implementation: Opening the European arena – Breaking the State Mould

Multi-level governance is prominent in the implementation stage. Although the Commission has formal executive powers and national governments are in principle responsible for implementation, in practice these competencies are shared. On the one hand, national governments monitor the executive powers of the Commission closely, though they do so in conjunction with subnational governments and societal actors. On the other hand, the Commission has become

involved in day-to-day implementation in a number of policy areas, and this brings it into close contact with subnational authorities and interest groups. As in the initiation and decision-making stage, mutual intrusion is contested.

The Commission's formal mandate gives it discretion to interpret legislation and issue administrative regulations bearing on specific cases. It issues 6–7,000 administrative regulations annually (Nugent, 1994; Ludlow, 1991). However, only a tiny proportion of the Commission's decisions are unilateral. Since the 1980s, with the institutionalization of comitology, the Council and the individual national governments have become intimately involved. Many regulations have their own committee attached to them. Balancing Commission autonomy and state involvement is an open-ended and conflictual process in the European Union, and this is also apparent in comitology. Rules of operation vary across policy areas and are a source of contention between the Commission, usually supported by the Parliament, and the Council (St. Clair Bradley, 1992). Some committees are only advisory; others can prevent the Commission from carrying out a certain action by qualified majority vote; and a third category must approve Commission actions by qualified majority. In each case the Commission presides.

At first sight, comitology seems to give state executives control over the Commission's actions in genuine principal-agent fashion. But the relationship between state actors and European institutions is more complex. Comitology is weakest in precisely those areas where the Commission has extensive executive powers, e.g. in competition policy, state aids, agriculture, commercial policy and the internal market. Here, the Commission has significant space for autonomous action (McGowan and Wilks, 1995; Nugent, 1994, 1995).

State-centrists may argue that state executives prefer to delegate these powers to achieve state-oriented collective goods, such as control over potential distortion of competition or a stronger bargaining position in international trade. But one result is that state executives have lost exclusive control in a range of policy areas. To mention just three examples among the many discussed in this chapter: they no longer control competition within their borders; they cannot aid national firms as they deem fit; they cannot autonomously conduct trade negotiations.

German regional policy had to be recast because it ran foul of the European Commission's competition authority. The Commission's insistence in the 1980s that regional aid to western Länder be curtailed has provoked several disputes among Länder and between Länder and the Federal government. By 1995, the traditional system of *Gemeinschaftsaufgabe* was on the brink of collapse (Anderson, 1996).

Although comitology involves state actors in the European Commission's activities, this intermeshing is not necessarily limited to *central* state actors. Because the issues on the table are often technical in nature, Member State

governments tend to send those people who are directly responsible or who are best informed about the issue at home. These are regularly subnational officials, or representatives of interest groups or other non-governmental bodies. Subnational participation in comitology is prevalent for Member States organized along federal or semi-federal lines (see, on Germany, Goetz, 1994; on Belgium, Hooghe, 1995b). But, in recent years, subnational actors have been drawn into the European arena from more centralized Member States (see, for France, Lequesne, 1994).

To the extent that EU regulations affect policy areas where authority is shared among central and subnational levels of government, effective implementation requires contacts between multiple levels of government. Environmental policy is an example of this, for in several European countries competencies in this area are shared across different territorial levels. To speed up implementation of environmental law, the Commission began in 1990 to arrange so-called 'package' meetings to bring together central, regional and local government representatives of a Member State. Such meetings are voluntary, but in the first year of its operation seven countries made use of them. The Spanish central government, for example, was keen to use the Commission's presence to pressure its autonomous provinces into compliance with EU environmental law, but to do so it conceded them access to the European arena.

The majority of participants in comitology are not national civil servants, but interest group representatives (particularly from farming, union, and employer organizations) alongside technical experts, scientists and academics (Buitendijk and van Schendelen, 1995). These people are mostly selected, or at least approved of, by their national government. One can plausibly assume that national governments find it more difficult to persuade technical experts, interest group representatives, and private actors than their own officials to defend the national interest. In practice therefore, comitology, which was originally a mechanism for central state oversight over Commission activities, has had the intended consequence of deepening the participation of subnational authorities and private actors in the European arena.

A second development which has received little attention in the literature is the direct involvement of Commission officials in day-to-day policy implementation. The Commission was never expected to perform ground-level implementation, except in unusual circumstances (such as competition policy, fraud, etc.). Yet, in some areas this has changed. The most prominent example is cohesion policy, which now absorbs about one-third of the EU budget. The bulk of the money goes to multi-annual regional development programmes in the less developed regions of the EU. The 1989 reform prescribes the involvement of Commission, national, regional, local and social actors on a continuing basis in all stages of the policy process: selection of priorities, choice of programmes,

allocation of funding, monitoring of operations, evaluation and adjustment of programmes. To this end, each recipient region or country is required to set up an elaborate system of monitoring committees, with a general committee on top, and a cascade of subcommittees focused on particular programmes. Commission officials can and do participate at each level of this tree-like structure. Partnership is implemented unevenly across the EU (Marks, 1996; Hooghe and Keating, 1994), but just about everywhere it institutionalizes some form of direct contact between the Commission and non-central government actors including, particularly, regional and local authorities, local action groups and local businesses. Such links break open the mould of the state, so that multi-level governance encompasses actors within as well as beyond existing states.

Adjudication: An Activist Court in a Supranational Legal Order

State-centrists have argued that a European legal order and effective European Court of Justice (ECJ) are essential to state co-operation (Garrett and Weingast, 1993; Garrett, 1995; Moravcsik, 1993). Unilateral defection is difficult to detect, and thus it is in the interest of states to delegate authority to a European Court to monitor compliance. The ECJ also mitigates incomplete contracting problems by applying general interstate bargains to future contingencies. In this vein, the ECJ may be conceptualized as an agent of constituent Member States. However, a number of scholars have argued convincingly that the ECJ has become more than an instrument of Member States (Burley and Mattli, 1993). The Court has been active in transforming the legal order in a supranational direction. But the Court could not have done this without a political ally at the European level: the European Commission. Nor could it have established the supremacy of European law without the collaboration of national courts, and this collaboration has altered the balance of power between national courts and national political authorities.

Through its activist stance, the ECJ has laid the legal foundation for an integrated European polity. By means of an impressive body of case law, the Court has established the Treaty of Rome as a document creating legal obligations directly binding on national governments and individual citizens alike. Moreover, these obligations have legal priority over laws made by the Member States. Directly binding legal authority and supremacy are attributes of sovereignty, and their application by the ECJ indicates that the EU is becoming a constitutional regime.

The Court was originally expected to act as an impartial monitor 'to ensure that in the interpretation and application of the treaties the law is observed' (Article 164 EEC, Article 136 Euratom, Article 31 ECSC) but, from the beginning, the Court viewed these interstate treaties as more than narrow

agreements. The Court's expansive role is founded on the failure of the treaties to specify the competencies of major EU institutions (Weiler, 1991). Instead, the treaties set out 'tasks' or 'purposes' for European co-operation, such as the customs union (Treaty of Rome), the completion of the internal market (Single European Act) or economic and monetary union (Maastricht Treaty). The Court has constitutionalized European law and expanded European authority in other policy areas by stating that these were necessary to achieve these functional goals (Weiler, 1991).

Court rulings have been pivotal in shaping European integration. However, the ECJ depends on other actors to force issues on the European political agenda and condone its interpretations. Legislators (the European Council, Council of Ministers, Commission and Parliament) may always reverse the course set by the Court by changing the law or by altering the Treaties. In other words, the ECJ is no different from the Council, Commission or European Parliament in that it is locked in mutual dependence with other actors.

One outcome of this interlocking is the principle of 'mutual recognition', which became the core principle of the internal market programme in the landmark case of *Cassis de Dijon* (1979) in which the Court stated that a product lawfully produced in one Member State must be accepted in another. Some have argued that the ruling was based on the ECJ's reading of the interests of the most influential state executives, France and Germany (Garrett and Weingast, 1993), but detailed analysis of the evidence suggests that the Court made the decision autonomously, notwithstanding the opposition of the French and German governments (Dehousse, 1992; Alter and Meunier-Aitsahalia, 1994; Majone, 1995). It was the Commission that projected the principle of mutual recognition onto a wider agenda, the single market initiative, and it did this as early as July 1980 when it announced to the European Parliament and the Council that the *Cassis* case was the foundation for a new approach to market harmonization (Alter and Meunier-Aitsahalia, 1994).

National courts have proved willing to apply the doctrine of direct effect by invoking Article 177 of the Treaty of Rome which stipulates that national courts may seek 'authoritative guidance' from the ECJ in cases involving Community law. In such instances, the ECJ provides a preliminary ruling, specifying the proper application of Community law to the issue at hand. While this preliminary ruling does not formally decide the case, in practice the Court is rendering a judgment of the 'constitutionality' of a particular statute or administrative action in the light of its interpretation of Community law. The court that made the referral cannot be forced to acknowledge the interpretations by the ECJ, but if it does, other national courts usually accept these decisions as a precedent. Preliminary rulings expand ECJ influence, and judges at the lowest level gain a *de facto* power of judicial review, which had been reserved to the highest court

in the state (Burley and Mattli, 1993). Article 177 gives lower national courts strong incentives to circumvent their own national judicial hierarchy. With their support, much of the business of interpreting Community law has been transferred from national high courts to the ECJ and lower courts.

ECJ decisions have become accepted as part of the legal order in the Member States, shifting expectations about decision-making authority from a purely national-based system to one that is more multi-level. The doctrines of direct effect and supremacy were constructed over the strong objections of several Member State executives. Yet, its influence lies not in its scope for unilateral action, but in the fact that its rulings and inclusive mode of operation create opportunities for other European institutions, particularly the Commission, for private interests, and national institutions (lower national courts), to influence the European agenda or enhance their power.

V. Conclusion

Multi-level governance does not confront the sovereignty of states directly. Instead of being explicitly challenged, states in the European Union are being melded gently into a multi-level polity by their leaders and the actions of numerous subnational and supranational actors. State-centric theorists are right when they argue that states are extremely powerful institutions that are capable of crushing direct threats to their existence. The institutional form of the state emerged because it proved a particularly effective means of systematically wielding violence, and it is difficult to imagine any generalized challenge along these lines. But this is not the only, nor even the most important, issue facing the state. One does not have to argue that states are on the verge of political extinction to believe that their control of those living in their territories has significantly weakened.

It is not necessary to look far beyond the state itself to find reasons that might explain how such an outcome is possible. When we disaggregate the state into the actors that shape its diverse institutions, it is clear that key decision-makers, above all those directing the state executive, may have goals that do not coincide with that of projecting state sovereignty into the future. As well as being a goal in itself, the state may sensibly be regarded as a means to a variety of ends that are structured by party competition and interest group politics in a liberal democratic setting. A state executive may wish to shift decision-making to the supranational level because the political benefits outweigh the cost of losing control. Or a state executive may have intrinsic grounds to shift control, for example to shed responsibility for unpopular decisions.

Even if state executives want to maintain sovereignty, they are often not able to do so. A state executive can easily be outvoted because most decisions in the

Council are now taken under the decision rule of qualified majority, and moreover, even the national veto, the ultimate instrument of sovereignty, is constrained by the willingness of other state executives to tolerate its use. But the limits on state sovereignty are deeper. Even collectively, state executives do not determine the European agenda because they are unable to control the supranational institutions they have created at the European level. The growing diversity of issues on the Council's agenda, the sheer number of state executive principals and the mistrust that exists among them, and the increased specialization of policy-making have made the Council of Ministers reliant upon the Commission to set the agenda, forge compromises, and supervise compliance. The Commission and the Council are not on a par, but neither can their relationship be understood in principal-agent terms. Policy-making in the EU is characterized by mutual dependence, complementary functions and overlapping competencies.

The Council also shares decision-making competencies with the European Parliament, which has gained significant legislative power under the Single European Act and the Maastricht Treaty. Indeed, the Parliament might be conceived of as a principal in its own right in the European arena. The Council, Commission and Parliament interact within a legal order which has been transformed into a supranational one through the innovative jurisprudence of the European Court of Justice. The complex interplay among these contending institutions in a polity where political control is diffuse often leads to outcomes that are second choice for all participants.

The character of the Euro-polity at any particular point in time is the outcome of a tension between supranational and intergovernmental pressures. We have argued that, since the 1980s, it has crystallized into a multi-level polity. States no longer serve as the exclusive nexus between domestic politics and international relations.

Direct connections are being forged among political actors in diverse political arenas. Traditional and formerly exclusive channels of communication and influence are being sidestepped. With its dispersed competencies, contending but interlocked institutions, shifting agendas, multi-level governance opens multiple points of access for interests, while it privileges those interests with technical expertise that match the dominant style of EU policy-making. In this turbulent process of mobilization and counter-mobilization it is patently clear that states no longer serve as the exclusive nexus between domestic politics and international relations. Direct connections are being forged among political actors in diverse political arenas.

However, there is nothing inherent in the current system. Multi-level governance is unlikely to be a stable equilibrium. There is no widely legitimized constitutional framework. There is little consensus on the goals of integration.

As a result, the allocation of competencies between national and supranational actors is ambiguous and contested. It is worth noting that the European polity has made two U-turns in its short history. Overt supranationalist features of the original structure were overshadowed by the imposition of intergovernmental institutions in the 1960s and 1970s (Weiler, 1991). From the 1980s, a system of multi-level governance arose, in which national governmental control became diluted by the activities of supranational and subnational actors.

These developments have engendered strong negative reactions on the part of declining social groups represented in nationalist political movements. Ironically, much of the discontent with European integration has been directed towards state executives themselves and the pragmatic and elitist style in which they have bargained institutional change in the EU.

The EU-wide series of debates unleashed by the Treaty of Maastricht have forced the issue of sovereignty onto the agenda. Where governing parties themselves shy away from the issue, it is raised in stark terms by opposition parties, particularly those of the extreme right. Several Member State governments are, themselves, deeply riven on the issues of integration and sovereignty. States and state sovereignty have become objects of popular contention – the outcome of which is as yet uncertain.

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