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## Integration and democracy in the European Community: the contours of a dilemma

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INTEGRATION AND DEMOCRACY  
IN THE EUROPEAN COMMUNITY.  
THE CONTOURS OF A DILEMMA

Wolfgang Merkel

Estudio/Working Paper 1993/42  
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On June 2, 1992 50.7% of the four million Danish voters rejected the Treaty of Maastricht in a popular referendum.<sup>1</sup> A rather bizarre “negative-coalition,” transcending all traditional socio-economic boundaries, voted against the Treaty of Maastricht. Rightist populists joined with leftist socialists, urban intellectuals with small farmers, and advocates of the welfare state with the opponents of the tax state. However different their interests and motives and however diffuse the information for and the arguments against the further integration of European Community might have been among them, they all agreed on rejecting the accelerating supranational integration, whose dynamics increasingly appeared to be intransparent and uncaring of the demands of the people. The Danish referendum highlights a fundamental dilemma of the European integration: the acceleration of the economic integration on the one side and the stagnating democratisation of the European Community on the other side.

The diverging developments in these two areas raise a central question: what does democratically legitimate political control mean to the scope, direction and speed of European integration? The answers presented by the relevant theories of regional integration seem to be clear. The federalists -or rather constitutionalists- claim that constitutionally legitimized decision-making on the supranational level is the normative and functional *conditio sine qua non* of European integration. A common supranational constitution has to be established in order to initiate a successful and non reversible process of regional integration. The functionalists and neofunctionalists argue precisely the other way around. They see the initial transfer of technical and non-political functions in one economic sector from the national to the supranational level as the beginning of an expansive logic of integration. Once one sector is integrated on a supranational level it will create strains and stress within other functionally independent economic sectors. In order to alleviate this friction and save the level of integration already achieved other sectors must be successively integrated as well. Neorealists reject this functionalist point of view. They perceive the national governments as the decisive actors who control the process of European integration. And although the governments

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<sup>1</sup> My special thank goes to Marianne Rinza, both for her helpful comments and her editorial assistance.

of the member states may agree on economic integration to maximize mutual welfare, this process will never “spillover” into the sphere of “high politics.”

I will argue that each of these approaches has a temporally and factually limited explanatory power. As mutually exclusive theoretical frameworks they fail to explain the stops and goes of European integration. Above all they neglect the role that democracy plays in the integration process. My hypothesis is that up to the present the lack of democracy was highly functional for the course of economic integration. In spite of the Treaty of Maastricht and the transcending of a certain threshold of integration, however the democratic deficit threatens to become a hindrance to further integration.

I will unfold this argument in four steps. First I will point out the essential assumptions and conclusions of the traditional (federalist, functionalist, neofunctionalist, neorealist) theories of regional integration. Second, I will investigate the explanatory power of these theories against the background of the accelerating European integration that began in the mid eighties (Single European Act, 1986; Treaty of Maastricht 1991). Third, this deepening and widening of the economic integration will be contrasted with the stagnating democratisation of the European Community. Finally, I will ask which specific interdependence between legitimacy (efficiency, democratic control and accountability) and the evolution of the European integration exists in order to highlight a possible dilemma for the future development of the European Community.

## **I. Theories of Regional Integration**

### **1. Federalist Theories**

During the late 1940s various models of regional integration were developed by members and academic sympathizers of the European Federalist Movement (UEF) (Herbst 1986: 189). They claimed to be prescriptive theories of political action and descriptive explanations of successful supranational integration (Spinelli 1957).<sup>2</sup> Two

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<sup>2</sup> As Ernst Haas pointed out, there are two distinct groups among the federalists. The “ideological group” is primarily concerned with developing a theory of action in order to design a successful path to a European federation. The second group is more concerned with the observation and description of the process of federal integration (Haas 1971: 20). However, the lines often become blurred as the example of the academic, observing

fundamental assumptions form the theoretical core of the constitutionalist-federalist integration theories (Frei 1985: 122):

1. Regions and nations differ in their language, culture, history, and economic interests. They must not be subordinated to a centralized state.
2. Despite their different identities the regions cannot renounce cooperative solutions to their common problems. Whenever small social or political units come up with a suboptimal solution to a problem, they have to seek a solution on the next higher level. The transfer of functions and competences to the higher level has to follow the principle of "subsidiarity." The federalists simultaneously try to meet the functional need for more effective governmental action on the supranational level (centralization) and the normative democratic imperative of regional/local control (decentralization).

Starting from these two assumptions the federalists develop their fundamental *credo*: the nation states' claim to power and sovereignty can only be overturned and transcended by the establishment of a constitution which creates supranational institutions along the patterns of a close knit federal state. Only the convocation of a pan-European constitutional assembly, (*constituante*) beyond the supervision of the nation states can guarantee the drafting of a true European constitution, which would have to be ratified by plebiscites in the single member states. Altiero Spinelli, theorist and activist of the European federalist movement, believed that only a constitutionally guaranteed transfer of authority and functions to the supranational level could trigger a successful process of European integration: "...Mais ce sera une victoire de la Fédération d'avoir obligé les forces de conservation à sortir de leurs coquilles nationalistes et nationales et à chercher une ligne de conduite européenne" (Spinelli 1957: 46). The very purpose of such a written federal constitution is to introduce a "factor of fixity" (Mitrany

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federalist Carl J. Friedrich and the "ideological" federalist Altiero Spinelli demonstrate. The former was engaged in drafting proposals designed to increase the effective functioning of the European *ad hoc* Parliamentary Assembly of the ECSC, the latter in analysing "Conflicts and Crisis in the European Community" (1968).

1965/6: 130) into the process of European integration that is capable of withstanding the claims of national governments and neutralizing their potential veto-power against further integration. Federalists give supranational institutions and institution building a primary importance.

The federalist theory of regional integration includes both realist and idealist elements. On the one hand the federalists realistically acknowledge the resistance and veto power of the nation states regarding the transfer of sovereignty to supranational institutions. Therefore an a priori European federal constitution should be established to remove these obstacles to further integration from the very beginning of the process. It would help create a federal spirit, federal loyalty and federal comity, all features essential for a working federalism (Friedrich 1969: 27). The concept is idealistic, if not contradictory, since it presupposes federal behaviour among the European nations, necessary for the establishment of a European constitution, which could only evolve as a result of such a working supranational constitution. It remains unclear how a European federalist movement could mobilize the degree of crossnational consensus which is necessary for the establishment and operation of a European federal system. Spinelli's original vision that the "European federalist movement" and the "congress of the people of Europe" could convocate a "European constituante" and force the national governments to transfer their power to the institutions of the community (Spinelli 1958: 24) appears to reside completely in the realm of idealism. Moreover, the federalists' credo "*function follows form*" is based on the bias of an *etatist* paradigm of politics, which states that a constitutionally forced and guaranteed transfer of authority to supranational institutions can guarantee the success of European integration (Schneider 1986: 56).

## **2. Functionalism and Neofunctionalism**

### **a. The Functionalist Theory of David Mitrany**

Functionalists start their theoretical reflections precisely from the opposite point of view. Their credo is: "*form follows function.*" The first who applied functional concepts to international or regional integration was David Mitrany. However, his writings were not directed towards the explanation of political integration, but towards the goal of

a worldwide “working peace system,” of which political integration is a by-product of the functional system (Mitrany 1943). On the one hand, Mitrany believes that world peace can be achieved, if international activities are arranged around welfare needs, such as trade, transport and health; on the other hand, he presupposes that people are primarily looking for maximizing social and economic welfare, which can only be achieved by means of international organizations.

Social and economic tasks arise, creating appropriate international organizations in order to find functional solutions for their problems. The actors involved recognize that their social, economic and political tasks can best be achieved starting from the economic sphere. With the success of this transitional cooperation a process of learning occurs, which leads the actors to emphasize ‘low politics’ while neglecting ‘high politics.’ According to Mitrany maximizing welfare would be the most successful path of integration, whereby the traditional aims of power and confrontation lose weight.

Mitrany clearly dissociates his functionalist concept from that of the federalists. A federal constitution, he argues, is not flexible enough to meet changing problems and tasks (Mitrany 1965: 130f). Since it bears the central difficulty of democratic control, that even in democratic nation-states control over executive and administration has slipped away from Parliament (ibid: 139). Moreover, a federal system is bound to be closed and exclusive. The functional system in contrast is open to changes in membership while remaining flexible to adapt to changing economic and political “environments” (ibid: 141): changes in society and in the global “environment” demand suitable changes in the government of societies, and flexible solutions have to be found “to harmonize the actions...in the attainment of common ends” (Mitrany 1965: 134f). For this reason Mitrany calls for the functional solution “by making use of the present social and scientific opportunities to link particular activities and interests, one at a time, according to need and acceptability, giving each a joint authority and policy, limited to that activity alone. That is the functional way” (ibid 135). In contrast to the federalists, Mitrany’s credo is: *Form follows function*.

Regarding forms, Mitrany pledges in the tradition of liberal theories of democracies for “minimal governments.” This minimum should be controlled by an



informed and sensible electorate and by its independent representatives. The government authority is not the “sum of its functions;” rather “the sum of functions” should shape the character of an eventual European executive, and of the European Parliament as well. Executive and parliament will be the pivotal organs of any fully fledged union, since a representative parliament cannot exist until “an equally representative common executive has taken charge of affairs - of affairs intended to spread quickly and widely into new fields. The making of a comprehensive union could hardly be left to an amorphous ‘popular’ assembly and a commission of ‘technocrats’”(Mitrany 1965: 142).

Thus Mitrany assumes the population to be the most important and most active part in building a ‘European consciousness.’ The people should, according to their needs, and “from the bottom” create different kinds of organs which represent their interests.

#### **b. The Original Neofunctionalism of Ernst Haas**

Whereas Mitrany’s research interest focused on a European “security community” (Mitrany 1943), Haas’ theoretical reasoning aims at creating a model predicting integration towards a political community. Political integration is conceived of by Haas as a process “whereby political actors in several distinct national settings are persuaded to shift their loyalties, expectations and political activities towards a new center, whose institutions possess or demand jurisdiction over the pre-existing national states. The end result of a process of political integration is a new political community, superimposed over the preexisting ones” (Haas 1958: 16). The secret of the success of supranational integration is that it starts from technical or noncontroversial, (i.e. “non-political”) sectors of “welfare policy.” Successful cooperation in such a limited sector unfolds an expansive logic: Since economic sectors are highly interdependent in modern economies integration of a single economic sector will create strain and stress between it and non integrated sectors. Economic integration must be extended to neighbouring economic sectors in order to relax these tensions according to the following logic: in order not to give up the benefits of “A” one must integrate “B”. The increasingly intensified transactions and cooperation between countries will erode the walls of national sovereignty from the bottom up. It is the ruse of the functional process of integration, that it evolves and leads

to a growing network of international and supranational institutions behind the backs of the nation states. It is at this stage that functional spillover changes to political spillover.<sup>3</sup>

The central questions that Haas and Schmitter pose are: "Does the economic integration of a group of nations automatically trigger political unity?" (Schmitter/Haas 1964). Is there an automatic link between economic and political integration, between "low" politics (such as the coal and steel industries) and "high" politics (such as security and defence)? According to Haas and Schmitter there is no qualitative leap, since "under modern conditions the relationship between economic and political union had best be treated as a continuum" (ibid. 261). Starting from "technical" and "noncontroversial" purposes "ever more controversial policies (and thus system transforming) emerge" (Haas 1971: 23), leading to a gradual politicization and to the "unintended consequence" (ibid.) of the emergence of new regional institutions and authorities.

Differing from Mitrany, Haas assigns important integrative functions to two groups of actors: to relevant interest groups and to supranational institutions. In the course of economic integration important interest groups shift their attention and activities to the supranational level and exert pressure on the national governments to transfer more and more regulatory functions to the supranational level. The embryonic supranational institutions such as the Commission and the European Court accumulate power and gradually become powerful actors in the integration process. Haas clearly sees that there is not only an "anonymous" logic of integration, since "tasks do not take care of themselves; form does not automatically follow function; institutional goals do not flow naturally from obvious welfare commitments of the clients. It is the task of the organization -the leadership- to define aims specifically enough to act as a guide to policy..." (Haas 1958: 101).

Despite Haas' concession that transnational organisations and supranational institutions do play a role in the integration process there is a clear telos built in Haas' spillover concept which leads to ever increasing integration. Haas assumes that the

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<sup>3</sup> To the distinction between "functional" and "political" spillover see: George (1991: 21-23).

incremental form of decision-making driven by the expansive logic of spillover will lead to political integration. In his own words: “The superiority of step-by-step economic decisions over crucial political choices is assumed to be permanent; the determinism implicit in the picture of the European social and economic structure is almost absolute. Given all these conditions, we said, the progression from a politically inspired common market to an economic union, and finally to a political union among states, is automatic” (Haas 1967: 327). Haas concedes that this process can temporarily be stopped by occasional crises. But for him (and the young Schmitter) these crises are “the creative opportunity for realizing (the) potential to redefine aims at a higher level of consensus” (Haas/Schmitter 1964: 716). Serious spillback or disintegrative developments do not exist in his ideological concept of regional integration.

### **c. The Revised Neofunctionalism of Nye and Schmitter**

Seven years after the article he coauthored with Ernst Haas, Philippe Schmitter wrote: “The first attempt at the statement of a comprehensive, yet parsimonious, model of the political consequences of integration movements by Ernst Haas and myself was, I think it is fair to say, a successful failure.” (Schmitter 1971: 233). According to Schmitter’s (self)critique a particular failure of the original neofunctionalist theory of regional integration is that it paid too little attention to the specific relations between the background variables of integration and the process itself. Moreover, there is too much “automaticity” and too little sensitivity to the possibility of different integration outcomes in the original concept (ibid.: 233). Schmitter and Nye pledged in two separate articles of the same volume to revise the old neofunctionalist concept. According to Nye, the original neofunctionalist approach should at least be modified in four points (Nye 1971: 193):

1. The “dependent variable,” i.e. the outcome of the integration process, should be defined less ambiguously.
2. More political actors should be taken into account.
3. The background conditions and the processes of integration have to be reformulated and distinguished from each other.

4. The idea of a single path from the initial integration of technical economic sectors to political union should be dropped in favor of the inclusion of other potential forces and paths.

ad 1: In his general model Nye himself consciously leaves open what the “dependent variable” of the integration process should be. In order to avoid the ambiguity of generic terms such as “negative economic integration,” “economic” or “political union” he calls for a concrete list of policy areas and measurements of the collective decision-making involved.

ad 2: Interest groups and integrationist-technocrats are by no means the only decisive actors in the process of integration as the original neo-functionalist model suggests. Actors who oppose and possibly divert the integration process, such as “dramatic political leaders,”<sup>4</sup> occupational groups and regions which perceive themselves as the relative or absolute loser in integration have to be considered as well. Moreover, mass opinion leaders who are able to create support or stimulate opposition to further integration also have to be taken into account (Nye 1971: 197).

ad 3: Nye and Schmitter distinguish between the integrative conditions (potential) and the mechanisms of the integration process. They differ from Karl Deutsch in that they add to the structural conditions (symmetry of units, capacity of member states to adapt and respond, pluralism of modern associational groups, elite value complementarity) perceptual conditions (perceived equity of distribution of benefits among the actors, perceived external cogency, low visible cost at the beginning of the integration),<sup>5</sup> which will influence the mode and speed of regional integration.

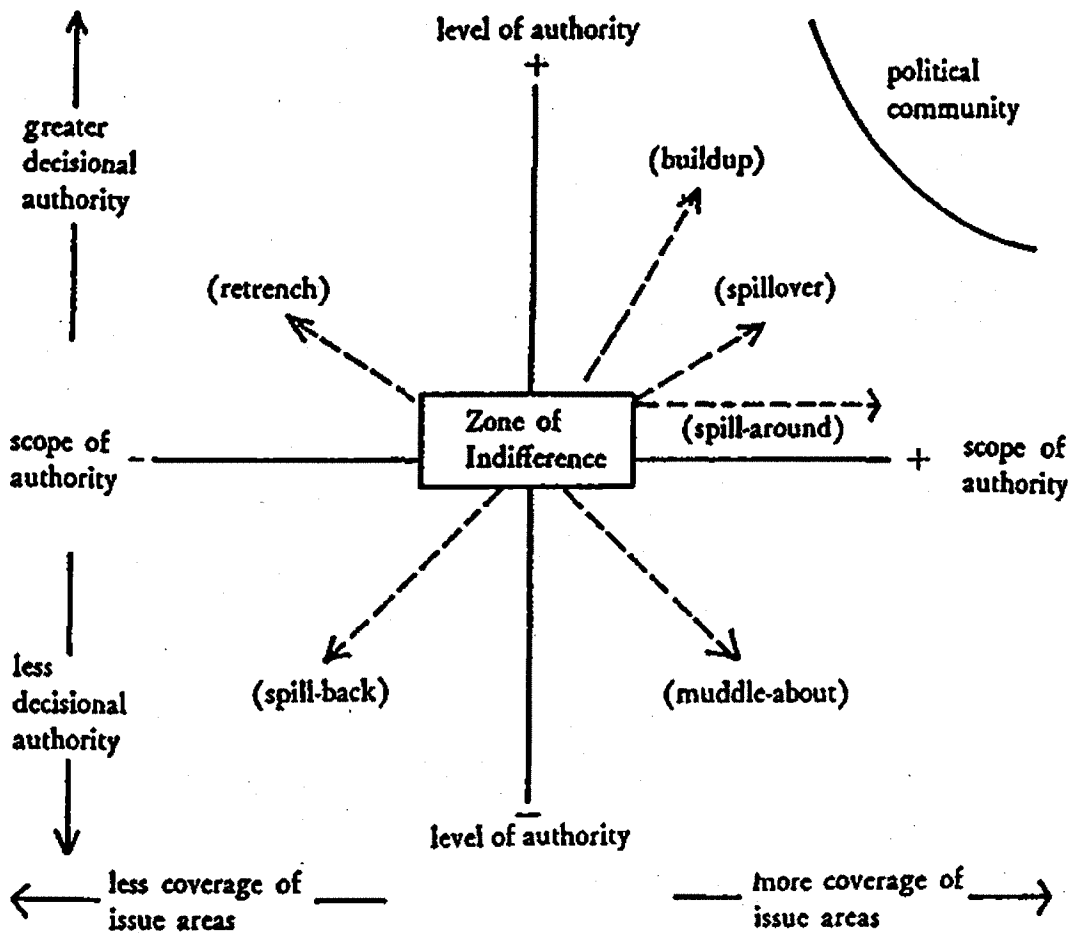
ad 4: Admitting that important decisions concerning integration have to be channelled through legitimate political decision making on the national and community

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<sup>4</sup> Impressed by the French politics of the “empty chair” Haas himself admitted that “dramatic political leaders” like De Gaulle can influence the integration process (Haas 1967).

<sup>5</sup> For a precise description of the integrative potential and the integration process mechanisms see: Nye 1971: 199-224.

level, Nye concludes that the outcome of the regional process is principally open and contingent: "Actors can pull back from common tasks and institutions as well as increase their scope and authority" (Nye 1971: 189). Schmitter went even further in spelling out the possible actor strategies in, and therefore also outcomes of, an integration process. By plotting the alternatives in a two dimensional space he distinguishes between scope (decisional authority) and level (inclusion of issue areas) of authority conceded to regional institutions. The combination of these two dimensions, level and scope, allows seven possible strategies and outcomes (Schmitter 1971: 241/2):



Which strategy the actors follow and which course the process of integration takes depends on the concrete configuration of the integrative potential and its links to the various process mechanisms. Moreover, the evolution of the integration depends on four conditions which are likely to characterize and influence it over time:

1. *Politicization*. As a consequence of rising transactions, and functional and deliberate spillovers the scope and level of community decision making will increase and more and more actors with different interests and views will become involved in further integration: the integration process becomes gradually politicized. The problem is not the politicization itself but the “premature politicization before supportive attitudes have become intense and structured” (Nye 1971: 221).

2. *Redistribution*. It appears to be unavoidable that the benefits and costs of the integration will be asymmetrically distributed among bureaucrats, occupational groups, regions and nations. The way in which the groups will react to further regional integration depends on the perception and the power resources of these actors.

3. *Reduction of alternatives*. The further integration has advanced, the more tasks, issues and policies are interrelated in the collective decision making of the community, the higher the potential costs of the exit option will be for the actors. The potential alternatives outside the community are thus reduced, as actors will only opt out when they perceive the costs of remaining committed to the community to be higher than those of the exit option.

4. *Externalization*. As integration proceeds the member states of the community will be forced to act as a corporative actor in international relations vis-à-vis third countries or organisations (Third World, Gatt, Nato etc.). This might foster the political identity within the community and promote a political union. However, warns Nye, if corporate involvement in external policies takes place prematurely in the intermediate stages of integration it can also have braking effects, since it diverts attention from the internal affairs and precipitates “unnecessary crises” (Nye 1971: 224 ).

To sum up Nye's four considerations in Schmitter's terminology: the direct path from an economic to a political union might be the path of successive spillovers and

package deals involving more issues and more decision-making competences on the community level (Schmitter 1971: 242). However, if “spillovers,” “build ups” and “spill arounds” occur too quickly they can also create, uncertainty and provoke defensive or negative reactions of single actors.

The merit of Nye’s and Schmitter’s revision of neofunctionalism is that they spell out the “structural” and “perceptual” integration potential, distinguish it from the process mechanism of integration, include more actors into the explanatory scheme, and divest the concept of its deterministic prospect of an ever progressing regional economic integration leading up to a political union. It remains a secondary question whether this Nye/Schmitter-synthesis can still be called neofunctionalist.<sup>6</sup> In view of this far reaching and enriching revision of neofunctionalism it seems unnecessary to me for Ernst Haas (1975) to have provided his own intellectual Cannossa in declaring regional integration theory obsolete. However, Haas’ declaration had a far reaching effect on the theoretical analysis of European integration. It suddenly silenced a fruitful discussion that had lasted almost 15 years. The European Community became the object of limited, partial, detailed or purely descriptive analyses by economists, political scientists and lawyers.<sup>7</sup>

#### **d. Neorealism**

Already in the heyday of neofunctionalist writing on European integration Stanley Hoffmann criticized the approach of Ernst Haas from a “realist” point of view. He accepted the operation of “spill-over” in the realm of economic welfare, in particular as far as “negative” policies, such as the dismantling of tariffs, quotas, obstacles to free trade

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<sup>6</sup> Schmitter himself was uncertain about the precise theoretical status of his new approach and called it a “revised formalization of the neo-functional or structuralist theory of the political consequences of regional integration” (Schmitter 1971: 233).

<sup>7</sup> I do not discuss here the *transactionalist* approach of Karl Deutsch. Deutsch was primarily interested in the question of under what conditions institutionalized security communities come into being. He stressed in particular the *structural* conditions to predict success at political integration (Deutsch 1968). I do not see any important explanatory factor in Deutsch’s work which is not included in the more complex schemes of the neo-functionalists Nye and Schmitter.

and competition are concerned (Hoffmann 1964/5; 88). In the area of “low politics” the “spillover” effect might work. However, “none of this is true in the realm of high politics” (ibid.: 89). “Spillover” will never advance into the core areas of national sovereignty (“high politics”) such as defence, national security and monetary policy.<sup>8</sup> According to Hoffmann the neofunctionalists underestimate the role of national governments as powerful actors in the process of European integration. Moreover, they fail to view regional integration in the global context of international relations. National governments, Hoffmann argues, will only agree to a transfer of power to the supranational level, where it can be assumed to be in their national interest and when they can still influence the policy-making process through intergovernmental bargaining. De Gaulle’s “empty chair politics” in 1966, which initiated more than fifteen years of relative stagnation in the integration process, seems to confirm Hoffmann’s realistic point of view.

But when the European integration accelerated again with the Single European Act (1986) and the Common Market project for 1993 the neorealist school had to explain the new dynamics. Still insisting on the predominant role national governments play in the process of European integration, Stanley Hoffmann and Robert Keohane (Hoffmann/Keohane 1991: 1 pp.) put forward a “modified structural realist” approach which started from three propositions (ibid.: 10):

1. The EC is neither an international regime nor an emerging state but a network involving the pooling and sharing of sovereignty.
2. The political process of the EC can be described as supranational.
3. The EC has always been based on sets of intergovernmental bargains, “and the Single European Act is no exception to this generalization” (ibid.).

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<sup>8</sup> Stanley Hoffmann does not hint at monetary policy in his writings during the 1960s. But from the perspective of the 1980s many European states (except the UK and France) are more concerned with maintaining national sovereignty in areas of monetary policy than in the field of national security. In any case, monetary policy has to be counted among the most sensitive policy fields of national interests in Western Europe. They are at the core of “high politics” (i.e. Tsoukalis 1977).



Starting from these three propositions regarding the nature of European institutions and continuing to rely on the realist belief that states are uniquely powerful actors, Hoffmann, Keohane and their pupil Moravcsik (1991) attempt to combine neorealist thinking, rational decision making and some neofunctionalist elements in a model capable of explaining the new dynamics of European integration. Moreover, Hoffmann (1989) acknowledged the contribution of Delors, the Commission and the supranational business interests in pushing forward the single market project. To sum it up, in diluting, and to some extent transcending, the original neorealist approach, the “modified structural realism” paid tribute to the new complexity of the European integration, by integrating some elements of the revised neofunctionalist model into its explanatory scheme.

## **II. The Dynamics of European Integration in the 1980s and 1990s and the Explanatory Power of Integration Theories**

### **1. The Single European Act and the Single European Market of 1993**

After almost two decades of stagnation “Eurosclerosis” began to dissolve during the first half of the 1980s. The completion of the single European market appeared as the dominant common project of the member states. However, the consensus did not extend to opinions regarding its concrete shaping. In particular there was considerable dissent as to how far monetary, social and foreign policies should be placed under the control of the common decision making process of the European Community. There was even greater disagreement between France, Germany, Italy and the Benelux-countries on the one side and the UK and Denmark on the other side, as to how many national prerogatives should be transferred to supranational institutions, i.e. the Commission and the European Parliament. Ireland, Spain, Portugal and Greece oscillated between these two “groups.”

Despite these divergent positions the principal conflicts could be resolved or postponed. After less than 6 months of intensive intergovernmental bargaining during the second half of 1985, the Single European Act was signed in February 1986. The four

fundamental freedoms, already laid down in the Treaties of Rome (1957), 1, free trade of goods, and 2, services, 3, free movement of labour, 4, free movement of capital, were supposed to be implemented by the beginning of 1993. In matters concerning the Single European Market qualified majority rule was adopted for the councils' decisions social, tax and monetary policy have been excluded from the integrative process for the time being (Noel 1989).

How are the new dynamics of European integration to be explained? The federal theories of regional integration can only deliver a moderate contribution. And this only insofar as the Treaties of Rome can be interpreted as an already accepted functional network of rules, institutions and decision-making arenas, where the national actors can reach compromises much more rapidly and efficiently on a wider range of issues than in less institutionalized international regimes. But the parsimonious traditional functionalism and the original neofunctionalism are also unable to provide a sufficient explanation. In contrast, the revisionist neofunctional models of Nye and Schmitter provide an excellent scheme to shed light on the opportunity structure the political actors were facing in the early 1980s. Changes in the perceptual ("external cogency": the U.S. and Japanese challenge on the world market) and structural integrative conditions ("capacity of the member states to respond" to changing economic environments: convergence of the economic policies of France, Germany, UK) increased the overall integrative potential in the European Community. Moreover, they enabled the main actors to form coalitions and deliberately link problems and solutions to these problems in package deals in order to achieve the overarching common goal of the Single European Market.<sup>9</sup>

Schmitter's and Nye's models can highlight the constraints and opportunities of the actors involved and the possible outcomes of their strategies. But they do not provide explanations for the specific choices made by the relevant actors (Garett 1992: 540). Moreover, they tend to undervalue the important role national governments still play in

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<sup>9</sup> This is what Nye subsumed under the process mechanism: *deliberate linkages and coalition formation* (Nye 1971: 202).

an already advanced stage of regional integration. To overcome these deficiencies it seems to be fruitful to integrate some elements of the realist analysis. Although neofunctionalism and neorealism have been antipodes in the academic debate on regional integration I do not see any theoretical reason why functional spillovers, trans- and supranational actors, external cogency, the capacity of the member states to respond to new “environments” and negotiation between sovereign states should be mutually exclusive and could not be included in a single explanatory framework. What impact each of these factors has on the development of European integration can only be seen in the analysis of a specific situation.

### **Functional Spillover**

It is true that the development of the European Community from a free trade area to a single market (SEA 1986) and later possibly to an economic and monetary union (Maastricht 1992) reveals a certain functional spillover-logic, but the concept of functional spillover fails to explain why the spillover took place during the 1980s and not ten or fifteen years earlier.

### **Transnational and Supranational Actors**

In 1983 the so called “minimalist” “Kangaroo Group” of deputies of the European Parliament launched a campaign and presented a concrete schedule for the abolition of technical and fiscal barriers in order to create a true Single European Market. The “maximalist” “Crocodile Group” went even further and proposed a “Draft Treaty Establishing the European Union” (Moravscik 1991: 43). The Draft Treaty, worked out under the leadership of the old federalist Altiero Spinelli, passed the EP as a resolution but was not accepted by the European Council. But it did signal new pressure from the European Parliament to move closer to a Political Union.

It is true that transnational business lobbies such as the Union des Industries de la Communauté (UNICE) got officially involved late into the preparation of the SEA (Moravscik 1991: 65), but Moravscik and the neorealists are playing down the role of

leading European industrialists in launching and pushing forward the single market project of 1993. Comparing the situation in 1957 and 1986 Giovanni Agnelli even saw a role reversal between politicians and industrialists. Whereas the politicians had to convince many industrialists of the benefits of the EEC in 1957, it was the leading managers of multinational corporations who first put pressure on the politicians during the first half of the 1980s to complete the single European market (Agnelli 1989: 61).

Among the trans- and supranational actors the Commission, under the leadership of Jacques Delors was of crucial importance in launching the White Paper<sup>10</sup> (Sandholtz & Zysman 1989: 96; Ross 1992: 56). There was clearly a “Delors Effect” as more detailed analyses of the Commission’s work show (Ludlow 1991: 116 pp.). Delors demonstrated (as Hallstein did in the early 60s) how much the Commission can accomplish and in doing so he increased the status and enlarged the responsibilities of the Commission within the Community’s decision making system.<sup>11</sup> Doubtlessly, Delors’ presidential regime and his reassertion of the Commission’s right to initiate legislation strengthened the political role of the Commission, but even he had to recognize that the (European) Council and in it the most powerful states make up the Community’s primary decision making body. He had to drop his original far-reaching plans to extend the power of common decision-making to issues such as monetary policies, defence and procedural reforms within the EC as soon as it became clear that neither Germany nor France nor Great Britain favoured them. Seen from this point of view Delors’ final proposal, which basically restricted areas covered by the SEA to the Single European Market, was therefore not a supranational synthesis of single proposals which had been preserved, but the lowest common denominator within an intergovernmental decision making structure. Delors and his commission helped to accelerate the new dynamics of the EC, but they

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<sup>10</sup> The original draft of the White Paper was drawn up by the commissioner for internal affairs, Lord Cockfield.

<sup>11</sup> It is probably due to the selective perception of someone who basically relies on the neorealist approach which led to A. Moravcsik playing down Delors and the Commission’s role in promoting the SEA.

still had to accept the “iron” constraints of national sovereignty under which they were acting,

### **External Cogency**

External factors have always played an important role in the neorealist critique of the integration optimism of the original neofunctionalists. But Nye and Schmitter showed that external cogency can also foster regional identity and stimulate common action. I see three main, closely interrelated developments during the late 1970s and early 1980s which exerted pressure on the EC to accelerate the European integration:

1. The oligopolistic intensification in the world political economy, weak European economic growth, and the technological gap vis-à-vis Japan and the USA generated *external* pressure for action on the EC. A partially deregulated single European market seemed to be the economically rational response (Hoffmann/Keohane 1991: 22: “political economy hypothesis”).
2. This economically rational response became realistic when Mitterrand’s experiment of “Keynesianism in one country” failed and the French economic policies embarked on a middle road between neoliberalism and Keynesianism. The economic preferences of the three major European states converged towards a moderately deregulated economy. The external economic cogency was perceived in a similar manner by the main actors and the converging domestic development enabled a common response (Hoffmann/Keohane 1991: 23: “preference- convergence hypothesis”).
3. The first (1974) and second enlargement (1981; 1986) of the EC doubled the number of the member states and heterogeneized the interests involved in the once relatively homogeneous community of the six. The unanimity rule and the veto right in the Council became obvious hindrances to attempts to transform the more than 300 proposals of the Single European Act into implementable decisions. The conjunction of external events and the enlargement of the EC

produced internal pressure to change the procedural rules for decision making in the Council.

However, common interests and a common perception of external challenges do not automatically determine common political action. The bargaining that took place between the relevant actors should be examined for further explanation. (Hoffmann/Keohane 1991; Moravscik 1991; Garrett 1992). It restricted the reform plans to the Single European Market and the decision making rules in the Council. "Exchange" and "blackmail" functioned as the central "currency" in these intergovernmental bargains.

### **Intergovernmental Bargains**

Functional spillovers, external pressure, the lobbying of transnational business groups, and the active role of the Commission provided the fertile ground for the reform of the EC. However, (the heads of) the national governments remained the chief players. The primary concern of the British government was the deregulation of the national markets while preventing any additional regulations on the European level. Moreover, the Thatcher government was unwilling to renounce the Luxembourg compromise of 1966 and introduce qualified majority rule. Greece and Denmark were the only countries to support this particular British position (Moravscik 1991: 59). Germany agreed largely to the deregulation, while France proposed some sort of European additional regulations, i.e. in industrial policies. As to procedural reforms France and Germany were interested in qualified majority rule with weighted voting, which would hinder British attempts to veto Council decisions and weigh a country's vote according to its size.<sup>12</sup> This in turn was designed to prevent a takeover of the Council's decision making process by the smaller countries. The Benelux countries shared, with minor reservations, the Franco-German positions and were allied with France and Germany from the outset of the bargaining

<sup>12</sup> The voting system in the Council is weighted and assigns the following number of votes: France, Germany, Italy and the UK 10 votes, 8 for Spain, 5 for Belgium, Greece, the Netherlands and Portugal, 3 for Denmark and Ireland, and 2 for Luxembourg.

process (Garrett 1992: 544). Ireland and the Southern European countries showed more scepticism regarding the deregulation of their domestic markets because of the foreseeable dislocation costs. Therefore they pressed for large compensation payments, to be made by the richer countries through the structural and developmental funds of the EC. To give their voice a bigger say in the Council they favoured simple majority rule. Positioning the countries on two continua, one on market deregulation, the other on voting in the Council Geoffrey Garrett shows that Germany and France held the advantageous pivotal position on both axes (Garrett 1992: 543).

And indeed Great Britain accepted qualified majority rule. The strategically unfavourable position at the end of both axes and the Council's concessions to the long pending question of the British contributions to the EC budget on the one hand, and the French-German threat to launch a two track Community on the other explain the Thatcher government's agreement with the procedural reform of the voting system from the point of view both of their interests and their bargaining position. Additionally, the bargaining position of Thatcher was weakened by the pro European Tory wing which pressed on the domestic scene for progress in European integration. Gaining the support of Ireland and the Southern European countries was far less problematic, as it could be "bought" to some extent by doubling the structural funds for their underdeveloped regions (*ibid.*: 547).

However the SEA and the Single European market contained a new spillover potential, which could push European integration beyond pure market liberalization. Interdependent policy areas such as monetary, social, macro-economic, and tax policies had to be coordinated in order to avoid strain between these sectors and reap optimal benefits from the Single European Market. Seen from this perspective the Treaty of Maastricht appears to be a result of the expansive spillover logic as described by the neofunctionalists.

## 2. The Treaty of Maastricht

As with the success of the SEA, the treaty of Maastricht cannot be explained by neofunctionalism or neorealism alone. Though some of the driving forces and leading actors influencing both negotiations resemble each other, their specific impact on its success was different. The Maastricht Treaty itself can be seen as the consequence of two different developments: The first is a classical *functional spillover effect* generated by the success of the Single European Act, the second are the turbulent changes in world politics (external cogency) since 1989. National governments remained dominant, and negotiations continued to be on an intergovernmental basis.

### Functional Spillover

The Single European Market project produced incentives for the deepening of economic integration in order to maximize the welfare effects accruing from the liberalization of the European market. Seen from this perspective Maastricht appears to be an exemplary proof of the predictive power of the neofunctionalist spillover concept. As early as 1989 Sandholtz and Zysman had identified three major economic and political areas beyond the pure market liberalisation of the SEA into which spillover from the completion of the single market could occur: monetary policy, leading to the coordination of macro-economic management; regional and social redistribution as a consequence of market deregulation and monetary union; and the need to rebalance national and supranational decision-making after the deepening of the economic integration (Sandholtz/Zysman 1989: 120). Moreover, in order not to distort the free circulation of goods, services, capital and labour the EC had to coordinate their policies in the fields of health, consumer protection, environment, tax, trans-frontier crime, and immigration (Wessels 1992: 2/3). There is clear evidence that the pressure to extend the level and scope of joint decision-making was a direct consequence of the creation of the single market. However, the way in which these policy fields have been integrated into the joint decision-making of the Community, and the extent of this integration varied



considerably. This suggests that spillovers do not happen automatically, but require deliberate action on the part of political actors.

### **Transnational and Supranational Actors**

UNICE favoured Economic and Monetary Union (EMU), but its interest in a common European currency and in common macroeconomic policies in particular was considerably weaker than in the Single European Market. Therefore it was less active and its impact on the negotiations and the final Treaty of Maastricht was of little importance. As had happened six years earlier the European Parliament drew up reports and specific proposals (the so called "Martin-Reports") for going beyond economic integration (EMU). It demanded the official integration of European Political Cooperation (EPC) into the Community framework, an increase in the powers of the EP itself (co-decision, right of initiative, involvement in the appointment of the Commission, right of inquiry, etc.), more competences for the Commission in the sector of social and environmental policies, and the creation of a European citizenship (Corbett 1992: 273/4). The Italian parliament and the Belgian government supported these proposals immediately. But only after Mitterrand and Kohl accepted the legitimacy of these demands did the governments of the member states agree to establish a second set of intergovernmental conferences (IGC) on Political Union parallel to the EMU negotiations. This demonstrates that supranational actors still need "coalition partners" among the more powerful national actors in order to achieve their objectives. Compared with its role in bringing about the SEA the Commission played a less important role in bringing about the Maastricht Treaty because there was a broad consensus among the governments that the Single European Market had to be complemented with some form of Economic and Monetary Union. However, the Treaty did follow the route set out in the Delors Report of 1989. As in 1985/6 the dominant actors were the national governments', and again as five years before the axis Paris - Bonn, supported by the "model"-European governments of Belgium, Luxembourg, the Netherlands and Italy, turned out to be decisive in defining the content of the Treaty. The internal momentum

created by the SEA, which most member states wanted to utilize for further integration, as well as the altered international environment, produced rational reasons for the actors to promote European integration.

### **External Cogency**

The negotiations on Maastricht evolved in a much more complex and turbulent international environment than those on the SEA. Whereas in 1985/6 the economic challenge of Japan and the USA exerted the greatest external pressure for further integration, five years later there were mainly political reasons demanding a response from the European Community. In particular, two developments altered the international environment of the EC and provided the most important impetus for negotiating the Political Union: the collapse of the communist regimes in Eastern Europe and the rapid reunification of Germany (Liebert/Merkel 1991). The breakdown of Communism and the new turbulence in Europe increased the need for a deepening of European integration, as only a more integrated European Community could function as an anchor of stability vis-à-vis the disintegrationist tendencies and reemerging nationalism in Eastern Europe and its spillover to the West. Moreover, after succeeding in promoting its own political integration only could the EC realistically hope to become a corporate actor in international relations, capable of influencing the future development of Europe. But in particular it was German reunification which urged Mitterrand and Kohl to push integration forward the integration. Chancellor Helmut Kohl, (a convinced European) believed that the firm embedding of Germany in a stable Europe would prevent it from oscillating between East and West and would not endanger Germany's process of Westernization after 1945. Mitterrand's interest in such a firm integration was even more pronounced. Germany as the emerging but weak, leader of Europe would be a more reliable partner for France and the other states if it were firmly tied to the binding rules, procedures and institutions of the Community. So the "external cogency" already stressed by Nye (1971) and Schmitter (1971) on the one hand and the "modified structuralist" variant of neo-realism on the other hand (Hoffmann/Keohane 1991), must also be

considered in explaining the pressure behind the most ambitious attempt to expand the policy reach of the European Community since 1957.

### **Intergovernmental Bargains**

The informal coalition formation within both sets of IGCs very much resembled that of the negotiations of the SEA. Germany, France, Italy, and the Benelux agreed on the fundamental structures of and schedule leading to the EMU. The poorer countries, Spain, Portugal, Greece, and Ireland, traded their agreement to the EMU and PU for the establishment of the cohesion fund. The fund should help compensating the peripheral countries for the distortions and the austerity policy which was inevitably required to meet the convergence criteria for the Monetary Union (Artis 1992: 303). Like five years earlier, Great Britain was the most difficult negotiation partner, having reservations on most of the salient issues of the EMU and the PU.

The German government and the Bundesbank were the dominant players on the monetary issue. They succeeded in closely modelling the European Central Bank (ECB) on the Bundesbank. In particular they got their proposal accepted that the ECB should be independent and entrusted with the primary task of achieving and guaranteeing price stability.<sup>13</sup> The UK opposed the idea of a single European currency and floated the proposal of a hard ECU as a parallel currency. The British proposal failed to find any support among the other member states, not at least because a parallel currency would simply multiply the transaction costs. On the other hand the British government did not accept the automaticity of the road to the EMU. In contrast with the SEA the negotiation partners failed to find a common denominator. The problem was resolved (or better, its solution postponed) in conceding an "opt out" clause for the UK. British

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<sup>13</sup> Nevertheless there is a growing opposition in Germany to a Single European Currency and the ECBS. Prominent economists ("group of 60") and editorialists (*Der Spiegel*, Augstein) are afraid that the diverging stability-culture among the member states will influence the respective national governors of the European Central Bank and weaken price stability (Hrebek 1992: 229 pp). Moreover an overwhelming majority in Germany is not prepared to give up the Deutsch Mark as a symbol of economic success.

parliament will be allowed to decide on this issue in 1996 when the third step to the single European currency is scheduled. This and the inclusion of a firm time table for the EMU and the establishing of ambitious convergence criteria can be considered as the possible beginning of a multispeed Europe in which different countries participate in different policy regimes.

Great Britain also adamantly opposed the introduction of a chapter on Social policy into the Treaty, which had been proposed by the Commission and some member states. However, it soon became clear that this issue was not considered as important as the Monetary Union by the other governments. The conservative British government succeeded in keeping social policy out of the Maastricht Treaty and in the realm of national politics. The social chapter was finally added to the Treaty as a non-binding protocol.

The poorer countries continued the bargaining strategy they used in the SEA negotiations, linking concessions to further economic integration with their claims for regional redistribution. In particular Spain pressed for the establishment of a Cohesion Fund. It threatened to veto any enlargement of the Community (e.g. to include some of the EFTA-countries) if the fund is not adequately endowed with financial resources. The peripheral countries succeeded in including the Cohesion Fund into the Treaty. However, the Fund cannot be compared with the interregional "Finanzausgleich" in the Federal Republic of Germany and will be totally inadequate for the transfer of the amount of financial resources from the richer to the poorer countries required by the introduction of a common currency.

The Treaty of Maastricht also includes changes of the institutions and procedures of the EC. The European Council became the undisputed political authority entitled to define the general political guidelines for the Political Union. The power of the Council of Minister was enhanced and majority voting extended. Art. 189 gave some co-decision rights to the European Parliament and introduced a conciliation procedure to the legislative process within the Community. If there is still disagreement after two readings in the Council and the Parliament, and conciliation meetings between the Commission,

the Council and the European Parliament fail, then the Parliament can veto decisions with an absolute majority of its deputies. After the ratification of the Treaty each new Commission requires for its endorsement a vote of confidence from the EP (Wessels 1992). In short, Maastricht enhances the powers of the supranational and intergovernmental organs of the Community vis-à-vis the member states.

The transfer of sovereignty from the national to the supranational level posed anew the question at the appropriate balance between the competences of the Community's institutions and those of the member states. Since it is impossible to separate their competences in substance, the principle of subsidiarity (art. 3b) was introduced into the Treaty. The term was coined by the Catholic social doctrine (1931, social encyclical "*quadragesimo anno*") and had already played an important role in the European federalist movement in the late Forties and early Fifties. Without discussing in detail the highly imprecise and problematic formulation of this principle in art. 3 (Grimm 1992), the core of it can be put as follows: in those policy areas, in which the EC does not possess the exclusive competence, the Community can only act according to the principle of subsidiarity, i.e., policy competences should remain at the lowest effective level. Only when the member states prove to be incapable of finding optimal solutions can competences be transferred to the Community level.

There are two dominant interpretations of the consequences of the subsidiarity principle for the future of the European integration. Fritz Scharpf argues that the principle of subsidiarity cannot stop the inherent tendency towards an increasing centralization of the European Community. Since the economic, political and administrative capacities of the member states vary considerably, only in rare cases could it be denied with judicable arguments that the economic tasks laid down in the treaties of the EC could not better be realized at the supranational level (Scharpf 1992a: 14). Art. 3, which demands the harmonization of innerstate laws in order to guarantee the functioning of the single market, could become a clause for the omni-competence of the Community. Besides Germany, Belgium and Great Britain, some member states even deny that "subsidiarity" will restrict the activities of the Community at all. If the

European Court considers subsidiarity as judiciable, and the Court's practices in the past give some hints that it will interpret the norm expansively rather than restrictively, then it could become the focus of major conflicts between the member states.

The German constitutional judge Dieter Grimm doubts whether the principle of subsidiarity can contribute to an appropriate balance between the Community and its member states. According to Grimm there is a good deal of juridical evidence that subsidiarity is not judiciable at all. He considers it as an empty formula, which will not be applicable to concrete disputes. In any case the diffuse, ill-defined character of the subsidiarity principle helped to bring about the Treaty of Maastricht. The single member states could interpret the article according to their specific understanding of the relation between community, nation-state, and subnational units. Whereas the Belgians and Germans or the Basques and Catalans primarily comprehend it as the right of the regions and *Länder* to participate in the joint decision-making wherever their constitutional rights will be affected, centralized states such as Great Britain and Denmark could use it as a general opt out clause for all those policy areas where the states are not willing to give up their national prerogatives. From this point of view, the principle of subsidiarity contains a considerable potential for disintegrating tendencies in the negative case, or for a multispeed Europe clustering different countries in different policy areas, in the positive case.

Here, the first contours of an integration versus democracy dilemma become visible. If subsidiarity is interpreted as an effective means of stopping the centralizing tendencies inherent in the process of European integration and taking decisions as closely as possible to citizens, then it will contribute to the democratization of the EC. But the unavoidable consequence will be that the member states and possibly subnational units will remain strong and that further integration will be hampered if not halted. We will return to this issue in more depth when we discuss the problematic legitimacy of the Community against the background of a progressing integration.

### **III. Integration and Legitimacy**

Until the Treaty of Maastricht European integration was the almost exclusive work of political and economic elites. One of the secrets of the advance of European integration despite temporary stagnations was that it was guided by the national executives and promoted by decisions of the Commission and the European Court. Neither the European Parliament nor the national parliaments - with the exception of the Danish *Folketing* and to some extent the British parliament - were able to control the legislative process of the Community. Subnational units, such as the German *Länder*, the Belgian regions or the Spanish *Comunidades Autónomas* were excluded from the decision making process and its control despite the constitutional prerogatives they possess within their countries. Aside from the Danish, Irish (and sometimes French), the populations of the member states were not even asked when the Treaties of Rome (1986: SEA; 1992: Maastricht) were fundamentally revised. Although Fritz Scharpf had already discovered serious deadlocks in the Community's decision-making process during the 1980s (*Politikverfechtung*), the actors involved in this period were limited as far as the Council remained the largely uncontrolled decision-making body of the EC. But with the Treaty of Maastricht and the transition from "negative economic integration" (Pinder 1969: 145) to positive economic and political integration this was altered. The deepening of "level" and "scope" became visible and forced multiple supranational, national and subnational actors to claim for more rights in participating and controlling the European decision making process. The long standing normative request of resolving the "democratic deficit" of the European Community became a functional prerequisite of further integration as well. But before I describe the contours of an emerging "integration/versus democracy" dilemma it is necessary to shed some light on the so called "democratic deficit" of the EC.

#### **Legitimacy and Democracy in the European Community**

The European Community is more than an international regime and less than a political system. The more integration advances, the more the EC develops from a

regime. In a political union, the more its need of legitimacy increases. Regarding the European Community Joseph Weiler distinguishes between “formal” (legal) and “social” (empirical) legitimacy (Weiler 1989: 78).

There can be no doubt that the EC is built on *formal* legitimacy. The national parliaments have ratified the Treaties of Rome and the SEA. The dominant legal doctrine states that with the ratification of the treaties, the legitimized organs of the Community have the legitimation to set “secondary European law” in order to fulfill the tasks of the founding treaties (Ipsen 1972: *Zweckverbandstheorie*).

*Social* or *empirical* legitimacy focuses on the actual acceptance of a political system or single institutions. According to Easton (1965) empirical legitimacy has to be differentiated in a *diffuse* (affective) or *specific* (utilitarianistic) dimension.<sup>14</sup> The specific component of legitimacy depends on the output, i.e. the welfare maximization of a political system. This can also be called the efficiency of a given system. The diffuse component relates to the political order as a whole and its institutions. At the end of the twentieth century no non-democratic system can claim legitimacy. Whereas legitimacy characterizes the state of a political system, *legitimation* describes the process by which this state can be reached and maintained (Wieland 1992: 118). *Efficiency* and *democracy* are the two dimensions of support of a political system and of the European Community as well.

Beyond the various concrete forms of liberal-democratic political systems, the core of a democratic state is that the exercise of political power can only be legitimized by periodically held free, general, equal, secret, and, at least partially, direct elections. The exercise of powers has to be limited in time and controlled by legitimate political organs. Against the background of these definitions, which democratic deficits can be observed in the European Community?

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<sup>14</sup> Easton and later Almond/Powell do not use the term “legitimacy” but “support” (Easton 1965; Almond/Powell 1966: 26).



At least on four essential levels of the political structure and the decision-making process I recognize fundamental democratic deficits:

1. the configuration of the legislative, executive, and jurisdictional powers (institutions);
2. democratic control of political decisions (control and accountability);
3. the intermediate structure of social and political interests (parties and interest groups);
4. the citizens (participation).

#### **ad 1: The Configuration of the Three Constitutional Powers in the EC**

The basic structure of the institutional order of the EC has not changed since the Treaties of Rome. The configuration of Council, Commission, European Parliament, and European Court suggest a separation of powers, such as is institutionalized in most of the liberal-democratic systems of Western Europe (Richter 1991: 282). But in contrast to the national political systems a peculiar asymmetry of power and democratic legitimacy characterizes the organs of the EC. In the European Community not the parliament, but the Council exerts the legislative power. It obtains its democratic legitimation on grounds that it is composed of ministers who have been democratically elected on the national level. Viewed from the perspective of the single nation states its legitimation is direct and solid. From the perspective of the Community the democratic legitimation is indirect and weak. The fact that the source of legitimacy for the members of the Council is based on national elections makes the adoption of majority rule for its decisions highly problematic. After all nobody legitimized a potential majority in the Council to decide against the vote of the legitimate representatives of those countries who form the losing minority. Seen from the point of view of legitimate democratic representation, the Council, as a body composed of nationally elected representatives of the member states, demands the unanimity rule. With regard to democratic theory the Luxembourg compromise of 1966 (veto power for each member of the Council) was

more legitimate than the re-introduction of the qualified majority rule through the SEA (Scharpf 1992a: 7/8).

The European Parliament, despite slight increases in their co-decision and veto rights through the SEA and the Treaties of Maastricht, is far from having the *minimalia* of parliamentary prerogatives assigned to democratically elected parliaments in the EC-member states. However, it is the only organ of the Community which relies on direct democratic legitimation, since it has been directly elected by the European population since 1979. The Commission, the executive, according to the logic of the EC treaties with its privilege of drafting the legislative proposals and controlling the implementation of the Councils decisions holds a considerable steering capacity within the Community. The 17 members of the Commission are appointed by the national governments. Their base of democratic legitimation is very small. The European Court is, as the third power, independent from the other organs of the EC. Its monopoly to interpret the EC laws and decisions is increasingly accepted by the national courts. This has made it one of the decisive forces of European integration in the past (Wieland 1992: 80). However, from the democratic point of view this kind of non-controllable "court-politics" is highly problematic.

Viewed from the perspective of democratic theory the institutional order of the European Community contains at least two fundamental problems. First, there is an asymmetric allocation of political power and democratic legitimacy. Second, it involves a permanent constitutional conflict, which is based on the "dual sovereignty" (Lepsius 1991: 26) of the Community. The Community of sovereign nation-states created partial supranational regimes, which increasingly get out of the reach of their single member states. Although the direct European elections "constructed" through the "European voter" a "supranational sovereign," this sovereign remains unaware of his role. Moreover, he would not even be able to exercise it because the European Parliament lacks the appropriate legislature power. While the supranational sovereign is still a fiction, the foundations of the national sovereign are already eroded.

## **ad 2: Democratic Control and Accountability of Political Decisions in the EC**

With increasing progressive integration a “sovereignty gap” in the political order of the EC came into being, where political decisions evade every parliamentary control. On the one hand legislative prerogatives have been transferred from national parliaments to the Community level. On the other hand the European Community does not possess a parliamentary organ with effective legislative and controlling functions. It is true that since the beginning of the 1990s all the 20 houses of national parliaments have established committees or subcommittees to deal with EC matters. But they, like the national parliaments as whole, turned out to be totally overloaded by the myriad of decisions ensuing from more than 100 meetings of nearly 20 different formations of the Council per annum (Falkner/Nentwich 1992: 277). Particularly, the *package deals* where different policy areas are involved proved to be nearly uncontrollable for national parliamentary committees. Only the Danish *Folketing* has established a so called “market committee” which is entitled to give the Danish representatives in the Council an imperative mandate for the negotiations. Moreover, the “market committee” meets simultaneously to the Council meetings and controls the Danish ministers closely. The “Danish model” fulfills the requirements of parliamentary control in an exemplary fashion. However, should the other eleven member states follow the Danish model, the EC would quickly become incapable of decision-making.

The SEA and the Treaties of Maastricht strengthened the role of the European Parliament only moderately. A second reading of SEA legislations and provisions for cooperative decision-making with the Council were implemented. The Treaty of Maastricht also conferred some specific rights to this mode of co-decision adding a conciliation procedure to the legislative process (art. 189). If the conciliation meeting, which involves Commission, Council and the EP, is still unsuccessful, the Parliament can block the decision by the absolute majority of its members. Although co-decision will enhance the Parliament’s role in the legislative process it assigns mainly “negative rights” to it and falls significantly short of its own demands. Moreover the moderate increase of the EP

competences was “bought” by the growing intransparency of an already over-complex legislative procedure.

### **ad 3: The Intermediate Structure of Social and Political Interests**

However, the opinion brought forward by federalists to solve the problem of democratic legitimacy and political accountability by simply giving the European Parliament more rights is based on an institutionally biased understanding of politics. It neglects the important level of interest mediation between institutions such as parliaments and society. It is above all the parties and interest groups who structure the relation between those who govern and those who are governed. Within the European Community this functional level of intermediate legitimacy is totally underdeveloped (Neunreither 1976: 252). As long as essential social and political questions such as wage negotiations, tax, social, and macroeconomic policies are dealt with at the national level, parties, interest groups, and mass media will basically remain oriented to the national scene. The “Europeanization” of the intermediate structure would probably take decades and would involve serious conflicts of loyalty within the EC and the member states (Lepsius 1991: 29). To believe the nationally organized and funded parties and interest groups can automatically be europeanized through parliamentary reforms and can solve the Community’s problem of democratic legitimacy would lead to a “constitutional trap.” A European Parliament equipped with more rights and competences would be caught in it, lacking the necessary intermediate structure which is essential to the functioning and legitimacy of parliamentary decision-making.

### **ad 4: The Relation Between Citizens and the European Community**

Compared with the political process of the member states the decision making of the European Community is over-complex, de-personalized, and non-transparent. The legislative body of the Community, the Council, still decides behind closed doors. Its proceedings are completely secret. Information about negotiations which led to the final

decision are systematically denied to the public.<sup>15</sup> The mediation through the mass media is scarce, selective and almost exclusively based on the information policy of the Council and its members. As a consequence (among others) only 12% to 33% of the national populations have developed an intensive identification with "Europe" (Reif 1992: 46). A shift from national identities towards a new European identity has not taken place yet. The voting turnout in European elections is with 62.8% (1989) almost 20% lower than the average voter turnout at national elections. Moreover, since the beginning of direct elections to the European Parliament the turnout has constantly been declining<sup>16</sup> (Flickinger/Studlar 1992: 5). Although voting turnout patterns are the result of a complex interplay of various forces, the low and declining turnout at the European elections signals a considerable non-interest of the European citizens and thus a democratic deficit at the participatory level of elections. Moreover, up to the present, European elections have been overwhelmingly utilized by the voters to signal protest or support to the national governments with regard to their domestic policies.

As I have demonstrated above there are considerable democratic deficits on four fundamental levels. And it belongs to the paradox of the European Community that no nation state with the democratic deficits of the EC would ever have the chance to become a member of it.

### **Conclusion: The Dilemma**

The European integration was above all the work of political elites. The control of their political decisions at the Community level by the national and supranational sovereigns has always been more diffuse, indirect and incomplete than any of its democratic member states ever could sustain. However, the weak and insufficient control

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<sup>15</sup> Only in Denmark and Great Britain where the parliaments have the right to full reporting is the situation better.

<sup>16</sup> The average turnout in the European elections declined from 1979: 67.2%, and 65.0% (1984) to 62.8% in 1989. It reached from 36.2% in the UK to 90.7% in Belgium (Flickinger/Studlar 1992: 5).

by the European and national parliaments, the exclusion of subnational units (e.g. *Länder*, regions) from European decision making and a poorly informed European public turned out to be rather favorable for European integration in the past. In the aftermath of Maastricht this situation is going to change.

With the Treaty of Maastricht, which was negotiated by the heads of governments in the traditional European manner behind closed doors, the "scope" and "level" of authority which should be transferred to the Community level activated numerous political actors and the public. The transition from negative economic to positive economic and political integration and the integration of monetary policy, a core area of "high politics," led to an intensive politicization of the integration process. The time of the "permissive consensus" (Lindberg/Scheingold 1970: 249) seems to have come to an end. The European Parliament, national parliaments, the regions, and the public, demand more rights to influence and control the European decision making process. They all claim on solid normative grounds of democratic theory a right to take part in the joint decision making. But the moment they forcefully demand more democratic participation the national governments have to pay attention to them and the normative request becomes a functional prerequisite for further integration. To fulfill these normative and functional needs the actors and the bargaining and decision making arenas of European Politics will proliferate.<sup>17</sup> The complexity of joint decision-making will tremendously increase and will unavoidably lead to what Fritz Scharpf (1985) has called the "joint decision trap."

The reactions to Maastricht appear to be the actualization of the "politicization hypothesis" already stated by Nye and Schmitter in their revision of the neofunctional model in 1971. Nye respected the increase of politicization during the course of integration for exactly these reasons: "More groups become involved through the effects of rising transactions, inherent linkages, or deliberate coalition formation. The larger the

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<sup>17</sup>The federal government of the FRG already conceded far reaching prerogatives to the *Länder* (art. 23, Basic Law) to take part in the European joint decision-making as far as social, cultural, and political affairs are concerned which affect the constitutional rights of the *Länder*.

numbers, the more likely the possible divergent interpretations of the common interest in integration" (Nye 1971: 219).

Whether the politicization will hinder further integration depends on the divergence or convergence of interests involved. Moreover, it depends on the strategic resources the actors can mobilize to promote their particular interests. But it is most likely to hypothesize that the involvement of more supranational, national, and subnational actors in an expanding variety of policy areas transferred to joint decision-making will increase its complexity and costs, and therefore it will strengthen the resistance to the acceleration of integration (Schmitter 1971: 243). As Nye put it 20 years ago: "The problem for further integration is not politicization itself but the premature politicization before supportive attitudes have become intense and structured" (Nye 1971: 220). And precisely this happened with the Treaty of Maastricht. The heads and ministers of national governments who agreed on the Treaty neglected that this further step is no longer covered by the "permissive consensus" alone. Neither 50% of the Danish and French population, nor many economists, constitutionalists, or populists in Germany, nor a considerable part of the public and of the political class in Great Britain - to give some examples - are prepared to agree to the surrender of national sovereignty rights to the European Community.

What does this mean to the future of European integration? Given the heterogeneity of the member states and their interests the bargaining flexibility of national governmental representatives in the Council has been of primary importance. Their capacity to attain flexible compromises and creative "exchanges" by linking heterogeneous options in different policy areas to "package deals" enabled, to a large extent, the progress of integration in the past. A strong accountability of the national governments to the supranational, national, and regional parliaments and the public as well, will lead to the stalemate of European decision-making. It was overly optimistic if not wishful thinking of the federalists and of the functionalist David Mitrany as well in assuming that the population will be the most active part in building a "European consciousness." On the contrary, at the beginning 1990s the population of the nation

states seem to be among those forces which could hamper the further integration of Europe. To put it in other words, the more the European Community gains in democratic quality, the more it will lose in decision-making efficiency.

But of the two dimensions of legitimacy, efficiency and democracy, efficiency has always played a greater role in the European Community. Because of the democratic deficits democracy contributed little to the legitimacy of the EC. The whole burden of legitimacy has been carried by the relative efficiency of the EC to solve problems on a supranational level which could not be solved by the nation states alone. But if the increase of legitimacy is bought at the costs of efficiency, the traditional source of legitimacy for the European Community will dry out. These are the well known contours of a zero-sum game, if not of a classical dilemma.



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