History Matters: How International Regimes Become Entrenched—and Why We Suffer for It

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Est maître des lieux celui qui les organise—Jean de La Fontaine[1]

ABSTRACT

International regimes are composite historical constructions. They are built-up through bricolage, as resource-strapped officials combine operational capacities, frequently turning to outside assistance. Who wins and loses—and why—when organisations are added or subtracted? What happens when inter-organisational relations are recalibrated? Why do regimes cohere as they do? By comparing the development of financial-regulatory regimes and probing other illustrative cases, I offer an explanatory framework that emphasizes the importance of timing and sequencing in determining outcomes. Thinking beyond interstate network effects and switching costs, I distil new data and theoretical insights into how and why temporality matters in global politics. I find that *time* structures the strategic bargaining contexts that mediate the intense distributional struggles between organisations driving key institutional reforms. The explanatory power of this framework upsets conventional wisdom whereby the distribution of state power, and the dynamics of interstate bargaining, are assumed the critical sources of institutional reform.

[1] I am indebted to Walter Mattli, Duncan Snidal, Adrienne Héritier, Quentin Bruneau, Alexandra Zeitz, and Simon Waxman for insightful comments on earlier drafts. I also thank the editors and anonymous reviewers of *International Studies Quarterly* as well as conference participants at Governing Finances in Europe: Shifting Regimes and Shifting Powers, at the University of Uppsala, and The Political Economy of Regulation, at the European University Institute, in May 2016. This research was generously supported by a United Kingdom ESRC doctoral research fellowship and by St John's College, University of Oxford.

I. INTRODUCTION

When asked why his supposedly all-powerful global financial watchdog lacked the resources to achieve its demanding mandate after the 2008 financial crisis, Svein Andresen, chairman of the Financial Stability Board (FSB), surprisingly blamed the vested interests of technocratic groups such as the Basel Committee of Banking Supervisors (BCBS) and the International Association of Insurance Supervisors (IAIS). "The problem is political," he said. "You wouldn't get the standard-setting bullies to sign onto it" (Brookings Institute 2011:27). In stark contrast, Michael Prada, a French securities regulator who has spent a lifetime trying to strengthen the influence of European technocrats, complained, "The member states and Commission reduced us to nothing. . .. We were mere advisors [and] things still have not gone far enough."[2]

We are presented with a puzzle. In the European Union (EU), technocrats chafed, while in the global context, technocrats were in control. How can these conditions coexist? Why was the EU technocrat so constrained? How can informal networks of technocrats "bully" the political vanguard of global financial stability? What implications follow from these power asymmetries?[3]

Recent historical institutionalist work suggests an intuitive explanation for the puzzling variation in influence among political and technocratic groups: power differences are functions of *timing* and historical *sequence*. Stated simply, the order in which actors occupy supranational governance structures affects their capacity to influence those structures. In the global financial architecture, technocrats organised first. With this advantage, independent regulators and technocrats pressed their interests through regime changes following the 1997 Asian financial crisis and the 2008 crisis. By contrast, in the EU regime, executive ministries established themselves before technocratic bodies arrived. Technocrats were introduced to the regime only after reforms negotiated by the Lamfalussy committee between 1999 and 2001, and, within the EU, found themselves constrained and instrumentalised. The logics of sequencing are tenacious: they continued to marginalise technocratic voices after 2008, when the de Larosière reforms established the new European Supervisory Authorities (ESAs).

The first-mover advantages that form the basis of my argument are well recognised. As Pierson (2004:71) puts it, "Relative timing may have enormous implications. . . . groups able to consolidate early advantages may achieve enduring superiority." However, according to Thelen (1999:338), "Where this literature has generally been weaker is in specifying the mechanisms that translate critical junctures into lasting political legacies." So far, this gap has been filled with the interrelated concepts of network effects, positive feedbacks, increasing/self-reinforcing returns, and switching costs (Büthe and Mattli 2011; Pierson 2004). However, we limit our understanding of history's influence when we focus exclusively on the discrete choices states make as network payoffs shift. "Network externalities," a concept borrowed from economics, reveal how utility calculations respond to past investments in ways that make institutions more or less durable. But this idea is less useful when seeking to understand the role of history in dynamic politics. The network-externalities view can actually obscure the role of *time* in the hard-fought conflicts that play out when one institutional equilibrium is replaced by another.

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[2] Michael Prada, member of CESR, interview, Paris, 27 November 2011

[3] Two points of clarification are necessary. First, while "political" and "technocratic" are convenient labels for different types of international agents, I do not deny the highly political character of actions taken by those labelled as technocratic. Second, I identify the Financial Stability Forum (FSF) and FSB as political bodies. There is some debate here. For instance, compare Reisenbichler (2015:1015) and Porter (2000:11). However, for the purposes of this study, this ambiguity is more illuminating than confounding, since it reveals much about organisational power and interest.

I take a different approach.[4] By integrating complementary insights from historical-institutionalist and rational-choice theories, I show how temporal ordering shapes organisational power and structures strategic bargaining environments through a limited set of causal mechanisms. Specifically, I clarify the role of time in structuring opportunity costs, risk aversion, turf wars and transaction costs, and sources of legitimacy. These variables better capture the strategic and political character of institutional-change processes, and together they explain why actors who first achieve positions of dominance often remain powerful, even when new actors join the arena and institutional arrangements change over time.

Attention to history and organisational power suggests that conventional wisdom—that state power determines international institutional-design outcomes—can be misleading. My most important empirical finding shows that the forms of power and interest informing the design of supranational financial governance structures, in both global and regional contexts, are not wholly, or even largely, reducible to competing state interests (cf. Drezner 2007; Quaglia 2010; Reisenbichler 2015; Story and Walter 1997). Though sometimes checked by overriding national interests, the sub-national bureaucratic organisations of core states have been the primary competitors when it comes to the terms of international financial governance reform. Outside of conflicts between G-7 nations and emerging-market powers, state preferences have generally been either convergent or ambiguous. I introduce new evidence demonstrating that organisational, not state, dynamics produce the most durable and salient political struggles over institutional-design outcomes.

These organisational struggles matter. At the global level, we see the effects of relative power in the enormous gap between political agents' aspirations and achievements. They seek to overcome functional fragmentation and to influence financial-market practices, but technocratic groups—subject to minimal political oversight (Eatwell and Taylor 2000)—set the standards. In Europe, discontent flows in the opposite direction, but no less pointedly. Going back to the 1970s, the EU has been attacked for being too politicised and for lacking the technical know-how to regulate effectively (PWC 1988; Wymeersch 1977:171).[5]

Sequencing also affects institutional change in domains beyond financial governance. And, as we will see, the global-regional distinction is not determinative. For example, product standard setting in the EU, unlike financial standard setting, is structured according to the preferences of technocrats who arrived to the relevant arena before European governments did. Conversely, the United Nations Environmental Program (UNEP) is a global regime in which late-arriving technocrats have been constrained. This suggests that patterns of entrenchment respond less to the issue area under examination and its geographic context than to the timing of actor entry.

That said, there are cases where sequencing proves less crucial. I explore several concerning EU financial-reporting and regulatory standards. I do not identify all the conditions associated with processes of path-dependence and sequence but nonetheless can contribute to understanding of when, how, and why history matters in global governance, thereby addressing a common criticism of historical institutionalism. Finding the recurring influence of sequencing over strategic-bargaining environments—a causal mechanism that need not be limited to organisational battles—contributes to a growing body of work explaining the varied ways in which timing and sequence matter in international politics

[4] I demonstrate that variables usually associated with perennial coordination and bargaining problems can be structured in discriminating ways by history. The antecedents to this synthetic approach—that integrates rational choice and historical institutionalism by treating time *as if* an interaction term that mediates strategic bargaining between rational self-interested agents—are found in Hall (2009) and Büthe (2002).

[5] Note, however, that I do not seek to explain particular financial regulatory policies but rather structural institutional arrangements. This political context is distinct, and it should be understood and analysed as such.

(Bach and Newman 2010; Farrell and Newman 2010, 2014; Fioretos 2011; Lall 2011; Newman 2016).

In Part II, I introduce the conceptual foundations of the study. Part III sets out the explanatory framework. Part IV illustrates the framework and probes alternative explanations. Part V explores secondary cases, and Part VI concludes.

II. CONCEPTUAL FOUNDATIONS

I am concerned with one dimension of the shift from international government to global governance: "joint-governance" regimes—public-public, public-private, and private-private partnerships—operating in almost every major area of supranational regulation from trade and finance to the environment and security (Mattli 2003:217).

To situate such partnerships in the larger literature on globalisation and regulation, I develop a typology of global regulatory bodies. The type of authority exercised may be either political or technocratic (horizontal axis in Figure 1), and the institutional setting may be either bureaucratic or networked (vertical axis in Figure 1).

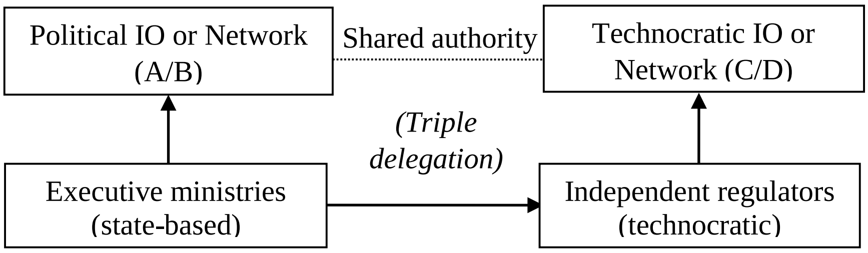
Existing literature on patterns of governance generally focuses on the institutional setting—public international bureaucracies versus trans-governmental networks (Slaughter 2004). This distinction is pertinent because it tells us about the ability of supranational organisations to be operationally self-sufficient (Büthe and Mattli 2011). Networks rely on their members' capacities. International organisations (IOs) are more autonomous. However, this distinction fails to differentiate between distinct kinds of networks and IOs—which vary according to membership characteristics and forms of authority exercised—though the importance of such variations is recognised (Reisenbichler 2015).

Figure 1: Types of Supranational Regulatory Bodies

Institutional Character	**Type of Authority:** Political (State-based)	**Type of Authority:** Technocratic (Independent regulators)
Bureaucratic	**A** **POLITICAL IO** e.g., UN Security Council, EU Council, UN Environment Program, World Trade Organization, International Monetary Fund, World Bank	**C** **TECHNOCRATIC IO** e.g., International Telecommunication Union, World Health Organization, European Central Bank, European Supervisory Authorities
Networked	**B** **POLITICAL NETWORK** e.g., G-20, Financial Stability Board, Euro Group, Financial Action Task Force	**D** **TECHNOCRATIC NETWORK** e.g., International Organization of Securities Commissions, Basel Committee, European Committee for Standardization

The concepts and conjectures I develop are applicable to all power-sharing regimes. However, in order to tease out important distributional issues, I focus on supranational partnerships where state-based political organisations, in cells A or B, join forces with technocratic organisations, in cells C or D. The structures of delegation in such arrangements are described in Figure 2. Table 1 provides examples of such partnerships.

<u>Figure 2: Channels of Delegation and Collaboration in Joint-Governance</u>



Source: Newman (2010)

<u>Table 1: Selected Examples of Joint-Governance in World Politics</u>

	Participant Supranational Organisations		
Issue Area	**Political**	**Technocratic**	**Created**
Global			
Environment	United Nations Environment Program	International Network of Compliance and Enforcement	1990
Trade	World Trade Organisation	International standards organisations (e.g., IS0 and IEC)	1994
Finance	G-20, Financial Stability Board, International Monetary Fund	Recognised standard-setting bodies (e.g., BCBS and IAIS)	1999
European			
Trade	European Union Institutions (Council, Commission, and Parliament)	European Standards Organisations (e.g., CENELEC)	1983
Environment		European Environment Agency	1990
Accounting		Accounting Advisory Forum	1990
Finance		European Supervisory Authorities (e.g., EBA)	2001
Competition		European Competition Network	2002
Energy		Council of European Energy Regulators	2003

The distinction between political and technocratic authority is important for two reasons. First, independent regulators and government executives have different preferences, exercise different forms of power, and achieve legitimacy by different means (Bernstein 1955). Table 2 summarises the ideal-typical attributes of political and technocratic authority. These ideal types do not map perfectly only real-world institutions but nevertheless highlight the key dimensions of difference motivating the formation of joint-governance arrangements. Second, states and other groups have different degrees of influence depending on the regulatory context. Technocratic settings can be expected to constrain governments' ability to bring state power to bear on outcomes (Büthe and Mattli 2011).

Table 2: Ideal-Typical Features of Political and Technocratic Authority

Political	Technocratic
(1) Mandate to act internationally	No mandate to act internationally
(2) Low premium on independence	High premium on independence
(3) Responsibility to provide and advance political oversight	Subject to political oversight and interested in minimising it
(4) "Hard" law and/or "effective political power"	"Soft" law and/or "rational-legal authority"
(5) Wide range of responsibilities	Narrow range of responsibilities
(6) Direct political accountability	Indirect political accountability
(7) High public visibility	Low public visibility
(8) Legitimated through democratic norms	Legitimated through expertise

These contrasting interests and capabilities not only encourage the creation of joint-governance arrangements but also drive some of the most important conflicts over the establishment and design of those arrangements. Political actors have incentives to enlist technocratic authorities to improve and implement rules. Equally, technocratic bodies can attain political impetus and legitimacy by joining forces with public authorities. However, collaboration comes at price. Among other things, political authorities risk losing control. Independent regulatory bodies risk autonomy and perceived neutrality, which are essential to the exercise of technocratic power (Carpenter 2001:374).

I accentuate the downside risks of collaboration in order to push beyond the existing literature—which is largely functional and conceptual—and consider the distributional dimensions of joint-governance. In the established literature, resource pooling is assumed to be harmonious and mutually empowering (Slaughter 2004). But, in fact, there are winners and losers in joint-governance regimes. I observe variance in distributional gains and losses arising particularly in the ability to shape the extent and trajectory of institutional change and in the capacity to control critical governance resources and functions.

Assuming harmony also means ignoring important questions: What sources of power can organisations draw upon when structures are constituted? How and why do arrangements develop as they do?

III. HOW SEQUENCING SHAPES POWER

In any joint-governance structure, participants will have complimentary interests and capabilities. Yet, as Krasner (1991:337) observes, while institutional arrangements are "necessary to resolve coordination problems," there are "many points along the Pareto frontier." Supranational political and technocratic bodies, and their members, inevitably disagree over preferred arrangements. In this section, I develop a model to explain the role history plays in varying the constitution of governance arrangements amid these conflicts.

Actors move to populate supranational policy arenas—global and regional—at different times. This variation affects the ability of different groups to project power and to control transactions shaping joint-governance arrangements. Such arrangements emerge in either of two sequences:

- **Sequence I** (S_I): political actors (governmental actors in state-based networks or IOs) arrive before technocratic actors (independent regulators in technocratic networks or IOs)

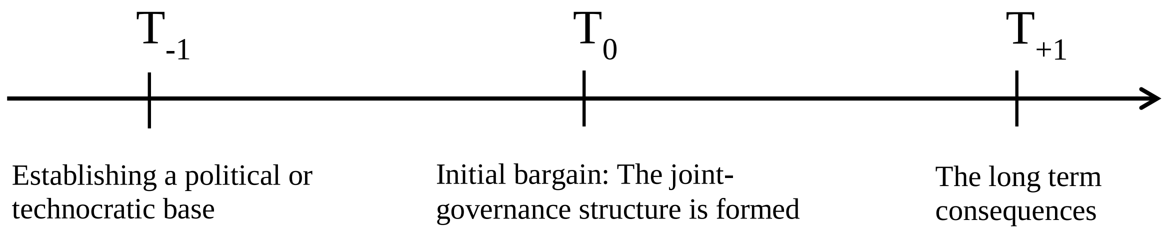
- **Sequence II** (S_{II}): technocratic bodies (independent regulators in technocratic networks or IOs) arrive before political actors (governmental actors in state-based networks or IOs)

The sequencing framework posits that, in S_I, the interests of political actors underpin the joint-governance structure. These actors will extract rents—a greater share of the gains from the cooperation—from late-arriving technocrats. By contrast, in S_{II}, the interests of technocratic actors underpin the joint-governance structure, and technocrats extract rents from late-arriving political actors. Any reform of the joint-governance structure will operate in the shadow of this initial bargain. This argument is subject to scope conditions: partnering international agents are focal institutions that cannot be easily substituted, and they engage in substantive ongoing cooperation within a structured institutional framework.

The framework makes two simplifying assumptions. First, political and technocratic actors are conceived as singular agents. Institutional members may disagree on goals, but, broadly speaking, members are individually and collectively interested in maximising their positions.[6] Second, actors want to maximise their utility by accumulating collective institutional goods—such as agenda-setting powers, regulatory and operational capacities, and legitimacy—even at the expense of the partner organisation.

The framework is divided into a three-part temporal sequence, T_i, represented in Figure 3. T_{-1} is the period prior to formation of the joint-governance structure; T_0 the point when the initial bargain is struck and the structure founded; and T_{+1} the period after creation. I specify exactly the manner in which temporal sequencing (history) conditions inter-institutional relationships at T_{-1}, T_0, and T_{+1}. The effects of sequencing are logically connected across T_i, driving a process that entrenches the power of first-arriving actors.

Figure 3: Temporal Sequence of the Framework



T_{-1} Political or Technocratic Base

First arriving agents establish a supranational institutional presence.

T_0 Initial Bargain

How does sequencing shape the initial bargain? Four factors are worthy of mention.

First, sequencing alters opportunity costs. As Hall (2009:209) explains, "actors for whom the opportunity costs of foregoing change are lower will have more power in the accompanying negotiations than actors who would suffer greater losses if the change were not achieved." All else being equal, established actors who choose not to create a joint-governance structure in their political space will face lower opportunity costs than will late-

[6] This will be subject to domestic organisational sovereignty costs. The issue of organisational sovereignty costs complicates the framework, because inhibitions about delegating power to a supranational institution may constrain the ambitions of late arriving actors. However, the fact of exclusion at T_{-1} can also encourage late arriving actors to overcome these concerns. I therefore bracket these costs at T_0 and only introduce them into the framework at T_{+1}, where they operate in a less ambiguous, and so more analytically useful, way.

arriving actors to that space. Late-arriving actors face a substantial loss if the chance to create a joint structure is missed. As such, they will want in at almost any price.

Second, sequencing shapes risk aversion. The implications of sharing power are never fully knowable before the fact. Generally, actors are loss- and risk-averse, and uncertainty plays a major role in the price an actor demands for change. However, actors will not be equally risk-averse. Actors occupying a political space need to weigh the relative costs and benefits of sharing power in light of their past investments. To minimise these risks, established actors will evaluate proposals with suspicion. They will insist on control over the emergent structure, surety against potential losses, and compensatory gains. By contrast, actors outside the political space tend to calculate that their position will improve with almost any deal. Therefore, latecomers are generally risk-acceptant.

Third, turf-protective calculations and transaction costs will generate path dependencies. Transferring functions and resources from one institution to another is difficult, and there is no guarantee that the late-arriving actor will do a better job. Moreover, agents will protect their powers. The idea of latecomers usurping the core functions and resources of established players is often unthinkable. Formal rule-making powers are likely to be among the least transferable assets. Late-arriving actors are more likely to assume Cinderella (i.e. unglamorous) tasks.

Finally, actors are constrained and empowered through prevailing modes of legitimacy instantiated at T_{-1}. This follows Rittberger's (2012:28) observation that "actors whose preferences are in line with the [established] standard of legitimacy tend to have superior bargaining power [relative to] . . . actors whose preferences cannot be easily squared or brought into line with the standard of legitimacy argumentatively." Where technocratic modes of legitimacy are institutionalised at T_{-1}, they constrain state-based agents. Where political modes of legitimacy are institutionalised at T_{-1}, independent regulators find themselves disempowered.

Bringing these factors together, it is possible to endogenise the bargaining structure organisations face when negotiating at T_0. Actors that arrive first have low opportunity costs, high degrees of risk aversion, a safe set of core competencies, and supportive modes of legitimacy. An equal but opposite constellation of forces constrains late-arriving actors. Thus first-arriving actors can establish their interests at the founding moments of joint-governance structures.

T_{+1} Long Term Consequences

Given the one-sided deal anticipated at T_0, pronounced distributional tensions between the partners can be anticipated after the initial contract is formed. However, these tensions will also be mediated by that deal. This will create reproductive logics at T_{+1}.

Three factors limit the extent to which the initial bargain can be recalibrated in formal terms. First, early-arriving actors have structural advantages. Most importantly, these actors control a disproportionate amount of the structure's institutional goods. These goods allow them to shape the pace and trajectory of change. Second, in joint-governance, actors remain independent. At least in theory, each can survive absent the structure, and the prospect of a partner going it alone limits the menu of possible reforms. Third, all participants invest in the status quo and typically want to protect their sovereignty—that is, they seek to prevent constraints on domestic prerogatives that downstream recalibrations could imply. Therefore power relations will likely persist even as governance structures change across T_i.

Figure 4 summarizes the framework, what it explains, and some contingent conditions.

Figure 4: Predicted and Contingent Events

Predicted:

- Political or technocratic institutional foundations laid	- Variables interact with time, leading to variation in interests and bargaining powers: (1) opportunity costs (2) risk aversion (3) transaction costs (4) modes of legitimacy Organisational interests of first movers entrenched	- Factors maintaining status quo over time: (1) structural advantages (2) mutual independence (3) status quo investments Developmental logics of entrenchment reproduced downstream
T_{-1}	***T_0***	***T_{+1}***

Time

Contingent:

- Why some actors arrive before others	- When and why a joint-governance structure is formed	- When and why initial arrangements are amended - Exogenous events, and certain endogenous features of the governance structure, that facilitate stability or change - Why a structure might break down or be supplanted

IV. ILLUSTRATING THE POWER OF SEQUENCE

Case Selection and Research Design

In this section, I illustrate the conjectures of the framework through a structured focused comparison of the global and European architectures of financial governance since the mid-1990s. The object is twofold: first, to illuminate the role of competing organisational interests and the mechanisms through which sequencing conditions institutional developments in moments of structural reform; second, to probe alternative accounts. The selected cases are felicitous because the arrangements have similar national-level participants, are comparably structured, address the same issue area, and have been recalibrated under common exogenous shocks—but they developed under mirrored sequences. Despite the similarity in the cases, under the sequencing framework, we should expect different outcomes.

Even so, the use of the EU and global regimes for comparative investigation is not unproblematic, and the broader context of European integration could make the dominance of political authorities appear unsurprising. To control for this issue, the next section explores global environmental standard setting and European product standard setting. These cases invert the EU-global sequencing found in finance. I also explore two negative S_I European cases: SSM and EU accounting standards. Expected sequencing logics of intergovernmental dominance operated for long periods in these cases, but, ultimately, gave way to more technocratic structures of regulation and supervision. Figure 5 presents the case-selection matrix.

Figure 5: Case-Selection Matrix

Context	Sequence I	Sequence II
Europe	+ Financial Standard Setting (2001) — SSM (2012) Accounting (1999)	+ Product Standard Setting (1983)
Global	+ Environmental Standard Setting (1990)	+ Financial Standard Setting (1999)

The use of thick within-case process tracing also matches the research objective: to understand how the causal mechanisms of sequencing operate in individual cases. Although instructive, the primary object of the cross-case comparison is not to measure the relative capacity of politicians and technocrats in the global and EU architectures. Rather, the comparison explicates the mechanisms driving those capacities in order to assess how they shape historical processes of regime development and change.

Sequence I
Architectural Change in European Financial Regulation

The joint-governance structure overseeing European financial markets developed according to S_I: political actors attained authority first. At T_{-1}, the Commission, Council of Ministers (Council), and European Parliament (EP) monopolised power. The reform of this structure originates in the incorporation of the Committee of European Securities Regulators (CESR) into the EU's policymaking architecture through the Lamfalussy process in 2001. Parallel joint-governance structures were set up in banking (the Committee of European Banking Supervisors, CEBS) and insurance (the Committee of European Insurance and Occupational Pensions Supervisors, CEIOPS), establishing what were known as the $3L_3$ Committees.

In response to the recent financial crisis, on 1 January 2011, three new ESAs replaced the $3L_3$ Committees. CESR became the European Securities and Markets Authority, CEBS the European Banking Authority (EBA), and CEIOPS the European Insurance and Occupational Pensions Authority. According to EU leaders, the ESAs precipitated a fundamental shift. However, the ESAs reflect more evolution than revolution (Moloney 2011). Scholars frequently refer to path dependencies, but none have yet specified the mechanisms or historicised the power structures that ensured continuity amid the profusion of new institutions.

I address this gap. As my research will show, the $3L_3$ Committees created at T_0 reflected the organisational interests of intergovernmental actors, and the ESAs created at T_{+1} were subject to reproductive logics. Scores of interviews and the secondary literature affirm the key finding that national governments dominated the pertinent decision-making processes and that finance ministries jealously guarded their turf and prevented agency losses to technocratic authorities (Quaglia 2007:282–284; Wymeersch 2011:12). The notion that functional logics dictated developments is thus clearly misleading.

The common assertion that national executives focused most on advancing divergent national interests that produced conventional interstate conflicts is also misconceived (cf. Story and Walter 1997). As Quaglia (2007:282) notes, “The discussions preceding and around the policy reform suggest that, among Member States, there was basic agreement on the need to reform the status quo and move towards EU regulation and supervision . . . without creating a European super regulator or increasing the supervisory competencies of the ECB.” Having tested competing liberal intergovernmentalist, interdependence, and supranational governance theories against the Lamfalussy reforms, Quaglia (2007:269) concludes, “No single overarching theory . . . can explain the reform process and its outcome.” In search of greater analytical leverage, Quaglia unites these disparate theories, arguing that each best explains different phases of the regulatory process.

I achieve a more unified and compelling mid-level analytical framework by analysing how organisational interests were embedded in the process of regime formation.

T_{-1} Political Base

The idea of creating something akin to a joint-governance structure to harmonise national securities laws and financial market regulations across the EU has been around since the late 1970s (Wymeersch 1977:171). However, until 1997, European securities and banking laws were made almost exclusively by political officials (Moloney 2002:843–897). Institutional power was wrapped in the European Commission and ECOFIN of the European Council, with links between them formalised in the EU’s Committee of Permanent Representatives. The Economic and Financial Committee (EFC), created in 1998, is the modern incarnation of this power, with seats shared between ECOFIN, DG Internal Market (DG Markt), and later the European Central Bank (ECB).

The absence of direct input in this structure from independent national regulators is telling. At a meeting in Paris on 8 December 1997, the independent securities commissions of the European Economic Area’s seventeen member states decided to change this by creating the Forum of European Securities Commissions (FESCO). However, FESCO still had no formal place in the EU policymaking process.[7] Fabrice Demarigny, the first secretary general of FESCO, explained in an interview:

> Even though we were supposed to implement the rules domestically, and we had all the relevant expertise, the Commission was crafting legislation, and it was not at all clear where it was coming from; or, in fact, more often, why it was not coming. It was a completely black box.[8]

At this time, the EU developed norms and practices governing financial-market rule-making of a political rather than technocratic character. These gained legitimacy thanks to the 1958 *Meroni* doctrine,[9] which states that the Commission cannot fetter its discretionary and political powers, because doing so could jeopardise the constitutional balance between the EU’s central authorities. This established legal and normative limits to the legitimate delegation of powers to independent regulatory agencies in the EU.

The exception that reinforces the general importance of sequencing is found in banking. Though lacking an EU rule-making role, central banks acquired through monetary

[7] The Commission worked instead with the High Level Securities Supervisors Committee established in 1985.
[8] Fabrice Demarigny, member of FESCO, interview, Paris, 19 January 2012
[9] Case 9/56 *Meroni v. High Authority* [1957–1958] ECR 133

integration an important supranational voice. As we will see, this moderated intergovernmental dominance.

T_0 Lamfallussy

Though they did not want a single supervisor that might usurp them, FESCO's technocratic agents plotted grand designs for a powerful pan-European securities regulator.[10] An opening came in October 1998, when the Commission announced the Financial Services Action Plan (FSAP). The Commission acknowledged, "If we are to successfully implement the FSAP, we will need to overhaul the way we develop financial services legislation" (Commission 1999:16). Thus, in July 2000, the Lamfalussy Committee was convened to develop a new structure for European securities regulation and governance.

In the Lamfalussy process, as the explanatory framework anticipates, technocrats' ambitions ran up against an intergovernmental structure. Nigel Wicks, a key committee member, witnessed as much:

> I cannot recall actually speaking to the securities regulators much. The focus was on the finance ministries. . .. We were reporting to the Council. The Commission was also very influential. . .. Nobody was a securities regulator. I do not recall having the feeling that the securities commissions were great powers in the land.[11]

CESR, established on 6 June 2001, exemplified the marginalisation of technocrats. CESR was allowed few resources and only a small secretariat in Paris. It had no capacity to legislate or intervene directly in the supervision of financial markets. The four-level policymaking structure had little room for CESR's influence; the committee of regulators merely advised the Commission on its proposed Level-1 'framework' legislation, which was then adopted by the Council an EP under the co-decision procedure. More detailed Level-2 measures were designed in a new L_2 Committee controlled by the Commission and finance ministries. Again, CESR was but an advisor. Only at Level 3 did CESR have independent power to draft guidelines on the meanings of the Level-1 and Level-2 measures. At Level 4 the Commission oversaw implementation.

CESR was constrained by the effect of sequencing. The EU's intergovernmental authorities did not want to create a new institutional threat, and even the ECB originally opposed the framework. Interviews confirm that the Commission and Council could not agree on whether a new institution was desirable, what powers it should have, how deep reforms should be, and whether this was an end game or the first step in an incremental process.[12] According to David Wright, the rapporteur from DG Markt, it was apparent early on that "there was no way that the ministries of finance were going to move to any sort of pan-European supervisory authority."[13]

Wicks captured the risk aversion and uncertainty gripping policymakers:

> At Level 1 and Level 2 there was really not much ambiguity and not much uncertainty. But at Level 3, we were pretty vague. . .. Were we in Community land? Were we in the land of Community method? Or were we in the land of intergovernmentalism? To be honest, we never really answered this.[14]

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[10] Prada, Paris, 19 December 2012
[11] Nigel Wicks, Lamfalussy Committee, interview, London, 13 February 2012
[12] David Wright, rapporteur of Lamfalussy Committee, interview, Brussels, 21 December 2011
[13] Wright, Brussels, 21 December 2011
[14] Wicks, London, 13 February 2012

As the framework anticipates, risk aversion was not evenly distributed. FESCO members were certain of the need for change, but the intergovernmental structures of the EU preferred existing arrangements. Their response was to minimise the formal powers delegated to CESR and establish reviews and clawback provisions in case technocratic regulators gained too much authority. Strikingly, CESR's initial mandate did not mention its Level-3 powers, which were difficult to specify without stepping on the turf of established agencies.[15]

The high transaction costs of functional transfers also ensured that the core competencies of established intergovernmental authorities would not be disturbed. The Commission retained the sole power to initiate legislation. Rule-making authority continued to be shared between DG Markt and ECOFIN. Thus, it was only in the technical area of implementation, where nobody else had set up shop, that CESR gained authority.

Finally, the prevailing modes of legitimacy established by the *Meroni* doctrine greatly limited CESR's powers. The Lamfalussy report was clear that Level-1 and 2 legislation would reflect "political choices." In the absence of any clear definition of "political choices," the Council and ECOFIN had broad discretion to decide how detailed the provisions could be. Wright considered *Meroni* a "real constraint" that was "certainly in peoples' minds."[16] The independent regulators, on the other hand, saw *Meroni* as a "convenient foil," an excuse for the Commission to retain its power.[17] Whatever the truth, the *Meroni* doctrine applied at T_{-1} limited the role given to CESR, as my framework predicts.

The bargaining structure and its outcomes are summarised in Table 3, below. Affirming my model, the structure shows how and why, as Wright put it, "FESCO was bought by the Commission" when it became a L_3 Committee.[18]

Table 3: Lamfalussy Bargaining Structure and Outcomes

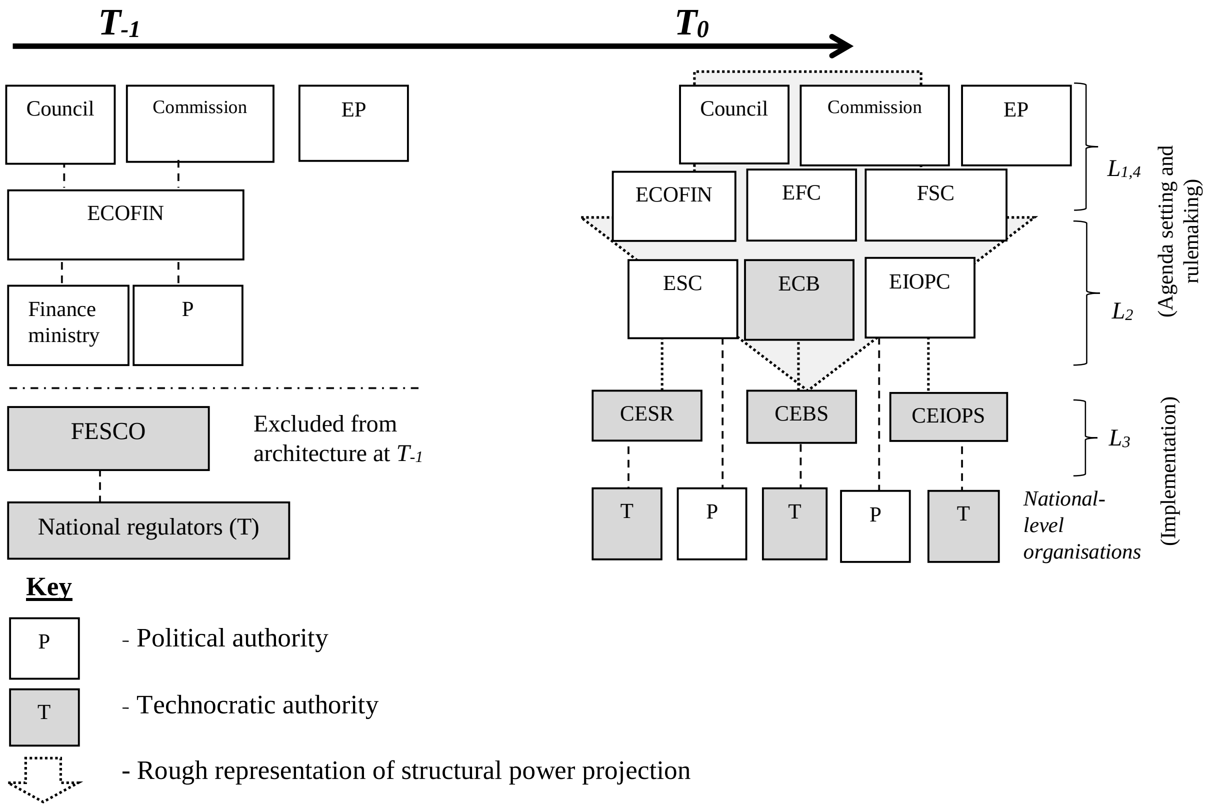
S_I	Opportunity Costs	Risk Aversion	Transaction Costs	Legitimacy
1st (ECOFIN and Com.)	**Low** Little need for a deal meant first arrivers could dictate terms and overcome inertia by controlling and instrumentalising L_3 Committees	**High** Demanded high compensation for risk of agency slack: e.g., L_3 powers poorly specified and subject to clawbacks	**Empower** Agenda-setting and rule-making functions retained and expanded	**Empower** Treaty and *Meroni* doctrine limited the delegation of powers to $3L_3$ and privileged state-based rule-making
2nd ($3L_3$ Committees)	**High** Accepted a bad deal in order to secure inclusion in regime and overcome costs of exclusion	**Low** Securities market regulators lobbied hardest for change and inclusion, sought ambitious reforms	**Constrain** Assumed Cinderella functions: e.g., advice, implementation, and monitoring	**Constrain** Treaty and *Meroni* doctrine kept technocrats from rule-making and agenda-setting responsibilities

In May 2002 ECOFIN extended the CESR model to the banking and insurance sectors, against ECB resistance. As Quaglia (2007:283) notes, this "can be seen as an attempt

[15] These powers were only discussed in Lamfalussy's Interim Report (Lamfalussy 2000).
[16] Wright, Brussels, 21 December 2011
[17] Eddy Wymeersch, chairman of CESR, interview, Belgium, 27 January, 2012
[18] Wright, Brussels, 21 December 2011

by the national governments—first and foremost, the British and the German—to prevent the expansion of the ECB's competencies or the creation of a European (supranational) regulator." The prospect of CEBS competition led to an ECB "reargaurd" action, which secured the inclusion of central banks in the state-based EFC policy network (Quaglia 2007:278). Despite this modest concession, the very fact of the extension into banking demonstrates the privileging of governmental interests in the Lamfalussy reforms. These interests are mapped in Figure 6 from T_{-1} to T_0.

Figure 6: Change through Lamfalussy Reforms 1999–2004



T_{+1} $3L_3$ Committees to ESAs

In the years following their creation, the $3L_3$ Committees fought to increase their power (CESR 2004).[19] Despite resistance from the Commission, they did manage to accumulate influence through the application of technocratic expertise and policy networks. However, it took a massive financial crisis to create the space for any formal change. "Without the financial crisis, we would still be stuck with CESR," a former member of the French Autorité des Marchés Financiers charged.[20]

What is more, the post-crash reforms have been relatively modest. Jacques de Larosière's 2009 review of the governance structure called for the $3L_3$ Committees to be transformed into powerful ESAs (de Larosière 2009:38–59). But, as Eddy Wymeersch (2011:12), the last chairman of CESR, observed, "Member States were rather distrustful of the new institutions." Some technocrats privately fear their position in the ESAs is weaker than it had been before the crisis,[21] with one complaining, "We have been completely co-

[19] Arthur Docters van Leeuwen, chairman of CESR, interview, The Hague, 15 February 2012
[20] Prada, Paris, 27 November 2011
[21] Prada, Paris, 19 January 2012

opted by the Commission."[22] Even among de Larosière group members, the sense is that little has been achieved.[23] Callum McCarthy reflected, "I am always sceptical of name changes."[24]

What accounts for this persistence? National preference and power are part of the explanation. The de Larosière proposals accorded with the preferences of the Germany, France, and the UK.[25] Yet, again, competing national positions mattered less than the bargain struck at T_0, for three reasons.

First, the structural power of the Council and Commission, derived particularly from prevailing modes of legitimacy, reproduced essential elements of the status quo. Though the scope for technocratic rulemaking was expanded, the ESAs were kept away from "economic policy."[26] The Commission defended its agenda-setting prerogatives. In Masera's view, "Conservative elements in the Commission were the true issue."[27] Wright pushed a reluctant legal department toward greater delegation, but does "not think we could have gone any further."[28] The de Larosière group feared doing so "could have killed the reforms."[29]

Second, as predicted, the parameters defined by institutional independence imposed constraints. Central banks and independent regulators were adamant that the ESAs continue to represent an upward delegation of their national authority rather than a downward delegation from the EU or Commission.[30] This "bottom-up" conception of regime formation was declared non-negotiable and constrained reforms, because it allowed regulators to insist on retaining formal autonomy.[31] Could the regulators have walked away? Probably not, though their participation was, in principle, contingent. Thus, to remain acceptable, the formal independence of the ESAs had to be preserved.[32]

Finally, as my framework posits, vested interests in the multi-layered status quo, and sovereignty-cost concerns, frustrated change. Against Commission and ECOFIN resistance, regulators pushed for more rule-making powers while simultaneously declaring a "red line" against the creation of European-level supervisory powers. The result was that the forces pushing for change were cancelled out. Under its members' influence, even the ECB shunned the acquisition of micro-prudential supervisory powers.[33] After all, "What would all these grand buildings in Europe's capitals do?"[34] if not provide supervision.

T_i First-Mover Entrenchment and Structural Breaks

Between 2009 and 2012, the status quo in European financial governance established in the late 1990s proved remarkably resilient. However, the deepening Eurozone crisis pressured this structure toward a breaking point. Two major changes followed. First, the Euro Group, an overlooked political network comprising euro area finance ministers, has become a key player. In the words of a leading European judge, "The Euro Group clearly carries considerable political weight . . .."[35] Though most concerned with macroeconomic policy coordination, the Euro Group wields significant power in the financial architecture through its institutionalised connections with the SSM and European Stability Mechanism.

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[22] Demarigny, Paris, 19 January 2012
[23] Onno, Amsterdam, 22 March 2016; Masera, Rome, 7 April 2016
[24] Callum McCarthy, member de Larosière group and chairman of FSA, interview, London, 22 March 2016
[25] Masera, Rome, 7 April 2016; Onno, Amsterdam, 22 March 2016
[26] Regulation EU 2010/1095, OJ L 331, 84. Recital 22
[27] Masera, Rome, 7 April 2016
[28] Wright, Brussels, 21 December 2011
[29] Masera, Rome, 7 April 2016
[30] Prada, Paris, 27 November 2011
[31] Masera, Rome, 7 April 2016
[32] Leeuwen, van, The Hague, 15 February 2012
[33] McCarthy, London, 22 March 2016
[34] Onno, Amsterdam, 22 March 2016
[35] Cases C-105-109/15 *Mallis and Malli v. ECB and Commission*, 21 April 2016

Second, the SSM designated regulatory authority to the ECB. If the Euro Group represents increased dominance by political actors, the delegation of regulatory authority to the ECB in the SSM more clearly breaks the de Larosière institutional pathway. This change is not best explained through a historical institutionalist lens. But my approach can explain the inflexibility of the EBA pathway. Though debated in 2009, "This change was unimaginable," to the de Larosière group working under T_0 parameters.[36]

Despite the SSM-ECB arrangement, if the goal is pan-European regulation and supervision, then the trajectory of formal institutional development points in the wrong direction. The EBA continues to operate, even though some view it as "a relic of the past; conducive to nobody."[37] Meanwhile, the possibility of creating EU insurance and securities market institutions with the independence necessary to fuse the single market into a single regulatory space is arguably more remote now than it was two decades ago. The intergovernmental logics driving institutional change across T_i is a crucial part of the explanation why.

Sequence II
Architectural Change in Global Financial Regulation

The joint-governance structure of global finance developed in accordance with S_{II}: technocratic actors attained political authority before public actors did.

National regulators overseeing domestic financial markets have been meeting in international standard-setting bodies (SSBs) since the 1970s, but their importance did not register until the Asian financial crisis in 1997. At this critical juncture, the G-7, the highest political body in global finance, sought to coordinate SSBs through a new hybrid institution called the Financial Stability Forum (FSF). Formal relations were also established between the SSBs and the Bretton Woods International Financial Institutions (IFIs) in Washington. This created a joint-governance structure commonly known as the international financial standard-setting regime or global financial architecture.

As my sequencing framework posits, the SSBs extracted a high rent when allowing the FSF and IFIs into their political space. They lost virtually none of their independence and gained a wealth of competencies. After the 2007 financial crisis, the FSF was reincarnated as the Financial Stability Board (FSB). Interviews with key participants in the debates surrounding the creation and empowerment of the FSB reveal that technocratic interests crucially shaped those debates.

The dominance of technocrats in these processes challenges functionalist accounts locating reforms in historically unconstrained choices addressing defects in prevailing arrangements (Clarke 2014:219; Moschella 2013:383). The key governance defects persisted through reforms. I am not the first to observe a significant degree of continuity in the apparently failed global regime (Helleiner 2014). But my assessment—based on the organisational preferences of technocrats rather than on the influence of powerful states or private-sector capture—provides an alternative theoretical explanation for the "status quo crisis."

My argument also clarifies the role of competing state interests in the formation of the FSF and FSB. Blustein (2012: 11–13) documents G-7 countries trying to improve developing countries' uptake of standards while continuing to deny them a voice in the decision-making process. The exclusion of countries outside the G-7 explains important features of the FSF and the political discontents that led in 2008 to widened membership. Drezner (2007: 147) also accurately reports that "the United States and European Union created club IGOs like the Financial Stability Forum" to avoid the sovereignty costs associated with the bureaucratic

[36] Ibid.
[37] Masera, Rome, 7 April 2016

IFIs.[38] However, governmental preferences tell an incomplete story about the design of the FSF and arrangement of the global financial architecture. How did obscure regulators get a seat at the top table? Why did the FSF acquire such a marginal influence? And what explains the structure of inter-organisational relations?

In the absence of an organisational interest based framework, the tendency has been to embellish the influence of intra-G-7 bargaining conflicts to account for the ultimate design of the FSF. For instance, Reisenbichler (2015: 996) writes:

> While the USA favored a state-centered FSF, driven by finance ministries, European states preferred a technocratic forum, driven by international bodies. This is because the USA can secure control of state-centered networks given its bargaining weight, while European states tried to constrain US power through technocratic structures, especially under conditions of domestic regulatory fragmentation. The final outcome was a state-centered FSF dictated by the USA.

This argument converges with an organisational view insofar as the main point of political disagreement concerned the organisational membership of the FSF (Reisenbichler 2015: 1008). It also affirms the desire among G-7 finance ministries to better coordinate the fragmented array of international regulators. But while Reisenbichler meticulously maps the numerous proposals circulating in 1998, assembling those proposals according to the sub-national bureaucratic organisations that advanced them puts in significant doubt the idea of sharply divergent *and* unitary US and European state preferences. In fact, organisations, not states, lined up behind the competing alternatives.

To be sure, the Bundesbank President Hans Tietmeyer initially proposed a government-free FSF (i.e., a network without finance ministries), following an earlier proposal by the Bank for International Settlements (BIS). However, this was not a German national preference, still less a European one. As the regulator Uwe Neumann explains:

> At that time, the finance ministry was unhappy about the Basel Committee taking up rule-making. In Germany, this is a governmental task . . .. National banks and the Bundestag were questioning the legitimacy and desirability of Basel rules. This was driving the government's position. The ministry's desire was to become a major player. . .. But [in his proposal] Tietmeyer responded to his central bank constituency.[39]

The French Treasury, too, was comfortable with the FSF.[40] In fact, the leading US negotiator, William Murden, cannot recall any G-7 finance ministry strongly contesting the FSF design proposed by the US Treasury.[41]

The characterisation of the FSF as a divisive political instrument of US state power with the capacity to promote American standards also needs to be reconsidered in light of the organisational interests shaping the new network. In FSF member McCarthy's words:

> The Forum might try to enunciate views, but until the Basel committee or whatever regulator agreed to act nothing would happen. . .. There were no levers or switches it could pull. Even in a national context, governments cannot bring all that much direct influence to bear on regulators. The idea that the Forum set standards is absolutely

[38] Murden, Washington DC, 22 April 2016
[39] Uwe Neumann, BaFin, interview, Frankfurt, 6 April 2016
[40] Jean Lemierre, directeur du trésor, Audition, 7 avril 1999, N° 284, Sénat Session Ordinaire de 1999–2000, Annexe au procès-verbal de la séance du 22 mars 2000
[41] William Murden, US Treasury, interview, Washington DC, 22 April 2016

> wrong. This was particularly true when America was in the Chair. It was not clear that the US wanted to make any use of the discussions.[42]

While this evidence cannot rule out divergent national preferences over the FSF design rooted in particular national institutions or bargaining-power calculations, it does imply that G-7 governmental preferences cannot fully explain how the global architecture was designed or how the regime developed downstream, especially in comparative terms. What matters most for present purposes is that interstate bargaining does not particularly help us understand the arrangement of the global architecture. We must also consider the interests of technocratic groups.

T_{-1} Technocratic Base

The key technocratic institutions became focal points in the 1980s and '90s.

The BCBS had fostered close relationships between central bankers even before the 1988 Basel Capital Accord, but its status as the central regulator of international banking solidified with the Accord. A few years earlier, in 1983, the International Organization of Securities Commissions (IOSCO) emerged from a decade-old predecessor, the Inter-American Association of Securities Commissioners (Sommer 1996). IOSCO went through several major reorganisations in its first decade. By the early 1990s, it was well established. The IAIS also achieved a focal position by the mid-1990s (IAIS 2003).

While these SSBs differ in many ways, and their policy achievements vary, the structures and processes through which they operate are essentially the same. Crucially, the SSBs jealously guard against government authorities. Paul Guy, the secretary general of IOSCO in 1991, put it candidly: "We don't deal directly with national governments . . . we did not want to make this a political organisation. . .. [W]e felt if there was a governmental international organisation, then we would get involved in all the politics of the government instead of dealing with the issues. . .. [Members] want to keep their governments at bay" (Underhill 1995:251).

T_0 Tietmeyer Report

Informal cooperation between the IFIs and standard setting bodies began in the mid-1990s (Goodhart 2012:438). However, the Asian financial crisis precipitated the formal creation of a joint-governance structure. In April 1998, a working group of G-22 finance ministers and central bank governors determined that the existing expertise in the SSBs should be leveraged and coordinated through a new Financial Sector Policy Forum (G-22 1998:x, 49). Tietmeyer was commissioned to take this issue forward (Tietmeyer 1999:1). Following various proposals (see Reisenbichler 2015), Tietmeyer recommended the creation of the FSF to act as focal point for coordinating the ministries of finance, central banks, and lead supervisors of the G-7 countries, plus a handful of invited nations and representatives from the each of the most important SSBs and IFIs (Tietmeyer 1999:3–6).

The proposed design disappointed many.[43] As Clark (2014:201) records, developing countries especially resented "experimenting with new institutional modalities" away from the IFIs. However, Andrew Crockett, the first chair of the FSF, posited, "The allocation of regulatory power seemed organic and inevitable."[44] The former finance minister of Canada, Paul Martin, who was present at the key meetings, recalled, "The issue of putting [standard-setting] under the IMF was not on the table, and it was not discussed."[45] As this study predicts, the IFIs lost out because they were late to the game. In Andresen's words, "The

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[42] McCarthy, London, 22 March 2016
[43] Svien Andresen, secretary general of FSB, interview, Basel, 5 April 2012
[44] Andrew Crocket, chairman of FSF, interview, San Francisco, 10 January 2012
[45] Martin, Montreal, 3 February 2012

gravitation was towards the established locus of knowledge and expertise."[46] Moreover, in order to move into the standard-setting space, the FSF had to be constituted in terms acceptable to the established players.[47] Any alternative that would have seen the SSBs subordinated could never have secured the cooperation of regulatory officials.

There is no need to exaggerate the conflicts at this stage, as several factors played into the cooperative solution. G-7 finance ministries wanted a network away from the IFIs that would leverage the contributions of the SSBs. Nevertheless, they also wanted to shake up the standard-setting process (Murden 1999: 38–39). As the initial BIS and Bundesbank proposals for the FSF implied, "The regulatory groupings would have preferred to act alone."[48] Yet, despite having to compromise on this, sequencing advantages ensured that the emergent structure reflected the standard setters' organisational preferences. "It is interesting and revealing that the central banks and regulators were given more attention than anybody in the formation of the FSF," Crockett said.[49]

The SSB's opportunity costs for joining the FSF were so low that, for all practical purposes, they had to be given control of the new institution before they would sign on.[50] "We ensured that we were the FSF," an IOSCO member sharply observed.[51] The FSF would be situated in Switzerland, not Washington. Central bankers and regulators outnumbered state officials and IFI representatives by more than three to one. As the Bank of France's Hervé Hannoun candidly pointed out, "The Bank of France was not only represented in the forum, but was also in its secretariat."[52] The FSF also developed a culture akin to the BCBS: it was known as a "central bankers' body."

As my framework expects, the SSBs' strong aversion to risk also played a major role in shaping the FSF's mandate and capacities. French economist Jean Pisani-Ferry, speaking in 2007, explained that the FSF was left with almost nothing: "It has no structure, no staff, no legal statutes" (Crockett 2008:14). The chair of the FSF was drawn from the standard-setting community. The FSF was supported by a secretariat seconded from the BIS.

The FSF's supposed role was to assess systemic vulnerabilities and coordinate standard-setting activities. However, it could not do even this because, as Crocket recalled, "The FSF was not set up to be an institution superior to the established regulatory bodies."[53] Andresen explained why:

> As soon as you formalise the roles of a new institution, where other institutions are already operating, you open up difficult turf debates. [The FSF] was intended to foster coordination between these bodies. It was felt that giving it a formal constitution would make it more difficult to get it to foster that collaboration.[54]

Furthermore, the regime secured the core competencies of the SSBs because any transfer of their rule-making powers or other prerogatives, such as interactions with market participants, would have involved excessive transaction costs. Interestingly, agenda-setting powers are often wrongly attributed to the FSF. Tony Neoh, chair of the IOSCO Technical

[46] Andresen, Basel, 5 April 2012
[47] Martin, Montreal, 3 February 2012
[48] Murden, Washington DC, 22 April 2016
[49] Crockett, San Francisco, 10 January 2012
[50] Andrew Sheng, member of IOSCO, email correspondence, Hong Kong, 4 December 2011
[51] Anonymous source, member of IOSCO, interview, Wellington, 20 November 2011
[52] Hervé Hannoun, Sous-Gouverneur de la Banque de France, 7 juillet 1999, N° 284, Sénat Session Ordinaire de 1999–2000, Annexe au procès-verbal de la séance du 22 mars 2000
[53] Crockett, San Francisco, 10 January 2012
[54] Andresen, Basel, 5 April 2012

Committee when the FSF was formed, explained, “We used to pass things up to [the FSF]; it did not dictate to us.”[55] Formal rule-making authority stayed firmly with the SSBs.

The SSBs and their political masters were attracted to the structure by the prospect of improving the uptake of standards. They had long sought mechanisms to secure wider compliance (FSF 2000), and the IFIs were the logical solution. They had universal membership, access to developing countries, instruments of “hard” law, and the operational capacity to ensure compliance. With the IMF’s help, the influence of financial standards expanded radically.

Affirming another feature of the analytical framework, the prevailing mode of legitimacy instantiated at T_{-1}—the independence of the SSBs—was central to the constitution of the structure. As Andresen put it:

> Everything that happens in the supervisory and regulatory space in the developed world does not happen in political bodies, but rather emanates from technocratic bodies. . .. There was fear on the part of the central banks and regulatory and supervisory bodies that they would be somehow politicised if they engaged with the ministries of finance and Washington-based groupings.[56]

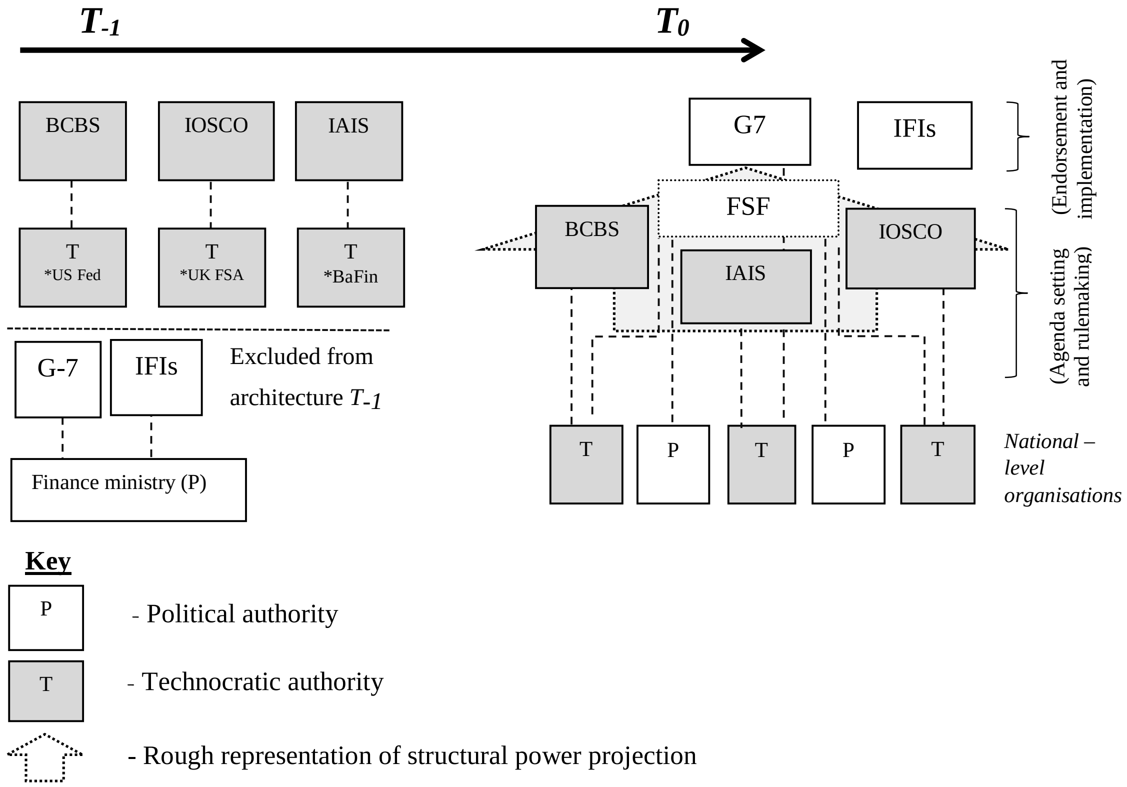
Table 4 summarises the bargaining structure and its outcomes. Figure 7 maps the structural transition through T_0. As Davis and Green conclude (2003:117), the main impact of the changes was to “add impetus to the sector-based regulatory groupings.”

Table 4: Tietmeyer Bargaining Structure and Outcome

S_I	Opportunity Costs	Risk Aversion	Transaction Costs	Legitimacy
1st (Recognised SSBs)	**Low** Little pressure to deal so could dictate terms and overcome limited implementation powers by instrumentalising FSF and IFIs	**High** Demanded high compensation for risks of political interference: e.g., FSF powers not specified and IFIs kept at bay	**Empower** Agenda-setting and rulemaking functions retained and expanded	**Empower** Technocratic mode of legitimacy secured autonomy and independence and privileged technocratic rule-making
2nd (FSF and IFIs)	**High** Accepted a bad deal in order to secure inclusion in regime and overcome costs of exclusion	**Low** Finance ministries lobbied hardest for change and inclusion: e.g., rejecting Tietmeyer’s first proposal	**Constrain** Assumed Cinderella functions: e.g., endorsement, implementation, and monitoring of standards	**Constrain** Technocratic mode of legitimacy prevented FSF and IFI participation in rule-making

[55] Tony Neoh, member of IOSCO, interview, Beijing, 22 January 2012
[56] Andresen, Basel, 5 April 2012

Figure 7: Change through Tietmeyer Plan 1998–1999



T_{+1} FSF to FSB

Between 2003 and 2006, the G-7 stepped offstage and the FSF drifted. "Having established the basic structure of the new regime," Crockett explained, "it was up to the Forum if it wanted to continue to be active and relevant. Where the Forum should go, and who should direct it, became unclear."[57] The financial crisis of 2007 shook the G-7 and FSF out of their inertia. Through high-level G-20 meetings in Washington in November 2008 and London in March 2009, the FSF was reinvented as the Financial Stability Board (FSB). The FSB was given a formal charter, an expanded mandate, and a wider membership than the FSF. Celebrations followed. Reforms continued into 2012, when an exhaustive review of FSB resources led to a revised charter. However, in the intense backroom wrangling, the FSB was constrained by the conditions set at T_0.

Aside from the question of widening the membership to include all G-20 countries, a notably controversial part of the reforms was to give the FSB power over the SSBs and to allow finance ministries more influence.[58] Under its new charter, the FSB is tasked with coordinating the work of the SSBs, which was never its explicit role under the FSF. The FSB also has a rule-making mandate. "The aim was to lift the FSF from being a platform to being something more . . . than the other bodies," Andresen told me. "The FSB has to be able to get under the noses of the standard-setters."[59] In the midst of the negotiations, UK Treasury official John O'Regan reflected on the anxiety produced by the repositioning of the FSB:

> To say that this is causing tensions with the regulators is an understatement. . .. The regulatory bodies are very entrenched. They are concerned to retain their own policy autonomy and power. A cynic might say they are out for themselves and to preserve

[57] Crockett, San Francisco, 10 January 2012
[58] Prabhakar, US Treasury, interview, Washington DC, 24 March 2016
[59] Andresen, Basel, 5 April 2012

their own power bases. Less cynically, it is clear that these guys have invested a great deal of time developing these institutions.[60]

But, as the framework predicts, the SSBs were able to hold these political pressures at bay. Their structural advantages, independence, and collective interest in the status quo enabled them to maintain primacy over late-arriving governmental actors.

The G-20, the apex of the political tree, became engaged by other issues.[61] The FSB, by contrast, assumed a more active presence, but its role was forged in the shadow of the T_0 bargain. The FSB's rule-making authority, for instance, is still highly circumscribed. It can only act in collaboration with the SSBs and others in areas outside the functional domain of SSBs and on cross-sectoral issues.[62] As Peter Sands, CEO of investment bank Standard Chartered, put it, "The FSB only has a voice. The BCBS has power. If you really want to focus on where the key standards are being set [it is] in the BCBS" (Brookings Institute 2011).

The FSB's coordination function is also constrained by the norm of SSB independence. "There is no question of the FSB being made stronger than the standard-setting bodies and dictating to them," Andresen told me. "The aim is to help them coordinate and cooperate; to fill in gaps where necessary . . . and to steer them should they head in the wrong direction."[63]

Formal independence proved crucial to the SSB's position in reform debates. Senior Securities and Exchange Commission official Ethiopis Tafara explained, "The FSB . . . is a place where political direction can be given and activities coordinated. However, technical work is really best left to the experts in technical standard-setting environments. . .. The FSB remains a member-owned organisation, and its members must have their mandates and views respected. The FSB does not want anybody walking away."[64]

Finally, vested interests have maintained the status quo. Most players value the member-owned character of the FSB.[65] They also struggle to see how it could be changed. A US Treasury put it this way:

> This is the regulatory world. Some things are just not possible. . .. It would be difficult to even define the legal role and status of the regulatory bodies across countries and internationally, which would be a necessary first step towards creating a significantly more institutionalised or legalistic structure. . .. And we don't know if this would be any better.[66]

Andresen made a similar point about the norms of legitimacy laid down at T_{-1}:

> The basic starting point is the same [as in 1999]. Standard-setting only has value if it originates from independent standard-setting bodies. If it did not, the rest of the world would not buy into it. It needs to arise from a non-politicised process. . .. Nobody in the FSB thinks political authorities could do this better than the independent standard-setters.[67]

[60] John O'Regan, HM Treasury, interview, London, 4 October 2011
[61] Murden, Washington DC, 22 April 2016
[62] FSB Charter Art. 3.
[63] Andresen, Basel, 5 April 2012
[64] Ethiopis Tafara, US SEC, interview, Washington DC, 17 January 2012
[65] Murden, Washington DC, 22 April 2016
[66] Anonymous source, US Treasury, interview, Washington DC, 14 September 2011
[67] Andresen, Basel, 5 April 2012

Ultimately, there was no material reform. "You are either for independent standard-setting or you are not," Andresen said. "We have already had that discussion."[68]

T_i First-Mover Entrenchment

The most important constant across T_i has been preservation of technocratic authority. As a result, the joint-governance structure has come to rest on the management of an uncertain dividing line between political and technical authority. Tafara recounted:

> The interesting thing about the FSB is that it can put in tension the dividing line between standard-setting and politics. . .. In the FSB, independent regulators are brought into contact with the executive arm of the state. . .. This is not illegitimate, because standards have political implications. However, the nature of the conversation has to be carefully handled so that we do not cross the vital line that divides standard-setting from politics that we have been so careful to set up and protect domestically.[69]

The perceived legitimacy of this division indicates that, even as some things have changed since the Asian and 2008 global crises, mostly they have stayed the same.

V. EXTENDING THE ARGUMENT

To probe my framework, in this section I examine cases that invert the EU and global sequencing found in finance. I also examine a negative case.

The first inverted case is the EU structure of product regulation, a regional joint-governance initiative that evolved according to S_{II}: technocratic actors attained authority before political actors.

In the postwar period, three private product standard-setting bodies emerged within Europe: the Comité Européen de Normalisation (CEN), the Comité Européen de Normalisation Électrotechnique (CENELEC), and the European Telecommunications Standards Institute (ETSI), together known as the European Standardisation Organisations (ESOs). The ESOs have unique histories and responsibilities. However, the institutional structures through which the ESOs operate are broadly similar. The members of CEN and CENELEC are industry-funded organisations that set national standards. ETSI is slightly different, as its members are the companies themselves. National standard-setting organisations are private and entirely independent of national governments, although their activities may be recognised or endorsed through state policy.

Through the 1960s and '70s, the EU and ESOs engaged in concurrent, but uncoordinated, efforts to harmonise and standardise national product regulations across Europe. To this end, in 1969 the Commission adopted a "general program" for the elimination of technical barriers to trade. The results were far from impressive. The European Community adopted product standards at a painfully slow rate (Joerges et al 1999:7).

After this failed in-house experiment, the EU changed tack. The 1983 Information Directive designated CEN and CENELEC as recognised ESOs.[70] (ETSI was recognised in 1992.) This recognition created a joint-governance structure. In 1984, the so-called New Approach was formalised by the General Guidelines for Cooperation, a formal contract among the Commission and CEN and CENELEC. The following year, a Council resolution established the fundamental principles of the New Approach. Crucially, standards produced

[68] Andresen, Basel, 5 April 2012
[69] Tafara, Washington DC, 17 January 2012
[70] Council Directive 83/189/EEC OJ 1984 L 300/171

under EU mandates would be presumed in accord with "essential requirements" of law and, therefore, could command the force of law throughout the single market.[71]

The terms of the New Approach suggest significant T_o uncertainty, which played into the hands of the ESOs as first movers. As in the case of European finance, a key source of the uncertainty was the fact that the New Approach was widely considered a breach of the *Meroni* doctrine. Yet, in a telling contrast with the S_I case, the New Approach amounted to a high rent for the ESOs. The doctrinal force of *Meroni* was muted by countervailing norms of technocracy. The bargain at T_o conferred upon the ESOs both a standard-setting monopoly and invaluable EU support. ESO standards became mandatory in all but name. Participation within ESO standard-setting committees increased overnight (Joerges et al 1999).

Reflecting the opportunity-cost structure at $T_{o,}$ the bargain also ensured that the ESOs retained complete autonomy to support their technocratic legitimacy and influence. The term "mandate" is misleading. As an interviewee explained, "Mandates are not mandatory. They are just requests to prepare standards. The ESOs can say no."[72] In reality, mandates are rarely rejected, because the ESOs retain an agenda-setting role through formalised dialogues with the Commission.

The EU's political institutions have long sought to redesign and reverse the costs associated with inter-institutional relationships established in the early 1980s. In 1990, frustrated with its inability to shape the pace and design of standards, the Commission released a green paper proposing a new "Europeanised" institutional superstructure (Commission 1990). The plan was to create a European Standardisation Council and European Standardisation Board above the ESOs. In addition to this new bureaucratic layer, the Commission wanted to create new sector-specific standardisation organisations and introduce qualified majority voting within the ESOs to speed up standard-setting.

The standardisation community responded by defending its autonomy. It marshalled technocratic norms of legitimacy as its shield and threatened to walk away from the partnership. The president of the Association Française de Normalisation protested that the green paper reflected nostalgia for state control of the economy (Joerges et al 1999: 20). The Dutch standardisation organisation claimed the Commission's proposals were "indicative of an almost cavalier disregard for all interests other than the Community's and of an incomplete grasp of history." Above all, the Dutch body accused the Commission of "damaging . . . the credibility and therefore the usefulness of the standardisation process" (Joerges et al 1999: 20–21).

In subsequent years, the Commission has continued trying to reform the ESOs, but in increasingly modest terms, as my framework's T_{+1} dynamics predict. The latest standardisation reform package was put to consultation in 2011 with legislative proposals introduced in 2012. As one Commission official explained, today's demands are less-than sweeping:

> The starting point is that the system is good. And it is certainly not a question of overturning the system. . .. We are not interfering in any way with the structure of these organisations. . .. We are looking for an evolution and not a revolution. We are not looking for any major departure from what we have.[73]

Another Commission official told me, "All we want to do is streamline the process, whilst leaving untouched the parts that cannot be touched."[74]

[71] Council Resolution 85/C 136/01 OJ 1985 C 136/1
[72] Daniel Bunch, European Commission, interview, Brussels, 23 January 2012
[73] Bunch, Brussels, 23 January 2012
[74] Silvia Vaccaro, European Commission, interview, Brussels, 23 January 2012

It is not all S_{II} out there globally, either. The global environmental regime is an important S_I case where political interests still dominate developments and constrain technocratic organisations, such as the International Network for Environmental Compliance and Enforcement (INECE).

The modern era of global environmental governance is usually dated to 5 June 1972, when the UN Conference on the Human Environment created UNEP. The primary domestic actors were state officials, specifically foreign offices. At this time, few countries had independent environment agencies. Almost two decades later, in 1989, the INECE was born from US-Dutch cooperation that had begun in 1985. At this point, more countries had environmental agencies of their own, and the INECE served as an informal network bringing together representatives of these and assorted non-government enforcement and compliance practitioners.

Although not strictly a standard setter, the INECE provides common legal definitions and principles and acts as a basis for institutionalised exchange between environmental enforcement officers. Its aim is to harmonise regulatory practices and works in collaboration with, and receives funding from, the UNEP and other international organisations, including the World Bank, and the European Commission to build environmental protection capacities across the globe.[75]

The INECE emerged around the same time as the global-finance SSBs, and its expertise is no less esoteric. Therefore, in theory, the INECE could have become an important global institution. However, twenty years on, the INECE lacks the resources and confidence of comparable bodies in finance. The logic of S_I helps to explain this outcome: the global environmental space is saturated by political actors and intergovernmental organisations for whom the opportunity costs of changing the status quo have been extremely low despite the emergence of the INECE. A member of the INECE secretariat explained:

> The UN institutions and the UNEP are the important players. Their role is policy. . .. There is a formal process and rituals in all this. . .. Sovereign rights make environmental treaties. The INECE is not subject to the same rules or rituals, and it does not want to be involved . . ., as it might then be conceived as a competitor of sorts. . .. There is a domestic element to all this. . .. Foreign offices very closely protect the prerogatives and powers of treaty formation. They do not like the environmental people being involved.[76]

The UNEP thus clings to its rule-making powers and relies on the support of traditional public international norms of legitimacy to exclude environmental experts. In their partnership, the INECE provides logistical support but is excluded from the most prized political goods in the T_{+1} relationship.

These extensions of my framework speak to its wide applicability. However, sequencing does not always determine distribution of power across joint-governance structures. A notable example is EU financial-reporting standards. This area was long dominated by intergovernmental interests. Eventually, national standard-setters were brought together in the Accounting Advisory Forum (AAF) to form an EU-level joint-governance structure in 1990. However, lacking any formal mandate and surrounded by jealous governments, the AAF never had much influence (Commission 1995:3). In 1999, the EU rejected a pan-European accounting standard-setting body and selected the International Accounting Standards Board (IASB), the private international standard-setting body, for a new joint arrangement. The IASB has since proved highly autonomous from the

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[75] Jo Gerardu, INECE Secretariat, email correspondence, 30 January 2012

[76] Durwood Zaelke, INECE Secretariat, interview, Washington DC, 5 January 2012

governmental interests of the EU, breaking the past S_I pathway and emphasising the importance of the framework's scope condition that partners are not substitutable.

The subsequent power of the IASB also suggests that sequencing is a better predictor of what will be contained in the foundational contracts of joint-governance—and the endogenous factors that shape the formal recalibration of those contracts downstream—than power transfers that occur informally or unintentionally through ongoing policymaking processes or exogenous changes in the international environment.[77]

VI. CONCLUSION

Organisational interests and sequencing logics accurately predict support for particular international regulatory structures and anticipate opposition from those who stand to be marginalised. Actors arriving first to joint-governance regimes project their organisational interests, extracting benefits from those arriving later.

This finding—that time can structure organisational power and strategic bargaining—should broaden the debate on how temporality matters in global governance. By integrating rational choice and historical institutionalism, we can endogenise emergent problem structures and the distribution of bargaining resources. This promises a more synthetic understanding of how historical structures interact with political strategy and agency over time than is achieved by current conceptions of path dependence. The study also showcases the value of using actual comparisons—as opposed to unobserved counterfactuals—when seeking to establish the precise influence of history on diverse patterns of institutional development. Isolating common causal mechanisms across varied historical experiences provides a robust defence against post hoc ergo propter hoc criticism.

The empirical data offers additional insight into an overlooked source of influence in global governance. While we can seldom rule out national interests, we need to recognise that organisational interests operate alongside, and even prior to, the struggle for national power. This is not to suggest that changes to global governance structures are neutral with respect to the gains of states and private constituencies. But some of the most important distributional outcomes are unforeseen products of bureaucratic ambition and historical legacies, not of states or private interest groups pushing their weight around. For instance, the US dominates the global market for insurance, and the US Treasury radically enhanced the role and importance of the IAIS in 1999 through its support of the FSF. Yet, ironically, according to American regulators, US influence in the IAIS is extremely constrained.[78]

This kind of unintended distributional consequence intersects with Johnson's (2014:6) argument about organisational progeny (the formation of IOs out of IOs) and states' limited ability to control elaborate global governance structures engineered by international bureaucrats. In the global and European financial governance regimes, beneath what may look like classical interstate bargaining, a more complex picture of organisational conflicts, transnational organisational alliances, and bureaucratic sub-group goals surfaces. In this sense, my argument supports Johnson's: embedded organisational interests matter in processes of international regime change. But governments do not always cede power when IOs spawn offshoots. Equally, technocrats have not necessarily been weakened through the financial crisis (cf. Gadinis 2013). Political and technocratic modalities of governance have variously entrenched and retrenched along trajectories influenced by history.

[77] Mattli and Seddon (2015) specify when such power transfers are likely to occur. The relevant conditions found in this case include exogenous changes in the supply of potential partners and—often unintended—shifts in rulemaking authority.

[78] Alessandro Iuppa, chair of the IAIS, interview, Washington DC, 14 January 2012

We should therefore refuse the assumption of a hierarchy between national and organisational goals or between domestic and supranational influences. In functionally differentiated, multilevel governance arrangements, various interest constellations can emerge. Sometimes outcomes will be reducible to the national pursuit of power or the designs of supranational officials, but often the picture will be more complex and historically contingent. Moreover, policymakers should not assume that experimental institutional reforms will always result in radical power shifts. New forms of governance and institutional change often do more to entrench the influence of established players than to undermine it.

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