

# Constructing Polities and Markets: An Institutional Account of European Integration<sup>1</sup>

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As institutions and governance structures develop in modern markets, they tend to “feed back” onto economic activity. Through such feedback loops, market and political arenas can develop symbiotically into relatively coherent “fields” that gradually embed actors’ orientations and activities. Using these insights, this article develops and tests a theory of European integration focusing on the case of the European Community, the first pillar of the European Union. Traders, organized interests, courts, and the EC’s policy-making organs, over time, have produced a self-sustaining causal system that has driven the construction of the European market and polity. The generality of this explanation to a sociology of markets and polity-building projects is discussed in the conclusion.

## INTRODUCTION

Institutional theories have proliferated across the social sciences (Hall and Taylor 1996). The impetus has been to explain how mesolevel social orders

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are produced, whether they are developed in markets, political domains, legal fields, or between organizations. One focus of institutional theory has been on the links between political authority and markets (North 1990; Fligstein 1996, 2001; Dobbin 1994; Evans 1995; Evans and Rauch 1999). The central insight is that markets cannot exist without authoritative rules to guide the interactions between economic actors. In the modern world, the state or other forms of public authority provide property rights (e.g., who “owns” the surplus produced by assets), governance structures (e.g., rules governing competition and cooperation between firms), and rules of exchange (e.g., contract law; billing practices; banking and credit rules; insurance, health, and safety standards). States facilitate economic growth by providing, among other things, laws, social stability, and the regulation of class struggle.

One of the central tenets of institutional theory, as it applies to the link between political authority and markets, is that economic development, as a process, is causally related to the emergence and consolidation of particular symbiotic relationships that form between rule structures, governmental organizations, and economic actors (North 1990; Stone Sweet 1999; Stone Sweet and Brunell 1998*a*). Firms can trade and use existing markets without the state’s law or guidance, but when states provide these rules and the means for their enforcement, they give market actors new trading opportunities, which tend to expand economic activity and growth. The relevant sociological and economic literatures typically argue that the “right” kind of institutions and enforcement mechanisms promote economic growth, while the wrong kind (or lack of the same) are likely to produce rent seeking on the part of state officials or firms (e.g., Evans 1995; North 1981). At the extreme, rent-seeking states, and the actors they benefit, can become predatory, which may lead to a retardation of economic growth (Evans 1995; North 1990).

Institutionalists also argue that when crises occur, or are perceived to be taking place, governmental actors tend to respond according to their understanding of current arrangements. State officials develop policy-making styles (Dobbin 1994) that are provoked by, and are then used to respond to, perceived dysfunctionality. Market and state actors know that economic activity and its expansion depend heavily on stable rules. When market innovators find that current rules limit their ability to take advantage of economic opportunities, they typically lobby state officials for new and better rules. In most industrialized societies, this has meant that economic actors generate a continuous stream of demands for new rules and for the adaptation of existing rules to new and changing circumstances.

The theorized reciprocal effects between market making and rule making has found support in recent empirical studies (Fligstein 1990; Stone

Sweet and Caporaso 1998). This research has shown that when the demand for new and better rules and their enforcement is met, economic actors indeed do expand their activities. However, the story does not end there. For diverse reasons, an increase in economic exchange causes actors to push for more rule making and more state capacity to govern. Thus, the cycle begins anew. There exists some empirical research that uses detailed case studies to show how new institutions change the way firms and other economic actors behave and are organized (Dobbin 1998; Ranger-Moore, Banaszak-Hull, and Hannan 1991; see the papers in Meyer and Scott [1983]). Nonetheless, there exist few comprehensive studies on the simultaneous construction of a market and a polity, and none seek to evaluate, in a systematic empirical way, the theorized relationships between the two orders.

One purpose of this article is to fill this gap. We do so in light of the experience of the European Community (hereafter EC, founded by the 1957 Treaty of Rome).<sup>2</sup> The EC—the first pillar of the European Union (hereafter, EU, founded by the 1991 Maastricht Treaty)—was designed to promote interstate peace and economic cooperation in Western Europe. The Treaty of Rome established a set of organizations with the capacity to produce, interpret, apply, and enforce market rules in order to promote, among other things, economic exchange across national borders. Observing the EC over its first 40 years (the period our data covers) provides a remarkable opportunity to study the simultaneous production of a collective system of political and legal governance and the construction of a pan-Continental market in Western Europe. In essence, we have the opportunity to document the emergence and institutionalization of a modern political economy.

There exists a huge body of sophisticated research on European integration that relates to various aspects of this project. It is important, therefore, to be clear about the nature and scope of our theory and findings, as they relate to the study of the EC/EU. Most important, we (1) elaborate a dynamic, institutional theory of integration that seeks to explain the main features of the overall process through which the EC has developed and (2) evaluate propositions derived from our theory against data collected specifically for the purposes of hypothesis testing. The article is relevant to, but does not directly engage, many important debates that animate research on specific historical episodes in the evolution of the

<sup>2</sup> That is, the complex of institutions, organizations, and processes that takes place within the purview of the Treaty of Rome, today commonly called the first pillar of the EU. Important institutional arrangements that are in place for the first pillar (e.g., the direct effect and supremacy of European law and various legislative procedures) are not in place for the other pillars of the European Union.

EC/EU, on the development of specific policy sectors, and on the “Europeanization” of the nation-state. However, compared with any other contemporary approach to integration, our theory is pitched at a higher level of abstraction, and the data analyzed are more comprehensive and more highly aggregated. That said, we do not ignore the findings of relevant scholarship but incorporate them within our more macro theory. In sum, we seek to understand the sources and consequences of political and market integration in Europe, rather than to explain any specific economic, legislative, or judicial events or decisions.

We favor using the concepts, ideas, and vocabulary of an increasingly generic, “institutionalist” social science, rather than those developed in scholarship on European integration. Nonetheless, our findings bear directly upon several long-standing, macro concerns of EC/EU studies. Two of these deserve emphasis up front. First, the main finding of this article is that, over time, the activities of the EC’s organizations mixed with the activities of traders and other transnational actors have produced a self-reinforcing system, whereby evolving rule structures and market integration became linked. We interpret these results as providing broad support for some of the core claims of “neofunctionalist,” regional integration theory (developed by Ernst Haas [1958] in the late-1950s), as modified more recently (e.g., Stone Sweet and Sandholtz 1998; Sandholtz and Stone Sweet 1998). Haas and his followers argued, among other things, that economic interdependence and the growth of transnational society would push the EC’s organizations, like the European Commission and the European Court of Justice, to work creatively to facilitate further integration, while raising the costs of intergovernmental inaction. Haas labeled this process “spillover.” We accept these arguments and appreciate the underlying logic of spillover, which we see as prototypically institutionalist. Haas (1961), not unlike North, tried to show that (1) rules, organizational capacity to respond to social exchange, and effective procedures to process disputes, and (2) the behavior and dispositions of political and economic actors, could evolve symbiotically. They would do so, he argued, through positive feedback loops that would push steadily for deeper integration. Our article explicitly theorizes integration as a dynamic, self-sustaining, causal system and tests hypotheses about the nature and scope of the main mechanisms of spillover and feedback that drive the construction of the European polity.

Second, it is commonly asserted (e.g., Scharpf 1996, chap. 2) that “negative integration,” the process through which barriers to cross-border economic activity within Europe are removed, and “positive integration,” the process through which common, supranational public policies are made and enforced, are governed by separate social logics. Negative integration, because it enables the member states to reap large and diffuse

joint gains, moves forward relatively smoothly. Positive integration, in contrast, regularly pits these same governments against one another, to the extent that deciding on one form of regulation or intervention, as opposed to another, will have distributive consequences for identifiable national constituencies, given restrictive decision rules (Moravcsik 1993; Scharpf 1996). It is further argued that, as a result, the “market” has been constituted without corresponding governmental capacity to regulate it or to counter its excesses (e.g., Scharpf 1996). In contrast, we find evidence for the view that negative and positive integration, far from being distinct processes, are connected in important ways (they are meaningfully endogenous to one another).

We think our results have important implications for both economic and political sociology. In the sociology of markets, there have been two main strands of thought. The first emphasizes market processes and the social structures that appear in markets, typically conceived as networks (Uzzi 1997; Gulati and Gargiulo 1999; Stuart, Huang, and Hybels 1999). The second perspective tries to link the development of markets more explicitly to questions of political and legal governance (Campbell and Lindberg 1990; Fligstein 2001). This perspective tends to be more institutionalist because of its focus on how markets depend on rules and cultural understandings. This article is firmly in the second camp. It demonstrates that a large-scale market-building project relies heavily on the creation of formal rules and legal procedures. Political and legal embeddedness are important to the way markets have developed. We think the time is right to begin to incorporate insights from both perspectives into our analyses of market processes, and we return to this issue in the conclusion.

In this article, we first consider the relationship between institutions and markets more carefully, in order to provide a general understanding of the relationship between the building of polities and markets. Then, we turn to the case of European integration. We briefly introduce the EC, connect distinct streams of scholarship in light of our project, and suggest a model of how supranational governance, market building, and economic activity become linked, and with what dynamic effects. Next, we test a set of specific hypotheses against data on economic, political, and legal processes in the EC. We conclude with a discussion of the relevance of our results for a more general, institutionalist understanding of the relationship between rules, modes of governance, and economic exchange across borders.

## Theoretical Considerations

Institutionalists take a broad view of institutions, which include shared understandings, taken-for-granted cultural proclivities, formal and informal norms, and laws that have normative force (Jepperson 1991; Scott 1995, p. 33). They typically pay more relative attention to one of three levels of analysis: actors, organizations, or rule systems. Rational choice institutionalism tends to focus on how the preferences and interests of individuals drive institution-building episodes (e.g., Knight 1992). Organizational sociology views organizations as carriers of institutions, as they induce actors to conform to their norms and procedures (e.g., March and Olsen 1989) and use their relative power vis-à-vis other organizations to enforce a social order (e.g., Zucker 1983). More macrosociological variants claim that institutions constitute the building blocks of human community, and they trace how new institutions (and organizations) are built, through mimesis, from existing materials (e.g., DiMaggio and Powell 1983; Meyer and Rowan 1977). We believe that any satisfactory theory of institutional change must pay close attention to all three levels, as they interact with one another over time (Stone Sweet, Fligstein, and Sandholtz 2001).

Institution-building episodes typically take place in preexisting social arenas, “domains” (Laumann and Knoke 1987), “fields” (Bourdieu and Wacquant 1992), or “organizational fields” (DiMaggio and Powell 1983). In their most generic guise, such fields are composed of (1) organizations seeking to structure their environments, (2) preexisting rules (i.e., existing institutions) that operate to constrain and enable actors in the arena, and (3) skilled strategic actors who work within organizations to help attain cooperation among disparate groups and interests. Successful institution-building projects within fields occur when organizations are able to create and modify rules and procedures in order to structure the ongoing interactions of diverse sets of actors, allowing the arena to reproduce itself on a period-to-period basis. Such projects do not occur in a vacuum. Pressure and resources for institution building can also come from organizations located in different fields, from actors operating outside of the arena in question, and from more systemic exogenous shocks, like war or economic recession.

We view market, political, and legal domains as fields (following Fligstein 1996, 2001) that help to structure how economic actors, public interest groups, lawyers and judges, and government officials define and pursue their interests, including their interests in evolving rules to guide market activities. In the rest of the article, we seek to demonstrate that the particular form this set of fields has taken in Europe resulted from the fact that the activities of market actors, government officials, and the content of EC law (rules and procedures) became linked to one another

in a self-reinforcing causal system. This argument raises some general theoretical issues, two of which deserve emphasis.

First, understanding the relationship between state authority, markets, and firms has generated a great deal of controversy. Most contemporary mainstream economic theory takes a negative view of regulation and the process by which firms and other economic actors seek to involve legislators, courts, and regulatory agencies in market processes (see Noll [1989] and Peltzman [1989] for reviews). Neoclassical economists, for example, argue that unregulated commerce efficiently allocates society's resources, whereas government regulation of markets provides irresistible incentives for rent seeking to firms and state officials (Peltzman 1976). Though the removal of barriers to commerce is justified in terms of expanding market-based exchange (a process akin to what we described as negative integration above), government intrusions that affect market activities are viewed skeptically as distortions that may embed inefficiencies (Stigler 1971). Further, until quite recently, mainstream economic theory assumed zero transaction costs, although in the real world such costs significantly impinge on how firms organize themselves, interact with one another, and deal with the state. Put rhetorically, the standard view has been that fewer rules and less government intervention will increase competition and expand markets, and, thus, society will be better off.

Institutionalists across the social sciences take issue with this view. Some focus on how institutions reduce the costs of impersonal exchange, in order to explain the expansion of commerce across time and space (e.g., Greif 1993; North 1990). Others have shown that, under the right social conditions, states are indispensable to market development, as regulators and as economic actors in their own right (e.g., Evans 1995; Vogel 1996; Weiss 1998). The broad claim is that the capitalist world—with its networks of supply; systems of transport; and models of banking, insurance, and accountancy—spread across the globe through the development of stable, but adaptable, institutions and that states have helped to anchor this development. In our view, the central question is not whether institutions and effective governance structures are necessary for markets, but what kinds of rules and structures promote market activity and what kinds stifle it (Guillen 2001; Fligstein 2001). The findings of this article strongly support institutionalist views and undermine stances associated with neoclassical economic theory.

Second, institutionalists disagree on how to understand and evaluate the efficiency of institutions in promoting social exchange. Organizational economists (e.g., Fama and Jensen 1983; Williamson 1985) and most rational choice political scientists (e.g., Bates et al. 1998) assume that viable, relatively stable institutions are presumptively (usually Pareto) efficient, although efficiency is rarely, if ever, actually demonstrated. Sociologists

and students of political culture (e.g., Eckstein 1988) tend to be agnostic on this question or conceive of the functionality of institutions in other than economic ways, for example, how, and to what extent, they enable human communities to reproduce themselves over time, given changing circumstances.

Our explanation of European integration does not rely on an assumption that EC institutions are optimal, in the sense of being at least as economically “efficient” as all other possible institutional arrangements. We demonstrate that certain outcomes, including the expansion of intra-EC trade and other forms of transnational exchange, were meaningfully structured by EC institutions as they developed over time. It follows that in the absence of such institutions, or in situations in which rule innovation in the EC is stalled, transnational exchange would have been stifled or would have expanded more slowly. Thus, our assumption is that EC institutions are functional for market actors in that they are at least relatively efficient.

The underlying logic of our model can be stated simply: as problems and new circumstances arise, firms and other market actors will press governmental organizations, including legislators and courts, for rules to govern markets. To the extent that these organizations respond to the demands, new opportunities to expand markets will emerge. If market actors adapt their activities to exploit these new opportunities, then the feedback loop will be completed, and the cycle will begin anew. One mechanism through which the “market-as-field” and the “political domain-as-field” is constituted dynamically, over time, is through the interplay between these and other feedback loops. In the rest of the article, we give empirical support for these claims by developing and testing a theory of European integration.

#### THE CASE OF EUROPE

The EC/EU provides an extraordinary case in which to examine the simultaneous construction of a market and a polity and to test institutionalist versus neoclassical accounts of the relationships between authoritative rules and market activities. The EC/EU is a unique polity. Some observers characterize it as an intergovernmental organization, an interstate “regime,” constituted by a voluntary pooling of sovereignty (Keohane and Hoffmann 1991). Others see it as a quasi-federal statelike structure (Sbragia 1992) or as a “multilevel” polity (Marks et al. 1996). Wessels describes the EC/EU as a “fusionist” state, whereby the national governments have fused some of their functions (1997). Still others see it as a complex blend of supranational and intergovernmental modes of

governance that varies across time and policy arenas (Sandholtz and Stone Sweet 1998).

For the purposes of this article, the larger debate about the nature of the EC is less important. We are interested in the EC as an evolving system of governance that makes and enforces market rules. The Treaty of Rome provided a blueprint for a complex set of organizations with jurisdiction over issues of economic exchange defined very broadly.<sup>3</sup> The EC was built from provisions, more-or-less vague, that are contained in the Treaty of Rome. The EC has four major organizations: the Council of Ministers, the European Commission, the European Court of Justice (hereafter, ECJ), and the European Parliament (hereafter, EP). The Council, made up of government ministers from each country, votes on new rules for the whole of Europe, as proposed by the Commission. Before 1986, the Council adopted most important legislation by unanimous vote. The unanimity requirement often made attaining agreements very difficult and left individual Council members with important veto power. With the Single European Act and the Treaty on European Union, most issues are now decided by qualified majority voting, with enhanced input from the EP. Once a new piece of legislation has been adopted, each nation-state is obligated to transpose it into its own national law. The member states maintain permanent representatives in Brussels, who are in continuous contact with each other and with the Commission, and heads of government meet semiannually to consider more ambitious initiatives and to discuss the overall direction of the EC.

The Commission produces legislative proposals for the Council and the EP to consider, either as its own initiative or upon request from the latter. The Commission was created to help states solve their bargaining problems by producing policy studies, proposing new measures, negotiating draft legislation with social actors (organized interests), and shepherding bills through the Council and the EP. New measures are usually not considered by the Council until extensive negotiations with relevant lobby groups have taken place. The Commission is divided into Directorates, each in charge of some competence delineated by the Treaty of Rome. There are always a great number of proposals, large and small, floating around the Commission and much political activity among people who

<sup>3</sup> Economic exchange includes the movement of goods and workers. To the extent that the EC has privileged those who can and do engage in transnational exchange, it works at odds with other societal groups that are less mobile, as well as nonexporting businesses. Over time, some interest groups, notably those associated with women's rights and the protection of consumers and the environment, have enhanced their influence in EC policy making by organizing in Brussels and litigating before the European Court of Justice. Still, there have been economic winners and loser in the EC political project, and large producers and exporting concerns are clear winners.

work for the Directorates and lobbying groups (Mazey and Richardson 1993). This complicated structure organizes multiple, nested games in which various actors in the Commission seek to build coalitions in support of divergent agendas (Peters 1992).

The ECJ is the authoritative interpreter of EC law. It enforces the treaties and secondary legislation pursuant to litigation brought by private organizations, individuals, and states. These decisions are binding on all parties involved, including nation-states. In the 1960s, the ECJ established the principle that EC rules overruled national law in situations in which the two came into conflict. This is called the doctrine of “supremacy.”<sup>4</sup> The ECJ also decided that, under certain conditions, EC law confers judicially enforceable rights and duties on all subjects of EC law, including firms and individuals. National laws and courts are obliged to protect these rights. This is called the doctrine of “direct effect.”<sup>5</sup> Taken together, these decisions transformed the Treaty of Rome and the EC from an international organization to a vertically integrated, quasi-federal, rule of law polity (Stein 1981; Slaughter, Stone Sweet, and Weiler 1998; Weiler 1990). The EP, which sets the budget and advises the Commission, is directly elected. Until the 1980s, its powers were mostly advisory in nature. With the Single European Act and the Treaty on European Union, the EP accrued broad agenda-setting powers and, under some conditions, veto authority in the legislative process (see Tsebelis 1994). Thus, after 1986, the Council of Ministers legislates with the EP, while the Commission retains its powers of legislative initiative.

This complex mix of organizational competences, decision rules, and legislative procedures can be confusing to participants and analysts. National governments often seek to maintain power through their control of the Council and through the activities of their permanent representatives in processes otherwise managed by the Commission. But, with qualified majority voting and the enhanced role of the EP, national governments can find themselves having to accept legislation they voted against. Monitoring and controlling the Commission are costly and difficult propositions, especially when the Commission has a more activist agenda. Finally, national governments do not control the interpretation or enforcement of EC law. They have to contend with the possibility that the Commission or a private party may win a court case for (government) noncompliance with EC rules (not an atypical situation; see Stone Sweet and Brunell 1998b).

To develop a general theory of European integration, one must identify the various organizational contexts and the relevant actors and seek to

<sup>4</sup> First articulated in the *Costa* judgment (ECJ 1964).

<sup>5</sup> First announced in the *Van Gend en Loos* judgment (ECJ 1963).

account for the various projects and interests at issue. One must also provide mechanisms to suggest why actors in one field might try to influence action in another field. We believe the institutionalization of the Treaty of Rome has been a process driven by the construction of feedback loops and other connections between relatively autonomous fields in the EC. For our purposes, we identify three areas of connection: firms engaged in cross-border trade (seeking to expand markets); litigants (seeking to vindicate their rights under EC law), national judges (seeking to effectively resolve disputes to which EC law is material), and the ECJ; and lobbying groups (seeking to exercise influence on EC regulation) and EC officials in Brussels. We assume that the EC's organs generally seek to build the market through negative and positive integration processes and to enhance the effectiveness of EC law.

We find it useful to think of European integration as being sequenced in three periods.<sup>6</sup> We think of these changes as “parameter shifts” in the evolution of the EC/EU, whereby important qualitative events generate quantitatively significant transformations. From 1958 to 1969, actors were engaged in the process of building its main organizations and figuring out how to make the Treaty of Rome work. The pivotal event during this period was the ECJ's “constitutionalization” of the treaty through the doctrines of supremacy and direct effect. During the second period, 1970–85, the Commission and ECJ worked to dismantle barriers to intra-EC trade and other kinds of transnational exchange (negative integration). At the same time, the Commission and the Council sought to replace the disparate regulatory regimes in place at the national level with harmonized, EC regulatory frameworks (positive integration). Although the data show that positive integration proceeded more steadily than is often appreciated, many important harmonization projects stalled in the Council, not least because more ambitious initiatives required the unanimous vote of national ministers. The unanimity rule made it very difficult to forge agreements, at a time when the cumulative impact of negative integration was to raise the costs of intergovernmental deadlock for an increasing number of social and economic actors who wanted wider and deeper integration. This period ended with the passage of the Single European Act, which altered the voting rules for adopting legislation pertaining to the Single Market Program, from unanimity to qualified majority voting in most cases. Our final period, from 1986 to the present, can be characterized as the most active from the perspective of institutionalizing European market and governance structures through positive integration.

<sup>6</sup> For different purposes and with somewhat different results, Weiler (1999, chap. 2) analyzes the EC as a sequence of equilibria, stages that map onto our periodization scheme.

This periodization of the EC's activities can help us to make sense of the broad patterns of growth in trade, legislation, litigation, and lobbying across the life of the EC. The data show the changes in the "outputs" of the European economy and polity over this period. Figure 1 presents the growth in intra-EC exports per capita for the period 1958–94. One observes a slow increase but a relatively low level of exports during the 1960s. In 1970 as EC rules start to bite, exports rise more steeply. Following 1985 with the announcement of the Single European Act, this rise accelerates. Changes in patterns of intra-European trade coincide with important events within the EC. The rules governing free movement of goods, such as the prohibition of maintaining national quotas and other measures of equivalent effect, entered into force in 1970 and thereby became directly effective for traders. In 1985, the EC agreed to the completion of the Single Market Program and to important changes in the voting rules just discussed.

Changes in trade are mirrored in changes in litigating and legislating. Figure 2 tracks increases in the use of Article 177 of the Treaty of Rome. Article 177 allows national judges to send cases involved in disputes over the EC rules to the ECJ. This measure is the best indicator now available of the degree to which litigants have claimed rights issuing from EC law in national courts. Not all cases involving European law are referred by national judges to the ECJ, but the most important cases typically are referred. The figure shows that levels of references were very low during the 1960s and then began to pick up in 1970, as EC rules entered into effect and as national judges accepted the doctrines of supremacy and direct effect. References doubled by 1980, then leveled off until 1985. After the Single European Act, they shot up once again.

Figure 3 indexes the production of legislation in the EC. Here, the tabulation presents the total number of directives and regulations (the two classes of secondary legislation) adopted each year. The passage of this legislation is a rough indicator of the growth of rules producing positive integration of the market. Most of the legislation was oriented toward producing collective market rules that would apply across member states. As noted, most important legislative initiatives required the unanimous vote of the Council to be adopted. But, even here, the pattern that emerges resembles those that appear in the prior two figures. Legislative production during the 1960s was relatively low, if rising. During this period, most of the market project was a negative integration project, whereby trade barriers were being dismantled by the Treaty of Rome provisions. Legislation picks up during the 1970s and peaks in 1978. Between 1978 and 1985, legislative activity stabilizes. With the passage of the Single European Act, the production of legislation takes off.

Figure 4 presents data on the formation of lobbying groups in Brussels,

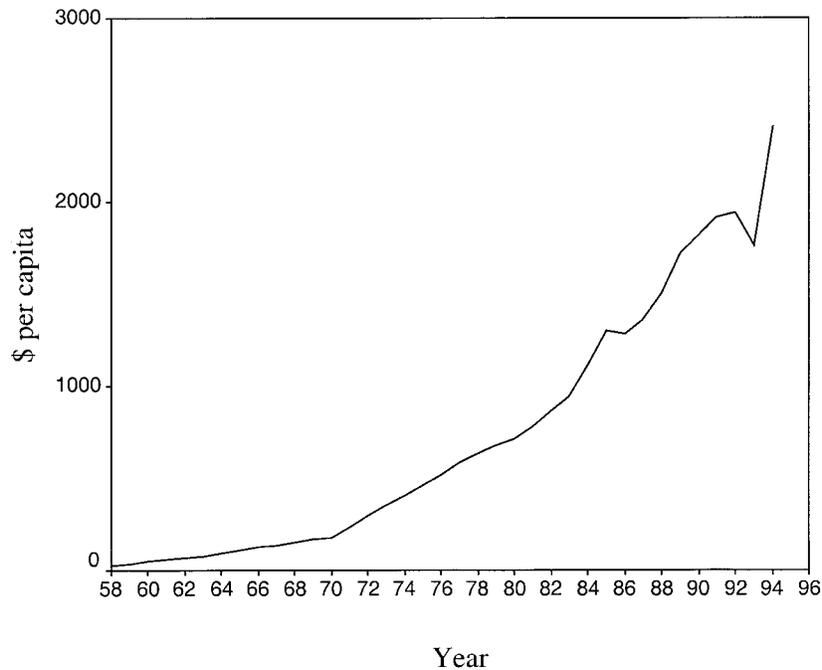


FIG. 1.—Per capita exports in 1990 dollars (United Nations, various dates)

over time. We were able to compile data on almost 600 significant lobbying groups. At the beginning of the EC, a flurry of lobbying groups were founded. Numbers of foundings decreased during the mid 1960s and then bounced around during the 1970s and early 1980s. Following the passage of the Single European Act, the establishment of new lobbying groups shot upward to their highest levels since the early 1960s. We believe the Single European Act convinced groups that being in Brussels mattered and that new legislative initiatives further stimulated the formation of new lobbying groups.

Taken together, these figures depict much of what we are trying to explain. They show that trading, litigating, legislating, and lobbying, which we take to be the key indicators of European integration, grew over time and that this growth roughly follows similar patterns that broadly conform to our periodization of EC activity. What we have not yet specified are the causal relations that connect these different processes or institutional spheres of action. To do so, we take up three different but well-known stories that scholars have told about European integration. We use these narratives, in conjunction with the theoretical insights de-

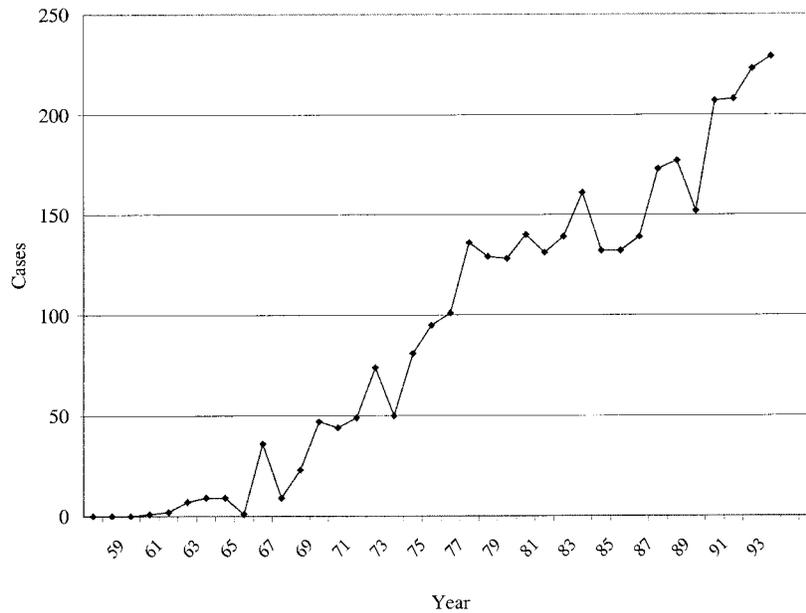


FIG. 2.—Number of Article 177 cases, 1958–94 (Stone Sweet and Brunell 1998a)

veloped earlier, to propose specific hypotheses that link firms, litigation, lobbying activity, and legislation.

The first story focuses attention on the consequences of rising economic transactions across borders. The more goods, services, investment, and labor flow across national boundaries, the more social and economic actors have pressured governments and the EC's organizations to remove national barriers to further exchange (negative integration) and to regulate, in the form of European legislation (positive integration), the emerging Common Market (Moravcsik 1998; Stone Sweet and Brunell 1998a; Scharpf 1996). Further, certain groups, like exporting firms, have benefited more from market integration than have nonexporting firms, and national systems of social welfare and interest representation have been eroded (Schmitter and Streeck 1991).

The second story traces the causes and effects of the “constitutionalization” of the Treaty of Rome (Burley and Mattli 1993; Weiler 1999), that is, the transformation of the EC from an international regime to a quasi-federal polity through the consolidation of the doctrines of direct effect and supremacy. Constitutionalization has profoundly altered, within domains governed by EC law, how individuals and firms pursue their interests, how national judiciaries operate, and how policy is made. In many

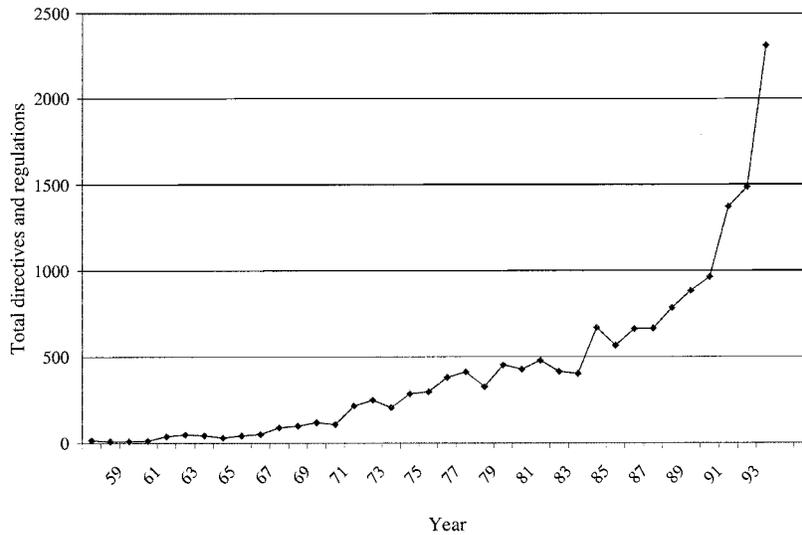


FIG. 3.—Legislation in the EC, 1958–94 (EU 1995)

legal domains, including those governing social policy, environmental protection, and the free movement of goods and workers, the operation of the legal system has pushed the integration project a great deal further than member state governments, operating under existing legislative rules, would have been prepared to go on their own (Stone Sweet and Caporaso 1998; Cichowski 1998).

Our third integration narrative traces the myriad causes and consequences of the growth of interest group representation at the supranational level. As interest groups and Commission officials have interacted in specific ongoing policy processes, the Commission has worked to develop procedures and other arrangements for consultation within the Brussels complex. A wide range of policy outcomes can only be understood by taking into account the work of lobbying groups (Andersen and Eliasson 1991, 1993; Greenwood and Aspinwall 1998; Mazey and Richardson 1993) and the emergence and consolidation of EC-level understandings about market rules (Dogan 1997; Joerges and Neyer 1997).

The institutional theory we elaborated earlier can be used to link these stories together. Firms that engaged in cross-border trade were the primary focus of the Treaty of Rome and the political process that emerged in Brussels. The European political space that emerged has been responsive to the representatives of firms or industries seeking to further their own sectoral interests by exploiting opportunities provided for by the Treaty of Rome. Such actors often proceeded by trial and error. They had to

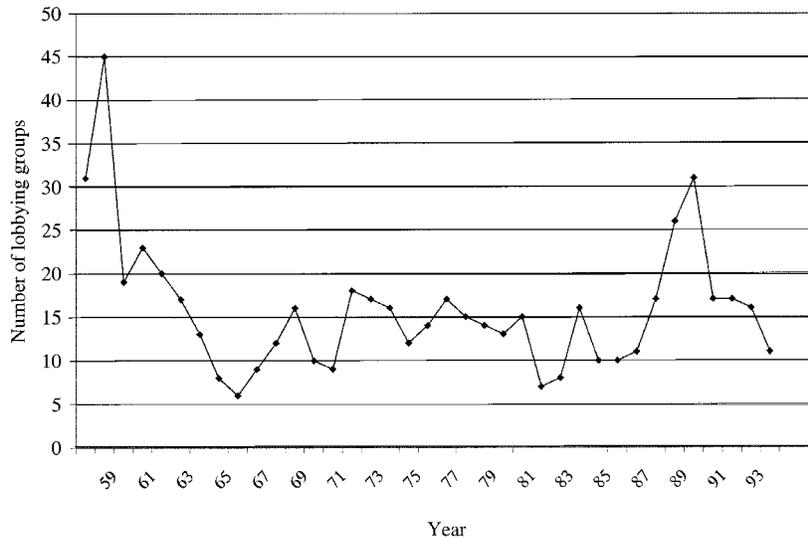


FIG. 4.—Lobbying groups founded in the EC, 1958–94 (Philip and Gray 1997)

determine which issues could (or should not) be raised. They had to develop strategies for effective lobbying of the Commission, the Council, and their own national governments. They also had to be prepared to litigate matters of EC law before national and European judges. Of course, European organizations took part in, and helped to structure, this process. EC officials figured out ways to respond to the demands placed upon them, and by interpreting Treaty of Rome rules, they developed procedures to define new policy processes. Put simply, European political fields evolved as an emerging transnational society as the actors in firms, EC governments, the Brussels political apparatus, and the ECJ came to a set of agreements about how to use the overarching architecture of the Treaty of Rome. We now consider each of the important linkages more carefully and specify some testable hypotheses.

#### Traders and Exchange

We assume that large European corporations have an interest in selling their goods and services across Europe in order to expand their size and increase their profits. Large firms are always interested in finding new markets for their products. Of course, one could argue that firms that trade would prefer one set of rules to protect their home market and another to allow them to invade markets in other societies. The problem, of course, is that if all firms could protect their home markets, trade would

be stifled. In practice what this has meant is that the integration of markets across national borders has been led by firms who will be net gainers and opposed by firms who are net losers (Fligstein and Brantley 1995). So, we observe that some goods and services are highly traded while others are not. This often reflects the relative power of national firms to block moves to establish or enforce such an order.

Those who engage in economic transactions across borders are the most likely benefactors and users of EC law and the most likely to attack national rules and practices as violations of EC law. They lobby their national governments and the Commission for favorable rules to liberalize markets and replace national standards with European ones. But the character and scope of transnational exchange is also shaped by EC legislating and the results of EC litigation. EC rule making (case law and secondary legislation) that promotes market-opening projects, for example, produces opportunities for firms interested in trade to expand their activities and to increase their size and profitability. Traders will favor the development of European institutions, and we expect institutions that do develop to favor more export activity.

*HYPOTHESIS 1.—Increases in trade will provoke increases in litigation of EC law, increases in lobbying activity in Brussels, and increases in EC legislation by the EC's legislative bodies.*

This hypothesis is consistent with neoclassical and institutionalist accounts. Economic actors seek to use existing rules to forward their interests and to lobby for new rules to guide their interactions. Firms involved in cross-national exchange will have the greatest interest in removing national barriers to exchange (negative integration) and in shaping the development of supranational regulation and standard setting (positive integration). They will have a powerful interest in enforcing rules related to the Common Market through the courts, and they will have the money to use litigation as a means of evolving these rules in prointegrative directions. They will feel compelled, or find it useful, to establish a lobbying presence in Brussels to ensure that the trading rules that are established do not injure their interests, and they will encourage the EC's legislators to adopt rules that will expand rather than restrict markets and trade.

#### Legal Elites and Integration

The EC's legal system was only partly sketched out by the Treaty of Rome. The system that actors produced came about through practice, that is, interactions between lawyers, national judges, and the ECJ and through the feedback of the ECJ's case law on subsequent litigation. Legal elites (lawyers activated by their clients and judges activated by lawyers) had to figure out exactly how to make use of European law. They were

confronted with, and ultimately succeeded in resolving, complicated problems of who could litigate EC law, under what conditions, and with what effects within national legal orders. National judiciaries came to negotiate their relationship to the ECJ through a set of multidimensional, intra-judicial, “constitutional dialogues” (Slaughter et al. 1998; Stone Sweet 2000, chap. 6).

Legal integration depended critically on the development of a system through which individual litigants could pursue their private interests in their own national courts through rules and procedures provided by EC law. Once the ECJ had announced, and national judges had accepted, the “constitutional” doctrines of the supremacy and the direct effect of EC law (within national legal orders), the legal system became a site where litigants could attack national laws that prevented free trade. The doctrine of direct effect enabled private actors to bring actions against their own governments in national courts, and the doctrine of supremacy meant that national judges had to resolve these conflicts with reference to EC law. Through litigation, judges became deeply involved in conflicts pitting transnational actors, particularly firms, against national legal regimes and those actors (public and private) advantaged by national rules and practices.

In the Common Market for goods, foreign firms and importers used this system to enforce EC law against conflicting national regulation. The largest and most export-oriented firms tended to benefit from litigating, while others who were protected by national regulations that hindered imports lost out. Indeed, in the 1970s, the bulk of litigation concerned disputes involving cross-border trade, as when importers attack national administrative rules or practices that restrict imports. Out of this litigation, the ECJ and the Commission developed the idea of “mutual recognition”: any good lawfully produced in any one of the member states could, under most circumstances, circulate freely throughout the EC, irrespective of hostile national laws, such as production standards. By the late 1970s, governments had discovered that litigation in the area of free movement of goods was punching large “holes” in national regulatory frameworks, exposing to possible attack virtually any national rule that might have an adverse effect on intra-EC trade (Poiars 1998). As this process proceeded, there was mounting pressure on the Council to replace national regulatory regimes with supranational ones.

*HYPOTHESIS 2.—Increases in the litigation of EC law will pressure the EC’s legislature to replace national regulatory frameworks with supranational ones. Legislation will increase as a function of exports and the production of new legislation.*

The legal system and trading will develop along mutually reinforcing paths. Initially, firms most likely to take advantage of EC law are those

who export and those who import goods from other EC markets. As trade rises, these actors will increase in number and, therefore, so will the numbers of potential conflicts between EC rules governing the Common Market and national regulatory regimes governing product standards, consumer safety, and environmental protection. The simple demography of trade will drive litigation by interested actors (Stone Sweet and Brunell 1998a). Theoretically, we know that the expansion of markets depends heavily on the construction of robust institutions to encourage exchange and to protect traders from state action and on the establishment of effective court systems to resolve disputes and to enforce legal rules (North 1990; Fligstein 2001). We expect that litigation will stimulate a demand for more rules to help organize transactions (Weiss 1998; Vogel 1996). If so, then we have identified one of the ways that negative integration connects to positive integration (see also Stone Sweet and Brunell 1998a).

#### The Brussels Complex and Legislating

Although the Treaty of Rome outlined a political structure for the EC based in Brussels, it did not envision how this process would actually work. There were two problems. First, the Commission is a small organization. About 16,000 people work for it, and probably fewer than 2,000 are directly involved in policy making (Fligstein and McNichol 1998). Given the potentially huge scope of its jurisdiction and responsibilities, the organization possesses relatively little capacity to generate serious study of complex issues in order to facilitate agreements, and even less capacity to enforce and administer European rules once they are adopted. Second, the Treaty of Rome did not design a system of accommodating lobbying organizations in Brussels, nor did it outline procedures for incorporating them into the policy process.

The Treaty of Rome produced, or encouraged the emergence of, two kinds of actors who had a continuous interest in producing European-wide rules: Commission officials and lobbyists. The central priority of the people who work at the Commission is to build Europe by finding new and innovative ways to attain cooperation. It typically must convince the member-state governments (a majority, a qualified majority, or all of them) and the EP of the virtue of a proposal. The Commission's success in doing so depends heavily on its ability to enlist the support of nongovernmental actors and groups.

Lobbying groups have an interest in moving to Brussels to involve themselves in the legislative process. The Treaty of Rome suggested a means of attaining a Common Market and thus for expanding economic activities. As trade increases and as the negative integration project proceeds, for example, the attraction of setting up shop in Brussels for both

businesses and groups seeking market regulation is likely to increase as well. Both neoclassical and institutional theories imply that firms and their representatives would want European-wide rules to govern their members' activities. Further, groups whose orientations had been largely or exclusively national—such as those organized to protect consumers, the environment, and health and safety—may discover that joining free traders in Brussels makes sense and that remaining exclusively national in orientation will reduce their impact. In any given policy domain, the costs of failing to effectively organize at the supranational level will rise as the scope of supranational governance in that domain expands.

We see the growth of Brussels complex partly as the development of a pervasively symbiotic relationship between the Commission and lobbyists. Early on, the Commission has an interest in co-opting “experts”—knowledge-based and industry-specific elites—into the policy process, to help draft new and assess existing legislation and to help legitimize legislation that is proposed. But as the scope and density of European legislation increases, more and more lobbying groups will discover that it is in their interest to be consulted as well, and they will push, without prompting from the Commission, for more political voice in Brussels.

*HYPOTHESIS 3.—The founding of new lobbying groups will be provoked by increases in trade and the fact that legislation is being produced in a domain.*

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

*HYPOTHESIS 4.—Increases in exports, the presence of lobbying groups, and litigation will provoke more legislation.*

The production of European rules must also have a role in feeding back into political and economic processes. We have just suggested that as the institutional structure of the EC becomes more articulated, so will the interests of lobbyists to locate in Brussels. Yet, the production of new rules also increases the opportunities that actors have to litigate. As European rules come to cover more and more interactions, they will generate, or at least become the context for, more and different kinds of litigation. Last, we expect the production of European-wide market rules to expand trade. The purpose of the EC is to provide for rules to produce a common market. To the degree that it is successful at doing so, we expect the production of EC rules to stimulate trade. This hypothesis directly contradicts the view that rule making is generally a form of rent seeking for

firms. It implies that market exchange can be increased by relevant rules, not constrained.

*HYPOTHESIS 5.—The increasing density and scope of European rules will stimulate more litigation of EC law and more trade.*

### Summary

Our view of institutionalization is dynamic. The Treaty of Rome opened up the possibility for more cooperation between governments over economic issues and created vast potential for European firms to derive benefits associated with larger and more open markets. It created two sets of organizations, one legislative and one judicial, to help governments and other actors achieve their goals. Private actors began to take decisions in light of this new institutional structure and to orient themselves to emerging European spaces; the EC legislative organs began to operate; and the EC's legal system began to take shape. These processes, we hypothesize, did not take place in isolation but, in fact, were deeply embedded in one another. European market rules and the operation of the EC's organs increased the opportunities of those who wanted to engage in such exchange and made it more difficult for firms with a local orientation to protect themselves from trade using national rules. As an ever-widening range of national regulation and administrative practices were placed in the shadow of EC law, and as actors advantaged by EC institutions pushed for more integration through lobbying and litigation, EC legislators found that the search for Eurowide solutions to the problems posed by the expansion of transnational society and economic interdependence were the only feasible response. As the EC's rule structure became more dense and differentiated, so did the grounds for legal action, and actors moved to push the Commission and the ECJ to establish or interpret new rules in their favor.

### DATA AND METHODS

One of the most important problems in doing this research is selecting our unit of observation. We are fortunate that the EC has created an organizational structure and language to guide us. Fligstein and McNichol (1998) have analyzed the Treaty of Rome as creating a set of policy fields or domains that were institutionalized across time. Institutionalization is partly the formalization of these arenas or policy domains in terms of organizational capacity to generate and apply rules. The Directorate General of the Commission and the Council were divided into subunits to legislate and administer along these lines. The EC classifies legislation

according to these issues arenas, and the ECJ uses a slightly different, if adaptable, system of classification. Groups tend to lobby those parts of the Commission and Council that are relevant to their interests, thereby helping to make these policy domains real by linking what goes on in EC organizations with organized interests.

The data sets we have constructed contain information on EC policy domains from 1958–94. The Commission and the ECJ specify 18 important arenas or competencies of the EC: financial/institutional; customs/taxation; agriculture; fisheries; employment/social policy; right of establishment; transport policy; competition policy; economic and monetary policy; external relations; energy; internal market and industrial policy; regional policy; environment, consumers, and health; science/information/culture; competition law; justice/home affairs; and people’s Europe (Fligstein and McNichol 1998). There are almost no legislation, court cases, or lobbying groups for justice/home affairs and the “people’s Europe.” We were able to obtain usable data for the years 1958–94. For each data set, we have 36 years of information coded into 16 domains.

The data were compiled from various sources. The data on legislation comes from the *Directory of Community Legislation in Force* (EU 1995). The most important forms of EC law making are regulations and directives. Since they require passage by the Council of Ministers, they are the best indicators of institutionalization through positive integration. We have coded legislation into the 16 policy domains specified by the EC. The unit of observation is the total number of pieces of legislation in a policy domain in a particular year. One problem of using this measure is that it treats all pieces of legislation as equivalent. This creates difficulties because relatively minor legislation is given the same weight in our analyses that is given to important path-breaking legislation. It is difficult to create a coding scheme that accurately captures this distinction. Moreover, one could argue that the amount of legislation in a domain signifies the importance of political activity in a particular time period in that domain.

We use the *Data Set on Preliminary References in EC Law 1958–96*, compiled by Stone Sweet and Brunell (1999), for data on litigation. This data set codes all cases that were referred to the ECJ by national judges in a particular year. Each case has a code defining the domain of EC law being raised by the litigant through the referring question of the national judge. These codes can be mapped directly onto our 16 policy domains. The measure we use is the total number of cases brought forward in a particular domain in a particular year.

The data on lobbying groups was obtained from a volume published by Philip and Gray (1997). They mailed out a survey to almost 1,000 lobbying organizations in Brussels and received answers from about 700. They collected information on each organization’s name, size, location,

founding, date, purposes, and on the Directorate Generals with whom they had contact. On the basis of this data, we were able to code 586 organizations. We used the data on founding dates and the information on whom they lobbied to attach them to a policy domain. It should be noted that many lobbying groups tended to participate in more than one domain. We decided that if organizations claimed to lobby more than one part of the Commission, we counted that organization multiple times. So, for example, if the organization claimed it lobbied in the agriculture domain and the single-market domain, we counted it as a founding in both domains for the year in which it was founded. The 586 organizations lobby in an average of 3.5 domains for a total of 2,059 counts. We created two different measures of lobbying presence. For some of the analysis, we use the total number of lobbying groups founded in a particular year by domain. We also create a measure that cumulates the number of lobbying groups in each domain. Our theoretical argument suggests lobbying group foundation and the number of groups that come to exist in a domain might affect outcomes.

There is one potential problem in using this data source. It does not include lobbying groups that came into existence and then disappeared. We tried to obtain data on lobbying groups at earlier points in time in order to correct for this bias, but, unfortunately, few directories were produced prior to 1980. Further, the directories that were produced do not contain information on founding dates or the size of the organizations. Our data certainly understates the number of lobbying groups that came into existence and tends to reflect bigger and more stable lobbying groups. There is no obvious way to avoid this bias.

The data on trade is more aggregated. There are two problems in trying to measure EC trade. First, exports for particular industries do not neatly correspond to our policy domains. Categories like "customs/taxation" cut across industries. Second, the EC has expanded from 6 to 12 and now to 15 nation-states. Data on exports that only measured trade within the EC zone would show big jumps as soon as the EC zone widened, and this would artificially inflate trade. We decided to use trade data for exports for all of Western Europe that originated in Western Europe and ended up in Western Europe during 1958–94 (United Nations, various dates). This data is "smoother" because it counts countries in Europe as part of European trade. One justification for this procedure is that the countries that joined the EC were all part of the European Free Trade Area (EFTA). These countries had a treaty with the EC that allowed them access to the EC market under EC rules. They also had to provide access to their internal markets to EC firms. EFTA countries could not participate in decision making in the EC but were part of the European trading area.

The expansion of trade in the EU could have a number of causes. One argument could be that trade increases as population increases across Europe. To correct for this problem, we have created a measure of trade per capita. Another argument could be that EU trade is expanding like world trade in general and, therefore, one should divide European trade by total world trade to see if the changes in European rules are disproportionately affecting trade. The growth of world trade in the past 50 years has many causes, including the expansion of the EU. By looking at the increase in EU trade as a percentage of the increase in world trade, we confound those causes. Moreover, our hypothesis is about how EU rules affect EU trade. Our measure of EU trade has face validity. All the regression analyses involving this variable actually measure the change in trade.

We have constructed two dummy variables to capture the effects of the three different periods of institutionalization we described earlier. The two dummy variables indicate whether or not an observation occurred in 1970–85 or 1986–94. Coefficients from these dummy variables show the average difference between these periods and the omitted period (i.e., 1958–69). Theoretically, we expect the two latter periods should have higher rates of trade, litigation, and legislation. Thus, we expect both periods will have higher levels of changes in the various dependent variables associated with them.

We use two strategies to analyze the data. First some of the data contains information on cross sections over time (i.e., domains by years). There are two potential econometric problems that would lead to correlated errors. First, the use of data over time means that if there are causes that were overlooked in the regression, then the errors will be correlated. Second, the use of data on the same units of analysis (i.e., domains) may also affect the correlations between the errors. One standard econometric approach for dealing with these problems is to estimate a random effects error components regression model (Ameniya 1985). We use the XTREG procedure in the computer program Stata 6.0 to do this estimation.

When using time series data, one always needs to be cautious about the problem of the nonstationarity of the data. Since many time series have trends, it is important to remove the trends from both the independent and dependent variables. One way to get a handle on the severity of this problem is to do a Dickey-Fuller test. When we did the test, we found that, for our exports variable, the test was in the inconclusive zone (test statistic =  $-2.7$ ). This suggests we should be cautious and try to correct for this problem. To deal with this, we have constructed a series of equations where the independent variables are lagged. This means we have taken out the trend in the data and are trying to predict the change. We have also created change variables for all the independent variables.

Hence, all the independent variables (the  $X$ 's) are  $X_t - X_{t-1}$ . This takes the trends from the independent variables as well and corrects for the possibility of nonstationarity.

We also analyzed data predicting changes in trade over time. The econometric problem presented by time series analysis is autocorrelation. Here, the errors from one period are correlated with errors from adjacent observations. For this problem, the standard procedure is to do a Durbin-Watson test to see if there is evidence of autocorrelation. When we did the test, we found that there was evidence of autocorrelation. To solve this problem, we used a procedure that corrected for autocorrelation in time series data. The ARIMA procedure in Stata 6.0 was used for this estimation. For this regression, we have also lagged the independent variable and used change variables for the dependent variables.

## RESULTS

The institutionalization of the EC took time. The figures we presented earlier show that the 1960s were a period of slow growth in EC outputs and that during the 1970s these activities began to increase. In the late 1970s and early 1980s, increases in activities began to slow. We interpret the data as support for the view that the integration project had begun to reach its outward limits, given existing institutional arrangements. After the Single European Act (1986), activity intensified in the EC and integration was, in fact, "relaunched."

We earlier argued that two parameter shifts have occurred in the development of the EC: the first around 1970 and the second after 1985. We are not arguing that in 1970, and again in 1986, everything that matters suddenly changed. On the contrary, each period contains, and passes forward to the next period, institutional materials that structure what takes place thereafter. To take just one pertinent example, the doctrines of supremacy and direct effect, established in the first period, constitute necessary causal conditions for the expansion of litigation and the development of the ECJ's famous doctrine of mutual recognition during the second period. In the second period, the Commission, in alliance with transnational business coalitions, built on the ECJ's work, successfully converting member-state governments to the idea that mutual recognition could constitute a general strategy for moving market integration forward. The political science literature on the sources of the Single European Act, of which mutual recognition was a core feature, has sufficiently demonstrated the extent to which member-state governments were dragged along in this process (Alter and Meunier-Aitshalia 1994; Sandholtz and Zysman 1989; but Moravcsik [1995] disagrees). Governments acted, of course, in

the form of a treaty that codified integrative solutions to their own collective action problems. But these solutions had already emerged, out of the structured interactions between transnational actors, the ECJ, and the Commission. And the push to deepen integration was given urgency by a sense of crisis that was brought on by globalization, the failure of go-it-alone policies to sustain economic growth, and an accumulation of legal precedents that empowered traders and the Commission in legal disputes with national administrations (Fligstein and Mara-Drita 1996; Sandholtz and Zysman 1989; Stone Sweet and Caporaso 1998).

If it makes sense to analyze the dynamics of institutionalization of the EC in terms of three periods that compose a single overall process, we also recognize that this process has always been messy and complex. Much of importance will not be captured by schema that aggregate complex phenomena across time and policy space. Nevertheless, we do argue that how our three metavariables interact—that is, the various relationships between (1) transnational activity like cross-border trade and the activities of supranational interest groups, (2) the litigation of EC law, and (3) the rule-making capacities and activities of EC organizations—alter meaningfully from one period to the next.

We tested our hypotheses through a series of regression analyses. Table 1 presents the means and standard deviations of a number of variables, which reflect the average level of each of these variables across domains across time. Thus, there were, on average, 12.7 pieces of legislation passed, 4.5 cases filed, and a cumulative number of 5.6 lobbying groups in each domain over the 1958–94 period. The export data per capita refer to years, not domains. Exports from European national markets to other European national markets averaged \$265 billion over the period or \$726.3 on a per capita basis.

Earlier in the article, we proposed five hypotheses. Table 2 contains the results of the random effects error components model analysis of the data to test the first four. Our hypotheses suggest that each of the dependent variables is the outcome of previous levels of some of the other variables. So, for example, we argued that litigation is a function of exports and the amount of legislation being produced. Our strategy in the analyses is to consider each of the dependent variables from the perspective of our hypotheses. We include lag levels of each of the dependent variables in the model. This means that, in essence, we are explaining the change in the level of the dependent variable each year. Table 2 presents two sets of regression results. The first set looks at the attempt to predict changes in each of the outcome variables with effects that capture the three periods of institutionalization we discussed earlier. The purpose of these models is to establish if the periods in fact differ as to how much change is going on in the dependent variables. Then, we add the relevant independent

TABLE 1  
MEANS AND STANDARD DEVIATIONS OF VARIABLES USED IN THE  
ANALYSES\*

Variable	Mean	SD
Legislation .....	12.7	46.5
Cases .....	4.5	9.8
Founding of lobbying groups .....	2.9	5.3
Cumulative number of lobbying groups ...	5.6	8.3
Exports per capita .....	726.3	673.9
Dummy variable for 1970–85 .....	.37	
Dummy variable for 1986–94 .....	.34	

\* See text for explanations of variables. *N* = 576.

variables in order to see if the effects of the independent variables, in fact, are driving the changes in the dependent variables.

The first four columns of table 2 presents results on the determinants of changes in legislation in domains. Hypotheses 1, 2, and 4 suggest that exports, cases, and the founding of lobbying groups ought to explain changes in legislation produced per year and per policy domains. The first column shows that the two later periods, 1970–85 and 1986–94, have higher production of legislation than the earlier period, 1958–69. This is evidence that the positive integration project has gradually built up steam. The third column in the table shows that the period effects get smaller when the other variables are added to the equation. This implies that the change in the other variables are the causes of changes in legislation. We observe that the change in the number of cases filed under Article 177 in a particular domain, the change in the number of lobbying groups founded in a domain, and the change in the overall exports per capita produce pressure to create more legislation. This is in line with our hypotheses, and it also is evidence for our claim that negative and positive integration are linked, not distinct, processes. The change in the founding of lobbying groups was not a determinant of legislation, suggesting that having a critical mass of lobbying organizations is what is important to producing new legislation in policy domains.

We consider the causes of Article 177 references to the ECJ. Hypotheses 1, 2, and 5 suggest that litigation in a particular domain will change as the result of two factors: increases in export per capita and the production of legislation in that domain. The first column under “cases” shows that the periods 1970–85 and 1986–94 have higher levels of change in litigation than the earlier period. When the other variables are added to the equation, the period effects disappear. At the domain level, increases in exports appear to be one of the main causes of Article 177 references. As trade increased over time, litigation increased as well (confirming Stone Sweet

TABLE 2  
RESULTS OF RANDOM EFFECTS ERROR COMPONENT MODELS FOR VARIOUS DEPENDENT VARIABLES<sup>a</sup>

INDEPENDENT VARIABLES	LEGISLATION				CASES				FOUNDINGS OF LOBBYING GROUPS			
	b	SE(b)	b	SE(b)	b	SE(b)	b	SE(b)	b	SE(b)	b	SE(b)
1970–85 .....	5.08**	2.01	.06	2.00	1.77**	.39	.71	.38	.28	.23	.65*	.22
1986–94 .....	11.53**	2.26	4.9*	2.30	2.20**	.45	.71	.45	.66*	.24	1.28**	.24
Lag-dependent variable .....	.84**	.12	.87**	.18	.86**	.17	.89**	.17	.46**	.18	.46**	.18
First difference:												
Legislation .....							.02**	.00			.18*	.06
Cases .....			.47**	.19							.01	.02
Foundings of lobbying groups ...			.08	.05			.00	.03				
Lobbying groups .....			.37*	.17			.15	.09			.01	.01
Exports per capita .....			.02**	.00			.003**	.0005			.04**	.00
Constant .....	-3.2*	1.5	.24	1.50	-.68*	.28	.00	.28	.91**	.18	.78**	.18
R <sup>2</sup> .....	.75		.84		.82		.88		.48		.54	

<sup>a</sup> See text for explanation of technique and variables.  $N = 576$ .

\*  $P < .05$ .

\*\*  $P < .01$ .

and Brunell's results [1998*a*] using a different measure). The production of legislation also stimulates litigation as our hypothesis suggested. As rules increase, the opportunities for actors to use them to protect themselves from national rules that might exclude them from markets also increase. These results show that the opportunities for litigation were driven by actors who either were at risk for being subject to national rules that restricted trade (i.e., they were exporters) or by actors who had the ability to use EC rules to break down such barriers.

The last set of columns in table 2 presents results of the determinants of the foundings of lobbying groups in policy domains. Hypotheses 1, 2, and 3 imply that lobbying groups will form as exports go up, as litigation suggests opportunities to legislate, and as legislation increases over time. The first column under "founding of lobbying groups" captures the effect of the different periods. The 1970–85 period does not have a statistically different effect on the founding of lobbying groups, while the 1986–94 period does. In the second regression, both period variables are statistically significant. Changes in exports is related to the founding of pressure groups. Change in legislation is also related to changes in the founding of lobbying groups. Neither the change in litigation nor the level of lobbying groups already in the domain affected the founding of new groups. This is partial support for our hypotheses.

The last hypothesis that we wish to test is hypothesis 5. Here, we are interested in the ways in which the institutionalization of the political and legal processes in the EC affected changes in exporting. We argued that litigation, legislation, and possibly the presence of lobbying groups in domains would signal to firms that there existed new opportunities to export. The regression analysis presented in table 3 looks at changes in the level of exporting for all of the EC as a function of the overall level of these other factors. The first column reports these results with just the lag dependent variable and the dummy variables for the periods 1970–85 and 1986–94. There were large period effects, consistent with tables presented earlier, that show an increase in exports in the 1970s and 1980s. When the other variables are added to the equation, the period effects actually get even larger. There is only one variable that is significantly related to exporting: the production of legislation. This is strong evidence that if one changes the rules of trade, one increases the opportunities for exporters. This is an important and plausible result. In this model, litigation does not seem to produce increases in exporting (but see Stone Sweet and Brunell 1998*a*), although we would need disaggregated trading figures to test the relationship more carefully (e.g., a hypothesized connection between increases in litigation in any given area of the law and an increase in trade in goods governed by that law). The founding and accumulation of interest groups in Brussels does not cause economic actors

TABLE 3  
RESULTS OF DETERMINANTS OF EXPORTS PER CAPITA USING FIRST ORDER  
AUTOREGRESSIVE PROCESS<sup>a</sup>

INDEPENDENT VARIABLES	PER CAPITA EXPORTS			
	b	SE(b)	b	SE(b)
1970–85 .....	25.13*	10.20	61.02**	18.76
1986–94 .....	40.20**	11.90	95.5**	15.02
Lag-exports per capita .....	.93**	.16	.90**	.19
Difference:				
Legislation .....			.64**	.05
Cases .....			.28	.25
Lobbying groups .....			-.13	.49
Founding of lobbying groups ...			-.07	.88
Constant .....	6.97**	1.32	24.03**	7.89

<sup>a</sup> See text for explanation of technique and variables.  $N = 36$ .

\*  $P < .05$ .

\*\*  $P < .01$ .

to increase their exports. Our model shows that changes in exports are caused by changes in rules, that is, opportunities to export caused by legislation that opens and regulates markets.

It is useful to revisit our hypotheses in light of the results. Our results provide strong evidence for a complex, yet explicable, explanation for the dynamics of European integration. Hypothesis 1 suggested that exporters would help to produce litigation, the founding of lobbying groups, and legislation. Our results show strong evidence for all three. Hypothesis 2 suggested that litigating would help to drive legislating. Our results show this effect. Hypothesis 3 argued that lobbying groups were founded as legislative opportunities arose. This hypothesis was confirmed in the analysis. Hypothesis 4 linked the growth in lobbying groups to increases in legislation, a result that was also confirmed. Finally, hypothesis 5 argued that legislating would lead to increases in trading and litigating. Both of these effects were observed.

In summary, political cooperation over economic issues in the EC took 10–15 years to develop. It moved forward as opportunistic actors organized. Lobbying groups, governments, and the Commission learned how to construct and use new European arenas to their advantage. Exporters stimulated judicial and legislative processes. Groups who went to Brussels to lobby helped to generate legislation, and those who took court cases to Luxembourg helped to structure legislating as well. EC legislation produced more opportunities for exporters to grow new markets. Our results confirm that this virtuous circle produced institutionalization in the organizations of the EC and in the actions of private actors in the economy.

CONCLUSION

National markets are now highly integrated in Europe, and exports are now critical to economic growth. Almost half of world trade occurs within the borders of the EC, making it virtually a single economy. Transnational networks of producers and public interest groups have oriented their activities toward Brussels. The EC's political organizations govern by making, applying, and interpreting rules that are authoritative throughout the territory of the EC. National courts routinely enforce European law, coordinating EC with national rules, and national bureaucracies incorporate EC legislation into their procedures and practices. European governments have facilitated integration, sometimes proactively, sometimes by being dragged along. We have shown that the institutionalization of European arenas of governance has occurred through a set of self-reinforcing processes. As one set of European institutions has grown up, it has induced integration elsewhere. Integration has been a powerful force because it has served to embed interest and identities in a dynamic, expansionary way. It has done so by connecting arenas for economic, political, and legal decision making, giving each strength and resilience.

Our findings raise an important question: To what extent did the European integration process have to turn out as it did? It might be possible to read our analysis in a purely "functionalist" way: a preexisting configuration of actors and their preferences mixed with the Treaty of Rome and EC organs to produce, teleologically as it were, the main outcomes described in this article. We, however, would reject such interpretation. European integration has been structured by crucial events that were not predictable from any *ex ante* historical moment. There simply is no good reason why the constitutionalization of the Treaty of Rome, the Single European Act, or many other crucial events had to happen. Further, if national judges and private actors had ignored the ECJ's moves in the 1960s, the EC project would have foundered. If, in the 1980s, the member states had chosen to deal with a host of legal and economic problems on their own, rather than collectively, the Single European Act would not have been negotiated and ratified. Traders and other organized interest groups played important roles in these transitions, not least by litigating and lobbying. But it was political actors, operating in the EC's legislative and judicial organs, who ultimately produced the broader institutional terrain of the EC. If we have elaborated a dynamic causal theory of integration, our tests of our theory are nonetheless probabilistic. The models are sensitive to conditions that are causally necessary but not sufficient for what might take place subsequently, and these dynamic contingencies are expressed in "if/then" clauses. Thus, though we claim to have explained some of the most important features of European integration over time,

we deny that these outcomes were *predetermined* in any theoretically meaningful way.

This study also has implications for more general issues in the sociology of markets. First, our results refute arguments to the effect that deregulation will promote market growth, so long as reregulation does not follow. Regulation is not something that is necessarily bad if it is done to promote market actors' opportunities to gain from trade. Similarly, we have shown that European integration is not only, or even primarily, about negative integration, but is instead a process that binds together negative and positive integration. Our argument is that the actions of the ECJ were primarily acts of negative integration. We believe that this eventually brought market actors to Brussels to lobby and that they preferred positive rules to guide their trade relations. While we have not provided direct evidence here that the directives were entirely about positive integration, this interpretation is consistent with our regressions. Moreover, Fligstein and Mara-Drita (1996) have content-coded the directives that made up the Single Market Program and shown that these very much provided rules to promote trade.

Second, our model may well imply a more general approach to cases of market building, both international and national. The GATT-WTO and the NAFTA, for example, are agreements that have developed much less collective governance capacity. Not surprisingly, they have also generated a lot of concern. Some lament the fact that they lack the kind of rules (e.g., clearly defined property rights and market-correcting notions of the public interest) necessary to deal effectively with trade disagreements and the kinds of organizations (e.g., a lawmaker and an adjudicator) capable of effectively enforcing existing rules and producing new ones. Others complain that these agreements already constitute an illegitimate form of nonrepresentative global tyranny. What is clear is that, as yet, these regimes deal inadequately with regulatory issues related to trade, such as environmental and consumer protection, health and safety, and labor standards. Over time, the EC has managed to deal with these matters because (1) it became evident that national regulatory frameworks could be used as disguised barriers to trade and that lax environmental and labor standards could operate as unfair trade advantages and because (2) a diverse set of organized interests decided they wanted European standards and there were procedures in place (or evolved) that were capable of producing them. As trade grows, pressures will build on these agreements to expand rule-making capacities and procedures, since, without more rules, there will be real limits to the "trade globalization" project.

These dynamics also apply to at least some important cases of economic and political integration within nation-states. The economic history of the United States in the 19th and early 20th centuries tells such a story. As

trade grew during the 19th century, the demand for regulation and the establishment of the corporate form increased (Friedman 1973; Scheiber 1975). The main force that worked to increase the integration of the American economy was the judiciary, in the form of a sweeping reform of the common law (Horwitz 1977); the development of supremacy doctrines by the Supreme Court, which consistently ruled for the rights of corporations; and the competence of the federal government, over the rights of states concerning issues of interstate trade. With the rise of giant corporations in the late 19th century, pressure grew to regulate the economy at the federal level (Wiebe 1980; Kolko 1963). Congress responded by creating a set of new organizations and regulatory capacities. New agencies included the Interstate Commerce Commission, the Antitrust Division of the Justice Department, the Federal Trade Commission, the Bureau of Weights and Standards, and the Federal Reserve. Most scholars think the bulk of this legislation favored corporations over individuals, small business, or state governments (Kolko 1963; Scheiber 1975). North (1990) agrees that this was the case and argues that it is these changes that were crucial to economic growth, in that they secured property rights, reduced market uncertainties and transaction costs, and prevented firms from engaging in anticompetitive behavior. We also think these results are relevant for understanding the transitions from socialism. The creation of market institutions in all of these societies is a step-by-step process that is slow and painful, but without rules, it is difficult to engage in exchange.

Third, our article is relevant to broader, more generic debates within sociology. One central theme of modern economic sociology has been the “embeddedness” of market actors. The bulk of the empirical research has generally interpreted this embeddedness as restricted to stable social relationships, called “networks,” that govern sellers and buyers, owners (e.g., through interlocking directorships), or competitors. This article demonstrates the narrowness of such a perspective. We need to account for how networks emerge in the first place, and we need to understand them more dynamically, as they evolve within the macrosocial environments in which they operate. Put bluntly, such networks do not spontaneously arise, nor are they self-sustaining. Instead, relationships between producers, consumers, owners, and competitors are, among other things, embedded in relations with government actors, with legislators, administrators, and courts, as these relations are structured by institutions. On this point, we agree with many scholars working in political economy and institutional theory (Weiss 1998; Vogel 1996; Evans 1995; Fligstein 2001).

We have shown that actors in one sphere can take actions that have implications for interactions in other spheres. Market actors lobbied and litigated and thus succeeded in changing the rules by which their markets worked. If we had noticed only that market actors gained access to a

particular market, we would have missed the deeper political and legal context in which those actors were becoming embedded and the effects of those contexts on their actions. We think that social scientists need to pay much more attention to the linkages between political, legal, and economic processes and to the conditions under which such linkages are forged. Our point is not that laws and politics will always determine the social structure of a particular market or determine the conditions under which a market comes into existence or will be transformed. Rather, we need to understand when government and authoritative institutions do have such effects and when they produce important events such as the emergence of new markets, firm mergers, reinvestment, and technological change. A more developed sociology of markets will better incorporate politics and law into its conception of the economic world, and a more mature economic sociology will provide a counterpoint to orthodox economic notions of markets and their development.

Finally, it is rare for social scientists to capture the institutionalization of a complex social system across different spheres of action from a fixed historical birthdate. Our data and the supporting narrative try to make sense of one such process, as it has unfolded in Europe since 1958. Our approach raises important questions for our general theories of institution building. It is clear that institution-building projects rely on actors, meanings and preexisting rules, and organizations. While we have identified some of these elements, much theoretical work remains to be done to clarify their relationships. One of the most important frontier issues is the precise causal relationships between actors, organizations, and rule systems, as these interact with one another across arenas of action. Our project has focused on how spillover and other forms of positive feedback connect arenas in ways that can constitute interconnected market, legal, and political fields. Feedback occurs when actors in one arena of action have an effect on actors in another arena of action, influencing activities in the latter. We have shown, among other things, that traders trying (or hoping) to expand their activities lobbied and litigated to promote their rights. Increases in lobbying and litigation activated EC organs, provoking more rule making. New rules not only emerged, but helped markets to expand. Institutional theories could advance substantially by seeking better understanding of the varied mechanisms through which fields become self-reinforcing systems.

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