

Schout, A., S. Wolff. (2011) ‘Ever closer Union: supranationalism and intergovernmentalism as scale or concept?’, in F. Laurson (ed.) *The EU’s Lisbon Treaty: Negotiation, Ratification and Implementation*, forthcoming.

Adriaan Schout & Sarah Wolff

Netherlands Institute of International Relations (‘Clingendael’)

aschout@clingendael.nl

swolff@clingendael.nl

Abstract

A perennial debate in European integration literature revolves around whether the EU moves towards an ‘ever closer union’. Is the EU becoming more intergovernmental or more supranational? The Lisbon treaty by no means ends this debate. Lisbon’s origin – the ‘constitution’ – was destined to make the EU more supranational but everyday impressions suggest that the EU becomes rapidly more intergovernmental. This confirms the alleged trend in integration theories. Before drawing conclusions, the subtleties of the interplay between intergovernmentalism and supranationalism need to be revisited and specified. Building on public administration insights, we argue that intergovernmentalism and supranationalism are not opposite ends of a scale as often noted in the literature but are a precondition for one another: without intergovernmentalism no supranationalism and vice versa. Intergovernmentalism and supranationalism are probably better presented as a concept instead of a scale. This opens an administrative research agenda focusing on the shop-floor (micro-level) of policies in the EU’s multilevel system.

1. Introduction

The “ever closer union among the peoples of Europe” has been the main objective of European integration since the Treaties of Rome in 1957. Over the years, the term of ‘union’ has taken a supranational connotation, the idea being that European integration could lead to a profound political union (European Commission 1990). The Treaties of Maastricht (1992) and Lisbon (2009) brought this ‘union’ more into reach by making the EU more supranational and actually replacing ‘community’ by ‘union’. At the same time member states have returned to the central stage with the Lisbon Treaty - at least according to the media and academic literature up to the point that Van Rompuy has had

to defend his position repeatedly by stating that he does not make the EU more intergovernmental (Rompuy 2010). But is this an accurate presentation of what European integration has been about? In fact, the finality of an ‘ever closer union’ creates confusion about where the EU is moving towards and what this demands from member states and supranational institutions. This confusion was voiced among in the Economist (13 march 2010) with a view to the alleged weaknesses in the operations of Barroso and Van Rompuy: “we have ended up with a federalist in charge of the most intergovernmental bit of the union, and an intergovernmentalist in charge of the federalist bit of the machine”.

The ‘paradox of Lisbon’ is therefore one of confusion about the trends in integration. Lisbon started out as a reinforcement of supranationalism (the Constitution) but seemed to have strengthened supranationalism. The new functions such as the European External Action Service (EEAS), the permanent president of the European Council and the formalisation of the European Council as an EU Institution, reinforce according to some the intergovernmental sides of the EU (Defraigne, 2010; Behr, 2010). The European Commission is pictured as the main loser. Apart from losing ground to the EEAS, the college of Commissioners has not been reduced so that it continues to resemble a sort of intergovernmental ‘COREPER 0’ and it saw its right of initiative diluted even further. Moreover, the way in which some Lisbon innovations are implemented, such as in the field of Justice and Home Affairs (JHA), seems to reinforce the position of member states in Brussels’ heart of power.¹ On the other hand, the

¹ In spite of the abolition of pillars and the extension of co-decision and qualified majority voting to new JHA policies, a lot of exceptions remain i.e. family law, operational police cooperation, the establishment of the European Public Prosecutor Office (EPPO) and its powers, etc. Member states remain also in control via an emergency brakes that allows member states to block the adoption of a legislative proposal if it believes it would affect fundamental aspects of its criminal justice system.

European Parliament has gained a lot of power when it comes to JHA and international agreements (Wolff, 2009).

Before plunging into the study of the enduring confusion over the EU's *finalité*, it is useful to elaborate on the terminology used in this article. Supranationalism and intergovernmentalism can hardly be considered as Weberian ideal-types. Terminology in EU literature is seldom equivocal and theories that try to grasp the meaning of integration suffer from demarcation problems and often involve normative connotations (Rosamond 2000: 49). A major complication is that concepts are difficult to compare over time due to among others treaty changes. The community method is characterised by four main features: the Commission's monopoly on the right of initiative, qualified majority voting in the Council, the European Parliament as co-legislator and the Court of Justice ensuring uniform interpretation of Community law.² The community method is traditionally opposed to the intergovernmental method in which member states usually decide by unanimity, the European Parliament is merely informed or consulted, and where the Commission shares the right of initiative. The abolition of the pillar structure blurred the boundaries between operating principles even further and the 'community method' is not the same as what it was fifty years ago. The Lisbon Treaty communitarised parts of the ex-third pillar in Justice and Home Affairs (JHA) but also implied that the Commission's right of initiative is now shared with one quarter of the member states.

Changes in the supranational-intergovernmental setup of the Union stem also from changes in instruments (Kassim and Legales 2010) including agencies and networks,

² See the European Convention website
<http://european-convention.eu.int/glossary.asp?lang=EN&content=C>

institutional changes (European Council moved from an informal to a formal institution), formalization of the rotating presidency increasingly supranationalised this function (Allerkamp 2009), Commission reforms, and creation of team presidencies (Schout, 2007, 2008). Over time, also the intergovernmental cooperation has become formalised and evolved (Beyers 1998, Allerkamp 2009) and national leaders socialised in EU decision making (Schout 2008) but the basic desire for unanimity has remained.

While acknowledging the shifts over time and the perennial boundary problems, we define, in crude terms, supranationalism using the four elements of the Community method (since the abandoning of pillars now called 'normal' method) implying that legitimacy is based on hierarchical political control by EP and Council. The operating logic is based on (as far as possible) depoliticised policy input from the Commission supported by impact assessments and politicised negotiations between the co-legislators. Intergovernmental cooperation in essence is based on unanimity voting and hierarchical control by national governments. Hence, it is possible to separate the two conceptually. Yet, distinguishing supranationalism and intergovernmentalism serves mainly a heuristic function in view of the many interrelations.

Practitioners and academics try sometimes to get away with this confusion in European integration theory by arguing that in the end intergovernmentalism is actually a bit supranationalism and vice-versa or that they are opposites of a scale, suggesting a trade off between the two (Schmitter 1996; Saeter 1998; Sandholtz and Stone Sweet, 1998). This paper argues on the contrary that intergovernmentalism and supranationalism are heuristically different and that they are a prerequisite for each other.

Acknowledging that the interrelation between supranationalism and intergovernmentalism is different across policy areas, we argue that instead of the two being on a ‘scale’ (between 1 and 10, *i.e.* there is a trade off between the two) they will more likely be often combined as a ‘concept’ (interdependent. *i.e.* without a trade off). In other words: viewing the EU as a multilevel political-administrative *system* implies that one can not without the other for very specific reasons and for which we have to understand EU policy processes at grass root level. This recognition is missing in European integration literature and impacts upon how the EU’s governance ambitions and administrative capacities are perceived (Schout and Jordan, 2009).

The confusion on the trade-off between intergovernmentalism and supranationalism is explored in the following section. The review in section three shows that the literature on European integration has often revolved implicitly or explicitly around a ‘scale’ perspective on the two grand theories. Section 4 discusses the ‘concept’ perspective. The case of better regulation is taken to illustrate the relevance of the argument (section 5). The conclusions address the research implications.

2. The paradox of ‘Lisbon’ and beyond

Although the EU witnessed its dark ages in the 1970s and early 1980s, integration was rekindled under Delors and with consecutive widening and deepening initiatives (Dinan 1994). The trend towards the closer union continued albeit with slight but telling modifications. The Maastricht Treaty in 1992 – creating the European Union - marked a “new stage in the process of creating an ever closer union among the peoples of Europe, in which decisions are taken as openly as possible and as closely as possible to the

citizen” (Art. 1 TEU). The ‘ever closer union’ remained although now with references to better regulation principles such as subsidiarity - traditionally a notion to protect the member states from fears of overzealous integration (Bermann, 1994). Similarly, the Lisbon Treaty reaffirms the creation of the Union but only under the condition that: “the Member States confer competences to attain objectives they have in common” (Art1 TFEU). Hence, resembling liberal intergovernmentalist views (Moravcsik 1995), Lisbon confirms that if there is to be an ever closer union, this is because the member states explicitly approve to share powers.

Both grand approaches can be recognised in ‘Lisbon’ and in its implementation. When ‘Lisbon’ entered into force at the end of 2009, many argued that the EU was getting closer to becoming a ‘union’ and defended the Treaty as a step towards further supranationalism by arguing that it was, among others, a step towards a European Constitutional law (Arnold, 2007). The abolition of the pillar structure and the extension of co-decision to 40 more domains (including JHA, agriculture and fisheries) under the new ‘ordinary legislative procedure’ provide the European Commission and the European Parliament with extended powers. The Treaty also puts an end to the differentiation between structural expenses and non-structural expenses - allowing the European Parliament to control the financing of the common agricultural policy and the structural funds. Similarly, the European Court of Justice sees its jurisdiction extended and will for instance be able to review the acts of the European Council (now an EU Institution (Art. 269TFEU)). In the neo-functional tradition, there is also a move towards good governance that strengthens the Commission’s relative power by building on de-politicisation (Schout 2009).

Lisbon came at the end of a decade that witnessed the strengthening of the Commission via its reform of planning and organisation (Peterson 2009). Moreover, Barroso's reappointment in 2009 resulted in a closer political scrutiny of the Commission by the EP which strengthened its hand vis-à-vis the Council (Schout, 2009). Yet, the Commission also sees its authority threatened by the creation of a revised leadership structure in the EU by the addition of the High Representative (HR) who is partly outside the Commission, and a President of the European Council. Despite the objective to make the Union "simpler and more efficient" (Laeken Declaration 2001), these new offices complicate the position of the Commission.

Competition between EU leaders has increased (Schout 2008). For example, when the Eurogroup agreed to support Greece with €10 billion, the Eurogroup president Juncker and European Council president Van Rompuy argued about delaying the news of the agreement achieved over the weekend because Van Rompuy wanted to reserve the for the European Council the next Friday (Euractiv 2 may 2010). This is not just a political issue but also an economic problem as underlined by the resulting increase in the 'spreads' (higher interests on bonds from weak states) this caused while tranquillity on the financial markets was badly needed. In the meantime, the Commission was blamed in the media for being passive. Other instances of compounded leadership include the attempt of Van Rompuy to speak first at Barroso's first 'State of the Union' (7 September 2010) and the lead of EU President (with the support of the General Secretariat of the Council) instead of the Commission in the design of reinforced budget oversight (Euractiv 17.6.2010).

Beyond the issue of compounded leadership, these instances also reveal a disagreement concerning the place of the Commission. In his attempts to quite the Roma issue, Sarkozy made clear that the Commission should lecture a founding member like France (Lequesne, 2010). Similarly, the role of Van Rompuy as chair of the working group to formulate new rules for economic policy coordination reveals the more general fear of the Commission and of the desire to leave *gouvernement économique* in the hands of national governments. Repeated attempts to water down the European Central Bank adds to the impressions of intergovernmentalisation (“Sarkozy veut un gouvernement économique” Le Monde 21.10.2008). Even interviews with Dutch civil servants (traditionally pro-Commission) reveal a hope that core areas of economic governance be safeguarded by shipping them away from the Commission to Van Rompuy.

Similarly, OMCs, agencies and the increasing use of networked governance have affected ‘the’ community method and the position of the Commission (Schout and Jordan 2010; Sabel and Zeitlin 2010). Some argue that new modes of governance imply more intergovernmentalism with member states being able to limit the influence of supranational institutions (Schaeffer, 2004). In this perspective, OMCs presented a challenge to the community method and to the integration by law since. As Dawson (2009:5) concludes, it evolved towards “an extra-parliamentary procedure, with its official guidelines and objectives agreed by the European Council, implemented by national governments and monitored by the Commission”. The Lisbon Treaty can also be read as an effort to reinforce the role of national parliaments. National parliaments have seen the right of scrutiny reinforced via the reasoned opinion and early warning mechanisms (the orange and the yellow cards).³ Moreover, the emergency brake

³ According to protocol No 1 on the role of national parliaments, in the case there would be a majority of national parliaments against a proposal, a reasoned opinion can be presented to the Council or the

mechanism that member states can use when a JHA proposal could affect fundamental aspects of their judicial criminal systems (Articles 69e&f TFEU).

‘Lisbon’ and the economic crisis, among others, seem to spiral the EU squarely back into existential discussions about whether it becomes the ever closer union. Whether the EU becomes more supranational or more intergovernmental is important for practitioners and for EU integration theory. Suggesting a move towards intergovernmentalism, interviews with national officials show that there is an increased interest now in lobbying the member states through embassies rather than trying to influence the Commission (Schout and Van den Berge 2009). This not only marks a different focus but also a different operating logic in relation to where and how national officials look to defend their interests. The question is whether they are right to relocate their attention away from the EU institutions. This is particularly important for those not coming from France and Germany as the Commission was generally seen as the best ally of the small countries (Moïsi 2009). For academia it is important to understand the interconnection between the grand theories to order findings and to explain trends. Quite a few details need to be considered to conclude whether the EU becomes more one or the other.

3. Supranationalism and intergovernmentalism: opposites on the European integration scale?

European Parliament (article 3). In addition, protocol No 2 “on the application of the principles of subsidiary and proportionality” introduces an “early warning mechanism” according to which one third of national parliaments can express concerns with a particular legislative proposal so that the Commission must review it and eventually submit a redrafted version. This threshold is one quarter for proposals in the field of JHA.

The integration dynamics in the EU have been a constant bone of content in the literature. The different approaches have varied between those proposing a supranational reading (Haas, 1967; Sandholtz and Sweet, 1998; MacGowan, 2007; Hooghe and Marks 2008; Dougan, 2008) and those arguing that EU member states are still in control of the integration process (Putnam, 1988; Milward et al. 1992; Koenig-Archibugi 2004; Moravcsik, 2005; Tosiek, 2008). There are doubts whether the big-debate is more than a discussion of the deaf with each emphasising different actors, different processes and different outcomes (compare Pollack 2010: 25). This section reviews some of the literature and highlights how European integration is often perceived as a process that can be rated on a ‘scale’, implying often a trade-off between supranationalism and intergovernmentalism. This helps to place ‘Lisbon’ and debates about the Commission, Van Rompuy or Ashton’s external action service in longer term perspectives.

While laying down a basis for EU scholarship, most of the academic debate revolved around neofunctionalism and the international relations tradition of intergovernmentalism in the sixties and seventies. While Haas (1975) concluded to the “obsolescence of regional integration theory”, Hoffman (1966) pointed out that the nation state is obstinate. Both schools became incorporated in the multilevel governance approach the EU having become “turbulent” by being “sub-national, national, regional, inter-regional and global – all at the same time” (Haas, 1976:179). Acknowledging the limitations of neofunctionalism and by-passing the spill-over concept, Sandholtz and Stone Sweet (1998) contributed to a revival by arguing that increasing transnational exchange leads to more supranational governance. Like Haas, they look at how transnational groups such as lobbies, business associations and professional

confederation demand more rules and elaboration of policy areas (Sandholtz and Stone Sweet, 1998: 2). They also showed that European integration happens largely outside ‘grand bargains’ via day-to-day decision-making and concluded that “intergovernmental bargaining is an ubiquitous feature of supranational governance” (Sandholtz and Stone Sweet, 1998: 26).

New (or neo) institutionalist and multi-level governance approaches (flourishing in the nineties) discussed the erosion of member states in relation to the role of the Commission due to its information advantage (Pierson 1998; Pollack 1996, 1997). Others within the same school used rational choice theories to see member states as winners. Coming from the other side, Milward (1992), as one of the critics of neo-functionalism, presented the EU as a rational way so strengthen the member states. Similarly, others emphasised that the strength of the member states has been underestimated: “the ability of the latter to assert themselves and their capacity to learn, and overestimated the power of the supranational institutions, in particular, the European Commission, and the obstacles faced by governments in altering the institutional balance” (Kassim, H. and A. Menon, 2004: 2). Intergovernmentalists saw rather a revitalisation of the member states (Moravcsik, 2001; Kassim and Menon, 2004; Kassim and Dimitrakopoulos, 2007; Tosiek 2008) and underlined “the continuing significance of state-centric” theories (Rosamond, 2000: 130). Moravcsik argues that the past fifteen years of constitutional debate and institutional modification ended up in reinforcing intergovernmentalism to the expenses of the community method (Moravcsik, 2005: 364). In his view, the community method has given way to a “constitutional consensus” where essential areas of national sovereignty remain untouched in fields such as taxation, social policy, culture, education, justice and home

affairs and foreign policy. “The EU has no police, no army, no significant intelligence capacity – and no realistic prospect of obtaining any of these”. (Moravcsik, 2005: 367). Lisbon and the fall-out of the economic crisis seem to at least qualify this argument. The ‘ever closer union’ has been in fact replaced by the objective of bringing “unity in diversity” (Moravcsik, 2005: 364).

Others see re-invigorations of supranational neo-functionalistic theories (Sandholtz and Stone Sweet, 1998; Pollack, 2010; Hooghe and Marks, 2008). Allen (1998) sees patterns of ‘Brusselisation’ even in defense cooperation. Hence, the ‘ever closer union’ as a moving target of European integration has led to disagreement – if not confusion - within academia. This confusion is also visible when observers too easily assume that the EU is a “highly integrated supranational organisation” (Albi, 2005:1).⁴

Over the years, the debate has become more diverse, evolving from a ‘trade-off’ analysis to addressing the overlap. Wallace (2007) posits that supranationalism is to a large extent intergovernmentalism in disguise: “the original European Communities represented a negotiated compromise, in which rhetorical commitment to integration, even to eventual federation, was intertwined with the promotion and protection of national interests”.

Resembling earlier theories with similar messages (Beyers 1998), Allerkamp (2009) addressed the artificiality in the dichotomy between intergovernmentalism and

⁴ The confusion is not just visible within the EU as is shown by a report from the CIA: “The evolution of the European Union (EU) from a regional economic agreement ... in 1951 to today's supranational organisation of 27 ... stands as an unprecedented phenomenon in the annals of history” (emphasis added). Taken from internet on 8 May 2010 (<https://www.cia.gov/library/publications/the-world-factbook/geos/ee.html>).

supranationalism. Looking at the Council, Allerkamp shows that there is a phenomenon of “post-intergovernmental transformative power”. Negotiations are not classic intergovernmental bargains but routinised in the settings of actors who go back a long way and who are locked into series of negotiations in search for compromises while avoiding voting in the Council (Allerkamp, 2009:6-7). Sbraggia (1992) too looks for similarities by underlining that the differences between the two schools are not so important because both concern the bridging geographical cleavages.

Rather than being regarded as opposites the discussion has moved on towards addressing the overlap. Careful reading however shows that more clarity is still needed about the interrelation between supranational and intergovernmental. Hansen (1969) points to theoretical blind spots in European integration particularly in relation to the two grand theories. Many nuances have been inserted in integration theories but as stressed by Rosamond (2000, 127) in his review, it remains the question of how the theories and their underlying mechanisms “click into place”. Essentially, many scholars try to avoid presenting intergovernmentalism and supranationalism as opposites and emphasise overlap. Moravcsik (1993) speaks of the perils of theoretical ‘reductionism’ while Schmitter (1996), among others, explains that there are a variety of intermediate outcomes. Similarly, Stone Sweet and Sandholtz (1997) depict the intergovernmental bargaining as taking place in embedded processes in which intergovernmental and supranational cooperation are placed in a continuum.⁵ Tömmel (2008) presents the two main schools as clashing but she emphasises that this clash is one of the engine for integration.

⁵ A continuum is defined as “a sequence of things of a similar type, in which the ones next to each other are almost the same, but the ones at either end are quite distinct” (Oxford Dictionary).

In other words, there is a tendency in integration theories to see the two on a scale between two extremes with the precise location of intergovernmental bargaining varying per policy. Some areas will be stronger embedded in activities of supranational and transnational actors than others. Although there are differences in emphasis, most of the theories reviews would agree with supranational and intergovernmental cooperation being linked on a scale. The interrelation between intergovernmentalism has been presented as being on a “continuum” suggesting that a move towards one end means less of the other (Schmitter 1996; Saeter in Moravcsik 2005; Stone Sweet and Sandholtz, 1998); as essentially indistinguishable (Allerkamp 2009); and as mutually “embedded” (Stone Sweet and Sandholtz, 1997: 299). Dinan (1994: 10) notes that supranationalism is often narrowly defined national interests in disguise (see also Wallace 2005). In the field of CFSP/ESDP, Allen (1998) speaks of “competition” between the two schools.

Similarly, the notion of the EU being a marble cake type of federalism⁶ suggests different positions on a scale depending on the policy while remaining aloof about interdependencies between the layers. At first sight, the ‘marble cake’ would be in accordance with ideas of the EU as network as member states and EU institutions being interdependent (Bukowski 1997). ‘Networks’ are not so straightforward as often suggested and therefore hard to use to describe any notion of supranational (Schout and Jordan 2005). It is therefore not clear whether the marble cake model suggests interactions or rather varying degrees of separation of responsibilities in different policy areas.

⁶ The ‘marble cake’ metaphor owes to Morton Grodzins who explained in a 1960 report of the President's Commission on National Goals that American federalism was like a marble cake “intermingling of policy responsibilities across different governments has led to a complex federal policymaking environment” (Bohte and Meier 2000).

Despite the general recognition that intergovernmentalism and supranationalism – and hence the underlying EU institutions and the member states – are linked, the nature of the link remains in need of specification. At a general level, as concluded by Rosamond, two theories are never able to capture the sheer complexity of international governance (2000: 105 – 109) which underlines the relevance of linking integration and political sciences theories and separating grand theories from middle-range theories (Hix 1994, 1999). Similarly, Schmitter pointedly notes that integration suffers from “manifest” under-theorisation (2004: 71).

European integration theories have come a long way, adding new dimensions and refining the concepts (see Schmitter’s 2004 discussion of neo- and neo-neofunctionalism). Essentially, the theories find agreement in scale-type notions such a continuum and trade off to describe the balance between the two theories. However, theories have remained weak on specifying the relation between the two extremes.

4. Supranationalism-Intergovernmentalism as an administrative concept

Moving beyond the idea of a scale, there is an option that has not been considered in the literature. A ‘scale’ implies a continuum with opposites. A scale – or rating scale - is defined as “a set of categories designed to elicit information about a quantitative or a qualitative attribute. In the social sciences, common examples are the Likert scale and

1-10 rating scales in which a person selects the number which is considered to reflect the perceived quality of a product”.⁷

However, it may well be that the theories are not related in the form of a scale but of a concept. A concept can be defined as “some kind of structure... [which] allows for no degrees; a thing is either in, or out, of the concept's extension” (Laurence and Margolis 1999). A scale orders elements in a graded manner. In a concept the elements are mutually interdependent and hang together. For instance, decentralisation and centralisation or often regarded as opposites but in practice they are highly interdependent to the extent that decentralisation involves centralisation (and visa versa). Hence, Jennergren (1981) does not talk of the two as separate but uses the term ‘centralisation-decentralisation’ as one word. Similarly, the changes in the management of the EU’s competition away from the Commission towards a network of national competition authorities can be presented both as a centralisation and a decentralisation (Wilks 2005) - and hence as renationalisation or supranationalisation. But it is of course also the interdependence that counts (Kassim and Wright 2010).

This helps to specify the relations between intergovernmentalism and supranationalism. It is actually time to speak of ‘supranationalism-intergovernmentalism’. It may be possible in some instances to present them as opposites on a continuum. It may however be more important to consider them as closely interconnected and mutually reinforcing. In other words approaching European integration from a concept perspective, one needs not to grade on a scale whether the changes brought by Lisbon are oscillating towards more or less supranationalism, but rather consider how governments and EU institutions

⁷ http://en.wikipedia.org/wiki/Rating_scale.

are interconnected. Another perspective on the relation between the two “extremes” and the way they are mutually interrelated is lacking.

Following the idea of a scale, the debate on ‘Lisbon’ would be whether the EU moved more towards one side or the other – with most attention being devoted to ‘Lisbon’ making it more intergovernmental. With a concept, there is no tension between intergovernmentalism and supranationalism. One cannot exist without the other. Imprecise language – such as ‘continuums’, ‘connected’, ‘marble cake’, ‘trade-off’ or ‘network’ – blurs the sight on what the interdependence involves in more precise terms. More to the point, this type of terminology denies the political and administrative *system* perspective is most likely required to understand the EU’s multilevel reality.

The subsequent question then is what the relations are within the ‘concept’. The theories cited above relate to parts of the picture including institutions (norms, values, culture), some level of self-organization and rationality. Evidently, different interconnections will characterize specific policies areas, older EU policy fields tending to be more institutionalized, while others more based on voluntary cooperation (Kelemen 2002).

The approach used here to move beyond ‘scale’-type terminology and to build on public management theories related to questions of how national and European administrations change. The actual operations at the shop-floor of EU policy making has received limited attention in the literature (Trondal 2007; Schout 2009). To further the debate on the nature of the ever closer union, this focus on the operations at the micro level of policy making may help to illuminate how states and EU institutions are connected – and how further steps in European integration lead to closer interconnections. At the

micro level (the shop-floor of policies), a discussion of a ‘continuum’ becomes obsolete. Administrative tasks need to be performed at different levels otherwise EU policies fail both in terms of policy formulation (Schout and Jordan 2010) and implementation (Siedentopf and Ziller 1988; Duina 2007). Hence, not to down play the importance of politics, but organizations matter (Egeberg 2004) and hence it is relevant to study interdependencies within the EU’s multilevel administrative system. It is important to look at how EU and national administrations are involved in the different phases of the policy cycle and at their administrative capacities (Schout and Jordan, 2010).

5. Better regulation and the concept of multilevel administrative capacities

Without going into organisational details (see Schout 2009, 2010; Radaelli and Francesco 2007), the relevance of multi-level administrative capacities can be illustrated using the EU’s better regulation agenda. Radaelli defines better regulation as “a type of meta-regulation because of its emphasis on standards and rules which, instead of governing specific sectors or economic actors, steer the process of rule formulation, adoption, enforcement, and evaluation” (2007 191). With the integrated impact assessment as a core instrument, the better regulation agenda comprises a variety of objectives such as subsidiarity, proportionality, providing empirical proof for policies, sustainability and reducing administrative burdens. These are now well founded in the Commission’s impact assessment system (European Commission 2009) and resulted in a Common Approach with the European Parliament and the Council on better law-

making (European Commission 2006) with which the three institutions committed “themselves to take the impact assessments of the Commission into full account” and to carry out impact assessments of substantial amendments.

From a better regulation perspective, the subsidiarity and proportionality objectives in the Lisbon Treaty can be seen as defense of the member states but also as part of the embedded nature of the EU policy system (compare Sandholtz and Stone Sweet 1998). However, the interdependence goes much further. To understand the interlinkages we need to probe much deeper into what better regulation implies within the EU’s multilevel system. Such horizontal objectives can only be achieved if member states and EU institutions operate together (Schout and Jordan 2010). One of the problems why the performance of the better regulation agenda – and of the EU’s impact assessments – has remained lukewarm for many years (Wilkinson 1995; TEP 2007) is that it has been treated as either a supranational or a national endeavor without studying the interdependence between the two. The Commission has also actively tried to define the impact assessment as a Commission responsibility to avoid having the member states to look over its shoulder. By the same token, member states have been all too happy to design such systems at the national level based on their path-dependencies and ignoring the EU’s specific developments towards an integrated system (Schout 2009).

Yet, from a practical perspective, the Commission needs information from member states for its impact assessments detailing how the proposed measures will affect their economies and environmental conditions. Politically, the Commission can only usefully take better regulation objectives seriously if it has the insurance that member states – and the European Parliament (EP) – will focus on them during the negotiations in

Council and with the EP. The Commission needs the incentives – ie the pressure from the member states - during the drafting stage that better regulation will play a role in the political negotiations. Otherwise, why would the sector experts in the DGs bother investing in difficult coordination exercises involved in impact assessments if it is likely that the Council will ignore horizontal objectives? Moreover, the Commission can attempt to draft well balanced proposals according to the rules of better regulation but if Council and EP subsequently focus on fragmented sectoral objectives, better regulation objectives related to for example administrative burden reduction or environmental implications may easily disappear from the agenda in the sectoral councils (Schout and Jordan 2009). Hence, politically as well as practically, better regulation can only succeed if member states and EU institutions operate together throughout the various stages of the policy processes and if they have developed the required capacities to perform and coordinate impact assessments (Schout 2009).

Certain levels of congruency have to exist between national and EU impact systems have to exist to allow the communication between assessment systems. Moreover, this interdependence requires that member states and Commission explore separately and together in a proactive way potential consequences of new policy initiatives. National officials will therefore have to explore relevant items on the Commission agenda and determine well in advance how initiatives on the agenda will affect national conditions. One reason why large scale OMC projects have failed – such as the Cardiff agenda on integrating environment in other EU policy areas – is that this interdependence between national and EU assessment systems and policy processes was ignored (Jordan and Schout 2006). Hence, to implement better regulation, Commission as well as member states (and EP) need to set up similar mechanisms in terms of objectives, rules,

procedures, websites, planning mechanisms and dedicated staff to transpose better regulation objectives into practical steps in the EU policy processes. The success of better regulation therefore depends on matching administrative capacities at national and EU levels (Schout 2009). Evidently, this moves into the almost taboo-type field of the EU's administrative space where member states have been happy to defend their sovereignty (Heidbreder 2010).

6. Conclusions

Integration is determined by, at least, political, economic, historic and social developments. 'A' grand theory explaining the success of the EU should therefore not be expected. Yet three conclusions follow from our concept perspective for the discussion about the link between the main integration schools. First, despite that theories do not easily communicate easily – Pollack's meta-theoretical dialogue of the deaf – and the existence of implicit or explicit preferences, there is a broad awareness of the need to be eclectic. The approaches in integration theories now encompass international theories, comparative politics, social institutionalism, governance and learning theories (Zito and Schout 2009). Any addition to integration theories will have to be based on acknowledging theoretical complementarities.

Secondly, the language on the relation between intergovernmental and supranational, and therefore our understanding of integration, is in need of precision. Assumptions about scales, tensions or competition suggest that intergovernmentalism and supranationalism are usually presented as opposites and implicitly discussed in terms of trade-offs between the main schools. Apart from the question whether this trade-off

perspective is correct, this scale-perspective is too imprecise to understand what the relations between the two are. Similarly, the recognition that the schools are interdependent is still too loose to understand the interrelations.

We suggest seeing ‘supranationalism-intergovernmentalism’ is one concept. The example of the better regulation agenda shows illustrates the interdependence between intergovernmental and supranational in a systems perspective. It shows how the EU’s political and administrative system depends on each other’s capacities at the shop floor of everyday policy processes. As a consequence, the EU is only able to take forward its agenda when member states and EU institutions cooperate and align their relevant capacities to EU ambitions. The multilevel system perspective implies that one level can not without the other. Introducing an effective European impact system can suffer from fifteen years of experimenting at both levels independently without recognizing – or willing to recognize - the potential interdependence (Schout 2009).

The systems perspective suggests that it is necessary to probe deeper into the relation between member states and EU’s polities. From an administrative perspective, we need to spell out how instruments operate and how the European Commission and national administrations have been reorganizing themselves in relation to specific policies and objectives. The concept perspective suggested here may help to understand how supranationalism is moving forwards intertwined with multilevel adaptations. ‘Brussels’ starts to resemble a capital with presidential leadership, a foreign affairs department and stronger forms of economic governance. But, at the same time, it is more and more depending upon national political and administrative capacities.

One hypothesis that follows from viewing the intergovernmental and supranational approaches as a concept is that EU actions can fail due to unbalances and incongruencies in the development policies and administrative capacities at EU and national levels. Hypotheses derived from this would include: the EU's competition policy is so successful precisely because it is neatly designed as a multilevel system (Kassim and Wright 2010) and part of the failure of the EU's ambitious Lisbon and sustainability agendas originates from taking the administrative interdependence serious (Schout and Jordan 2010). This opens up major research agendas with a view to exploring how national and European administrative mechanisms (including the offices of the Commission, the High Representative and the president of the European Council) are interconnected with national administrations. The concept perspective leads to questions about whether and how the external action service, the new mechanisms for economic governance, the yellow and orange cards, cooperation in JHA between national courts and the European Court of Justice and the EU's integration impact assessment system – to name just some ongoing EU developments – demand mutual changes at both levels of governance. The concept approach forces us to treat EU governance from a systems perspective.

Thirdly, the conclusion of the concept approach is that the EU *is* becoming the ever closer union. The political and administrative interconnections at micro level probably offer an accurate illustration of what the 'ever closer union' implies. This is however a completely different ever closer union as assumed in 1958 or discussed in the EU integration literature.

References

Albi, A (2005). *EU enlargement and the constitutions of Central and Eastern Europe*. Cambridge, UK: Cambridge University Press, 2008.

Allen, D. (1998) 'Who Speaks for Europe?', in: J. Peterson and H. Sjursen, *A Common Foreign Policy for Europe? Competing Visions of CFSP*, London: Routledge.

Allerkamp, D (2009). 'Intergovernmentalism, reloaded. The transformative power of 'intergovernmental' Council policy-making'. Paper presented at the EUSA Conference, Los Angeles, 23-25 April 2009.

Arnold, R. (2007) 'The Emergence of a European Constitutional Law,' vol. 11.3 *Electronic Journal of Comparative Law*, Accessible at <http://www.ejcl.org/113/article113-26.pdf>.

Behr, T, Siitonen, A. and J. Nykänen (2010). 'Rewriting the ground rules of European diplomacy. The European External Action Service in the making'. *Finnish Institute for International Affairs Briefing Paper*, No 57, March 2010.

Beyers, J. and G. Dierickx (1998) "The Working Groups of the Council of the European Union: Supranational or Intergovernmental Negotiations?", *Journal of Common Market Studies* 36:3, 289-317

Bermann, G. (1994). 'Taking Subsidiarity Seriously: Federalism in the European Community and the United States', *Colum. L. Rev.* 331.

Bohte, J. and K.J. Meier (2000) "The Marble Cake: Introducing Federalism to the Government Growth Equation". *Publius*, volume 33(3), 35-46.

Bukowski, J. (1997) "Policy networks and complex interactions in the European Union: Environmental policy in Spain". Paper presented at the European Union Studies Association (EUSA) Biennial Conference May 29-June 1, 1997, Seattle.

Dawson, M. (2009). "Soft Law and the Rule of Law in the European union: Revision or Redundancy?". *EUI Working Papers*, RSCAS 2009/24.

Defraigne, P. (2010). 'Through an Intergovernmental Decade: All Heads on Deck'. *Madariaga Speeches*, January 2010, Madariaga Foundation.

Dinan, D. (1994). *Ever closer Union?* Basingstoke: Macmillan.

Dougan, M. (2008). 'The Treaty of Lisbon 2007: winning minds, not hearts'. *Common Market Law Review*, Vol. 45: 617-703, 2008

Duina, F. (2007) 'Domestic Actors and Europeanization: Why Fit Still Matters', *Comparative European Politics* 5, 339-341.

Egeberg, M. (2004) "An organisational approach to European integration: Outline of a complementary perspective", *European Journal of Political Research* 43: 199-219.

Ericksen, Erik (2009). *The Unfinished Democratization of Europe*. Oxford University Press.

European Commission (1990) *Opinion of 21 October 1990 on the proposal for amendment of the Treaty establishing the European Economic Community with a view to political union*, COM (90) 600 final. Brussels: Commission of the European Communities.

European Commission (2006) *Better lawmaking 2005*, COM(2006)289, Brussels: Commission of the European Communities.

European Commission (2009) *Impact Assessment Guidelines*, Brussels: Commission of the European Communities.

Kassim, H. and P. Legales (2010), 'Exploring Governance in a Multi-Level Polity: A Policy Instruments Approach', *West European Politics*, 33:1, 1-21.

Kassim, H. and Dimitrakopoulos, D.G.(2007) 'The European Commission and the future of Europe', *Journal of European Public Policy*, 14: 8, 1249 -1270

Kassim, H. And A. Menon (2004). "European integration since the 1990s: member states and the European Commission". *Conference paper for Arena seminar*, University of Oslo, 11 February 2004.

Kassim, H., Wright, K. (2010), *The European competition network: A European regulatory network with a difference*, paper delivered at the 32nd EGPA Annual Conference, Toulouse, France, Sept, 8-10.

Kelemen, D. (2002) 'The Politics of 'Eurocratic' Structure and the New European Agencies', *West European Politics* 25: 4, 93-118.

Koenig-Archibugi, M. (2004). 'Explaining Government Preferences for Institutional Change in EU Foreign and Security Policy', *International Organization*, Vol. 54, No. 1, January 2004, pp. 137-174.

Haas, E. (1958). *The Uniting of Europe*. Stanford: Stanford University Press.

Haas, E. (1976). 'Turbulent fields and the theory of regional integration' *International Organization*, 30(2):173–12.

Heidbreder, E. (2010) "De- and re-coupling of policy ideas and policy instruments", Paper presented at the ECPR Joint Session of Workshops, Münster 22-27.

Hix, S. (1994). 'The study of the European Community: The challenge to comparative politics'. *West European Politics* 17(1), 1-30

His S. (1999). *The political system of the European Union*. Basingstoke: Macmillan.

Hyde-Price, A. (2006). "'Normative' power Europe: a realist critique." *Journal of European Public Policy* 13(2): 217-234.

Hoffman, S. (1966). "Obstinate or obsolete? The fate of the nation-state and the case of Western Europe". *Daedalus* vol.95, No 3, 862-915.

Hooghe, L. and G. Marks (2008). "A Postfunctionalist Theory of European Integration: From Permissive Consensus to Constraining Dissensus". *British Journal of Political Science*, vol. 39, 1-23.

Jordan, A and A. Schout (2006) *The coordination of European Governance: exploring the capacities for networked governance*, Oxford: Oxford University Press.

Jennergren, L. (1981) 'Decentralization in organizations', in: Nystrom, P.C., W.H. Starbuck (eds), *Handbook of organizational design*, vol. 2; *Adapting organizations to their environments*, Oxford: Oxford University Press, pp. 39-58.

Jensen, C. (2007). "Neo-functionalism". In: M. Cini. *European Union Politics*. Oxford University Press, second edition.

Laeken Declaration (2001) Presidency Conclusions of the Laeken European Council (14 and 15 December): Annex I: Laeken Declaration on the future of the European Union, in *Bulletin of the European Union*., No 12, pp. 19-23.

Laurence, S., E. Margolis (1999) "Concepts and Cognitive Science". In *Concepts: Core Readings*, MIT Press pp. 3–81.

Lequesne, C. (2010) "L'attitude du pouvoir vis-à-vis de l'Europe isole la France au lieu de renforcer son rôle". *Le Monde*, 21 September.

Moravcsik, A. (2001). "Bringing Constructivist Theories of the EU out of the Clouds: Have they Landed Yet?" *European Union Politics*, 2:2, 226-239.

MacGowan, Lee (2007). 'Theorising European Integration: revisiting neofunctionalism and testing its suitability for explaining the development of EC competition policy?' *European Integration online Papers (EIoP)* Vol. 11, N° 3.

Milward. A. Brennan, G. Romero, F. (1992) 'The European rescue of the nation-state'. University of California Press.

Moïsi, D. (2009). 'The welcome return of Franco-German leadership?' *European Voice*, 27 July 2009.

Moravcsik, A. (1993). "Preferences and power in the European Community: a liberal intergovernmentalist approach". *Journal of Common Market Studies* 33:4.

Moravcsik, A. (1995). 'Liberal intergovernmentalism and integration: a rejoinder.' *Journal of Common Market Studies*, 33: 611–628.

Moravcsik, A. (2005). "The European constitutional compromise and the neofunctionalist legacy", *Journal of European Public Policy*, Vol. 12, Issue 2, 349 — 386

Pollack, M. (1996) 'The new institutionalism and EU governance: The promise and limits of institutionalist analysis', *Governance*, 9:4, 429-58

Pollack, M. (1997) 'Delegation, agency and agenda setting in the European Community', *International Organization*, 51:1: 99-134.

Pollack, M. (2010). 'Theorizing EU policy-making', in Wallace, H., M. Pollack, A. Young (eds), *Policy making in the European union*, Oxford: Oxford University Press.

Pollack, J. and P. Slominski (2009). "Experimentalist but not accountable governance? The role of Frontex in managing the EU's external borders". *West European Politics*, vol. 32, No 5, 904-924.

Peterson, J. (2008) 'Enlargement, reform and the European Commission. Weathering a perfect storm?', *Journal of European Public Policy* 15:5, 761-780.

Pierson, P. (1998) 'The path to European integration', in: Sandholtz, W. and A. Stone Sweet (1998). *European integration and supranational governance*. Oxford University Press.

Putnam, R. D. (1988). Diplomacy and Domestic Politics: The Logic of Two-Level Games. *International Organization* 42: 427-460.

Radaelli, C. (2007) 'Whither better regulation for the Lisbon agenda?', *Journal of European Public Policy* 14: 190-207.

Radaelli, C. and Francesco, de, F. (2007) *Regulatory Quality in Europe*, Manchester: Manchester University Press.

Riccardi, Fernando (2010). "A look behind the news". *Agence Europe, Bulletin Quotidien Europe* no. 10102, 20 March 2010.

Rompuy, H, van (2010), *Pas de renationalisation de la politique européenne, mais européisation de la politique nationale*, European Council, Brussels: European Council, PCE190/10.

Rosamond, Ben (2000). *Theories of European Integration*. Basingstoke: Macmillan.

Sabel, Ch. And J. Zeitlin (2010). *Experimentalist Governance In The European Union: Towards A New Architecture*, Oxford: Oxford University Press.

Saeter, M. (1998). *Comprehensive Neofunctionalism: Bridging Realism and Liberalism in the Study of European Integration*. (NUPI: Oslo).

Sandholtz, W. and A. Stone Sweet (1998). *European integration and supranational governance*. Oxford University Press.

Sbraggia, A. *EuroPolitics: Institutions and Policy Making in the "New" European Community*, Washington: Brookings Institution, 1992.

Schaeffer, A (2004). "Beyond the Community Method: Why the Open Method of Coordination Was Introduced to EU Policy-making". *European Integration online Papers (EIoP)*, 8:13.

Schmitter, P. (1996). 'Examining the present euro-polity with the help of past theories', in Marks, G., F. Scharpf, P. Schmitter and W. Streek, *Governance in the European Union*, London: Sage.

Schmitter, P. (2004). 'Neo-Neofunctionalism', in Wiener, a., Th. Diez (eds) *European integration theory*, Oxford: Oxford University Press.

Schmitter, P.C. (2006) 'Ernst B. Haas and the legacy of Neofunctionalism', *Journal of European Public Policy* 12:2, 255-72.

Schout, A. and Jordan, A. (2005) 'Co-ordinating European governance: self-organising or centrally steered?', *Public Administration* 83:1: 201-220.

Schout, A. (2008) "Beyond the Rotating Presidency", in Hayward, J. (ed.) *Leaderless Europe*, Oxford: Oxford University Press.

Schout, A., M. van de Berge (2009) "De veerkracht van de Europese Unie – De EU 1999-2009", *Internationale Spectator*, 63:9.

Schout, A. (2009) "Organisational learning in a multilevel governance system", *Journal of European Public Policy* 16:8, 1124-1144.

Schout, A. and S. Wolters (2010). "EU-president is geen grijze muis maar een kater", *De Volkskrant*, 20 March.

Schout, A. and A. Jordan (2009) "The European Union's governance ambitions and its administrative capacities", *Journal of European Public Policy*, 15:7, 957-974.

Schout, A. and A. Jordan (2010) "The "Old" and the "New" Governance in the EU: Different Instruments, but the same administrative capacities?", *West European Politics* 33:1, 154-170.

Siedentopf, H. and J. Ziller (1988). *Making European Policies Work. The Implementation of Community Legislation in the Member States. Volume I: Comparative Syntheses*. Bruylant: Sage.

Tep (The Evaluation Partnership) (2007). *Evaluation of the Commission's Impact Assessment System*. Brussels: Commission of the European Communities.

Tömmel, E (2008). *Das politische system der EU*. Munich: Oldenburg.

Tosiek, P. (2008). 'The European Union after the Treaty of Lisbon - Still an Intergovernmental System'. Paper presented at Fourth Pan-European Conference on EU Politics, ECPR Standing Group on the EU, Latvia, September 2008.

Trondal, J. (2007) 'The public administration turn in integration research', *Journal of European Public Policy*, 14:6, 960 – 972.

Wallace, W. (2005) 'Foreign and Security Policy: The Painful Path from Shadow to Substance'. In H. Wallace, W. Wallace & M. A. Pollack (Eds), *Policy-Making in the European Union* (5th ed.). Oxford: Oxford University Press, 429-456.

Wallace, W. (2007). "Collective Governance" In: Wallace, H. and Wallace, W. (eds) (2007) *Policy making in the European Union*, Oxford: Oxford University Press.

Wessels, W. and F. Bopp (2008). 'The Institutional Architecture of CFSP after the Lisbon Treaty- Constitutional breakthrough or challenges ahead?' *Challenge Research Paper* No 10, June 2008, CEPS.

Wilks, S. (2005). 'Agency Escape: Decentralization or Dominance of the European Commission in the Modernization of Competition Policy?', *Governance*, 18:3, 431-452.

Wilkinson, D. (1995) *Approaches to Integrating the Environment into other Sectoral Policies: An Interim Evaluation of Experience in the European Commission and Parliament*, London: Institute for European Environmental Policy.

Wolff, S. "From The Hague to Stockholm: the Future of EU's Internal Security Architecture and Police Cooperation", The Hague, Clingendael Institute, 30 September 2009.

Zito, A and A. Schout (2009) "Learning theory reconsidered: EU integration theories and learning", *Journal of European Public Policy*, 16:8, 1103-1123.