The behavioural implications of the EU's 'democratic deficit'

(and what students of the 'democratic deficit' forgot to be bothered about)

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Abstract   This paper sets out by illuminating a paradox: While the 'democratic deficit'-literature continues to flourish by critically assessing the democratic credentials of the EU polity, explanations of the EU's institutional design and reform almost exclusively emphasise the policy-, power- and efficiency-seeking motivations of political actors. Yet, whereas academics, politicians and the public seem to care about the 'democratic deficit', it is ever more surprising that concerns for 'democracy' feature so little (and seem to matter so little) in accounts to explain the design and reform of EU institutions. In this paper, I argue that the potential *behavioural implications* of the 'democratic deficit' on questions of institutional design and reform have been obscured as a result of the mostly implicit conceptualisation of the 'democratic deficit' as *dependent* variable. In contrast, by conceptualising the 'democratic deficit' as an *independent* variable, this paper not only shows that the 'democratic deficit', as perceived by political elites, carries far-reaching implications for institutional design and reform which most institutionalist accounts fail to explain; it also demonstrates that one of the EU's distinct and defining institutional feature – when compared to other forms of international institutionalised cooperation – the existence and growing importance of a representative *majoritarian* institution, can only be understood adequately when taking into account the behavioural implications of the 'democratic deficit'.

1. Introduction[1]

This paper sets out by illuminating a paradox in the literature on European governance which it derives from the observation that students of European politics have, to date, kept two large and influential strands of scholarship in mutual isolation, the literature on the EU's institutional design and reform on the one hand, and the literature on the Community's 'democratic deficit' on the other. These two broad and, in especially the case of the EU's alleged 'democratic deficit', mushrooming literatures have virtually travelled peacefully alongside each other for the past ten years. What is paradoxical about this situation of 'mutual ignorance' is that common sense would force us to admit that we should suspect assessments of the EU's democratic credentials to carry important institutional design implications. Yet, when we look at much of the institutional design and change literature, the various evaluations of the Union's 'democratic deficit' enjoy benign neglect. Hence, we have to ask candidly whether we are not giving up an interesting analytical focus by keeping the 'democratic deficit'-literature and the literature on institutional design and change in mutual isolation and hence fail to ask potentially illuminating questions to improve our understanding of the EU's institutional evolution?

This paper argues, in a first step, that a key to better understand constitutional politics in the EU (and elsewhere!) lies in exploring the link between these two literatures. *Prime facie*, if extant explanations of the EU's institutional design and reform pick up most of the variation in institutional design and reform decisions, why should students of institutional design and reform have to 'bother'[2] about the 'democratic deficit' if it seems of little relevance for explaining the key features of the EU's institutional make-up? Given the continuing and even increasing quantitative and qualitative importance of the 'democratic deficit' in the public, political and academic debates, there appears to be an awkward situation: If the 'democratic deficit' concentrates the minds of policy-makers and academic scholars so wonderfully, why doesn't it feature in policy-makers' motivation to reform EU institutions? The answer, it is argued below, is *not* that the 'democratic deficit' does not 'matter' to policy makers; the answer for 'mutual ignorance' rather lies in the way scholarship has conceptualised the 'democratic deficit': In the bulk of the literature, the quality of EU democracy is treated as *dependent* variable and not as an *independent* variable, i.e. as a factor that carries *behavioural implications* with regard to institutional design and reform. However, since scholarship on the 'democratic deficit' treats the concept as part of the dependent variable, we are potentially missing out on the possible impact the 'democratic deficit', as perceived by political elites, might exercise on decisions for institutional design and change.

Secondly, following from the previous point, I argue that the isolation of these two literatures has, for too long, obscured a promising avenue to account for 'unexplained variance' in the EU's institutional set-up, in particular the creation and gradual empowerment of the Community's directly-elected, representative (*majoritarian*) institution, the European Parliament. However, to render the 'democratic deficit' a concept with explanatory value, it has to be operationalised. This paper suggests one avenue for such purpose: In order to assess the behavioural implications of the 'democratic deficit' we have to know (a) when or under what conditions policy-makers *perceive* that there is a 'democratic deficit', and (b) what they intend to do about solving it? This research strategy thus does not add another 'benchmark'-view to the 'democratic deficit'-debate but focuses on the potential explanatory power of the concept for the pressing questions of institutional design and reform.

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[1] Some of the issues raised in the paper emerged from discussions with Johannes Lindner, Christian List and Andrew Moravcsik whose intellectual input is gratefully acknowledged.

[2] This term alludes to Philippe Schmitter's book *How to Democratize the European Union And ... Why Bother?* (Schmitter, 2000)

Thirdly, the paper argues that by conceptualising the 'democratic deficit' as part of the independent variable, it is possible to derive propositions and expectations about the institutional development of systems of international governance *outside* the EU context by identifying (a) the conditions under which international systems of governance are likely 'suffer' from a 'democratic deficit' and (b) the institutional mechanisms designed to alleviate the 'democratic deficit'.

2. What now? Should we or shouldn't we bother about the 'democratic deficit'?

It seems rather unsurprising that the more the EU adopts state-like functions and features through pooled and delegated sovereignty, the more salient becomes the question about how the transfer of these domestic prerogatives to the supranational level matches with widely-accepted standards of democratic governance (see, for example, Rittberger, 2003). The 'post-Nice' process on the 'Future of the European Union', announced by the Laeken Declaration adopted by the European Council in December 2001, will eventually result in the adoption of an EU Constitution. This constitutional document shall provide for a "better division and definition of competences in the European Union", reduce the complexity of governance instruments and grant the EU with "[m]ore democracy, transparency and efficiency".[3] However, it is not just since Laeken, that the call for a more 'democratic' EU is at the top of the European Council's agenda. The concern for democratic governance structures has accompanied European political elites since the inception of the European Coal and Steel Community. 'Talk' about the EU's 'democratic deficit' is, in all but name, thus as old as the founding of Europe's 'first Community' (see B. Rittberger, 2001, 2003). While political elites thus devoted and continue to devote considerable attention to the EU's democratic credentials, academics follow suit debating fervently whether or not we should 'bother' about the EU's 'democratic deficit'.[4] In the following paragraphs, I will show that what academics bother (or not bother) about most when reflecting on the EU's alleged 'democratic deficit' differs markedly from what political elites have bothered and continue to be bothered about. This is not necessarily a lamentable state for the academic discipline to be in, quite to the contrary, since one cannot expect politicians to engage in the systematic production of knowledge. However, in the case at hand, I argue that this state of affairs has nevertheless prevented academics from addressing one intriguing question about the evolution of the EU polity: To what degree, if at all, have political elites' concerns about a 'democratic deficit' affected the design and successive reform of the EU polity? Before I set out to answer this question, I will highlight two important strands of research, one of which advances hypotheses and explanations for the design and change of EU institutions and the other addressing the quality of EU democracy and potential remedies, the so-called 'democratic deficit'-literature. The purpose of introducing is thus to demonstrate that their respective analytical focus prevents us from asking the question about the potential *behavioural implications* of the 'democratic deficit' as it is *perceived* by political elites, and that consequently, we need to develop novel arguments to specify the conditions under which we would expect the 'democratic deficit' to affect institutional design and reform decisions.

The paradox, part I: the 'democratic deficit' and theories of institutional design

A myriad of accounts for institutional design and change in the EU depart from the assumption that policy-makers act on a policy-, power- or efficiency-oriented way when they choose among sets of alternative institutions or rules in the process of institutional design and reform (see, for example, Moravcsik, 1991, 1998; Garrett, 1992; Pollack, 1997, 1999;

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[3] See Annexes to the Presidency conclusions, Laeken, 14-15 December 2001, SN 300/1/01 REV 1, p. 21-22.

[4] For two recent prominent contributions, see Schmitter (2000) and Moravcsik (2002).

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Steunenberg and Dimitrova, 1999; Schulz and König, 2000; Bräuninger et al, 2001; Farrell and Héritier, 2002; Hix, 2002). Thus, policy-makers' utility from a given set of institutions is a function (a) of the expected policy gains from locking in certain mechanisms of cooperation though institutions (e.g. through super-majority voting mechanisms or the delegation of policy-making or -adjudicating competencies to independent agents), (b) of the degree to which policy-makers perceive that their power-status (i.e. the degree to which they are capable of exercising influence over outcomes) is affected by institutional design and reform decisions, and (c) of the expected gains that ensue from reducing transaction costs, e.g. by rendering decision-making more efficient and reducing the costs of monitoring compliance. These three factors do not necessarily push into same direction (for example, the adoption of super-majority voting from a unanimity-system may reduce actors' influence over outcomes) and thus, an actors' utility function can equally be considered as some form of trade-off function.

At the same time that explanations of the EU' institutional set-up, inspired by the rational design literature, have occupied a significant role in the EU literature, a separate and seemingly unconnected development in the literature on governance in the EU (even partly stimulated by the same scholars who emphasise the functional and instrumental calculations behind institutional choices) has gained prominence over the past ten years: the literature on the 'democratic deficit'. Both in terms of the absolute quantity of articles, chapters and books devoted to the 'democratic deficit' but also in terms of the variety of approaches to conceptualise and explain the European Union's 'democratic deficit', no other form of inter-state cooperation has been confronted with an 'accusation' of the type the EU faces. Yet, why should political scientists care about the 'democratic deficit' (judging from scholarly 'output', academics seem to care about it!) if its implications for institutional design and change are often rejected on empirical grounds or, at most, are so ill-documented? How did we happen to arrive at this paradoxical situation, where the 'democratic deficit' seemingly matters little in policy-makers' efforts to build and reform EU institutions, on the one hand, and where, on the other hand, scholarly output on the EU's democratic credentials continues to boom? Yet, if the 'democratic deficit' is a genuine concern to policy-makers, why shouldn't it carry *behavioural implications*, i.e. why shouldn't it inform decisions for the design and reform of Community institutions?

The paradox, part II: the 'democratic deficit' and the question of standards
The second paradox is directly related to the first: If the 'democratic deficit' is ascribed a negligible role in explaining policy-makers' decisions to design and reform EU institutions, why does the 'democratic deficit'-literature thrive, nevertheless? Scores of scholars have engaged in the debate whether and to what degree the EU polity can command the legitimacy Europe's populace. Legitimacy can be conceived of as "a shared expectation among actors in an arrangement of asymmetric power, such that the actions of those who rule are accepted voluntarily by those who are ruled because the latter are convinced that the actions of the former conform to pre-established norms." (Schmitter, 2001: 1) Legitimacy thus converts power into authority – "Macht" into "Herrschaft" – and thus establishes an obligation to obey and a right to rule. In this regard, Max Weber has shown most impressively that legitimacy can have many sources: it may be grounded in rationality, tradition, and charisma (Weber, 1968). In the modern-type democratic welfare-state the legitimacy of a polity rests on three conditions which Abraham Lincoln famously espoused in his Gettysburg address of 19 November 1963: Legitimacy derives from "government *of* the people, *by* the people, *for* the people."[5]

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[5] See <http://www.loc.gov/exhibits/gadd/4403.html>, accessed 5 February 2003, emphasis added.

- ➢ 'Government *of* the people' or *social* legitimacy refers to the condition that legitimacy can only be granted within distinct geographical boundaries which, in the era of the nation state, are commonly defined by a certain degree of social homogeneity and a collective identity among the citizens (see, for example, Höreth, 1999).
- ➢ 'Government *by* the people' or *input* legitimacy refers to the condition that "[p]olitical choices ... reflect the 'will of the people' – that is, if they can be derived from the authentic preferences of the members of a community." (Scharpf, 1999: 6).
- ➢ 'Government *for* the people or *output* legitimacy refers to the condition that "political choices ... effectively promote the common welfare of the constituency in question." (Scharpf, 1999: 6)

The bulk of the literature on the EU's 'democratic deficit' has taken these conditions as benchmarks to evaluate whether or not the EU polity can be qualified as a polity that carries the capacity to command democratic legitimacy across these different dimensions. Yet, whereas some contributions to the literature on the 'democratic deficit' focus on only one legitimacy-dimension other contributions to the debate provide a multi-dimensional assessment of the EU's democratic legitimacy-credentials. *Table 1* is a non-exhaustive overview of the 'democratic deficit'-literature. It illustrates that the questions of whether or not the EU suffers from a 'democratic deficit' and whether or not this deficit can be remedied (at all) depends on the *standards* scholars adopt for their definition of legitimate democratic governance. Alternative normative or empirical democratic theories provide a variety of possible benchmarks to assess the democratic legitimacy of a polity. It comes as little surprise that not only the assessment as to the existence and severity of a 'democratic deficit' vary enormously across (and even within) the different dimensions, but also that the prospects for its remedy display enormous variation.

Table 1: Is there a 'democratic deficit'? A question of standards

	Standards / conditions for democratically legitimate governance in the EU	Is there a 'democratic deficit'? How can it be remedied?
Input legitimacy ('Government by the people')	➤ Real 'European' elections and cohesive, competitive parties (Hix, 1998) ➤ Application of established scales of democracy (civil liberties, political rights, democratic rule) (Zweifel, 2003)	➤ Yes: institutional design and reform (short/medium term solution) ➤ No (or: not greater than in most liberal democracies)
Output legitimacy ('Government for the people')	➤ Regulatory credibility through non majoritarian institutions (Majone, 1996, 2000)	➤ No (but: parliamentarisation of Commission threatens regulatory credibility) (Majone 2000)
Social legitimacy ('Government of the people')	➤ Community of memory, experience, and of communication (Kielmansegg, 1996)	➤ Yes (low 'democratic capacity'): identity-building (long term solution)
Hybrid category (combination of different legitimacy dimensions)	➤ Congruence between rulers and ruled, collective identity, reversibility (of substantive decisions), de-selection (of office holders) (Zürn, 1996)	➤ Yes: institutional design, identity-building measures (medium/long term solution)
	➤ Democratic self-determination (input legitimacy) and effective self-determination through social and welfare policy provisions (output legitimacy) (Scharpf, 1999, 2001)	➤ Yes: identity-building measures to legitimise EU-wide redistributive policy measures (long-term solution)
	➤ Constitutional checks and constraints on exercising power, accountability of 'technocratic' governance, participation (Moravcsik, 2002)	➤ No

But irrespective of the choice of benchmark or standard for democratically legitimate governance in the EU, the 'democratic deficit'-literature has, so far, suffered from one serious shortcoming: By conceptualising the 'democratic deficit' as a part of the *dependent variable*, namely as a phenomenon that has to be assessed, evaluated or explained by taking recourse to benchmarks of democratically legitimate governance derived from normative and empirical democratic theory, we can now point at the second paradox. The observation that the 'democratic deficit' occupies the minds not only of scores of scholars, but also of publics and political elites, makes us ask wonder why there is so little systematic research on the potential *behavioural implications* of the 'democratic deficit'? If, for example, political elites actually bother about the 'democratic deficit', how do we know? If, however, we conceptualise the democratic deficit as *independent variable* or *explanans*, it should be possible to 'test' some of the implicit claims made by the myriad of pieces on the 'democratic deficit'. If it *matters* to political elites, we should be able to observe that it has at least some implications on the way political elites design and reform Community institutions. In order to subject this claim to empirical scrutiny, we need a systematic treatment of the 'democratic deficit' as *independent variable*: When and under what conditions do actors perceive a democratic deficit? And,

when political elites are conscious of the 'democratic deficit', what are the possible institutional design implications?

## 3. The 'democratic deficit' as independent variable: when does it carry behavioural implications?

Modern democracies derive the stability of and compliance with their political order by balancing *input* and *output* legitimacy (Scharpf, 1970). Jachtenfuchs et al. (1998) underline the relevance of these two dimensions for system compliance and democratic legitimacy by referring to David Easton's distinction between *diffuse* and *specific* support. Political systems require not only specific support "caused by interests in relation to a particular policy, Easton argued that political systems [also] needed 'diffuse support' which may, among other things, originate in the belief of the members of a political system that the latter is legitimate." (Jachtenfuchs et al., 1998: 412)[6] Transferring this argument to the speher of international politics, Johnston (1999) and Hurd (1999) argue that if international political actors, scuh as states, were only interested in maintaining international political orders as long as they produce certain material benefits or reduce the costs of sustaining cooperation (e.g., by lowering transaction costs), we should nevertheless observe much less compliance with these international political orders. With the terminology introduced here, we could therefore argue that *input* legitimacy (i.e. maintaining political order for reasons that have to do with placing intrinsic value on maintaining and promoting democratic procedures) is the difference between compliance based on material incentives (*output* legitimacy) and the overall degree of compliance with a system of political rule. Compliance *C* is hence a function of both *output* legitimacy *OL* and *input* legitimacy *IL*.

$$f(C) = OL + IL$$

Figure 1 presents this argument graphically, adding time as dimension. When the *output* legitimacy of a polity decreases over time (for example, when decisions to pool and delegate generate increasing opposition by actors who feel disadvantaged by these decisions) by factor x, the overall amount of compliance decreases only by factor x-y where y is the amount of *input* legitimacy. In Johnston's own words, "[l]egitimacy is the stickiness that keeps members of an ingroup complying with the rules of the power hierarchy even as the material benefits supplied by the power status quo drop off" (Johnston, 1999: 6). From this perspective, potential losers "accept either that their losses are not so important ... or that they think there are existing channels and methods for recouping their losses" (Johnston, 1999: 6), whereby the relevance of the *input* dimension of legitimacy is emphasised.

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[6] In 1960, Seymour Martin Lipset has already stipulated that to understand the stability of political institutions, instrumental explanations do not suffice. Compliance with a system of governance does not only stem from the capacity to solve socio-economic problems but also from the possibility of the ruled to have access to the direct and indirect venues of decision-making, i.e. political participation in the broadest sense of the term.

Figure 1: Sources of legitimacy and system compliance

high

Material utility
from compliance
(*output*
legitimacy)

Amount of compliance

Input
legitimacy

low

Time
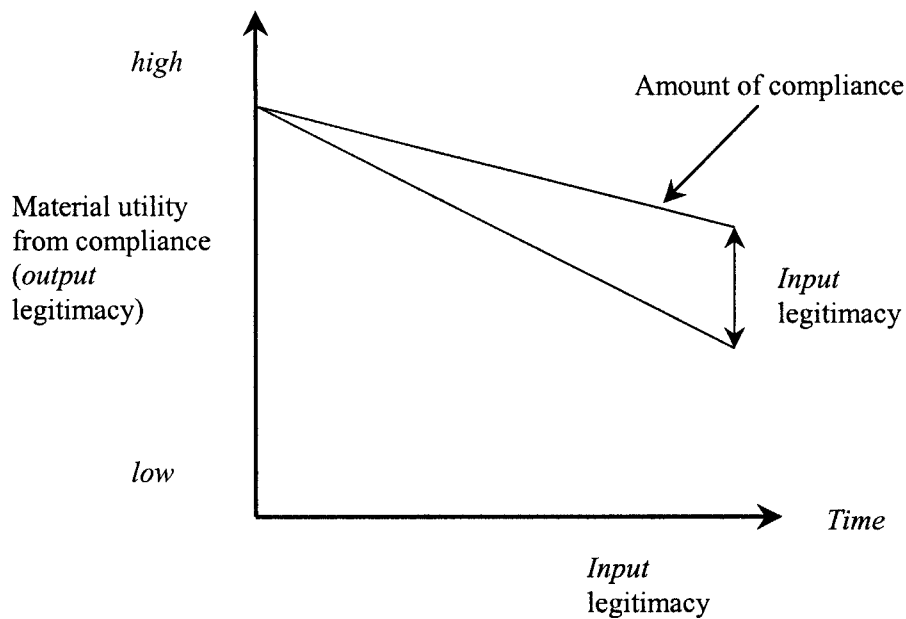
Input
legitimacy

Why is this distinction between *input* and *output* legitimacy important for our quest to find an answer to the question about the conditions under which policy-makers are likely to perceive a 'democratic deficit'? With the gradual increase of the EU's policy-making and -influencing powers through ongoing pooling and delegation, the Community has come to exercise functions that, traditionally, belonged to the domain of nation states. Against this background, Robert Dahl has observed that the process of European integration presents the European public and its political leaders with a "fundamental democratic dilemma" (Dahl, 1994: 23). Wherever and whenever democratic polities are subjected to significant external socio-economic or security challenges which cannot be met unilaterally, political elites face a trade-off between, on the one hand, enhancing the capacity of their polity to deal with these challenges effectively by increasing the size of their political unit (i.e. through pooling and delegation sovereignty) and, on the other hand, citizens' and their representatives' ability to influence the government through direct or indirect participation (which decreases with unit size):

"That larger political systems often possess relatively greater capacity to accomplish tasks beyond the capacity of smaller systems leads sometimes to a paradox. In very small political systems a citizen may be able to participate extensively in decisions that do not matter much but cannot participate much in decisions that really matter a great deal; whereas very large systems may be able to cope with problems that matter more to a citizen, the opportunities for the citizen to participate in and greatly influence decisions are vastly reduced." (Dahl, 1994: 28)

From this perspective, ongoing pooling and delegation of national sovereignty to deal with challenges of security or socio-economic interdependencies has left national democratic processes not unchallenged. Schmitter (1996) has shown that the 'centralisation' of policy-making at the Community level has increased remarkably since the Community's inception in the 1950s. Whereas in 1957 only seven out of twenty-eight policy areas under investigation had been subject to 'some' policy decision-making on the Community level (almost

exclusively issues falling into the economic issue area), fifty years later, Donahue and Pollack (2001: 107), applying the same set of indicators, find that in *none* of the twenty-eight areas exclusive national competences rest in place. They equally show that in eleven out of these twenty-eight areas, policy decisions are now either taken 'mostly' or 'exclusively' on the Community level. This development has taken place against the background of the development of increasingly influential and powerful supranational institutions, such as the Commission and the European Court of Justice, which are "marked by an astonishing autonomy … from direct democratic control." (B. Wessels, 1999: 2) This point is underlined by Wolfgang Wessels who argues that the Community's supranational institutions "are *de jure* and to a large degree *de facto* independent of national governments … [which] implies that 'sovereign' states have to deal with political actors which are outside their immediate control." (W. Wessels, 1996: 21) This state of affairs, Bernhard Wessels deduces, "naturally raises the democratic question of how the system of institutions exercising this power is to be controlled and held accountable." (B. Wessels, 1999: 2) Given the far-reaching competencies of Community institutions, the democratic legitimacy of the evolving polity is considered a key concern by national policy-makers. Asked about their satisfaction with the workings of democracy in the European Union (as opposed to the domestic level), 50% of the respondents among national members of parliament (MPs) from eleven European Union countries questioned in a survey from 1996 were 'not very satisfied' (40%) or 'not satisfied at all' (10%). In contrast, when asked about the workings of democracy in their own countries, only 20% of the respondents among national MPs were not satisfied (B. Wessels, 1999: Table 1). In 1998, the European Commission published the results of a survey conducted in 1996 among Community 'top decision makers' (elected politicians, such as members of national and the European Parliament, senior national civil servants in all Member States, business and labour leaders, media leaders, persons playing a leading role in the academic, cultural or religious life of their country) which mirror the perceived (albeit cross-nationally variable) desire to reform the Community institutions and make them more democratic (European Commission, 1998: 14-15, 31-36, A.14-A.21).

The arguments advanced in the previous paragraphs suggest that the process of European integration puts the existing equilibrium between *input* and *output* legitimacy into jeopardy, both at the national level as well as on the European level: While Community Member States are predominantly concerned with the pooling and delegation of sovereignty to enhance the Community's problem-solving capacity governance, citizen participation and popular self-determination is increasingly put under stress as democratic processes in the Member States are challenged by decisions to pool or delegate sovereignty. If *delegation*, i.e. the transfer of sovereignty from the domestic sphere to the supranational level, occurs, concerns about *input* legitimacy are likely to be mirrored by the follow questions: Who are supranational actors accountable to? Who will control them? Can delegation be justified solely by referring to the material gains from cooperation (economic, security, etc.)? If *pooling*, i.e. the sharing of decision-making competencies through adoption of majoritarian decision-rules, occurs, concerns about *input* legitimacy are likely to reflect problems such as: How does pooling affect the channels of democratic participation, e.g. parliamentary prerogatives? Who are national governments accountable to when portions of their decision-making powers are pooled? The following proposition summarises the relationship between pooling and delegation on the one hand, and *output* and *input* legitimacy on the other.

Proposition 1

Delegation and/or pooling of national sovereignty will produce an asymmetry
between input and output legitimacy ('democratic' or 'legitimacy deficit'). The
perceived 'legitimacy deficit' induces political elites to contemplate institutional
solutions to alleviate the 'legitimacy deficit'.

Once we are able to conjecture from empirical evidence that a 'democratic legitimacy deficit'
is perceived to exist by political elites, what follows? Individual Member State governments
and political parties may perceive the asymmetry between *input* and *output* legitimacy quite
differently. Consequently, we would expect that different proposals as to how the problem
should be tackled will be put forward.

4. Solving the perceived 'democratic deficit': the creation and empowerment of majoritarian institutions

When pooling and/or delegation loom(s), EU Member States nevertheless provide partly
radically alternative interpretations regarding the perceived *severity* of the perceived
'legitimacy deficit' and, consequently, also advance different proposals as to how the
'legitimacy deficit' should be remedied (see, for example, Lindner and Rittberger, 2003 with
regard to the Luxembourg Treaty of 1970). This argument brings us back to Max Weber and
the role of shared beliefs (norms or 'legitimating beliefs') about 'appropriate governance' as
the basis of social action. Institutionalised norms which find expression in the law and culture
of domestic polity, are 'likely candidates' to guide actors' preferred institutional choices as
they "express a world view that influences behavior not only directly, by setting standards of
appropriateness for behavior, but also indirectly through selective prefabricated links between
values that individuals or collectivities habitually rely upon to address specific problems."
(Katzenstein, 1993: 267; see also DiMaggio and Powell, 1991, Jachtenfuchs, 1999) It has
been argued in the preceding section that – once we view the construction and reform political
orders not *solely* as an exercise through which actors seek to maximise certain material
benefits but also as an endeavour to ascertain that the polity is viewed as 'legitimate' (from
the perspective of *input* legitimacy) – we have to be receptive for those factors which actors
employ to justify political order: 'legitimating beliefs'. Throughout the history of the systems
of political domination, 'legitimating beliefs' have varied enormously across political units
and over time.[7] Yet, whereas – at least for 'Western' states – popular sovereignty/democracy,
today, is the 'only game in town' and hence the predominant 'legitimating belief', this does
by no means imply that the interpretation of this principle for the construction and reform of
political orders is necessarily uniform: Peter Katzenstein has argued that "[n]orms work their
effects through historically created institutions and experiences" (Katzenstein, 1993: 268),
and it is obvious that these institutions and experiences differ across countries and even across
different groups within societies.

This paper has specified the conditions under which we would expect political elites to be
concerned about *input* legitimacy in the process of institutional reform. In this context, the
prescriptive value of 'legitimating beliefs' or 'polity-ideas' (Jachtenfuchs et el., 1998;
Jachtenfuchs, 1999, 2002; Diez, 1999) or 'democratic ideal types' (Katz, 2001) held by
different societal groups within each Community Member State, helps us to understand the

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[7] See, for example, Hennis (1976), Kielmansegg (1997) and Ferejohn (1993).

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distinct evaluations and assessments of the challenges pooling and delegation pose for institutional reform. Recent scholarship has provided students of European integration with extensive material regarding the classification of different 'legitimating beliefs' and their prescriptive value. Markus Jachtenfuchs and collaborators have developed such a taxonomy of 'legitimating beliefs', based on qualitative content analysis of party manifestoes (see Jachtenfuchs et al., 1998; Jachtenfuchs, 1999, 2002; Diez, 1999). These legitimating beliefs, for example, guide the actors 'carrying' these beliefs in their evaluation of the Community's democratic credentials. Jachtenfuchs and collaborators present four analytically distinct polity ideas: *Federal State, Intergovernmental Cooperation, Economic Community* and *Network Governance*. These four 'legitimating beliefs' can be considered ideal types and hence allow us to derive propositions about the responses political elites are likely to make when they confront situations of pooling and delegation, i.e. a perceived 'legitimacy deficit'. Conditional upon which 'legitimating belief' different political elites hold, alternative solutions as to how the 'legitimacy deficit' shall be alleviated will be advanced.[8] For those adhering to a *Federal State* 'legitimating belief', legitimacy is the expression of *dual* popular sovereignty which is split and shared across different levels of governance (the state- and union-level). The *Federal State* 'legitimating belief' therefore combines *communitarian* and *individualistic* elements of democratic legitimacy and is implemented through a popularly elected assembly (representing the *people*) and state representation at the federal- or union-level. In contrast, the *Intergovernmental Cooperation* 'legitimating belief' is based on the *communitarian* principle or 'social legitimacy' which vests legitimate rule in the nation.[9] Inter-state cooperation and integration is desirable as long as it is "autonomieschonend" (Scharpf) and does not undermine national democratic process and institutions. Democracy *among* states is not desirable, if not impossible, and can thus only function *within* states. The *Economic Community* 'legitimating belief' bases the legitimacy of a supranational polity on effective and efficient solutions to allocative problems that can best be solved either via the market mechanism or through delegation to non majoritarian institutions such as independent regulatory agencies.

Mirroring the endeavours by Jachtenfuchs and collaborators, Richard Katz (2001) has provided survey data on national MPs conceptions of democracy on the EU level. The findings lead Katz to distinguish between two democratic ideal types, a 'populist' version of democracy (based on the notion of popular sovereignty and the maximization of the 'public interest' through representative institutions) and a 'liberal' version of democracy (based on the 'Madisonian' idea of limiting power against abuse).[10] In order to assess the individual MP's conception of democracy, Katz employs a set of indicators. For example, a positive answer to the question of whether the democratic legitimation of the EU should be founded on a supranational representative institution, the European Parliament rather than on national parliaments indicates support of the populist version of democracy. Support of the populist notion of democracy is equally indicated by backing the proposal that the Commission should be chosen by the European Parliament rather than by the national governments. Katz observes that these two different conceptions of democracy also allow their adherents to come to completely different assessments of the 'democratic deficit', and concludes that one reason why the 'democratic deficit' has proven so difficult to alleviate is the lack of consensus about the very nature of the problem:

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[8] See Jachtenfuchs (1999: 129-137). The discussion will be limited to the first three 'legitimating beliefs' (excluding the *Network* 'legitimating belief') because, thus far, they have provided the most prominent *signposts* for political actors' preferences towards institutional design and reform (see Jachtenfuchs et al., 1998, 1999).
[9] For a distinction between *communitarian* and *individualistic* conceptions of legitimacy in systems of international governance, see Schimmelfennig (1996) and Bienen et al. (1998).
[10] See Riker (1982) for an analogy of these two versions of democracy.

"With many political issues, there is agreement regarding the nature of the problem to be solved, even though there may be disagreement concerning the appropriate means or the priority the problem should be accorded. ... In the case of EU democracy ... there appears to be disagreement over the proper meaning of democracy, and therefore not simply over what reforms would most improve democracy but indeed over whether particular reforms would make the Union more or less appropriately democratic." (Katz, 2001: 74)[11]

It follows from the above that supporters of a *Federal State* 'legitimating belief' (or a *populist* version of democracy) are likely to see the solution of the 'legitimacy deficit' in the empowerment of the European Parliament in order to compensate for the weakening of national parliaments' control and policy-making function (strong emphasis on questions of *input* legitimacy), whereas supporters of the *Economic Community* 'legitimating belief' will not perceive the relationship between *output* and *input* legitimacy particularly asymmetric as long as pooling and delegation promote the abolition of barriers to trade and enhance economic and decision-making efficiency (strong emphasis on *output* legitimacy). For adherents of the *Intergovernmental Cooperation* 'legitimating belief', issues of *input* legitimacy are of high importance, as they are in the case for the *Federal State* supporters, yet the institutional design implications are strikingly different. Among those subscribing to the *Intergovernmental Cooperation* 'legitimating belief', proposals for reducing the 'legitimacy deficit' will not be directed at establishing democracy at the supranational level, but rather tend to emphasise that any form of governance derives its legitimacy from national political actors, i.e. directly through national parliaments and indirectly through national governments (see *table 2* for a summary).

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[11] A survey commanded by the European Commission among European 'Top Decision Makers' in which questions were asked with regard to the balance of power between the EU institutions seems to corroborate these findings (European Commission, 1998). For example, when top decision makers were asked about whether the EU should have a government responsible to the European Parliament, there is an enormous split not only on an aggregate but also within individual Member States. Whereas the founding Member States appear to be more 'populist' by having a majority of its top decision maker supporting this idea, the Nordic countries, Ireland and the UK show opposition to this idea (European Commission, 1998: A.18).

Table 2: Legitimating beliefs and 'readings' of democracy, legitimate governance and the nature of the 'democratic deficit'
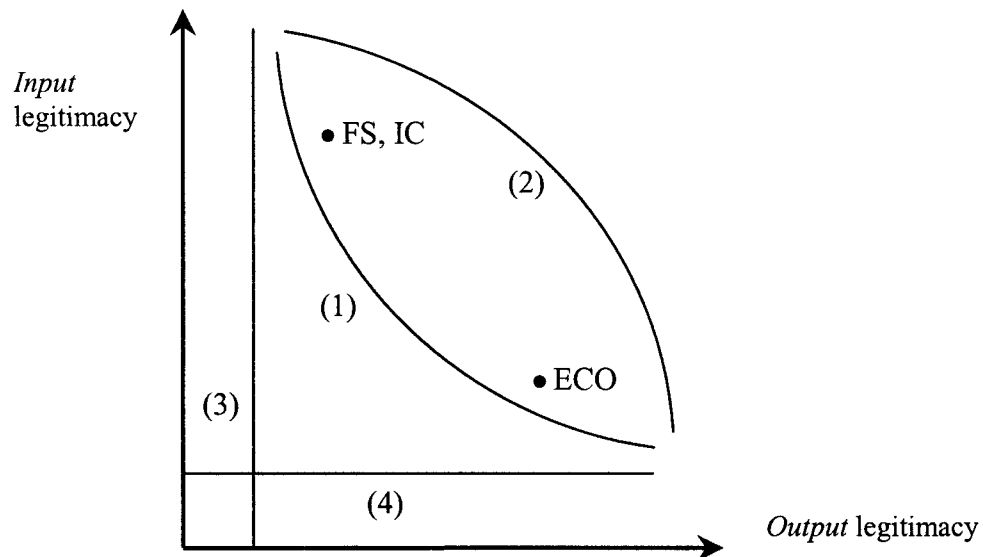
	Federal State	Intergovernmental Cooperation	Economic Community
Source of legitimacy	Popular sovereignty at state and union level of governance; communitarian and individualistic principles	National sovereignty (sovereignty indivisible); communitarian principles	Economic efficiency
Conception of democracy at the inter-/supranational level	Parliamentary assemblies on state and union level	Population size-adjusted intergovernmental institutions	No (*input*) democratic legitimacy requirement
Nature of the 'legitimacy deficit' and remedies	Delegation/pooling produces accountability gap weakening national parliaments, representative element at EU-level is too weak / EP should be empowered	Delegation/pooling produces accountability gap weakening national parliaments / 'legitimacy deficit' has to be solved domestically (e.g. increasing scrutiny power of national parliaments)	Economic effectiveness (substance) and efficiency (means) guarantee legitimacy / indifferent to EP empowerment as long as it does not may hamper effectiveness and efficiency
Trade-off between *output* and *input* legitimacy	Delegation/pooling creates pressure for enhancing *input* legitimacy at supranational level	Delegation/pooling creates pressure to ensure *input* legitimacy at the domestic level	Delegation/pooling is not accompanied by pressures for enhanced *input* legitimacy

The juxtaposition of alternative 'legitimating beliefs' hence suggests (a) that the 'democratic legitimacy deficit' may not be uniformly perceived among political elites, and (b) that the proposals for its reduction are likely to differ substantially. The above discussion also indicated that political elites value some alternative combinations of *input* and *output* legitimacy, as shown by the shape of the indifference curves (1) and (2) in *figure 2* below.[12] For an actor with indifference curve (1), *output* legitimacy is more important, i.e. he is willing to trade off less *output* legitimacy for a unit increase in *input* legitimacy than is an actor with indifference curve (2) (he will trade off more *output* legitimacy for every unit increase in *input* legitimacy). Utility functions (3) and (4) represent 'extreme' indifference curves: An actor whose indifference curve is represented by (3) has no valuation of *input* legitimacy whereas an actor with indifference curve (4) exclusively values *input* legitimacy. Linking these considerations to the different legitimating beliefs, adherents of an *Economic Community* legitimating belief place more emphasis on the *output* than on the *input* dimension (1). Supporters of a *Federal State* and *Intergovernmental Cooperation* 'legitimating belief' place intrinsic value on the creation of a multi-level governance structure in the case of the former, and maintenance or even strengthening of national democratic elements in the latter

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[12] The idea to conceptualise 'legitimating beliefs' as trade-off functions has been brought to my attention by Christian List.

case. The *Federal State* and *Intergovernmental Cooperation* 'legitimating beliefs' thus put more stress on *procedural* legitimacy compared to adherents of the *Economic Community* legitimating belief.

Figure 2: Trade-offs between *input* and *output* legitimacy

(1) *Economic Community* [ECO] trade-off function
(2) *Federal State* [FS] and *Intergovernmental Cooperation* [IC] trade-off functions
(3) Exclusive valuation of *output* legitimacy
(4) Exclusive valuation of *input* legitimacy

FS, IC and ECO denote variably perceived trade-offs between *input* and *output* legitimacy in the same 'objective' situation (e.g., states facing the introduction of qualified majority voting).

Why is it important to mention these different trade-off functions which define each individual 'legitimating belief'? Three reasons spring to mind. First, as already argued, pooling and delegation may be perceived differently by actors holding different 'legitimating beliefs'. Graphically speaking, actors would disagree on 'meta-level' with regard to where the pooling and delegation-decision would be located in the space presented by *figure 2*. For example, viewed through the lens of the *Economic Community* 'legitimating belief', the decision to institute (super)majority voting produces a different (perceived) combination of *input-output* legitimacy (ECO) in comparison to what a sponsor of the *Federal State* legitimating belief would perceive (FS). Secondly, as a result of the disagreement on the nature of the 'legitimacy deficit', different solution-strategies will ensue: Adherents of different 'legitimating beliefs' will attach different weight to the 'legitimacy deficit' while proposing different solutions as to how the 'legitimacy deficit' should be tackled. Thirdly, alternative 'legitimating beliefs' may resonate differently with the constitutional reality of the European polity and the discourse about further pooling and delegation in the European Union. Vivien Schmidt has argued, for example, that externally induced changes, such as pooling and delegation, necessitate a public discourse, legitimating the concomitant challenges for policies, politics and polity:

"... such changes in many cases strike at the very core of national values and identity with regard to traditional understandings of economic organisation, social welfare, and even political democracy", and consequently "the elites responsible for instigating such change seek to come up with a public discourse of redefining those core values and understandings in keeping with the new realities." (V. Schmidt, 2000: 278)

Yet, as has been indicated in this section, "[a]ny such discourse will of necessity be quite different from one EU Member States to the next, given the fact that Member States start from very different economic, institutional and ideational specificities, have responded to global and European pressures differently, and have, therefore, come up with different kinds of public discourses constructed by different mixes of elites." (V. Schmidt, 2000: 278) While, for example, the *Federal State* 'legitimating belief' resonates nicely with the multilevel nature of Community governance, supporters of the *Intergovernmental Cooperation* 'legitimating belief' will find it more difficult to accept and also *justify* – in principle – the constitutional reality of Community governance. Proposition 2 summarises the main tenets of this section.
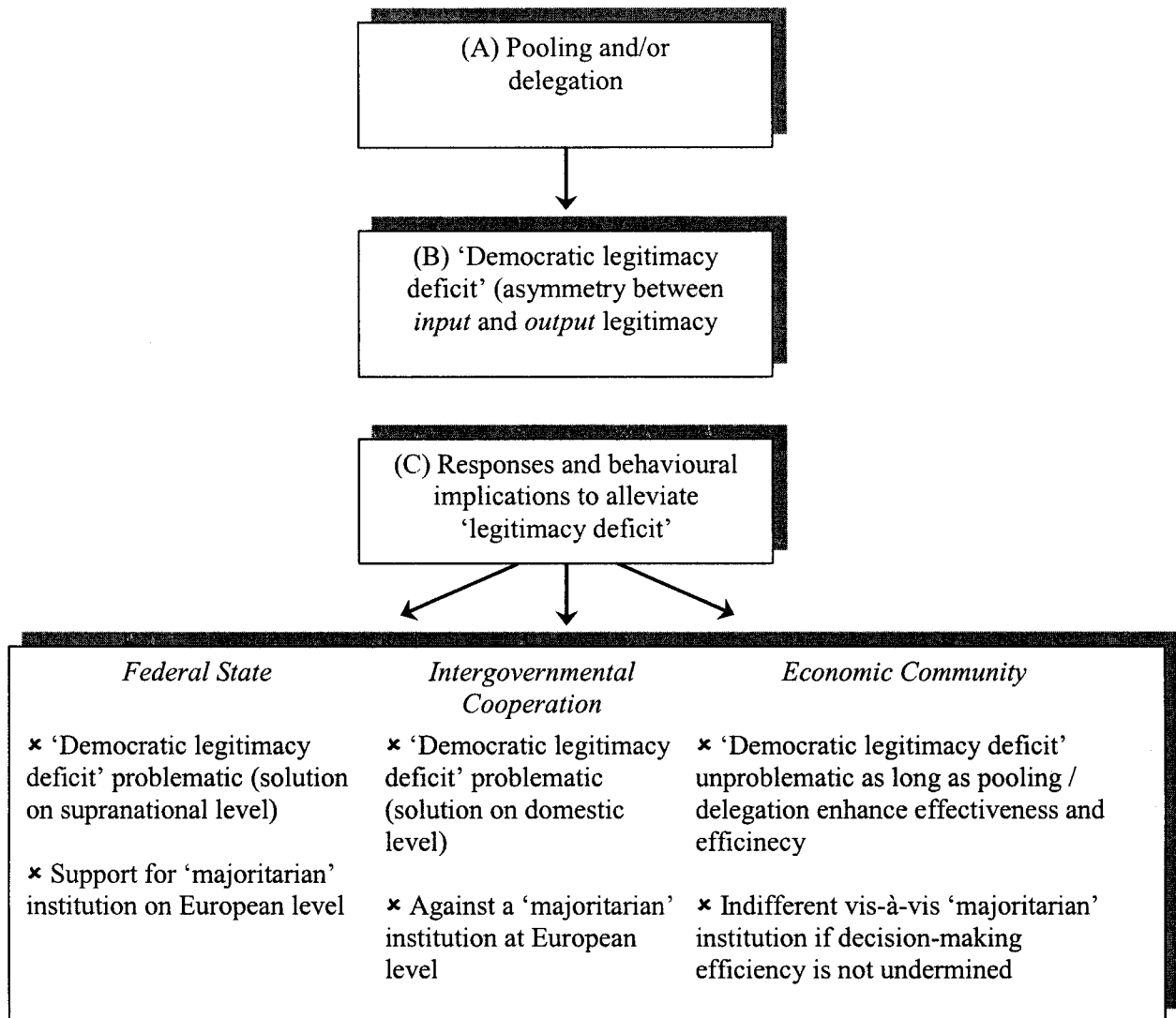

Proposition 2

Alternative proposals to create and reform institutions with a view to reducing the asymmetry between *input* and *output* legitimacy (i.e. the 'legitimacy deficit') are likely to reflect differences in 'legitimating beliefs' held by different political elites. Furthermore, the severity with which political elites perceive the 'legitimacy deficit' varies: It is perceived strongest by supporters of the *Federal State* and *Intergovernmental Cooperation* 'legitimating beliefs' and weakest by adherents of the *Economic Community* 'legitimating belief'.

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5. Summary and implications for the constitutional development of international polities

In this paper, I have specified (a) the conditions under which different national political elites feel compelled to tackle to 'legitimacy deficit', and (b) the different possible interpretations of the severity and institutional reform consequences of the 'legitimacy deficit' (grounded in different 'legitimating beliefs'). The creation and reform of supranational polities follows the two avenues laid out in section 3 and summarised in *Figure 3*: Where pooling and delegation occur (A), political elites will be aware of the challenges pooling and delegation will pose to *input* legitimacy, i.e. procedural mechanisms of interest intermediation and accountability at the domestic level ('democratic legitimacy deficit') (B). Yet, the perception of the nature and severity of the 'democratic legitimacy deficit' are likely to differ depending on which 'legitimating belief' guides behavioural responses (C).

Figure 3: The construction of supranational polities

(A) Pooling and/or delegation

↓

(B) 'Democratic legitimacy deficit' (asymmetry between *input* and *output* legitimacy

(C) Responses and behavioural implications to alleviate 'legitimacy deficit'

Federal State	*Intergovernmental Cooperation*	*Economic Community*
✘ 'Democratic legitimacy deficit' problematic (solution on supranational level)	✘ 'Democratic legitimacy deficit' problematic (solution on domestic level)	✘ 'Democratic legitimacy deficit' unproblematic as long as pooling / delegation enhance effectiveness and efficinecy
✘ Support for 'majoritarian' institution on European level	✘ Against a 'majoritarian' institution at European level	✘ Indifferent vis-à-vis 'majoritarian' institution if decision-making efficiency is not undermined

Looking beyond the European Union, the expectations derived from the proposition presented in this paper are equally applicable to other systems of (international) political order. One of the intentions of this paper was to demonstrate that the forces driving the European Union's constitutional development cannot be solely captured by assuming that the political elites who created and reform the Community's institution do so for purely instrumental reasons, whether they are seeking to lock in policy goals, realise power/status-related preferences or improve the collective problem-solving capacity. It was hypothesised that when democratic states pool and/or delegate sovereignty (for purely instrumental reasons!) they are nevertheless likely to be sensitive to the challenges of sovereignty transfers to the *input* legitimacy of their respective domestic polities. Consequently, certain aspects of the Community polity, and foremost its *majoritarian* element, i.e. the creation and ongoing empowerment of the European Parliament, can only be understood when we explore the link between sovereignty transfers and the perceived repercussions that shifts in sovereignty effectuate on domestic mechanisms of democratic representation and accountability. From this perspective, the argument that the 'democratic deficit' is of 'post-SEA' origin and has only started to 'haunt' the Community polity since the 1990s seems flawed: In my own work, I have shown that political elites' perception of the existence of a 'democratic deficit', following decisions to delegate powers to supranational agents, and to pool budgetary and legislative powers, has produced calls for a 'democratisation' of Community-level procedures

and institutions, albeit to varying degrees as hypothesised in proposition 2 (see B. Rittberger, 2001, 2003).

Notwithstanding the more recent debates about global (democratic) and cosmopolitan governance, it is noteworthy that discussions and discourse about the 'democratic deficit' have centred most prominently on the EU. Eric Stein (2001) shows that a correlation exists between the level of integration of an international organisation (a measure which includes, *inter alia*, the degree to which sovereignty is pooled and delegated) and the public discourse (mirrored in statements by academics, practitioners, authoritative spokespersons etc.) about the "democratic-legitimacy deficit" (Stein, 2001: 489) of the functioning and structure of the international organisation. Stein finds that "[i]n an organization where the rule of consensus prevails", i.e. an organisation with an intergovernmental decision-making mode, "and [where] the area of activity is essentially technical and relies on "independent" experts, the ['democratic deficit'-]discourse does not arise or is muted. ... At the point, however, where the member states become subject to majority vote and the organization's competence is broad enough to require the settings of priorities and mediation between conflicting interests and values, the level of discourse in democratic societies rises, and becomes linked to a more general debate on reforming the organization." (Stein, 2001: 530) Comparing four different international organisations, Stein finds that the EU has the highest level of integration and displays the highest level of discourse about the 'democratic deficit'. With regard to the World Trade Organisation (WTO), where delegation of certain judicial functions has occurred, Stein shows that "the discourse originated in the use of the adjudicatory power of the institution." (Stein, 2001: 530) In contrast, international organisations such as the World Health Organisation (WHO), an essentially "technical" agency (Stein, 2001: 496), or regional economic groupings such as North American Free Trade Agreement (NAFTA) remain essentially state-based organisations with comparatively low levels of integration and consequently, the 'democratic' or 'legitimacy deficit'-discourse does not arise. Stein's findings not only strongly correlate with the arguments advanced in this paper and empirical evidence presented elsewhere (B. Rittberger, 2003), his findings also amply back one of the main propositions advanced in this paper: Where political elites pool and delegate sovereignty, it is likely that these political elites perceive a 'democratic legitimacy deficit'.

One goal of this paper was advance causal arguments and testable propositions which can help us explain why, as of yet, the institutional settings of other international organisations do not contain strong representative or *majoritarian* elements. While other institutionalised forms of inter-state cooperation are some distance away of pooling or delegating major portions of their sovereignty, recent calls by globalisation critics, the media, academics and politicians to alleviate the 'democratic deficits' inherent in the functioning and the trajectory of the actions of the WTO and international financial institutions such as the World Bank and the International Monetary Fund (IMF) may, in the future, pave the way for further regional or even global *majoritarian* institutions (epitomised by a 'global parliament' suggested by Falk and Strauss, 2001, 2002) to legitimise international governance in a world in which the production and distribution of benefits from socio-economic and security cooperation transcends the capacity of individual nation states (see, for example, V. Rittberger, 2000). Yet, the vision of a "global parliament" is written off by Joseph Nye as presently unattainable owing to the absence of a "sufficiently strong sense of community" which renders the extension of domestic and democratic voting procedures to the global level not necessarily practical nor acceptable to minorities (Nye, 2002).[13] Fritz Scharpf underlines this argument

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[13] According to Keohane and Nye, the creation of a 'global parliament' reflects a cosmopolitan view of democracy which departs from the assumption that the globe is one big constituency. This, however, "implies the existence of a political community in which citizens of 198 states would be willing to be continually

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arguing that *majoritarian* decision-making institutions on a global scale have its limits, in particular in *redistributive* policy areas where inter- or supranational solutions (though they may be more effective than unilateral ones) do not (yet) command public acceptance. This is because the European Union (and also any other international organisation) is "very far from having achieved the 'thick' collective identity that we have come to take for granted in national democracies ..." (Scharpf, 1999: 9), and only where the "belief in a 'thick' collective identity can be taken for granted, majority rule may indeed lose its threatening character, and it can also be relied upon to legitimize measures of interpersonal and interregional redistribution that would not be otherwise acceptable" (Scharpf, 1999: 8-9). While thus 'economic man', or the *bourgeois*, thinks and acts in categories beyond the nation-state, benefiting from the opportunities offered by international cooperation, 'social man', or the *citoyen*, continues to be caged in national categories, norms and identities which partially constrain the delegation of sovereignty from the domain of domestic polities to the inter- or supranational level (see Zürn, 1996: 34). While this may be true for certain policy areas, it does not preclude that political elites continue to pool and delegate parts of their sovereignty in policy areas where the 'thick' collective identity-requirement is less constraining, such as in *distributive* and *regulatory* policy areas (see, for example, Majone, 1996; von Beyme, 1998; Scharpf, 1999). Even if we accept that pooling and delegation is most likely to occur in certain designated policy areas of regulatory and distributive politics, and if we accept that this is most likely to occur in a regional rather than a global context, the arguments advanced in this paper still stand firm. Wherever democratically organised states pool and delegate sovereignty, questions of democratic accountability and representation are likely to loom large, and consequently, calls to alleviate the asymmetry between *output* and *input* legitimacy are likely to be mirrored in demands for *majoritarian* institutions at the supranational level.

Although this paper's dominant focus was on the EU and the debate surrounding its 'democratic deficit', this paper has equally suggested that the causal relationships stipulated by the different propositions are not at all restricted to the study of the EU. Why is it, for example, that the European Parliament – with its supervisory, budgetary and legislative powers, today, is the most influential parliamentary assembly in the universe of international organisations? Why do the parliamentary assemblies of, for instance, the Council of Europe or of the Western European Union merely fulfil a consultative function and lack budgetary, legislative and supervisory powers? These differences in the strength of parliamentary assemblies in international organisations thus supply important variation that needs to be explained. To account for this variation, we have to specify conditions under which we expect national governments to opt for the creation and empower of parliamentary assemblies in international organisations. This paper has provided one route to explain this variation: The decision of national governments to *transfer portions of their sovereignty* through pooling (e.g. by introducing majority voting procedures among Member State 'principals') and delegation (e.g., by transferring decision-making powers to independent 'agents') triggers a situation in which 'principles' (in democratic polities) are likely to perceive a 'democratic legitimacy deficit'. This 'democratic legitimacy deficit' is characterised by an asymmetry between the enhanced problem-solving capacity of the international polity as a result of pooling and delegation (whereby the *output* legitimacy of the polity is enhanced) and domestic procedures for interest representation, interest mediation and democratic accountability (whereby the *input* legitimacy of the polity is reduced). The causal relationship between transfers of sovereignty, the perceived 'democratic legitimacy deficit' and proposals

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outvoted by a billion Chinese and a billion Indians. ... Most meaningful voting, and associated democratic political activities, occurs within the boundaries of nation-states that have democratic constitutions and processes. Minorities are willing to acquiesce to a majority in which they may not participate directly because they feel they participate in some larger community." (Keohane and Nye, 2000: 33)

to enhance the procedural legitimacy of decision-making process is captured by the following proposition:

> Political elites are likely to perceive a 'democratic legitimacy deficit' when they engage in the pooling and delegation of sovereignty to manage socio-economic and security interdependencies. This perceived 'legitimacy deficit' is the driving force behind attempts of political elites to democratise the institutional set-up of and decision-making procedures within international polities.

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