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Abstract

The European Union is frequently held up as an example of the potential of international institutions to transform international politics ‘beyond the nation state’. Students of international organization frequently refer to the EU as the most advanced such body and to its institutions as amongst the most powerful and independent to be found in world politics. In holding up the European Commission as an exemplar of this power and independence, they echo claims made in a wave of theoretical literature that appeared in the 1990s.

This article takes issue with the ‘supranationalist orthodoxy. Proponents of historical institutionalism, rational choice institutionalism, supranational institutionalism and multilevel governance emphasised the limitations of state power in EU decision making and stressed the ability of the supranational institutions, especially the European Commission, to enhance its influence at their expense. Yet, contrary to their expectations, European integration since the 1990s has been marked by a re-assertion of power on the part of the member states and a relative decline in the status of the Commission. We argue that the supranational theories based their generalisations on an atypical period in the Community’s history and that their theorising is marked by three important weaknesses: first, they downplay the resources of the member states, largely because they rely on a reductive concept of power as information; second, they reproduce (other) limitations of the principal-agent model; and third, two of the theories, employ assumptions about institutionalism and institutionalization that are at odds with the use of those concepts in the wider literature.

At the same time, rejection of the supranationalist orthodoxy does not entail endorsement of existing variants of intergovernmentalism. Both liberal intergovernmentalism and institutional intergovernmentalism fail to recognise the full range of member state capacities. Rather recognition of a fuller range of member state capacities provide the basis for the construction of an alternative theoretical approach.
INTRODUCTION

The European Union occupies a particular place in debates over the nature and role of international organizations. Partly this is because these debates have been marked by a ‘longstanding and deeply entrenched Eurocentrism’ (Acharya and Johnston, 2007 13). Partly too, because there is a marked tendency in the broader literature about IOs to assume the effectiveness of the EU and of its constituent institutions. Thus, a recent discussion of the effects of centralisation and independence on the role and potential of IOs did not draw upon examples from the EU because it represents an ‘exceptional case of institutionalization’ (Abbott and Snidal, 1998 4, fn. 1). Finally, in both academic and policy making circles, there is a tendency to assume that European integration can serve as some kind of ‘model’ for other regions and other institutions: Ernst Haas spoke of integration as both a ‘European’ and a ‘universal’ process (Haas, 1961).

The European Commission has played a central part of the development of the European Community and subsequently European Union, contributing to, and to a large extent defining, the uniqueness of the latter as an international organization. The Treaty of Rome placed it at the heart of Community decision making and entrusted it with responsibility for sustaining the momentum of integration. For twenty years from the mid-1960s, its role was diminished as national governments re-asserted leadership over European institutions, but with the single market programme and the relaunch of the European project under the Delors Commission in the mid-1980s, the Commission re-asserted its influence. The resurgence of the Commission and its renewed dynamism led to the emergence of a new supranationalist literature, composing proponents of historical institutionalism (Pierson 1996), rational choice institutionalism (Pollack 1996, 1997), multilevel governance (Hooghe, Marks and Blank 1996), and supranational institutionalism (Stone Sweet and Sandholtz 1998a, 1998b), from which the broader IO literature referred to above draws heavily.

According to the new orthodoxy, the relaunch of the European project under the leadership of the Delors Commission marked a decisive and irreversible shift of power
from the member states towards the supranational institutions, and in particular the Commission.\(^2\) Principally in response to the state-centric perspective, which placed national governments firmly in control of European integration, the new scholarship emphasised the resources at the disposal of the Commission. It stressed the latter’s capacity for independent action and ability to pursue its own preferences even when these diverged from those of the member states, while at the same time highlighting the difficulties faced by these states in maintaining or (re-) asserting their authority over it.

In what follows, we make three arguments. The first is that institutional developments within the EU since the 1990s have served to confound these claims. The late twentieth and early twenty-first centuries have witnessed a resurgence of member state influence over the Commission and within the EU more generally. Since the 1991 Maastricht Intergovernmental Conference (IGC), governments have re-asserted their dominance of the EU system. Far from demonstrating the capacity for independent action that the new scholarship ascribed to it, the Commission has become increasingly constrained. This is not to claim that the Commission is not still an important actor, that it has been totally marginalised, or even that in absolute terms it has less power than in the early 1990s. However, relative to other actors and institutions it has become considerably less influential than it was during the Delors era and to that extent is in decline. The member states have placed limitations on its decision-making power, have downgraded its role and circumscribed its autonomy. In short, the shift of power predicted by the majority of theorists in the 1990s has not taken place.

Second, we argue that the supranational theories betray a number of weaknesses.\(^3\) As well as basing their generalisations on an exceptional period marked by Commission activism and a coincidence of preferences among member governments and the Commission, there are important weaknesses in their theorising. Although there are important differences in the aims, assumptions and emphases between the approaches, they share a number of common shortcomings.\(^4\) Most importantly, they misconstrue the respective powers of the member governments and the Commission, understating the former’s and exaggerating the latter’s. This stems partly from a neglect of the formal
prerogatives in the possession of the member states, which enables governments to exert considerable influence over the EU institutional structure, decision-making processes, the content of legislation, and the shape, organization and ambitions of the Commission. Partly, it is due to the metric that they employ to measure the powers of member governments and EU institutions. Information is not the only important resource, nor arguably the most important, especially in the case of nation states, which are not ordinary actors. The central concern of the supranational theories with information leads them to overlook the other resources at the disposal of member governments -- a serious weakness. A further weakness is the reliance of the supranational theories on the principal-agent model, which leads them to reproduce the problems associated with that model. Finally, their understanding of institutions, institutional development and especially institutionalization is problematic.

The third argument presented below is that rejection of the supranationalist orthodoxy does not imply acceptance of any established variants of intergovernmentalism. The re-assertion of member state control cannot be accounted for in terms of the resources or capacities identified either by liberal intergovernmentalism or by institutionalist intergovernmentalism. Although the bargaining power of member governments at IGCs (Moravcsik 1993, 1998) and the ‘manpower’ available to them (Moravcsik 1999), on the one hand, and the location of the Council in the legislative process (Garrett 1992, 1995a, 1995b, Garrett and Tsebelis 1996, Tsebelis and Garrett 2001), on the other, are important, governments command a far broader range of resources. The identification of these latter provides a first step in developing an alternative perspective.

The discussion is organised into three parts. The first reviews the claims of the new supranationalists. The second examines how the member states have re-asserted their pre-eminence within the EU system and investigates how the dynamics of the relationship between governments and Commission have changed since the early 1990s. Section three explores the weaknesses in the theoretical narratives of the supranational orthodoxy and identifies their sources. It also discusses the limitations of liberal and institutional intergovernmentalism and why, therefore, rejection of the supranational orthodox does
not imply endorsement of these accounts. In identifying the full range of resources available to member states, it proposes the basis of an alternative theoretical approach.

**THEORIZING INTEGRATION IN THE 1990s: THE SUPRANATIONAL ORTHODOXY**

Until the 1990s, the EU literature was dominated by a debate between Intergovernmentalism and Neofunctionalism which originated in the 1950s. Intergovernmentalists, writing in the realist and neorealist traditions (Rhodes 1995), stressed the centrality of states in shaping the development of the EC/EU (Hoffmann 1966, 1982; Milward 1992, 1993). Neofunctionalists, by contrast, while not necessarily predicting the disappearance of the nation state (Schmitter 1996), highlighted the influence of supranational institutions and domestic interests in advancing integration (Haas 1958, 1961).

In the 1990s, however, Neofunctionalism was superseded as intergovernmentalism’s main adversary by a series of new perspectives which, for the sake of convenience, we refer to as supranationalist theories. The proponents of these perspectives utilised analytical tools drawn from institutionalism and reasoning inspired by the principal-agent model to devise more sophisticated understandings of the EU than either intergovernmentalism in its traditional form or Neofunctionalism. Thus, new institutionalism in both its historical and rational choice incarnations (Pierson 1996; Pollack 1996, 1997), multi-level governance (Marks 1992, Marks, Hooghe and Blank 1996), and supranational governance (Sandholtz and Stone Sweet 1998) contested the intergovernmentalist view that member states control the Union and its development. Emphasizing the limits of state power, they argued that the supranational institutions in general and the European Commission in particular were powerful actors, capable of independent action even in the face of member state opposition. Importantly, and highlighting a distinction that proponents of intergovernmentalism had collapsed or neglected, supranational theorists asserted that ‘even collectively, national governments
are constrained in their ability to control supranational institutions they have created at the European level’ (Marks et al 1996: 352).\(^7\)

Though differing from each other in significant respects, the supranationalists share a number of core convictions and beliefs about the future of European integration. In addition, they draw, albeit to varying degrees, on the principal-agent model, construing supranational institutions as ‘agents’ of the member state ‘principals’.

First, they hold that the Commission commands powerful resources that enable it to exert a decisive influence not only in day-to-day policy making, but in decisions of a history-making kind, such as those taken at IGCs or in the European Council. As a consequence, it is able to persuade, cajole and even compel member states to embark down paths that they otherwise would not have done. Once these choices have been made, moreover, it becomes difficult, if not impossible, for them to be reversed.\(^8\) Second, the supranational theorists argue that, although control mechanisms of various sorts are available to governments (Pollack 1997: 118-9), they are not necessarily easy to use. The limits on the ability of governments to exercise full control over the Commission enable it to increase its autonomy and, over time, to accumulate even greater influence. Once the gaps in control emerge, they are difficult, if not impossible, to close.

Although drawing on different analytical approaches, supranational theories base their expectations on four premises concerning the institutional structure of the EU, the distribution of resources among key actors and their ability to mobilise them, and the irreversibility of change.

*The supranational institutions: interests and resources*

A first assumption is that formal stipulations concerning the independence of these institutions serve to render them independent of the preferences of member states. Though created by national governments and entrusted with responsibilities to perform on their behalf, ‘the current functioning of institutions cannot be derived from the aspirations of the original designers’ (Pierson 1996: 127). The supranational institutions
are new actors with their own interests, which are likely to ‘diverge from those of its creators’, and they command resources that enable them to pursue these interests, including ‘expertise and delegated authority’ (Moe 1990: 221).

Crucial in terms of the Commission’s ability to pursue these interests is its supposed access to information, which bestows particular advantages, reinforced by its role as ‘process manager’ (Eichener 1992), which places it at the centre of the policy process and ensures that its officials develop negotiating expertise and experience. Though ‘small and thinly staffed’ according to Marks et al (1996: 355):

its position as interlocutor with national governments, subnational authorities and numerous interest groups gives it a unique information base. The Commission’s job in reducing transaction costs of policy co-ordination among Member State governments provides it with unparalleled access to information and, therefore, the means for independent influence vis-à-vis those governments.

In keeping with their intellectual roots in principal-agent accounts of delegation, supranationalist theorists emphasize the importance of moral hazard -- the influence derived by the Commission as a consequence of the asymmetry of information it enjoys.

In addition, they highlight its significant formal powers within the EU system. Particular attention is paid to its formal monopoly over policy initiation, as a consequence of which the Commission occupies a pivotal position ‘vis-à-vis both competing agenda setters and the Council of Ministers in a setting of incomplete information’ (Pollack 1997: 102), giving it ‘significant autonomous influence over the agenda’ (Marks et al 1996: 356). Moreover, judicious use by the Commission of its extensive autonomous executive powers, in areas such as competition policy, state aids, agriculture, commercial policy and the internal market (Marks, et al., 1996 367) enables it to lever governments into adopting actions that, independently, they would not have chosen. The Commission’s ability ‘to formulate very precise regulations on specific policies’ (1996: 355) is a further source of power that allows it to influence outcomes.
Finally, supranationalists argue that certain organisational features of the Commission work in its favour. The relative permanence of the staff of supranational institutions (Pollack 1997: 102) contributes further to their informational advantages over national governments. According to Pierson (1996: 156), the ‘restricted time horizons of national decision makers’ limit their ability to control the supranational institutions. The demands of the electoral cycle and relatively short periods in office lead politicians in the member states to give greater priority to the short-term (Pierson 1996: 136). By contrast, the permanence of the staff of supranational institutions (Pollack 1997: 102) adds to the latter’s informational advantages.

Moreover Marks et al contend that the Commission has a distinct advantage ‘as a hierarchical organization … to present a more coherent position than the Council’ (1996: 367). Whereas the Council is multi-tiered and fragmented, making it difficult to present a united front or to engage in hard-bargaining, the Commission finds it easy to formulate and defend a unified and coherent institutional position.

*Constraints on (multiple) member state principals.*

On the one hand, therefore, the Commission is independent of, possesses informational advantages over, and enjoys significant formal powers and organisational resources that combine to allow it to exert significant influence over the EU system, even in the face of member state opposition. A corollary of the power of supranational institutions, according to the supranationalist approach, is the weakness of member states. Governments are constrained in their ability to influence the development of the European Union over the long-term as a result of inherent limitations, which work systematically to strengthen the supranational institutions.

The first is related to resources. Drawing on principal-agent models, as we have seen, supranationalists emphasize the fact that, ‘in the EU. . . information is largely controlled by the supranational Commission’ (Aspinwall and Schneider 2001: 7; see also Pollack 1997: 108; Pierson 1998: 40). The fundamental reason for this is that ‘both monitoring
and sanctioning are costly to member state principals,’ {Pollack, 1997 #34@101} the implication being that member states lack the resources necessary in order adequately to control the supranational institutions.

The institutional structure of the Union requires that states take action in combination if they are to influence outcomes. However, shifts in the institutional and policy preferences of individual governments over time make stable coalitions difficult to sustain, thereby limiting the ability of member states effectively to monitor or sanction the supranational institutions. Moreover, the task of coalition-building has been further complicated by successive enlargements. The supranational institutions face no such difficulties. They pursue long-term goals that were defined in the founding treaties of the Union. The EU’s complexity operates to their advantage, enabling them to outmanoeuvre the member states. According to Pierson, for example, issue density in the European context generates ‘overload’ and ‘spillover’, producing ‘interaction effects’ that lead to outcomes that are unlikely to have been anticipated at the outset by national governments (Pierson 1996: 136-9). For Marks et al, meanwhile:

The complexity of policy-making across disparate territories and multiple actors, the changing patterns of mutual interaction among policy arenas, the sensitivity of EU decision-making to international and domestic exogenous shocks – these contribute to a fluid and inherently unpredictable environment which dilutes the extent to which Member State decisions at time T₀ can control supranational actors at T₁ (1996: 355-6).

The EU’s opacity, its institutional density and complexity, is in itself a significant obstacle to member governments. The existence of multiple principals with conflicting preferences is a further impediment, since it allows supranational agents considerable scope to enhance their autonomy (Pollack 1997: 101). The presence of multiple principals ‘prone to competition and conflict’ not only makes monitoring and control over the agent problematic, but also leads to compromise and therefore room for the agent to exploit in treaty and other negotiations (Marks et al 1996: 101).

The problems confronting national governments are compounded by the decision rules for applying sanctions, overruling legislation, and changing agents’ mandates (Pollack
1997: 129). As Pierson notes, when gaps emerge – when divergent preferences between principals and agents become manifest -- `change-resistant decision rules make it difficult for member states to reassert their authority' (Pierson 1996: 123). Where the decision rule is unanimity, as is the case for institutional change in the EU, the barriers to reform are particularly high. While a member states needs to muster agreement among all its partners to introduce change, the Commission ‘need only dent the united front of state executives in order to block a proposed change’ (Marks et. al 1996: 354). Pollack famously describes treaty change as the ‘nuclear option’: ‘exceedingly effective, but difficult to use – and … therefore a relatively ineffective and noncredible means of member state control’ (Pollack 1997: 119).

**supranationalism: an irreversible dynamic**

A final element of the supranational orthodoxy, emphasised especially by proponents of supranational governance and of historical institutionalism, is that the movement towards supranationalism is irreversible. Once the EU becomes involved in a sector, member governments are increasingly powerless to influence outcomes, since intervention initiates a process of institutionalization:

> Once movement toward the supranational pole begins, European rules generate a dynamic of its own, which we call institutionalization ... because of institutionalization, EC policy domains can become more supranational without some, or at times a majority of, governments wanting it or begin able to reverse it’ (Stone Sweet and Sandholtz 1998a p. 16).

Once it begins, member governments are unlikely ever to be able to regain control:

> The rule-centred logic of institutionalization ... suggests why it is difficult and sometimes impossible, for governments to reverse the shifts toward supranational governance that have occurred. The Treaty -- the constitution of the European policy -- fixes the rule making processes of the EC and the ECJ is authoritative interpreter of this constitution’ (Stone Sweet and Sandholtz 1998a p. 19).

Invoking Paul Pierson (1996, 1998), Stone Sweet and Sandholtz contend that two logics capture why, once movement in a supranational direction has begun, it is unlikely to be reversed:

> ‘The first has to do with path-dependence, the second with principal-agent relations ...: first, ... significant gaps emerge between member-state preferences and the
functioning of EC policies and institutions; and second, that once such gaps develop states cannot close them’ (Stone Sweet and Sandholtz 1998a p. 19).

The latter is the ‘crucial’ dynamic. Sunk costs, decision rules and unintended consequences lead ‘institutional and policy outcomes [to] become “locked in”, channelling politics down specific paths and closing previously plausible alternative’ (Stone Sweet and Sandholtz 1998a p. 19)

The supranational theorists’ challenge to intergovernmentalism was, therefore, based on an identification of dynamics rooted in structural features of the Union that work systematically to enhance the power of the supranational institutions. While careful not to write national governments out of the picture – indeed, Marks et al (1996) concede the possibility that the member states may not only be powerful actors, but be the most powerful actors, in the Union – the new perspective emphasised the strategic nature of resources available to the supranational institutions and the serious limitations on the ability of governments to monitor and control them.

From the supranationalist analyses, several testable claims concerning the future development of the Union can be teased out. Writing in the wake of the achievements of the late 1980s and early 1990s – the single market project, the launch of economic and monetary union, and the expansion of Community competencies – the supranational theorists foresaw a continuation of the trend towards supranational governance with a growth in the powers of the supranational institutions as the Community’s responsibilities multiplied. As a result of the structure of opportunities available to them, the supranational institutions would command ever-increasing authority and would continue to push for, and acquire, even greater influence. According to this orthodoxy, which from which only a small number of intergovernmentalists demurred, a decisive shift had taken place. A dynamic process had been initiated whereby member governments were ceding their authority to the European Union and where the role of the European Commission was expanding. Moreover, in view of the formidable barriers that confronted them,
enumerated by the supranational theorists, the member states would not be able to re-gain their predominance.

INTEGRATION SINCE MAASTRICHT: MEMBER STATE RESURGENCE, COMMISSION DECLINE

Although the supranational orthodoxy anticipated a shift in the institutional balance within the EU in a direction away from member state control, movement over the past two decades has in fact been in precisely the opposite direction. From the Maastricht IGC in 1991, the member states have strengthened their control over the EU and the integration process, not only via regular treaty amendments but also in terms of the day-to-day functioning of the Union. Member governments have asserted their leadership, while the Commission, compared to its standing during the Delors Presidency (1985-1995), has declined. Whilst it may be argued that the Commission is more powerful in absolute terms at the beginning of the twenty-first century than in the 1990s, in relative terms it is less powerful. Member governments have altered the institutional balance of the Union through both the formal revision of the treaties and through assertion of the role of the European Council so as to strengthen and enshrine their authority, they have been more attentive to developments at the EU level and more likely to intervene, and they have sought to deny the Commission the opportunities to extend its influence.

Evidence for these changes is to be found in three main areas. The first is in changes to the EU’s institutional architecture. Member state leadership over the scope and direction of integration has been institutionalised through the strengthening and expansion of the role of the European Council, and member governments have been more attentive to, and more read to intervene in, day-to-day policy making. Second, few new responsibilities have been delegated to the Commission, moderate figures known to the member states from the European Council only have been nominated to the Commission Presidency, and the Commission’s budget and internal organization have been kept under close control. Third, the Community method has ceased to be the default method of decision
making. Where new competencies have been delegated to the Union, the inclination of the members states has been to vest decision-making authority in the Council and only later to allow the Commission its traditional policy initiation function. Similarly, when new bodies or structures (e.g. agencies, networks) have been created or new forms of cooperation undertaken (such as the open method of coordination) they have been designed so as to ensure that the possibilities for bureaucratic creep or agent drift are limited, and that control by member governments is assured.

(Re-)Setting the rules
supranationalists, as we have seen, tend to reject the possibility of member states using constitutional change as a means of controlling the EU institutions. Yet recent history belies such claims. For one thing, IGCs have became more frequent. Treaty negotiations have been an almost constant feature of the EU landscape since 1990, with revisions to the Treaty of European Union agreed at Amsterdam in 1998, Nice in 2000 and again in the process stretching from the Convention on the Future of Europe (2002-3) to the ratification and the implementation Lisbon treaty. Moreover, IGC agendas have became steadily longer, the level of detail greater, and their expansion into policy more extensive (examples?).

The frequency of IGCs has had two implications. First, as we shall discuss later, the ‘shadow of treaty amendment’ has constrained the Commission. Second, governments have used these occasions to revise the Union’s constitutional framework. The clear trend has been towards and enhancement of their own influence and limitations on the power of the Commission. Thus, at Maastricht the three pillar structure was explicitly intended to rein in Commission ambitions and to establish member state control over policy formulation in the new – and politically sensitive -- areas brought within the scope of the European Union (Menon 2003a).10 The subsidiarity principle enshrined in the treaty was a more generalised attempt to curb Commission ambitions.

Member states also created new institutions to entrench their control. The creation of the a permanent chair for the European Council, the central institutional innovation to
emerge from the Convention on the Future of Europe, is one example. The implications for the Commission of such a development are dramatic – a point celebrated by Jack Straw, the British Foreign Secretary in presenting his government’s White Paper on the IGC to the House of Commons.\(^{11}\) According to Pascal Lamy, EU trade commissioner, the idea ‘would certainly be to the detriment of the Commission, which would be transformed into an administration serving the council’ (Financial Times 16 October 2002).\(^{12}\) Similarly the creation of a High Representative for Foreign Policy has led to an effective downgrading of the Commission’s status in terms of the external representation of the Union.

Another technique perfected by member states was the introduction of new forms of decision making in order to reinforce their position. Thus at Maastricht, in a radical departure from the Community method, the Commission lost its traditional monopoly over policy initiation in the new pillars and member states acquired the right to make formal proposals for the first time. The Treaty of Amsterdam may have transferred migration-related areas – common visa, immigration and asylum policy – from the third pillar to the first, and granted the Commission the right of co-initiative with the Council in respect of the areas that remain (now called ‘Police and Judicial Cooperation in Criminal Matters’), but for a transitional five-year period, the Commission and the member states were to share the right of initiative with regard to the transferred areas. Thus, ‘[f]or the first time in Community pillar history, the Commission’s exclusive right of legislative initiative was violated – albeit with a view to retaking it at a later stage’ (Devuyst 1999: 114).

Member states have also ensured their own centrality in decision-making in new areas of EU activity. In the third pillar, the Council became the key body. Although the Commission’s legislative role was shared with the member states in some areas of JHA, in others, the member states were granted exclusive competence. Only with respect to visa regimes for third country nationals was the Commission granted its traditional monopoly over policy initiation. Similarly, in the second pillar, the General Affairs Council and the European Council, operating by unanimity, became the main decision-
making bodies for the Common Foreign and Security Policy. Representation and implementation were reserved to the Council Presidency, supported by the EPC Secretariat, which became an autonomous unit within the Council Secretariat. The Commission was to be ‘fully associated’ with developments in the CFSP, but enjoyed no legislative powers. The formal structures introduced by the Nice Treaty for managing the EU’s defence capacities, moreover, remained consistent with the intergovernmentalist principle enshrined at Maastricht. The Council Secretariat has been given a key role, within which a significantly increased staff are be responsible for defence policy matters. Furthermore, in a radical departure from established practice, the EU’s satellite centre in Spain has been designated a Council agency.

Furthermore, the member states’ decision to increase Commission accountability to the European Parliament, reinforced at successive IGCs, served to move the Union still further from the original Community model and to constrain that institution still further. Commission accountability to the European Parliament was strengthened at Maastricht by the extension of the Commission’s term of office to five years, making it concurrent with the European Parliament. A new provision (Article 214) required governments to consult the Parliament in regard to their nomination of their nominee for Commission President. The Treaty of Amsterdam institutionalized the Parliament’s interpretation of the provisions of the TEU, granting it a formal investiture power (Hix 2000: 98).

As Majone (2003) has argued, the effect of increasing the EP’s power and the Commission’s accountability to the EP threatens to transform the Commission from a non-majoritarian institution, designed to stand above ideological differences and act independently in the common European interest, into a partisan body, concerned more about its short-term survival and placating parliamentarians than pursuing the long-term objectives set down by the treaties (Majone 2002, 2003). At the Convention this process reached a climax, with the proposal in the draft Constitution that the Commission President be elected by the European Parliament. Increasingly, even the debate about the lack of democratic accountability of the institution may will hinder rather than help a quest for effectiveness (Menon and Weatherill 2002; Majone 2002, 2003), and seems to
have more to do with a continuing obsession with ensuring national control, rather than ensuring that the Commission can play a full and effective role in performing the functions entrusted to it.

The strengthening of the EP’s role in the legislative process has also imposed limits on the Commission’s influence. The co-decision procedure, introduced at Maastricht and extended at Amsterdam and Nice, elevated the European Parliament to the status of co-legislator with the Council, if not yet as an equal, thereby profoundly re-shaping relations within the historic institutional triangle (Commission, Council, Parliament). Co-decision has routinised direct contact between the Council and the Parliament – if a third stage is opened, the two institutions negotiate face-to-face – and has diluted the Commission’s influence in the legislative process where this procedure applies.

Finally, member governments have increasingly taken control of the treaty reform process (Christiansen 2002: Beach and Mazzucelli XXXX). Whereas the Commission played a significant role in the lead-up to, and negotiations at, IGCs in 1985 and 1991, it was not an important actor in Amsterdam or Nice, nor at the Convention on the Future of Europe (Dimitrakopoulos and Kassim 2007) or its aftermath.

Policy and Policy making

Member state attempts to reduce the Commission’s influence have not been limited to history making IGCs. Day-to-day developments have worked in a similar direction. First, the volume and scope of business transacted at European Councils have increased - evidence of ‘creeping competence’ on the part of Heads of State and Government. The agenda of the European Council is no longer restricted only to matters of high politics and troubleshooting, but has extended to include more routine policy deliberation, thereby impinging on the Commission’s traditional role within the institutional system. Most striking in this regard was the adoption at the Lisbon European Council in March 2000 of the strategic goal of becoming ‘the most competitive and dynamic knowledge-based economy in the world, by means of which Heads of State and Government laid claim to leadership across the economic and social policy domains. Objectives were set
under two headings: preparing the transition to the new economy and modernising the European social model. Not only has the European Council defined the aims, but it will also orchestrate their realisation, assuming ‘a pre-eminent guiding and coordinating role to ensure overall coherence and the effective monitoring of progress towards the new strategic goal’ (European Council 2000: 8). Progress towards the achievement of these aims will be reviewed annually at a newly convened special spring meeting of the European Council.

The continued refusal of national governments to reform comitology is a second illustration of member state control at the expense of the Commission. The complex system of committees has been maintained, despite repeated calls for change on the part of the Commission – most recently in the White Paper on Governance (European Commission 2001) -- particularly in relation to management and regulatory committees (Wincott 2001).

Third, the introduction of the open method of coordination (OMC) as part of the Lisbon process exemplifies how member governments have sought to retain control in new areas of cooperation at the EU level. Formally introduced as a new form of EU decision making at the Lisbon European Council (European Council 2000: 8), the method has been applied to macro-economic policy, the employment chapter of the treaty, social policy, and structural policy. The OMC is highly decentralised in line with the principle of subsidiarity, and marks a rejection of both the ‘community method’ based on the adoption of binding legal and non-legal instruments in Brussels, where the Commission plays a key part in ‘policy design, policy-brokering and policy execution’ (Wallace 2000: 28) and the ‘regulatory model’, where the Commission has played the role of ‘architect and defender’ (Wallace 2000: 30).

Though the OMC has taken the EU into areas that were previously the exclusive preserve of member governments (Tholoniat 2010), the Commission’s influence in the OMC is limited. The European Council sets strategic priorities, monitors progress and, with the Council under the Luxembourg, Cardiff and Cologne processes, decides what action is
relevant. Neither does it play a coordinating role. Indeed, co-ordination ‘can arise only when there is support from the European Council...[Its] central role also underlines the intergovernmental nature of co-ordination and ensures that processes remain open in terms of outcomes, such that there is no attempt to centralise policy formation or to introduce top-down methods of integration’ (Hodson and Maher 2001: page?).

A fifth development is the creation of specialized agencies to deal with specific regulatory and management tasks. Whilst some have interpreted these initiatives as a step in the direction of more effective ‘administrative integration’ (Kreher 1997), or a ‘sensible outsourcing of specialised knowledge so the Commission can concentrate on its core tasks’ (Christiansen 2001), they can also be seen as evidence of a concern to limit the Commission’s responsibilities. That the Commission itself fears as much is evident from the White Paper on Governance. Whilst acknowledging that the potential advantage of such institutions lies in 'their ability to draw on highly technical, sectoral know-how, the increased visibility they give for the sectors concerned (and sometimes the public) and the cost-savings that they offer to business' (Commission 2001, 24), the Commission goes on to criticize their functioning and propound a highly restrictive view of where and how they should be deployed (Wincott 2001). Indeed, Commission officials have in practice attempted to restrict the effective authority of agencies, as illustrated by its White Paper proposals for an independent European Food Authority (Majone 2003).

This attitude is partly explicable in terms simply of a desire not to delegate real authority to a potential competitor. It also, however, reflects an understanding that agencies may in fact turn out to be, not independent at all, but rather tools of the member states. In his analysis of the creation of the European Environmental Agency (EEA), Majone (2003) is categorical in stating that ‘comparing the preferences of the main political actors – member states, EP, Commission – with the provisions of Council Regulation 1210/90, one sees that the member states clearly won the contest over institutional choice’. The member states, moreover, succeeded in packing the influential management board of the organisation with their own representative, thus further ensuring not only that the
Commission’s prerogatives in this crucial policy area were challenged but that their own were not.

Economic and monetary union offers yet another illustration of such trends. The passage from the convergence criteria stipulated by the TEU to the birth of the euro has been marked by the increased predominance of ECOFIN as an arena for managing the euro, marking a clear break from the entrepreneurial role played by Delors -- and indeed the Commission more generally, (Jabko 1999) -- in the early stages of the project. The Commission is represented in only two of the three decision-making systems or ‘sets of policy rules’ (Jones 2002) that govern economic and monetary union – economic and employment-related – where it performs a ‘watchdog’ function (Tsoukalis 2000: 162), while the European System of Central Banks and ECOFIN are the key actors in the third, namely, monetary policy.

The economic rules commit the member states to ensuring that their economic policies are consistent ‘with Community objectives, with each other, and with EMU’ (Jones 2002: 47), and establish two accountability procedures. The first, multilateral surveillance, is designed to ensure member state compliance with broad economic policy guidelines (BEPGs) that are adopted annually by ECOFIN and form a common frame of reference for governments. The second, the excessive deficit procedure, concerns the budgetary situation and government debt in the member states. ECOFIN is the central actor in both. As Jones (2002: 48) observes:

The basic model for oversight on economic policy is that the Council establishes the terms of reference, the member states provide the basic information, the Commission and the EFC audit and analyze that information in order to prepare recommendations for the Council, then, finally, the Council decides as to whether the member states have lived up to their obligations … If the Council determines that a particular member state is not in compliance, it will instruct the member state to reform its policies and, if necessary, it will apply relevant sanctions.

The enforcement rules relating to employment, by contrast, are far looser and the position of the Commission still weaker. Although it performs a similar function to its role with respect to the economic rules, its criticisms of performance by national governments are
not translated into sanctions. To cite Jones (2002: 50-51) once more, because ‘…the employment-related rules are process-centred, compliance has more to do with participation than with the outcomes of participation per se … The employment-related rules more closely approximate a form of self help than a form of delegation … The institutions of the European Union are primarily just concerned intermediaries’.

Member state retrenchment has also been evident in existing policies. Thus, whilst the Commission managed to utilize both its own expertise and member state uncertainty concerning the initial functioning of the Integrated Mediterranean Programme to carve out a significant degree of latitude in shaping their operation, by 1993 such uncertainty had dissipated leading to a concomitant increase in member state control (Pollack 1997: 127). Similarly, governments have enhanced their control over agricultural policy. Thus they decided, at the Berlin European Council of March 1999, on the creation of ‘national envelopes’ for spending in the beef and milk sectors, thereby increasing the flexibility they enjoy in deciding on how to disburse funds. A 2003 reform provided them with still more when allocating cash, in that it allowed for gross national payments, leaving national capitals with wide discretion in implementing the new spending regime (Rieger 2005).

Finally, the Commission has not only been less prolific in terms of the output of its proposal, but has also been far less ambitious in terms of the policy initiatives that it has tabled since the mid-1990s. Although it has continued to manage major tasks, many of geopolitical significance, including enlargement, it has generally been reticent. Certainly, with the possible exception of Prodi’s White Paper on Governance, it has not launched initiatives of the magnitude of the Cockfield White Paper, Delors I or II, or the Delors 1993 White Paper on growth, competitiveness and employment. Restraint, perhaps evidence of auto-limitation in the face of the assertiveness of the member states, characterised both the Santer and the Prodi Commissions, and Barroso I. Whilst understandable in the first two cases -- Santer’s nomination was agreed by member governments on account of his modest outlook, perfectly in keeping with his slogan of ‘less, better’; and Prodi assumed office in the wake of the Commission’s resignation --
but has also been a feature of Barroso I. In some respects this is surprising, since not only was Barroso I arguably one of the most ideologically cohesive Colleges and at least in theory enjoyed the confidence of a majority in the EP, but the strengthening of the office of Commission Presidency was further enhanced by organizational changes within the Commission that took place from 2005. At the same time, it may be explained by a concern on the part of the Commission President to be nominated to a second term.

THE SUPRANATIONAL ORTHODOXY AND ITS LIMITS

A review of the period since the early 1990s reveals that the predictions of the supranational orthodoxy have not been borne out. Rather over the past two decades member governments have re-asserted their authority over the direction and development of the European Union. They have not continued to cede power to the EU, nor have they been constrained in the ways anticipated by the supranational theories. Although the experience of other supranational institutions may be different, not only has the Commission not enjoyed the independence foreseen by proponents of the supranational orthodoxy, but it no longer enjoys the status that it occupied under the Delors Presidency. To that extent, there has been no inexorable transfer of functions or competencies from national to supranational institutions.

This section explores why the predictions of the supranational theories have proved to be mistaken. It argues that they betray four main weaknesses. First, they assumed that a phase of integration that was in practice exceptional heralded a permanent change. Their resulting generalisations, therefore, have not held over time. Second, the theories employ an overly narrow conception of power. Not only do they overlook the powers that the member states continued to exercise even during the atypical period of the Delors Presidency, but they exaggerate the importance of information as a source of power asymmetries. The third weakness concerns the reliance of the four theories on the principal-agent model and its attendant assumptions, while the fourth concerns their use of institutionalist theory and their claims about the reversibility of change. In addition, the section contends that existing versions of intergovernmentalism are no better
equipped conceptually or theoretically to account for the re-assertion of member state control.

The supranational theories and their weaknesses

*Generalising from the ‘Golden Age’*

A first problem is that the supranationalist orthodoxy made the error of drawing broad generalisations from a period that proved to be exceptional. The late 1980s and early 1990s formed a unique period in the history of European integration. That the single market programme was launched and achieved such immediate resonance was due in part to the leadership of the Delors Commission, but in part too to a broad consensus between the big three member states, a highly effective Franco-German partnership with Delors, and the mobilisation of the private sector behind the programme. It was not that member governments ceded power or authority to the Commission during this time, but that their preferences coincided with each other and with the Commission President.

Moreover, this period proved relatively short lived. Delors used the success of the SEM as a springboard from which to launch a series of high profile and ambitious initiatives, including, for example, economic and monetary union. Yet his room for manoeuvre was quickly constrained. For one thing, member state attitudes towards the Commission shifted as the member states became increasingly concerned about Delors’ ambitions and challenged Commission intervention in sensitive areas such as culture, education and public health (Pollack 2000: 525). The series of initiatives launched by Delors that threatened to extend the competencies of the Community and thereby intrude in policy domains that had traditionally fallen within the preserve of the member states – social policy, economic policy, and security and defence -- only increased their anxiety.

Indeed, member state re-assertion was prompted by the very successes achieved under Delors. As Jean-Charles Leygues, a member of Delors’ *cabinet*, commented ruefully when in comparing the role of the Commission at the Maastricht IGCs with the negotiations that led to the SEA:
Before we could count on being ahead of other people strategically. We knew what we wanted and they were less clear, partly because they didn’t believe that anything much would follow from the decisions we asked them to make. Now they know that we mean business and they all look for the implications of our proposals

(cited in Ross 1995: 137)

*Mismeasuring power and resources*

The supranational theories also rest on a mismeasure of the respective powers of member governments and the supranational institutions. Curiously, they underestimate the importance of the formal prerogatives possessed by member governments and the ease with which they can be exercised. They dominate the treaty reform process, influence legislative outcomes in the Council, determine as part of the budgetary authority the size of the EU budget and how it is allocated, and, in the European Council, decide the EU’s future. They also nominate the Commission Presidency. These are significant powers, which have allowed member governments to control the size and structure of the Commission. They enable member governments to regulate the day-to-day life of the Commission through the Staff Regulations and the Finance Regulation, and to decide on the size and composition of the College. Member governments have, for example, resisted calls to streamline the College, even though, at least since the Spierenburg Report (European Commission 1979), it has been generally accepted that the number of Commissioners makes genuine collegiality difficult, exacerbates problems of coordination, and produces unnecessary complexity in the accountability of the services, since a portfolio, including responsibility for one or more Directorates-General, has to be defined for each member of the Commission.

The member governments have also used their budgetary powers to constrain the Commission. The use of budgetary tool to rein in bureaucracies can cause problems in terms of threatening programmes that principals want to see successfully implemented (Pollack, 1997 117; Moe, 1987 487). Yet it also represents an effective way of limiting the ability of the Commission to challenge national prerogatives. The member states have continued to delegate additional functions to the Commission and many of them - such as
the administration of the PHARE and TACIS programmes to assist former Communist states in central and eastern Europe - have involved new types of responsibility. Others, such as the various education programmes, may have been far narrower in scope, but have also made severe demands on Commission manpower. However, the willingness of governments to entrust new tasks to the Commission has been unmatched by a commitment to increase the resources, particularly the human resources, necessary to carry them out. DG Competition has a staff of only some 700, with a mere 300 senior officials. As Stephen Wilks has put it, the ‘only plausible explanation for under-resourcing is that member states see resources as one of the few pragmatic ways in which to restrain the ambitions of the DG.’ The 2004 administrative budget of the European Commission was smaller than that of the mayor of London (£2.8 billion, or just over €4 billion). While national bureaucracies eat up, on average, between 23 and 28 per cent of national budgets, the EU institutions together consume a mere 5.5 per cent of a proportionately far smaller budget. Whether the Council is prepared to grant the Commission the staff that the latter needs, following a detailed review of the tasks of the administration and the human resources available to it, is unclear.

Moreover, member governments have used to impose their preferences, as well as to control and constrain the Commission. Since Delors, for example, their nominees for the Commission Presidency have been chosen because of their moderate outlook and lack of federalist leanings. Perhaps the most striking error of the supranationalists when considered against the historical record was their underestimation of the ability of national governments to strengthen their constitutional position relative to that of the Commission. Reform has not proved to be a ‘nuclear option’ and member governments have not encountered insuperable barriers in altering the powers and responsibilities of EU institutions. Rather they have exploited their status as ‘masters of the treaty’ to enhance the role of intergovernmental bodies and to limit the Commission’s influence. Some changes, such as the increased centrality of the European Council and the introduction of the open method of coordination, have been achieved, moreover, without any need for formal constitutional change. Crucially, even given a formal need for unanimity, such as during IGCs, member states have managed to achieve this. The
introduction of the subsidiarity principle and of the pillar structure provided eloquent examples at the time of Maastricht, as did the decision-making systems introduced for policy areas such as ESDP and EMU thereafter.

Nor have decision rules set the barriers too high to achieve member state agreement. A simple reading of formal requirements may give a misleading impression of the nature of decision making. Thus, despite the increased scope of provisions for the use of majority voting in the Council, consensus has remained its rule of thumb. Estimates suggest that only around 10% of decisions are arrived at via a formal vote, while the Financial Times (13 September 1994), claimed that, between 1989 and 1993, only 91 single market decisions out of 233 were adopted by qualified majority. Even on those occasions when it used, the threshold for a qualified majority is set remarkably high. Even for routine legislative decisions on the single market, the requirement is for a majority virtually equivalent to what is needed in some states to pass a constitutional amendment. Nothing can be imposed against the wishes of the largest four member states, whilst they, in turn, cannot push something through without the support of at least seven of their partners.

At the same time, the supranational theories are guilty of exaggerating the Commission’s ability to secure the outcomes that it favours. Although there are areas where the Commission is able to act unilaterally and circumstances under which it is able to compel member governments to take action that they would rather not take (Schmidt XXXX; for a case study, see Kassim and Stevens 2009), these are few and limited. More generally, as recent history has illustrated all too clearly, the exercise by the Commission of its policy initiation function is still dependent on the need to secure member state approval. Both Pollack (1996, 1997) and Marks et. al (1996) place great stress on the agenda setting power of the Commission. Yet even here, the Commission undertakes extensive consultation with the member states at the pre-proposal stage, and endeavours to maximise the chances that an initiative will ultimately be acceptable to at least a qualified majority among national governments. Moreover, as Garrett and Weingast (1993) emphasise, the Council has the last say in the legislative process. The Commission’s agenda-setting power should, therefore, be regarded as conditional.
More broadly, supranationalism overlooks the multiple dependency and ‘multiple accountability’ (Christiansen 1997) that characterise the Commission’s position. The Commission depends for the exercise of its functions on the member states (national administrations for policy enforcement and implementation; national officials in consultative and executive committees), as well as the Council, and the European Parliament, is formally accountable to the European Parliament, to the Court of Auditors, and the European Court of Justice, and is subject to scrutiny by the European Ombudsman.

Furthermore, the supranational orthodoxy attributes to the Commission a capacity for action that the organisation’s internal fragmentation does not warrant. Even if power has been progressively centralised in the hands of Commission President (Kassim 2011), the College lacks cohesion even compared to national coalition governments. The ties that link ministers in national governments, such as ideology, party affiliation or coalition pact, are absent. Below the level of the College, the Commission is an extremely difficult machine to manipulate. What it lacks in size it makes up for in complexity. The services routinely described as ‘silos’, ‘fiefdoms’ or ‘baronies’ by insiders and outsiders alike, tend to be inward looking and reluctant to cooperate with other departments. Hence, the characterisation of the Commission as a ‘multi-organisation’ (Cram 1994).

Fundamentally, however, it is the supranational theories’ conceptualisation of power in terms of information that is most problematic. Borrowing from the principal-agent model, they contend that the Commission’s power stems from the informational advantage it holds over member governments and which the latter are unable for structural reasons to correct. Without ‘some means of acquiring the necessary information to evaluate the agent’s performance, the principal seems to be at a permanent disadvantage, and the likelihood of agency losses seems large’ (Pollack 1997: 108). However, to suggest that the Commission is able to escape the control of national governments and to act autonomously because it benefits from an asymmetry of information is problematic for three reasons. First, even if the Commission has
privileged access to information or expertise that is not available to the member governments, this knowledge does not necessarily translate into power. It is not sufficient for an actor merely to possess information; liberty and a range of institutional capacities are also necessary. The Commission’s possession of superior intelligence in a range of areas certainly does not imply that member governments will permit EU intervention.

Second, member governments have invested extensively in the gathering of information. Prior to Maastricht, the member states had deployed only limited financial and human resources to monitoring EU activity. Thereafter, they began to invest far greater resources in overseeing the activities of the Commission, with a view to preventing or thwarting the kinds of ambitious initiatives that had been such a feature of the Delors Presidency. Thus, governments have established specialist mechanisms to coordinate their European policies and to manage their inputs into EU decision-making (Kassim et al 2000; 2001). The growth of permanent representations offers but one example. Greater financial and human resources have led to a heightened ability to anticipate Commission initiatives and react to them, while the increasing centrality of the member states in decision making has reinforced their ability to set the policy agenda.

Third, and most important, information is not only not the only resource available to member governments, but arguably not the most significant. The formal powers in their possession and their importance have already been discussed, but the array of resources available to states is far broader and far more formidable. The supranational theorists, like comparativists before them (see Hix 1994; Menon 1995), commit the error of assuming that the member states are simply political actors like any other. However, states have particular attributes that differentiate them sharply from other actors. Not least, they are repositories of sovereignty and objects of citizen loyalty, which bestows a unique status that commands respect.

*The weaknesses of the principal-agent model*

The conceptualisation of the relationship between member governments and the Commission in terms of an informational asymmetry is not only weakness of the model
reproduced by the supranational orthodoxy. First, the principal-agent model is (famously) static, which concentrates on the circumstances surrounding the original design of a contract. Although in highlighting the principal’s problem it can be helpful in suggesting strategies for minimising agency drift, it is less useful as a heuristic for modelling a dynamic relationship. This is an important limitation, however, in the case of the EU where member governments have demonstrated a capacity for ‘learning’. Since Maastricht member governments have sought consciously to assert their authority, to control the actions of supranational institutions, and to limit the opportunities for bureaucratic creep or autonomous action on the latter’s part.

Moreover, this response was forced upon governments as a consequence of the growing salience of the European issue. The Maastricht IGC and particularly the post-Treaty ratification process are widely regarded as a milestone in the history of European integration. Until this time, European integration was essentially an elite process, involving the political leaders of Communities, but ignored by the wider population at large outside traditionally Eurosceptic member states such as Denmark and the UK. However, the process that led ultimately to the Treaty of European Union became politicized and, as a result, ‘Europe’ became, and has remained, a salient domestic issue. Anti-Europeanism emerged as a significant political force across much of Western Europe. In whatever form it was expressed, the effect was the same: ‘Europe’ became an issue of domestic political importance and the action of national governments, particularly in grand set-piece negotiations, such as IGCs, were subject to the scrutiny of their domestic media and publics.

The close attention has compelled political leaders not only to take a more instrumentalist approach to integration, but also to ensure the centrality of national governments in decision making at the EU level and to limit the role of the supranational institutions. ‘Politicisation’ meant that Europe could no longer be ignored (Schmitter 2005: 268). Importantly, even if governments have short time horizons, as historical institutionalists have alleged, it does not follow that they neglect developments at the European level. As noted above, they have committed increasing resources to tracking these developments.
A further assumption imported by the supranational theories from the principal-agent model is that the preferences of the Commission and member governments are necessarily divergent. Yet, as the Delors period demonstrates, such a situation does not always obtain. Especially where there are multiple principals, where, as in the case of the EU-15, EU-25 and EU-27, the principals are heterogeneous, and where the principals increasingly seek to influence the action of the agent, the possibility that the preferences of some principals and the agent will coincide is likely to be enhanced.

_Institutionalisation, institutionalism and irreversibility_

A final source of the weakness of two of the supranational theories -- historical institutionalism and supranational governance -- is their application and use of insights from institutionalist theory. A first problem re HI: why the Delors period? where’s the history? A second problem is the telelogical spin that they give to institutionalism: must lead in supranational or federalist direction, but why? differing forms of cooperation. e.g. OMC (Sabel and Zeitlin; Tholoniat). Also, irreversibility.

_The Limits of Traditional Intergovernmentalism_

The foregoing discussion clearly indicates a gulf between developments in the Union since the early 1990s and the predictions of the supranationalists. Yet despite the fact that supranationalism developed in contradistinction to Intergovernmentalist theories, these latter fail to challenge supranationalist analyses as robustly as they could. Thus, whilst Garrett and his collaborators point out that member states enjoy significant power over routine decision making as a function of the Council’s role in the legislative process (Garrett 1992, Garrett and Weingast 1993; Garrett and Tsebelis XXXX), they ignore member state influence over other parts of the system.

Perhaps more significantly, Andrew Moravcsik’s Liberal intergovernmentalism focuses merely on the domination of member states over Intergovernmental Conferences
(Moravcsik 1993: 473; 1998). Indeed, not only does he ignore other significant aspects of the EU – notably the practical policy decisions that emanate from routine policy making – but he evinces some sympathy with supranationalist claims regarding the influence of the supranational institutions within such processes. Thus, he argues that the high transaction costs of legislation, implementation and enforcement provide a rationale for the existence of ‘autonomous, effective supranational administrators’ enjoying significant formal powers (Moravcsik, 1999 302).

Consequently, as Andrew Moravcsik (1999) puts it, why:

should governments, with millions of diverse and highly trained professional employees, massive information-gathering capacity, and long-standing experience with international negotiations at their disposal, require the services of a handful of supranational entrepreneurs to generate and disseminate useful information and ideas?

Neither Intergovernmentalist approach therefore fully captures the full extent of member states influence or the ability of the latter to shape both the institutions of, and substantive outcomes produced by, the Union.

CONCLUSION

The developing relationship between member states and the European Commission undermines the claims of supranationalism that the latter would manage to exploit gaps in member state control and enhance its own autonomy at their expense. The years since the Maastricht summit have clearly revealed the shortcomings of the supranationalist analysis.

predictions of supranational theories. shown that at odds with developments since 1990s. have sought to identify failings in theorising and sources of those failings. argued not only that supranational theories in current form cannot explain developments, but that
existing forms of intergovernmentalism limited. Suggest need for alternative approach that

The member states’ assertiveness, their determination to circumscribe the Commission’s power and impose their control, may hinder the ability of the Commission to carry out tasks that are crucial to the effective functioning of the system as a whole and may ultimately prove counterproductive to their own interests. First, the reasons that led the member states to delegate key functions to the Commission in the founding treaties are as relevant today as they were in the 1950s. If there are objectives that governments want to attain, which can only be achieved collectively, it is rational for them to create independent institutions that facilitate the achievement of these goals, for example, by ensuring that all contracting parties comply with their obligations, circulating information, or filling out the details of an incomplete contract. Performing these functions themselves is simply too costly.

Second, intergovernmentalism is inherently problematic, as experience in the second and third pillar demonstrates. Intergovernmental decision making tends to degenerate into horse-trading, with short-term gains valued above the realisation of long-term ambitions. Policy outcomes are modest and often precarious.

Third, despite its organisational weaknesses, the Commission has, as a consequence of its functions and strategic location, accumulated technical expertise and know-how across the full range of EU activities, as well as knowledge of policy and process in the fifteen member states, which is unrivalled by any single national administration. It would be foolhardy indeed to squander this inheritance. Fourth, given the weaknesses of the Council which is already, with fifteen member states, a large, unwieldy and complex organisation that suffers from problems of internal co-ordination, the Commission plays a crucial stabilising and coordinating role.

All of these functions will increase in importance once the Union enlarges. Tomorrows’ Union of twenty-five will have more need than ever of an effective, independent, and adequately resourced Commission. In steadily increasing their own autonomy at the expense of the Commission, the member states may well, therefore, have put into question the continued effectiveness of the Union itself.
Partly, the failure of the supranationalist approach accurately to predict the evolution of relations between the Commission and member states reflects a widespread tendency of the IO literature to ‘follow rather than anticipate events,’ leading to some to conclude that that (Rochester p. 803) it is ‘students of international organization for the most part have behaved more like journalists than scholars, reacting to and reporting on the latest happenings rather than paying attention to long-term trends or possibilities.’

This has implications for how we look at the EU and European integration in general. Assertions concerning the increase in Commission influence were based on a misunderstanding of the relationship between EU competence and Commission influence. Thus, whilst it is certainly the case that ‘there is not one case where a policy has been shifted from the European to the national level, nor is there a case where a policy that was supranational has become intergovernmental’ (Hooghe and Marks, 2008 115), this does not necessarily equate to enhanced Commission influence. The ‘breath of European integration – or range of tasks in which European Union plays a role (Börzel 2005) – is not the same as its ‘scope’, or the ‘procedure according to which policy decisions are taken’ (Börzel 2005 220). And even a consideration of process might be misleading if one is not alive to the possibility that supposedly autonomous institutions may be subject to greater member state control.

Towards a Comprehensive Intergovernmental Approach

We need some sort of theoretical discussion here about the linear nature of neofunctionalist claims, and fact that LI assumes that states do not delegate too much or make mistakes. We could also possibly make the point that HI approaches, ironically, fail to take into account the importance of historical context.
Bringing the Member States Fully In

We need to make sure that the explanatory points made here can be linked to outcomes identified in the previous section. So some evidence on consultation, on member states playing a role in pre-proposal etc should be in previous section to show how Commission no longer sets agenda as it did under Delors even in 1st pillar.
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1 The authors are grateful for comments on earlier versions of this paper to the participants of an ARENA seminar, especially Morten Egeberg, Johan Olsen, Helene Sjursen, and Ulf Svendorp, as well as fellow panelists and audience members at the EUSA Biennial Conference in Los Angeles. Similarly, we thank Simon Bulmer and Erik Jones for detailed feedback. The usual disclaimer applies.
2 Scholars working in the realist tradition, notably Stanley Hoffmann (1991), also sought to accommodate Commission strength in revised versions of their theoretical work.
3 Hence, criticisms in this article do not apply to work that applies new institutionalist insights to the EU, still less to new institutionalism and its variants
4 Space constraints preclude a detailed rehearsal and critique of these approaches, but see Kassim and Menon (2004).
5 THOUGH NOT DENYING THAT UNDER CERTAIN CIRCUMSTANCES, WHERE
Cn able to deploy regulatory resources (Schmidt) or where MS BACKS TURNED (eg DGD)

6 Interestingly, though the theoretical claims made by the supranational theorists are often couched in general terms, in practice their analyses tend to focus on the Commission.
7 We follow Doleys’ distinction between approaches that emphasize the influence of supranational institutions on EU decision making (‘supranationalism’) and neofunctionalism, which makes additional claims about the process of integration and the inevitability of integration (2000: fn 4).

8 As Sandholtz and Stone Sweet (1998b: 16) assert:

The supranational content of the EC does not fluctuate up and down to reflect the interstate bargain du jour. Rather, because of institutionalisation, EC policy domains can become more supranational without some, or at times a majority of, governments wanting it or being able to reverse it.

9 An interesting paradox is that, whilst the Commission has become less powerful, its autonomy along certain organizational dimensions, notably in relation to appointments to senior positions, which were historically subject to a geographical quota, has increased (see Egeberg XXXX).

10 Gerda Falkner (2002) argues convincingly that negotiations in social policy ran counter to the trend.

11 The creation of a permanent chair for the European Council ‘will…in practice, shift authority from the Commission to national Governments’ (House of Commons, Hansard, 9 September 2003 column 173).

12 Reijo Kemppinen, the chief spokesman of the European Commission, quoted one unidentified Commissioner as saying the proposal would reduce the European Commission to ‘a college of eunuchs’ (The Independent 12 June 2003).

13 despite the increased role played by the European Parliament in the approval of the incoming College of Commissioners.


15 Following the peer review exercise carried out under the chairmanship of the Commission President, a request was made to the budgetary authority for XX posts.

16 Finally, and perhaps most significantly, there are good reasons to question the fundamental supranationalist assumption that Commission preferences differ systematically from those of the member states. Although the inclination and ability of member states to place, and use, their nationals in the Commission as sources of information and influence varies considerably (Kassim et al. 2001), there is an increasing tendency to do so. Even in countries such as the Netherlands, where Commission independence has historically been regarded as sacred, contact with the Dutch Commissioner is no longer regarded as taboo (Soetendorp and Andeweg 2001). The summits at Amsterdam and Nice, along with the debate about the ‘Future of Europe’
revealed all too clearly the extent to which Commissioners have come to be seen, at least during treaty negotiations, as representatives of their member states - hence the proclivity to trade ‘their Commissioners’ against voting weights in the Council.

17 Olsen and Bulmer largely avoided this claims. More neutral