Measuring International Authority

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A Postfunctionalist Theory of Governance, Volume III

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Acknowledgments

The seeds of this project were sown in the early 2000s when Liesbet Hooghe and Gary Marks tried to understand the rise of multilevel governance beyond the European Union (EU). They suspected that the growth of international authority in the EU was part of a worldwide development, but discovered that this question required data on the authority of international organizations that was both more fine-grained and more comprehensive than that available. In 2005, they set out to construct a Measure of International Authority (MIA), and after extended trial and error, the project was launched in 2010 with ERC funding. Besir Ceka and Svet Derderyan, UNC graduates, came on board in the summer of 2010. A few months later, Jeanine Bezuijen started her PhD in the research program at the VU Amsterdam. Tobias Lenz joined in December 2011 as the project's postdoctoral fellow. So this book is the product of extended teamwork over several years. The chapters, profiles, tables, and figures have been amended and updated many times, and the research team shares collective responsibility for all assertions—and remaining errors.

Catherine De Vries, Henk-Jan van Alphen, and Benjamin Neudorfer were involved in the early stages of the project. An eager UNC honors class tested the first version of the coding scheme. Several research assistants have worked on various parts of the project. Emanuel Coman generated data on international organization (IO) characteristics. Max Boiten and Rick Scholten checked excel files. Olga Lemeshevska and Ramin Rezai collected data on policy scope. Zak Merdi researched Arabic-speaking IOs. Kai Stern formatted references. Emily Venturi developed the webpage. Luigi Mendez compiled the index and was an alert proof reader.

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March 2017

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International Authority: From Concept to Measure

In what respects is the international domain anarchic? In what respects, and to what extent, do international organizations (IOs) exert legal rational authority? What powers do non-state actors have in international decision making and dispute settlement? To what extent, when, and how do states sacrifice the national veto in collective decision making?

These questions involve abstract concepts, above all political authority—the power to make collective decisions based on a recognized obligation to obey. Causal models in the study of international governance are sensitively dependent on how one operationalizes political authority, yet theory, concept, and measurement are deeply intertwined in ways that can be difficult to perceive. There is always the danger that theoretical priors shape not only empirical expectations but also the facts that are produced to test them.

This book sets out a measure of authority for seventy-six international organizations from 1950 to 2010 which can allow researchers to test expectations about the character, sources, and consequences of international governance. Our premise is that producing data on a complex concept such as international authority is no less prone to error than using data to test causal inferences. Measurement involves a series of theoretical-conceptual decisions. What is political authority? What is its phenomenology in the domain of international governance? How might one break the abstract concept into component dimensions that summarize the whole? How might variation on these dimensions be empirically estimated? What kind of evidence should one use and how might one design rules for the evaluation of that evidence? How should one deal with the ambiguities that inevitably arise in applying a coding scheme to a diverse reality?

There are no definitive answers to these questions. Political scientists may disagree, and their disagreements may affect the tests they impose on causal

claims. A plausible measurement of international authority must meet three exacting tests.

- *Transparency* in measurement is the quality of intentionally sharing information about the production of an observation so that others can evaluate its validity. Are the conceptual and operational decisions underpinning the measure explicit? Are the rules undergirding coding decisions clearly articulated? Measurement is the assignment of numbers to objects according to rules (Stevens 1946: 19). As rules are applied to empirical phenomena there are inevitably ambiguities. Are these engaged explicitly or hidden from view? Making a measure transparent is a necessary step in "intersubjective, determinate, and repeatable calibration" (Heidelberger 1993: 146, quoted in Boumans 2005: 854). We seek to make our decisions explicit so that others can replicate, refine, or refute the result.
- *Concreteness* in measurement is the quality of having a specific and observable referent. The challenge is to pin an abstract concept to phenomena "on the ground" that can be accurately observed. Do the dimensions and indicators succeed in pressing the concept of international authority into institutional alternatives that can be reliably assessed, while encompassing the meaning of the complex concept (Weber 1949; Sartori 1970; Adcock and Collier 2001)? While it is true that all observation is theoretically impregnated (Lakatos 1970), this varies in ways that a measure should exploit. Is an indicator scored using information that is intersubjective, publicly accessible, and hence verifiable?
- *Minimalism* in measurement targets the core meaning of a concept by eliminating its superfluous connotations. Are the indicators used to score a concept insulated from other variables that are hypothesized to affect or be affected by the variable one seeks to measure? Encompassing supplemental meanings in the measurement of a concept can be as harmful for testing theory as failing to encompass its core meaning. Do the indicators for the dimensions of international authority tap uni-dimensional variation or are they combinations of dimensions that are poorly aligned?

In this chapter we discuss the theoretical-conceptual underpinnings of the Measure of International Authority (MIA). In Chapter Two we explain how we use the indicators to make observations and how we treat gray cases. In Chapter Three we aggregate scores for seventy-six IOs on an annual basis from 1950 to 2010. In Part II of the book we document our assessments for a sample of forty-six IOs.

This chapter is structured in a sequence of five steps from the abstract to the particular. The sixth step, adjudicating gray cases, is the topic of Chapter Two. As

indicated by the arrows in Figure 1.1, the sequence runs in both directions.[1] When one engages the particularities of individual cases, one asks "Does the scoring make sense of the variation that we observe on the ground?" or more generally, "Do the indicators have similar connotations across diverse contexts and do they capture the meaning of the overarching concept?" Each IO is, in certain respects, unique. We seek to evaluate them on a single set of indicators that can travel across diverse contexts while authentically grasping the overarching concept.

First, conceptualize international authority, that is, political authority in the international domain. Here we discuss how social scientists have understood international authority and how this concept relates to supranationalism, autonomy, institutionalization, and legalization.

Second, specify the concept for measurement. Here we outline our unit of analysis, the international organization, and a measurement model that assesses international authority in terms of the rules that frame an IO's bodies, who sits on them, what they are empowered to do, how they make decisions, how binding those decisions are for member states, and how disputes are handled.

Third, unfold international authority into dimensions. We conceive international authority in an international organization as consisting of two independent dimensions, the pooling of authority among member states and the delegation of authority to non-state bodies.

Fourth, operationalize dimensions. We specify intervals on these dimensions and set out rules for reliably recognizing variation across the intervals in six decision areas: policy making, constitutional reform, the budget, financial non-compliance, membership accession, and the suspension of members.

Fifth, score cases. We outline the information that we use in scoring and the rules that we use in applying this information to code individual IOs.

Sixth, adjudicate scores. We discuss how we deal with gray cases and how we alert the reader to different kinds of uncertainty in scoring.

These decisions form a system in which a decision at one level can affect the system as a whole. To make progress one must put aside the comforting, but wrong-headed, notion that measurement error can be considered as white noise, as random error around a true value. We cannot make this assumption. Measurement error might be systematic. The skepticism with which one regards a theoretical expectation applies just as severely to observation. Observations, or "facts," do not speak for themselves, but are humanly imposed

[1] Figure 1.1 extends the four levels in Adcock and Collier (2001) by interposing a step in which the concept is broken down into dimensions as a basis for specifying indicators, and by adding a final step in which the analyst confronts gray cases.

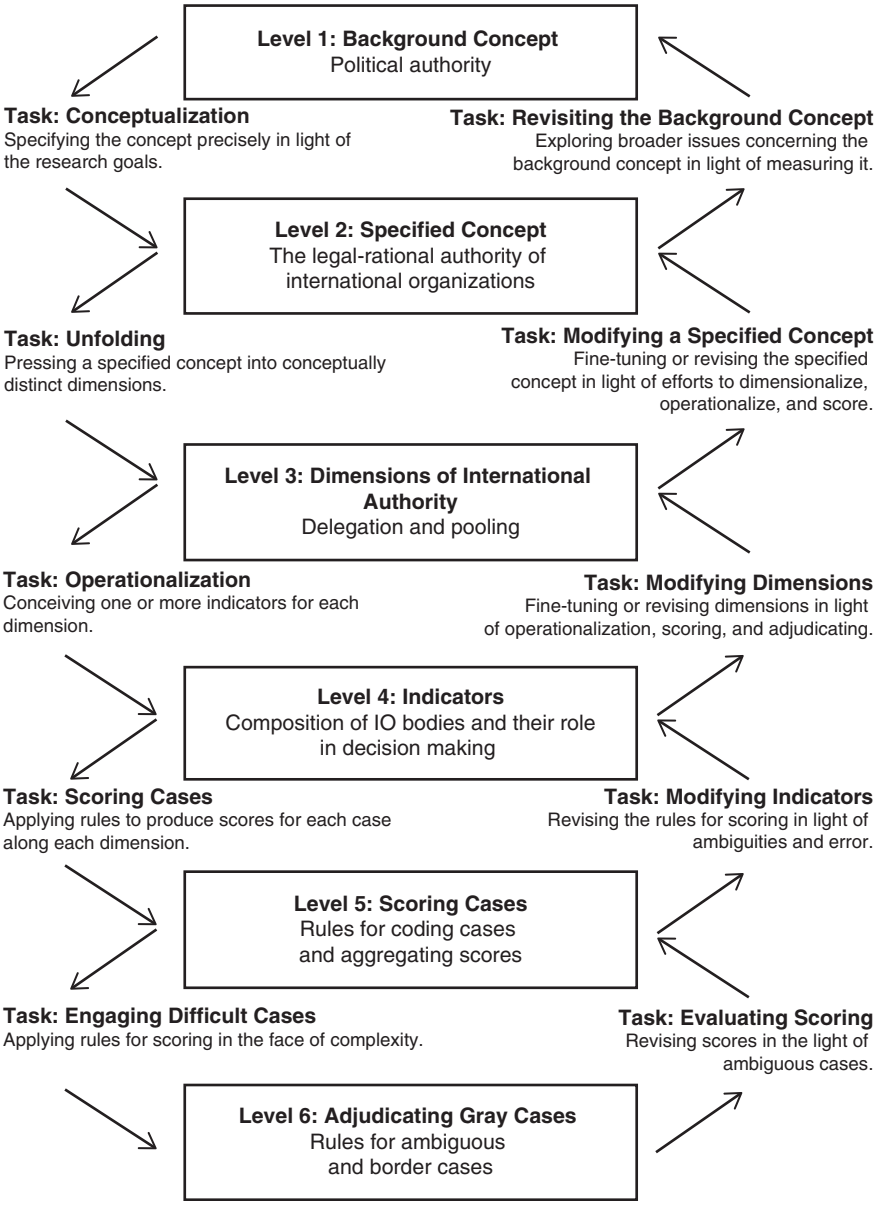

Figure 1.1. Measurement model

Note: Adapted from Adcock and Collier (2001).

simplifications that make sense of reality. Scientific debate does not stop at the door of "facts." It often begins there.

From Naive to Sophisticated Measurement

The naive methodologist divides the world into facts and theories. In his view, facts describe the world as it actually exists; theories explain how we think the world works. Facts are derived from objective observation, ideally in a laboratory setting. Theories are explanatory frameworks which forbid certain states of the world. So the naive methodologist confronts theory, the product of imagination, with facts, things that have actually been observed. He is aware, of course, that theories are difficult to pin down and that a non-deterministic theory allows stochastic error. Moreover, he knows that most facts speak indirectly to any particular theoretical claim and that it is always possible to save a theory by ad hoc adjustment. However, attempts to shelter a theory from disconfirmation only stimulate him to redouble his efforts to test each claim against hard facts.

The sophisticated methodologist considers both facts and theory as equally uncertain. The facts that are marshalled in relation to theories are generally much less certain than the fact that there are so many students in a classroom or people in a house. Hence, she considers her observations to be "facts" rather than facts. She is intensely aware that the "facts" she produces rest on a theoretical-conceptual scaffold that is no less questionable than the theories they are designed to speak to.

She is mindful that "facts" do not sit in judgment of theory, but are deployed in dialogue with alternative theories. And she expects that her "facts" will (and should) be interrogated with no less vigor than the theories they seek to confirm or disconfirm. Hence, the challenge is *not* what to do when a "fact" refutes a theory: "Whether a proposition is a 'fact' or a 'theory' in the context of a test-situation depends on our methodological decision. . . . It is not that we propose a theory and Nature may shout NO; rather, we propose a maze of theories, and Nature may shout INCONSISTENT" (Lakatos 1970: 130).[2]

Even carefully controlled experiments produce observations that rest on a scaffold of theoretical assumptions. In June 2014, *Physical Review Letters*, the flagship refereed publication of the American Physical Society, published a paper co-authored by forty-seven leading physicists claiming to have detected gravitational waves. After carefully identifying and simulating possible sources of data contamination in six models, the paper concludes that the signals detected at a South Pole observatory over three years are inconsistent

[2] This is the basis of Lakatos' rejection of Popper's claim that a theory can be killed by a disconfirmation.

with the null hypothesis at significance > 5σ.[3] The authors had held off publishing this result for a year in an exhaustive search for alternative explanations, and found none. Only after a new instrument, the Keck Array, produced exactly the same observation did they go public. The discovery was greeted as a major breakthrough confirming Einstein's general relativity theory (e.g. Tegmark 2014: 110). But it appears to have been wrong. Subsequent analysis suggests that both sets of observations picked up dust in our own galaxy rather than gravitational waves from a vastly more distant source.

There are several lessons here for the social scientist. One is that replication is essential to the scientific method. This does not imply that every observation should be replicated, but it does mean that the process of observation should be explained transparently so that it can be replicated. The authors in the example above may have bruised egos, but they have nothing to be ashamed of. They never doubted that their observations produced not facts, but "facts." The authors had, in other words, the scientific right to be wrong. Measurement, no less than theory, gives great latitude for scientists to exercise this right.

A second is that being wrong is rarely an open-and-shut case, particularly in the social sciences where conceptual issues are unsettled. Take the question: How much authority does an international organization such as the European Union or the World Trade Organization have? Political authority is a basic concept in political science, yet it is, in Walter Bryce Gallie's (1956) words, "essentially contested." Can an international organization exert authority over a state that retains its sovereign right to exit the organization? Can an international organization exert authority over a state if membership actually strengthens the hand of central state executives in relation to other domestic political actors? Answers to these questions will shape measurement in diametrically different directions.[4] However, they are merely the tip of the conceptual iceberg. How one decomposes authority in distinct dimensions and how one operationalizes those dimensions will have large, but perhaps less transparent, measurement effects.

The sophisticated methodologist is unwilling to treat measurement error as random. If measurement error is random, then the accuracy of a

[3] About 1 in 3.5 million.

[4] In response to the first question, we conceive political authority to be distinct from sovereignty. An IO may exercise authority vis-à-vis its member states even if they have a legal right to leave the organization. In response to the second question, we conceive political authority as distinct from power, so that an IO may exercise authority even if this empowers member state executives at home or allows them to achieve goals they could not otherwise achieve. These distinctions are vital points of departure in measuring the concept, and play a sneaky role in political debate. For example, opponents of continued UK membership accuse the EU of undermining the authority of Parliament. Some defenders retort that, in fact, EU authority is epiphenomenal because "the sovereignty of parliament remains unfettered" (Stephens 2016). Our conception of IO authority is consistent with that of the opponents of UK membership, though we draw contrasting policy implications.

measurement is calculable as a (square root) function of the number of independent observations (Marks 2007: 3ff.). On this assumption, the effects of measurement error are merely to reduce statistical measures of confidence in coefficients when the *dependent* variable is subject to error, or bias coefficients downwards when an *independent* variable is subject to error.[5] Both effects are conservative, and seemingly palatable, because the presence of random measurement error serves to increase our confidence that weak or marginally significant results are actually worth taking seriously.

The sophisticated methodologist makes a sharp distinction between reliability and validity, and understands that reliability is necessary but not sufficient for validity. She is acutely aware that it is possible to increase reliability by *reducing* validity. Reliability among coders can be increased by providing unambiguous, but simplistic, cues that make judgments more consistent. This would enhance reliability even if the cues were poor indicators of the specified concept. Reliable measures are generally better than unreliable measures, but the sophisticated methodologist is wary of selecting indicators on the basis of their reliability. Fiscal measures of authority tend to be reliable measures of authority because revenues and spending can usually be estimated fairly precisely. However, the amount of money an organization spends is a poor indicator of its ability to determine how that money is spent (Hooghe, Marks, Schakel, Niedzwiecki, Chapman Osterkatz, and Shair-Rosenfield 2016: 13).

I. The Core Concept: International Authority

Governance refers to the institutions that constrain public decision making. Whereas the term *government* implies hierarchical decision making within states, *governance* is agnostic. In the international domain, the concept of governance has been used to identify the arrangements that produce order out of anarchy by addressing the need for predictable problem solving in the absence of hierarchy (Young 1994; Abbott and Snidal 1998; Rosenau and Czempiel 1992).[6]

[5] This is true in a bivariate model (King, Keohane, and Verba: 1994: 163ff.). When there are multiple explanatory variables with error, the bias in estimates can be downward or upward (Bollen 1989: ch. 5).

[6] The term *governance* refers broadly to the "action or manner of governing," from Old French *governance* (or new French *gouvernance*) (<http://www.etymonline.com/index.php?term=governance>). In his classic study of modern language, H. W. Fowler (1965: 220) noted that the term governance was consigned to "the dignity of incipient archaism, its work being done, except in rhetorical or solemn contexts, by *government* and *control*." But governance has since made a comeback. Its agnosticism with respect to hierarchy allows us to use the term to encompass the action or manner of governing in both the domestic domain and the international domain.

Measurement

Table 1.1 lists concepts that have been used to describe variation in international governance. Each concept is unique in certain respects, but there are some underlying commonalities. They share the idea that governance varies from complete anarchy at one extreme to some form of institutionalized order at the other. They start from the view that, in international relations, institutionalized order arises from cooperation among states. Each concept is concerned with the extent to which states are self-constrained by international institutions. This book is located in this common ground.

Supranationalism is governance above or beyond the national state (from the Latin, *supra*).[7] Two founders of the study of international organization, Inis Claude and Ernst Haas, contrast supranationalism and intergovernmentalism as polar modes of governance, and this remains the predominant dimension on which IOs are analyzed. Supranationalism is found where "international organizations have achieved substantial emancipation from the control of national governments and acquired an autonomous role in international affairs" (Claude 1968).[8] Intergovernmentalism takes place when "decisions are made by instructed national delegates, usually on the basis of unanimity, aided by a central secretariat with minimal powers and many commissions of technical experts, recruited nationally and regionally" (Haas 1958: 9; Haas 1968). Both Claude and Haas see the distinctiveness of supranationalism in the delegation of core functions to a "body thought to be superior to its member states and relatively independent of their consent and support in its operations" (Claude 1968).

Contemporary conceptualizations of intergovernmentalism and supranationalism converge on these earlier conceptions. Stone Sweet and Sandholtz (1997: 302–3) propose "a continuum that stretches between two ideal-typical modes of governance: the intergovernmental and the supranational." A supranational IO possesses "jurisdiction over specific policy domains within the territory comprised by the member states," with the capacity of "constraining the behavior of all actors, including the member states, within those domains." Etzioni (2001: xix)

[7] The term was used in the International Telegraphic Union's initial convention in Paris in 1865 and came into vogue following World War II. In 1949, Robert Schuman spoke of "reconciling nations in a supranational association" and used the term in a speech at the United Nations and at the signing of the Council of Europe's Statutes. The High Authority of the European Coal and Steel Community is described as "supranational" in Article 9 of the Paris Treaty (1951), but the term does not appear in the Treaty of Rome (1957) or in any subsequent EU treaty. However, the concept is used widely in the literature on the EU (e.g. Marks, Hooghe, and Blank 1996; Moravcsik 1998; Stone Sweet and Brunell 1998; Tallberg 2000, 2002; Tsebelis and Garrett 2001). It has also been used in the literature on NAFTA (Monaghan 2007), the WTO (Lake 2010), the United Nations (Auvachez 2009; Tallberg 2010), and to describe international organization more generally (Gruber 2000; Haas 1961; Nye 1968; Goodheart and Taninchev 2011).

[8] <http://www.encyclopedia.com/topic/International_organization.aspx>.

Table 1.1. Conceptualizing variation in international authority

Supranationalism	"Supranationalism symbolizes the proposition that certain international organizations have achieved substantial emancipation from the control of national governments and acquired an autonomous role in international affairs" (Claude 1968). "States pool or share sovereignty at the regional or global level by creating a collective unit" and "delegate authority to a supranational agent or IO" (Kahler and Lake 2009: 246). "The distinguishing feature between supranational and international organizations is . . . the former's ability to penetrate the surface of the state" by "recognizing rights for nonstate actors and granting them distinct and independent status before supranational institutions" (Helfer and Slaughter 1997: 272–3).
Autonomy	"Ability to operate in a manner that is insulated from the influence of other political actors—especially states" (Haftel and Thompson 2006: 256). Autonomous institutional arrangements are "freestanding and distinct both from the states parties to a particular agreement and from existing IGOs . . . they have their own lawmaking powers and compliance mechanisms" (Churchill and Ulfstein 2000: 623).
Independence	"Independence means the ability to act with a degree of autonomy within defined spheres. It often entails the capacity to operate as a neutral in managing interstate disputes and conflicts" (Abbott and Snidal 1998: 9). Institutional independence is a function of whether an IO possesses autonomy, neutrality, and delegation (Haftel and Thompson 2006; Haftel 2013).
Centralization	"Important institutional tasks [are] performed by a single focal entity" (Koremenos, Lipson, and Snidal 2001: 771). "A concrete and stable organizational structure and a supportive administrative apparatus managing collective activities" (Abbott and Snidal 1998: 5).
Control	"Changes in the voting rules within a quasi-legislative component of an international institution represent changes in control that do not affect the level of centralization" (Koremenos, Lipson, and Snidal 2001: 772).
Delegation	International delegation is defined as "a grant of authority by two or more states to an international body to make decisions or take actions" (Bradley and Kelley 2008: 3). "The delegation of state authority to international organizations or courts" is "a conditional grant of authority from a principal to an agent in which the latter is empowered to act on behalf of the former" (Hawkins et al. 2006; Hawkins and Jacoby 2008: 1–2).
Institutionalization	Estimates the extent to which international organizations have "an ability to alter state behavior." One may distinguish between minimal, structured, and interventionist organizations (Boehmer, Gartzke, and Nordstrom 2004: 291).
Depth	"The extent to which (an agreement) requires states to depart from what they would have done in its absence" (Downs, Rocke, and Barsoom 1996: 383).
Legalization	"Legally binding obligations that are precise (or can be made precise through adjudication or the issuance of detailed regulations) and that delegate authority for interpreting and implementing the law. . . . hard law restricts actors' behavior and even their sovereignty" (Abbott and Snidal 2000: 421–2). *Legalization* refers to a particular set of characteristics that institutions may (or may not) possess (Goldstein et al. 2000: 387): (a) obligation: whether states or other actors are legally bound; (b) precision: extent to which rules unambiguously define the conduct they require, authorize, or proscribe; and (c) delegation: extent to which third parties have been granted authority to implement, interpret, and apply the rules and resolve disputes.
Pooled sovereignty	"Sovereignty is pooled, in the sense that, in many areas, states' legal authority over internal and external affairs is transferred to the Community as a whole, authorizing action through procedures not involving state vetoes" (Keohane 2002: 748).

identifies supranationality where IO decision making is "carried out by a governing body not composed of national representatives, a body that follows its own rules"; "where nations encompassed by these entities . . . are expected to follow the rulings by these bodies"; and where as a consequence, there is "some surrender of sovereignty by the member nations." Kahler and Lake (2009: 246) define supranationalism as a shift of political authority so that "states pool or share sovereignty at the regional or global level by creating a collective unit;" and "delegate authority to a supranational agent or IO."

International legal scholars use the term supranational to describe an international organization "empowered to exercise directly some of the functions otherwise reserved to states" (Helfer and Slaughter 1997: 287; Grieves 1969). Blokker and Schermers (2011) regard supranational IOs as being able to take decisions which are directly binding upon member states and the individuals and groups within them, whereas intergovernmental IOs act only by or through member states (Schiavone 1993). Helfer and Slaughter (1997: 273) describe this as the "ability to penetrate the surface of the state."

Autonomy and *independence* refer to the capacity of an international institution to make decisions without state control (Abbott and Snidal 1998; Barnett and Finnemore 2004; Churchill and Ulfstein 2000; Haftel 2013). Haftel and Thompson (2006: 256) highlight three aspects of independence. Autonomy is "the ability to operate in a manner that is insulated from the influence of other political actors, especially states." Neutrality is when an IO acts as a "neutral third" in disputes. Delegation is the power granted to an IO's institutions by its member states. Drawing on organizational sociology, Barnett and Finnemore (1999: 707; 2004) conceive IOs as potentially "autonomous sites of authority, independent from state 'principals' who may have created them." An international institution is established by member states on a contractual basis, but this does not mean that it is determined by those states (Abbott and Snidal 2008: 9).

Centralization and *control* are key dimensions of international institutions in the rational design project. Centralization refers to whether "important institutional tasks [are] performed by a single focal entity or not" (Koremenos, Lipson, and Snidal 2001: 771; Abbott and Snidal 1998: 5; Koremenos 2016). The authors stress that "centralization is controversial, politically and conceptually, because it touches so directly on national sovereignty," so they clearly have international authority in mind. *Control* refers to the rules, including those concerned with voting, that shape collective decision making (Koremenos, Lipson, and Snidal 2001: 772).

International delegation is "a grant of authority by two or more states to an international body to make decisions or take actions" (Bradley and Kelley 2008: 3). Scholars who use delegation generally employ principal-agent theory

to explain when and how member state principals give competences to international agents (Brown 2010; Franchino 2007; Hawkins et al. 2006; Hawkins and Jacoby 2008; Pollack 2003; Tallberg 2002). Along these lines Bradley and Kelley (2008: 3) define an international body as "some entity to which states have granted authority." Keohane and Martin (2003: 99, 102) stress that principal-agent theory recognizes that IOs are not reducible to their member states. Johnson (2014: 33) observes that "international bureaucrats' interests do not mirror states' interests, and agency relationships afford leeway and leverage for agents vis-à-vis their principals."

Institutionalization is introduced by Boehmer, Gartzke, and Nordstrom (2004: 5) to explain the ability of an IO "to alter state behavior" (Boehmer and Nordstrom 2008; Ingram, Robinson, and Busch 2005). Similarly, the *depth* of an agreement is conceived as "the extent to which [an agreement] requires states to depart from what they would have done in its absence" (Downs, Rocke, and Barsoom 1996: 383; Dür, Baccini, and Elsig 2014). Depth is often used to refer to trade agreements which require behind-the-border adjustment in economic, social, or environmental policies beyond trade barrier reduction (Horn, Mavroidis, and Sapir 2010; Kohl, Brakman, and Garretsen 2013).

Legalization is "the decision in different issue areas to impose international legal constraints on governments" (Goldstein et al. 2000: 387). It is described as "a particular form of institutionalization" that involves "the degree to which rules are obligatory, the precision of those rules, and the delegation of some functions of interpretation, monitoring, and implementation to a third party" (Goldstein et al. 2000: 387). *Judicialization*, which refers in particular to third-party dispute settlement mechanisms, has also received considerable attention (Alter 2014; Helfer and Slaughter 1997; Keohane, Moravcsik, and Slaughter 2000; Romano 1999, 2014; Romano, Alter, and Shany 2014; Simmons 2012). Economists tend to emphasize the *precision* of an agreement in order to assess whether "[state] undertakings can be considered to be legally enforceable commitments in a court of international law" (Kohl, Brakman, and Garretsen 2013: 3, 35). Hence Horn, Mavroidis, and Sapir (2010: 1572) categorize trade agreements as more or less legally enforceable by evaluating each provision in each agreement "for the extent to which it specifies at least some obligation that is clearly defined, and that is likely effectively to bind the [state] parties."

If one were to place these concepts in a Venn diagram, there would be a considerable core area centered on the extent to which an IO is, or is not, a mere creature of its member states. To what extent and in what respects is an IO an autonomous, independent institution with the capacity to bind its member states by creating legal obligations? This is what we seek to measure under the rubric of *international authority*. However, we need to specify the concept more precisely if we wish to measure it.

II. Specifying International Authority

Authority is relational: *A* has authority over *B* with respect to some set of actions *C*. This parallels Robert Dahl's (1957: 202–3; 1968) conceptualization of power as the ability of *A* to get *B* to do something that *B* would not otherwise do. A short-hand definition of authority is legitimate power. One speaks of authority if *B* regards *A*'s command as legitimate and correspondingly has an obligation to obey. Authority implies power, but power does not imply authority. Whereas power is evidenced in its effects irrespective of their cause, authority exists only to the extent that *B* recognizes an obligation resting on the legitimacy of *A*'s command. Such recognition may have diverse sources, including charisma, tradition, and religion (Weber 1958). This book is concerned with the modern variant of authority—legal-rational authority based in a codified legal order.

Our focus in this book is on legal authority which is

- institutionalized, i.e. codified in recognized rules;
- circumscribed, i.e. specifying who has authority over whom for what;
- impersonal, i.e. designating roles, not persons;
- territorial, i.e. exercised in territorially defined jurisdictions.

These characteristics distinguish legal authority from its traditional, charismatic, and religious variants. Weber (1968: 215–16) observes that "In the case of legal authority, obedience is owed to the legally established impersonal order. It extends to the persons exercising the authority of office under it by virtue of the formal legality of their commands and only with the scope of authority of the office." The exercise of legal authority over a large population involves a minimum level of voluntary compliance with codified rules that have a specific sphere of competence, and which are exercised through formal institutions, including a differentiated administration (Weber 1968: 212–17).

A focus on legal authority distinguishes the structure of governance from causally related but conceptually distinct phenomena, such as the political resources of participants, their preferences over policy, reputational considerations, and the effects of IO decisions. These are precisely the phenomena that one might wish to analyze as causes or consequences of international authority, and it makes sense to set them apart.

Unit of Analysis

Our unit of analysis is the international governmental organization (IO) which we define as a formal organization for collective decision making

constituted by three or more states.[9] An IO is *formal* in that it is based on a written contract formally entered into by its member states. The contract can be dispersed in several documents and may be subject to serial amendment. An IO is an *organization* in that it is structured by rules for a continuous purpose. Unlike an informal coalition or alliance, an IO has an institutional structure. Unlike an ad hoc agreement, an IO has an ongoing capacity for collective decision making.[10] As a formal organization structured for a continuous purpose, an IO has a permanent administrative capacity, "a hierarchically organized group of international civil servants with a given mandate, resources, identifiable boundaries, and a set of formal rules of procedures" (Biermann et al. 2009: 37). However, there is no a priori limit to its purpose which may range from settling trade disputes, regulating tolls along a river, conserving whale stocks, or achieving an ever closer union.[11]

This definition is conceptually specific and empirically inclusive. It puts under the same roof phenomena that are often treated separately. It encompasses global organizations, such as the UN, the World Bank, and the World Health Organization, alongside regional IOs, such as the European Union, Mercosur, and ASEAN. It encompasses organizations that have wide-ranging policy portfolios alongside regional and global organizations responsible for a specific task. However, it excludes alliances that lack permanent organs for collective decision making (e.g. the Cairns group), regular summits without an independent permanent secretariat (e.g. G8 or the Visegrad Four), temporary secretariats or commissions (e.g. the Intergovernmental Panel on Climate Change), and agencies or programs supervised by other IOs (e.g. the European Research Council which is part of the European Union).

Considering the IO as the unit of analysis has some advantages. Unlike international regimes or international networks, IOs are distinct units with clear boundaries. They are coherent organizational units, and are designed as such by their member states. They are formal institutions with explicit decision making rules, budgets, and outputs.

International organizations are key actors in the field of international governance. They are, at one and the same time, the chief means for national states to collectively solve international policy problems and the most important

[9] This is consistent with the Correlates of War definition of a formal intergovernmental organization as an entity formed by an internationally recognized treaty by three or more states having a permanent secretariat or other significant institutionalization (Pevehouse, Nordstrom, and Warnke 2004).

[10] There is affinity with Biermann and colleagues' definition (2009: 39) of an "international organization as an institutional arrangement that combines a normative framework, member states, and a bureaucracy."

[11] In contrast to a one-shot agreement that might be designed to settle a boundary dispute, avoid double-taxation, or limit strategic weapons (see Koremenos 2016).

form of non-state authority in the international domain.[12] This is one reason why the conceptualization of variation in international governance has focused so much on the respective roles of states and non-state actors in international organizations. Realists, institutionalists, and constructivists have clearly articulated priors about the authority of international organizations.

Accurate information about international organizations is necessary if one wishes to explain international regimes, regime complexes, and international networks.[13] International organizations are an essential ingredient in theorizing international competition and collaboration (Hafner-Burton, Kahler, and Montgomery 2009; Abbott et al. 2015). Network theorists stress that one must pay attention to the characteristics of the units themselves in explaining the relative strength of their ties and why some actors are more central than others (Lazer 2011: 64).

To select the sample of international organizations in our dataset, we consulted the Correlates of War dataset and identified organizations having a distinct physical location or website, a formal structure (i.e., a legislative body, executive, and bureaucracy), at least thirty permanent staff, a written constitution or convention, and a decision body that meets at least once a year. We identified seventy-six IOs that are not emanations from other IOs that fit all or all but one of these criteria.

We see two reasons for limiting the sample to IOs that have standing in international politics. The first is practical. The questions we are asking require us to evaluate IOs using much more information than used to produce any prior dataset on IOs, and given time and financial constraints, it makes sense to estimate IOs that have some footprint in primary sources. In most cases the IOs in our dataset feature in the secondary literature. Second, we suspect that states may be more likely to pay attention to IOs that have some minimal level of resources. Hence our decision to exclude IOs that have no website, address, or are poorly staffed.

We conceive an international organization as having an institutionalized capacity for collective decision making. Most units that are classified as international organizations have a standing assembly or executive and a permanent secretariat that is separate from its member state administrations.

[12] Alvarez (2005: 588; 593) claims that IOs are "effective treaty machines" in the proliferation of international agreements in the post-World War II period: "IO venues make possible what would otherwise be increasingly difficult in a world of nearly 200 nation states: finding concrete, preferably written, evidence that virtually all states accept a rule as one of custom."

[13] An international regime, in Krasner's (1982: 186) definition, consists of "Implicit or explicit principles, norms, rules and decision-making procedures around which actors' expectations converge in a given area of international relations." A regime complex is "an array of partially-overlapping regimes in a particular issue-area" (Raustiala and Victor 2004: 279). An international network is a set of relationships defined by links among independent and interdependent international actors—national governments, subnational governments, non-state national and transnational actors (Keck and Sikkink 1998; Slaughter 2004).

We encompass the World Trade Organization (WTO), but not its predecessor, the General Agreement on Tariffs and Trade (GATT), which had neither a standing assembly nor an executive and lacked a rudimentary administrative capacity.[14] However, there are gray cases. Some institution-light agreements have become IOs in the process of acquiring standing bodies. We estimate the Conference on Security and Cooperation in Europe (CSCE) from 1990 when it obtained an organizational basis with a ministerial council and a secretariat.[15]

An IO may die or become moribund (Shanks, Jacobson, and Kaplan 1996; Gray 2015). The threshold for inclusion in the dataset is a track record of annually recorded activities (i.e. one or more annual executive or assembly meetings, secretariat output, and a budget). We detect only two formal dissolutions: the East African Community which became non-operative in 1977, and COMECON which was disbanded in 1991. The Arab Maghreb Union is a border case which we include because it has a standing secretariat, and its councils of foreign ministers and ministers for integration have met regularly, though its presidential council convened only in 1994 when the Union was established (Gray 2015).

IOs may change their name, purpose, or institutions. When is an IO reconstituted as a new unit of analysis? When should one treat a precursor as a separate organization? In most cases continuity is obvious, but there are some gray cases. In such instances we assess institutional continuity, whether the membership remains the same, and how the founders conceive of their mission.[16]

The sample, consisting of seventy-six international organizations listed in Appendix I to Part I (Table A.1), encompasses twenty-three IOs that existed in 1950 and fifty-three IOs set up since. The sample is diverse with respect to policy portfolio and membership. Twenty-nine IOs in the sample are responsible for three or fewer policies on a comprehensive list of twenty-five policies;

[14] "The GATT was not even an organization, but merely an agreement" (Jupille, Mattli, and Snidal, 2013: 73; Vabulas and Snidal 2013: 206).

[15] Between 1975 and 1990, the CSCE was, as its name implies, a setting for the occasional conference, and little more. We detect the metamorphosis to an IO prior to 1995 when it became the Organization for Security and Cooperation in Europe (OSCE).

[16] The trickiest case is perhaps the European Union. There is no question that the European Economic Community (EEC), the European Community (EC), and the European Union (EU) are names for one and the same organization, but the transition from the ECSC to the EEC is contested because the ECSC continued to function as a legally distinct organization until 2002, at which point it was absorbed into the EU. However, the founders—government leaders and a small group of influential supranationalists—always considered the ECSC and the EEC as part of an overarching project for a united Europe. The same six states were members of both, and their governance was parallel. They shared a single indirectly elected assembly and Court of Justice, and in 1967 their ministerial councils were merged into the Council of the Communities and their secretariats were merged into the Commission of the Communities. Until 1957, we code only the ECSC; from 1958 our coding encompasses both the EEC and the ECSC.

twenty-eight are responsible for more than ten policies. Eighteen IOs in the sample had fewer than ten member states in 2010; twenty-four had more than a hundred.

Why Formal Rules?

We are concerned with an IO's formal institutions, the persistent structure of articulated rules that transcend particular individuals and their intentions. These rules frame the IO's bodies, who sits on them, what they are empowered to do, how they make decisions, how binding those decisions are for the member states, and how disputes are handled. The rules that underpin an international organization are set out in writing when states create an organization, but they are often revised or refined in protocols, conventions, declarations, special statutes, rules of procedure, and annual reports. Because they are written, the formal rules of an organization can be reliably researched.

We focus on formal rules for several reasons. First, as we argue below, an examination of the formal rules of an organization is essential if one wishes to measure its legal authority. Legal authority is impersonal in that it does not depend on the power or characteristics of office holders. Legal authority is circumscribed in that who has authority over whom in what respects is formally specified. And legal authority is codified in written documents rather than left unspecified in informal arrangements. Whereas the power of actors in getting others to bend to their will depends on charisma, expertise, and resources—authority is formally specified, impersonal, and institutionalized.

Rules, both formal and informal, are prescriptions that signal what actions are required, prohibited, or permitted (Ostrom, Gardner, and Walker 1994: 38). They are the procedures to which the participants would refer if asked to explain and justify their actions (Ostrom, Gardner, and Walker 1994: 39). Rules are the bedrock of institutions, regularized modes of human interaction that reduce uncertainty and structure cooperation. Because rules rest on shared meaning, they are subject to interpretation. This is why people write down rules that they negotiate. Written rules record prescriptions in a public and intersubjective way in order to constrain subsequent interpretation. In no field is this more important than governance which is concerned with the provision of rules about human behavior.

For these reasons, formal rules of international organizations are rarely taken lightly by the participating states. How IO bodies are constituted, their powers and voting rules are considered to be topics of intense concern to national governments and they negotiate accordingly. When a government signs a treaty of accession to an international organization it establishes an expectation that it will comply with the legal commitments set out in the

treaty. Such commitments are public and can be difficult to escape and costly to change (Johnson 2013).

Informal rules are unwritten and express understandings that are shared by the relevant actors. Because they are unwritten, informal rules exist only when there is substantial agreement about what they mean and when they come into play.[17] Whereas a written rule exists in the face of contending interpretations, an informal rule exists only when the participants agree that it exists. This is unproblematic for most informal rules, such as the rules of the road. Such rules have never been consciously designed, but are omnipresent because they are in everyone's interest to keep (Sugden 1986: 54; North 1990: 41).

The study of formal and informal rules are complementary endeavors. Both kinds of rule serve to coordinate repeated human interaction, and as North (1990: 40) points out, informal rules are "extensions, elaborations, and modifications of formal rules." Formal rules are the point of departure for the study of informal rules. The formalization of international governance in international law and international organization has opened the door to the development of informal rules that extend, elaborate, or modify formal rules that emerge as the result of bargaining. Formal rules may codify, revise, and extend pre-existing informal practices. Two recent books that make the case for the importance of informal rules in international organizations take pains to detail formal rules on the ground that "The existence of formal rules narrows the range of possible bargaining solutions, provides focal points to coordinate expectations, and reduces transaction costs. . . . Formal rules are an indispensable element of social organization" (Stone 2011: 12–13). In the words of Kleine (2013: 11), informal rules are "systematic collective practices that differ from this standard [of formal rules]."

In the absence of consensus about its meaning and implications, an informal rule may appear arbitrary or self-serving. An informal rule may appear to guide collective behavior only until it is broken by disagreement. Those who are party to it may have different recollections of its purpose or they may bend those recollections to their interests. Perhaps the most noted informal rule in an IO is the Luxembourg Compromise (1966) which raised the barrier to reform in the EU from majority rule to consensus by allowing a member state to veto a decision it regarded as in its "vital national interest." However, when in 1982 Prime Minister Thatcher sought to veto a deal on farm prices in order to reduce the UK's contribution to the EC budget, this was rejected by the other member states on the ground that "the Compromise could only be invoked if the

[17] An informal rule that is recognized to be an international custom can be invoked before an international court. However, the invocation of customary law—one of three sources of international law next to international agreements and general principles of law (Article 38 of the Charter of the International Court of Justice)—hinges increasingly on written evidence in, for example, IO conventions, proceedings of general IO meetings, and IO documents (Alvarez 2005).

'interest' at stake related directly to the substance of the proposal being considered" (Teasdale 1993: 571; Bomberg 1999). The episode led member states to negotiate a formal rule that could provide clearer guidance. The following year, in 1983, the ten Heads of State signed a "Solemn Declaration on European Union" for expanded cooperation and streamlined decision making, and this was followed in 1986 by the Single European Act which extended qualified majority voting to areas immediately affected by the single market.[18]

Formal rules may be legitimated by informal rules. When the British prime minister, David Cameron, called for a special meeting of the Council of Ministers in the Fall of 2014 after the UK received an additional bill of £1.7bn in EU contributions, the Council president refused: "I respect that the UK wants to discuss this among ministers, but there are rules that must be kept. Countries must follow the rules as they are."[19] In this case the informal rule of sticking to the formal rules prevailed over the informal rule of accommodating a government under intense domestic pressure. All rules are prone to ambiguity; unwritten rules are particularly prone to ambiguity.

Formal rules constrain behavior, but they do not uniquely determine behavior. A formal rule that permits a decision to be taken by majority does not compel the participants to form minimal winning coalitions. There may be several reasons why participants seek consensus. Consensus might indicate the presence of an informal rule, but before one can conclude that the absence of majority voting results from an informal rule, one must consider the alternatives. If decisions are implemented by the voters themselves, then it may make little sense to take decisions by majority if those who oppose do not have to put those decisions into effect. This applies to any decision that requires national ratification. The appearance of an informal consensus rule may result from logrolling in which those who oppose a particular decision decide not to register their opposition because they get something in return. Another possibility is that voters may avoid majority voting because they fear its consequences. If preferences are structured in sticky coalitions, voters in the losing coalition may become disaffected with the organization and may exit.

The formal rule casts a long shadow even in the presence of an informal rule. It may be costly for states that are in a minority to appeal to an informal rule that they should not be outvoted. They must hope that the value of the informal rule to the winning coalition is greater than the value of making the

[18] Member states are understandably reluctant to rely on informal understandings about the national veto and have, time and again, put the conditions in writing, as in the Ioannina Compromise of 1994 and the emergency brake provisions in the Treaty of Amsterdam, the Treaty of Nice, and the Lisbon Treaty (Hayes-Renshaw and Wallace 2006: 164).

[19] Helle Thorning-Schmidt, prime minister of Denmark, quoted in *The Guardian*, Tuesday October 28, 2014; <http://www.theguardian.com/politics/2014/oct/28/double-blow-for-cameron-over-eu-referendum-and-payment-demand>.

decision by majority. Following the Single European Act, there was an informal rule for consensus when a member state government was under intense domestic pressure. However, for the informal rule to kick in, a member state had to plead extenuating circumstances. The UK government under Prime Minister Cameron repeatedly sought to block EU legislation on this ground—the domestic pressure was real enough—but the response on the part of other member states was typically unyielding. From the time of the Single European Act to the present, between 10 and 20 percent of all EU legislation has been opposed in formal votes by losing minorities (Kleine 2013; Hayes-Renshaw and Wallace 2006; Heisenberg 2005; Mattila 2009; Thomson 2011).

If one expects an analysis of the formal rules of an IO to point-predict its decision making, one is clearly asking too much. However, one must pay close attention to the formal rules of an IO—how its bodies are constituted, how they interact, and how they make decisions—to assess its authority. The written word has, for millennia, provided the means to preserve memory, and today representatives of states choose words with care when they are establishing and reforming an IO. It is worth stressing that this is perfectly consistent with the claim that informal rules can be important. No set of formal rules can interpret itself, and there are always ambiguities. But there is no substitute for written rules in contracting relations of authority in the international domain.[20]

III. Dimensions of International Authority: Delegation and Pooling

Our first step in disaggregating IO authority is to break it into two parts, delegation and pooling.[21] This distinction provides the conceptual frame on which our measurement is built.

Delegation is a conditional grant of authority by member states to an independent body, such as a general secretariat that can set the agenda for

[20] And, one might add, within states.

[21] The distinction between delegation and pooling has been kicking around for some time (Keohane and Hoffmann 1991: 7; Lake 2007: 220; Marks, Hooghe, and Blank 1996; Moravcsik 1993). Keohane and Hoffmann (1991: 16, 7) observe that "the EC has recently been continuing, even accelerating, its practice of 'pooling sovereignty' through incremental change: sharing the capability to make decisions among governments, through a process of qualified majority rule.... Yet authority is not transferred to a supranational body because the crucial decision-making role is taken by an interstate body (the EC Council of Ministers)." Moravcsik (1993: 509) refers to the concepts "delegation and pooling" in tandem: "The EC differs from nearly all other international regimes in at least two salient ways: by pooling national sovereignty through qualified majority voting rules and by delegating sovereign powers to semi-autonomous central institutions. These two forms of transferring national sovereignty are closely related." Subsequent literature also refers to "delegation and pooling" as a holistic phenomenon (Hooghe and Marks 2001; Kohler-Koch and Rittberger 2007; Schimmelfennig et al. 2006).

decision making, an executive that takes day-to-day decisions, or a court that can impose a sanction on a non-compliant state. Delegation comes from the noun "legate," the authorized representative of the Pope who handled "Matters which the governor and ruler of the Roman Church cannot manage to deal with by his own presence" (Gregory VII 1077: 56; quoted in Rennie 2013: 3). The concept is taken up in the principal-agent literature which makes the conditions under which principals delegate its chief puzzle. Delegation is designed to overcome issue cycling, sustain credible commitments, provide information that states might not otherwise share, and, in general, reduce the transaction costs of decision making (Lake 2007: 231; Brown 2010; Hawkins et al. 2006; Koremenos 2008; Pollack 2003; Tallberg 2002). The delegate—in this case, the non-state actor—gains some influence over decision making; the principals—the member states—gain a capacity for governance that does not depend on their active presence.

A key virtue of the concept is that it provides a way to compare "completely dissimilar acts of delegation" (Brown 2010: 144). It highlights an underlying functional coherence among institutions—IO secretariat, executive, assembly, and court—that otherwise play contrasting roles. In each case, member states may grant authority to a non-state body to make decisions or take actions on their behalf (Bradley and Kelley 2008: 3).

However, international bodies are unlike most other delegated actors in one important respect: the member states are themselves part of the decision making process. The divide between voters and members of parliament or between Congressional representatives and bureaucrats in federal agencies does not exist in an international organization. The principals do not stand apart from an IO; they operate within it. They may monopolize the IO's assembly, they may dominate the IO's executive, and they may play a pivotal role at every stage of decision making.

This has a fundamental implication for international authority. It requires that we consider decision making *among* states as well delegation to independent IO bodies. An authoritative body may be composed of the principals themselves. It is perfectly possible to conceive an authoritative international organization in which non-state actors play no role at all if the principals collectively make decisions that are binding on individual states. This mode of authority we call *pooling* and we believe it to be at least as consequential as delegation.

Delegation and pooling are sharply distinct phenomena (Lake 2007: 220; Kahler and Lake 2009; Lake and McCubbins 2006; Hooghe and Marks 2015).[22]

[22] The distinction between delegation and pooling is parallel to the distinction between self-rule and shared rule in Volumes I and II (Hooghe et al. 2016; Hooghe and Marks 2016). Self-rule, like delegation, describes the authority of non-central state actors. In Volumes I and II these non-central state actors are subnational governments; in this book they are independent international bodies. Shared rule, like pooling, describes the co-exercise of authority. In Volumes I and II, national governments co-exercise

Delegation describes the autonomous capacity of international actors to govern. Pooling describes collective governance by states themselves. The strategic problem in delegation is the trade-off between the benefit of international governance and the cost of shirking when an international agent pursues its own agenda. The strategic problem in pooling is the trade-off between the benefit of finessing the national veto and the cost imposed on a government when it is on the wrong end of a decision.

To what extent do non-state actors exercise delegated authority in an IO? To what extent do member states pool authority? To make headway in answering these questions one must model decision making in an international organization.

IV. Indicators

Delegation and pooling describe which actors make decisions, the rules under which they make decisions, and the kinds of decisions they make. This section explains how we how disaggregate IO decision making and how we put the pieces back together. While we can learn from studies of decision making in individual IOs, the challenge here is much different. Our task is to develop a general model that can apply to any IO and so allow systematic comparison, cross-sectionally and over time. At the same time, we seek to model decision making in an IO as a step from the abstract to the concrete so that we can produce indicators for delegation and pooling.[23]

The model cuts three ways: by IO body; by decision stage; and by decision area.[24]

- **IO body.** We distinguish six kinds of IO body. Besides member states, an IO consists of one or more assemblies, executives, secretariats, consultative bodies, and dispute settlement mechanisms.

authority with subnational governments. In this book, national governments co-exercise authority among themselves.

[23] Chapters Two and Three set out the indicators and the algorithm for delegation and pooling.

[24] When we began this project in 2005 we divided into two teams—Liesbet Hooghe/Catherine De Vries and Gary Marks/Henk-Jan van Alphen—that independently coded decision areas for each IO on an aggregate supranationalism scale (Hooghe, Marks, and de Vries 2006). Statistical measures of reliability were reasonably good. We could all agree that the EU was more supranational than Mercosur which was more supranational than NAFTA. However, we came to realize 1) that we were confounding the scope of an IO's policy portfolio with the depth of its authority vis-à-vis its member states; 2) that in order to engage extant theories of international relations our coding needed to be more refined; and 3) that our judgments lacked transparency and were correspondingly difficult or impossible to refute. The present book is an effort to rectify these shortcomings.

- **Decision stage.** We distinguish five stages of decision making: agenda setting, final decision making, opt-out, ratification, and dispute settlement.
- **Decision area.** We distinguish six decision areas: accession, suspension, constitutional reform, budgetary allocation, financial compliance, and up to five streams of policy making.

Figure 1.2 proposes a model summarizing IO decision making as follows: What role does each IO body, having a particular mode of state or non-state composition, appointment, and representation, play at each stage of decision making in each decision area? This produces a matrix where the unit of observation is the *IO body at a decision stage in a decision area in a year*.

At the left of the figure the member states and their representatives compose the assembly, executive, and other IO bodies. The dashed arrows represent the simplest set-up. Most IOs have more than one assembly, executive, or general secretariat. In many IOs, the assembly has an independent role in the composition of the executive and general secretariat, and the dashed arrow connections among the bodies can be diverse. Indicators for each IO body assess its composition, member state representation, appointment, and removal procedures.

The solid arrows in the figure traverse stages of decision making in a single area, member accession. The full model treats all six decision areas. For agenda setting and the final decision we code the relevant voting rule for each IO body at each stage in each decision area. The subsequent decision stage taps the

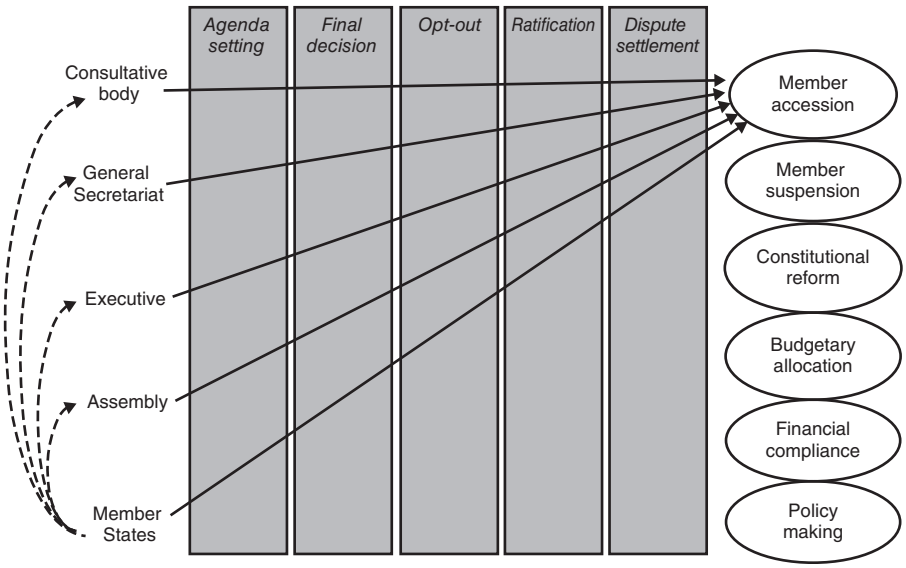

Figure 1.2. A model of IO decision making

depth of member state obligation, i.e. how binding a decision is in each decision area. To use a domestic analogy, our focus is on the rules specifying the speed limit rather than on the incidence of speeding. We indicate bindingness on a scale of distinct institutional alternatives. A decision is non-binding if there is a voluntary provision or if objections by one or several countries can postpone or annul a decision. A decision is partially binding if there is a procedure for an individual member state to opt out or postpone a decision which does not affect its binding character for other member states. Finally, a decision is coded as binding if there is a legal provision to this effect or if there is no provision for a member state to opt out or postpone implementation.

Beyond this, there is the possibility that a collective decision is subject to ratification by individual member states before it becomes binding. We distinguish four possibilities: the decision comes into force for all states if ratified by all; the decision comes into force only for those member states that ratify; the decision comes into force for all states after ratification by a subset of states; the decision comes into force without ratification.

We assess legal dispute settlement as a distinct stage of decision making, and because it is essentially a field in itself, we discuss it separately in the following section.

Delegation depends on the extent to which IO bodies are institutionally independent of state control and the role of these bodies in IO decision making. Independence from state control can arise in several ways, most commonly because those who sit in an IO body are not selected by or responsible to member state governments. The model includes several indicators relating to the role of an IO body in agenda setting and the final decision, which are aggregated across decision areas.

Pooling refers to the joint exercise of authority by member states in a collective body to which they have ceded the national veto. These are the assemblies and executives composed of member state representatives who are directly responsible to the member states that select them. Pooling depends on the extent to which member states collectivize decision making in one or more IO bodies, the role of such bodies in agenda setting and the final decision, and the extent to which the decisions made by these bodies are binding on member states.

Dispute Settlement

We assess the authority of an IO to take on legal disputes concerning the constitution, principles, or policies of an international organization and that involve at least one public authority, most often a member state government, but sometimes an IO body or office holder (Merrills 2011: 1; Romano, Alter, and Shany 2014; Alter and Hooghe 2016). The measure of international

authority is concerned with arbitration and adjudication, forms of *legalized* dispute settlement. We exclude diplomatic or political forms of dispute settlement, such as negotiation, mediation, or conciliation by a third party. We also exclude labor disputes within an IO or disputes that involve only private actors. Arbitration and adjudication share similar institutional features which jointly shape the depth of transnational legalization (McCall Smith 2000; Abbott et al. 2000).

The notion that international law can create legal obligations is intensely debated, and the position one takes has implications for measurement (Alvarez 2005, 2007; Boyle and Chinkin 2007: ch. 1; Dunoff and Pollack 2012; Posner and Yoo 2005). The classical positivist position is that law must be deposited in treaties, custom, and general principles of law—the three sources cited in Article 38 of the Statute of the International Court of Justice—to generate legal obligations on states. Rules are established through express or tacit consent among sovereign states. While states are free to back out of a treaty consistent with its terms, they are not free to proclaim that treaties are not binding (Koh 1997). This position is state-centric because it views international law as a product of states, for states. National governments are the gatekeepers. They may allow compulsory third-party dispute resolution and they may accept a ruling to be binding on themselves, but governments retain ultimate control by mediating or prohibiting access to non-state actors and by monopolizing implementation of international rulings (Hooghe et al. 2014).

A growing number of scholars argue that international law can emerge from sources beyond those in Article 38. International law derives from a "complex process of institutional interaction whereby global norms are not just debated and interpreted, but ultimately internalized by domestic legal systems" (Koh 1997: 2602). This view is transnational because it conceives international law as substantively affected by non-state actors. Some scholars emphasize that international organizations may generate international law by clarifying ambiguities, standardizing treaty negotiations, and making customary law traceable for a wider range of actors (Alvarez 2005; Chayes and Chayes 1998). A more frontal critique of the state-centrist position comes from those who document how direct links between international courts and domestic actors can embed international rules in domestic processes (Helfer and Slaughter 1997). Several mechanisms facilitate this, chief among which are a) direct effect, which binds domestic institutions to enforce international rulings; b) non-state access, which enables private interests to initiate proceedings against a state; and c) preliminary ruling, which allows or compels domestic courts to seek legal guidance from the international court on conflicts between domestic and international law (Alter 2011). Alter (2014) labels courts that possess some or all of these features "new-style" or "supranational." The prototypical example is the

European Court of Justice, but she identifies more than twenty international courts in this category. They contrast with "old-style" or state-centric courts that may have some levers to generate binding commitments but also leave one or more doors ajar for national governments to protect national sovereignty (Alter and Hooghe 2016; Hooghe et al. 2014).

Our measure operationalizes the tension between state-centric and supranational conceptualizations of international dispute settlement. We break third-party dispute settlement into seven indicators that assess the authority of an IO's legal dispute settlement mechanism (Haftel 2013; Helfer and Slaughter 1997; Jo and Namgung 2012; Keohane, Moravcsik, and Slaughter 2000; Kono 2007; Tallberg and McCall Smith 2014). This refines McCall Smith's (2000) coding scheme and extends it to task-specific alongside general purpose IOs. In addition to five indicators adapted from McCall Smith, we assess coverage, whether the dispute settlement mechanism is obligatory or optional for IO members, and preliminary ruling, whether domestic courts can, or must, refer cases to the international court. The first four indicators evaluate the extent of state control and the final three indicators evaluate the supranational character of dispute settlement.

- **Coverage**. How inclusive is international dispute settlement? Can member states opt out of the dispute settlement system or is it obligatory for all member states?
- **Third-party review.** How compulsory is international dispute settlement? Is there no recourse to third-party judicial review? Can a member state initiate litigation only with the consent of a political IO body? Or is there an automatic right for third-party review of a dispute over the objections of the litigated party?
- **Tribunal.** How institutionalized is international dispute settlement? Are ad hoc panels selected to hear particular cases or is there a standing tribunal that can build precedence?
- **Binding.** How binding is international dispute settlement? Is dispute resolution merely advisory? Is dispute settlement binding only on condition that a state consents ex ante to bindingness. Can a state register a derogation or exception? Does a court decision require post hoc approval by a political body? Or are rulings unconditionally binding?
- **Access.** How accessible is international dispute settlement? Is litigation closed to non-state actors or can the general secretariat litigate? And what about other non-state actors?
- **Remedy.** How enforceable is international dispute settlement? Is no remedy available? Are states authorized to take retaliatory sanctions? Can a remedy be imposed by direct effect that binds domestic courts to act?

- **Preliminary ruling.** How domestically integrated is international dispute settlement? Is preliminary ruling an option for domestic courts? Is there a compulsory system of preliminary ruling in which domestic courts must refer cases of potential conflict between national and international law to the court or must abide by international rulings?

These indicators form a cumulative scale from weak to strong international authority beginning with coverage and ending in preliminary ruling. To the extent that the indicators form a Guttman scale, an IO will be expected to meet the first threshold in order to meet the second, the second in order to meet the third, and so on. A Mokken analysis finds this is a reasonable approximation to the data (Van Schuur 2003). An IO dispute settlement system that has automatic third-party review but fails to have comprehensive coverage produces a Guttman error. We find 33 such errors (the first row in the second column of Table 1.2), revealing that this is the weakest link in the Guttman scale. The extent to which a population avoids Guttman errors is expressed in the Loevinger's H-statistic (Mokken 1970; Mokken and Lewis 1982). With an overall H-index of 0.76 in 2010, the dispute settlement scale is quite strongly hierarchical.[25]

A perfectly symmetrical Guttman scale would reveal the steps to be roughly equally paced. However, the proportion of IOs meeting the steps in the scale does not increase linearly (the mean score in Table 1.2). There is a break, as we expect, between the first four indicators, which are features of state-controlled dispute settlement, and the final three indicators, which are features of supranational dispute settlement.

Table 1.2. Mokken scale analysis

Item	Mean	Observed Guttman errors	Expected Guttman errors	Loevinger H coefficient
Coverage	0.63	33	66.6	0.50
Automatic third-party review	0.62	15	63.0	0.76
Standing tribunal	0.62	20	66.8	0.70
Binding ruling	0.57	22	65.9	0.67
Non-state access	0.26	15	63.0	0.76
Remedy	0.26	8	35.7	0.78
Preliminary ruling	0.16	5	20.5	0.76
Scale		**58**	**181.5**	**0.76**

Note: N=76 for 2010. The table shows the proportion of observations scoring positively on each dimension of dispute settlement on a scale of zero to 1, the observed Guttman errors (number of IOs that deviate from the Guttman scale), expected Guttman errors (number of deviations that are expected if items were stochastically independent), and Loevinger's H (ratio of the total sum of observed vs. expected errors).

[25] An H-index above 0.5 (more than half of the population avoids errors) is usually considered strongly Guttman.

The Policy Portfolio

The policy responsibilities of an IO—its policy portfolio—is an important feature of international governance. We assess an IO's policy portfolio across a list of twenty-five policies, and this data is available in the MIA dataset. However, we do not build it into the measure of international authority for two reasons. First, we wish to make a conceptual distinction between an IO's policy portfolio and the authority of an IO vis-à-vis its member states in its core functions—letting members in, suspending them, reforming the organization, allocating its budget, paying up, and deciding policy. This may be a topic on which more is actually less if one ends up mixing concepts that do not really belong together. The diversity of an IO's purpose or policy is one thing; the capacity of an IO to oblige member states to do things they would not otherwise do is another thing entirely. Hence, it seems conceptually loose to equate an authoritative task-specific IO, such as the World Bank or the International Monetary Fund, with a weak but diverse IO, such as the Nordic Council or the Shanghai Cooperation Organization.[26] Second, we wish to avoid compounding the measure with concepts that one might wish to investigate empirically. We do not know whether the authority of an IO is related to its policy portfolio. Are IOs that specialize in particular tasks more authoritative than those that are general purpose? Do they tend to pool more authority? Do they delegate more? To answer questions such as these, one needs to conceptualize and measure these variables separately (Lenz, Bezuijen, Hooghe, and Marks 2014). This is the principle of minimalism, the effort to avoid contaminating a measure by including too much.

Our approach renders it unnecessary to legislate on this matter. We break down the overarching concept into discrete but conceptually coherent dimensions that are independently measured. This Lego block approach makes it possible for users to make their own decisions regarding the variables that they wish to encompass to suit their purpose.

We estimate the scope of an IO's policy portfolio across a list of twenty-five policies (Table 1.3) adapted from Lindberg and Scheingold (1970) and updated by Schmitter (1996) and Hooghe and Marks (2001). We identify eight indicators for assessing whether an IO's portfolio encompasses a particular policy:

- The policy features in the name of the organization;
- The policy is highlighted as a central purpose of the IO in the opening paragraphs of its foundational contract;

[26] To equate such cases rests on the strong assumption that a change in one dimension—international authority as measured here—is equivalent to a change on the other dimension—the diversity of the policy portfolio. One consequence is that observations are unlikely to be *well ordered* (Hooghe, Marks, and Schakel 2010: 10f.).

Table 1.3. Policy portfolio

1.	Agriculture
2.	Competition policy, mergers, state aid, antitrust
3.	Culture and media
4.	Education (primary, secondary, tertiary), vocational training, youth
5.	Development, aid to poor countries
6.	Financial regulation, banking regulation, monetary policy, currency
7.	Welfare state services, employment policy, social affairs, pension systems
8.	Energy (coal, oil, nuclear, wind, solar)
9.	Environment: pollution, natural habitat, endangered species
10.	Financial stabilization, lending to countries in difficulty
11.	Foreign policy, diplomacy, political cooperation
12.	Fisheries and maritime affairs
13.	Health: public health, food safety, nutrition
14.	Humanitarian aid (natural or man-made disasters)
15.	Human rights: social & labor rights, democracy, rule of law, non-discrimination, election monitoring
16.	Industrial policy (including manufacturing, SMEs, tourism)
17.	Justice, home affairs, interior security, police, anti-terrorism
18.	Migration, immigration, asylum, refugees
19.	Military cooperation, defense, military security
20.	Regional policy, regional development, poverty reduction
21.	Research policy, research programming, science
22.	Taxation, fiscal policy coordination, macro-economic policy coordination
23.	Telecommunications, internet, postal services
24.	Trade, customs, tariffs, intellectual property rights/patents
25.	Transport: railways, air traffic, shipping, roads

Note: Adapted from Lindberg and Scheingold's classification (1970) as updated by Schmitter (1996) and Hooghe and Marks (2001).

- The policy is the primary subject of a separate treaty section;
- The policy is the primary subject of an annex or protocol;
- The policy is explicitly tied to budgetary resources in a convention, constitution, protocol, annexes, or ancillary document;
- The policy is the primary subject of an IO instrument, agency, fund, directorate, or tribunal;
- An IO committee, council, working group, or equivalent is specifically charged with the policy;
- The policy features as the functional specialization of the national representatives who sign the IO's foundational document.

V. Scoring Cases

Scoring cases consists of obtaining and processing information in order to place numerical values on objects (Bollen and Paxton 2000). One perennial challenge is that information is unevenly available. IOs are formally

constituted bodies negotiated and established by states, but their rules are not always at hand. All IOs have some kind of founding document, but they are uneven. Our first step is to compile IO manuals, official webpages, fact sheets, meeting minutes, committee reports, rules of procedure, and annual reports, alongside secondary sources, news reports (e.g. on accession or suspension), and information from the Yearbook of International Organizations. The Union of International Associations library in Brussels is useful for less prominent organizations, as is inquiring directly from the relevant IO.

Our strategy in using the information we collect can be described as interpretation through dialogue. Interpretation is the act of explaining meaning among contexts or persons. When measuring international authority, we are interpreting the concept *political authority* in the context of particular international organizations at particular points in time. As one moves down the steps of measurement in Figure 1.1, the concept becomes less abstract, but even apparently simple concepts, such as assembly, executive, or majority voting rule, are not directly observable. "The bridge we build through acts of measurement between concepts and observations may be longer or shorter, more or less solid. Yet a bridge it remains" (Schedler 2012: 22). Our intent is to make the link between indicators and scores both plausible and transparent.

Dialogue—sustained, open-ended discussion—is intended to increase the validity of our judgments. Dialogue among coders makes it impossible to assess inter-coder reliability, but we consider this a sacrifice worth making. There are two reasons why. The first is that the principal challenge in estimating an abstract concept, such as international authority, is validity rather than reliability. Validity concerns whether a score measures what it is intended to measure. Do the dimensions really capture the meaning of the concept? Do the indicators meaningfully pick up the variation on each dimension? Do the scores accurately translate the characteristics of individual cases into numbers that express the underlying concept? Reliability concerns the random error that arises in any measurement. How consistent are scores across repeated measurements? Would a second, third, or nth expert produce the same scores? If the error one is most worried about is systematic rather than random, then validity may best be achieved by dialogue among coders than by combining independent judgments.[27]

All scoring decisions were discussed by two or more members of the research team, often at length. Difficult cases were usually discussed on several occasions. Divergence of interpretation led us to soak and poke by going back to the sources or finding additional sources. Interpretation through dialogue

[27] An expert survey allows one to estimate the reliability of a measure, but the information we require goes far beyond the information that any expert commands.

frequently led us to revisit the indicators and sometimes impelled us to rethink the dimensions on which we assess international authority.

No matter how well designed a measure, there will always be ambiguities in applying rules to particular cases. There will also be gray cases that lie between the intervals. Our approach is to clarify the basis of judgment and, where necessary, devise additional rules for adjudicating such cases that are consistent with the conceptual underpinnings of the measure. Chapter Two sets out our rules for coding ambiguous and gray cases and is, not uncoincidentally, more than twice as long as this chapter.

The lynchpin of our measure is transparency, and this leads us to explain coding decisions in extended profiles. These profiles make our scoring assessments explicit so that researchers familiar with individual IOs may revise or reject our decisions. At the same time, the profiles are intended to remove the curtain that protects the cells in a dataset from cross-examination.

Conclusion

Our purpose in this book is to produce a measure of international authority that allows cross-sectional comparison and comparison over time. The impetus comes from the efforts of IR scholars over the past two decades to study international organizations with analytical tools used to examine institutions in comparative politics (Haggard 2011: 1; Abbott and Snidal 1998; Bradley and Kelley 2008; Goldstein et al. 2000; Hawkins et al. 2006; Keohane 1984; Koremenos, Lipson, and Snidal 2001; Martin and Simmons 1998; Tallberg 2002; Zürn 2000). Our premise is that the production of comparative information on a fundamental phenomenon can pose new puzzles and new lines of inquiry as well as discipline existing hypotheses.

The Measure of International Authority covers seventy-six IOs from 1950 (or the year of founding) to 2010. Our substantive focus and unit of analysis is the international governmental organization, an organization contracted among three or more states to structure their cooperation. Such organizations are immensely diverse. Some specialize in a narrow task, such as the waterway problems of the river Rhine; some are so broad and authoritative that they begin to resemble national governments. However, all IOs are institutionalized by rules that prescribe the purpose of the organization, its decision making bodies, and how it makes decisions.

In order to assess IO authority, we model the composition of IO bodies, their roles in decision making, the bindingness of IO decisions, and the mechanisms through which they seek to settle disputes. Our approach breaks down the concept of international authority into two discrete, conceptually coherent, dimensions.

States can *delegate* authority to non-state bodies to facilitate decision making, for example, by collecting information, crafting deals, setting the agenda, monitoring compliance, or overseeing implementation. And they can *pool* authority among themselves by making collective decisions that finesse the national veto. The distinction between delegation and pooling underpins our measurement. We suspect that delegation and pooling are causally as well as conceptually distinct.

One feature of the measure is that it is built from components that summarize the composition and role of individual IO bodies in policy making, constitutional reform, the budget, financial non-compliance, membership accession, and the suspension of members. This produces a flexible toolkit for investigating international governance and testing theory.

Each indicator specifies institutional alternatives that can be reliably assessed using publicly available information. Chapter Two discusses the ambiguities and gray cases that inevitably arise. Chapter Three shows how we aggregate scores and reviews some results. Part Two contains profiles that detail our scoring for forty-six IOs.

2

How We Apply the Coding Scheme

This chapter traverses the gap between indicators and observation. The gap arises from the nature of an indicator. An indicator is a rule that guides observation, but no rule can interpret itself. Using an indicator to guide observation cannot be reduced to an algorithm, but requires disciplined conceptual problem solving as well as detailed knowledge about the cases. In this chapter we come to grips with the conceptual ambiguities and gray cases that arise when we apply abstract concepts such as "executive," "bindingness," and "central state" in a wide variety of contexts.[1] Even terms such as "represent" or "budget" are potholes for the unwary to trip over. In the field of social measurement, the gap between an indicator and observation can be wide and treacherous.

There is no fix. Our remedy is to engage ambiguity and gray cases directly. In this chapter, we set out rules that underpin our interpretations while keeping a sharp eye for opaque concepts, awkward cases, and borderline decisions. This, in short, is the commitment to transparency. Only after one has explicitly confronted the gap between indicators and the actual, messy process of social observation, can one say "I have reached the bedrock, and my spade is turned" (Wittgenstein 1953: § 217).

The fundamental problem of social measurement is context specificity—variability in meaning arising from the context in which an indicator is applied (Gerring 2012: 160ff.; Goertz 2006; Munck 2004: 115). On what basis can one bridge the gap between an indicator and an observation? Social

[1] Dahl (1968: 414; quoted in Gerring 2012: 157) stresses that "The gap between the concept and operational definition is generally very great, so great indeed that it is not always possible to see what relation there is between the operations and the abstract definition." Having operationalized the concept of power ("*A* has power over *B* to the extent that he can get *B* to do something that *B* would not otherwise do"), Dahl (1957: 209ff.) applies his indicator to roll-call voting in the US Senate. However, it is one thing to operationalize power and another to observe it. Dahl (1957: 213) forthrightly concludes that "the conceptual problem is easily solved. But the research problem remains. In order to identify chameleon behavior and separate it from actual attempts at influence, one cannot rely on roll-calls."

indicators estimate human behavior through the lens of language, which "like all rule-governed behavior—is grounded in our practices, our habits, our way of life" (Edmonds and Eidinow 2001: 232). Even a simple-sounding word like mountain is vague. Where does the terrain of a mountain end, or when do two peaks joined by a saddle become separate mountains (Quine 1960: 114)? Hence, applying a concept such as "executive," "bindingness," or "central state" requires inference. Perception in the absence of inference is inadequate even for the measurement of temperature or pressure, let alone the abstract concepts assessed here (Carnap 1966: ch. 23). Clearly specified indicators can guide inference, but they cannot supplant it.

The challenge is to develop a scientific measure in the knowledge that there is no escape from interpretation. To adapt the saying about turtles supporting the earth, inferring the meaning of an indicator in diverse contexts is "interpretation all the way down." One needs to construct verbal bridges between an indicator and an observation without the presumption that this eliminates ambiguity as one engages additional cases. Wittgenstein remarks that "Whatever I do is, on some interpretation, in accord with the rule," so that it is perfectly possible to " . . . give one interpretation after another; as if each one contented us at least for a moment, until we thought of yet another standing behind it" (Wittgenstein 1953: §198 and §201). Our response is that not all interpretations have equal value for our purpose. We need to lay out a logically coherent measure that a) encompasses the core meaning of the overarching concept, international authority; b) is focused on legal rational authority expressed in institutionalized, formally written, rules; c) is intersubjective so that experts can apply the indicators in a consistent way to arrive at convergent observations.

Indicators are rules for disciplined observation in an uncertain observational world. Chapter One has pressed the concept of international authority into the domains of pooling and delegation. We measure pooling and delegation by assessing the composition and competences of international bodies and the rules under which they make decisions. The concepts used in the indicators are less abstract than the overarching concept, but they cannot be directly perceived. There are several possible sources of error. The information at our disposal may be depressingly thin, or it may be contradictory. We may find that the variation we observe is inadequately captured by an indicator. Or, we may be uncertain in the face of disagreement among coders or secondary sources. We notate four sources of uncertainty in the profiles that explain our coding assessments (Part II):

- *Insufficient or ambiguous information.* Outside the laboratory, observation can be plagued by poor light or deficient information. We indicate scores for which we have thin information with the symbol α.

- *Observations that fall in-between intervals*. No matter how sharp a distinction, some observations sit between intervals. We indicate these with β.
- *Disagreement among coders, experts*. Applying a concept to an empirical phenomenon is an inferential process that is subject to error and hence to disagreement. We note disagreement among coders and/or experts with γ.
- *Inconsistent information*. The relevant information—including IO rules articulated in treaties, etc.—may appear to be contradictory, in which case we use δ.

Nuts and Bolts

Readers may find it helpful to keep the coding scheme at hand when reading this chapter (Part I, Appendix II). This coding scheme guides the data generation, and records the scores for each IO in a given year. It structures our observation across thirty-four discrete items, each of which is scored on a limited number of institutional possibilities. Most items are designed to tap the extent to which an IO pools or delegates authority. The coding scheme generates between 57 and 134 observations annually depending on the number of bodies in an IO and the number of policy streams.

Our observations are available in three formats.

- A dataset and codebook for the *Measure of International Authority* (MIA) for the scores used to estimate pooling and delegation of authority in seventy-six IOs on an annual basis from 1950 (or founding) to 2010. This dataset contains scores for items in the coding scheme along with aggregate variables.
- An excel file which is a complete record of all scores for all IOs. The excel file highlights changes in the scores for all IO bodies.
- Comprehensive profiles in Part II overview forty-six IOs for the general reader while making our observations transparent for the expert.[2]

NUTS AND BOLTS

What is the unit of analysis? The international governmental organization (henceforth international organization or IO) is a formal organization for collective decision making among at least three member states. An IO is international in that it is constituted among national governments. It is an organization in that it is structured by rules for a continuous purpose.

What do we measure? International authority, that is political authority in the international domain. Political authority is the power to make collective decisions based on

[2] Profiles of the remaining IOs in the dataset are available upon request.

a recognized obligation to obey. We conceptualize international authority as delegation, the conditional grant of authority by member states to an independent body, and pooling, the joint exercise of authority by member states.

Which years do we code? The dataset covers the period 1950 (or the founding year of an IO, if later) to 2010 (or the final year of IO existence, if earlier). We code an institutional reform from the year that it comes into effect.

How do we keep track of change? We synthesize all observations used in scoring in an excel file for each IO. We begin with the structure and decision rules in 1950 or the first year of an IO's existence. For each year in which we detect change, we start a new row in the excel file.

How do we justify a coding decision? Our judgments relate to rules laid down in treaties, conventions, protocols, rules of procedures, statutes, or other documents. We reference the documentary basis, and we seek to triangulate our judgments with secondary sources. Profiles for each IO detail documentary bases, secondary sources, and explain our observations.

The coding scheme taps the structure and composition of IO bodies and their role in decision making. We examine 1) the role and composition of institutional actors in an IO; 2) at distinct stages of decision making; 3) across particular decision areas (represented in Figure 1.2 in Chapter One). This produces:

- **Six institutional actors:** member state; general assembly; executive; general secretariat; consultative body; dispute settlement body.
- **Five decision stages:** agenda setting; final decision making; opt-out; ratification; and judicial dispute settlement.
- **Six decision areas:** member state accession; member state suspension; constitutional reform; the budget; financial compliance; and policy making (up to five streams).

Institutional Structure

The institutional structure of international governmental organizations resembles that of the modern state in approximating a *trias politica* with legislative, executive, judicial functions, plus a permanent civil service.[3] Typically, an IO has one or more of the following:

- an *assembly* responsible for general legislation and legitimating authoritative decisions with legal force;

[3] Alvarez (2005: 9) observes that many IOs have a tripartite structure consisting of a plenary body with broad powers, a more selective body with select powers of implementation, and a secretariat of independent international civil servants.

- an *executive* responsible for carrying out legislative decisions by appointing officials, imposing guidelines, drafting budgets, and supervising implementation;
- a permanent *general secretariat* which assists the assembly and executive by collecting and disseminating information, organizing meetings, framing the agenda, and directing personnel;
- a *dispute settlement body* which adjudicates disputes concerning the IO's contract and competences.

These bodies constitute the core of an IO's institutional structure. Beyond this, but still integral to its mission, an IO may have one or more *consultative bodies* which provide information, legitimacy, and/or resources.

It is not unusual for an IO to have more than a single body for each of these functions. For our sample of IOs, we find individual IOs with up to three assemblies, five executives, two general secretariats, two independent dispute settlement bodies, and three consultative bodies. Hence, our coding scheme is as follows (Box 2.1):

Box 2.1 COMPOSITION OF AN IO

NAME	BODY
	Assembly 1 (A1)
	Assembly 2 (A2)
	Assembly 3 (A3)
	Executive 1 (E1)
	Executive 2 (E2)
	Executive 3 (E3)
	Executive 4 (E4)
	Executive 5 (E5)
	General Secretariat (GS1)
	General Secretariat (GS2)
	Dispute settlement (DS1)
	Dispute settlement (DS2)
	Consultative body 1 (CB1)
	Consultative body 2 (CB2)
	Consultative body 3 (CB3)

Our first step is to identify the IO bodies that perform these functions. Some IOs exhibit a clean fit between institutional form and function. The Food and Agricultural Organization (FAO) and the Bank for International Settlements (BIS) have one assembly, one executive, one general secretariat, and one dispute settlement body. However, most IOs have more or

fewer bodies. The result is a fascinating, little studied, diversity of institutional form.[4]

It is not unusual for a single body to perform more than one function. A handful of IOs, including the Permanent Court of Arbitration, the International Whaling Commission, and the Central Commission for the Navigation of the Rhine, make do with just two bodies because they combine legislative and executive tasks in a single body. Overall, the most common omission is a dispute settlement body. In 2010, twenty-seven IOs in the sample lack third-party dispute settlement. Nineteen IOs have one body combining executive and administrative functions, and ten have a single body that is both legislator and executive.

Many IOs disperse legislative, executive, and, more rarely, administrative functions across more than one body. In 2010, twenty IOs had at least two assemblies, twenty-seven at least two executives, and four had two secretariats. The European Union has three assemblies, three executives, and two general secretariats, an independent court, an independent central bank, and three consultative bodies that play a formal decisional role. However, the EU is not uniquely labyrinthine. The Commonwealth of Independent States (CIS) both disperses functions among bodies and bodies among functions. It has two assemblies (the Council of Heads of State and the Council of Heads of Government) and three executives (the Executive Committee of the Commonwealth, the Economic Council, and the Council of Ministers of Foreign Affairs). The Executive Committee serves as both chief executive and general secretariat. The CIS has also one consultative body (the Inter-Parliamentary Assembly) and an independent Economic Court.

We code only bodies that play a decisional role. Hence we exclude purely administrative or auxiliary bodies that act on orders in a chain of command. In the European Union, we code the Council of Ministers, but not COREPER or its working groups, because these are subsidiary emanations of the Council of Ministers.[5] We also exclude bodies that are designed only for a regional subset of member states. Most global organizations have regional substructures, and while these may have some administrative autonomy, they are marginal for decision making in the IO as a whole.[6] Moreover, the

[4] With the exception of some informative textbooks and handbooks (Europa Directory of International Organizations: 2003; Hurd 2011; Reinalda 2009, 2013; Rittberger and Zangl 2006: ch. 4; Yearbook of International Organizations: various years).

[5] COREPER, and its tiered structure of working groups of civil servants and national representatives, take their orders from the national minister seated in the Council of Ministers.

[6] Regionalization has allowed global IOs with expanding membership to custom-tailor collective goods to specific sub-groups. The Food and Agriculture Organization (FAO) is a case in point. The organization facilitated regional conferences from its inception and has expanded their role over the decades. In 1955 the FAO's Constitution was amended to allow the Council as well as the Conference to establish regional commissions, committees, and panels and to convene regional conferences (1955 FAO Constitution, Art. VI). A constitutional amendment (2009) makes

decision to set up regional bodies usually requires explicit approval by the IO's general bodies. However, we do code IO bodies that happen to encompass a subset of member states (e.g. monetary policy in the European Union) and IO bodies with competences from which an individual member state can opt out.

Most IOs operate at a single regional or global level. But this is not always the case. There are three distinct forms of dual or multilevel structure:

- A *confederal* structure consisting of two tiers of decision making. Since 1967, the World Intellectual Property Organization (WIPO) has had a confederal structure superimposed on two constituent Unions established in Paris in 1883 and Berne in 1886. Each Union kept its assembly and executive but merged its secretariat into an overarching International Bureau. For general matters, the assemblies combine in a General Assembly and the two executives combine in a Coordination Executive. WIPO members are not required to join one of the Unions (though most states are members of both), and hence there is a second overarching assembly, the WIPO Conference, representing all member states whether or not they are members of the Paris or Berne Unions. This body has the final word on constitutional matters and the General Assembly has authority over the International Bureau and appoints the director general. In sum, we identify four institutional bodies in WIPO: two assemblies, an executive, and a general secretariat.[7]
- A *technical* structure in which technical decision making bodies function in parallel with political bodies. The technical side may be connected to a bank, court, military, or research institute. The International Criminal Court has such a dual structure where the political side consists of an Assembly of States Parties, a Bureau, and Secretariat alongside a parallel court-specific structure with a Presidency, Judicial Divisions & Prosecutor, and Registry. While the Presidency and Judicial Divisions & Prosecutor

these regional conferences, one each for five world regions, an integral fixture of the FAO structure, and entrusts the FAO Conference with the authority to determine their status, functions, and reporting procedures (2009 FAO Constitution, Art. IV.6). The heads of the regional offices are appointed by the FAO director general and report to the FAO Council and its subcommittees on technical and financial matters and to the FAO Conference on policy matters. See Malinowski (1962) for a discussion of regionalization in the UN.

[7] When estimating the role of member states in WIPO decision making we trace decision making across the two-tiered structure. In some cases, decisions at the upper level depend on decisions in the Unions. While the WIPO General Conference approves constitutional amendments by simple majority, it can only do so after both the Paris and Berne Unions have passed these amendments in their own assemblies by a three-fourths majority. So while the hurdle for constitutional change is low in the topmost tier, it is, in fact, rather high in the organization as a whole.

are responsible only for judicial proceedings, the Registry is responsible for the overall administration of the Court, including the political side. So we code the Registry as a decision making body along with the Assembly of States Parties, the Bureau, and the Secretariat.

- A *corporate governance* structure that entwines private and public governance. Since the 1980s, new public management principles have crept into IO governance, and some IOs have given their organization a corporate make-over. The Centre for Agricultural Bioscience International (CABI) is a case in point. Alongside its interstate assembly, executive, and general secretariat, CABI has a Governing Board which oversees CABI's programs and guides management on operational and strategic issues. The Governing Board was established in 1990 by a resolution of the Executive Council, and is insulated from the member states. Six of its nine members sit on the board as private persons with business, government, or scientific backgrounds, and the remaining three members serve ex officio on behalf of the Executive Council and the Directorate. Appropriately, the title of the director general is Chief Executive Officer (CEO). Here we code two executives along with an assembly and general secretariat.

Assembly

We pose three questions about the composition of an assembly to gauge its independence from member states. First, what proportion of assembly members are selected by member state governments? Second, are member states directly represented? Third, are member states equally represented? Box 2.2 summarizes the alternatives.

Several conceptual decisions need to be made. What are the criteria for categorizing an IO body as an assembly and when does it make sense to code multiple assemblies? What, precisely, does the membership of an assembly consist of, and what are the criteria for being considered a representative of a member state? How might one distinguish between direct and indirect representation? When does representation in the assembly deviate from the principle of one member, one vote? We discuss these in turn.

An assembly is the legislative body of an IO. When assessing whether a body is an assembly we look for three things: a plenary body consisting of representatives from every member state, a body that is explicitly charged with supreme legislative authority, and a body that shapes the composition of other IO bodies. The first criterion is necessary, the second is nearly so, and the third is a rule of thumb.

Without exception, a body that is designated an assembly in an IO constitution or founding treaty is comprehensive of its members. In most IOs those

Box 2.2 STRUCTURE OF THE ASSEMBLY

I. How are members of the assembly selected?
- **0** All members of the assembly are selected by member states
- **1** A majority, but not all, members of the assembly are selected by member states
- **2** At least 50 percent of the members of the assembly are selected by parliaments, subnational governments, or other non-member state actors
- **3** At least 50 percent of the members of the assembly are popularly elected

II. Do members of the assembly directly represent member states?
- **0** All members of the assembly receive voting instructions from their government
- **1** A majority, but not all, members of the assembly receive voting instructions from their government
- **2** 50 percent or less of the members of the assembly receive voting instructions from their government

III. Is voting weighted?
- **0** No
- **1** Yes

IIIa. If yes, what is the basis of weighted voting?
Is the basis population, GDP, geography, or financial contribution?

who sit in the assembly represent the central government, but in some IOs, the assembly is composed of parliamentary or professional delegates.

An assembly can almost always be expected to have supreme authority on major questions of governance, usually including membership, constitutional reform, and the general competences of the IO. In this respect, an assembly is the closest thing in the international domain to a parliament, and like parliaments of old, it convenes for sessions of limited duration at discrete intervals, generally once or twice a year. Finally, an assembly can be expected to play a role in determining other IO bodies, but not to be determined by them.

The constitution or foundational convention of an IO is usually explicit about which body is supreme. The assembly is typically the first body constituted in an IO's founding document, and it is almost always endowed with extensive functions. In most cases the assembly is explicitly recognized as the IO's supreme, principal, or ultimate authority. The OPEC Constitution is typical in stating simply that "[t]he Conference shall be the supreme authority of the Organization." The only international body mentioned in the terse North Atlantic Treaty (NATO) is its Council: "The Parties hereby establish a Council, on which each of them shall be represented," but there is no reference to its legislative authority. However, the Council is the only NATO body with explicit authority to "set up such subsidiary bodies as may be necessary" (Art. 9). NATO's website confirms that the Council is "the principal political decision-making body within NATO. It brings together high-level representatives of each member

country to discuss policy or operational questions requiring collective decisions" (Art. 9).[8]

An IO may have more than one assembly. Just as a national state may have two legislative chambers so it is not uncommon for international organizations to have two, or even three, assemblies. The European Coal and Steel Community began with a single assembly (the Council of Ministers), and the European Economic Community added a second in 1975 with the establishment of the European Council, and a third in 1977 when the European Parliament was transformed from a consultative chamber to a legislative assembly with budgetary powers. In the Andean Community, the Commission, "the supreme organ" (1969 Cartagena agreement, Art. 6), was initially the one body that could "formulate the general policy of the Agreement and adopt the measures necessary for the achievement of its objectives" (1969 Cartagena Agreement, Art. 7a). It is composed of one representative of ambassadorial status from each member state. Its legislative role was strengthened in 1987 when it was endowed with a "capacity to legislate exclusively" (1987 Quito Protocol, Art. 6). However, from 1999 it came to share legislative competences with two new assemblies: the Andean Presidential Council, composed of the heads of state, and the Andean Council of Foreign Ministers, composed of the member states' ministers for foreign affairs (1996 Trujillo Protocol). The Commission is the primary legislator on trade and investment; the Council of Foreign Ministers is the primary legislator on all other policy; and the Presidential Council governs the Andean Community's general political direction.

Just as it is possible to find multiple bodies that fulfill the functions of an assembly, one may find a single body that takes on the functions of assembly and executive. When Kenya, Tanzania, and Uganda reconstituted the East African Community (EAC) in 1993, they set up an intergovernmental Tripartite Commission that was responsible both for promoting "co-operation in various fields including political, economic, social, cultural and security" (Art. 1) and for the "implementation of tripartite programmes" (Art 3.01). A new treaty in 1999 replaced the Tripartite Commission with a more elaborate structure consisting of a stand-alone assembly and two executives.

It is not unusual for an existing body to take on additional functions. At its inception (1957), the European Economic Community established its Council as its intergovernmental assembly. Over the next three decades, the Council machinery evolved into an ever-expanding structure of committees at the interface of national ministries and the European Commission. The Council's role was slipping into executive terrain as these committees initiated domestic

[8] <http://www.nato.int/cps/en/natolive/topics_49763.htm>, accessed on July 22, 2016.

implementation of EU law (Dinan 1994; Wallace and Edwards 1977). Still, in our judgment and that of most EU scholars, the executive role of the Council remained secondary to that of the Commission which was explicitly tasked with executive and management functions. This changed with the Single European Act (1987) which mandated the Council to "reserve the right, in specific cases, to exercise directly implementing powers itself" (Art. 145), at which point we classify the Council as an executive alongside the European Commission (Peters 1992: 102; Sbragia 1993: 29, 20; 1992: 5). This is an instance in which a distinction that is clear in theory but muddy in practice requires a feeling for context.

The first question in Box 2.2 requires that we define selection by member states. Our concern is with the extent to which national executives select members of the assembly. We define national executives broadly to encompass ministers of the central government, diplomats, military or security attachés, central bankers, civil servants, and scientists or experts sent on behalf of their national government. However, this does not include individuals selected by government bodies that are distinct from the national executive, such as subnational governments, national or subnational parliaments, and national or subnational courts. Nor, of course, does it include individuals selected by public interest groups, professional associations, international organizations, or the non-state bodies of international organizations.

A person can be categorized as selected by a member state even if required to meet professional or scientific qualifications laid down by an IO. For example, the World Meteorological Organization (WMO) stipulates that "Each Member shall designate one of its delegates, who should be the director of its Meteorological or Hydrometeorological Service, as its principal delegate between sessions of Congress" (Art. 7.b). The Constitution of the World Health Organization states that delegates to its assembly "should be chosen from among persons most qualified by their technical competence in the field of health, preferably representing the national health administration of the Member" (Art. 11). We code the members of both assemblies as selected by member states.

We consider a person to be a member of an IO assembly for the purpose of assessing non-state representation only if that person has full voting rights. This excludes non-state representatives who can observe and speak but not vote. Six non-state territories in the WMO can participate in all deliberations, but only "Members which are States" can vote on constitutional amendments, accession of new members, relations with other intergovernmental organizations, and appointments (WMO Convention, Art. 11).[9]

[9] The non-state territories are the British Caribbean Territories, French Polynesia, Hong Kong, Macao, Netherlands Antilles and Aruba, and New Caledonia.

On this ground we interpret the WMO assembly as entirely member state selected even though a representative of a territory can be elected to the Executive Council, as happened in the case of the British Caribbean Territories. By contrast, the Bank for International Settlements (BIS) extends full participation and voting rights to the European Central Bank, a non-state actor, alongside national central bankers or their nominees whom we consider member state selectees. Similarly, the World Trade Organization (WTO) grants membership to the European Union on the basis of the combined votes of its member states.[10] The WTO also opens the door for membership to any "separate customs territory possessing full autonomy in the conduct of its external commercial relations" (Art. XII). Hong Kong became a member of the WTO in 1995, and retained full membership with voting rights even after China joined in 2001. The International Labour Organization (ILO) assembly receives a score of 2 because trade unions and business associations select 50 percent of the voting members of its assembly. Just one assembly scores 3: the European Parliament, which has been directly elected since 1979.

The second question in Box 2.2 concerns representation. What proportion of the assembly votes as instructed by their respective member state? There are two ways in which the members of an assembly may not directly represent member states. One is by virtue of the presence of non-state representatives. Assembly members who are not selected by member state governments can be expected to be able to put some distance between themselves and their government's interests. Second, an assembly member selected by a national executive may gain some independence through an explicit norm of independence or impartiality, usually in the form of an oath. This is the classic delegate versus trustee distinction (Burke 1774: ch. 13). A delegate sitting on an IO assembly votes as instructed by her national executive whereas a trustee has autonomy to vote in accord with her own judgment.

Trustee representation, as we observe below, is not uncommon in IO executives, but it remains only a logical possibility in IO assemblies, though there have been some near misses. In 1945, when the United Nations Educational, Scientific and Cultural Organization (UNESCO) was negotiated, France proposed that national delegates on UNESCO's assembly, the General Conference, should serve in their personal capacities rather than as government representatives, but this was rejected (Phillips 1962: 33–4). No other IO in

[10] For two years (1968–1969) the members of OAPEC voted as a bloc in the Arab League (Tetréault 1981: 52–3). This does not meet the criterion for non-state membership in an assembly because it was not sanctioned in the institutional rules of the Arab League. This contrasts with the Arab League's explicit rule to grant full membership rights to the Palestine Liberation Organization.

our sample has come even this far. Evidently, member states are loath to relax control over those who sit in IO assemblies.

The third question in Box 2.2 concerns the basis of representation in the assembly. Does the assembly give states equal weight on the principle of sovereign equality, or is it biased to financial contribution, economic power (e.g. size of the maritime sector or industrial production), population, or equal regional representation (Viola, Snidal, and Zürn 2015)? The possibilities are diverse. The General Meeting of the Bank for International Settlements and the Board of Governors of the World Bank weight votes by financial contribution. The Board of Governors of the International Monetary Fund has a formula based on national GDP. The Nordic Council's Plenary Assembly and the European Union's Council of Ministers use population. The European Coal and Steel Community weighted votes in its Council on coal and steel output. Before introducing one member, one vote in 1975, the South Pacific Commission gave its colonial founding members one additional vote for each of their territories.

Executive

An executive makes and executes policy within the guidelines set by the assembly. We assess the make-up of an IO executive, who gets to sit in it, how they are selected, and whether they are delegates or trustees. These questions require an extended coding frame because, in contrast to an IO assembly, the members of an IO executive may be selected by member states, assemblies, other IO bodies, and even occasionally the executive itself. Whereas the assembly is *primitive* in that it precedes other IO bodies, the executive is *derivative* in that it is determined by other IO bodies.

COMPOSITION

We code who proposes and who appoints the head of the executive and who proposes and who appoints the remaining members of the executive (Box 2.3). We identify which actor or actors are involved in proposing and appointing the executive and its head, and we identify the decision rule that each actor uses at each point (Box 2.4). If an IO has more than one executive, we code these separately.

In this section we set out criteria for classifying a body as an executive and how we distinguish the process of proposing candidates from appointing them. We conclude by explaining the coding matrix (Box 2.4) for the four decisions listed in Box 2.3.

Box 2.3 COMPOSITION OF THE EXECUTIVE

IV. Who selects the head of the executive?

a. Who proposes the head of the executive?

[see Box 2.4]	Who proposes?
Decision rule?	

b. Who appoints the head of the executive?

[see Box 2.4]	Who decides?
Decision rule?	

V. Who selects the members of the executive?

a. Who proposes the members of the executive?

[see Box 2.4]	Who proposes?
Decision rule?	

b. Who appoints the members of the executive?

[see Box 2.4]	Who decides?
Decision rule?	

Box 2.4 WHO DECIDES USING WHAT DECISION RULE?

What is the decision rule?	Member states	Assembly 1	Assembly 2	Assembly 3	Executive 1	Executive 2	Executive 3	Executive 4	Executive 5	Head of Executive	General Secretariat 1	General Secretariat 2	Other non-state actor*	Rotation	Automatic procedure	No written rule
Unanimity/consensus																
Selective veto																
Supermajority																
Majority																
Voting not applicable																
No written rule																

Shaded cells are inadmissible.

* Usually an IO consultative body or IO court.

An executive is responsible for executing policy, normally within the guidelines set by an assembly. This brings the executive in close contact with the general secretariat, whose primary function is to run day-to-day operations. An executive plays a key role in agenda setting, in implementation, and is sometimes drawn into decision making on compliance and, occasionally, dispute settlement, whereas a general secretariat collects information, allocates resources, prepares policy, coordinates implementation, and, where applicable, monitors compliance. In short, a general secretariat serves other political bodies, whereas an executive *is* a political body.[11]

IO constitutions and founding conventions provide useful clues. The executive is usually pinpointed as the second most important body of the organization after the assembly, to which it reports. Sometimes nomenclature makes this explicit. Many IOs have an "Executive Council" (e.g. the African Union and the Centre for Agriculture and Bioscience International), while some have an "Executive Committee" (e.g. Interpol, COMECON). Other IOs have a "Board of Governors" (IAEA, OPEC), "Council" (Benelux, FAO, ISA, SADC), or simply "Board" (Bank for International Settlements). In the latter cases, the term *executive* often crops up as an adjective. The FAO, for example, states that "The Council . . . shall, between sessions of the Conference, act on behalf of the Conference as its executive organ" (1948 FAO Constitution, Rule XXIV). The International Seabed Authority asserts that "The Council is the executive organ of the Authority" (1982 ISA Convention, Art. 162.1, in ISA 2001). A bit more discrimination is sometimes necessary. The International Telecommunication Union's Council is not explicitly labeled an executive, though it acts as such in assuming responsibility for "all steps to facilitate the implementation by the Member States of the provisions of this Constitution, of the Convention, of the Administrative Regulations, of the decisions of the Plenipotentiary Conference, and, where appropriate, of the decisions of other conferences and meetings of the Union . . . in keeping with the guidelines given by the Plenipotentiary Conference" (1998 ITU Constitution, Art. 11.1 and 2).

In some IOs, the general secretariat takes on an explicitly executive role, often alongside a second executive with parallel competences. The 1999 Treaty of the East African Community (EAC) describes its secretariat as "the executive organ of the Community" with responsibility for managing, monitoring, and coordinating policies (1999 EAC Treaty, Arts. 66.1 and 71). The EAC also has a council which is "the policy organ of the Community" to

[11] However, it is worth noting that senior bureaucrats in a general secretariat typically operate in both the political and administrative worlds. They act as administrators in following orders for routine actions in hierarchical settings and they act as political animals in using informal networks and twisting arms to mobilize support for contentious policy (Aberbach, Putnam, and Rockman 1981; Hooghe 2002; Ingraham 1998; Kassim et al. 2013; Page 1985; Suleiman 1984, 2005; Ellinas and Suleiman 2012; Wood and Waterman 1993).

"promote, monitor and keep under constant review the implementation of programmes" (1999 EAC Treaty, Art. 14). A general secretariat can cover a lot of ground, and in several IOs, the general secretariat not only facilitates the executive council by organizing meetings and providing information, but plays an active role in shaping and implementing policy. The EAC Secretariat plays an executive role in five of the six decision areas that we assess.

In 2010, general secretariats in nineteen IOs combine executive and administrative roles. They range from IO secretariats with narrowly circumscribed executive powers as in SELA, the Andean Community, and the League of Arab States, to wide-ranging executives in the European Union, the Economic Community of West African States (ECOWAS), the African Union, and the European Space Agency. Fifteen of these nineteen IOs have an additional body that is tasked with an executive role, and in five cases, there are two additional executives. By contrast, some secretariats are just what their name implies. In the laconic language of the Commonwealth, "The Secretariat should not arrogate itself to executive functions" (1965 Memorandum on the Commonwealth Secretariat, Art. 6). Three IOs in our dataset had at their foundation no body that met the minimal standards of an executive. The Conference on Security and Cooperation[12] had no executive for the first twenty-two years of its existence. The Arab Maghreb Union was also founded without an executive, and eventually set up two. The Commonwealth of Independent States (CIS) was established in 1992 with only a skeleton structure, though two years later it created three executives.[13]

These examples make a general point: an IO may start life with an insubstantial or non-existent executive if its policy stream is sufficiently thin. The Customs Cooperation Council[14] began with a bare-bones structure that was deemed sufficient to coordinate national customs bureaucracies. It had an assembly-executive, the Customs Cooperation Council, which met twice a year, a small secretariat, and a Permanent Technical Committee which could initiate studies and advise member states. In 1978 the Council established a stand-alone executive, the Policy Commission, which "shall concern itself with broad policy questions relevant to the WCO's activities. The Commission shall act as a dynamic Steering Group to the Council. It shall initiate studies on the policies, practices, and procedures of the WCO with the objective of assisting the Council to achieve the broad aims of its activities" (Council Decision No. 284).

Box 2.4 sets out the coding matrix that we use for each of four decisions: proposing the head of the executive, appointing the head of the executive,

[12] Renamed the Organization for Security and Cooperation in 1995.

[13] Coordinating-Consultative Committee (renamed in 1999 as the Executive Committee), the Council of Ministers of Foreign Affairs, and the Interstate Economic Committee (later Economic Council).

[14] Renamed the World Customs Organization in 1994.

proposing the members of the executive, and appointing the members of the executive. Rules about the final appointment to an executive are usually more explicit than those proposing members, which in some cases is not subject to any written rule. Unless we find evidence for such a rule in an IO's documents or in the secondary literature, we assume that the two stages are rolled into one, so that the actor with authority to appoint also has authority to propose.[15]

We code whether decisions by a body to propose or appoint are taken by simple majority, supermajority, or by unanimity/consensus.[16] Most IO bodies use an explicit voting rule. For example, the Assembly of the International Civil Aviation Organization (ICAO) selects members of the Council by simple majority (1947 ICAO Convention, Art. 49). In the Economic and Monetary Community of Central African States (CEMAC), the Conference of Heads of State elects the regional organization's primary executive, the Commission, by consensus (2007 CEMAC Treaty, Art. 27). However, most IO general secretariats are hierarchical and do not take decisions by counting votes. The European Union's secretariat, the European Commission, is an exception– it is a collegial body that decides by simple majority.

In most IOs it is the member states, and only the member states, that select the executive. The head of the executive simply rotates. However, almost half of the IOs in our sample do something entirely different. The possibilities are diverse as Box 2.4 suggests. The African Union's Executive Council draws up a list of candidates for the Commission, and the Assembly of Heads of State or Government collectively makes the final decision by two-thirds majority. In the Andean Community, the secretary general, who heads the executive, is proposed by member states and the Andean Parliament, and is then appointed by the Andean Council of Foreign Ministers and the Andean Commission in joint session. The director generals who sit on the executive are appointed by the secretary general in consultation with member states (CAN 1969, Art. 35). In this case, we code both member states and the secretary general as proposing and the latter as making the final decision.

[15] The conceptual distinction between proposing and appointing is often sharp. Several treaties, conventions, and rules of procedure specify one set of rules for the former and another set for the latter. Some IOs have no written rules for proposing appointment to the executive when they are established, but adopt such rules a few years later.

[16] Most international organizations use the term consensus rather than unanimity. Consensus is more flexible than unanimity because it does not require that all parties actively vote for a decision. As Rodolfo Severino, former ASEAN secretary general, puts it: "Consensus on a proposal is reached when enough members support it—six, seven, eight or nine, no document specifies how many—even when one or more have misgivings about it, but do not feel strongly enough about the issue to block action on it. Not all need to agree explicitly. A consensus is blocked only when one or more members perceive the proposal to be sufficiently injurious to their national interests for them to oppose it outright" (quoted in Haggard 2011: 16).

Rotation of the head of the executive is often alphabetical by member state or, in some global organizations, by region. There are several alternatives. The Board of Directors of the Bank for International Settlements proposes and selects a chairperson from among its members (1930 BIS Basel Statutes, Art. 38). The Council of the ICAO does the same, though the appointee need not be selected from among the members of the Council (ICAO Convention, Art 51). The organization's second executive, the Air Navigation Commission, cannot choose its president; this person is appointed by the Council. Whereas the Council is an interstate body, the Air Navigation Commission is composed of experts with "qualifications in science and practice of aeronautics" (ICAO Convention, Art. 56) who sit in a professional capacity.

CHARACTER AND BASIS OF MEMBER STATE REPRESENTATION

Box 2.5 sets out the indicators for member state representation in executives. The format follows that for an assembly (see Box 2.2) with some nuances. We ask two questions of executives that we do not ask of assemblies. We ask whether all or only a subset of member states have a seat in the executive (VII). This issue is moot for assemblies because all member states are represented. And we ask whether some seats in the executive are reserved for particular member states (IXa). This is also moot in an IO assembly. Finally, Question VI does not ask whether members of the executive are selected in popular election because no such case exists.[17]

Some issues that arise in estimating assemblies also come up for executives. We conceptualize member state representation as representation of the central executive and its constituent units. This does not include subnational governments, national legislatures, or courts. Hence, we consider judges on the International Criminal Court (ICC) as non-state because a candidate judge for the ICC, though proposed by a member state, "need not necessarily be a national of that State Party" (1998 Rome Statute of the ICC, Art. 37.4.b). To produce a positive score on Question VI, such a non-state actor must either have full voting rights or serve as chair of the executive. So, for example, we code the executive at both the IMF and World Bank as 1 on Question VI because the general secretaries of those organizations chair their executives. The Comité Exécutif at Interpol (1946–56) scores zero because the general secretary, who sits on the executive, neither chairs nor votes.

A member of an executive can also be considered non-state if he or she must take an oath of independence. In 2010, thirteen IO executives were subject to such an oath, including Interpol's Executive Committee which instructs its

[17] At least not until the presidency of the European Commission becomes an elected position (Hix 2008).

Box 2.5 REPRESENTATION IN THE EXECUTIVE

VI. How are members of the executive selected?
- **0** All members of the executive are selected by member states
- **1** A majority, but not all, of the members of the executive are selected by member states
- **2** At least 50 percent of the members of the executive are selected by parliaments, subnational governments, or other non-member state actors

VII. Do member states have full or partial representation?
- **0** All member states are represented in the executive
- **1** A subset of member states is represented in the executive

VIII. Do members of the executive directly represent member states?
- **0** All representatives in the executive receive voting instructions from their government
- **1** 50 percent or more, but not all, members of the executive receive voting instructions from their government
- **2** Fewer than 50 percent of the members of the executive receive voting instructions from their government

IX. Does representation in the executive deviate from one member, one vote?

IXa. Is a subset of seats reserved for particular members?
- **0** No
- **1** Yes

If yes, what is the basis: financial contribution, economic interest, geopolitical weight, nuclear capability, host country?

IXb. Is voting weighted?
- **0** No
- **1** Yes

Is the basis population, GDP, geography, or financial contribution?

IXc. Does weighted voting provide some member states with a veto?
- **0** No
- **1** Yes

If yes, which countries can exercise a veto?

members to "conduct themselves as representatives of the Organization and not as representatives of their respective countries" (Interpol Constitution, Art 21). Similarly, the members of the Commission of the Organization of Eastern Caribbean States (OECS) are required to "neither seek nor accept instructions from any Government or from any other authority external to the Organization" (2010 OECS Treaty of Basseterre, Art. 12.6). In all, thirty-six IOs in 2010 have at least one executive that is not formally bound by member state instructions. This is a sizeable number, and contrasts starkly with the small number of assemblies not subject to full state control.

Weighted voting on the executive almost always goes along with direct state representation. The exceptions are the World Bank where the chair of the Executive Board is the president of the permanent staff, and the Global Environmental Fund where the chair of its Council is elected by its members

at every meeting. We also detect a bias in favor of direct representation when only a subset of states is represented on the executive, for example, because they have reserved seats or because membership on the executive rotates. Reserved seats are valuable state resources, and rotation commits a representative to speak on behalf of the selected state (as in the United Nations Security Council) or group of states in a particular world region (as in the Food and Agriculture Organization).

If members of an executive are elected, two conditions come into play for this to be coded as indirect state representation: a) representatives are explicitly national trustees not national representatives, or b) there is evidence that the election is competitive, for example, there are more candidates than positions; candidates actively campaign for office (for example, by issuing manifestos); or voting is secret.

The Air Navigation Commission of ICAO scores 2 on indirect representation. Article 56 of the Convention reads that the "persons shall have suitable qualifications and experience in the science and practice of aeronautics" and that they are "appointed by the Council from among persons nominated by contracting States." Both phrases—the reference to persons rather than states and the reference to selection among multiple nominations—suggest indirect representation. ICAO's website spells out that the Commission is composed of "Members, who act in their personal expert capacity," and this is confirmed in secondary sources (Milde 2008: 150).

The character of representation can change markedly over time. At its inception, UNESCO's Executive Board was designed to be independent. There was an election; participants were experts, not diplomats; and there was a guarantee of independence: "members elected by General Conference from among the delegates appointed by the Member states" (Art. V.A.1); "persons competent in the arts, the humanities, the sciences, education and the diffusion of ideas" (Art. V.A.2); instructed to "exercise the powers delegated to them by the General Conference on behalf of the Conference as a whole and not as representatives of their respective Governments" (Art. V.B.11, 1946 UNESCO Constitution). In 1954, the third provision was watered down to create a dual responsibility: "Although the members of the Executive Board are representative of their respective governments they shall exercise the powers delegated to them by the General Conference on behalf of the Conference as a whole." Over the years the member states chiseled away at executive independence until, in 1991, a comprehensive reform made the members of the board delegates rather than trustees (Art. V.A.1(a) and (b)). The reference to expertise in arts, humanities, etc. was replaced by a bland provision to "endeavor to appoint a person qualified in one or more of the fields of competences of UNESCO" (Art. V.A.2(b)). The reference to independence was dropped in favor of the collective responsibility of the Board to "exercise the powers delegated to it by the General Conference

on behalf of the conference as a whole" (Art. V.B.14). We code indirect representation from 1950 to 1953, but we need to judge whether the shift to direct representation should be placed as early as 1954 or as late as 1991. We opt for 1954 on account of the revised wording in the Constitution and because secondary sources identify 1954 as a decisive shift from independence to state control (Finnemore 1993: 579).

The final series of questions in Box 2.5 concerns the basis of representation: To what extent, and how, does it deviate from the principle of sovereign equality? There are two ways for an IO to formally accommodate powerful states. Executive votes can be weighted, which is the case in five IOs: the IMF, the World Bank, the Global Environmental Fund, the European Union, and the Commonwealth.[18] We then assess whether this produces a de facto veto. Second, seats in the executive can be reserved for particular member states. This takes place in sixteen IOs, including the Permanent Court of Arbitration which, by convention, reserves a seat for the Dutch minister of foreign affairs to serve as its president.

General Secretariat

The general secretariat is the core of an international organization (Barnett and Finnemore 2004; Pollack 2003). It is the most institutionally stable IO body and the most predictably supranational. It is also the most diverse in size. In our sample, the number of staff employed in a secretariat ranges from sixteen in the International Whaling Commission to seven thousand in the World Health Organization. At a minimum, the general secretariat is responsible for running the IO's headquarters, keeping records, and representing the IO to the outside world. A secretariat can also be charged with preparing and implementing decisions, conducting or commissioning background research, and monitoring member state compliance. Its formal involvement in decision making can vary widely.

In contrast to assemblies and executives, which are vehicles for representation and deliberation, general secretariats are hierarchical bodies. Hence, we focus on its leadership.[19] How is the head of the general secretariat selected;

[18] Weighted voting was used in the Commonwealth of Independent States (1994–99) and in the South Pacific Commission (1965–73).

[19] The default title for the head is general secretary or secretary general with variations that include secretary (IWhale), general manager (Bank for International Settlements), executive director (APEC), managing director (IMF), director general (European Space Agency, FAO, UNESCO, WTO), director (Pacific Islands Forum, Nordic Council), president (World Bank, European Union, ECOWAS), and chief executive officer (CABI).

Coincident with a reform of the institution, the title may change. For example, the head of ECOWAS' general secretariat was the executive secretary until June 2006 when the secretariat was converted into a Commission with strong executive powers. The post was renamed president of the Commission, in parallel to the European Commission.

Box 2.6 SELECTION AND REMOVAL OF THE HEAD OF THE GENERAL SECRETARIAT

X. Who selects the head of the General Secretariat?

Who selects the head?

Box 2.4	Who selects?
Decision rule?	

XI. Who can remove the head of the General Secretariat?

Who can remove the head?

Box 2.4	Who decides?
Decision rule?	

XII. What is the length of tenure?
Number of years, or indeterminate:.....

XIII. Is there an oath of independence or formal protection of IO bureaucracy impartiality and independence?
0 No
1 Yes

how is she removed; and what is the length of tenure for the position? Box 2.6 specifies only the final decision on selection and removal. These are usually clearly articulated, and there are seldom rules for proposing candidates.[20] When more than one body is involved in the selection process, we code appropriately, as in the contemporary European Union where the European Parliament and the European Council are co-responsible for the selection of the Commission president.

A few international organizations do not have an independent administration, but farm out their administration to member states. The North American Free Trade Agreement (NAFTA) has a secretarial outpost in each of its three member states. The secretary who heads each national section is appointed by the respective government (Art. 2002.1). For its first two decades, each member state of the Nordic Council maintained a secretariat which organized meetings in its host country. The Southern African Customs Union (SACU), founded in 1910 and now the oldest customs union still in existence, did not have an independent full-time administrative secretariat until 2004 (2002 Windhoek SACU Agreement, Arts. 8 and 10). Previously, the administration

[20] In the Caribbean Community (CARICOM), the secretary general is appointed by the assembly, the Conference, on the recommendation of the Community Council (2001 CARICOM Treaty, Art. 24.1). We code the Conference, which decides by consensus, but readers can find information on the entire decision process in the profile. The profiles provide information on the appointment of deputies, senior staff, etc. where this adds texture to the scoring.

was run by the South African government. Given their fragmented character and/or lack of independence, none of the bodies noted above can be designated as a self-standing IO body.

The length of tenure of the general secretary varies a lot. Senior appointments are nearly always political appointees on limited-term contracts. Terms usually vary between three and five years, with five years the mode. Some IO contracts avoid fixing the term, as in SACU, CABI, IWhale, COMECON, and the first East African Community.

Information on tenure may not be available in an IO's early years of existence—or it may be left unspecified. We often have to dig into rules of procedure, staff regulations, or by-laws to get detail, and sometimes we must rely on secondary sources. The Central Commission for the Navigation of the Rhine illustrates this. The 1831 convention has a single article dealing with its secretariat, Article 44ter, which states that it is appointed by the Central Commission, and while the convention was revised several times in subsequent decades, the provisions on the secretariat were not. In 1979 the organization published rules of procedure for personnel (Decision of the Commission 1979-II-45bis) in which Article 10 states that the top three positions—the secretary general, the deputy secretary general, and the chief engineer—are appointed by the Commission for terms of four years, extendable twice. The only source for the period before 1979 is a scholarly article written by a secretary general, which implies that the post of general secretary was appointed for life (Woehrling 2008: 6n23).

Consultative Bodies

We inquire whether an IO has one or more standing consultative bodies composed of non-state representatives, and we observe their number, composition, and decisional role. We assess up to three such bodies along the lines set out in Box 2.7. Consultative bodies play a growing role in international governance and we include them in our measure because they are a means by which state control over IO governance may be attenuated. While in 1950 only one in four IOs in our sample had one or more standing consultative bodies, by 2010 this had risen to three in five IOs.

A consultative body fulfills the following criteria:[21]

- It has some formal status, e.g. it is incorporated in a treaty or convention, in a separate protocol, on the IO's organigram, or is described on the IO's website as a recognized consultative body;

[21] Tallberg et al. (2013) have produced a refined dataset of transnational access in IOs over time.

Box 2.7 THE STRUCTURE OF CONSULTATION

XIV. Is there a standing consultative body composed of non-state representatives?
- **0** No consultative body
- **1** One consultative body
- **2** More than one consultative body

XV. Who is it composed of?

XVa. CB1 [name]: . . . . . .
- **1** Private representatives (e.g. business, trade unions, social movements, professional experts)
- **2** A combination of private representatives and public non-state representatives
- **3** Public non-state representatives selected by national or subnational assemblies
- **4** Public non-state representatives who are directly elected

XVb. CB2 [name]: . . . . . .
- **1** Private representatives (e.g. business, trade unions, social movements, professional experts)
- **2** A combination of private representatives and public non-state representatives
- **3** Public non-state representatives selected by national or subnational assemblies
- **4** Public non-state representatives who are directly elected

XVc. CB3 [name]: . . . . . .
- **1** Private representatives (e.g. business, trade unions, social movements, professional experts)
- **2** A combination of private representatives and public non-state representatives
- **3** Public non-state representatives selected by national or subnational assemblies
- **4** Public non-state representatives who are directly elected

- It possesses the right to be consulted on an ongoing basis;
- It is composed of non-state representatives.

Applying these criteria requires discernment. We illustrate gray cases with examples. The first criterion is that consultation is institutionalized. We code a formally recognized channel that does not name a particular body but a set of potential bodies if it meets the three criteria listed here. However, it is not sufficient for an IO to informally invite non-state representatives to attend assembly meetings, to deposit briefs, or to have an accreditation system for civil society groups or lobbyists. Non-state representatives must have a recognized right to be invited, and cannot be summarily disinvited. This right is usually entrenched in rules. The Food and Agricultural Organization (FAO) meets the criterion from the early 1950s. Non-governmental consultation is regulated in the FAO's General rules which distinguish NGOs with full consultative status from those with special consultative status or liaison status (Rule XVII.1, 3; Liese 2010). Only the first group meets the criteria set out above on account of being entitled to participate in FAO Council and Conference meetings; those in the remaining groups require an invitation.

The Commonwealth Secretariat (ComSec) provides a channel for civil society groups to meet with its staff, participate at formal consultations once or twice a year, collaborate on its programs, and take part in flanking events hosted in conjunction with the annual Commonwealth Heads of Government Meeting (CHOGM) (Tallberg et al. 2013: 166–77). However, this channel lacks a standing consultative body with a formal role in decision making and hence does not meet the criteria laid out above.

Regular and predictable consultation is embedded in the foundational contracts of many IOs. In others it develops in the course of an IO's operation and is established in secondary regulation. The former is exemplified in the European Assembly of the European Economic Communities which is empowered in the 1957 Rome Treaty (Title I, Ch. 1, Section 1). Article 137 states that "The Assembly, which shall be composed of representatives of the peoples of the States united within the Community, shall exercise the powers of deliberation and of control which are conferred upon it by this Treaty." Before it gained some legislative powers in 1970, the Assembly had a right to mandatory consultation by the Council and the Commission on a range of economic policies, including the budget (Art. 203).

Many consultative bodies are empowered in a separate protocol or agreement. In 1994 member states of the Caribbean Community ratified the Agreement for the Establishment of an Assembly of Caribbean Community Parliamentarians (ACCP), which became CARICOM's "deliberative and consultative body for the discussion of policies, programs and other matters falling within the scope of the Treaty" (Art. 5.1). The members are appointed or elected by member state parliaments. The United Nations has a plethora of standing expert bodies, most of which have a legal basis in a UN resolution. For example, in 2000, the UN Economic and Social Council created an advisory UN Permanent Forum on Indigenous Issues (ECOSOC resolution 2000/22). Sixteen independent experts sit on the forum in their personal capacity; eight are nominated by governments, and eight by indigenous organizations.

The ASEAN Inter-Parliamentary Assembly (AIPA) illustrates the minimal requirement for consultative status in our coding scheme. The body was established in 1977 as the ASEAN Inter-Parliamentary Organization (AIPO), ten years after ASEAN was founded, with the goal of facilitating exchange visits which would foster "closer contacts and understanding among parliamentarians" in tune with the informal ASEAN way.[22] In 2006 the body renamed itself the ASEAN Inter-parliamentary Assembly (AIPA) and formalized its structure. However, the ASEAN Charter (2007) mentions AIPA only in an annex that contains "associated entities" and it does not confer any

[22] <http://www.aipasecretariat.org/about-us/background-history/>.

consultative functions. We code AIPA as a formal consultative body from 2010 when an "ASEAN-AIPA interface" was institutionalized to provide a formal setting where heads of state and parliamentary speakers consult on regional issues.

Consultative bodies, such as those discussed above, are primarily composed of non-central-state representatives, e.g. representatives of national or subnational legislatures, subnational governments, producer groups, indigenous communities, or experts of various kinds. Nomination to sit on a consultative body may require support or confirmation by a member government; it may be subject to a national or regional quota; and the nominee's terms of reference may be controlled by an interstate body. However, from the standpoint of our measure, a distinguishing feature of a consultative body is that its members are not delegates of national governments. A requirement that nominees have a professional or scientific qualification may fail to meet this criterion. The Scientific Committee of IWhale (IWC) is composed of scientists who are appointed by member states as part of national delegations (Rules of Procedure of the SC, A.1). A secondary source points out that only the chair and vice-chair of the committee are expected to "not represent their country" (Donovan and Hammond n.d.).[23]

In our scheme, a consultative body that gains decision making power is transformed from a consultative body to an IO body proper.The line between a consultative body and a decisional body is sometimes fine. What is the role of the body: Is it meant to be a non-state check on interstate decision making, or is it integral to the decision process? The European Assembly/ Parliament ceases to be a consultative body in 1977 when it gains legislative powers on the budget. Henceforth we code it as an integral IO body. However, we note that the Assembly had one decisional power from the start: it could censure the European Commission by a two-thirds vote and compel it to resign. On that basis one could say that the Assembly was more than a consultative chamber from day one, but we follow common practice in EU studies which characterizes the Parliament as consultative in the early decades.

The Air Navigation Committee of the International Civil Aviation Organization (ICAO) consists of non-state experts in aeronautics who are nominated by contracting states, but act in their personal capacity. Hence it meets the compositional criterion for a consultative body. However, its role is integral to the policy making process so we categorize the Committee as an executive. Its

[23] We include the Scientific Committee of IWhale as an executive body because it makes policy recommendations on the core activities of the IWC: whale stocks, moratoria, and conservation measures, making it the primary agenda setter on policy and an essential pillar of the policy making process. Notwithstanding that it provides scientific "advice" (Rules of Procedure 2014 Art. M), it is "generally considered the second-most important body in IWC" (Tallberg et al. 2013: 211; Andresen 2000).

job is to propose standards and recommended practices (SARPs) to the Council for a final decision which then goes to the member states for ratification (Dempsey 1987; Richards 2004).

Decision Making

In this section we outline how we code IO decision making, beginning with two concepts—ratification and bindingness—that are fundamental to an estimation of IO authority.

Ratification

Ratification is the procedure whereby an IO decision becomes formally binding only after it gains domestic approval in member states. This may require that the executive signs off on the decision or it may require national legislation or a national referendum. In some cases, an IO decision is put into effect only for those member states that ratify; in other cases, ratification by a subset of member states makes the decision binding on all. Ratification can apply to member accession, constitutional reform, and policy making, and often varies across these decision areas within an IO and over time. Here we engage some general issues related to the evidence and interpretation.

We distinguish four alternatives in Box 2.8 and we scale these to estimate IO authority. The most limiting requirement on the authority of an IO is that every member state must ratify a decision for it to come into force, and the least limiting requirement is that the IO decision comes into force without ratification. We conceive two intermediate situations. The more limiting situation for IO authority is where an IO decision comes into effect only for those member states that ratify. IO authority is less limited when an IO decision comes into effect for all states if ratified by a specified subset of member states.

The incidence of these possibilities varies across decision areas. Decisions on accession either require no ratification or ratification by all. No IO in our sample

Box 2.8 RATIFICATION

0 Every member state must ratify the IO decision for it to come into effect
1 The IO decision comes into effect only for those member states that ratify
2 Ratification by a subset of member states is required for the IO decision to come into effect for all member states
3 Ratification is not required for the IO decision to come into effect

makes use of an intermediate option for accession. Constitutional reform and policy making are more diverse. Constitutional reform requires ratification by every member state in 38.5 percent of the IOs in the sample. Ratification by a subset binds all member states in 24.5 percent; constitutional reform comes into effect only for those that ratify in 20 percent, and no ratification is required in 17 percent. With just a handful of exceptions, policy decisions either require no ratification (79 percent of IOs) or come into effect only for IOs that ratify (17.5 percent).

Ratification is usually specified in an IO's constitution or protocols, often using the term "instrument of acceptance."[24] However, in some cases, the text requires further specification. UNESCO's Constitution asserts that "Member States shall submit recommendations or conventions to its competent authorities within a period of one year from the close of the session of the General Conference at which they were adopted" (Art. IV.B.4). In this case, submission to competent authorities does not imply ratification. UNESCO's Rules of Procedure distinguish between the obligation to submit to domestic authorities and the requirement to ratify. Only conventions need to be ratified. Recommendations are intended to inform domestic law, but as voluntary prescriptions they are not subject to ratification.[25]

The Benelux Economic Union abolished ratification for decisions in 1958. The Revised Treaty of that year laconically states that "decisions shall commit the High Contracting Parties" (Art. 19.a). That the contracting parties intend decisions to be in no need of ratification becomes clear in the following paragraph which explains that "conventions" do require ratification and are "submitted to the High Contracting Parties in order that they may become operative in accordance with the rules of the Constitution of each High Contracting Party" (1958 Treaty, Art. 19.b). By contrast, the prior treaty of 1944 applies ratification more broadly to "common measures" which must be "submitted for approval by the competent executive or legislative bodies." We code ratification by all member states from 1950 to 1959, and no ratification once the 1958 Benelux Treaty comes into effect.

Our conception of ratification encompasses a variety of domestic executive procedures beyond legislative ratification. This is consistent with the phrase "in accordance with their internal legal requirements" (or variants thereof)

[24] For example, the International Atomic Energy Agency uses the following wording "Acceptance by a member shall be effected by the deposit of an instrument of acceptance with the depositary Government referred to in paragraph C of article XXI" (Art. XVIII C). The European Free Trade Association requires that amendments "shall be submitted to the Member States for acceptance in accordance with their internal legal requirements. It shall enter into force, unless otherwise provided, on the first day of the second month following the deposit of the instruments of acceptance by all Member States with the Depositary" (2001 Convention Art. 59, par. 3).

[25] See UNESCO's *Rules of Procedure concerning Recommendations to Member States and International Conventions* (last revised in 2004).

used in many IO documents. But when does the domestic procedure become so light that it is rendered meaningless?

Constitutional amendments to the statute of the International Monetary Fund (IMF) are in the gray zone between ratification and non-ratification. They demand an up-or-down by circular: "If the proposed amendment is approved by the Board of Governors, the Fund shall, by circular letter or telegram, ask all members whether they accept the proposed amendment. When three-fifths of the members, having eighty-five percent of the total voting power, have accepted the proposed amendment, the Fund shall certify the fact by a formal communication addressed to all members" (Art. XVIII-b). We interpret this as an additional step after approval by the IMF assembly that is consistent with member state control, and we therefore code it as 2: "ratification by a subset of member states is required for the IO decision to come into effect for all member states."

The Universal Postal Union (UPU) requires ratification for amendments to the Constitution: "The Constitution shall be ratified as soon as possible by the signatory countries" (Art. 25.3). This suggests a code of 1 indicating that the constitution comes into effect only for those member states that ratify. However, the ratification requirements are so light and the institutionalized practice of implementation—even in countries that do not ratify—so strong that it makes sense to interpret the ratification procedure as tacit ratification. This is the conclusion of a detailed legal commentary published by the UPU (2014: A23): "In the past, most of the member countries had not ratified the Acts of the Union by the time they came into force, although they applied them. To settle disputes arising in such circumstances the principle of 'tacit ratification' was admitted." The legal commentary is unequivocal, as is the track record, and we judge that ratification is moot.

Bindingness

We distinguish three degrees of bindingness: non-binding, conditionally binding, and unconditionally binding (Box 2.9).

Box 2.9 BINDINGNESS

0 Non-binding
1 Conditionally binding (i.e. a member state can opt out or can impose restrictions on application)
2 Binding

Non-bindingness is often explicit. Decisions of the Commonwealth of Independent States (CIS) are not binding because, as Art. 23 of the Charter indicates, "Any State may declare its lack of interest in any matter, which should not be regarded as an impediment to making a decision." Interpol's Constitution says that "Members shall do all within their power, insofar as is compatible with their own obligations, to carry out the decisions of the General Assembly" (Art. 9). Interpol resolutions have moral, rather than legal, force (Martha 2010: 59; Deflem 2006). Decisions on budgetary allocations or appointments, by contrast, are binding.

An IO scores 1 if the decision is partially or conditionally binding. The situation is clear when member states can opt out. For example, the European Space Agency distinguishes between mandatory activities, to which all member states contribute financially, and optional activities, which member states can fund at their discretion (ESA Convention, Art. 5.1a). Similarly, the Convention of the International Civil Aviation Organization determines that regulations and standards (SARPs) are binding unless a state explicitly opts out within sixty days (Art. 38).

We code policy making in the European Economic Area (EEA) as conditionally binding. The legal basis for conditional bindingness stems from Article 103 of the EEA Agreement which states that measures become binding once members have notified that their respective constitutional requirements for approval have been fulfilled (for example, through a parliamentary vote). If a member fails to notify the EEA within six months that this requirement has been fulfilled, the measure is suspended (Art. 102.2). Incidentally, only EFTA members can escape an EEA decision while EU members must comply.

Occasionally we need to adjudicate ambiguities. Decisions in the Central American Integration System (SICA) are normally binding but there is a not-so-subtle opt-out. Bindingness derives from Article 10 in the 1991 Tegucigalpa Protocol which states that "The organs and institutions of the Central American Integration System shall contribute to effective compliance with and implementation of the objectives and principles of this Protocol. This obligation shall take overriding precedence in all supplementary or subordinate legislation." This is reinforced by Article 22: "Without prejudice to the provisions of Article 10, the decisions of the Council of Ministers shall be binding on all Member States and only provisions of legal nature may serve to prevent their application." However, the next sentence qualifies this: "The Council shall give further consideration to the matters by means of appropriate technical studies and, if necessary, shall adapt its decision to the needs of the legal system in question. However, such decisions may be applied by those Member States which have not objected to them." Hence individual states can opt out but cannot prevent others from going ahead. This is corroborated by the fact that SICA has indeed engaged in differentiated integration in which

sub-groups of member states cooperate in certain policy fields. At the time of writing, four of its seven members have agreed to introduce common internal borders and a common passport and have adopted the protocol on SICA's supranational court.[26]

The International Organization of La Francophonie (OIF) is an example of intransparent rule-making. However, the absence of an explicit commitment to bindingness is itself meaningful. One of the OIF's policy streams is technical programming and project implementation. The Hanoi Charter goes into considerable detail on the selection, programming, and management of projects, but is not specific on their legal status. Financial contributions of the member states are clearly binding, but because individual states can opt out of particular projects we code this policy stream as conditionally binding. A second stream concerns political cooperation, the chief output of which is resolutions at the biannual summit. For example, the Dakar 2014 summit passed resolutions on terrorism, UNESCO, and Ebola. Prior summits have passed resolutions on the broad policy direction for the organization alongside motions on youth education, women's health, and tourism. These rarely entail specific commitments other than a generic instruction to the Ministerial Conference to study the topic. We code these resolutions as non-binding.[27]

An IO scores 2 if the decision is unconditionally binding. This is usually straightforward for budgetary decision making that commits the organization as a whole to allocate funds for particular purposes. Statutory member contributions to an annual operational budget is also evidence for binding budgetary decision making. In this case, explicit rules would be extraneous.[28] In its foundational documents, running to several hundred pages, the European Union does not explicitly say that its budget is binding. Nor does the organization have a formal procedure to deal with non-paying members. The financial regulation that lays down operational principles and basic rules of financial implementation is concerned with controlling EU institutions, not member states. However, there can be no reasonable doubt that budgetary contributions and budgetary allocation in the EU are indeed binding. Correspondingly, annual budgetary allocations take the form of legally binding annual legislative acts published in the *Official Journal of the European Union* (Schermers and Blokker 2005: 702).

[26] Guatemala, El Salvador, Honduras, and Nicaragua.

[27] This is not the case for declarations that relate to membership accession and suspension (e.g. the Bucharest declaration) and constitutional amendments (e.g. the Hanoi Charter), which are binding. These are taken up when we deal with membership and constitutional reform respectively.

[28] Sanctions for financial non-compliance are also conclusive evidence that budgetary decisions are binding.

Bindingness in policy making is also usually explicitly formulated or it can be inferred from the legal form of the decision. For example, the contemporary African Union has two binding policy streams. The first is concerned with economic and functional cooperation which has its legal basis in the 2000 Constitutional Act. Similar to EU legislation, regulations are directly applicable in member states, while directives give leeway for member states to adapt the means to achieve binding goals. The language in the Assembly's Rules of Procedure is unambiguous (Rule 34): "Regulations and Directives shall be binding on Member States, Organs of the Union and RECs [Regional Economic Communities]." The second policy stream concerns the Peace and Security Council which can authorize interventions and sanctions in the event of unconstitutional regime change. Its legal basis is the 2003 Protocol which states that "The Member States agree to accept and implement the decisions of the Peace and Security Council, in accordance with the Constitutive Act" (Art. 7.3).

Box 2.10 specifies which decision areas are subject to ratification and which to discretionary bindingness. Except for policy making, ratification and non-bindingness are mutually exclusive instruments for protecting member state sovereignty. In the remainder of this section we discuss coding rules and ambiguities by decision area.

Box 2.10 DECISION AREAS THAT MAY BE SUBJECT TO RATIFICATION OR BINDINGNESS

	Ratification	Binding
Accession	√	
Suspension		
Constitutional reform	√	
Budgetary allocation		√
Financial compliance		
Policy making	√	√

Membership: Accession and Suspension

Organizations typically have rules about how others can join and when members can be sanctioned or thrown out. These are vital matters in an IO, and are dealt with under the rubric of accession, suspension, and expulsion. Suspension or expulsion of a member state may occur after serious violation of IO rules or basic principles, such as human rights, democracy, or peaceful

Box 2.11 DECISION MAKING ON MEMBERSHIP

XVI. Who decides accession of new members?

a. Who can initiate accession?

Box 2.4	Who initiates?
Decision rule?	

b. Who makes the final decision?

Box 2.4	Who decides?
Decision rule?	

XVII. Is ratification by existing member states required?

0 Every member state must ratify accession for it to come into effect.
1 Ratification by a subset of member states is required for accession to come into effect.
2 Ratification is not required for accession to come into effect.

XVIII. Who decides suspension of a member state?

a. Who can initiate membership suspension?

Box 2.4	Who initiates?
Decision rule?	

b. Who makes the final decision?

Box 2.4	Who decides?
Decision rule?	

resolution of conflict. Sanctions for financial arrears and misuse of funds are often sharply different from those for non-budgetary suspension, and we discuss these separately.

Box 2.11 summarizes five questions that tap decision making on membership: agenda setting and decision rules relating to accession, whether accession requires ratification, and agenda setting and decision rules relating to suspension and expulsion. Since we discussed ratification above, we focus here on decision making.

Questions XVI.a, XVIII.a, XVI.b, and XVIII.b ask us to identify the actors engaged in agenda setting and final decision making and the rules under which they decide. This follows the frame in Box 2.4, but two particularities deserve comment: the prominence of automatic decision making under technocratic rules, and gaps in the rules.

Twenty-five IOs in our sample have automatic accession and six have automatic suspension in which the relevant procedures are specified in the

constitution or other key documents and do not require the consent of political bodies to reach a final decision.

Most IOs in the United Nations family stipulate that membership of the United Nations automatically creates the right to accede to the IO. For example, Article II.1 of the UNESCO Constitution states that "Membership of the United Nations Organization shall carry with it the right to membership of the United Nations Educational, Scientific and Cultural Organization." The World Health Organization follows the same principle, albeit more precisely: "Members of the United Nations may become Members of the Organization by signing or otherwise accepting this Constitution in accordance with the provisions of Chapter XIX and in accordance with their constitutional processes" (Art. 4).

Automaticity can also apply to suspension. For example, suspension or expulsion from the United Nations leads to automatic expulsion from several other global organizations, including UNESCO (Constitution, Art. II.4), the International Maritime Organization (IMO Convention, Art. 10), the United Nations Industrial Development Organization (Constitution, Art. 5.1), and the International Labour Organization.[29]

Accession may also be automatic once a state ratifies an IO's constitution. For example, the International Criminal Court (ICC) allows states to join by ratifying the Rome Statute: "This Statute shall be open to accession by all States. Instruments of accession shall be deposited with the Secretary-General of the United Nations" (Art. 125.3).

Technocratic decision making may be combined with discretionary decision making, in which case we code both tracks. UNESCO extends membership to all UN members. However, the organization also allows a non-UN member to join if proposed by a majority of the Executive Board and confirmed by supermajority in the General Conference (Art. II.2).[30] The WHO requires that the application of a non-UN member gains a simple majority in the Health Assembly (Art. 6); UN members gain automatic access.

IOs that have technocratic decision making on suspension can initiate, and sometimes complete, expulsion proceedings by applying ex-ante criteria. The Francophonie has had explicit suspension rules since 2000. Suspension is automatic in case of a coup d'état in a regime that had democratic elections (OIF 2000 Declaration of Bamako: 8–9). There is also a political procedure for countries suspected of violating human rights. This involves fact-finding by the secretary general in collaboration with the Ministerial Conference and the Permanent Council. We code the secretary general and the member states

[29] There is no explicit rule for the ILO. We obtained confirmation of the rule in an email exchange with the Secretariat (2011).

[30] This is how Palestine gained membership of UNESCO in 2011.

(by virtue of being consulted by the CPF) as proposers, and the Permanent Council as final decision maker.

If there are no rules for accession or suspension, we code this as "missing." But before doing so, we need to exclude the possibility that such rules are dispersed across multiple sources. The Commonwealth's suspension procedure is a case in point. It has developed, in British fashion, as a web of rules that has thickened over time. The legal basis is the 1971 Singapore and 1991 Harare Declarations which specify the commitment of Commonwealth members to peace, liberty, human rights, equality, and trade. In 1995, the Millbrook Program formalized a procedure for suspension following the ad hoc suspension of the Nigerian government after it executed political activist Ken Saro-Wiwa. Since then the procedure has been invoked several times to suspend Pakistan (twice), Zimbabwe, and Fiji (twice).[31] The key body in both agenda setting and final decision is the Commonwealth Ministerial Action Group (CMAG), a nine-member intergovernmental body which answers to the Commonwealth Heads of Government Meeting (CHOGM). The CMAG has sole authority to suspend and impose sanctions, but has only advisory authority concerning expulsion and reinstatement after suspension. On these matters the CHOGM takes the final decision. We code the CMAG in its roles as agenda setter and decision maker, the CHOGM as final decision maker, and the secretary general, who plays an important supporting role in initiating, monitoring, and guiding suspension proceedings, as a second agenda setter.

The absence of written rules can be as revealing as their existence. The absence of a written agreement on something as important as membership can be hugely significant. For example, the Nordic Council, regulated by the Helsinki Treaty, last revised in 1995, contains no provisions on membership. It simply observes that Denmark, Finland, Norway, Iceland, and Sweden are members and that the Åland Islands, Farøer, and Greenland have limited representation. Since 1991 the Baltic countries have had observer status, but their overtures for full membership have been politely rebuffed.[32] The absence of written rules may be an intentional strategy signaling unwillingness to enlarge.

Observing accession or suspension is no proof of the existence of institutionalized norms. In the absence of formal rules, the Organization of Islamic Cooperation (OIC) suspended Afghanistan and Egypt in 1979 after they made peace with Israel. If the process for suspension is ad hoc, we code this as "no written rule." By contrast, the OIC sets out explicit rules for accession in Article VIII of its Charter.

[31] Gambia preempted suspension by leaving the organization in October 2013.

[32] The three Baltic Republics are members of the Baltic Sea Parliamentary Conference which was set up in 1991 without a permanent secretariat or executive structure.

The six-member Gulf Cooperation Council (GCC) has neither rules for accession nor for suspension in its Charter, handbook, website, or in its Arab language documentation. Yemen has been pursuing membership for years without success. In 2010, Yemen asked the US to mediate, and Yemeni accession was discussed and rejected by the GCC Supreme Council. Yemen has been admitted to several low-politics GCC councils. In 2011 Jordan and Morocco's requests to start accession negotiations were accepted by the GCC, but progress has been slow. This loose, informal practice does not meet the threshold of a routinized norm, and so we continue to score "no written rules" through 2010. The GCC expelled associate member Iraq after its invasion of Kuwait, but has so far refrained from formulating explicit suspension rules.

Constitutional Reform

A constitution is a set of fundamental principles or established precedents for the governance of an organization. The treaty that establishes an international organization typically sets out the principles upon which it is based, the procedures for making decisions, and the organs that make them. However, some treaties assume that they are set in stone and are silent on constitutional reform. Box 2.12 summarizes the questions we ask about decision making in constitutional reform.

Box 2.12 DECISION MAKING ON CONSTITUTIONAL REFORM

XIX. Who decides on constitutional reform?

a. Who can initiate constitutional reform?

Box 2.4	Who initiates?
Decision rule?	

b. Who makes the final decision?

Box 2.4	Who decides?
Decision rule?	

XX. Is ratification required?

- **0** Every member state must ratify the constitutional reform for it to come into effect
- **1** The constitutional reform comes into effect only for those member states that ratify
- **2** Ratification by a subset of member states is required for the constitutional reform to come into effect for all member states
- **3** Ratification is not required for the constitutional reform to come into effect

Our primary focus is on written rules, i.e. procedures that member states have negotiated in public form. However, we pay particular attention to areas vulnerable to under-specification, such as agenda setting, and we collect evidence well beyond the treaties. Most IOs detail their constitutional procedures in foundational documents, but there are exceptions. The 270-page Treaty of Chaguaramas establishing the Caribbean Community briefly states that the Conference of Heads of Government decides on constitutional amendments (Art. 236.1) and that ratification by all is required (Art. 237.2). Further research adds that constitutional amendments are routinely prepared by an Intergovernmental Task Force which works under the authority of the Community Council of Ministers chaired by the secretary general. We code the Community Council of Ministers and the Secretariat General in agenda setting, and the Conference as the final decision maker.[33]

We code "no written rules" for the initial years of ASEAN. Its foundational document, the Bangkok Declaration of 1967, carefully avoids the question of how it might be amended. As observers have stressed, the Declaration is a non-binding pronouncement setting out "aims, principles and purposes" for collaboration (Art. 4). We begin coding ASEAN from 1976, when the Declaration was complemented by the Treaty of Amity and Cooperation which gave the pronouncement organizational form. Whereas the Bangkok Declaration was never amended, the Treaty has been amended several times by protocols attached to the Treaty. While the Treaty itself does not describe how this is done, the process is institutionalized and described by primary and secondary sources. A protocol is initiated by one or more member states. It then requires consensus in a ministerial council or at the summit of heads of state. Finally, it must be ratified by all member states to come into effect. The 2007 ASEAN Charter, which supersedes earlier declarations and treaties, puts this in black and white (Art. 48.1–3).

Financial Decision Making

Control over financial resources is an essential feature of IO decision making. We investigate to what extent an IO has an independent and routinized source of financing, how decisions are made on budgetary allocation, and how decisions are made on financial non-compliance.

[33] "Welcome remarks by His Excellency Edwin W. Carrington Secretary General Caribbean Community (CARICOM) on the Occasion of the First Meeting of the Reconstituted Inter-Governmental Task Force (IGTF), 29 September 2010, Georgetown, Guyana," *Press Release 380/2010*. Available at <http://archive.caricom.org/jsp/pressreleases/press_releases_2010/pres380_10.jsp>, accessed on July 23, 2016).

FINANCIAL AUTONOMY

Financial autonomy taps the extent to which the IO secretariat rather than member states control the IO's financial envelope. We distinguish three categories (Box 2.13).

Box 2.13 FINANCIAL AUTONOMY

XXI. Does the IO have independent revenue?

- **0** IO revenue consists of ad hoc or discretionary member state financing
- **1** IO revenue consists of routinized, non-discretionary member state contributions (e.g. tied to GDP per capita)
- **2** IO revenue consists of routinized, non-discretionary member state contributions and the IO has an independent source of revenue (e.g. donations, grants, taxes, fees, bonds) amounting to at least one quarter of its budget

Two ground rules underpin the coding. First, when examining an IO's financial resources we encompass an IO's operations and policy making as well as its administration. Sometimes the source of funding differs across the operational and the administrative budget, in which case we give priority to the larger of the two.

The International Organization for Migration (IOM) makes a sharp distinction between these in its Constitution (IOM 2014; IOM Constitution, Art. 20.1). The bulk of funding goes to the operational budget (93 percent in 2010).[34] Whereas the administrative budget consists of statutory member state contributions complemented by a small overhead charged to project funding, the operational budget consists primarily of voluntary government contributions, so we code IOM zero on financial autonomy.

If an IO's operational budget has multiple sources of funding with different degrees of member state control, we seek to determine which is predominant. Interpol is financed through gifts, bequests, and grants in addition to statutory member contributions. However, national contributions make up 80 to 85 percent of the budget, and this determines our coding.

To receive a maximum score of 2, at least 25 percent of an IO's revenue must come from extra-member state sources. This would be the case if the IO raises its own revenues or taxes, if it has a fixed share of a tax that is raised on behalf of the IO by member states, or if it has predictable funding from non-state donors. One in five IOs fall into this category in 2010. The main source of income for ECOWAS is a community import levy of 0.5 percent. More than 25 percent of the European Union's income comes from customs and excise

[34] IOM (2009: 83–5).

taxes, agricultural levies, and a uniform rate of 0.3 percent on top of the value added tax collected by EU member states. The Common Market for Eastern and Southern Africa (COMESA) can raise independent funds through a common market levy, though around 70 percent of its funding comes from EU grants.

To score 2, funding must be beyond the direct control of an IO's member states. International donors—international organizations, third countries, or non-governmental organizations—can be an important source of financial independence for an IO even if the contributions are tied to conditions. The cases of UNESCO and Interpol are instructive.

UNESCO is a gray case because its funding has shifted from mandatory member state contributions to voluntary contributions from member states, private donors, the European Union, and other multilateral organizations (Graham 2015). However, these voluntary contributions are micro-managed by the member states and do little to increase UNESCO's financial autonomy.[35] While UNESCO's Constitution explicitly authorizes the director general to seek third-party funding, she requires approval by the member state-controlled Executive Board (Const., Art. IX.3). Furthermore, a revision of the financial regulations in 1989 tightened the conditions under which she can accept gifts and spend those funds on UNESCO programs.[36] We continue to give UNESCO a score of 1 to reflect its mandatory member state contributions. Were member state-controlled voluntary contributions to become predominant, the score for financial autonomy would slip to zero.

Interpol's third-party contributions are less than 20 percent of its total revenues, but even if they had reached the 25 percent threshold, they would not qualify as independent revenue. Indeed, outside donations are systematically vetted by the Executive Committee, a member state-dominated body. Article 38 of the Constitution reads: "The Organization's resources shall be provided by (a) the financial contributions from Members, and (b) gifts, bequests, subsidies, grants and other resources after these have been accepted or approved by the Executive Committee." Again, the score reflects the hands-on control of member states.

COMESA is a contrasting case because its member states have less control over the financial tap. According to the 1993 COMESA Treaty, "other resources of the Secretariat shall include such extra budgetary resources as: (a) grants, donations, funds for projects and programmes and technical assistance; and (b) income earned from activities undertaken by the Common

[35] Graham (2015: 164) observes that "restricted voluntary funding rules allow donors to dictate how the contributions they provide are used, which may not conform with the priorities set by intergovernmental bodies . . . This devolution of authority violates multilateralism."

[36] UNESCO, *35-C5 Complementary Additional Program 2010–2011*, Paris, 1–44, accessed on July 23, 2016, from <http://unesdoc.unesco.org/images/0018/001881/188146E.pdf>.

Market" (Art. 163), and the secretary general is authorized to "initiate and maintain dialogue" with multilateral and bilateral donor agencies (Art. 181.2–3). Member states have the right to attend meetings with international donors, and the meeting reports are conveyed to a member state-controlled body (Art. 181.4), but the use of donor money appears not to be conditional on member state consent. We have no firm read on the extent to which donors impose conditions, but grants from IOs, including the European Union, do tend to be multi-annual and hence relatively predictable. These put the COMESA secretariat in a relatively secure financial position vis-à-vis the member states and warrant a score of 2.

The Pacific Islands Forum (PIF), which also extracts the bulk of its funding from donors, scores zero. The difference with COMESA is that the PIF's donor money—85.4 percent of its 2013 budget—comes primarily from two of its member states, Australia and New Zealand. To secure this money, which "may be subject to some restrictions on the activities it may be allocated to," PIF's Secretariat needs to conclude fixed-term bilateral agreements (PIF 2014: 1–3).

The World Bank and the IMF are clear-cut cases for a score of 2. They achieve financial autonomy through independent loans, bonds, and long-term member state investments. The World Bank raises almost all its money by issuing bonds on the world's financial markets, and is consequently not dependent on member state contributions. The IMF's financial resources are provided by the member countries in the form of quotas which determine countries' voting weights, access to IMF financing, and allocation of special drawing rights. Twenty-five percent of the quota is deposited in an IMF account upon accession or after renegotiation. Annual running costs are covered by the difference between interest receipts on outstanding loans and interest payments on quotas. The IMF is the third-largest holder of gold reserves in the world, and it can borrow money through both multilateral and bilateral contracts.

A score of 1 applies to an IO which is financed by routinized member state contributions that are provided as a lump sum. This characterizes nearly three-quarters of IO-years in the dataset. Typically, financing is planned on a multi-annual schedule according to a formula.

Article VII of the Convention of the European Organization for Nuclear Research's Convention (CERN) specifies that each member state contributes "both to the capital expenditure and to the current operating expenses of the organization in accordance with scales, which shall be decided every three years by the Council by a two-thirds majority of all the Member States, and shall be based on the average net national income at factor cost of each Member State for the three latest preceding years for which statistics are available." Article 55 of the Charter of the Organization for American States (OAS) specifies that "The General Assembly shall establish the bases for fixing

the quota that each Government is to contribute to the maintenance of the Organization, taking into account the ability to pay of the respective countries and their determination to contribute in an equitable manner." The quotas have been reviewed several times, most recently in 2007 when they were adjusted to GDP and per capita GDP with discounts for exceptionally low-income countries. The formula requires nine calculation steps and is reviewed every three years.[37]

It is rare for an organization to provide such detail. We look for a reference to an objective system for resource extraction. For example, the ASEAN Charter (Art. 30, par. 2) states that "The operational budget of the ASEAN Secretariat shall be met by ASEAN Member States through equal annual contributions which shall be remitted in a timely manner." The Latin American Integration Association (LAIA) indicates that its Committee of Representatives is responsible for the "establishment of the percentages of member countries' contributions to the budget of the Association" (Art. 43g). Both IOs score 1.

The Shanghai Cooperation Organization (SCO) illustrates the minimal requirements for "regular member state contributions." Each year a budget is "drawn up and executed in accordance with a special agreement between member States. This agreement shall also determine the amount of contributions paid annually by member States to the budget of the Organization on the basis of a cost-sharing principle" (Charter, Art. 12). Russia and China each contribute 24 percent, Kazakhstan 21 percent, Uzbekistan 15 percent, Kyrgyzstan 10 percent and Tajikistan 6 percent (Grieger 2015: 6). So while the size of the budget is open to annual renegotiation, the distribution of contributions appears fixed.

A score of zero refers to situations where funding is not regulated, where individual member states retain sovereignty over their financial contributions, or where the IO depends on voluntary largesse by one or more of its members. Some 10 percent of IO-years fit this criterion.

The Charter of the South Asian Association for Regional Cooperation (SAARC) says that "The contribution of each Member State towards financing of the activities of the association shall be voluntary" (Art. IX.1). In the Universal Postal Union (UPU), member states can choose how much they contribute (though there is a mandatory minimum contribution), and for every budget cycle they can change the height of their contribution within certain limits (Convention, p. xxiv).

The International Organization for Migration (IOM) depends almost entirely on discretionary member state contributions. According to Art. 20.3 of the Constitution, "contributions to the operational expenditure of the organization shall be voluntary," and such contributions accounted for 97 percent of IOM funding in 2009. Its small administrative budget is financed by regular,

[37] <http://scm.oas.org/pdfs/2011/CP25590E.ppt>.

predictable member state contributions. We also include the North Atlantic Free Trade Agreement (NAFTA) in the zero category because it does not have a central budget. Its offices in Mexico City, Ottawa, and Washington DC are each nationally funded.

Here and elsewhere, we code a rule change only when it takes effect. The Treaty of the Economic Community of Central African States (ECCAS) raised the possibility of routinized self-funding from "other sources determined by the [annual] Conference" beyond ad hoc, discretionary annual funding. When its member states replaced annual member state contributions with an IO-wide import tax of 0.4 percent in 2010 we change the score from zero to 2.

DECISION MAKING ON THE BUDGET

In this section we explain what we include under budgetary decision making, how we code agenda setting, and how we assess bindingness and financial non-compliance (Box 2.14).

Box 2.14 DECISION MAKING ON THE BUDGET

XXII. Who decides on budgetary allocation?

a. Who drafts the budget?

Box 2.4	Who drafts?
Decision rule?	

b. Who makes the final decision?

Box 2.4	Who decides?
Decision rule?	

XXIII. Is budgetary decision making binding?

- **0** Budgetary decision making is not binding
- **1** Budgetary decision making is binding unless a member state opts out of a program or financial commitment
- **2** Budgetary decision making is binding

XXIV. Who decides on financial compliance?

a. Who can initiate?

Box 2.4	Who initiates?
Decision rule?	

b. Who makes the final decision?

Box 2.4	Who decides?
Decision rule?	

By budgetary allocation we refer to decision making on funding for an IO's core activities which include, but are not limited to, its operational core. We conceptualize agenda setting on the budget broadly to refer to any body or actor having the right to draft the budget or whose consultation or recommendation is mandatory. We define decision making narrowly to encompass only those bodies that take the final decision.

In most cases, these distinctions are fairly straightforward. In the World Tourism Organization (UNWTO), for example, the secretary general drafts the budget (Art. 22.2 of the Constitution); the Council recommends by supermajority (Art. 19 (e)); the Assembly takes the final decision by supermajority (Art. 12 (i)). We score the secretary general and the Council as agenda setters, and the Assembly as final decision maker.

Our coding recognizes only self-standing bodies or actors, not emanations that are integral to some other body. In the South Asian Association for Regional Cooperation (SAARC), technical committees draft separate budgets for each program which are then submitted to the Standing Committee for approval by unanimity (Art IX.2 and Art. V.1.b). Since the technical committees are emanations of the Standing Committee, we score the Standing Committee for both agenda setting and final decision.

The Charter of ASEAN states that "the Secretary-General shall prepare the annual operational budget of the ASEAN Secretariat for approval by the ASEAN Coordinating Council upon the recommendation of the Committee of Permanent Representatives" (Art. 30, par. 2). We score the secretary general for agenda setting, and the ASEAN Coordinating Council, which is ASEAN's executive, for the final decision. We do not score the Committee of Permanent Representatives because it is an emanation of the ASEAN Coordinating Council.

The ASEAN example illustrates that treaties may omit to specify the final decision rule. Our prior in these cases is that the standard voting rules apply as specified elsewhere by the IO. In ASEAN there is ample evidence that the standard voting rule, consensus, does indeed extend to the budget. In the Commonwealth of Nations, the secretary general's annual report indicates that the secretariat drafts the budget which is approved by the Board of Governors by consensus. The Treaty of the Commission for the Navigation of the Rhine (CCNR) simply states that "The Central Commission shall fix in advance its budget for the following year" (Art. 47). The general rule applies: "All resolutions concerning the Central Commission's internal affairs shall be validly adopted by a majority of votes" (Art. 46) and we code the Central Commission as both agenda setter and decision maker.

Some IOs have different rules for different circumstances. The South Pacific Commission (SPC) has two sets of rules for the final decision. In years in which the Congress meets, it takes the final decision by supermajority (Canberra

agreement, Art. XIV.46). In off-years, the Committee of Representatives of Governments and Administrations, which acts as a second assembly, decides by supermajority (Canberra agreement, Art. II(f)). As it happens, this makes no difference to the final score used to estimate pooling because the composition of these bodies is equally intergovernmental.

We distinguish three degrees of bindingness: binding, binding unless a member state opts out, and non-binding, and we code budgets independently from policy making. While non-binding budgets usually entail that policy decisions are also non-binding, the reverse is not always true. A budget can be binding even if policy is not. For example, Art. 46 of the CCNR Treaty details that "resolutions adopted unanimously shall be binding unless within one month one of the Contracting States informs the Central Commission that it refuses its approval" and that "resolutions adopted by a majority shall constitute recommendations." So policy decisions are clearly non-binding. However, the Treaty also states that resolutions on internal affairs—and this includes the budget—shall be taken by majority. The budget is determined by the member states collectively and there is no possibility of opt-out for a recalcitrant member.

For an IO budget to be coded as non-binding, we need corroborating evidence that member states are not legally bound to comply with the budget. Few IOs envisage such a possibility. The absence of a provision on budgetary non-compliance is necessary but not sufficient. Just three IOs in 2010 fit the bill of non-bindingness across the board: APEC, SAARC, and NAFTA.[38]

SAARC has voluntary program participation and has no formal rules concerning its budget which we judge to be non-binding. NAFTA is the only IO in the sample that has no central budget. Member states defray expenses for their respective NAFTA offices and for meetings. Hence there is no collective financial commitment. We score 98—"not applicable"—which has the same value as "not binding" indicating that on budgetary decision making NAFTA does not pool or delegate authority.

We evaluate APEC budgetary decision making as non-binding because it strongly endorses voluntarism: "APEC is the only intergovernmental grouping in the world operating on the basis of non-binding commitments, open dialogue and equal respect for the views of all participants. Unlike the WTO or other multilateral trade bodies, APEC has no treaty obligations required of its participants. Decisions made within APEC are reached by consensus and commitments are undertaken on a voluntary basis" (Kahler 2000: 558; Haggard 2011).[39] However, the budgetary process in APEC is actually a gray

[38] The Arab Maghreb Union (AMU) could be a fourth case, but since there is no written track record, it seems appropriate to code "no written rules."

[39] <http://www.apec.org/en/About-Us/About-APEC.aspx>. This is corroborated by strong language in official APEC documents (APEC 2010: 3; 2013: 2): "There are no binding commitments;

case. Its operations budget is binding, but this amounts to around three million dollars and covers only a tiny portion of the organization's core activities. Most programs, including APEC's pathfinder initiatives, are funded through voluntary contributions and the budgets for these are non-binding.

Several IOs shift from non-binding to the intermediate category, including the South Pacific Commission (SPC, renamed the Secretariat of the Pacific Community in 1997). In the original 1947 Canberra agreement, the Commission was described as an advisory instance to the six founding member states, and the agreement noted that governments "undertake to contribute" their respective shares (Art. 53). The expenses of the Commission were paid by a central fund, while core activities were covered by non-binding supplementary budgets.

The revised Memorandum of Agreement of 1984 establishes a binding commitment. The memorandum requires that members assess the needs of the SPC annually and apportion financial costs "in such manner as the participating governments may unanimously determine" (1984 Memorandum, 49). Since 1999, the core budget is tied to a "formula [which] shall reflect the principle of burden sharing." Programs and projects are reviewed by a Planning and Evaluation Committee composed of member state representatives, which reports to the Conference or to the Committee of Representatives of Governments and Administrations.

The intermediate category applies to IOs where the budget as a whole is binding but a member state can opt out from a component. For example, the European Organization for Nuclear Research (CERN) states in Art. VII, par. 3 of its Convention that "contributions to be paid by a Member State under paragraph 1 shall be calculated in respect of, and applied only to, the programmes in which it participates." The European Space Agency (ESA) has a similar rule. The Organisation for Economic Co-operation and Development (OECD) makes a distinction between the annual budget and subsidiary budgets (Art. 20 of the Paris Convention). The annual budget covers around half of Part I programs which are mandatory. There are separate budgets for Part II programs which are voluntary.

NATO illustrates the gray zone between bindingness and partial bindingness. NATO's core civil and military budget is binding. This covers expenses for operations that are NATO-wide: NATO command structure, command and control systems, alliance-wide communications systems, and NATO air defense. There is no explicit provision on budgetary non-compliance, but the contribution formula is detailed. However, NATO's field operations and military procurement are not part of the central budget; nor can member states be bound to invest. These "indirect contributions" are much larger

compliance is achieved through discussion and mutual support in the form of economic and technical cooperation."

than direct contributions. Contrary to ESA or CERN, where the foundational document details the dual compulsory/voluntary nature of budget and program structure, the NATO Treaty is not explicit on financial commitments. One has to delve into the NATO handbook, its website, and meeting minutes to document rules. Since the activities financed by voluntary contributions are substantial and central to NATO objectives we code the budget as partially binding.

FINANCIAL COMPLIANCE

We interpret financial compliance procedures strictly to refer to rules penalizing member states that fail to pay their contributions or misuse IO funds. Can an IO impose interest charges, freeze a member's funds, suspend its voting rights, constrain its right to attend or organize meetings, or, in extremis, expel a non-compliant member state?

We are concerned here with sticks rather than carrots. Hence we score the Organization of American States (OAS) as having no procedure for non-compliance, despite its elaborate system of positive incentives, which include discounts on future contributions for members who pay their dues by a certain date.[40] Other IOs without financial compliance fall into one of the following categories: intergovernmental organizations with a non-binding or partially binding budget (e.g. APEC, NAFTA, NATO, SAARC, and the Shanghai Cooperation Organization); IOs with few cohesive member states (e.g. BENELUX, EFTA, the Nordic Council, the Commission for the Navigation of the Rhine); IOs bankrolled by a few rich members or donors (for example, the Pacific Islands Forum [Australia and New Zealand], the South Pacific Commission [Australia and the European Union], La Francophonie [France and Canada], and the Commonwealth of Independent States [Russia]). In the remaining organizations, rules on budgetary non-compliance often emerge once financial arrears occur in practice and constitute a threat to the viability of the organization.

Many non-compliance procedures kick in automatically if a member state's arrears meet certain conditions, but in most cases, such action is accompanied by a clause that gives the final word to a political body. We then code agenda setting as automatic, and we code the final decision as taken by the political

[40] In 1990, in the face of mounting arrears, the OAS Permanent Council agreed to discount 2 percent of the following year's contribution for member states paying up by April 30. This was increased to 3 percent in 2000 if a member state forked up by the end of January of the fiscal year. By 2009 arrears had all but disappeared when the discount far exceeded market rates, and in 2011 the Permanent Council tightened the conditions under which member states can get a discount (Permanent Council of Organization of American States: Committee on Administrative and Budgetary Affairs. "Report on quota payments (various years)," downloadable from <http://www.oas.org/consejo/caap/Quotas%20documentos.asp>, accessed on July 23, 2016).

body. A typical set up is as follows: "A Member of the Organization which is in arrears in the payment of its financial contribution to the Organization shall have no vote in the Conference, in the Governing Body, in any committee, or in the elections of members of the Governing Body, if the amount of its arrears equals or exceeds the amount of the contributions due from it for the preceding two full years: Provided that the Conference may by a two-thirds majority of the votes cast by the delegates present permit such a Member to vote if it is satisfied that the failure to pay is due to conditions beyond the control of the Member" (ILO Constitution, Art. 12.4).

The balance of automaticity and political decision making varies. The Economic and Monetary Community of Central African States (CEMAC) gives the Council of Ministers little discretion to override automatic sanctions. A two-stage process commences if a member is a year in arrears. It begins with suspension of voting rights, followed six months later by suspension from all CEMAC activities and funding. The member state can escape these sanctions "only in case of a '*force majeure*' duly concluded by the Council of Ministers" (Art. 52). The East African Community (EAC) makes automatic sanctions conditional on political consent: "The Summit may suspend a Partner State from taking part in the activities of the Community if that State fails to observe and fulfill the fundamental principles and objectives of the Treaty including failure to meet financial commitments to the Community within a period of eighteen (18) months" (Treaty, Art. 146.1). The International Labour Organization is more lenient. Article 13.4 of its Constitution states that the member loses voting rights, unless the Conference "is satisfied that the failure to pay is due to conditions beyond the control of the Member."

In each of these situations 1) the rules specify objective criteria for establishing non-compliance; 2) there is an automatic trigger for sanctions; and 3) a political body may overrule or amend these sanctions. We score agenda setting as technocratic and the final decision as political.

A small number of IOs do not provide the option of political intervention, in which case we score both agenda setting and final decision as automatic. The International Telecommunication Union (ITU) states in Art. 28(9) of its Constitution that "A Member State which is in arrears in its payments to the Union shall lose its right to vote as defined in Nos. 27 and 28 of this Constitution for so long as the amount of its arrears equals or exceeds the amount of the contribution due for the two preceding years." The Andean Community stipulates that "The Member Country that is behind more than four quarters in regard to the payment of its contributions to the General Secretariat or to the Court of Justice of the Andean Community shall not be able to exercise the right to vote in the Commission until it solves its situation" (Trujillo Protocol, Art. 28). IWhale lays down a firm deadline for member states to pay (with interest) along with the sanction: "The right to vote of representatives of any

Contracting Government shall be suspended automatically." New member states may obtain special dispensation.[41]

The Global Environmental Fund (GEF) ties voting power to contributions which are calculated on the basis of an International Bank for Reconstruction and Development regulation: "[F]or the purpose of determining voting power in the event of a formal vote by the Council, a Contributing Participant's total contributions shall consist of the actual cumulative contributions made by a Contributing Participant to the GEF Trust Fund, including actual contributions made to the Fourth Replenishment, contributions made to the Global Environment Trust Fund (the 'GET'), and the grant equivalent of co-financing and parallel financing made under the GEF pilot program, or agreed with the Trustee before the effective date of the GEF Trust Fund" (GEF 2008: Annex C referring to IBRD's Executive Directors' Resolution No. 2006-0008 Art. 4(b)). We score this as technocratic for both decision stages.

When a political body is involved, it is usually in the final decision stage. The Universal Postal Union (UPU) is an interesting exception. While the procedure is nearly fully automatic, there is a window for the nonconforming member state to negotiate an amortization schedule with the UPU general secretariat. If the member state does not comply with the negotiated outcome, it automatically loses its voting rights. In this case, we code the general secretariat's role as tweaking an otherwise automatic procedure in agenda setting, but not in the final decision.

Some non-compliance rules are entirely political, and then we code the relevant body or bodies in agenda setting and final decision. The International Civil Aviation Organization (ICAO) provides an example. Article 62 of the ICAO Convention states that "The Assembly may suspend the voting power in the Assembly and in the Council of any contracting State that fails to discharge within a reasonable period its financial obligations to the Organization." The Convention does not specify what constitutes "a reasonable period." The Council is the key body in monitoring member state compliance and the assembly makes the final decision by simple majority. The World Bank also has a political process, which stipulates that "If a member fails to fulfill any of its obligations to the Bank, the Bank may suspend its membership by decision of a majority of the Governors, exercising a majority of the total voting power. The member so suspended shall automatically cease to be a member one year from the date of its suspension unless a decision is taken by the same majority to restore the member to good standing" (Articles of Agreement Art. VI.2). The Board of Governors sets the agenda and makes the final decision by majority.

[41] Section E.2(a), in *Rules of Procedure and Financial Regulations as Amended by the Commission on its 62nd Annual Meeting of IWhale, June 2010,* and Section F.6., in *Financial Regulations of IWhale.*

Policy Making

IO policy can be defined as a system of laws, regulatory measures, courses of action, and funding priorities that are promulgated by an IO or one of its representative bodies on a given topic. Policy tends to be reflected in law and implementing legislation, in regulations authorized by legislation, or in programs or projects framed within a legal or regulatory framework. Some scholars include judicial decisions, but it seems sensible to treat judicial decisions separately.

We conceive of IO legislative and policy making as consisting of one or more of the following streams:

- passing protocols or conventions;
- passing recommendations or declarations;
- passing laws, regulations, decisions, directives;
- designing, selecting, funding, and implementing programs/projects;
- monitoring standards or practices.

This excludes IO membership, the budget, the foundational treaties, and dispute settlement. Each of these are dealt with elsewhere in our scheme.

Comparing policy making across international organizations requires classification. Several IOs have multiple policy streams with different decision rules. Our scoring needs to be sensitive to this variation while facilitating comparison across IOs.

Each IO profile begins by identifying the IO's principal policy streams. We code up to five such streams in any given year using the questions set out in Box 2.15. Who sets the agenda, and who takes the final decision? What is the role of the general secretariat in policy initiation? Are policy decisions binding? And do policy decisions require ratification?

A number of issues present themselves as we code policy making. First, we need to determine which policy streams are core to the competences of the IO. Second, we consider some particular issues that arise for international organizations concerned with banking or dispute resolution. Third, we explain how we assess the role of the secretary general in agenda setting.

In determining which policy or policies are core competences of an IO, we triangulate treaties, constitutions, and conventions with annual reports, website information on policy output, and the secondary literature. We identify policy streams that are related to the core purpose of the IO and have a public record of output. If more than one stream is in play and each has a distinct set of actors or rules at any stage in the decision making process (i.e. they produce different scores in our coding) then we code them separately.

UNESCO's policy making consists of projects through its multi-annual program, and the adoption of conventions, recommendations, and declarations

Box 2.15 DECISION MAKING ON POLICY MAKING

XXV. Who decides policy?

a. Who can initiate policy?

Box 2.4	Who initiates?
Decision rule?	

b. Who makes the final decision?

Box 2.4	Who decides?
Decision rule?	

c. What is the role of the general secretariat in initiating policy?

0 The general secretariat has no formal role in initiating policy
1 The general secretariat has a formal role in initiating policy, but does not monopolize agenda setting
2 The general secretariat has a formal monopoly of initiative or is the only body with a formal role in agenda setting

XXVI. Are policy decisions binding?

0 Policy decisions are not binding
1 Policy decisions are binding unless a member state explicitly opts out
2 Policy decisions are binding

XXVII. Is ratification required?

0 Every member state must ratify the policy for it to come into effect
1 The policy comes into effect only for those member states that ratify
2 Ratification by a subset of member states is required for the policy to come into effect for all member states
3 Ratification is not required for the policy to come into effect

(about sixty in total since 1948). Programming is often perceived to be the most important form of UNESCO policy making (Blanchfield and Browne 2013; Dutt 2009: 85; Niebuhr 1950). The 2010–11 program budget of just under 400 million dollars is earmarked for education, natural sciences, social sciences, culture, communication and information, and the UNESCO Institute for Statistics. The second policy stream consists of conventions, which unlike recommendations and declarations, are intended to have the status of international legal commitments. Programming and conventions provide wiggle room for member states, but in different ways. In programming individual member states can opt in or out of particular programs, although the overall allocation of resources is binding once the budget has been adopted by the General Conference. A convention can be passed by a two-thirds majority of the General Conference, and becomes binding for a member state only after it has ratified it.

The history of the Southern African Development Community (SADC) reveals how policy streams may change over time. Its longest-standing policy instrument

is programming. This was the focus of the Lusaka 1980 Memorandum, which set up the Southern African Development Coordination Conference (SADCC), an alliance of the frontline states—Angola, Botswana, Lesotho, Mozambique, Swaziland, Tanzania, and Zambia—against white minority rule in Southern Africa. The intention was to attract international donor investment by promising to coordinate development around specific functional areas (Anglin 1983). Initially, programming was highly decentralized, but over several reforms, agenda setting power migrated to the Secretariat. Since 2004, SADC projects are embedded in strategic development plans which guide SADC programming and induce member states to incorporate programming into national law. The SADC secretariat is now the main initiator, and it is aided in framing and implementation by fifteen SADC national committees. The Council of Ministers approves projects by consensus, including those financed by external donors. However, policy programs remain voluntary and do not require ratification (Afadameh-Adeyemi and Kalula 2011).

A second policy instrument, the protocol, was introduced in 1993 when SADCC became the Southern African Development Community (SADC). A protocol is a legal instrument that sets broad goals and principles for cooperation in a policy field, e.g. health, energy, combating illicit drugs, tourism, or trade. In contrast to policy programs, protocols require ratification and are binding. Between 1993 and 2010, SADC passed twenty-one protocols.[42]

Forty-two of seventy-four IOs in our sample in 2010 have a single set of rules for decision making across their core policies. There are some gray cases in which we need to decide whether a second policy stream is prominent enough to warrant separate scoring. The OECD's principal output is non-binding recommendations on policy from corruption to multilevel governance. Between January 2005 and June 2011, fifty-three Acts were passed of which forty-four were recommendations, three were decisions, and six declarations.[43] We code recommendations as the OECD's policy stream because they alone are central to the organization's output.

For a policy stream to feature in our coding there needs to be a track record of activity. The International Seabed Authority (ISA) illustrates that bold intentions are not enough. According to its foundational convention, the ISA monitors member state compliance with the Law of the Sea, set out in a contract of 531 pages regulating the use of the international seabed. The Law of the Sea includes, among other things, the establishment of a body, "the Enterprise," to exploit seabed resources "on behalf of mankind as whole" (Art. 153; see also Annex IV. Statute of the Enterprise). The compendium contains provisions about the regulation of prospection, exploration, and

[42] <http://www.sadc.int/documents-publications/protocols/>, accessed on July 23, 2016.
[43] Calculations from the OECD website (<http://webnet.oecd.org/OECDACTS/Instruments>).

exploitation of marine minerals (the Mining Code), oversight of the exploitation of international seabed resources, promotion of marine scientific research, and dispute settlement. The ISA has yet to set up the Enterprise, and since dispute settlement is coded separately, our focus is on the regulation and supervision of the implementation of the Law of the Sea.

Policy takes a distinctive form in international courts, and we assess them in relation to their role and decision making in dispute settlement. With respect to policy, our focus is on the rules that govern their operations. How do they make decisions about how they handle dispute resolution?

The output most often associated with the International Criminal Court (ICC) is the judges' work: prosecutions, court cases, rulings. This activity is constitutionally insulated from political interference, is binding (though not easily enforceable), and does not require ratification. We score this under dispute settlement, not policy making. However, under policy making we score the ICC's development of multi-annual strategic plans, which lay down the ICC's overall and body-specific judicial and managerial goals and its cooperation with member states.[44] These are prepared by the Registry, the Court's general secretariat; then discussed by the Bureau, the Court's executive; and finally submitted for consent to the Assembly of States Parties. Parallel, and partly in competition, the Bureau can draft its own policy, usually after soliciting input from working groups.[45] In their respective fields of competence, the Registry and the Bureau exercise substantial executive autonomy. The key point here is that both are engaged in rule setting, which ultimately takes the form of resolutions submitted for consent to the Assembly of States Parties. Resolutions are generally binding and do not require ratification. We code both the Registry and Bureau for agenda setting, and the Assembly as the final decision maker.

The Permanent Court of Arbitration (PCA) provides arbitration, conciliation, and fact-finding in disputes involving states, private parties, state entities, and intergovernmental organizations. We treat this under dispute settlement. However, the PCA is also in the business of developing new modes of arbitration or conciliation, and this falls under policy making. The process for rule-making can be gleaned from its convention alongside routinized practice. Drafting takes place under guidance of the PCA International Bureau with the help of expert committees, and rules and procedures are adopted by

[44] For example, ICC. 2006. *Strategic Plan of the International Criminal Court*, ICC-ASP/5/6; ICC. 2010. *Report of the Court on the Public Communication Strategy 2010–2013*, ICC-ASP/9/29; ICC. 2015. *International Criminal Court Strategic Plan 2013–2017 (interim update—July 2015)*. Incidentally, the ICC also reports annually to the General Assembly of the United Nations, a reporting cycle we do not code here.

[45] The Bureau meets twice a month. The topics it addresses are diverse: financial arrears, member state cooperation with the Court, an independent oversight mechanism for the Court, a fund for victims, visitation rights for the accused in custody, and constitutional amendments.

the member state appointed Administrative Council. However, it is also possible for the Administrative Council to initiate policy without the Bureau's help, and so we code it as initiator as well as final decider. Rules and procedures are optional for member states. Both the ICC and PCA illustrate the duality often found in a court-oriented organization. Dispute settlement follows a judicial logic with elements of hierarchy and supranationalism, whereas decision making about dispute settlement is primarily intergovernmental.

The WTO and NAFTA combine dispute settlement and substantive policy making. The WTO administers and interprets trade rules, offers a negotiation forum for trade agreements, and settles trade disputes. When we assess WTO policy we engage the first two aspects, with member states and the General Council (through working groups and committees) initiating proposals and the General Council and the Ministerial Conference making the final decision.

NAFTA chiefly settles trade disputes. NAFTA secretariats administer panel proceedings, but do not set policy. The policy making body is the Free Trade Commission: "the Commission shall (a) supervise the implementation of this Agreement; (b) oversee its further elaboration" (Art. 2001.2). The Commission decides after having heard the relevant specialist committees or working groups. NAFTA skirts the conceptual boundary of what constitutes substantive policy making. The detailed provisions of its 393-page agreement were designed to render subsequent policy making superfluous, but even this exhaustive IO contract could not hope to foresee all eventualities and it has a policy mechanism.

Policy making in banking IOs is concerned chiefly with rules that regulate lending. The Bank for International Settlements (BIS) helps central banks manage their foreign reserves. The rules that govern these operations are developed and decided by the Board of Directors with input from the general manager, and this is what we code. The International Monetary Fund (IMF)'s main policy activity is to lend money to members in economic difficulty and provide technical assistance. Quota increases and special drawing right allocations are proposed by the managing director and decided by the Board of Governors, and the Executive Board takes decisions on the rules governing lending (Art. XVIII.4). The IMF is one of a handful of IOs where the secretariat holds exclusive right of policy initiative.

Agenda setting in policy making is assessed in two ways. We identify which actors are mandated to propose or recommend policy, and we then assess the voting rule. We estimate separately the role of the IO general secretariat in agenda setting. In most IOs, formal access to agenda setting is much broader—and more supranational—than final decision making. By contrast to final decision making, agenda setting can be crowded. At the extreme, the Andean Community provides the opportunity for six bodies to influence the drafting of policy. Alongside the general secretariat (Trujillo Protocol, Art. 30a) and

individual member states, the Andean Parliament is encouraged to "participate in norm generation of the process by means of suggestions ... on subjects of common interest, for incorporation in Andean Community Law" (Trujillo Protocol, Arts. 20e and 43e). The Business Advisory Council, the Labor Advisory Council, and since 2008, the Advisory Council of Indigenous People also have the right to recommend policy at deliberative meetings (Decision 464, Art. 3b; Decision 674, Art. 3c). The Andean Presidential Council is not an agenda setter because it attends to strategic planning, not legislative policy making. The Council and the Commission are the final decision makers.

THE GENERAL SECRETARIAT'S POWER OF INITIATIVE

We pay particular attention to the role of the general secretariat because it is the body most commonly identified with supranationalism (Haas 1958; Claude 1968). Early writers were fascinated by the High Authority, the secretariat of the European Coal and Steel Community, which had sole power of policy initiative. We locate the High Authority in the topmost category of a trichotomous scale for the role of the secretariat in agenda setting. At the low end are general secretariats that are not mandated to initiate policy; the intermediate category consists of general secretariats with a non-exclusive power to initiate.

Beyond the EU, five IOs have general secretariats that clear the hurdle for a monopoly of initiative: SADC (from 2002), CEMAC (from 1999), ECOWAS (from 2007), the Andean Community (until 1987), and the IMF (from 1969), which has a general secretariat that monopolizes agenda setting on loans.

The criterion for a maximum score of 2 is that there is an explicit recognition that policy proposals submitted to the final decision body emanate solely from the secretariat. That is to say, the secretariat is the gatekeeper between any proposal and the final decision, and there are no alternative routes for a proposal to reach the decision stage. This does not require that the general secretariat is explicitly prescribed to be the sole initiator. Nor is it necessary that the secretariat is the only actor involved in the agenda setting stage. Contrary to common belief, neither the Treaty of Rome nor subsequent EU treaties specify that the European Commission has a "monopoly of initiative," "sole initiative," or "exclusive initiative." However, its monopoly of initiative is implied by statements dispersed in the treaties signaling that it is the gatekeeper along a decisional path that cannot be short-circuited, for example: "the Council, acting by means of a qualified majority vote on a proposal of the Commission, shall decide" (Art. 20, Art. 21.2, Art. 33.8, Art. 38); "the provisions ... may be amended by the Council acting by means of unanimous vote on a proposal of the Commission" (Art. 14.7); "the Commission shall make recommendations for this purpose" (Art. 35). The most recent consolidated

version of the EU treaties following the Lisbon Treaty (2009) has simplified this. There is now a label—the ordinary legislative procedure—for situations where the Commission holds the monopoly of initiative, and the decision process is described in detail in Article 294. However, it is interesting that the Commission's "monopoly of initiative" is made clear without using the term. The first step in the ordinary legislative procedure reads as follows: "The Commission shall submit a proposal to the European Parliament and the Council" (Art. 294.2).

Similar language appears in CEMAC's N'Djamena Convention, which came into force in 1999: "the Council of Ministers shall adopt, unanimously on a proposal of the Executive Secretariat, the common rules referred to in Article 4 paragraph a) of this Convention" (Art. 46). The following article reinforces the role of the secretariat: "As necessary, the Council of Ministers on the proposal of the Executive Secretariat, adopts by qualified majority, by regulation or directive, the implementing provisions necessary" (Art. 47). CEMAC's secretariat is also authorized to "transmit . . . the proposals, recommendations and advice necessary or useful for the application of the present Convention and for the functioning of the economic union" (Art. 71). Decisive is that the Convention does not endow any other body with the authority to propose regulations or directives to the Council of Ministers.

The Andean Community scores 2 until 1987. The Cartagena Treaty does not say that the Junta has *exclusive* right of initiative, but treaty articles leave little doubt. The Junta is the only body with the authority to "submit to the Commission proposals to facilitate or accelerate the implementation of the Agreement" (Art. 15c).[46] Furthermore, "the Commission shall, upon the proposal of the Board [the Junta], decide on the necessary rules . . . " Incidentally, as in the EU from 1986 to 1993, amendments to Junta proposals require consensus while adoption usually requires only qualified majority (Annex I.3). The Junta lost its monopoly of initiative in 1987 when the Quito Protocol allowed member states, in addition to the Junta, to submit proposals directly to the Commission (Art. 10). From that year the Junta scores 1.

The secretariat of the IMF, the Staff, has traversed the entire range from no right of initiative to a monopoly of initiative, and is currently the sole body that drafts the conditions under which a member state can borrow, or in IMF parlance, the conditionality procedure for activating Special Drawing Rights.

[46] Structural similarities with the European Union are sometimes concealed by terminology. The Andean Community's Junta or, since 1999, the General Secretariat, is the functional equivalent of the European Commission. The Commission of the Andean Community is the functional equivalent of the Council of Ministers. On institutional diffusion from the EU, see Börzel and Risse (2012); Jetschke (2009); Jetschke and Lenz (2013); Lenz (2012, 2013); Hoffmann (2016); and Risse (2016).

Our premise is that conditionality lies at the core of policy making in the IMF. This is consistent with the succinct definition of conditionality coined by the influential IMF legal expert, Sir Joseph Gold: "Conditionality in the IMF refers to the policies the Fund expects a member to follow in order to be able to use the Fund's general resources" (cited in Diz 1984: 214). Conditionality refers to the formulation and imposition of (often painful) policy choices on a member state in financial difficulty. So conditionality is closer to the bone than the more mundane set of obligations that are required for a member state to remain in good standing, such as providing economic information or to making prompt repurchases of special drawing rights.

Conditionality was nowhere to be found in the original Articles of Agreement or accompanying rules of procedure (1945 Agreement, Arts. V.1, VI.1, XII), and there was no explicit role for the Staff in initiating policy on drawing rights (Pauly 1996). Barnett and Finnemore (2004: 57) argue that this omission was deliberate. Many delegates at the inaugural Bretton Woods conference opposed conditionality and favored automatic disbursement of funds. The Staff's power to set the agenda was acquired over time. From the 1950s, IMF officials, with American support, began to explicate conditionality criteria and develop negotiating procedures (1952 E.B. Decision No 102-52/11, revised in 1953; Barnett and Finnemore 2004: 58; Mookerjee 1966). However, the practice was opaque until it was put in writing in the First Amendment to the Treaty Articles in 1969 (Diz 1984: 214–15, quoting Sir Joseph Gold).[47]

This constitutional amendment unequivocally recognized the authority of the Fund to develop policies (Art. I.2, Art. V, Section 3.c, 3.d) and it acknowledged the central role of the managing director in proposing allocations and responding to crises (Art. XXIV, Section 4.a). The reform was accompanied by an Executive Board Decision which formalized the requirement that members consult the Fund (Diz 1984: 224). Even though the terms "exclusive" or "sole" are not used, the language denotes an exclusive right of initiative and this is confirmed by experts. Jacques Polak, former IMF senior official, notes that "A member cannot bypass both staff and management and put its program to the executive board, directly or through its executive director. Argentina tried in 1984 and was promptly rebuffed" (Polak 1991: 32). Stone (2011: 56) stresses that "no lending item can come before the board without the managing director's approval," and Barnett and Finnemore (2004: 50) highlight the Fund's "capacity to set agendas" as a key institutional feature that undergirds IMF autonomy. Polak (1991: 30, 32) observes that the proposals considered by the board are always constructed by the staff, and "in the great majority of cases, approval of a credit arrangement depends on a judgment by staff and

[47] Sir Joseph Gold wrote the First Amendment (IMF 2000).

management that a member's adjustment program measures up to the requirements dictated by its current difficulties and its prospects in the world economy." "In effect, the Executive Board ratifies whatever the IMF management proposes" (Stone 2011: 56). Since 1969 we code the Management as having a formal right of initiative and we conceive this right to be exclusive.

The ECOWAS Commission is a gray case that we ultimately evaluate to meet the bar. A special institutional reform in 2006 transformed the secretariat into a collegial Commission. Its new powers are laid down in a special Memorandum on the Restructuring of the Community Institutions, which has as its chief objective "to enhance the prerogatives of the Commission" (2006b Memorandum, Art. 6). The text does not say explicitly that the Commission has sole initiative, but it is emphatic in strengthening the Commission's authority to "initiate and implement major programmes and projects" (Art. 1). It details further that: "The Commission proposes to the Council and the Authority all recommendations that it deems useful for promoting and developing the Community. It also makes proposals on the basis of which they can decide on the major policy orientations of member states" (Art. 12). This is expansive language, and the Commission's legislative initiative is documented in a recent comprehensive sector-by-sector evaluation (United Nations 2016).

BINDINGNESS AND RATIFICATION

An IO may soften sovereignty loss for member states by restricting the bindingness of a decision, by allowing a member state to expressly opt out or by making a decision entirely voluntary and non-binding, or by making a decision binding only after a member state or a subset of member states have ratified it. We discuss these in turn.

To identify the intermediate category of bindingness it is often necessary to examine the contextual conditions set out in legal documents. By intermediate bindingness we mean that policy making as a whole is binding but a member state can opt out. This option is frequently restricted in time or bound to certain conditions. For example, the Convention of IWhale goes into considerable detail to the effect that member states objecting to IO decisions within a 90-day period are not bound, while the remaining states are bound (Art. V.3). The Central Commission of the Navigation of the Rhine (CCNR) declares that "Resolutions adopted unanimously shall be binding, unless within one month one of the Contracting States informs the Central Commission that it refuses its approval" (Convention, Art. 46).

Some IOs have binding as well as non-binding policy. We code these as distinct policy streams if they cover substantively important policy areas and follow distinctive decision rules. For example, the European Space Agency

(ESA) has mandatory and optional activities. Mandatory activities are those to which all member states are financially bound; optional activities are those in which all member states participate unless they expressly opt out. Mandatory activities are tightly circumscribed: they cover education and documentation alongside select space research programs. Most scientific programs fall under the optional category, including the International Space Station, the Galileo program (Europe's global navigation satellite system), and the space probe Rosetta, the first to land on a comet. Consistent with their contrasting degrees of bindingness, the voting rule for mandatory programs is supermajority and for optional programs it is simple majority.

Some founding statutes do not use the language of bindingness, but employ a related term, such as obligation. The IMF Articles of Agreement refer to "general obligations of participants" (e.g. Arts. IV, VIII, XXII, XXIII, and XXIV) and to specific obligations related to IMF conditionality (Art. XIX). A lending program always takes the form of a legal contract: the candidate recipient submits a letter of intent accompanied by a Memorandum of Agreement that spells out the policy actions that the member has taken and intends to take during the lending period (Guitian 1995; Polak 1991). These documents are, once agreed by the Executive Board, legally binding on the member recipient, the IMF, and its members. A member state that fails to act on IMF representations, IMF lingo for conditionality, may see the disbursement of loan installments suspended (Art. XXIII). We regard this as binding decision making. Stone (2011: 182) observes that ninety-two of ninety-nine countries that obtained IMF funding between 1992 and 2002 experienced at least one program suspension. In extremis, a member can be forced to withdraw from the organization (Art. XXVI.2).

Member states can also impose ratification conditions (Box 2.15, Question XXVII). IO authority is bluntly curtailed when every single member state must ratify an IO decision to bring it into effect. We code two intermediate scenarios between this and "no ratification." The more intergovernmental of these is that the policy comes into effect only for those states that ratify.[48] The less intergovernmental scenario is that ratification by a subset of member states triggers implementation for all.

Most IO policy decisions do not require any form of ratification. Still, one or more streams of policy in nineteen IOs have required ratification at some point over the period of this study, and fourteen do so today. Ratification is normal for IOs that are in the business of brokering conventions, as in the ILO, WIPO, the Council of Europe, and the South Asian Association for Regional Cooperation.

[48] There is frequently the additional requirement that a minimum number of member states must ratify for the decision to come into effect in ratifying states.

For obvious reasons, rules concerning ratification are usually spelled out in writing. However, there is occasionally some ambiguity. In global IOs the default is that the decision comes into effect only for member states that ratify; in regional IOs the default is that the decision comes into effect after ratification by all member states. If documentary evidence is lacking, websites or news sources can fill in.

UNESCO, which has passed some sixty conventions or declarations, has rules of procedure which regulate the production of conventions, but the document is vague on the type of ratification. A few years into UNESCO's life, experts were called in to clarify the rules, and they did so in a detailed legal background document which was adopted by the General Conference in 1962.[49] UNESCO's conventions are binding only on member states that ratify. The World Customs Organization's foundational contract explains that its conventions require ratification, but it does not specify the type of ratification. However, an examination of the nineteen conventions and two agreements that are searchable on the WCO website reveals that conventions bind only states that ratify and that a minimum number of member states must ratify for a convention to come into effect (i.e. a score of 1).

Dispute Settlement

An international dispute may be defined as a "specific disagreement concerning a matter of fact, law, or policy in which a claim or assertion of one party is met with refusal, counter-claim, or denial by another" (Merrills 2011: 1; Romano, Alter, and Shany 2014; Alter and Hooghe 2016). We seek to capture the authority of an IO to take on legal disputes that directly relate to the constitution, principles, or policies of the international organization and that involve at least one public authority, most often member state governments but sometimes also a standing body or office holder of the international organization. The disputes we are concerned with relate to the terms of the IO contract and the extent to which contracting parties or IO bodies comply. We exclude labor disputes or disputes that involve only private actors.

Our measure deals with arbitration and adjudication, forms of *legal* dispute settlement. We exclude diplomatic or political forms, such as negotiation, mediation, or conciliation by a third party. Systems of arbitration and adjudication are important in our scheme because they directly affect the depth of transnational legalization (McCall Smith 2000; see also Abbott et al. 2000).

Our measure conceives legal dispute settlement as a continuum from low to high legalization which we assess using the seven dimensions of Box 2.16.

[49] 12 C/12, "Interpretation and Implementation of Article IV, Paragraph 4, of the constitution (submission of conventions and recommendations to 'competent national authorities')," General Conference, Twelfth Session, Paris 1962.

Variation on each dimension is compressed into two or three categories that can be reliably scored. All but the first and last of these dimensions are based on McCall Smith's (2000) measure of dispute settlement in regional economic agreements. We begin by establishing whether a dispute settlement is obligatory or optional for the members of an IO. The final dimension is preliminary ruling which has been theorized to be a powerful lever for domesticating international law (Alter 2014; Helfer and Slaughter 1997). All but one of these dimensions—type of tribunal—can, at least in theory, apply to arbitration as well as adjudication. The crucial difference between arbitration and adjudication is that the former requires the parties to set up a panel of judges to handle disputes, while the latter involves a court or standing tribunal.

Box 2.16 DISPUTE SETTLEMENT

XXVIII. Is the dispute settlement system obligatory?
- **0** There is no dispute settlement
- **1** The dispute settlement system is not obligatory; member states can opt out
- **2** The dispute settlement system is obligatory; member states cannot opt out

XXIX. Is there an explicit right to third-party review of disputes concerning member state compliance?
- **0** There is no right to third-party review
- **1** Access to third-party review is controlled by a political body
- **2** There is an automatic right to third-party review

XXX. How is the tribunal composed?
- **0** There is no tribunal
- **1** The tribunal is composed of ad hoc arbitrators
- **2** The tribunal has a standing body of justices who rule collectively on all disputes during extended terms of service

XXXI. Is adjudication binding?
- **0** Adjudication is not binding
- **1** Adjudication is binding if there is ex ante agreement among disputing parties or if approved post hoc by a political body
- **2** Adjudication is directly binding

XXXII. Do non-state actors have legal standing?
- **0** Only member states can initiate dispute resolution
- **1** The international secretariat (or other IO body) can initiate dispute resolution
- **2** Non-state actors as well as state actors can initiate dispute resolution

XXXIII. Is there a remedy for non-compliance to the ruling?
- **0** There is no remedy for non-compliance
- **1** The remedy for non-compliance is retaliatory sanctions
- **2** Court rulings have direct effect

XXXIV. Is there a preliminary ruling system of national court referrals?
- **0** There is no preliminary ruling system
- **1** There is a preliminary ruling system, but no national court is required to ask for a ruling
- **2** There is a preliminary ruling system and some national courts are required to ask for a ruling

OBLIGATORY COVERAGE

Dispute settlement provisions often receive special treatment in an IO contract. Sometimes they are laid down in a separate protocol or convention which states need to ratify on top of ratifying the political IO contract. Even when dispute settlement is integral to the foundational contract, it may not automatically apply to all members. Members may be able to file derogations or opt out. The upshot is that the dispute settlement system may cover only some members even while the rest of the IO contract applies to all. So prior to investigating the institutional features of a dispute settlement system, we need to ask who it applies to. Is it obligatory for all member states and an integral part of the IO commitment (score of 2), or is it optional and therefore potentially applicable to just a subset of members (score of 1)?[50]

SICA and the African Union score 1 on this criterion. The Central American Court of Justice is operational for just four of seven SICA member states. The 1992 Statute of the Court charges a Judicial Council composed of the presidents of each member state's highest court to declare the Court operational, and the Council launched the court in 1994 after three member states had ratified. We begin coding in 1994. The African Court on Human and People's Rights (ACHR), which serves the African Union, was agreed in 1998. The fifteen signatures that were required for it to become operational were collected by 2003, and the Court was open for business in 2006, which is when we code. The United Nations and most IOs in the UN family score 2 because all member states are required to accept the jurisdiction of the International Court of Justice.

The criteria for scoring a dispute settlement system are that it must be functional and must be legal rather than political. We code up to two systems, including the system with the most encompassing membership and the system that has the highest score in our coding scheme. If there are ties on these criteria, we code the more commonly used system.

A functional dispute settlement system has an address, a budget, and appointed judges or, in the case of arbitration, a budget and procedure for selecting arbitrators. A declaration of intent in a constitutional document is not sufficient. While we pay attention to the incidence of rulings, we do not exclude the possibility that the sheer existence of a court may serve as a shadow of hierarchy which deters parties from violating rules. In such cases, we need to be sure that the court is properly constituted with judges and a staff.

The International Islamic Court of Justice of the Organization of Islamic Cooperation (OIC) is a clear case for exclusion. The OIC Summit adopted a

[50] So this criterion measures whether a dispute settlement is *in principle* or *de jure* obligatory for all member states or optional; it does not estimate its actual coverage of an IO's member states.

draft statute and a site was chosen (Kuwait), but governments never ratified the statute and none of the seven judges was appointed (Lombardini 2001; Tadjdini 2011). The Judicial Board of the Organization of Arab Petroleum-Exporting Countries (OAPEC) is a border case. The Board was foreseen in the 1968 treaty, but its statute was not approved until 1978, and it commenced work in May 1981 (Blokker and Schermers 2011: 459). It has only heard two cases and several positions on the bench have been vacant for some time (Romano 2014: 118; see also OAPEC website), leading Karen Alter to note that "it is not clear whether this court is really operational" (Alter 2014: online appendix). However, the Board has a president and vice-president, and it continues to have a budget, adopted by the Council of Ministers on an annual basis (OAPEC annual report, several years), so we code it from 1981.

The International Telecommunication Union (ITU) has two dispute settlement systems. One system provides an elaborate menu of options ranging from negotiation and mediation to various types of arbitration. Third-party access is not automatic, rulings are binding if member states consent a priori, and non-state actors cannot litigate. It is the default system for constitutional disputes and it applies to all member states. A second, optional, system, adopted in the constitutional reform of 1992, provides for automatic third-party access and binding adjudication. By 2016, just fifty member states had ratified the protocol. The score for the first system is 2, and the second, 1.

We evaluate *legal* dispute settlement in which judges, arbitrators, or legal experts decide cases on the basis of legal standards and apply rules of procedure (Romano, Alter, and Shany 2014: 7–8). Dispute settlement by politicians or their delegates belongs in the political sphere. The Commonwealth of Nations has a powerful Ministerial Action Group intended to handle serious or persistent violations of Commonwealth values. The group is composed of the foreign ministers of nine countries, and it has the authority to suspend or expel a member. We assess its role as one of the Commonwealth's policy streams.

ECOWAS has authoritative institutions for both types of dispute settlement. Its Mediation and Security Council, consisting of heads of state, foreign ministers, or senior ambassadors from its nine member states is authorized to prevent or mediate conflicts and to decide military interventions. The Council can avail itself of a Council of Elders, an unusual body of eminent persons elected on a rotating annual basis who provide their good offices in mediating conflicts. Since 2005, ECOWAS also has a full-fledged supranational court with strong competence in human rights and good governance. We code the Mediation and Security Council as a branch of political-executive authority, and the Court as a legal dispute settlement body.

We code dispute settlement mechanisms that address disputes involving member states, member states and an IO body, and member states and private

parties, but we do not code disputes involving private parties only. The World Intellectual Property Organization (WIPO) highlights the difference. WIPO offers extensive arbitration and mediation services for private commercial parties, and these fall outside our coding scheme. The IO does not have in-house dispute settlement for interstate conflicts on intellectual property rights. However, disputes arising from agreements concluded under the Berne and Paris conventions often proscribe that parties take their dispute to the International Court of Justice (Kwakwa 2002), and this is what we code. Incidentally, since the creation of the World Trade Organization member states can also take disputes to the WTO; a 1996 agreement between WIPO and the WTO streamlines the process.

THIRD-PARTY REVIEW

Can a party—member state, private actor, or IO body—initiate litigation with a third party? The key difference between a score of 2 and a score of 1 is whether a party can initiate litigation unilaterally, that is, without the consent of the targeted party or of a political body. A score of 1 indicates that access is contingent on a political decision. We distinguish three situations: a political body can block access to a judicial body; a political body intervenes to postpone or raise the hurdle for a judicial process; or both sides' consent is required for the judicial process to proceed.

In the Gulf Cooperation Council (GCC), a political body controls access to judicial dispute settlement. A resolution from the Ministerial Council or the Supreme Council is required for a dispute to be referred to the Commission for the Settlement of Disputes (Charter, Art. 10). This is then an instance of politically controlled access to a third party. The same is true in UNESCO where the Legal Committee of the General Conference, or its Executive Board when the Legal Committee is not in session, may by simple majority refer a matter to either the ICJ or an arbitral tribunal (Constitution Art. XIV.2; Rules of Procedure 1962: Rule 38).

The World Health Organization is a gray case which just falls short of automatic review. According to its Constitution, disputes on the IO contract shall be referred to the ICJ once negotiation or mediation by the Health Assembly fails. In theory, an aggrieved party could force a dispute to go to the ICJ court. However, the hurdle is extremely high, and we judge it to be too high for a score of 2 in light of ICJ jurisprudence which has established that all means of negotiation—either directly between the parties or mediated by the World Health Assembly—should first be exhausted.[51]

[51] In a 2006 judgment, the ICJ summarily rejected a request by the Democratic Republic of Congo to challenge Rwanda in the ICJ on the basis of the World Health Organization's Article 75

The Organization for Security and Cooperation in Europe (OSCE) shows how access may be made conditional on all parties' consent. The first step in the OSCE's multi-stage dispute settlement system is conciliation, which can be activated unilaterally. If conciliation fails, the parties may submit their dispute to binding arbitration but both sides need to agree, as the language in the Convention spells out: "A request for arbitration may be made at any time by agreement between two or more States parties to this Convention" (1992 Convention on Conciliation and Arbitration with the OSCE, Art. 26.1).

TRIBUNAL

The rules are generally unambiguous on whether a dispute settlement system has an ad hoc or standing tribunal. An IO without third-party access scores zero on the composition of a tribunal and on all subsequent dimensions of the measure. For IOs with third-party access, we distinguish two categories. IOs with a standing tribunal receive a score of 2 on the intuition that decisions by standing tribunals have greater weight, are more consistent, and potentially more authoritative (McCall Smith 2000). Dispute settlement that relies on panels or arbitrators selected on a case by case basis receives a score of 1.

BINDINGNESS

This dimension taps whether a tribunal's judgment creates a binding commitment in international legal terms or a commitment that is conditionally binding or does neither.

Our first cut is to examine the language in treaties, conventions, protocols, and rulings. Often there is explicit wording: e.g. "final and binding," "compulsory," or conversely, "advisory" or "recommendations." Where possible we seek confirmation in legal commentary or secondary literature. The Charter of the Gulf Cooperation Council states that its Commission for the Settlement of Disputes produces "recommendations" and "opinions." The International Maritime Organization may put a dispute about its contract to the International Court of Justice. In contrast to most IOs in which ICJ rulings are conditionally binding, Art. 56 of the IMO's Constitution says that an ICJ opinion is advisory. Hence in both the GCC and the IMO we score dispute settlement as non-binding. Since 1974, Benelux Court rulings are binding. The bulk of its Court rulings are preliminary rulings requested by domestic courts, and this may

because the DRC had not proven that those conditions had been met (ICJ, Judgment, 3 February 2006, Armed Activities on the Territory of the Congo (New Application: 2002) (Democratic Republic of the Congo v. Rwanda)). The ICJ has traditionally interpreted its jurisdiction conservatively where treaties or conventions contain such compromissory clauses.

explain the somewhat unorthodox wording: "The decision that contains the requested explanation describes the facts upon which the Benelux explanation must be applied."[52] "Must be applied" suggests bindingness, and this is consistent with the opinion of legal experts (Alter 2014; Wouters and Vidal 2008). Incidentally, the Benelux Court may also provide advisory opinions to any IO body or member government, but as of 2016 the Court has issued only one advisory opinion against more than 200 binding rulings.

The intermediate category of conditional bindingness is produced under three circumstances: a) the default is that a ruling is non-binding but a member state can consent *ex ante* to bindingness; b) the default is that a ruling is binding but a member state may register a derogation or exception; and c) a ruling acquires legal force only after it has been endorsed by a political IO body.

Non-binding unless parties agree to be bound is the largest category. It is common when an IO uses the ICJ for adjudication. The Statute of the ICJ declares that "states may at any time declare that they recognize as compulsory *ipso facto* and without special agreement, in relation to any other state accepting the same obligation, the jurisdiction of the Court in all legal disputes" (Art. 36). Hence we score all dispute settlement systems that employ the ICJ as conditionally binding, unless an IO explicitly deviates from this (as in the IMO example above). This applies to several UN family organizations, including the Food and Agricultural Organization, the World Health Organization, and the United Nations, but also to some non-UN organizations that use the ICJ, such as the European Organization for Nuclear Research (CERN). The OSCE illustrates how the template can be adopted without using the ICJ. Legal dispute settlement in the OSCE is non-binding except if the parties agree in advance to submit to ad hoc arbitration, and arbitration rulings will then be legally binding on the parties.

The Council of Europe's Court of Human Rights (ECtHR) also falls in the partially binding category prior to 1998. Article 46 leaves it to the member states to recognize the Court's jurisdiction as "compulsory *ipso facto,*" "on condition of reciprocity," or "for a specified period." Initially, only Sweden, Ireland, Denmark, Iceland, Germany, and Belgium accepted the ECtHR's compulsory jurisdiction (Alter 2011). Since 1998, when Protocol 11 came into force, the Court's jurisdiction is compulsory and unconditional. Article 46 now reads "binding force and execution of judgments: The High Contracting Parties undertake to abide by the final judgment of the Court in any case to which they are parties." All member states commit to sign up to the Convention. Hence, from 1998, the Council of Europe's score on bindingness increases from 1 to 2.

[52] Author's translation of "De beslissing waarbij uitleg wordt gevraagd omschrijft de feiten, waarop de door het Beneluxhof te geven uitleg moet worden toegepast" (1965 Protocol, Art. 6.5).

Binding with member state opt-out is less common. The International Tribunal for the Law of the Sea (ITLOS), which is attached to the International Seabed Authority (ISA), has binding jurisdiction with escape clauses. Member states can file exemptions, and many have done so. For example, "Australia further declares . . . that it does not accept any of the procedures provided for in section 2 of Part XV (including the procedures referred to in paragraphs (a) and (b) of this declaration) with respect to disputes concerning the interpretation or application of articles 15, 74 and 83 relating to sea boundary delimitations as well as those involving historic bays or titles, which regulate the definition of territorial waters, seabed and continental shelves." And Russia "does not accept the procedures, provided for in section 2 of Part XV of the Convention, entailing binding decisions with respect to disputes concerning the interpretation or application of articles 15, 74 and 83 of the Convention, relating to sea boundary delimitations, or those involving historic bays or titles"; nor does it accept binding ruling over "disputes concerning military activities, including military activities by government vessels and aircraft, and disputes concerning law-enforcement activities in regard to the exercise of sovereign rights or jurisdiction; and disputes in respect of which the Security Council of the United Nations is exercising the functions assigned to it by the Charter of the United Nations." The upshot is that bindingness is severely constrained except where it concerns the seizing of vessels, where ITLOS has quasi-supranational authority (Alter 2014: 80).

Finally, a tribunal's rulings may be conditionally binding because they can be overturned by a political decision. The recommendations of an arbitration panel on disputes among members of ASEAN become binding unless they are rejected by consensus in the Senior Economic Officials' Meeting. Reverse consensus is a high hurdle, and while it is true that ASEAN's recommendations are not unconditionally binding, they are arguably more authoritative than a purely advisory opinion. In our judgment this produces a score of 1. Note the contrast with the GCC's Commission for the Settlement of Disputes, where political intervention overwhelms judicial decision making. There the Commission provides non-binding recommendations or opinions, which may, or may not, be taken up by the Supreme Council.

The binding character of a tribunal's rulings should not be confused with whether a dispute settlement *system* is obligatory or not. ICJ rulings are conditionally binding: member states have a choice between treating ICJ rulings as advisory or compulsory. However, the ICJ dispute settlement *system* is obligatory: every member of the United Nations must accept the ICJ as the UN's primary judicial dispute settlement system. Conversely, the rulings of SICA's Court are unconditionally binding, but the Court *system* has optional coverage: only member states that have ratified the Protocol are bound by the Court system. Moreover, we need to distinguish the bindingness of a

tribunal's rulings from the effect of these rulings in the domestic legal context, as we explain below.

NON-STATE ACCESS

The final three dimensions tap institutional characteristics that affect the transnational character of international law (Alter and Hooghe 2016; Hooghe et al. 2014). These features concern the extent to which international courts relate directly to domestic actors by a) allowing non-state actors to initiate proceedings, b) making implementation of international court rulings independent from government consent, and c) enabling domestic courts to refer cases to the international court.

Non-state access estimates whether actors other than state governments have access to the international tribunal. Non-state actors are international organizations, non-state IO bodies, parliaments, public interest groups, corporations, and private individuals. Access refers to the capacity to take a member state or IO body to court for violation of rights relating to state membership in that international organization. Our coding is trichotomous: zero if no non-state actor can initiate litigation; 1 if the general secretariat or other IO body can initiate litigation; and 2 if domestic or other international actors can initiate litigation. We introduce an intermediate category for IO secretariats because some leading scholars argue that IOs that enable an IO body to sue states are more effective in fighting non-compliance than IOs that restrict dispute mechanisms to member state complaints (Tallberg and McCall Smith 2014).

IO contracts are usually clear about which of these options applies, but ambiguity may arise where IOs impose conditions on non-state access. The archetype of supranational legalization, the European Court of Justice, requires that non-state parties must exhaust domestic channels before bringing their case to the ECJ. Access is otherwise unmediated, and so the ECJ scores 2. The same is true for the European Court of Human Rights, arguably the second-most authoritative transnational court.

There are gray cases in which we need to evaluate whether opportunities for access outweigh conditionality. In Mercosur we judge the constraints too severe. Private actor access is in principle possible, but veto-wielding national committees can block, and so we score zero. In the Andean Community, private actors cannot challenge member state violations of Andean law either directly or indirectly through the Junta, but individuals and companies can demand that acts be nullified (Alter, Helfer, and Saldias 2012). Non-state access is otherwise unmediated by national courts, member states, or by the Junta, and we score 2.

REMEDY

Is there a means to enforce implementation of a ruling in case of contract violation? We distinguish three categories: no remedy; the right to impose retaliatory measures; and direct effect. Direct effect entails that international law can be enforced by individuals in domestic courts. It presumes that the international contract creates individual rights which national courts are obliged to protect.[53]

Legal scholarship is awash with strict and liberal definitions of direct effect (Nollkaemper 2014; Engle 2009). Here we center on the notion that an IO has provisions that ensure that the individual rights created by IO treaty or IO decision can be invoked in domestic courts. This may mean—but does not require—that international law is directly applicable in domestic legal orders. Directly applicable international law becomes automatically part of national law without needing transposition, or in US parlance, it is self-executing. In the European Union, regulations have direct effect *and* are directly applicable, while the treaty and directives have direct effect but are not directly applicable.[54] In other IOs, direct effect is less straightforward. Some IOs have adopted rules that echo EU jurisprudence. The terms "direct effect" or "direct applicability" are almost never used, so we must look for functional equivalence in treaties, law, or jurisprudence that indicates that IO rules create automatic obligations for domestic institutions.

We need to be clear about what is evaluated: we investigate whether there are IO rules that specify direct effect or applicability—not whether there are *domestic* rules giving rise to direct effect. Our coding does not encompass the difference between monism or dualism, which is a matter of domestic rules. Monist legal systems accept that the domestic and international legal systems form a unity. How exactly domestic and international law relate varies from case to case, but in pure monist systems international law is supreme and so, in principle, it can generate direct effect. Dualist legal systems emphasize that international law needs to be transposed into domestic law before it is

[53] On the distinction between direct effect and self-help enforcement mechanisms, including retaliation, see Phelan (2016).

[54] The distinction between direct applicability and direct effect is specific to EU law. A provision of the Treaty of Rome says that regulations are "directly applicable" in all member states. Early on, however, the ECJ was faced with the question whether other sources of EU law (e.g. treaties, or decisions) could also have an effect similar to that of regulations in the domestic legal order. The issue is important because under classical international law, the domestic effect of an international treaty is a matter for the states to decide. Some states (e.g. the Netherlands) are monist, because their constitution gives automatically direct effect (or "self-executing force" in US parlance) to international treaties. In Case 26/62 *Van Gend en Loos*, the ECJ declared that the EU treaties have direct effect because they establish rights and obligations not only to states, but also to their residents. The decision paved the way for the constitutionalization of the EU legal order by ensuring that EU law is embedded in the national legal system of each member state (Weiler 1991). We thank Federico Fabbrini for clarifying the principle of direct effect in personal communication.

accessible to citizens or judges in the domestic realm. Most domestic systems are dual, and many monist systems (e.g. the United States) tie serious conditions to the automaticity of international rights in the domestic system.

Direct effect is detectable in a handful of general purpose regional IOs such as the European Union, the Andean Community, CEMAC, ECOWAS, SICA, the East African Community, and LOAS. The European Court of Justice was the first international court to assert direct effect in the 1962 *Van Gend en Loos* case when the ECJ declared that "the Community constitutes a new legal order of international law for the benefit of which the states have limited their sovereign rights." Following scholarship we date direct effect to this landmark ruling (Alter 2005; Burley and Mattli 1993; Weiler 1991). Until today the EU treaty does not explicitly refer to the direct effect doctrine, yet direct effect is acknowledged to be most expansive in the European Union (Nollkaemper 2014).

The Treaty of Cartagena which created the Andean Community also lacks explicit language. Some observers note that the drafters, who modeled the Treaty on the Rome Treaty, implied Andean law to have direct effect (Alter and Helfer 2010: 571, note 35; Alter, Helfer, and Saldias 2012). In its second preliminary ruling, the Andean Tribunal of Justice reminded parties of this by referring to a 1980 declaration in which member states had agreed that "the legal system of the Cartagena Agreement prevails within the framework of its competences over national norms." The Tribunal used this to buttress its claims of supremacy of Andean law and implied direct effect. Hence we code direct effect from the start of the Andean Community in 1983.

Other IOs use more explicit language. For example, the East African Community's Treaty describes that its Court rulings are "final, binding, and conclusive and not open to appeal" (Art. 35) and that "[T]he order for execution shall be appended to the judgment of the Court which shall require only the verification of the authenticity of the judgment by the Registrar, whereupon the party in whose favor execution is to take place may proceed to execute the judgment" (1999 Treaty, Art. 44). The intermediate step between judgment and execution is too small to be meaningful, and scholars have interpreted this as creating direct effect (Alter 2012). The CEMAC Convention declares its Court rulings to be directly applicable, using the term "force exécutoire" (Convention of the Court of Justice of CEMAC, Art. 5; see also Godwin Bongyu 2009).

The CARICOM Court of Justice (CCJ) is an ambiguous case, and we follow legal scholarship to assess that it has no direct effect. The 2001 Agreement Establishing the Caribbean Court of Justice contains clear wording on the obligation of domestic actors to ensure compliance with CCJ rulings: "all authorities of a Contracting Party act in aid of the Court and . . . any judgment, decree, order or sentence of the Court given in exercise of its jurisdiction shall

be enforced by all courts and authorities in any territory of the Contracting Parties as if it were a judgment, decree, order or sentence of a superior court of that Contracting Party" (Art. 26). This confirms that CCJ rulings are binding, but does not indicate whether, or how, these rules are embedded in domestic legal orders (McDonald 2003: 970–1). One argument for denying the CCJ direct effect is that the Court's exclusive jurisdiction over treaty interpretation explicitly prevents individuals from invoking treaty obligations in domestic courts (O'Brien 2011). It seems as if the member states have built a wall between international and national dispute settlement. As one observer summarizes, "there is no analogous concept of direct effect in Caribbean Community Law. The enforcement of CCJ rulings requires that national legislatures transplant the ruling into national law. Thus, the Member States have control over their own compliance" (Alvarez Perez 2008: 7).

The Organization for International Carriage by Rail (OTIF)'s arbitration system does not meet the bar. The convention states that an arbitration award "is enforceable in each of the Member States on completion of the formalities required in the State where enforcement is to take place" (1999 Convention, Art. 32). This leaves the door wide open for member states to control compliance, and there is also no indication that non-state parties can invoke treaty obligations in domestic courts.

An intermediate score is allocated to IOs in which states are authorized to take retaliatory sanctions or can claim compensation. This is the case in ten IOs in 2010, namely ASEAN, Benelux, COMESA, the European Free Trade Association (EFTA), NAFTA, Mercosur, the Organization of Eastern Caribbean States (OECS), the Organization for American States, the Pacific Islands Forum (PIF), and the WTO. In most cases, the ruling authorizes the aggrieved party to impose sanctions or claim concessions. In the PIF, the affected party can suspend concessions after it has failed to persuade the other party to comply. In the OECS, the Supreme Court may award monetary dispensation or authorize the complainant "to exercise any right of redress available under international law." In some IOs, a collective body authorizes sanctions. ASEAN's dispute settlement combines individual and collective sanctions. When the arbitration tribunal's recommendations are not implemented within a set time, the aggrieved party may suspend concessions towards the other party, but a political body, the Senior Economic Officials' Meeting, may block this by consensus minus one.

PRELIMINARY RULING

A preliminary ruling establishes an explicit link between domestic and international governance by permitting or requiring domestic courts to refer cases involving the application of international law to the international tribunal.

The final decision remains with the referring court. Once again, the European Court of Justice was the first international court to acquire this authority, and it has become a powerful instrument for embedding European law into domestic law. The preliminary ruling was created to give national courts the opportunity to gain clarification, but national courts, and soon the ECJ itself, began to use it to assess whether national law was compatible with European law and, indirectly, to establish supremacy of EU law. Legal scholars and practitioners have identified the mechanism as influential in "constitutionalizing" the European Union (Alter 2005; Burley and Mattli 1993; Weiler 1991).

The preliminary ruling is used in several regional organizations. Most deviate somewhat from the ECJ template, usually with the intent to hem in creeping legalization. The most basic design choice concerns whether referral by national courts should be optional or required. In a compulsory system the international court becomes the court of last resort for issues where international and domestic law intersect, and this places the court in a position to shape how international law is domestically embedded. If one conceives preliminary ruling systems along a dimension from low to high potential legalization, the ECJ stands at its apex: a) referral is compulsory for the member states' highest courts; b) preliminary rulings are binding on courts that ask for them; and c) rulings can pertain to a broad range of questions. No other court can match the ECJ on all three. A court meeting the first condition scores 2. An optional system, whereby national courts are permitted but do not have to ask for a preliminary ruling, receives a score of 1. IOs without a preliminary ruling system score zero.

CEMAC's Court of Justice, which began work in 2000, resembles the ECJ most closely (Alter 2011). The highest national courts must refer a question to the CEMAC Court, and its rulings are binding on national courts. Moreover, the Court's remit is at least as expansive as that of the ECJ. It can give preliminary rulings on "the interpretation of the Treaty of CEMAC and subsequent texts, on the legality and interpretation of the constitution and the acts of the CEMAC members, when a national court or judicial body is called to find out in the course of litigation" (Convention of the Court of Justice, Art. 17). The Benelux also scores 2 though its system is less expansive. As in the EU, lower level national courts can refer questions for a preliminary ruling, the highest national courts are obliged to do so, and preliminary rulings are binding. However, unlike the EU, there are several escape clauses. Highest courts can elide referral if there is "no reasonable doubt" about the ruling on a given question, if the issue "constitutes a case of particular urgency," or if the court refers to "a solution previously given by the Court." In practice, national courts have used preliminary ruling regularly. More than half of the Court's caseload consists of preliminary rulings (Wouters and Vidal 2008).

The Andean Tribunal falls in the intermediate category and scores 1 because "pre-judicial interpretation"—the Andean parlance for preliminary ruling—is optional for national courts. Interestingly, if a court requests a preliminary ruling, it is binding. The Andean Court's room for interpretation is limited to specifying the contents and scope of Andean law (Alter 2011). The East African Community's Court is a clear case of optional preliminary ruling with broad substantive scope: "Where in any action before a court of a member state, an issue arises as to the interpretation of a provision of the Treaty, or the other Protocols or Regulations, the national court may on its own or at the request of any of the parties to the action refer the issue to the Court for interpretation" (2005 ECCJ Protocol, Art. 10f).

Sometimes treaty language can be deceptive. CARICOM's Constitution seems to suggest preliminary rulings are compulsory. Article XIV states that a national court "shall" refer cases that raise questions about interpretation or application of the CARICOM treaty. However, this is undercut by the condition "if it considers that a decision on the question is necessary to enable it to deliver judgment." Referral is optional—not compulsory—and this interpretation is consistent with legal scholarship (Alter 2012; O'Brien and Foadi 2008). Caserta and Madsen (2016: 116) observe that in the first ten years of the Court's operation not a single case has been referred to the Court.

Conclusion

This chapter reveals that when one opens the black box of a cell in a dataset, one can find a lot inside. The decisions outlined in this chapter are but a sample of those that are required to estimate how IOs are governed. Yet they illustrate the challenges that confront the social scientist in using an indicator to make an observation. The Measure of International Authority is informationally demanding, and insufficient information is an endemic source of uncertainty. More fundamentally, there is the challenge of validly applying abstract concepts across a range of human behavior. The indicators used in the MIA employ standard social science concepts—for example, assembly, executive, majority, member state, proposes, appoints—to assess which bodies play a formal role at what stage in an IO's decision making. Yet applying these concepts in a meaningful way across diverse IOs illustrates the role of disciplined problem solving in dealing with ambiguities and gray cases.

Our focus is on the written record of rules underpinning the governance of an international organization—its institutional structure of assemblies, executives, secretariats, consultative bodies, and dispute settlement mechanisms; the composition of these bodies; the rules by which each makes decisions; and

the roles they play in IO decision making. Our approach is to break down the complexity of IO governance by actor, by decision stage, and by decision area in order to provide precise and reliable estimates of "who makes what decisions how." Disaggregation allows us to engage the evidence concretely rather than abstractly. It makes our decisions transparent, which is another way of saying that it allows us to be wrong in a way that the reader may observe.

This involves laying out ground rules that guide coding and pointing to gray cases that illustrate or challenge our coding scheme. In so doing, we hope to facilitate the accumulation of knowledge. We are aware, of course, that even the most valid estimate of an IO's institutional rules is not sufficient to explain what that IO does, but we do believe that it is a necessary part of an explanation. What is written cannot explain what people do, but it would be unwise to claim that one can explain what people do without paying close attention to the rules that they have agreed to guide their behavior. The institutional structure and decision making of international organizations varies in ways that may tell one a lot about the possibilities and constraints of governance in the international domain.

3

From Scoring to Aggregation

The MIA Dataset

Chapter One conceptualizes the authority of an international organization (IO) as two-dimensional. The first dimension is delegation. States may *delegate* authority to independent non-state political or legal bodies, which set the agenda, make final decisions, monitor compliance, and resolve disputes. Our measure of delegation taps the extent to which an IO body is independent of member states, its role in decision making, and the kinds of decisions that are delegated. The second dimension is pooling. States may *pool* authority in a collective body that makes joint decisions on behalf of the states themselves. Our measure of pooling taps the majority threshold for collective state decision making, the bindingness of decisions, the conditions under which they come into effect, and the kinds of decisions that are pooled. The contrast between delegation and pooling is captured by preposition: states delegate authority *to*; they pool authority *in*.

Delegation and pooling are crisp but abstract concepts. The scores produced in the Measure of International Authority (MIA) are akin to Lego blocks that summarize coherent components of international governance that can be aggregated in different ways for different purposes. The aggregates set out in this chapter use an extensive number of observations, but with the minimum fuss. We wish to set out a valid measure that uses a wide range of information in a reasonably simple and transparent way.

The first two sections of this chapter set out how we aggregate scores for delegation and pooling. The reader who is less interested in the construction of the MIA might go directly to the third section, where we take a first look at delegation and pooling over time and across decision areas.

Delegation

The variable, *delegation*, is an annual measure of the allocation of authoritative competences to non-state bodies in an IO's decision-making process. We

distinguish between political delegation in agenda setting and final decision making and judicial delegation in dispute settlement. We assess political delegation:

- in one or more IO bodies (assemblies, executives, general secretariats, consultative bodies) that are
- partially or fully composed of non-member state actors, which
- exercise or co-exercise authority over agenda setting or final decision making
- in one or more of six decision areas: membership accession, membership suspension, constitutional reform, budgetary allocation, financial non-compliance, and (up to five streams of) policy making.

Judicial delegation is the conditional transfer of authority to courts, arbitrators, or tribunals. We assess judicial delegation with items that tap how obligatory and independent legal dispute settlement is, how binding, whether there is a standing tribunal, who has access, whether there is a remedy for non-compliance, and whether it can make compulsory preliminary rulings.

The scoring for delegation works as follows:

1. Each body receives a *composition score* for the degree to which it is non-state. All scores range from 0 to 1.
2. Composition scores for all bodies that participate in agenda setting are averaged in each decision area after two adjustments. An adjustment is made for a general secretariat that gatekeeps agenda setting, and an adjustment is made when an IO has more than one policy stream. This produces an agenda setting score for each decision area.
3. We identify the body with the highest (i.e. most non-state) composition score in final decision making in each decision area. This is the final decision score for each decision area.
4. A dispute settlement score is calculated for each decision area.
5. We now have three scores for each decision area: an agenda setting score, a final decision score, and a dispute settlement score. The average of these scores is the delegation score for a decision area. The delegation score for an IO is the average of the delegation scores across the six decision areas.

Composition Scores

The first step in estimating delegation is to assess the extent to which an IO body is composed of non-state actors.

An IO body may be partially or fully independent of member states in one of three ways. It may be composed of representatives of bodies outside the executive organs of the member state, for example, representatives of national or regional parliaments, courts, interest groups, professional associations, or international organizations.[1] Or it may be composed of one or more members of an IO body who operate under an explicit norm of independence from member state control. Or it may be an external non-state body, such as an international organization that plays an independent decision making role in a second international organization. In each case, the participant in an IO body must have full voting rights to qualify as non-state.

GENERAL SECRETARIAT

A general secretariat receives a composition score of 1 when it consists of a permanent core of non-state actors with at least one of the following properties: the officials of the secretariat have international diplomatic status; they are required to take an oath of independence; member states are required to refrain from influencing the general secretariat. An IO administration receives a score of zero if none of the above conditions is met and/or the administration is lodged in one or more member state administrations or rotates among them.

ASSEMBLY

Most IOs have member state-dominated assemblies, but some have independent assemblies in which some or all members are popularly elected or are selected by national parliaments, regional governments, local governments, trade unions, business associations, or other non-state groups. We scale each assembly present in an IO as follows, with the applicable composition score in brackets:

Q. *I. How are members of the assembly selected?*

- All members selected by member states (0)
- A majority, but not all, selected by member states (0.33)
- At least 50 percent of the members of the assembly are selected by parliaments, subnational governments, or other non-member state actors (0.66)
- At least 50 percent of the members of the assembly are popularly elected (1)

EXECUTIVE

The composition of an executive is non-state when those who sit and vote in an executive do not receive voting instructions from their government.

[1] We define a national executive to include ministers of the central government, diplomats, military or security attachés, central bankers, civil servants, and experts representing their national government.

We assess this by examining the explicit constraints on member state command in relation to some proportion of the members of the executive. For example, one or more members of the executive may be required to take an oath of independence or may be constitutionally bound to act on behalf of the organization rather than his or her member state. We scale each executive in an IO as follows:

Q. *VIII. Do members of the executive directly represent member states?*
- All members receive voting instructions from a government (0)
- 50 percent or more, but not all, members receive voting instructions from a government (0.33)
- Fewer than 50 percent of the members receive voting instructions from a government (1)

OTHER IO BODIES

Member states receive a compositional score of zero where they play an individual role in agenda setting or the final decision. International organizations that play a role in agenda setting or the final decision of another IO receive a score of 1. Consultative bodies, that is, bodies composed of non-state representatives selected by national or subnational assemblies, representatives of business, trade unions, social movements, or professional experts, have a composition score of 1.

Delegation in Agenda Setting and the Final Decision

We now identify those bodies that take part in agenda setting and the final decision in each decision area. Each body has a separate column in the dataset with a value—its composition score—in the row indicating the decision stage at which it participates. For the sample of seventy-six IOs in the period 1950–2010, this requires fourteen columns: three columns each for assemblies, executives, and consultative bodies; two columns for general secretariats; one column for the dispute settlement body; one column for individual member states; and one column for a non-state actor not captured by the preceding options (e.g. an international organization that operates as a non-state decision maker in this IO).

The items for agenda setting are as follows:

- Accession — Q. *XVI.a. Who can initiate the accession of new members?*
- Suspension — Q. *XVIII.a. Who can initiate the suspension of a member state?*
- Constitution — Q. *XIX.a. Who can initiate constitutional reform?*
- Budget — Q. *XXII.a. Who drafts the budget?*

- Financial compliance — Q. *XXIV.a. Who can initiate proceedings on financial compliance?*
- Policy making — Q. *XXV.a. Who can initiate policy?* (We code up to five policy streams.)

The items for the final decision are as follows:

- Accession — Q. *XVI.b. Who makes the final decision on the accession of new members?*
- Suspension — Q. *XVIII.b. Who makes the final decision on the suspension of a member state?*
- Constitution — *Q. XIX.b. Who makes the final decision on constitutional reform?*
- Budget — Q. *XXII.b. Who makes the final decision on the budget?*
- Financial compliance — Q. *XXIV.b. Who makes the final decision on financial compliance?*
- Policy making — Q. *XXV.b. Who makes the final decision on policy?* (We code up to five policy streams.)

AGGREGATE DELEGATION IN AGENDA SETTING

We make an adjustment in the exceptional circumstance that agenda setting must pass through the hands of a general secretariat. In our sample, this is limited to policy making. Where a general secretariat has the formal authority to serve as the sole gatekeeper in agenda setting in a particular stream of policy making, we average a score of 1 for the secretariat with the average score of all other bodies combined in that policy making stream. If, for example, the general secretariat has the monopoly of initiative in just one of three policy streams (as is the case in today's European Union), then the calculation for monopoly of initiative applies to just one of three policy streams.

We average composition scores for delegation for all IO bodies involved in agenda setting in each of the six decision areas. When an IO has more than one policy stream we average the composition scores across the policy streams to produce an aggregate policy stream score. We use this aggregate score as the policy stream score when we average across the six decision areas.

The aggregate score for delegation in agenda setting for an IO is the average score for accession, suspension, constitutional reform, budget, financial compliance, and policy making. This score, like every one of its components, ranges from 0 to 1.

AGGREGATE DELEGATION IN THE FINAL DECISION

We use the same composition scores to calculate an aggregate score for delegation in the final decision. Rather than averaging scores, we assess whether

a body composed to some degree by non-state actors is in a position to block a decision. Whereas we estimate delegation in agenda setting by identifying all bodies that are involved in agenda setting, we ask instead whether the final decision runs through a non-state body, and if so, how non-state is its composition. So we first identify the most non-state actor in each decision area, allocate the appropriate composition score to that body, and then average across decision areas. This score varies between 0 and 1, as do all its components.

Delegation in Dispute Settlement

Legal or judicial dispute settlement is the third and final component of the delegation measure. Our measure of dispute settlement is concerned with arbitration and adjudication. It excludes diplomatic or political forms of dispute settlement involving negotiation, mediation, or conciliation by a third party which, if routinized in an IO body and involving non-state actors, are encompassed in the measure as political delegation.

The score for dispute settlement is the average of seven components scaled from 0 to 1. If an IO has two dispute settlement mechanisms, we use the final score of the most supranational mechanism. The items are as follows with scores in brackets.[2]

- Can member states opt out of the dispute settlement system or is it obligatory for all member states (0, 0.5, 1)? [Q. *XXVIII. Is the dispute settlement system obligatory?*]
- Is the right for third-party review of a dispute mediated by a political body or automatic (0, 0.5, 1)? [Q. *XXIX. Is there an explicit right to third-party review of disputes concerning member state compliance?*]
- Is the composition of the tribunal ad hoc or standing (0, 0.5, 1)? [Q. *XXX. How is the tribunal composed?*]
- Are rulings non-binding, conditionally binding, or binding (0, 0.5, 1)? [Q. *XXXI. Is adjudication binding?*]
- Who has access to dispute settlement: member states only, the general secretariat, non-state actors as well as states (0, 0.5, 1)? [Q. *XXXII. Do non-state actors have legal standing?*]
- Is there no remedy, partial remedy (retaliatory sanctions), or full remedy (direct effect) (0, 0.5, 1)? [Q. *XXXIII. Is there a remedy for non-compliance to the ruling?*]

[2] Appendix II contains the full questions and range of responses.

- Is there a voluntary or compulsory preliminary ruling system (0, 0.5, 1)? [Q. *XXXIV. Is there a preliminary ruling system of national court referrals?*]

Aggregate Delegation Scores

The variable, *Delegation*, is the unweighted average of delegation in agenda setting, delegation in final decision, and judicial delegation across six decision areas: accession, suspension, constitutional reform, budgetary allocation, financial compliance, and policy making.[3]

Pooling

Pooling estimates the extent to which member states share authority through collective decision making. We assess pooling:

- in one or more IO bodies (assemblies, executives)
- in which member states collectively set the agenda and make final decisions
- by pooling their authority under some decision rule with some degree of bindingness and/or requiring some form of ratification
- in one or more of six decision areas: membership accession, membership suspension, constitutional reform, budgetary allocation, financial compliance, and (up to five streams of) policy making.

The scoring for pooling works as follows:

1. We determine which IO bodies are state-dominated.
2. Each of these bodies receives voting scores for the voting rule they use in agenda setting in each decision area and the voting rule they use in the final decision in each decision area. All scores scale from 0 to 1.
3. Each IO receives scores for bindingness and for ratification in each decision area.
4. Voting scores for all state-dominated bodies that participate in agenda setting are averaged in each decision area (with an adjustment when an IO has more than one policy stream). This score is multiplied by the

[3] The MIA dataset contains ten aggregate variables for each IO and each year: IO delegation; delegation in agenda setting, delegation in final decision, dispute settlement; delegation in accession, suspension, constitutional reform, budgetary allocation, financial compliance, and policy making.

weight for bindingness and ratification for that decision area. This produces an agenda setting score for each decision area.

5. We identify the body with the lowest (i.e. least majoritarian) voting score in final decision making in each decision area (with an adjustment when an IO has more than one policy stream). This voting score is multiplied by the weight for bindingness and ratification in that decision area. This produces a final decision score for each decision area.
6. We now have two scores for each decision area: an agenda setting score and a final decision score. These scores are averaged to produce a pooling score for each decision area. Pooling scores for each decision area are averaged to produce a pooling score for an IO.

State-Dominated Bodies

Member states pool authority in assemblies that are state-dominated and in executives that are state-dominated. We consider an assembly as state-dominated when it is chiefly selected by member states, i.e. when it meets the first or second response to the following question:

Q. *I. How are members of the assembly selected?*
- All members of the assembly are selected by member states
- A majority, but not all, of the members of the assembly are selected by member states
- At least 50 percent of the members of the assembly are selected by parliaments, subnational governments, or other non-member state actors
- At least 50 percent of the members of the assembly are selected in popular election

We consider an executive as state-dominated when most of its members represent member states.[4] Because members of an executive, unlike an assembly, may be able to vote independently of the member states that selected them, one must probe the character of representation to determine whether an executive is state-dominated. We score an executive as state-dominated when it meets either of the first two responses to the following question:

Q. *VIII. Do members of the executive directly represent member states?*
- All representatives in the executive receive voting instructions from their government

[4] It is possible that an IO body with a majority of member state representatives alongside one or more non-state members can feature in both pooling and delegation. This happens in eight IOs for limited time periods, as noted in the excel files.

- 50 percent or more, but not all, members of the executive, receive voting instructions from their government
- Fewer than 50 percent of the members of the executive receive voting instructions from their government

Voting Scores

To estimate the extent of pooling we score the voting rule in a state-dominated body. We observe the voting rule for all bodies that play a role in agenda setting and the final decision in each decision area (Q. XVI.a–Q. XXV.b in Appendix II). The scores range from proposals or decisions by individual member states, which scores zero, to majority voting, which scores 1:

- Individual member states decide (0)
- A collective state-dominated body decides by unanimity/consensus (0.33)
- A collective state-dominated body decides by supermajority (qualified majority) (0.66)
- A collective state-dominated body decides by simple or absolute majority (1)

We score automatic or technocratic decision making—decision making explicitly contracted in written rules—at the mid-point on the intergovernmentalism/supranationalism scale (0.5) on the ground that it collectively ties the hands of all IO actors, including member states.

Bindingness and Ratification

Member states can blunt the effect of pooling on state sovereignty by making decisions that are only conditionally binding or not binding at all. They can also subject IO decisions to domestic ratification. Both steps shift the ultimate decision from the IO back to the member states. Table 3.1 lists the decision areas that may be subject to these intergovernmental constraints.

The baseline for estimating the effect of bindingness and ratification is the pooling score produced by the voting rules. If decision making is conditionally

Table 3.1. Decision areas that may be subject to ratification or bindingness

	Ratification	Binding
Accession	✓	
Suspension		
Constitutional reform	✓	
Budgetary allocation		✓
Financial compliance		
Policy making	✓	✓

Table 3.2. Weights for bindingness and ratification

		BINDINGNESS		
		BINDING	CONDITIONALLY BINDING	NOT BINDING
RATIFICATION	**Weight**	**1.00**	**0.75**	**0.25**
NO RATIFICATION	**1.00**	1.000	0.750	0.250
RATIFICATION BY SUBSET & BINDING ON ALL	**0.75**	0.750	0.563	0.188
RATIFICATION BY SUBSET & BINDING ON SUBSET	**0.50**	0.500	0.375	0.125
RATIFICATION BY ALL	**0.25**	0.250	0.188	0.063

binding or not binding, or if ratification applies, we adjust the score downwards by multiplying the baseline pooling score with a weight that varies between 0 and 1. Table 3.2 shows by how much.

The bolded row in Table 3.2 lists the weights for bindingness that apply to budgetary decision making and policy making. The relevant questions in the coding scheme are *Q. XXIII. Is budgetary decision making binding?* and *Q. XXVI. Are policy decisions binding?*

The bolded column in Table 3.2 list the weights for ratification that apply to accession, constitutional reform, and policy making. The relevant questions in the coding scheme are *Q. XVII. Is ratification of accession by existing member states required? Q. XX. Is ratification of constitutional reform required?* and *Q. XXVII. Is ratification of policy required?*

A stream of policy making can be subject to both ratification and bindingness. The weight that we use for a policy stream is the product of the weights for ratification and bindingness which is the number listed in the cells of Table 3.2. Hence, if a policy stream produces decisions that are conditionally binding (bindingness = 0.75) and that require ratification by a subset of member states to be binding on those member states that ratify (ratification score = 0.5), the multiplier for that policy stream is $0.75 \times 0.5 = 0.375$.

Aggregate Pooling Scores

We average the voting scores for all state bodies that participate in agenda setting in a decision area. We then apply the weights for bindingness and ratification applicable in that decision area. In policy making, we average the voting scores for all state bodies that participate in agenda setting in a policy stream and then apply the weights for bindingness and ratification applicable in that policy stream. The score for policy making averages the scores for the policy streams. The aggregate score for pooling in agenda setting averages scores for the six decision areas, ranging between 0 and 1.

To produce a summary score for the final decision, we identify the least majoritarian state-dominated body in each decision area, on the ground that this is the strongest point at which member states can control the outcome. We make an adjustment for policy making as follows. In each stream of policy making we identify the score of the body with the least majoritarian voting rule and adjust the score for bindingness and ratification in that policy stream. The policy making score is the average of the scores across the policy streams. The summary score for pooling in the final decision is the average across the six policy areas, ranging between 0 and 1.

The variable, *Pooling*, is the unweighted average of pooling in agenda setting and pooling in final decision.[5]

A First Look at Delegation and Pooling

What does the Measure of International Authority (MIA) reveal about the distribution of authority across international organizations? We begin by summarizing the data for pooling and delegation and then we present descriptive statistics over time, by decision area, and for each IO.

Delegation and pooling can be estimated as latent factors or as summated rating scales. Factor analysis uses the available information more efficiently by weighting each indicator according to its contribution to the score for a given IO. Summated rating scores, by contrast, have the virtue of being unaffected by the composition of the sample. Both methods produce aggregate delegation and pooling scores using components for each decision area—accession, suspension, constitution, budget, financial compliance, and policy—as described in the previous section. Each component is scaled 0–1, where 0 is pure intergovernmentalism and 1 is pure supranationalism.

Principal components analysis yields two latent variables with eigenvalues greater than 1 corresponding to delegation and pooling (Table 3.3). These latent variables capture the bulk, 60 percent, of the variance in the twelve indicators.

Table 3.4 is a correlation matrix for these factors and additive scales for delegation and pooling across the six decision areas. The Cronbach's alpha for the additive scale for pooling is 0.80 and 0.90 for delegation, indicating very high internal consistency. To use the analogy with which we started this chapter, the Lego blocks that comprise delegation and pooling fit together coherently. In the remainder of this chapter, we use the additive scales, which,

[5] The MIA dataset contains nine estimates for each IO and each year: IO pooling; pooling in agenda setting; pooling in final decision; pooling in accession, suspension, constitutional reform, budgetary allocation, financial compliance, and policy making.

Table 3.3. Factor analysis

Components	Two-factor solution	
	Delegation	Pooling
Delegation in accession	**0.416**	−0.027
Delegation in suspension	**0.375**	0.036
Delegation in constitutional reform	**0.437**	−0.001
Delegation in budgetary allocation	**0.425**	0.038
Delegation in financial compliance	**0.341**	0.056
Delegation in policy making	**0.421**	−0.025
Pooling in accession	0.001	**0.440**
Pooling in suspension	−0.012	**0.401**
Pooling in constitutional reform	0.039	**0.410**
Pooling in budgetary allocation	−0.129	**0.444**
Pooling in financial compliance	0.035	**0.462**
Pooling in policy making	0.054	**0.247**
Eigenvalue	4.17	3.01
Explained variance (%)	0.35	0.25

Note: Principal components factor analysis, promax rotation, listwise deletion. N = 3295 (all IOs between 1950 or establishment and 2010). The highest score for each dimension is in bold.

Table 3.4. Correlation matrix

	Delegation (additive)	Delegation (PCA)	Pooling (additive)	Pooling (PCA)
Delegation (additive scale)	1			
Delegation (PCA)	0.999	1		
Pooling (additive scale)	0.274	0.277	1	
Pooling (PCA)	0.287	0.290	0.996	1

Note: N = 3295.

as Table 3.4 shows, are very highly correlated with the comparable predicted components from the principal components analysis (PCA).

We begin by taking a look at aggregate trends over time.[6] Figure 3.1 displays the mean delegation scores for the fifty-one IOs in our sample that were in existence from 1975 to 2010. In these years, the number of IOs increased as well, indicated by the background bars and the Y-axis on the right of the figure. Figure 3.2 displays the same information for pooling. Both delegation and pooling remained stable until the mid-1980s, at which point they increased substantially. The rise in delegation is markedly steeper than that for pooling. The mean delegation score inches up from 0.16 in 1975 to 0.18 in 1992 and then grows rapidly to 0.24 in 2010, equivalent to replacing ad hoc

[6] Appendix III lists delegation and pooling scores along with their chief components for each IO over time.

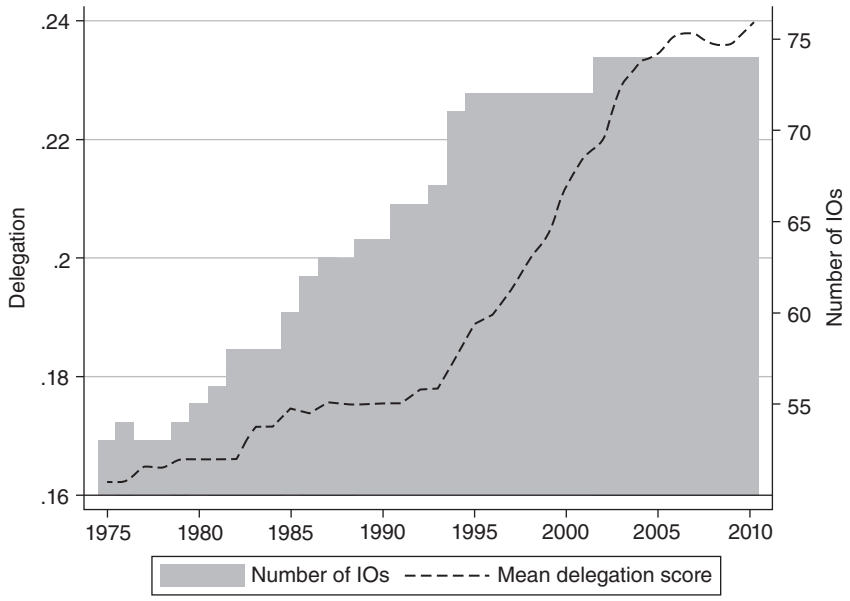

Figure 3.1. Delegation (1975–2010)
Note: N = 51 IOs that were in existence 1975 to 2010.

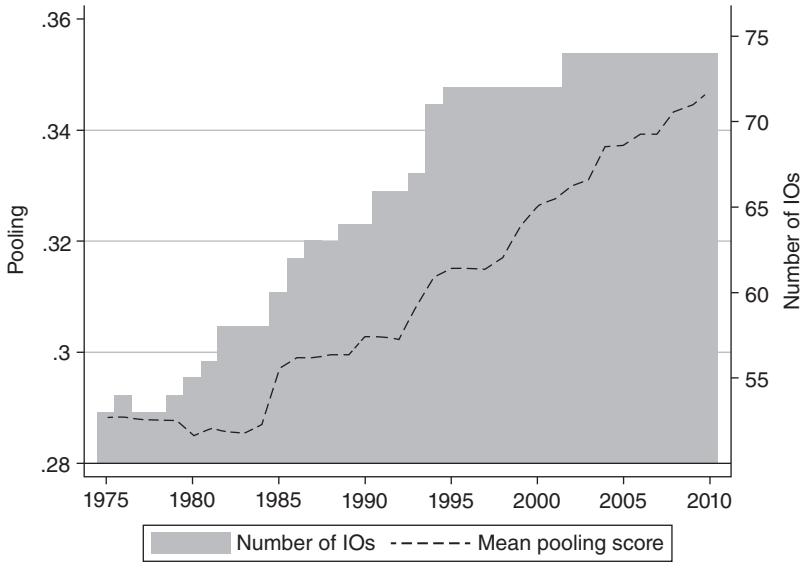

Figure 3.2. Pooling (1975–2010)
Note: N = 51 IOs that were in existence 1975 to 2010.

interstate arbitration with a standing tribunal that can hear cases filed by private parties and can authorize retaliatory sanctions. The mean pooling score increases from 0.29 in 1975 to 0.30 in 1992 and then climbs steadily to 0.35 in 2010. This rise is equivalent to relaxing the final decision from consensus to supermajoritarian voting or from supermajoritarian voting to simple majority in two decision areas. It is also equivalent to replacing policy instruments that are conditionally binding and require ratification by all with directly binding instruments (e.g. by replacing conventions with acts, directives, or regulations).

These aggregate trends mask wide variation across decision areas. Delegation is considerably higher in budgetary allocation and policy making than in suspension, constitutional reform, financial compliance, or accession (Figure 3.3). Framing the budget and initiating policy are day-to-day concerns in which non-state actors, including the IO secretariat, often play a large role. By contrast, suspension, financial compliance, accession, and constitutional reform are extraordinary matters, often involving high politics, and in most IOs they are dominated by member state bodies.

The upward trend in delegation may reflect both the expanding competences of many IOs and the willingness of democratic states, at least in this

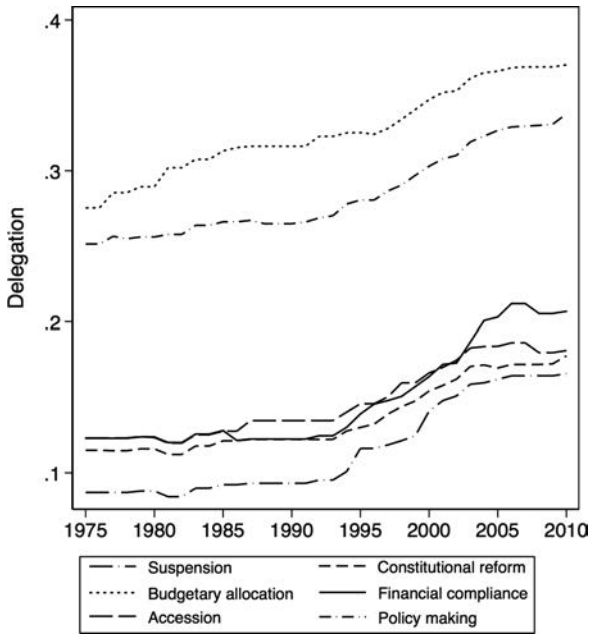

Figure 3.3. Delegation by decision area (1975–2010)
Note: N = 51 IOs that were in existence 1975 to 2010.

period, to impose international rules on recalcitrant states. The largest proportional increases are in suspension and financial compliance, chiefly reflecting the growing powers of secretariats to begin proceedings against non-compliant states and the strengthening of dispute settlement mechanisms in many IOs.

However, delegation varies widely across IOs, as can be seen from beanplots in Figure 3.4 which visualize the distribution density for the seventy-six IOs in 2010. Each plot traces the density of the distribution which is mirrored to form a polygon (Kampstra 2008). The horizontal bars are sample averages, and the dashed line is the sample average across the decision areas. The prevailing pattern is an elongated normal distribution, skewed to lower values in accession, suspension, constitutional reform, and financial compliance. Budgetary allocation and policy making are the most elongated. These are the decision areas in which one finds powerful secretariats, assertive non-state assemblies, and well developed courts in some IOs and strong member state executives exercising the lion's share of authority in many others.

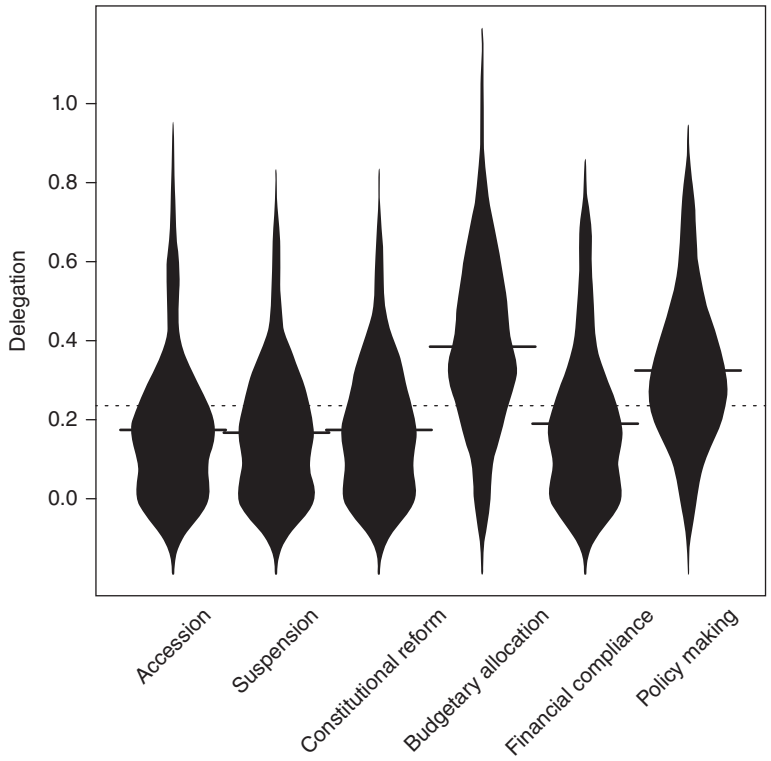

Figure 3.4. Beanplots for delegation by decision area (2010)
Note: N = 74 IOs for 2010.

When one charts the distribution of IOs across the decision stages of delegation (Figure 3.5), an extraordinary—and revealing—diversity comes into view. Delegation in agenda setting on the left of the figure is normally distributed. This is the phase in which non-state actors, including particularly general secretariats, may play an important role in discovering areas of cooperation and in framing alternative courses of action (Marks, Lenz, Ceka, and Burgoon 2014). In sharp contrast, the distribution in the final decision is squat and skewed to zero. Member states tend to be jealous of final control and deny non-state bodies a formal vote at the final stage of decision making. However, some conspicuous non-state bodies—including the European Parliament, the East African Legislative Assembly, and the Executive Council of the World Meteorological Organization—break this general pattern, and are chiefly responsible for the sharp upward spike. General secretariats are almost always confined to agenda setting. But here again, there are exceptions. We detect two instances where the secretariat makes the final decision. Between 1952 and 1967, the European Coal and Steel

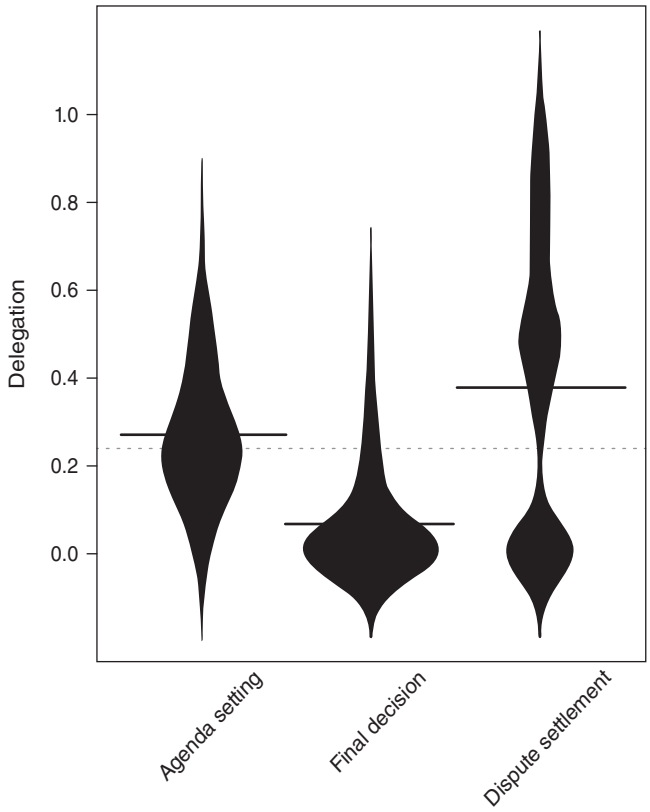

Figure 3.5. Beanplots for delegation by decision stage (2010)
Note: N = 74 IOs for 2010.

Community's High Authority decided on the budget and made the final call on some policy decisions, and since 2004 the Commonwealth's general secretariat has been taking the final decision on financial compliance.

The distribution in dispute settlement is altogether different. It is extremely dispersed with marked bimodality (Hooghe et al. 2014). One group of mostly weak regional IOs and global IOs responsible for standard setting clusters at zero. The remaining IOs are dispersed across the intermediate and high range. At the high end of the scale are IOs, such as the European Union, the Central African Economic and Monetary Community, the Council of Europe, the East African Community, and the Andean Community, with unusually authoritative supranational courts.

Figure 3.6 displays boxplots, which allow one to compare how delegation within the seventy-six IOs in our sample has varied between 1950 and 2010. At one extreme, the Central Commission for the Navigation of the Rhine (CCNR) and the South Asian Association for Regional Cooperation (SAARC) stick at zero. NATO, the OECD, the Gulf Cooperation Council (GCC), and the International Civil Aviation Organization (ICAO) have moderate, but stable, delegation. Forty-nine IOs, however, have shifted over time, and twenty-five have minimum and maximum scores that range over at least one tenth of the

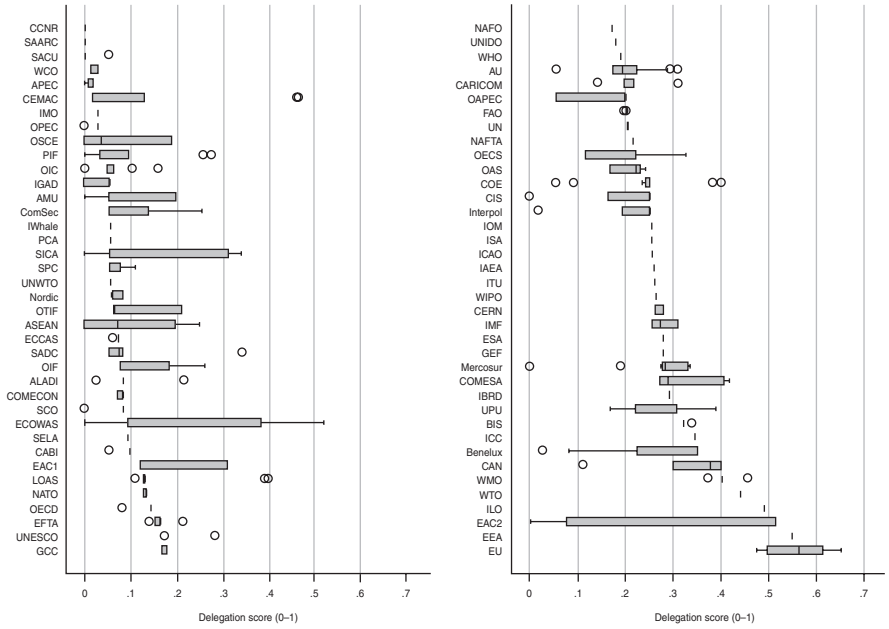

Figure 3.6. Boxplots for delegation (1950–2010)

Note: N = 76 IOs for 1950–2010. The boxplots summarize the median, interquartile range, and 95 percentile whiskers for the values that each IO takes on delegation across its years of existence in our dataset. The circles mark outside values beyond the range of the whiskers.

scale. The most dynamic are regional IOs: the Economic Community of West African States (ECOWAS), the refounded East African Community (EAC2), the Central American Integration System (SICA), and the Association of Southeast Asian Nations (ASEAN). It is interesting to note that there is almost no association between an IO's median level of delegation and the extent to which it has changed over time. Delegation does not appear to feed on itself. However, the general trend has been upward. Forty-four of the forty-nine IOs that have experienced change have seen increasing levels of delegation.

Turning to pooling, Figure 3.7 reveals that average levels vary widely across decision areas for the fifty-one IOs that are in the dataset for 1975 to 2010. A score of 0.5 in budgetary allocation would result if member states had no possibility of opting out of budgetary decisions that were drafted under supermajority and decided by consensus. Accession, financial compliance, and policy making are moderately pooled, and constitutional reform and suspension are at the low end for reasons that have to do with their transparent implications for national sovereignty.

Average levels of pooling in accession, constitutional reform, and policy making have increased only slightly from 1975 to 2010. By contrast, pooling

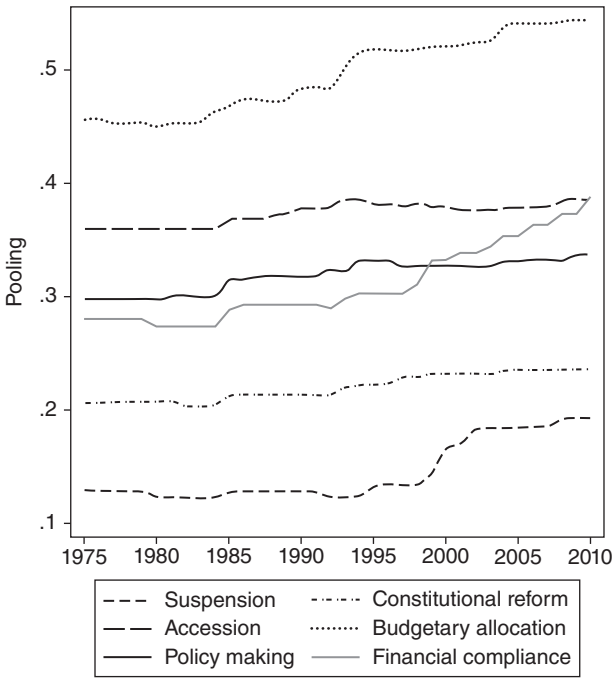

Figure 3.7. Pooling by decision area (1975–2010)
Note: N = 51 IOs that were in existence 1975 to 2010.

in budgetary allocation, and particularly in suspension and financial compliance have increased perceptibly, reflecting a willingness to tighten the screws on non-compliant states. The Commonwealth is a case in point. In 1995 it set up a procedure to assess infringement of constitutional rule with authority—used in the case of the Fiji Islands—to suspend or expel a recalcitrant member state.

The distribution of IOs in each decision area can be gauged from the beanplots in Figure 3.8. Pooling exhibits noticeably more diversity across decision areas than does delegation. The distribution for IOs in suspension is skewed to zero, with a long tail reaching up to the International Atomic Energy Agency (IAEA) which can suspend a member state on a vote by two-thirds of its Board of Governors and General Conference. The distributions for constitutional reform and policy making are also pear shaped with long tails for higher values. In the remaining decision areas, IOs are more evenly dispersed, with two or even three humps as in budgetary allocation. The bimodal distribution in financial compliance chiefly distinguishes IOs in which there is

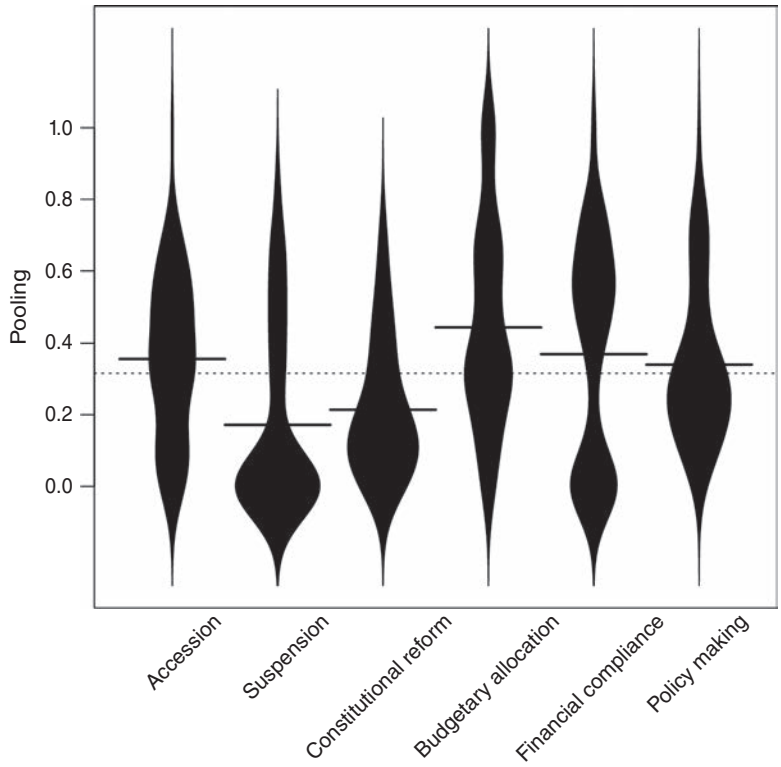

Figure 3.8. Beanplots for pooling by decision area (2010)
Note: N = 74 IOs for 2010.

an autonomic non-compliance procedure from those where the national veto holds sway.

Figure 3.9 compares beanplots for pooling in agenda setting and the final decision. The distributions are similarly normal with a slight skew to lower values. Average pooling is significantly higher (with 95 percent confidence) in the final decision because, in contrast to agenda setting where it is common to give individual member states the right to initiate, the final decision is almost always taken by a collective IO body.[7] An average of 0.35 on the final decision is equivalent to a state-dominated IO body taking binding decisions on the budget by supermajority and by consensus in the other five decision areas with no ratification. Interestingly, pooling is relatively high in the final decision compared to agenda setting, whereas in delegation it is the other way around. Delegation is strongly agenda focused; pooling is tilted to the final decision.

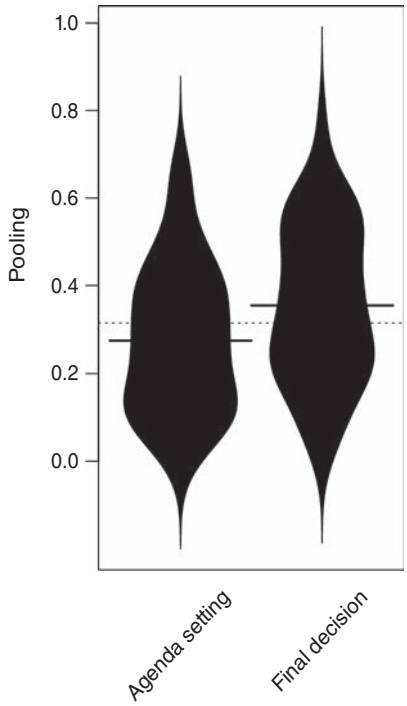

Figure 3.9. Beanplots for pooling by decision stage (2010)
Note: N = 74 IOs for 2010.

[7] Individual member states are final decision makers in just 1 percent of more than 21,000 decisions coded in our dataset.

Figure 3.10 displays boxplots for pooling for all IOs in the dataset between 1950 and 2010. As with delegation, most of the change has been upward over time. We detect an increase of pooling in thirty-seven IOs, a decline in twelve IOs, and stasis in twenty-seven. Interestingly, the panel on the left reveals much more change than the one on the right: change is most widespread at low to intermediate levels of pooling. The organizations that have changed the most are those with low initial values, including the uniquely dynamic Intergovernmental Organization for International Carriage by Rail (OTIF)—now "intergovernmental" in name only—which entered the dataset in 1950 with a score of 0.04 and in 2010 scored 0.54. In general, high levels of pooling tend to be the result of initial design. With the exception of the World Health Organization (WHO), the Common Market for Eastern and Southern Africa (COMESA), and the League of Arab States (LOAS), the change in pooling is very small or non-existent in the upper third of our sample.

The organizations that pool most extensively tend to be task-specific and global. They include the United Nations Educational, Scientific and Cultural Organization (UNESCO), the International Civil Aviation Organization (ICAO), the International Atomic Energy Agency (IAEA), and the International Maritime Organization (IMO). UNESCO and ICAO, both with a

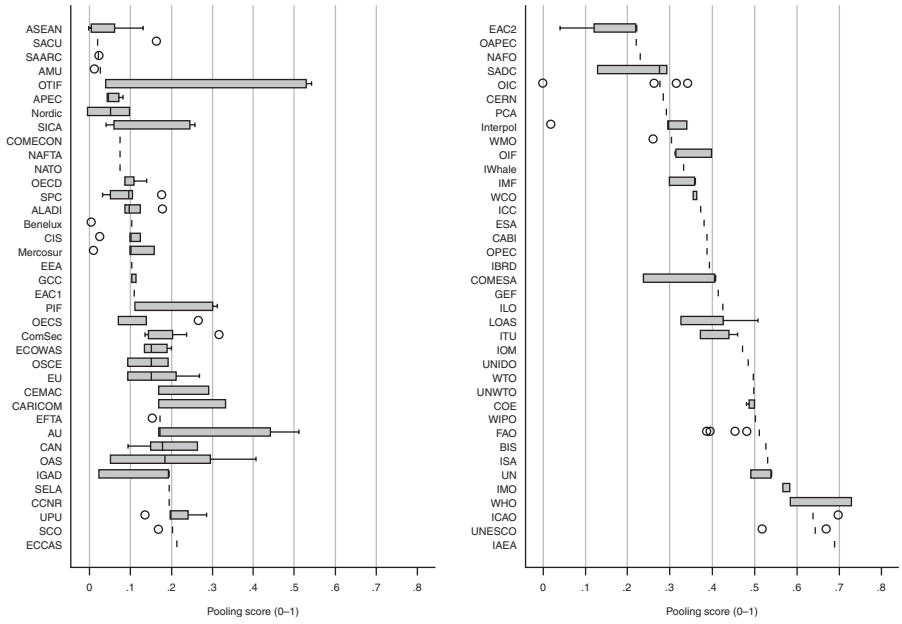

Figure 3.10. Boxplots for pooling (1950–2010)
Note: N = 74 IOs for 2010.

median pooling score above 0.60, have abolished the national veto in all six decision areas.

Figure 3.11 maps the seventy-six IOs in our sample on delegation and pooling in 2010 and reveals that these distinctive forms of IO authority are weakly associated (r = 0.14). This might be surprising to those familiar with the European Union or the World Trade Organization which have high levels of both delegation and pooling. However, these IOs are far from representative. To illustrate how delegation and pooling can vary independently, we survey three less studied IOs—the International Maritime Organization (IMO), the Economic Community of West African States (ECOWAS), and the South Asian Association for Regional Cooperation (SAARC).

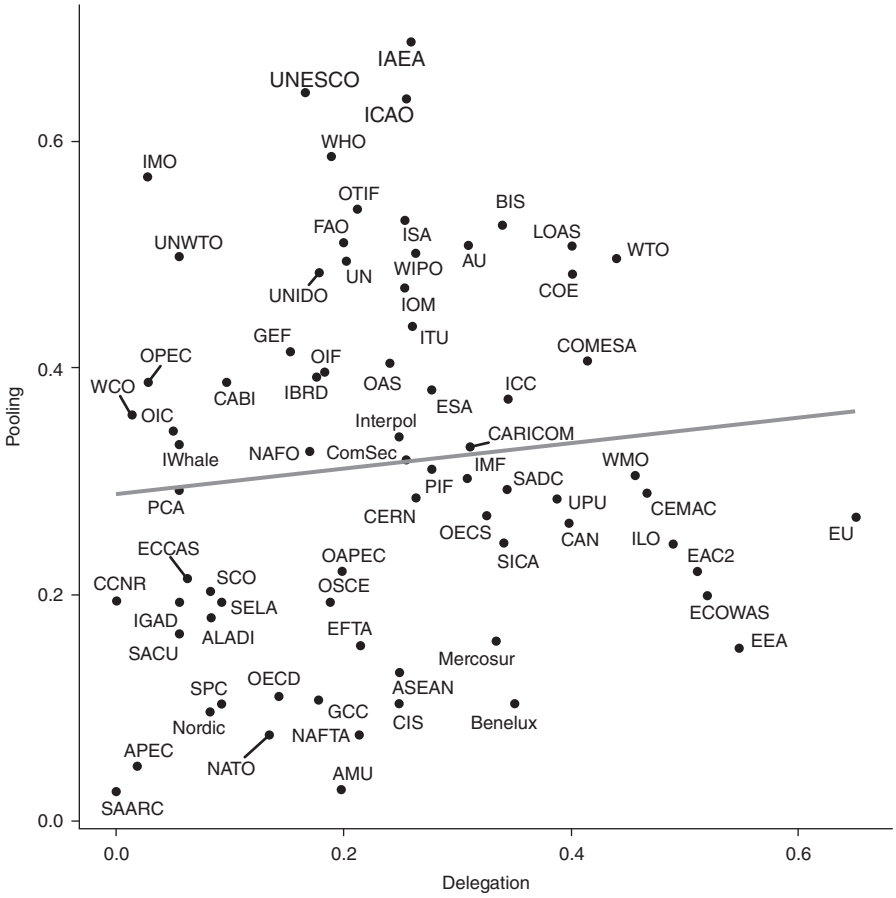

Figure 3.11. Delegation and pooling in 2010
Note: N = 74 IOs in 2010.

The IMO has extensive pooling and weak delegation. It was established in 1958 as a UN special agency for maritime safety. Following the Torrey Canyon disaster of 1967 it was tasked also with marine environmental standard setting (Nordquist and Moore 1999). Its chief purpose is to provide a venue for negotiating conventions and international regulations. These become binding once two-thirds of the members have ratified. Ratification has been made less restrictive since 1972 when the IMO began using the tacit consent procedure whereby a member state is presumed to have ratified unless it objects within a set time period. The rule was introduced because reaching the two-thirds hurdle became increasingly difficult as membership expanded beyond the initial group of shipping nations. Simple non-weighted majority voting is the decision rule in its intergovernmental Assembly and Council for regulations and conventions, the budget, and suspension of non-paying members. This places the IMO in the top 10 percent of our sample on pooling. However, delegation to independent non-state bodies is minimal. Aside from co-drafting the budget as a junior partner to the Council, the IMO's 300-strong staff provides secretarial support for the organization's technical intergovernmental committees (Hooghe and Marks 2015).

By contrast, the Economic Community of West African States has extensive delegation, but limited pooling. ECOWAS was created in 1975 by fifteen former British and French colonies to promote a common market, and has since branched out to become a peace and security player in West Africa. ECOWAS' high delegation score is owed to its general secretariat, court, and parliament. Its general secretariat is a collegial body that also functions as ECOWAS' chief executive "responsible for the smooth running and for protecting the general interest of the Community" (2006 Memorandum, Art. 12). It drafts the annual budget, sets the agenda in suspension and financial compliance, and has a monopoly of initiative in all policy areas except peacekeeping (2006 Memorandum, Art. 12). The ECOWAS Community Court of Justice is the third-most authoritative court in our dataset (preceded only by the European Court of Justice and the Economic and Monetary Community of Central African States' Court of Justice). It can hear cases brought by private individuals, provide preliminary rulings upon the request of national courts, and make rulings with direct effect (Alter, Helfer, and McAllister 2013). Unusually for a consultative body, the ECOWAS parliament must be consulted on constitutional reform. However, member states have preserved the national veto in collective bodies in every policy area except peacekeeping, where the member state-dominated Mediation and Security Council can deploy election monitors, mediators, and peacekeepers by two-thirds majority. ECOWAS is in the top decile of our sample on delegation and in the bottom third on pooling.

Measurement

The South Asian Association for Regional Cooperation scores almost zero on delegation and pooling. SAARC was founded in 1985 by Bangladesh, India, and Pakistan and four neighboring countries to promote trust and cooperation in some technical areas, and in 2006 was tasked with trade liberalization. All decisions are taken by consensus, usually by the Intergovernmental Council of Ministers or its Standing Committee. Common projects are not binding and conventions signed by SAARC members bind only those that subsequently ratify. The SAARC Secretariat has no formal agenda setting role in any of the areas we monitor. As one commentator observes, the Secretariat "hardly exercises even the modest role assigned to it by the Charter. It has only occasionally been involved in the preparation of documentation for important meetings" (Ashan 2006: 146).

We conclude this preview of the MIA dataset with summary statistics for the components of delegation and pooling for the seventy-six IOs in the dataset from 1950 to 2010 (Tables 3.5 and 3.6).

Several commonalities between delegation and pooling stand out when one compares the mean levels in decision areas. There is least delegation and pooling in suspension and constitutional reform, the decision areas in which national sovereignty is most implicated. By the same logic, delegation and pooling are strongest in budgetary allocation, the decision area which facilitates day-to-day operations. Delegation and pooling are relatively strong in policy making, perhaps for similar reasons. Accession and financial compliance have relatively high levels of pooling among member states, but generally cut out delegation to non-state bodies.

Table 3.5. Descriptives on delegation

	Mean	Median	Coefficient of variation	Min	Max	Q25	Q75
Delegation by decision area							
Accession	0.140	0.143	1.143	0	0.778	0	0.191
Suspension	0.109	0.119	1.128	0	0.643	0	0.167
Constitutional reform	0.130	0.134	1.110	0	0.644	0	0.191
Budgetary allocation	0.321	0.333	0.623	0	1	0.167	0.443
Financial compliance	0.137	0.143	1.183	0	0.667	0	0.191
Policy making	0.278	0.254	0.659	0	0.933	0.167	0.369
Delegation by decision stage							
Agenda setting	0.235	0.208	0.654	0	0.708	0.139	0.333
Final decision	0.052	0	2.227	0	0.55	0	0
Dispute settlement	0.271	0.286	1.080	0	1	0	0.5
DELEGATION SCORE	0.186	0.184	0.724	0	0.652	0.061	0.261

Table 3.6. Descriptives on pooling

	Mean	Median	Coefficient of variation	Min	Max	Q25	Q75
Pooling by decision area							
Accession	0.355	0.330	0.693	0	1	0.125	0.540
Suspension	0.137	0	1.857	0	1	0	0.165
Constitutional reform	0.209	0.165	0.959	0	0.75	0.040	0.330
Budgetary allocation	0.439	0.330	0.723	0	1	0.165	0.660
Financial compliance	0.305	0.165	1.082	0	1	0	0.580
Policy making	0.312	0.250	0.690	0	1	0.165	0.375
Pooling by decision stage							
Agenda setting	0.253	0.222	0.748	0	0.749	0.083	0.375
Final decision	0.332	0.316	0.612	0	0.790	0.179	0.538
POOLING SCORE	0.293	0.287	0.633	0	0.728	0.138	0.425

Overall there is slightly more variation in delegation than in pooling, taking their mean levels into account. The coefficient of variation in the third column describes variability relative to the mean of the distribution. Interestingly, decision areas and decision stages with the lowest means tend to have the largest coefficients of variation. Variation among IOs is relatively great for those components of authority which are the most difficult to achieve. So we see, on average, little delegation in the final decision, but there are some IOs that stand out. The same is true of pooling on suspension. The association between the mean and the coefficient of variation for the twelve decision areas in delegation and pooling combined is –0.71. International organizations are particularly diverse in areas of stark national sovereignty.

Perhaps the functional pressures for delegation and pooling are more persistent in day-to-day policy and financial matters than for quasi-constitutional matters. Who should we allow in our club? How shall we punish violators? Who can rewrite the IO contract? Member states intent on preserving their freedom of action may refuse to subject these matters to the rule of law. But not always, and not consistently over time. When do states delegate? When do states pool authority? What drives member states to sometimes relax and sometimes tighten control? These are puzzles for further research.

The MIA cannot answer such questions. What it can do is reveal patterns of international authority that have hitherto remained murky. The need for such information arises from the challenge of bringing observation into contact with theory. In the social sciences, theories often run far beyond the data

necessary to confirm or disconfirm them. Human ingenuity in devising coherent models of the world is perhaps no less great in the social sciences than in the natural sciences, but the information we have at our disposal to discipline and inform theory is usually far poorer. Our purpose in this book is to provide a range of conceptually coherent observations, which can be assembled—like Lego blocks—in diverse ways for diverse purposes.

Appendix to Part I

A.I. MIA Dataset: Seventy-Six International Organizations (1950–2010)

Acronym	Name of IO	Years in Dataset
ALADI/LAIA*	Latin American Integration Association	50
AMU*	Arab Maghreb Union	22
APEC*	Asia-Pacific Economic Cooperation	20
ASEAN*	Association of Southeast Asian Nations	44
AU/OAU*	African Union	48
BENELUX*	Benelux Union	61
BIS	Bank for International Settlements	61
CABI	Centre for Agriculture and Bioscience International	24
CAN/Andean*	Andean Community	42
CARICOM*	Caribbean Community	43
CCNR	Central Commission for the Navigation of the Rhine	61
CEMAC*	Central African Economic and Monetary Community	45
CERN	European Organization for Nuclear Research	57
CIS*	Commonwealth of Independent States	19
CoE*	Council of Europe	61
COMECON*	Council for Mutual Economic Assistance	33
COMESA*	Common Market for Eastern and Southern Africa	29
ComSec*	Commonwealth of Nations	46
EAC1*	East African Community	10
EAC2*	East African Community	18
ECCAS-CEEAC*	Economic Community of Central African States	26
ECOWAS*	Economic Community of West African States	36
EEA	European Economic Area	17
EFTA*	European Free Trade Association	51
ESA	European Space Agency	31
EU*	European Union	59
FAO	Food and Agriculture Organization	61
GCC*	Gulf Cooperation Council	30
GEF	Global Environmental Facility/Fund	17
IAEA	International Atomic Energy Agency	54
IBRD	World Bank	61
ICAO*	International Civil Aviation Organization	61
ICC	International Criminal Court	9
IGAD*	Inter-Governmental Authority on Development	25
ILO*	International Labor Organization	61
IMF	International Monetary Fund	61
IMO	International Maritime Organization	51
INTERPOL*	International Criminal Police Organization	61
IOM	International Organization for Migration	56
ISA/ISBA	International Seabed Authority	17
ITU	International Telecommunication Union	61

(*continued*)

A.1. MIA Dataset

Continued

Acronym	Name of IO	Years in Dataset
IWhale	International Whaling Commission	61
LOAS*	League of Arab States	61
MERCOSUR*	Common Market of the South	20
NAFO	Northwest Atlantic Fisheries Organization	32
NAFTA*	North American Free Trade Agreement	17
NATO*	North Atlantic Treaty Organization	61
NORDIC*	Nordic Council	59
OAPEC*	Organization of Arab Petroleum Exporting Countries	43
OAS*	Organization of American States	60
OECD*	Organization for Economic Cooperation and Development	61
OECS*	Organization of Eastern Caribbean States	43
OIC*	Organization of Islamic Cooperation	41
OIF/ACCT*	Francophonie	41
OPEC	Organization of Petroleum Exporting Countries	51
OSCE	Organization for Security and Cooperation in Europe	38
OTIF	Intergovernmental Organization for International Carriage by Rail	61
PCA	Permanent Court of Arbitration	61
PIF*	Pacific Islands Forum	38
SAARC*	South Asian Association for Regional Cooperation	25
SACU*	Southern African Customs Union	42
SADC*	Southern African Development Community	29
SCO*	Shanghai Cooperation Organization	9
SELA*	Latin American and Caribbean Economic System	45
SICA*	Central American Integration System	59
SPC*	Pacific Community	61
UN*	United Nations	61
UNESCO*	UN Educational, Scientific and Cultural Organization	61
UNIDO	UN Industrial Development Organization	26
UNWTO	World Tourism Organization	36
UPU	Universal Postal Union	61
WCO	World Customs Organization	59
WHO	World Health Organization	61
WIPO	World Intellectual Property Organization	44
WMO	World Meteorological Organization	61
WTO	World Trade Organization	16

* The profile of this international organization features in this book. Unedited profiles of non-starred international organizations are available upon request.

A.II. Coding Scheme

Name of IO: . . . . . **[fill out in header]**

99: no documentation/no written rules; 98: not applicable

A. INSTITUTIONAL STRUCTURE

NAME	BODY
	Assembly 1 (A1)
	Assembly 2 (A2)
	Assembly 3 (A3)
	Executive 1 (E1)
	Executive 2 (E2)
	Executive 3 (E3)
	Executive 4 (E4)
	Executive 5 (E5)
	General Secretariat (GS1)
	General Secretariat (GS2)
	Dispute settlement (DS1)
	Dispute settlement (DS2)
	Consultative body 1 (CB1)
	Consultative body 2 (CB2)
	Consultative body 3 (CB3)

[*Note*: Code each institution separately.]

An IO *assembly* is a) a plenary body consisting of all member states; b) with a rule-making function as supreme legislative authority; that c) is usually responsible for the composition of one or more IO bodies. We code up to three assemblies.

An IO *executive* is a) responsible for the execution of rules (laws); b) with a rule-making function within guidelines set by the IO assembly. We code up to five executives.

An IO *general secretariat* is a) responsible for running the IO's headquarters, keeping records, and representing the IO to the outside world; and b) is also often charged with preparing and implementing decisions, conducting or commissioning background research, and monitoring member state compliance. We code up to two general secretariats.

An IO *consultative body* has a) some formal status as a recognized body or channel; b) possesses the right to be consulted on an ongoing basis; and c) is composed of non-state actors. We code up to three consultative bodies.

A.II. Coding Scheme

1) ASSEMBLY: A1 to A3

I. How are members of the assembly selected?
- **0** All members of the assembly are selected by member states
- **1** A majority, but not all, members of the assembly are selected by member states
- **2** At least 50 percent of the members of the assembly are selected by parliaments, subnational governments, or other non-member state actors
- **3** At least 50 percent of the members of the assembly are popularly elected

II. Do members of the assembly directly represent member states?
- **0** All members of the assembly receive voting instructions from their government
- **1** A majority, but not all, members of the assembly receive voting instructions from their government
- **2** 50 percent or less of the members of the assembly receive voting instructions from their government

III. Is voting weighted?
- **0** No
- **1** Yes

III.a. If yes, what is the basis of weighted voting?
If so, what is the basis: population, GDP, geography, financial contribution?

2) EXECUTIVE: E1 to E5

IV.a. Who proposes the head of the executive?

	Who decides?															
What is the decision rule?	Member states	Assembly 1	Assembly 2	Assembly 3	Executive 1	Executive 2	Executive 3	Executive 4	Executive 5	Head of Executive	General Secretariat 1	General Secretariat 2	Other non-state actor	Rotation	Automatic procedure	No written rule
Unanimity/consensus																
Selective veto																
Supermajority																
Majority																
Voting not applicable																
No written rule																

IV.b. Who appoints the head of the executive?

	Who decides?															
What is the decision rule?	Member states	Assembly 1	Assembly 2	Assembly 3	Executive 1	Executive 2	Executive 3	Executive 4	Executive 5	Head of Executive	General Secretariat 1	General Secretariat 2	Other non-state actor	Rotation	Automatic procedure	No written rule
Unanimity/consensus																
Selective veto																
Supermajority																
Majority																
Voting not applicable																
No written rule																

V.a. Who proposes the members of the executive?

	Who decides?															
What is the decision rule?	Member states	Assembly 1	Assembly 2	Assembly 3	Executive 1	Executive 2	Executive 3	Executive 4	Executive 5	Head of Executive	General Secretariat 1	General Secretariat 2	Other non-state actor	Rotation	Automatic procedure	No written rule
Unanimity/consensus																
Selective veto																
Supermajority																
Majority																
Voting not applicable																
No written rule																

V.b. Who appoints the members of the executive?

	Who decides?															
What is the decision rule?	Member states	Assembly 1	Assembly 2	Assembly 3	Executive 1	Executive 2	Executive 3	Executive 4	Executive 5	Head of Executive	General Secretariat 1	General Secretariat 2	Other non-state actor	Rotation	Automatic procedure	No written rule
Unanimity/consensus																
Selective veto																
Supermajority																
Majority																
Voting not applicable																
No written rule																

VI. How are members of the executive selected?
- **0** All members of the executive are selected by member states
- **1** A majority, but not all, members of the executive are selected by member states
- **2** At least 50 percent of the members of the executive are selected by parliaments, subnational governments, or other non-member state actors

VII. Do member states have full or partial representation?
- **0** All member states are represented in the executive
- **1** A subset of member states is represented in the executive

VIII. Do members of the executive directly represent member states?
- **0** All members receive voting instructions from their government
- **1** 50 percent or more, but not all, members receive voting instructions from their government
- **2** Fewer than 50 percent of the members receive voting instructions from their government

IX. Does representation in the executive deviate from one member, one vote?

IX.a. Is a subset of seats reserved for particular members?
- **0** No
- **1** Yes

If yes, what is the basis: financial contribution, economic interest, geopolitical weight, nuclear capability, host country?

IX.b. Is voting weighted?
- **0** No
- **1** Yes

If yes, what is the basis: population, GDP, geography, financial contribution?

IX.c. Does weighted voting provide some member states with a veto?
- **0** No
- **1** Yes

If yes, which countries can exercise a veto?

3) GENERAL SECRETARIAT: GS1 to GS2

X. Who selects the head of the General Secretariat?

	Who decides?															
What is the decision rule?	Member states	Assembly 1	Assembly 2	Assembly 3	Executive 1	Executive 2	Executive 3	Executive 4	Executive 5	Head of Executive	General Secretariat 1	General Secretariat 2	Other non-state actor	Rotation	Automatic procedure	No written rule
Unanimity/consensus																
Selective veto																
Supermajority																
Majority																
Voting not applicable																
No written rule																

XI. Who can remove the head of the General Secretariat?

	Who decides?															
What is the decision rule?	Member states	Assembly 1	Assembly 2	Assembly 3	Executive 1	Executive 2	Executive 3	Executive 4	Executive 5	Head of Executive	General Secretariat 1	General Secretariat 2	Other non-state actor	Rotation	Automatic procedure	No written rule
Unanimity/consensus																
Selective veto																
Supermajority																
Majority																
Voting not applicable																
No written rule																

XII. What is the length of tenure?
Number of years or
indeterminate: . . . . . .

XIII. Is there an oath of independence or formal protection of IO bureaucracy impartiality and independence?
0 No
1 Yes

4) CONSULTATIVE BODIES: CB1 to CB3

XIV. Is there a standing channel or consultative body composed of non-state representatives?
0 No channel/consultative body
1 One channel/consultative body
2 More than one channel/consultative body

XV. Who is it composed of?

XV.a. CB1 [name]:……
1 Private representatives (e.g. business, trade unions, social movements, professional experts)
2 A combination of private representatives and public non-state representatives
3 Public non-state representatives selected by national or subnational assemblies
4 Public non-state representatives who are directly elected

XV.b. CB2 [name]:……
1 Private representatives (e.g. business, trade unions, social movements, professional experts)
2 A combination of private representatives and public non-state representatives
3 Public non-state representatives selected by national or subnational assemblies
4 Public non-state representatives who are directly elected

XV.c. CB3 [name]:……
1 Private representatives (e.g. business, trade unions, social movements, professional experts)
2 A combination of private representatives and public non-state representatives
3 Public non-state representatives selected by national or subnational assemblies
4 Public non-state representatives who are directly elected

B. DECISION MAKING

MEMBERSHIP: ACCESSION

XVI.a. Who can initiate the accession of new members?

	Who decides?															
What is the decision rule?	Member states	Assembly 1	Assembly 2	Assembly 3	Executive 1	Executive 2	Executive 3	Executive 4	Executive 5	Head of Executive	General Secretariat 1	General Secretariat 2	Other non-state actor	Rotation	Automatic procedure	No written rule
Unanimity/consensus																
Selective veto																
Supermajority																
Majority																
Voting not applicable																
No written rule																

XVI.b. Who makes the final decision on the accession of new members?

	Who decides?															
What is the decision rule?	Member states	Assembly 1	Assembly 2	Assembly 3	Executive 1	Executive 2	Executive 3	Executive 4	Executive 5	Head of Executive	General Secretariat 1	General Secretariat 2	Other non-state actor	Rotation	Automatic procedure	No written rule
Unanimity/consensus																
Selective veto																
Supermajority																
Majority																
Voting not applicable																
No written rule																

XVII. Is ratification on accession by existing member states required?

- **0** Every member state must ratify accession for it to come into effect
- **1** Ratification by a subset of member states is required for accession to come into effect
- **2** Ratification is not required for accession to come into effect

MEMBERSHIP: SUSPENSION

XVIII.a. Who can initiate the suspension of a member state?

	Who decides?															
What is the decision rule?	Member states	Assembly 1	Assembly 2	Assembly 3	Executive 1	Executive 2	Executive 3	Executive 4	Executive 5	Head of Executive	General Secretariat 1	General Secretariat 2	Other non-state actor	Rotation	Automatic procedure	No written rule
Unanimity/consensus																
Selective veto																
Supermajority																
Majority																
Voting not applicable																
No written rule																

XVIII.b. Who makes the final decision on the suspension of a member state?

	Who decides?															
What is the decision rule?	Member states	Assembly 1	Assembly 2	Assembly 3	Executive 1	Executive 2	Executive 3	Executive 4	Executive 5	Head of Executive	General Secretariat 1	General Secretariat 2	Other non-state actor	Rotation	Automatic procedure	No written rule
Unanimity/consensus																
Selective veto																
Supermajority																
Majority																
Voting not applicable																
No written rule																

A.II. Coding Scheme

CONSTITUTIONAL REFORM

XIX.a. Who can initiate constitutional reform?

	Who decides?																
What is the decision rule?	Member states	Assembly 1	Assembly 2	Assembly 3	Executive 1	Executive 2	Executive 3	Executive 4	Executive 5	Head of Executive	General Secretariat 1	General Secretariat 2	Other non-state actor	Rotation	Automatic procedure	No written rule
Unanimity/consensus																
Selective veto																
Supermajority																
Majority																
Voting not applicable																
No written rule																

XIX.b. Who makes the final decision on constitutional reform?

	Who decides?															
What is the decision rule?	Member states	Assembly 1	Assembly 2	Assembly 3	Executive 1	Executive 2	Executive 3	Executive 4	Executive 5	Head of Executive	General Secretariat 1	General Secretariat 2	Other non-state actor	Rotation	Automatic procedure	No written rule
Unanimity/consensus																
Selective veto																
Supermajority																
Majority																
Voting not applicable																
No written rule																

XX. Is ratification of constitutional reform required?

- **0** Every member state must ratify the constitutional reform for it to come into effect
- **1** The constitutional reform comes into effect only for those member states that ratify
- **2** Ratification by a subset of member states is required for the constitutional reform to come into effect for all member states
- **3** Ratification is not required for the constitutional reform to come into effect

FINANCIAL DECISION MAKING

XXI. Does the IO have independent revenue?

- **0** IO revenue consists of ad hoc or discretionary member state financing
- **1** IO revenue consists of routinized, non-discretionary member state contributions (e.g. tied to GDP per capita)
- **2** IO revenue consists of routinized, non-discretionary member state contributions and the IO has own resources amounting to at least one quarter of its budget raised beyond the control of its member states (e.g. donations, grants, taxes, fees, bonds)

XXII.a. Who drafts the budget?

	Who decides?															
What is the decision rule?	Member states	Assembly 1	Assembly 2	Assembly 3	Executive 1	Executive 2	Executive 3	Executive 4	Executive 5	Head of Executive	General Secretariat 1	General Secretariat 2	Other non-state actor	Rotation	Automatic procedure	No written rule
Unanimity/consensus																
Selective veto																
Supermajority																
Majority																
Voting not applicable																
No written rule																

XXII.b. Who makes the final decision on the budget?

	Who decides?															
What is the decision rule?	Member states	Assembly 1	Assembly 2	Assembly 3	Executive 1	Executive 2	Executive 3	Executive 4	Executive 5	Head of Executive	General Secretariat 1	General Secretariat 2	Other non-state actor	Rotation	Automatic procedure	No written rule
Unanimity/consensus																
Selective veto																
Supermajority																
Majority																
Voting not applicable																
No written rule																

A.II. Coding Scheme

XXIII. Is budgetary decision making binding?

0 Budgetary decision making is not binding
1 Budgetary decision making is binding unless a member state opts out of a program or financial commitment
2 Budgetary decision making is binding

XXIV.a. Who can initiate proceedings on financial compliance?

	Who decides?															
What is the decision rule?	Member states	Assembly 1	Assembly 2	Assembly 3	Executive 1	Executive 2	Executive 3	Executive 4	Executive 5	Head of Executive	General Secretariat 1	General Secretariat 2	Other non-state actor	Rotation	Automatic procedure	No written rule
Unanimity/consensus																
Selective veto																
Supermajority																
Majority																
Voting not applicable																
No written rule																

XXIV.b. Who makes the final decision on financial compliance?

	Who decides?															
What is the decision rule?	Member states	Assembly 1	Assembly 2	Assembly 3	Executive 1	Executive 2	Executive 3	Executive 4	Executive 5	Head of Executive	General Secretariat 1	General Secretariat 2	Other non-state actor	Rotation	Automatic procedure	No written rule
Unanimity/consensus																
Selective veto																
Supermajority																
Majority																
Voting not applicable																
No written rule																

POLICY MAKING: POLICY 1 TO POLICY 5

- passing protocols or conventions;
- passing recommendations or declarations;
- passing laws, regulations, decisions, directives;
- designing, selecting, or running programs/projects; allocating resources (funding, personnel) to programs/projects;
- monitoring standards or practices.

Please discuss briefly in the profile which levels of policy making there are and which of these are appropriate to code. If more than one policy stream is related to the core purpose of the IO and has a distinct set of actors or rules at any stage in the decision making (that is, they produce different scores in our coding), code one or more additional policy streams.

XXV.a. Who can initiate policy?

	Who decides?															
What is the decision rule?	Member states	Assembly 1	Assembly 2	Assembly 3	Executive 1	Executive 2	Executive 3	Executive 4	Executive 5	Head of Executive	General Secretariat 1	General Secretariat 2	Other non-state actor	Rotation	Automatic procedure	No written rule
Unanimity/consensus																
Selective veto																
Supermajority																
Majority																
Voting not applicable																
No written rule																

XXV.b. Who makes the final decision on policy?

	Who decides?															
What is the decision rule?	Member states	Assembly 1	Assembly 2	Assembly 3	Executive 1	Executive 2	Executive 3	Executive 4	Executive 5	Head of Executive	General Secretariat 1	General Secretariat 2	Other non-state actor	Rotation	Automatic procedure	No written rule
Unanimity/consensus																
Selective veto																
Supermajority																
Majority																
Voting not applicable																
No written rule																

XXV.c. What is the role of the general secretariat in initiating policy?

- **0** The general secretariat has no formal role in initiating policy
- **1** The general secretariat has a formal role in initiating policy, but does not monopolize agenda setting
- **2** The general secretariat has a formal monopoly of initiative or is the only body with a formal role in agenda setting

XXVI. Are policy decisions binding?

- **0** Policy decisions are not binding
- **1** Policy decisions are binding unless a member state explicitly opts out
- **2** Policy decisions are binding

XXVII. Is ratification of policy required?

- **0** Every member state must ratify the policy for it to come into effect
- **1** The policy comes into effect only for those member states that ratify
- **2** Ratification by a subset of member states is required for the policy to come into effect for all member states
- **3** Ratification is not required for the policy to come into effect

DISPUTE SETTLEMENT: DS1 to DS2

XXVIII. Is the dispute settlement system obligatory?

- **0** There is no dispute settlement
- **1** The dispute settlement system is not obligatory; member states can opt out
- **2** The dispute settlement system is obligatory; member states cannot opt out

XXIX. Is there an explicit right to third-party review of disputes concerning member state compliance?

- **0** There is no right to third-party review
- **1** Access to third-party review is controlled by a political body
- **2** There is an automatic right to third-party review

XXX. How is the tribunal composed?

- **0** There is no tribunal
- **1** The tribunal is composed of ad hoc arbitrators
- **2** The tribunal has a standing body of justices who rule collectively on all disputes during extended terms of service

XXXI. Is adjudication binding?

- **0** Adjudication is not binding
- **1** Adjudication is binding if there is ex ante agreement among disputing parties or if approved post hoc by a political body
- **2** Adjudication is directly binding

XXXII. Do non-state actors have legal standing?

- **0** Only member states can initiate dispute resolution
- **1** The international secretariat (or other IO body) can initiate dispute resolution
- **2** Non-state actors as well as state actors can initiate dispute resolution

XXXIII. Is there a remedy for non-compliance to the ruling?

- **0** There is no remedy for non-compliance
- **1** The remedy for non-compliance is retaliatory sanctions
- **2** Court rulings have direct effect

XXXIV. Is there a preliminary ruling system of national court referrals?

- **0** There is no preliminary ruling system
- **1** There is a preliminary ruling system, but no national court is required to ask for a ruling
- **2** There is a preliminary ruling system and some national courts are required to ask for a ruling

A.III. The MIA Tables on Delegation and Pooling

The tables summarize the extent of delegation and pooling, by decision area, by decision stage, and in the aggregate, for each of seventy-six international organizations in the MIA dataset. The scores tap annual variation from 1950 (or date of IO creation) to 2010 (or date of IO death). Chapter Three explains the algorithm that produces delegation and pooling scores. All scores are scaled from 0 (no delegation, no pooling) to 1 (full delegation or pooling).

The aggregated scores for delegation or pooling can be derived in two ways: by averaging across decision areas, or by averaging the decision stages (three for delegation and two for pooling).

The tables list scores by IO and by year (see Table A.1 which matches acronyms to full IO names). Each new row indicates that our measure detects in that year a change of 0.01 or more in delegation, pooling, or one of its components.

Table A.3. Scores on delegation of international authority

IO name	Years	Accession	Suspension	Constitution	Budget	Financial compliance	Policy making	Agenda setting	Final decision	Dispute settlement	DELEGATION SCORE
ALADI	1961–1970	0	0	0	0.167	0	0	0.083	0	0	**0.028**
	1971–1980	0.190	0.190	0.190	0.357	0.190	0.190	0.083	0	0.571	**0.218**
	1981–2010	0	0	0	0.333	0	0.167	0.250	0	0	**0.083**
AMU	1989–1991	0	0	0	0	0	0	0	0	0	**0**
	1992–1993	0	0	0.167	0	0	0.167	0.167	0	0	**0.056**
	1994	0	0	0.167	0	0	0	0.083	0	0	**0.028**
	1995–2000	0	0	0.167	0	0	0.167	0.167	0	0	**0.056**
	2001–2010	0.143	0.143	0.310	0.143	0.143	0.310	0.167	0	0.429	**0.198**
APEC	1991–1995	0	0	0	0	0	0	0	0	0	**0**
	1996–2010	0	0	0	0	0	0.111	0.056	0	0	**0.019**
ASEAN	1967–1980	0	0	0	0	0	0	0	0	0	**0**
	1981–1991	0	0	0	0.333	0	0.111	0.222	0	0	**0.074**
	1992–1996	0	0	0	0.333	0	0.139	0.236	0	0	**0.079**
	1997–2003	0.119	0.119	0.119	0.452	0.119	0.258	0.236	0	0.357	**0.198**
	2004–2007	0.167	0.167	0.167	0.500	0.167	0.306	0.236	0	0.500	**0.245**
	2008–2010	0.167	0.167	0.167	0.500	0.167	0.333	0.250	0	0.500	**0.250**
AU	1963	0	0	0	0.333	0	0	0.167	0	0	**0.056**
	1964–1986	0.119	0.119	0.119	0.452	0.119	0.119	0.167	0	0.357	**0.175**
	1987–1993	0.167	0.167	0.167	0.500	0.167	0.167	0.167	0	0.500	**0.222**
	1994–2000	0.167	0.167	0.167	0.333	0.167	0.278	0.139	0	0.500	**0.213**
	2001–2002	0.167	0.333	0.167	0.389	0.389	0.333	0.389	0	0.500	**0.296**
	2003–2005	0.167	0.300	0.167	0.389	0.333	0.361	0.358	0	0.500	**0.286**
	2006–2010	0.190	0.324	0.190	0.413	0.357	0.385	0.358	0	0.571	**0.310**
Benelux	1950–1959	0	0	0	0	0	0.167	0.083	0	0	**0.028**
	1960–1961	0	0	0.083	0.167	0	0.236	0.243	0	0	**0.081**
	1962–1973	0.143	0.143	0.226	0.310	0.143	0.379	0.243	0	0.429	**0.224**
	1974	0.262	0.262	0.345	0.429	0.262	0.498	0.243	0	0.786	**0.343**
	1975–2010	0.262	0.262	0.395	0.429	0.262	0.498	0.268	0	0.786	**0.351**
BIS	1950–1997	0.238	0.238	0.238	0.571	0.238	0.405	0.250	0	0.714	**0.321**
	1998–2010	0.238	0.238	0.348	0.571	0.238	0.405	0.250	0.055	0.714	**0.340**
CABI	1987–1989	0	0	0	0.333	0	0	0.167	0	0	**0.056**
	1990–2010	0	0	0	0.333	0	0.250	0.208	0.083	0	**0.097**

CAN	1969–1980	0.190	0.190	0.190	0.524	0.190	0.524	0.333	0	0.571	**0.302**
	1981–1982	0	0	0	0.333	0	0.333	0.333	0	0	**0.111**
	1983–1987	0.286	0.286	0.286	0.619	0.286	0.619	0.333	0	0.857	**0.397**
	1988–1998	0.286	0.286	0.286	0.619	0.286	0.508	0.278	0	0.857	**0.378**
	1999–2010	0.286	0.286	0.369	0.619	0.286	0.552	0.342	0	0.857	**0.400**
CARICOM	1968–1972	0.143	0.143	0.143	0.143	0.143	0.143	0	0	0.429	**0.143**
	1973–1995	0.143	0.143	0.143	0.310	0.143	0.310	0.167	0	0.429	**0.198**
	1996–2005	0.143	0.143	0.254	0.310	0.143	0.310	0.222	0	0.429	**0.217**
	2006–2010	0.238	0.238	0.349	0.405	0.238	0.405	0.222	0	0.714	**0.312**
CCNR	1950–2010	0	0	0	0	0	0	0	0	0	**0**
CEMAC	1966–1990	0	0	0	0	0	0.111	0.056	0	0	**0.019**
	1991–1998	0	0	0	0	0	0.167	0.083	0	0	**0.028**
	1999	0	0	0.111	0.333	0	0.333	0.389	0	0	**0.130**
	2000–2009	0.333	0.333	0.444	0.667	0.333	0.667	0.389	0	1	**0.463**
	2010	0.333	0.333	0.476	0.667	0.333	0.667	0.405	0	1	**0.468**
CERN	1954–1970	0.333	0.167	0.167	0.500	0.167	0.333	0.333	0	0.500	**0.278**
	1971–2010	0.250	0.167	0.167	0.500	0.167	0.333	0.292	0	0.500	**0.264**
CIS	1992–1993	0	0	0	0	0	0	0	0	0	**0**
	1994–1999	0.167	0.167	0.167	0.167	0.167	0.167	0	0	0.500	**0.167**
	2000–2010	0.167	0.167	0.167	0.500	0.167	0.333	0.250	0	0.500	**0.250**
CoE	1950	0	0	0	0.333	0	0	0.167	0	0	**0.056**
	1951–1958	0.055	0.055	0.055	0.333	0	0.055	0.277	0	0	**0.092**
	1959–1960	0.198	0.198	0.198	0.476	0.143	0.198	0.277	0	0.429	**0.235**
	1961–1992	0.198	0.198	0.198	0.476	0.143	0.254	0.305	0	0.429	**0.244**
	1993–1996	0.198	0.198	0.198	0.476	0.143	0.291	0.323	0	0.429	**0.251**
	1997	0.198	0.198	0.198	0.420	0.143	0.291	0.295	0	0.429	**0.241**
	1998	0.341	0.341	0.341	0.562	0.286	0.433	0.295	0	0.857	**0.384**
	1999–2010	0.341	0.341	0.341	0.562	0.286	0.545	0.295	0.056	0.857	**0.402**
COMECON	1959–1973	0	0	0	0.333	0	0.111	0.222	0	0	**0.074**
	1974–1991	0	0	0	0.333	0	0.167	0.250	0	0	**0.083**
COMESA	1982–1993	0.190	0.190	0.190	0.524	0.190	0.357	0.250	0	0.571	**0.274**
	1994–1997	0.190	0.274	0.190	0.524	0.190	0.357	0.292	0	0.571	**0.288**
	1998–2004	0.310	0.393	0.310	0.643	0.310	0.476	0.292	0	0.929	**0.407**
	2005–2010	0.310	0.393	0.310	0.643	0.310	0.532	0.319	0	0.929	**0.416**
ComSec	1965–1994	0	0	0	0.167	0	0.167	0.167	0	0	**0.056**
	1995–2001	0.167	0.332	0	0.167	0	0.222	0.370	0.073	0	**0.148**
	2002–2003	0.167	0.332	0	0.167	0	0.203	0.361	0.073	0	**0.145**
	2004–2010	0.167	0.332	0	0.167	0.667	0.203	0.527	0.240	0	**0.256**

(*continued*)

Table A.3. Continued

IO name	Years	Accession	Suspension	Constitution	Budget	Financial compliance	Policy making	Agenda setting	Final decision	Dispute settlement	DELEGATION SCORE
EAC1	1967–1973	0	0	0	0.331	0	0.388	0.194	0.165	0	**0.120**
	1974–1976	0.190	0.190	0.190	0.522	0.190	0.578	0.194	0.165	0.571	**0.310**
EAC2	1993–1995	0	0	0	0	0	0	0	0	0	**0**
	1996–1999	0	0	0	0.333	0	0.133	0.233	0	0	**0.078**
	2000	0	0.222	0	0.333	0.222	0.222	0.500	0	0	**0.167**
	2001–2010	0.310	0.532	0.310	0.752	0.532	0.641	0.444	0.165	0.929	**0.513**
ECCAS	1985–2004	0	0	0	0.222	0	0.222	0.222	0	0	**0.074**
	2005–2010	0	0	0	0.222	0	0.153	0.188	0	0	**0.063**
ECOWAS	1975–1976	0	0	0	0	0	0	0	0	0	**0**
	1977–1994	0	0	0	0.333	0	0.222	0.278	0	0	**0.093**
	1995–1999	0	0.333	0	0.222	0.333	0.222	0.556	0	0	**0.185**
	2000	0	0.333	0	0.222	0.333	0.196	0.542	0	0	**0.181**
	2001	0.190	0.524	0.190	0.413	0.524	0.386	0.542	0	0.571	**0.371**
	2002–2004	0.190	0.524	0.357	0.413	0.524	0.405	0.635	0	0.571	**0.402**
	2005–2006	0.310	0.643	0.476	0.532	0.643	0.524	0.635	0	0.929	**0.521**
	2007–2010	0.310	0.643	0.476	0.532	0.643	0.527	0.636	0	0.929	**0.522**
EEA	1994–2010	0.586	0.310	0.586	0.753	0.310	0.753	0.500	0.220	0.929	**0.549**
EFTA	1960	0.143	0.143	0.143	0.143	0.143	0.143	0	0	0.429	**0.143**
	1961–1976	0.143	0.143	0.143	0.143	0.143	0.226	0.042	0	0.429	**0.157**
	1977–2001	0.143	0.143	0.143	0.143	0.143	0.276	0.067	0	0.429	**0.165**
	2002–2010	0.190	0.190	0.190	0.190	0.190	0.340	0.075	0	0.571	**0.215**
ESA	1980–2010	0.333	0.167	0.167	0.500	0.167	0.333	0.333	0	0.500	**0.278**
EU	1952	0.500	0.333	0.467	0.833	0.333	0.917	0.358	0.333	1	**0.564**
	1953–1957	0.500	0.333	0.467	0.833	0.333	0.933	0.367	0.333	1	**0.567**
	1958–1962	0.452	0.286	0.452	0.619	0.286	0.752	0.483	0.083	0.857	**0.475**
	1963–1966	0.500	0.333	0.500	0.667	0.333	0.800	0.483	0.083	1	**0.522**
	1967–1974	0.500	0.333	0.500	0.667	0.333	0.667	0.500	0	1	**0.500**
	1975–1976	0.500	0.333	0.476	0.667	0.333	0.667	0.488	0	1	**0.496**
	1977–1978	0.500	0.333	0.460	0.849	0.333	0.653	0.454	0.110	1	**0.521**
	1979	0.500	0.333	0.476	1	0.333	0.667	0.488	0.167	1	**0.552**
	1980–1984	0.467	0.333	0.476	1	0.333	0.667	0.471	0.167	1	**0.546**

	1985–1986	0.467	0.333	0.533	1	0.333	0.667	0.500	0.167	1	**0.556**
	1987–1992	0.778	0.333	0.533	1	0.333	0.667	0.489	0.333	1	**0.607**
	1993–1998	0.778	0.333	0.533	1	0.333	0.713	0.456	0.389	1	**0.615**
	1999–2002	0.778	0.500	0.533	1	0.333	0.722	0.544	0.389	1	**0.644**
	2003–2008	0.762	0.500	0.533	1	0.333	0.722	0.537	0.389	1	**0.642**
	2009–2010	0.762	0.500	0.556	1	0.333	0.761	0.549	0.407	1	**0.652**
FAO	1950–1952	0.143	0.143	0.143	0.310	0.143	0.337	0.181	0	0.429	**0.203**
	1953–1960	0.143	0.143	0.143	0.310	0.143	0.310	0.167	0	0.429	**0.198**
	1961–2010	0.143	0.143	0.143	0.310	0.143	0.323	0.174	0	0.429	**0.201**
GCC	1981–1997	0.095	0.095	0.095	0.429	0.095	0.206	0.222	0	0.286	**0.169**
	1998–2010	0.095	0.095	0.095	0.429	0.095	0.262	0.250	0	0.286	**0.179**
GEF	1994–2010	0	0	0.110	0.443	0	0.369	0.351	0.110	0	**0.154**
IAEA	1957–2010	0.167	0.167	0.333	0.333	0.167	0.389	0.278	0	0.500	**0.259**
IBRD	1950–1993	0	0	0.028	0.222	0.443	0.332	0.402	0.110	0	**0.171**
	1994–2010	0	0	0.028	0.222	0.443	0.369	0.421	0.110	0	**0.177**
ICAO	1950–2010	0.190	0.190	0.190	0.357	0.190	0.413	0.194	0	0.571	**0.255**
ICC	2002–2010	0.262	0.262	0.262	0.595	0.262	0.429	0.250	0	0.786	**0.345**
IGAD	1986–1995	0	0	0	0	0	0	0	0	0	**0**
	1996–2010	0	0	0	0.222	0	0.111	0.166	0	0	**0.055**
ILO	1950–2010	0.607	0.167	0.644	0.608	0.387	0.534	0.424	0.550	0.500	**0.491**
IMF	1950–1968	0.110	0.333	0.055	0.443	0.333	0.277	0.666	0.110	0	**0.259**
	1969–1991	0.110	0.333	0.055	0.443	0.333	0.360	0.708	0.110	0	**0.273**
	1992–2010	0.110	0.443	0.055	0.443	0.443	0.360	0.708	0.220	0	**0.309**
IMO	1960–2010	0	0	0	0.167	0	0	0.083	0	0	**0.028**
Interpol	1950–1955	0	0	0	0	0	0.110	0	0.055	0	**0.018**
	1956–1985	0	0	0.167	0.333	0.667	0.333	0.583	0.167	0	**0.250**
	1986–1995	0	0	0.167	0.333	0.333	0.333	0.417	0.167	0	**0.194**
	1996–2010	0	0	0.167	0.333	0.667	0.333	0.583	0.167	0	**0.250**
IOM	1955–2010	0.476	0.143	0.143	0.310	0.143	0.310	0.333	0	0.429	**0.254**
ISA	1994–2010	0.143	0.643	0.143	0.310	0.143	0.143	0.167	0.167	0.429	**0.254**
ITU	1950–2010	0.167	0.167	0.167	0.333	0.167	0.567	0.117	0.167	0.500	**0.261**
IWhale	1950–2010	0	0	0	0.333	0	0	0.167	0	0	**0.056**
LOAS	1950–1952	0.333	0	0	0.167	0	0.167	0.333	0	0	**0.111**
	1953–1972	0.333	0	0	0.222	0	0.222	0.389	0	0	**0.130**
	1973–2002	0.333	0	0	0.222	0	0.236	0.396	0	0	**0.132**
	2003–2006	0.595	0.262	0.262	0.484	0.262	0.498	0.396	0	0.786	**0.394**
	2007–2010	0.595	0.262	0.262	0.512	0.262	0.520	0.421	0	0.786	**0.402**

(*continued*)

Table A.3. Continued

IO name	Years	Accession	Suspension	Constitution	Budget	Financial compliance	Policy making	Agenda setting	Final decision	Dispute settlement	DELEGATION SCORE
Mercosur	1991–1992	0	0	0	0	0	0	0	0	0	**0**
	1993–1994	0.190	0.190	0.190	0.190	0.190	0.190	0	0	0.571	**0.190**
	1995	0.190	0.190	0.190	0.524	0.190	0.357	0.250	0	0.571	**0.274**
	1996–2003	0.190	0.190	0.190	0.524	0.190	0.413	0.278	0	0.571	**0.283**
	2004–2006	0.238	0.238	0.238	0.571	0.238	0.460	0.278	0	0.714	**0.331**
	2007–2010	0.238	0.238	0.238	0.571	0.238	0.488	0.292	0	0.714	**0.335**
NAFO	1979–2010	0.024	0.024	0.134	0.467	0.134	0.244	0.222	0.220	0.071	**0.171**
NAFTA	1994–2010	0.214	0.214	0.214	0.214	0.214	0.214	0	0	0.643	**0.214**
NATO	1950–1967	0.222	0	0	0.222	0	0.332	0.333	0.055	0	**0.129**
	1968–2010	0.222	0	0	0.222	0	0.369	0.351	0.055	0	**0.135**
Nordic	1952–1970	0	0	0	0	0	0.367	0.073	0.110	0	**0.061**
Council	1971–1982	0	0	0.147	0	0	0.198	0.117	0.055	0	**0.057**
	1983–1985	0	0	0.147	0	0	0.218	0.128	0.055	0	**0.061**
	1986–1992	0	0	0.147	0.110	0	0.218	0.183	0.055	0	**0.079**
	1993–2010	0	0	0.147	0.110	0	0.239	0.193	0.055	0	**0.083**
OAPEC	1968–1980	0	0	0	0.167	0	0.167	0.167	0	0	**0.056**
	1981–2010	0.143	0.143	0.143	0.310	0.143	0.310	0.167	0	0.429	**0.198**
OAS	1951–1969	0.143	0.143	0.143	0.143	0.143	0.310	0.083	0	0.429	**0.171**
	1970–1978	0.143	0.143	0.143	0.310	0.143	0.226	0.125	0	0.429	**0.185**
	1979–1995	0.190	0.190	0.190	0.357	0.190	0.274	0.125	0	0.571	**0.232**
	1996–2001	0.190	0.190	0.190	0.302	0.190	0.274	0.097	0	0.571	**0.223**
	2002–2010	0.190	0.302	0.190	0.302	0.190	0.274	0.153	0	0.571	**0.241**
OECD	1950–1960	0	0	0	0.333	0	0.167	0.250	0	0	**0.083**
	1961–2010	0.155	0	0	0.333	0	0.369	0.374	0.055	0	**0.143**
OECS	1968–1980	0.119	0.119	0.119	0.119	0.119	0.119	0	0	0.357	**0.119**
	1981–2009	0.167	0.167	0.167	0.500	0.167	0.167	0.167	0	0.500	**0.222**
	2010	0.238	0.238	0.238	0.571	0.238	0.433	0.264	0	0.714	**0.326**
OIC	1970–1972	0	0	0	0	0	0	0	0	0	**0**
	1973–1974	0	0	0	0.167	0	0.222	0.194	0	0	**0.065**
	1975–1997	0	0	0	0.167	0	0.133	0.150	0	0	**0.050**
	1998–2002	0.333	0	0	0.167	0	0.133	0.317	0	0	**0.106**
	2003–2007	0.333	0	0	0.167	0.333	0.133	0.483	0	0	**0.161**
	2008–2010	0	0	0	0.167	0	0.133	0.150	0	0	**0.050**

OIF	1970–1996	0	0	0	0.222	0	0.259	0.240	0	0	**0.080**
	1997–1999	0.110	0	0.220	0.354	0	0.364	0.304	0.220	0	**0.175**
	2000–2001	0.110	0.332	0.220	0.354	0	0.364	0.415	0.275	0	**0.230**
	2002–2003	0.304	0.332	0.220	0.354	0	0.364	0.512	0.275	0	**0.262**
	2004	0.304	0.332	0.220	0.332	0	0.346	0.492	0.275	0	**0.256**
	2005–2010	0.194	0.332	0	0.259	0	0.319	0.470	0.083	0	**0.184**
OPEC	1960–1964	0	0	0	0	0	0	0	0	0	**0**
	1965–2010	0	0	0	0	0	0.167	0.083	0	0	**0.028**
OSCE	1973–1991	0	0	0	0	0	0	0	0	0	**0**
	1992	0	0	0	0.333	0	0.111	0.222	0	0	**0.074**
	1993–1994	0	0	0	0.333	0	0.083	0.208	0	0	**0.069**
	1995–2010	0.119	0.119	0.119	0.452	0.119	0.202	0.208	0	0.357	**0.188**
OTIF	1950–1984	0	0	0.111	0.167	0	0.111	0.194	0	0	**0.065**
	1985–2010	0.119	0.119	0.230	0.452	0.119	0.230	0.278	0	0.357	**0.212**
PCA	1950–2010	0	0	0	0.167	0	0.167	0.167	0	0	**0.056**
PIF	1973–1974	0	0	0	0	0	0	0	0	0	**0**
	1975–1992	0	0	0	0.167	0	0.042	0.104	0	0	**0.035**
	1993–1994	0	0	0	0.333	0	0.042	0.188	0	0	**0.063**
	1995–1999	0	0	0	0.333	0	0.067	0.200	0	0	**0.067**
	2000–2002	0	0.167	0	0.333	0	0.067	0.283	0	0	**0.094**
	2003–2004	0.167	0.333	0.167	0.500	0.167	0.233	0.283	0	0.500	**0.261**
	2005–2010	0.167	0.333	0.167	0.500	0.167	0.333	0.333	0	0.500	**0.278**
SAARC	1986–2010	0	0	0	0	0	0	0	0	0	**0**
SACU	1969–2003	0	0	0	0	0	0	0	0	0	**0**
	2004–2010	0	0	0	0.167	0	0.167	0.167	0	0	**0.056**
SADC	1982–1992	0	0	0	0.333	0	0	0.167	0	0	**0.056**
	1993–2001	0	0	0	0.333	0	0.111	0.222	0	0	**0.074**
	2002–2005	0	0	0	0.333	0	0.167	0.250	0	0	**0.083**
	2006–2010	0.262	0.262	0.262	0.595	0.262	0.429	0.250	0	0.786	**0.345**
SCO	2002–2003	0	0	0	0	0	0	0	0	0	**0**
	2004–2010	0	0	0	0.333	0	0.167	0.250	0	0	**0.083**
SELA	1976–2010	0	0	0	0.333	0	0.222	0.278	0	0	**0.093**
SICA	1952–1964	0	0	0	0	0	0	0	0	0	**0**
	1965–1992	0	0	0	0.333	0	0	0.167	0	0	**0.056**
	1993	0	0	0	0.167	0	0	0.083	0	0	**0.028**
	1994–1996	0.286	0.286	0.286	0.452	0.286	0.286	0.083	0	0.857	**0.313**

(*continued*)

Table A.3. Continued

IO name	Years	Accession	Suspension	Constitution	Budget	Financial compliance	Policy making	Agenda setting	Final decision	Dispute settlement	DELEGATION SCORE
	1997–2009	0.286	0.286	0.286	0.452	0.286	0.369	0.125	0	0.857	**0.327**
	2010	0.286	0.286	0.286	0.452	0.286	0.452	0.167	0	0.857	**0.341**
SPC	1950–1962	0	0	0	0.333	0	0.133	0.233	0	0	**0.078**
	1963–1971	0	0	0	0.333	0	0	0.167	0	0	**0.056**
	1972–1973	0	0	0	0.333	0	0.333	0.333	0	0	**0.111**
	1974–1997	0	0	0	0.167	0	0.167	0.167	0	0	**0.056**
	1998–2010	0	0	0	0.333	0	0.222	0.278	0	0	**0.093**
UN	1950–1964	0.167	0.167	0.167	0.278	0.167	0.279	0.112	0	0.500	**0.204**
	1965–1994	0.167	0.167	0.167	0.278	0.167	0.286	0.115	0	0.500	**0.205**
	1995–2010	0.167	0.167	0.167	0.278	0.167	0.275	0.110	0	0.500	**0.203**
UNESCO	1950–1953	0.452	0.119	0.119	0.452	0.119	0.452	0.500	0	0.357	**0.286**
	1954	0.119	0.119	0.119	0.286	0.119	0.286	0.167	0	0.357	**0.175**
	1955–2010	0.119	0.119	0.119	0.286	0.119	0.236	0.142	0	0.357	**0.166**
UNIDO	1985–2010	0.095	0.095	0.095	0.429	0.095	0.262	0.250	0	0.286	**0.179**
UNWTO	1975–2010	0	0	0	0.167	0	0.167	0.167	0	0	**0.056**
UPU	1950–1963	0.167	0.167	0.167	0.167	0.167	0.167	0	0	0.500	**0.167**
	1964–1965	0.167	0.167	0.167	0.500	0.167	0.333	0.250	0	0.500	**0.250**
	1966–1970	0.167	0.167	0.333	0.167	0.167	0.333	0.167	0	0.500	**0.222**
	1971–2005	0.167	0.167	0.167	0.833	0.167	0.333	0.250	0.167	0.500	**0.306**
	2006–2009	0.167	0.167	0.167	0.833	0.500	0.333	0.417	0.167	0.500	**0.361**
	2010	0.167	0.167	0.333	0.833	0.500	0.333	0.500	0.167	0.500	**0.389**
WCO	1952–1977	0	0	0	0	0	0.167	0.083	0	0	**0.028**
	1978–2010	0	0	0	0	0	0.083	0.042	0	0	**0.014**
WHO	1950–2010	0.143	0.143	0.143	0.310	0.143	0.254	0.139	0	0.429	**0.189**
WIPO	1967–2010	0.143	0.143	0.254	0.310	0.476	0.254	0.361	0	0.429	**0.263**
WMO	1950–1958	0.476	0.143	0.143	0.643	0.143	0.698	0.361	0.333	0.429	**0.374**
	1959–1998	0.476	0.143	0.310	0.643	0.143	0.698	0.444	0.333	0.429	**0.402**
	1999–2010	0.476	0.143	0.310	0.643	0.476	0.698	0.444	0.500	0.429	**0.458**
WTO	1995–2010	0.472	0.324	0.379	0.658	0.434	0.379	0.351	0.330	0.643	**0.441**

Table A.4. Scores on pooling international authority

IO name	Years	Accession	Suspension	Constitution	Budget	Financial compliance	Policy making	Agenda setting	Final decision	POOLING SCORE
ALADI	1961–1980	0.165	0	0.041	0	0	0.330	0.055	0.124	**0.089**
	1981–1997	0.165	0	0.041	0	0	0.376	0.065	0.129	**0.097**
	1998–2003	0.330	0	0.041	0	0	0.376	0.120	0.129	**0.125**
	2004–2010	0.330	0	0.041	0.330	0	0.376	0.120	0.239	**0.180**
AMU	1989–1990	0.041	0	0.041	0	0	0	0	0.028	**0.014**
	1991–1993	0.041	0	0.041	0	0	0.083	0.014	0.041	**0.028**
	1994	0.041	0	0.041	0	0	0	0	0.028	**0.014**
	1995–2010	0.041	0	0.041	0	0	0.083	0.014	0.041	**0.028**
APEC	1991–1992	0.330	0	0	0	0	0.083	0.069	0.069	**0.069**
	1993	0.330	0	0	0.083	0	0.083	0.083	0.083	**0.083**
	1994–1997	0.330	0	0	0.083	0	0.041	0.083	0.069	**0.076**
	1998–2010	0.165	0	0	0.083	0	0.041	0.083	0.014	**0.048**
ASEAN	1967–1975	0	0	0	0	0	0	0	0	**0**
	1976–1991	0	0	0.041	0	0	0	0	0.014	**0.007**
	1992–2007	0	0	0.041	0	0	0.330	0.055	0.069	**0.062**
	2008–2010	0.330	0	0.083	0.165	0	0.206	0.103	0.158	**0.131**
AU	1963–1993	0.500	0	0.330	0	0	0.208	0.042	0.304	**0.173**
	1994–2000	0.500	0	0.495	0.660	0.330	0.660	0.303	0.579	**0.441**
	2001–2002	0.330	0.165	0.495	0.660	0.660	0.660	0.468	0.523	**0.495**
	2003–2010	0.330	0.248	0.495	0.660	0.660	0.660	0.495	0.523	**0.509**
Benelux	1950–1959	0	0	0	0	0	0.041	0.014	0	**0.007**
	1960–2010	0	0	0.083	0.330	0	0.206	0.103	0.103	**0.103**
BIS	1950–2010	0.750	0	0.660	0.500	1.000	0.250	0.402	0.652	**0.527**
CABI	1987–2010	0.660	0	0.165	0.500	0.750	0.250	0.235	0.540	**0.388**
CAN	1969–1972	0	0	0.083	0.330	0	0.165	0	0.193	**0.096**
	1973–1987	0.330	0	0.083	0.330	0	0.165	0.055	0.248	**0.151**
	1988–1998	0.495	0	0.083	0.330	0	0.165	0.124	0.234	**0.179**
	1999–2010	0.330	0	0.083	0.500	0.500	0.165	0.152	0.374	**0.263**

(*continued*)

Table A.4. Continued

IO name	Years	Accession	Suspension	Constitution	Budget	Financial compliance	Policy making	Agenda setting	Final decision	POOLING SCORE
CARICOM	1968–1995	0.330	0	0.041	0.330	0	0.330	0.165	0.179	**0.172**
	1996–1997	0.330	0	0.083	0.330	0	0.330	0.179	0.179	**0.179**
	1998–2010	0.330	0	0.083	0.660	0.415	0.495	0.372	0.289	**0.330**
CCNR	1950–2010	0	0	0.041	1.000	0	0.124	0.167	0.222	**0.194**
CEMAC	1966–1998	0.330	0	0.041	0.330	0	0.330	0.165	0.179	**0.172**
	1999–2010	0.330	0	0.166	0.330	0.580	0.330	0.180	0.399	**0.289**
CERN	1954–1970	0.104	0	0.041	0.248	0.580	0.750	0.243	0.331	**0.287**
	1971–2010	0.093	0	0.041	0.248	0.580	0.750	0.239	0.331	**0.285**
CIS	1992–1993	0	0	0.041	0	0	0.124	0	0.055	**0.028**
	1994–1999	0.165	0	0.041	0.248	0	0.289	0.096	0.151	**0.124**
	2000–2010	0.165	0	0.041	0.165	0	0.248	0.041	0.165	**0.103**
CoE	1950–1993	0.660	0.660	0.495	0.330	0.660	0.186	0.447	0.550	**0.498**
	1994–1998	0.660	0.660	0.495	0.330	0.580	0.206	0.420	0.557	**0.489**
	1999–2010	0.660	0.660	0.495	0.330	0.580	0.172	0.418	0.548	**0.483**
COMECON	1959–1991	0.165	0	0.041	0.124	0	0.124	0.021	0.131	**0.076**
COMESA	1982–1993	0.415	0	0.124	0.165	0.415	0.330	0.222	0.261	**0.241**
	1994–2010	0.415	0.413	0.371	0.330	0.415	0.495	0.442	0.371	**0.406**
ComSec	1965–1970	0.165	0	0.330	0.330	0	0	0.110	0.165	**0.138**
	1971–1994	0.165	0	0.330	0.330	0	0.062	0.110	0.186	**0.148**
	1995–2001	0.165	0.330	0.330	0.330	0	0.086	0.179	0.235	**0.207**
	2002–2003	0.165	0.330	0.330	0.495	0	0.093	0.241	0.230	**0.235**
	2004–2010	0.165	0.330	0.330	0.495	0.500	0.093	0.324	0.314	**0.319**
EAC1	1967–1976	0	0	0.165	0.330	0	0.165	0.055	0.165	**0.110**
EAC2	1993–1995	0	0	0.165	0	0	0.083	0.014	0.069	**0.041**
	1996–1999	0	0	0.165	0.165	0.330	0.083	0.069	0.179	**0.124**
	2000–2010	0.083	0.330	0.083	0.165	0.330	0.330	0.193	0.248	**0.220**
ECCAS	1985–2010	0.083	0	0.124	0.330	0.415	0.330	0.207	0.220	**0.214**
ECOWAS	1975–1976	0.165	0	0.165	0.330	0.165	0.165	0.083	0.248	**0.165**
	1977–1994	0.165	0	0.165	0.165	0.165	0.165	0.028	0.248	**0.138**
	1995–1999	0	0.165	0.124	0.330	0.165	0.289	0.103	0.254	**0.179**
	2000–2006	0	0.165	0.124	0.330	0.165	0.358	0.115	0.266	**0.190**
	2007–2010	0	0.165	0.124	0.330	0.165	0.413	0.124	0.275	**0.199**

EEA	1994–2010	0.041	0	0.083	0.165	0.500	0.124	0.097	0.207	**0.152**
EFTA	1960–2001	0.330	0	0.041	0.330	0	0.330	0.165	0.179	**0.172**
	2002–2010	0.330	0	0.041	0.330	0	0.227	0.148	0.162	**0.155**
ESA	1980–2010	0.330	0	0.166	0.248	0.750	0.790	0.326	0.435	**0.381**
EU	1952–1957	0.330	0	0.083	0.330	0	0.660	0.303	0.165	**0.234**
	1958–1966	0.083	0	0	0.330	0	0.578	0.124	0.206	**0.165**
	1967–1984	0.083	0	0	0.330	0	0.165	0.014	0.179	**0.096**
	1985–1986	0.083	0	0.166	0.330	0	0.165	0.055	0.193	**0.124**
	1987–1992	0.083	0	0.166	0.330	0	0.330	0.055	0.248	**0.151**
	1993–1998	0.083	0	0.166	0.330	0	0.186	0.055	0.199	**0.127**
	1999–2002	0.083	0.495	0.166	0.330	0	0.186	0.165	0.254	**0.210**
	2003–2008	0.083	0.495	0.166	0.330	0	0.227	0.165	0.268	**0.217**
	2009–2010	0.083	0.495	0.166	0.330	0	0.536	0.248	0.289	**0.268**
FAO	1950–1952	0.705	0	0.165	0.500	0.750	0.249	0.417	0.373	**0.395**
	1953–1956	0.705	0	0.165	0.500	0.750	0.281	0.427	0.373	**0.400**
	1957	0.705	0	0.165	0.830	0.750	0.281	0.427	0.483	**0.455**
	1958	0.705	0	0.165	1.000	0.750	0.281	0.427	0.540	**0.483**
	1959–2010	0.705	0	0.330	1.000	0.750	0.281	0.482	0.540	**0.511**
GCC	1981–1994	0	0	0.330	0.124	0	0.227	0.093	0.134	**0.113**
	1995–2010	0	0	0.330	0.124	0	0.186	0.086	0.127	**0.107**
GEF	1994–2010	0.500	0	0.495	0.330	0.500	0.660	0.387	0.442	**0.414**
IAEA	1957–2010	1.000	0.830	0.248	0.660	0.580	0.813	0.652	0.725	**0.688**
IBRD	1950–2010	0.580	0	0.124	0.660	0.330	0.660	0.331	0.454	**0.392**
ICAO	1950–1960	0.540	1.000	0.415	1.000	1.000	0.248	0.680	0.721	**0.700**
	1961–2010	0.540	0.625	0.415	1.000	1.000	0.248	0.638	0.638	**0.638**
ICC	2002–2010	0.500	0	0.165	0.330	0.580	0.660	0.277	0.468	**0.373**
IGAD	1986–1995	0.041	0	0.041	0.041	0	0.041	0	0.055	**0.028**
	1996–2010	0.083	0	0.165	0.330	0.415	0.165	0.125	0.261	**0.193**
ILO	1950–2010	0.500	0.500	0	0.165	0.250	0.052	0.322	0.166	**0.244**
IMF	1950–1991	0.660	0.330	0.165	0.330	0.330	0.330	0.138	0.578	**0.358**
	1992–2010	0.660	0.165	0.165	0.330	0.165	0.330	0.138	0.468	**0.303**
IMO	1960–1981	0.625	0.500	0.248	1.000	0.750	0.375	0.521	0.645	**0.583**
	1982–2010	0.625	0.500	0.165	1.000	0.750	0.375	0.521	0.618	**0.569**
Interpol	1950–1955	0	0	0	0	0	0.125	0	0.042	**0.021**
	1956–1985	0.330	0	0.330	0.500	0.500	0.125	0	0.595	**0.298**
	1986–2010	0.330	0	0.330	0.500	0.750	0.125	0.083	0.595	**0.339**

(*continued*)

Table A.4. Continued

IO name	Years	Accession	Suspension	Constitution	Budget	Financial compliance	Policy making	Agenda setting	Final decision	POOLING SCORE
IOM	1955–2010	0.330	0	0.165	1.000	0.580	0.750	0.375	0.567	**0.471**
ISA	1994–2010	0.500	0.660	0.124	0.660	0.580	0.660	0.497	0.565	**0.531**
ITU	1950–1972	0.125	0	0.375	1.000	0	0.750	0.313	0.438	**0.375**
	1973–1981	0.125	0	0.375	1.000	0.500	0.750	0.396	0.521	**0.458**
	1982–2010	0.125	0	0.248	1.000	0.500	0.750	0.396	0.478	**0.437**
IWhale	1950–2010	0.500	0	0	0.500	0.500	0.495	0.249	0.416	**0.333**
LOAS	1950–1972	0.165	0.330	0.165	0.750	0	0.563	0.274	0.384	**0.329**
	1973–2007	0.165	0.330	0.165	0.750	0.580	0.563	0.357	0.494	**0.425**
	2008–2010	0.330	0.660	0.165	0.750	0.580	0.563	0.412	0.604	**0.508**
Mercosur	1991–1994	0.083	0	0	0	0	0	0.014	0.014	**0.014**
	1995–2001	0.083	0	0.041	0.165	0	0.330	0.069	0.138	**0.103**
	2002–2010	0.083	0.330	0.041	0.165	0	0.330	0.124	0.193	**0.158**
NAFO	1979–2010	0.500	0	0	0	0.500	0.375	0.229	0.423	**0.326**
NAFTA	1994–2010	0.083	0	0.041	0	0	0.330	0.069	0.083	**0.076**
NATO	1950–2010	0.083	0	0.041	0.248	0	0.083	0.069	0.083	**0.076**
Nordic	1952–1970	0	0	0	0	0	0	0	0	**0**
Council	1971–1982	0	0	0.041	0	0	0.268	0.034	0.069	**0.052**
	1983–1985	0	0	0.041	0	0	0.206	0.028	0.055	**0.041**
	1986–2010	0	0	0.041	0.330	0	0.206	0.083	0.110	**0.096**
OAPEC	1968–2010	0.330	0	0.165	0.660	0	0.165	0.220	0.220	**0.220**
OAS	1951–1969	0	0	0.165	0	0	0.166	0.042	0.069	**0.055**
	1970–1989	0.660	0	0.165	0	0	0.281	0.152	0.217	**0.184**
	1990–2001	0.660	0	0.165	0.660	0	0.281	0.262	0.327	**0.294**
	2002–2010	0.660	0.660	0.165	0.660	0	0.281	0.372	0.437	**0.404**
OECD	1950–1960	0.415	0	0	0.165	0	0.248	0.125	0.151	**0.138**
	1961–2003	0.330	0	0	0.124	0	0.083	0.069	0.110	**0.089**
	2004–2010	0.330	0	0	0.248	0	0.083	0.069	0.151	**0.110**
OECS	1968–1980	0.330	0	0.041	0	0	0.083	0.069	0.083	**0.076**
	1981–2009	0.330	0	0.083	0.165	0	0.248	0.096	0.179	**0.138**
	2010	0.330	0	0.083	0.165	0.750	0.289	0.186	0.352	**0.269**

OIC	1970–1972	0	0	0	0	0	0	0	0	**0**
	1973–1974	0.580	0	0.248	0.660	0	0.083	0.193	0.330	**0.262**
	1975–2002	0.580	0	0.248	0.660	0	0.165	0.221	0.330	**0.275**
	2003–2007	0.580	0	0.248	0.660	0.250	0.165	0.221	0.413	**0.317**
	2008–2010	0.415	0	0.248	0.660	0.580	0.165	0.304	0.385	**0.345**
OIF	1970–1996	0.660	0	0.083	0.660	0	0.495	0.316	0.316	**0.316**
	1997–1999	0.495	0	0.413	0.660	0	0.309	0.358	0.268	**0.313**
	2000–2010	0.495	0.500	0.413	0.660	0	0.309	0.441	0.351	**0.396**
OPEC	1960–2010	0.330	0	0.665	0.665	0	0.665	0.555	0.220	**0.388**
OSCE	1973–1989	0	0	0.165	0.330	0	0.083	0.069	0.124	**0.096**
	1990–1991	0.330	0	0.165	0.330	0	0.083	0.124	0.179	**0.151**
	1992	0.330	0	0.165	0.165	0	0.083	0.069	0.179	**0.124**
	1993–2010	0.330	0	0.165	0.165	0.415	0.083	0.152	0.234	**0.193**
OTIF	1950–1984	0	0	0.083	0.165	0	0	0.069	0.014	**0.041**
	1985–2005	0.500	0.250	0.415	0.500	0.750	0.750	0.292	0.763	**0.528**
	2006–2010	0.500	0.330	0.415	0.500	0.750	0.750	0.292	0.790	**0.541**
PCA	1950–2010	0.500	0	0	1.000	0	0.250	0.292	0.292	**0.292**
PIF	1973–1992	0.330	0	0.041	0.166	0	0.155	0.131	0.100	**0.115**
	1993–1999	0.330	0	0.166	0.500	0	0.155	0.131	0.253	**0.192**
	2000–2004	0.330	0.665	0.166	0.500	0	0.140	0.298	0.303	**0.300**
	2005–2010	0.330	0.665	0.166	0.500	0	0.203	0.305	0.316	**0.311**
SAARC	1986–2005	0	0	0	0.083	0	0.052	0.022	0.022	**0.022**
	2006–2010	0	0	0	0.083	0	0.072	0.026	0.026	**0.026**
SACU	1969–2003	0	0	0	0	0	0.124	0.041	0	**0.021**
	2004–2010	0.165	0	0.165	0.330	0	0.330	0.110	0.220	**0.165**
SADC	1982–1992	0.330	0	0.330	0.041	0	0.083	0.124	0.138	**0.131**
	1993–2001	0.330	0.330	0.371	0.165	0.330	0.124	0.227	0.323	**0.275**
	2002–2010	0.330	0.330	0.371	0.165	0.415	0.144	0.262	0.323	**0.293**
SCO	2002–2003	0.330	0.330	0.083	0.165	0	0.124	0.110	0.234	**0.172**
	2004–2010	0.330	0.330	0.083	0.165	0	0.309	0.165	0.241	**0.203**
SELA	1976–2010	0.500	0	0.083	0.330	0	0.248	0.125	0.262	**0.193**
SICA	1952–1964	0	0	0	0	0	0.248	0.041	0.041	**0.041**
	1965–1992	0	0	0	0	0	0.373	0.083	0.041	**0.062**
	1993–1996	0.330	0	0.165	0.665	0	0.373	0.332	0.179	**0.256**
	1997–2010	0.330	0	0.165	0.665	0	0.310	0.311	0.179	**0.245**

(*continued*)

Table A.4. Continued

IO name	Years	Accession	Suspension	Constitution	Budget	Financial compliance	Policy making	Agenda setting	Final decision	POOLING SCORE
SPC	1950–1964	0	0	0	0.083	0	0.124	0.028	0.041	**0.034**
	1965–1971	0.165	0	0	0.083	0	0.124	0.028	0.096	**0.062**
	1972–1973	0.165	0	0	0.083	0	0.083	0	0.110	**0.055**
	1974–1983	0.165	0	0	0.165	0	0.250	0.069	0.124	**0.097**
	1984–1997	0.165	0	0	0.660	0	0.250	0.152	0.207	**0.179**
	1998–2010	0.165	0	0	0.330	0	0.125	0	0.207	**0.103**
UN	1950–1986	0.495	0.495	0.623	0.660	0.580	0.380	0.515	0.562	**0.539**
	1987–1994	0.495	0.495	0.623	0.495	0.580	0.380	0.460	0.562	**0.511**
	1995–2010	0.495	0.495	0.623	0.495	0.580	0.282	0.432	0.557	**0.495**
UNESCO	1950–1953	0.500	0.500	0.623	0.500	0.750	0.249	0.375	0.666	**0.520**
	1954–1957	0.625	0.500	0.623	1.000	0.750	0.531	0.677	0.666	**0.671**
	1958–2010	0.625	0.500	0.623	0.830	0.750	0.531	0.677	0.609	**0.643**
UNIDO	1985–2010	0.625	0.500	0.495	0.330	0.750	0.208	0.416	0.553	**0.485**
UNWTO	1975–2010	0.250	0.830	0.248	0.660	0.750	0.250	0.402	0.594	**0.498**
UPU	1950–1965	0.750	0	0.500	0	0	0.188	0.083	0.396	**0.240**
	1966–1970	0.500	0	0.330	0	0	0	0.083	0.193	**0.138**
	1971–2005	0.500	0	0.330	0	0	0.375	0.083	0.318	**0.201**
	2006–2010	0.500	0	0.330	0	0.500	0.375	0.167	0.402	**0.284**
WCO	1952–1977	0.500	0	0.124	0.660	0.660	0.227	0.372	0.351	**0.362**
	1978–2010	0.500	0	0.124	0.660	0.660	0.206	0.365	0.351	**0.358**
WHO	1950–1979	0.625	1.000	0.495	1.000	1.000	0.250	0.749	0.708	**0.728**
	1980–2010	0.625	0.660	0.495	0.830	0.660	0.250	0.636	0.538	**0.587**
WIPO	1967–2010	0.540	0	0.750	0.830	0.580	0.311	0.534	0.470	**0.502**
WMO	1950–1958	0.500	0	0.165	0.330	0.330	0.248	0.193	0.331	**0.262**
	1959–2010	0.500	0	0.165	0.330	0.580	0.248	0.277	0.331	**0.304**
WTO	1995–2010	0.660	0	0.330	0.330	0.660	1.000	0.442	0.552	**0.497**

Part II
Profiles of International Organizations

Introduction

This part of the book walks through the evidence that we have gathered to estimate international governance. The route takes us through forty-six international organizations (IOs), and tells the reader how IO bodies are composed, what decisions each body makes, and how they make decisions. This sounds simpler than it actually is, and few readers will accompany us on the entire journey. However, it may be reassuring for the expert and the non-expert alike to know that should they have a specific query about any of the organizations covered in this book, they can discover how we code it by looking in the profiles in this book or online.

Putting all this before the reader lies at the core of our approach to measurement. "Data must be *interpreted* to serve as data" (Kaplan 1984: 34). "Immaculate perception," perception unaided by inference, is a chimera (Lakatos 1970).[1] If no indicator is capable of interpreting itself, it falls upon us, the observers, to explain how we interpret an indicator against the evidence, and this is precisely what we do in the pages that follow.

The profiles cover all thirty-one general purpose IOs in our sample plus fifteen of the more important task-specific IOs. For convenience we group IOs alphabetically by geographical region, followed by multi-regional IOs. Each profile explains how we apply our coding scheme to the case at hand and provides a path from the primary and secondary evidence to our scoring judgments. We indicate four kinds of uncertainty in superscript: α for thin information; β for a case that falls between the intervals on a dimension; γ where we detect disagreement among sources; δ where we find inconsistency between written rules in the IO. Each profile is followed by tables summarizing our observations. Datasets with accompanying codebooks for the Measure of International Authority (MIA) are available on the authors' websites.

[1] "Dogma of immaculate perception" is Nietzsche's term (Levy 1914: ch. 37).

The figure below outlines our approach. As a team we have sought to make sense of the written sources—constitutions, conventions, protocols, treaties, laws, executive decisions, GS reports, court rules, and secondary sources—with the help of experts. This was not a one shot process which could be formulated in a set of coding instructions, but involved deliberative scoring in which the authors, as a team, sought vertical and horizontal validity. Vertical validity is the quality of being inferentially sound, represented by the vertical arrows in the figure. This involves collecting accurate information and interpreting that information in a contextually valid way.

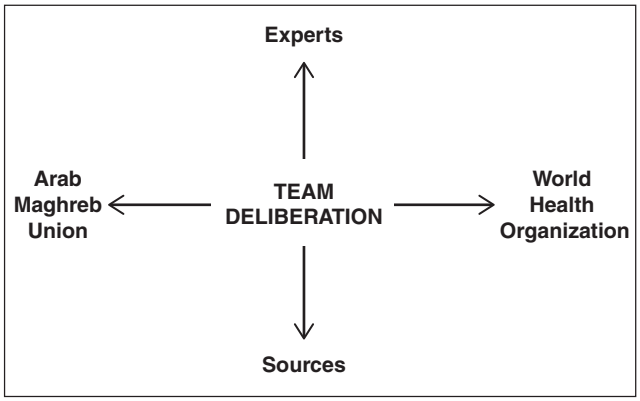

Figure II.1. Horizontal and vertical validity

Vertical validity is necessary, but it is not sufficient. Horizontal validity is the quality of reaching consistent conclusions in different contexts. As a team we have sought not just to make inferentially sound judgments using sources and experts, but to make consistent judgments across IOs as diverse as the Arab Maghreb Union and the World Health Organization.

Africa

Code	Name	Years in MIA
3760	African Union (OAU/AU)	1963–2010
1260	Economic and Monetary Community of Central African States (UDEAC/CEMAC)	1966–2010
1170	Common Market for Eastern and Southern Africa (PTA-ESA/COMESA)	1982–2010
1750	East African Community I (EAC I)	1967–1976
1751	East African Community II (EAC II)	1993–2010
1500	Economic Community of Central African States (ECCAS-CEEAC)	1985–2010
1520	Economic Community of West African States (ECOWAS)	1975–2010
2230	Intergovernmental Authority on Development (IGADD/IGAD)	1986–2010
4240	Southern African Customs Union (SACU)	1950–2010
4250	Southern African Development Community (SADCC/SADC)	1981–2010

African Union (AU)

The African Union is the chief organization for political, security, and economic cooperation in Africa. It was established in 2002, and currently has fifty-four member states. The African Union is the successor to the Organization of African Unity (OAU), founded in 1963. This profile encompasses both organizations.

According to the African Union's Constitutive Treaty, it aims to "achieve greater unity and solidarity between the African countries and the peoples of Africa" through the peaceful settlement of disputes between member states, economic integration, and cooperation on a wide range of other issues (Constitutive Treaty, Art. 3a). Its headquarters are located in Addis Ababa, Ethiopia.

The Organization of African Unity was the first tangible product of pan-Africanism, a movement demanding decolonization that swept the continent from the late 1950s. A meeting of twenty-two African governments in May 1961 in Monrovia, Liberia, conceived a pan-African organization that would purge the continent of colonialism and promote solidarity among

newly independent African states. In May 1963, thirty-two states met in Addis Ababa to sign the Lagos Charter establishing the OAU (Elias 1965). In many ways the OAU resembled other continent-wide organizations, such as the Organization of American States, but with a less complex institutional structure with a council, assembly and secretariat. (Elias 1965: 255). During its first three decades, the organization was hampered by deep ideological divisions as well as by the insistence of most member state governments on "state sovereignty, territorial inviolability, and non-interference" (see Fredland 1973; Rechner 2006: 547). As a result, the OAU's record in achieving African unity and peaceful dispute settlement was mixed (Meyers 1974; Mweti 1998/99), even while it managed to establish "organizational preeminence" over possible rivals (Wallerstein 1966).

Discussions on human rights protection began in the late 1970s. In 1981, OAU members unanimously adopted the African Charter on Human and Peoples' Rights (Banjul Charter), and in 2004 the successor organization, the African Union (AU), set up the African Court of Human Rights. Human rights spilled over into conflict prevention and resolution. In 1993, the member states set up a Mechanism for Conflict Preventions, Management and Resolution (Cairo Declaration). This was followed in 2003 by the Peace and Security Council which has a stronger mandate to circumvent the principle of non-intervention (Rechner 2006: 562–63). The African Union plays an important role in peacekeeping, most notably in Somalia, where it has deployed troops for many years (Williams and Boutellis 2014). The AU has gone so far as to suspend the membership of a regime that it considers to have violated constitutional regime transition. Mauritania remains suspended following a series of military coups.

When oil price shocks in the 1970s led to a sharp economic and debt crisis in Africa, African leaders devised the Lagos Plan of Action for economic recovery along with an ambitious program for the creation of a common market. This commitment was given concrete form with the Abuja Treaty establishing the African Economic Community, signed in June 1991. It established economic integration as the second pillar besides security cooperation, overhauled the AU's institutional structure, and sought to achieve a common market by strengthening and eventually uniting the sub-regional economic communities (on the complexities, see Frimpong Oppong 2011). The decision norm within the organization is consensus, but this has been breached on several occasions when consensus has been set aside in favor of the formal rule for supermajoritarian voting on a two-to-one principle.

The security and economic streams were brought together in the African Union, which was created in 2000 with the adoption of the Constitutive Act of Lomé. The new organization has enhanced powers to promote African economic, social, and political integration, and has a stronger commitment to democracy. Its institutions are inspired by the European Union (Packer and Rukare 2002).

The key legal documents are the Charter of the Organization of African Unity (signed 1963; in force 1963), the Treaty Establishing the African Economic Community (signed 1991; in force 1994), and the Constitutive Act of the African Union (signed 2000; in force 2001). The current organization has one assembly (Assembly), two executives (Executive Council and Commission), and a secretariat (Commission).

Institutional Structure

A1: FROM THE ASSEMBLY OF HEADS OF STATE AND GOVERNMENT (1963–2000) TO THE ASSEMBLY OF THE UNION (2001–10)

The supreme body of the OAU was the Assembly of Heads of State and Government (Lagos Charter, Art. 9). It was responsible for "coordinating and harmonizing the general policy of the Organization," reviewing the "structure, functions and acts of the organs and any specialized agencies" created under the Charter, and deciding upon questions regarding the interpretation of the Charter (Arts. 8 and 27). It was also responsible for the election and potential removal of the secretary general and his deputies (1963 Assembly Rules of Procedure, Arts. 32, 34, 36). Resolutions of the Assembly required a two-thirds majority, with each state having one vote (OAU Charter, Art. 10; see also Art. 27). It met at least once a year (Art. 9). At the beginning of each session, it elected a president, presumably by simple majority, the decision rule for procedural matters (1963 Assembly Rules of Procedure, Arts. 9 and 26).

The Assembly was assisted by a host of specialized commissions, including an Economic and Social Commission, an Educational, Scientific, Cultural, and Health Commission, and a Defense Commission. These were composed of the respective ministers or their plenipotentiaries (Arts. 20 and 21).

The Assembly's powers were strengthened with the 1991 Abuja Treaty. It was given responsibility for implementing the objectives of the Economic Community, inter alia, by determining the general policy guidelines, overseeing implementation, electing the secretary general, approving the budget, taking the final decisions on the regional economic communities, and referring matters to the newly established Court of Justice (Art. 8.3). Decisions became the main policy instrument, to be taken by "consensus, failing that, by a two-thirds majority" and were binding on member states (Art. 10). A chairperson is elected each year among the heads of state after consultation among the member states (Art. 9.2).

The 2000 Constitutive Act of the AU leaves the Assembly's composition and role broadly unchanged, except to say that the Assembly of the Union, as it is now formally called (or in informal parlance, the African Summit), can now also give directives to the Executive Council on conflict management and war. The Assembly appoints the chairperson of the Commission and the judges of

the Court of Justice (Art. 9). The presidency of the Assembly continues to be by election, tempered now by "rotation and agreed criteria" (Assembly Rules of Procedure, Art. 15.1).

E1: FROM THE COUNCIL OF MINISTERS (1963–2000) TO THE EXECUTIVE COUNCIL (2001–10)

Under the OAU Charter, the Council of Ministers was the executive organ. It was composed of the foreign ministers or other ministers designated by the governments. Its main responsibilities were to prepare assembly meetings, implement the Assembly's decisions, and coordinate African cooperation (Lagos Charter, Arts. 12 and 13). The Council took decisions by simple majority, with each member state having one vote (Art. 14). At the beginning of each session, the Council elected a chair and two vice-chairs by simple majority (Rules of Procedure, Art. 11). It met twice a year (Lagos Charter, Art. 12.2).

With the 1991 Abuja Treaty, the Council of Ministers assumed a broad responsibility "for the functioning and development of the Community" (Art. 11.2). It could steer the activities of subordinate organs and recommend policy decisions and a draft budget to the Assembly (Art. 11.3). The Council was also given a specific legal instrument—regulations—taken by "consensus or, failing that, by two-thirds majority" and binding upon member states once approved by the Assembly (Art. 13). We code two-thirds majority as the decision rule—a change from simple majority before.

With the 2000 Constitutive Act, the Council of Ministers becomes the Executive Council with the same composition as its predecessor (Art. 10). The selection of the chair follows the selection procedure in the Assembly (Rules of Procedure, Art. 16.1), which is based on election and rotation. We therefore code the head of the Council as elected by the Assembly by simple majority plus rotation (Assembly Rules of Procedure, Art. 18.2). The competences of the Executive Council now include to "coordinate and take decisions on policies in areas of common interest" such as foreign trade, social security, food, agriculture and communications, as well as to "monitor the implementation of policies formulated by the Assembly" (Art. 13). The Specialized Technical Committees, which are composed of ministers or senior officials in various policy areas, are directly answerable to the Council (Art. 14). A Permanent Representatives Committee, composed of one representative per member state, assists the Council in its work (Art. 21).

E2: ECONOMIC AND SOCIAL COMMISSION (1994–2000)

The Abuja Treaty created a second executive, the Economic and Social Commission. It was composed of the ministers for economic development (Art. 15). Representatives of the regional economic communities could participate in

the meetings. The Commission was charged to put into effect the Lagos Plan of Action by means of programs, policies, and strategies in economic and social development, to make recommendations to the Assembly on how to harmonize the activities of the regional economic communities, and to supervise international negotiations (Art. 16). We infer that the chair position was determined in the same way as for the other ministerial Councils, that is through election by simple majority.[α]

The Commission sat on top of a range of specialized technical committees composed of state representatives (Arts. 25 and 26). It was merged in 2001 with the parallel Council of Ministers to form the new Executive Council.

E3: COMMISSION (2001–10)

The 2000 Constitutive Act creates a Commission, similar to the European Commission, as the new chief executive. The collegial body is composed of a chairperson, a deputy chair, and eight commissioners responsible for the portfolios of peace and security, political affairs, trade and industry, infrastructure and energy, social affairs, rural economy and agriculture, human resources, science and technology, and economic affairs. Twenty-two departments report to the eight commissioners. We code the chair as the head of the executive, and the deputy and the commissioners as the members.

The chair is elected by the Assembly under two-thirds majority for a four-year term (Assembly Rules of Procedure, Arts. 38.1 and 40; AU Constitutive Act, Art. 9.1.i). Commissioners are also appointed by the Assembly after having been elected by the Executive Council. The election balances "equal geographical distribution" with "competence," "proven experience in the relevant field," and "commensurate leadership qualities" (Executive Council Rules of Procedure, Ch. II, rule 37; Assembly Rules of Procedure, Art. 39). Hence the Executive Council initiates by the general decision rule of two-thirds majority, and the Assembly takes the final decision by two-thirds majority.

Composition is fully member state, and a subset of member states is represented. There is no explicit provision that demands impartiality or independence, but given the stock put on technical expertise in selecting the members, we code indirect representation (see Commission Structure 2003).[β]

The chair, deputy chair, and other commissioners can be removed by the Assembly by two-thirds majority "on grounds of incompetence, gross misbehavior or inability to perform the functions of his/her office for reason of permanent incapacity" (Assembly Rules of Procedure, Art. 41).

E4: PEACE AND SECURITY COUNCIL (2003–10)

In 2003 the Peace and Security Council became a standing body for the prevention, management, and resolution of conflicts (2002 PCS Protocol, in force in 2003, Art. 2.1). It can authorize peace support missions, recommend

to the Assembly military interventions in member states that commit genocide and crimes against humanity, institute sanctions in the case of an unconstitutional change in government, and implement the common defense policy of the OAU.

The Council is composed of fifteen members, ten of whom are elected by the Assembly by two-thirds majority for two-year terms and another five for a term of three years (Art. 5). In electing the members, the Assembly applies the principle of equitable regional representation and rotation (Art. 5.2), which is reflected in agenda setting. There are otherwise no explicit rules on who can initiate. The chair rotates on a monthly basis (Art. 8.6).

The Council meets regularly at the level of permanent representatives, ministers, or heads of state and government (Art. 8.2). Therefore, it is composed of member state representatives, and only a subset of member states is represented. Each member has one vote, and decisions can be taken by two-thirds majority if consensus cannot be reached (Arts. 8.12 and 8.13). These decisions are binding on all member states: they "agree to accept and implement the decisions" of the Council (Art. 7.3).

The Council is assisted by the chairperson of the Commission (Art. 10), a Panel of the Wise (Art. 11), as well as a Continental Early Warning System (Art. 12). For military operations, it relies on the African Standby Force, to which member states contribute (Art. 13).

GS: FROM THE GENERAL SECRETARIAT (1963–2000) TO THE COMMISSION (2001–10)

The OAU Charter intended the General Secretariat to be chiefly administrative. However, besides a range of administrative tasks (communicating amendments and accession requests, organizing meetings, and preparing agendas), it also prepared the budget (Art. 23; Elias 1965: 263). The Secretariat was directed by a secretary general, appointed by the Assembly by two-thirds majority for four years, with the possibility of renewal (1963 Assembly Rules of Procedure, Art. 16; Arts. 32 and 33). The Assembly also elected one or several deputy secretary generals for four years by two-thirds majority (Assembly Rules of Procedure, Arts. 34 and 35). The secretary general and the deputies could be removed by a two-thirds majority vote in the Assembly when "the good functioning of the organization" required it (Assembly Rules of Procedure, Art. 36). In the execution of their functions, Secretariat officials should "not seek or receive instructions from any government" (OAU Charter, Art. 18.1).

With the 1991 Abuja Treaty, the General Secretariat of the OAU acquired quasi-executive powers in the field of economic integration. It was responsible for the implementation of Assembly decisions and Council regulations, promoting development programs and projects, preparing the budget, and conducting studies that could help attain the objectives of the community (Art. 22).

The Commission created under the 2000 Constitutive Act replaces the General Secretariat, and given its strong executive powers, we now code it as an executive.

CB1: PAN-AFRICAN PARLIAMENT (2004–10)

The main consultative body of the African Union is the Pan-African Parliament (PAP). The Parliament was already provided for in the 1991 Abuja Treaty (Art. 14), but established only in 2004 in Midrand, South Africa, following the adoption of a Protocol in 2001. Each member state has five representatives who are nominated from and by their respective national parliament. They sit in the Pan-African Parliament for the duration of their term in the national parliament (PAP Protocol, Arts. 4.2, 5.1, and 5.3).

The Parliament's competences for now are consultative. It can deliver opinions on any matter, either on its own initiative or at the request of the Assembly or other policy organs (PAP Protocol, Arts. 11.1 and 4), discuss the budget and make recommendations to the Assembly (Art. 11.2), work toward the harmonization or coordination of national laws (Art. 11.3), and summon AU officials to attend or report. It holds at least two meetings a year (Art. 14.2). However, the ultimate aim of the Parliament is to "evolve into an institution with full legislative powers, whose members are elected by universal adult suffrage" (PAP Protocol, Art. 2.3). This was to take effect after its first five-year term, but to date no further action has been taken. There appear to be deep disagreements among AU member states on the virtues of a strong African parliament (for a general overview, see Navarro 2010).

CB2: ECONOMIC, SOCIAL, AND CULTURAL COUNCIL (2008–10)

The second consultative body is the Economic, Social, and Cultural Council (ECOSOCC), provisionally established under Article 22 of the AU Constitutive Act. After elections in twenty-three countries, the ECOSOCC General Assembly was launched in 2008. It has its seat in Tanzania.[1]

The Council consists of 150 civil society organizations from a wide range of backgrounds: labor unions, professional groups, policy think tanks, cultural organizations, and NGOs. Each member state has two members, ten members operate at the regional level, eight at the continental level, twenty represent the African Diaspora, and six are nominated by the AU Commission (ECOSOCC Statute, Art. 4.1).

The Council promotes dialogue among the different segments of African societies, participation of civil society actors in the implementation of AU programs, and a culture of good governance, democratic principles, and

[1] See <http://www.au.int/en/organs/ecosocc> (accessed February 12, 2017).

human rights (Arts. 2 and 7). The Council takes decisions by a two-thirds majority (Art. 16).

Decision Making

MEMBERSHIP ACCESSION

The OAU Charter notes that each "independent sovereign African State shall be entitled to become a Member of the Organization" (Art. 4). The procedure is as follows: a state notifies the secretary general of its intention; the secretary general submits the application to the member states; each member state notifies its decision and a simple majority in favor is sufficient for the application to be accepted; the secretary general relays the outcome to the applicant state (Art. 28.2). We code member states as initiators, and even though the Assembly does not need to meet as a collective body, we conceive the fact that a positive decision requires the consent of a simple majority of member states as equivalent to the Assembly deciding by simple majority.[β] The role of the secretary general is primarily procedural, and we do not code it. Ratification is not required.

This accession procedure was largely maintained in the 2000 Constitutive Act (Art. 29). The new rules now say that the Assembly takes the final decision, and it decides by two-thirds majority (Art. 9.1c).

Morocco is the only African state which is not a member; it withdrew in 1984 in protest against the admission of Western Sahara's Sahrawi Arab Democratic Republic in 1982. It rejoined in 2017.

MEMBERSHIP SUSPENSION

The OAU Charter did not contain rules on suspension, but the 2000 Constitutive Act introduces a suspension procedure for member states that experience an unconstitutional change in government (Art. 30).[2] When an unconstitutional change occurs, the chair of the Assembly and the chair of the Commission condemn the act, convene the Peace and Security Council (from 2003), and "immediately suspend the Member State from the Union and from participating in the organs of the Union" (Assembly Rules of Procedure, Art. 37.4). At the same time, the chair of the Commission, in consultation with the chair of the Assembly, gathers the relevant facts, establishes appropriate contacts with the perpetrators, and seeks the help of African leaders to coax cooperation from the perpetrator (Art. 37.6). The

[2] The procedure is detailed in the 2002 Rules of Procedure of the Assembly, but we code it from 2001 because its legal basis is the Declaration on the Framework for an OAU Response to Unconstitutional Changes of Government [*AHG/Decl.5 (XXXVI)*] adopted at the 2001 Lomé meeting alongside the Constitutive Act.

Assembly then decides on sanctions against the violating regime taking into account the recommendations of the Peace and Security Council (Art. 37.5). So the chair of the Assembly, the chair of the Commission, and the Peace and Security Council (by two-thirds majority) set the agenda, while the Assembly takes the final decision.

The African Union may also sanction member states that do not comply with the decisions and policies of the AU, but these sanctions fall short of suspension of membership rights (Constitutive Act, Art. 23.2; Assembly Rules of Procedure, Art. 36).

CONSTITUTIONAL REFORM

The OAU Charter stipulates that constitutional amendments can be initiated by any member state and are approved by the Assembly by two-thirds majority. All member states have to be duly notified of such requests and no changes are permitted during the first year (Art. 32). No ratification is required.

The 1991 Abuja Treaty introduces a ratification requirement (Art. 103.4). Constitutional amendments enter into force once two-thirds of the member states have ratified. The Council of Ministers becomes an agenda setter because its advice is mandatory before the Assembly takes the final decision (Art. 103.3). The Council decides by two-thirds majority. This procedure is retained in the 2001 Constitutive Act (Art. 32).

REVENUES

The OAU Charter stipulates that the organization's revenue is provided by "contribution from Member States in accordance with the scale of assessment of the United Nations; provided, however, that no Member State shall be assessed an amount exceeding twenty percent of the yearly regular budget of the Organization. The member states agree to pay their respective contributions regularly" (Art. 23). We code regular member state contributions.

The 1991 Abuja Treaty maintains regular member state contributions as the main source of revenue of the organization, but contains a vague reference to a future own resource based system (Art. 82.2). It also foresees the creation of a Solidarity, Development and Compensation Fund (Art. 80). Neither of these arrangements have been established. Important contributions to the budget also come from external actors, including the European Union.

BUDGETARY ALLOCATION

The OAU Charter instructs that the secretary general prepare the budget, which is approved by the Council of Ministers by simple majority (Art. 23). It is unclear whether budgetary decisions are binding.

The 1991 Abuja Treaty changes this procedure. While the secretary general continues to be responsible for preparing the budget, the Assembly now approves it upon recommendation by the Council (Art. 82.1), both

presumably acting by the general decision rule of two-thirds majority.[α] We code both the secretary general and the Council as initiators. Decisions are binding since the Treaty foresees sanctions for states that do not pay their regular contribution (Art. 84).

The 2000 Constitutive Act maintains the procedure, but the names of the bodies involved change. The Commission, and more precisely the Directorate for Programming, Budgeting, Finance and Accounting, drafts the budget in consultation with the Permanent Representative Committee (Permanent Representatives Committee Rules of Procedure, Art. 4f). The voting rule in the collegial Commission is unknown, but since the European Commission's structure and operation was a template for the African Commission, we infer that decisions require the consent of a majority in the College.[α] The budget is then examined by the Executive Council (Rules of Procedure, Art. 7.2) which recommends it to the Assembly for adoption by two-thirds majority (Art. 9.1f). We continue to code the Commission and the Executive Council as initiators and the Assembly as final decision maker.

FINANCIAL COMPLIANCE

The OAU Charter does not regulate financial non-compliance, but sanctions are introduced with the 1991 Abuja Treaty. Article 84.1 outlines a predominantly technocratic procedure which prohibits a member state with arrears amounting to more than two annual contributions to vote, to participate in decision making, to receive benefits arising from the Treaty, to address meetings, to present candidates for vacant posts, or to run for office in the deliberative organs of the organization. Nevertheless, the Assembly holds ultimate decision power. It can "decide on the modalities for the application" of Article 84.1, and this allows for exceptions when "non-payment is due to causes and circumstances beyond the control of the said Member State" (Art. 84.3). Hence we code the Assembly as taking the final decision by two-thirds majority, the general decision rule. We code a technocratic procedure for agenda setting.

Under the 2000 Constitutive Act, this procedure becomes more detailed and explicitly political (Constitutive Act, Art. 23.1). The Assembly decides on sanctions after recommendations by the Executive Council and the Peace and Security Council and on the basis of information provided by the Commission (Assembly Rules of Procedure, Art. 35.1). Hence we code three institutions as initiators, and one decision maker. The procedure envisages a range of sanctions, including suspension of the right to speak and vote, to host meetings, or to present a candidate for an AU position. Sanctions may be triggered when a member state is in arrears amounting to two years but not exceeding five years. When a member state is in arrears for more than five years, additional sanctions can come into play, including that contracts are not renewed and that the member state is barred from funding for new projects (Art. 35.2).

POLICY MAKING

Under the OAU Charter, the main policy instruments are resolutions. They are adopted by a two-thirds majority in the Assembly (Art. 10.2). No ratification is required. Agenda setting is in the hands of the Council: it can adopt resolutions by simple majority and has as one of its tasks to prepare the conferences of the Assembly (Lagos Charter, Art. 13.1). The resolutions then serve as "recommendations to the Assembly, which alone can take final decisions" (Elias 1965: 257). As mentioned, the competences of the General Secretariat are confined to administrative tasks and the budget. Thus, in the early period we estimate it as having no explicit role in the policy making process. The primary function of the Assembly is to "discuss matters . . . with a view to coordinating and harmonizing the general policy of the organization" (Art. 7), and together with the strong emphasis on national sovereignty and non-interference (Art. 3; see also Fredland 1973: 310) and the duty of all members to "observe scrupulously the principles enumerated in Article 3" (Art. 6), we infer from this that resolutions are not binding.

The 1991 Abuja Treaty describes the chief policy instruments—decisions and regulations—in greater detail. Decisions are passed by the Assembly by two-thirds majority. These are binding on member states and automatically enforceable once signed by the chair of the Assembly, and they do not require ratification (Art. 10). The Council acts through regulations, adopted by two-thirds majority, which are also binding after approval by the Assembly (Art. 13). We code decisions as the main policy instrument. They can be initiated by the Council of Ministers (Arts. 11.3a and 11.3c) by two-thirds majority; the newly created Economic and Social Commission (see Art. 16d), presumably by the same decision rule; and the secretary general who has the authority to prepare "proposals concerning the program of activity" (Art. 22.2c). Member states can also initiate.

Beginning with the 2000 Constitutive Act it makes sense to distinguish two policy streams. The first relates to economic integration plus other forms of functional cooperation, and it is by and large a continuation of the decision process detailed in the Abuja Treaty. The main legal instruments are now called regulations and directives, and similar to the European Union, the former are directly applicable in member states, while the latter outline objectives for which member states have discretion on how to transpose them into domestic legislation. Both are binding and do not require ratification (Arts. 33 and 34, Assembly Rules of Procedure).[3]

The Commission becomes the chief, though not exclusive, agenda setter. Its proposals are passed on to the Executive Council (Commission Rules of

[3] The Assembly may also adopt non-binding recommendations, declarations, resolutions, and opinions.

Procedure, Art. 4.1f), which votes on its recommendations by two-thirds majority, and passes them on to the Assembly for the final decision. Individual member states retain the right to submit proposals directly to the Assembly (see Assembly Rules of Procedure, Art. 8.2d). Regulations and directives are adopted by the Assembly by two-thirds majority.

The second policy stream, introduced with the Peace and Security Council in 2003, concerns conflict resolution, including military interventions (see Constitutive Act, Arts. 4h and 4j). The Peace and Security Council is the chief agenda setter: it has wide-ranging powers to initiate and conduct actions short of military interventions, and it is the point body for the implementation of Assembly-approved military missions (PSC Protocol, Art. 7.1). The president of the Commission plays also an important role: she may "bring to the attention of the Peace and Security Council any matter, which, in his/her opinion, may threaten peace, security and stability in the Continent" (PSC Protocol, Art. 10.2a), and she is closely involved with the Peace Council's activity. Indeed, the Protocol states that the Council conducts most of its powers in "conjunction with the Chairperson of the Commission" (PSC Protocol, Art. 7.1). The Assembly takes the final decision on military interventions by two-thirds majority (Assembly Rules of Procedure, Arts. 4.1e and 4.1f). Its decisions are binding and do not require ratification.

DISPUTE SETTLEMENT

The OAU Charter established a Commission of Mediation, Conciliation and Arbitration "to settle all disputes . . . by peaceful means" (Art. 19). Initially, questions arising on the interpretation of the Charter were to be settled by a two-thirds majority vote of the Assembly of Heads of State (Art. 27).[4] The system was an integral part of the OAU Charter and so applicable to all member states. It was set up in 1964 with a permanent seat in Addis Ababa.[5] The Commission was composed of twenty-one members, who had to be "recognized personalities of known competence" and who were elected by the Assembly for five years, with the possibility of re-election (1964 Protocol, Arts. 2 and 3.1). Any party to the dispute as well as the Council and the Assembly could refer disputes to the Commission (Art. 13.1); thus, private parties did not have access (Art. 12). Third-party access was not automatic, but conditional on the assent of both parties (Arts. 28 and 29a), so we score subject to political consent. Adjudication could be binding if there was ex ante agreement among the parties. In that case, a three-person ad hoc panel was constituted from among members of the Commission, one arbitrator

[4] The idea to grant the International Court of Justice jurisdiction over OAU matters was discarded after lengthy discussion (Elias 1965: 267).

[5] For a short negotiation history, see Elias (1964: 338–9).

was chosen by each party and the third one was chosen by common agreement between the two (Art. 27). Hence, the Commission worked through ad hoc panels (Muyangwa and Vogt 2000: 7). The protocol did not provide for remedies in case of non-compliance (see Elias 1965: 346). Hence we code no remedies.[γ] The Commission of Mediation, Conciliation and Arbitration was replaced by the Mechanism for Conflict Prevention, Management and Resolution in 1993, which shifts dispute settlement on security issues fully into the political realm (see Ibok 2000; Muyangwa and Vogt 2000).

With the adoption of the African Charter on Human and Peoples' Rights in 1981, OAU legal dispute settlement embraced a new field: human rights. The Charter created the African Commission on Human and Peoples' Rights (Art. 30), which began to operate in 1987. The system is optional: only member states that have ratified the Charter are bound (Arts. 1 and 34). Any state can raise a human rights matter when it sees another state in violation of the Charter. If both states are unable to resolve the dispute by peaceful means, any of the involved states can transfer the matter to the Commission for investigation. This amounts to a right to third-party review. "Unlike their European and Inter-American contemporaries, African leaders at the time shunned the idea of a supranational human rights court, and opted for the African Commission, vested with wide promotional and protective functions with very restrictive room for maneuvering in the enforcement of its decisions" (Wachira and Ayinla 2006: 469). The Commission consists of eleven members "chosen from amongst African personalities of the highest reputation . . . particular consideration being given to persons having legal experience" (Banjul Charter, Art. 31.1). They are elected by the Assembly for six years, with the possibility for re-election (Arts. 33 and 36). There can be no two members from the same member state (Art. 34). We code this as a standing body. After examining the matter, it makes recommendations to the Assembly (Arts. 52 and 53). The Assembly then decides. The Commission's recommendations are not binding, and no remedies for non-compliance exist. A similar procedure is created for communications submitted to the Commission by non-state parties (Art. 55), which suggests that non-state parties have access. Communications by non-state actors are accepted only once all local remedies have been exhausted or are unduly prolonged (Art. 56.5). A member state that is implicated is informed, but cannot block proceedings (Art. 57). We code full non-state access. The Charter does not provide for a preliminary ruling procedure.

The human rights system was strengthened with the establishment of the African Court on Human and Peoples' Rights in the Protocol to the African Charter on Human and Peoples' Rights in June 1998. Like its forerunner, it was optional. The Protocol entered into force in 2004, with the Court starting its operations in November 2006, when we start coding it. Since 2007, its seat has been in Arusha, Tanzania. The Court holds jurisdiction over the interpretation

of the Charter and any other human rights instrument ratified by the member states. It is composed of eleven judges chosen from among "jurists of high moral character and of recognized . . . competence and experience in the field of human and peoples' rights" for a period of six years, with the possibility of one re-election (ACHR Protocol, Arts. 3, 11, and 15). The Court's judgments are final and directly binding on member states (Arts. 28.2 and 30).[6] There is no remedy in case of non-compliance. The Protocol merely stipulates that the Court submits an annual report to the Assembly, in which it notes, inter alia, "the cases in which a State has not complied with the Court's judgment" (Art. 31). The Court provides direct access to non-state actors including the Commission on Human and Peoples' Rights and African intergovernmental organizations (Arts. 5.1a and 5.1e), but private actors lose unconditional direct access to the Court. The Court may decide to admit cases from non-governmental organizations with observer status before the Commission or individuals directly, but only if the concerned member state consents (Arts. 5.3 and 34.6) (Alter 2014: 84). There is no preliminary ruling mechanism.

The 1991 Abuja Treaty set forth a Court of Justice to deal with disputes of economic integration under the Treaty (Art. 18). It provided for jurisdiction over violations of the Treaty by member states or treaty organs abusing their authority as well as advisory opinions (Art. 18.3). Rulings were final and binding on member states (Arts. 19 and 87.2). However, the Court was never established. The 2000 Constitutive Act reiterated member states' commitment to a Court of Justice (Art. 18), and a Protocol was adopted in 2003 to enter into force in 2009, but this was quickly superseded by the 2008 ACJHR protocol. The Court became legally void before it was established.[7]

In 2008, member states merged the African Court on Human and Peoples' Rights and the yet-to-be-established African Court of Justice in order to create a single African Court of Justice and Human Rights with two chambers, one for general legal matters and one for rulings on human rights (see ACJHR Protocol). The new court will be based in Arusha. Fifteen ratifications are required for the Protocol to enter into force, and as of March 2017, only five member states had ratified.[8] In terms of design, the Court is similar to its

[6] By February 2016 only twenty-four states had ratified the Treaty (see <http://www.achpr.org/instruments/court-establishment/ratification/> (accessed February 12, 2017).

[7] It envisaged an automatic right to third-party review by a Court consisting of eleven standing and independent judges (ACJ Protocol, Arts. 3, 4, 13, and 18). The Court was to render binding judgments (Art. 37) and non-state parties would have access under conditions to be determined by the Assembly (Art. 18). The Protocol required swift compliance and execution of Court decisions by member states (Art. 51), and it provided for sanctions in case of non-compliance, which had to be authorized by the Assembly (Art. 52).

[8] See <http://www.africancourtcoalition.org/index.php?option=com_content&view=article&id=87:ratification-status-protocol-on-the-statute-of-the-african-court-of-justice-and-human-rights&catid=7:african-union&Itemid=12> (accessed February 12, 2017).

OAU Institutional Structure (1963–2000)

		A1			E1										E2										GS1	
Years		Non-state selection	Indirect representation	Weighted voting	Head—agenda	Head—decision	Members—agenda	Members—decision	Non-state selection	Partial representation	Indirect representation	Reserved seats	Weighted voting	Partial veto	Head—agenda	Head—decision	Members—agenda	Members—decision	Non-state selection	Partial representation	Indirect representation	Reserved seats	Weighted voting	Partial veto	Select	Remove
1963	Not body-specific	0	0	0	N				0	0	0	0	0	0												
	Member states						✓	✓																		
	A1: Assembly of Heads of State																								2	2
	E1: Council of Ministers					3																				
	GS1: General Secretariat																									
1964–1986	Not body-specific	0	0	0	N				0	0	0	0	0	0												
	Member states						✓	✓																		
	A1: Assembly of Heads of State																								2	2
	E1: Council of Ministers					3																				
	GS1: General Secretariat																									
	DS1: Commission for Mediation																									
1987–1992	Not body-specific	0	0	0	N				0	0	0	0	0	0												
	Member states						✓	✓																		
	A1: Assembly of Heads of State																								2	2
	E1: Council of Ministers					3																				
	GS1: General Secretariat																									
	DS1: Commission for Mediation																									
	DS2: Commission on Human Rights																									
1993	Not body-specific	0	0	0	N				0	0	0	0	0	0												
	Member states						✓	✓																		
	A1: Assembly of Heads of State																								2	2
	E1: Council of Ministers					3																				
	GS1: General Secretariat																									
	DS2: Commission on Human Rights																									
1994–2000	Not body-specific	0	0	0	N				0	0	0	0	0	0	N				0	0	0	0	0	0		
	Member states						✓	✓									✓	✓								
	A1: Assembly of Heads of State																								2	2
	E1: Council of Ministers					3																				
	E2: Economic & Social Commission															3										
	GS1: General Secretariat																									
	DS2: Commission on Human Rights																									

Note: A = automatic/technocratic procedure; N = no written rule; R = rotation; ✓ = body co-decides, but no voting rule; ← = change in status. Shaded areas refer to institutions or policy areas that are non-existent for those years.

AU Institutional Structure (2001–10)

		A1			E1										E3										E4									GS1		CB1	CB2
Years		Non-state selection	Indirect representation	Weighted voting	Head—agenda	Head—decision	Members—agenda	Members—decision	Non-state selection	Partial representation	Indirect representation	Reserved seats	Weighted voting	Partial veto	Head—agenda	Head—decision	Members—agenda	Members—decision	Non-state selection	Partial representation	Indirect representation	Reserved seats	Weighted voting	Partial veto	Head—agenda	Head—decision	Members—agenda	Members—decision	Non-state selection	Partial representation	Indirect representation	Reserved seats	Weighted voting	Partial veto	Select	Remove	Non-state selection	Non-state selection
2001–2002	Not body-specific	0	0	0	R	R			0	0	0	0	0	0	N				0	1	2	0	0	0												
	Member states						✓	✓																												
	A1: **Assembly of the Union**				3	3										2		2																	2	2		
	E1: **Executive Council**																2																				
	E3←GS1: Commission																																				
	GS1: **Commission**																																				
	DS2: Commission on Human Rights																																				
2003	Not body-specific	0	0	0	R	R			0	0	0	0	0	0	N				0	1	2	0	0	0	R	R	R		0	1	0	0	0	0				
	Member states						✓	✓																			✓											
	A1: Assembly of the Union				3	3										2		2										2						2	2		
	E1: Executive Council																2																				
	E3: Commission																																				
	E4: Peace and Security Council																																				
	GS1: Commission																																				
	DS2: Commission on Human Rights																																				
2004–2005	Not body-specific	0	0	0	R	R			0	0	0	0	0	0	N				0	1	2	0	0	0	R	R	R		0	1	0	0	0	0			3	
	Member states						✓	✓																			✓											
	A1: Assembly of the Union				3	3										2		2										2						2	2		
	E1: Executive Council																2																				
	E3: Commission																																				
	E4: Peace and Security Council																																				
	GS1: Commission																																				

	CB1: Pan-African Parliament																																							
	DS2: Commission on Human Rights																																							
2006–2007	Not body-specific	0	0	0	R	R			0	0	0	0	0	0	N				0	1	2	0	0	0	R	R			0	1	0	0	0	0			3	
	Member states						✓	✓																			✓												
	A1: Assembly of the Union				3	3										2		2										2							2	2		
	E1: Executive Council																2																				
	E3: Commission																																					
	E4: Peace and Security Council																																					
	GS1: Commission																																					
	CB1: Pan-African Parliament																																					
	DS2: **African Human Rights Court (ACHR)**																																					
2008–2010	Not body-specific	0	0	0	R	R			0	0	0	0	0	0	N				0	1	2	0	0	0	R	R			0	1	0	0	0	0			3	1
	Member states						✓	✓																			✓											
	A1: Assembly of the Union				3	3										2		2										2							2	2		
	E1: Executive Council																2																				
	E3: Commission																																					
	E4: Peace and Security Council																																					
	GS1: Commission																																					
	CB1: Pan-African Parliament																																					
	CB2: ECOSOCC																																					
	DS2: African Human Rights Court (ACHR)																																					

Note: A = automatic/technocratic procedure; N = no written rule; R = rotation; ✓ = body co-decides, but no voting rule; ← = change in status. Shaded areas refer to institutions or policy areas that are non-existent for those years.

OAU/AU Decision Making

		Accession			Suspension		Constitution				Budget			Compliance	
Years		Agenda	Decision	Ratification	Agenda	Decision	Agenda	Decision	Ratification	Revenue source	Agenda	Decision	Binding	Agenda	Decision
1963	Not body-specific			2	N	N			3	1			N	N	N
	Member states	✓					✓								
	A1: Assembly of Heads of State		3					2							
	E1: Council of Ministers											3			
	GS1: General Secretariat										✓				
1964–1986	Not body-specific			2	N	N			3	1			N	N	N
	Member states	✓					✓								
	A1: Assembly of Heads of State		3					2							
	E1: Council of Ministers											3			
	GS1: General Secretariat										✓				
	DS1: Commission for Mediation														
1987–1992	Not body-specific			2	N	N			3	1			N	N	N
	Member states	✓					✓								
	A1: Assembly of Heads of State		3					2							
	E1: Council of Ministers											3			
	GS1: General Secretariat										✓				
	DS1: Commission for Mediation														
	DS2: Commission on Human Rights														
1993	Not body-specific			2	N	N			3	1			N	N	N
	Member states	✓					✓								
	A1: Assembly of Heads of State		3					2							
	E1: Council of Ministers											3			
	GS1: General Secretariat										✓				
	DS2: Commission on Human Rights														
1994–2000	Not body-specific			2	N	N			2	1			2	A	
	Member states	✓					✓								
	A1: Assembly of Heads of State		3					2				2			2
	E1: Council of Ministers						2				2				
	E2: Economic & Social Commission														
	GS1: General Secretariat										✓				
	DS2: Commission on Human Rights														
2001–2002	Not body-specific			2					2	1			2		
	Member states	✓					✓								
	A1: **Assembly of the Union**		2		✓	✓		2				2			2
	E1: **Executive Council**						2				2			2	
	E3←GS1: Commission				✓						3			3	
	GS1: **Commission**				✓						3			3	
	DS2: Commission on Human Rights														
2003	Not body-specific			2					2	1			2		
	Member states	✓					✓								
	A1: Assembly of the Union		2		✓	✓		2				2			2
	E1: Executive Council						2				2			2	

Policy 1 (resolutions/decisions/ regulations, directives)					Policy 2 (peace & security)					Dispute settlement 1 (peacekeeping)							Dispute settlement 2 (human rights)						
Agenda	Decision	GS role	Binding	Ratification	Agenda	Decision	GS role	Binding	Ratification	Coverage	Third party	Binding	Tribunal	Non-state access	Remedy	Preliminary ruling	Coverage	Third party	Binding	Tribunal	Non-state access	Remedy	Preliminary ruling
		0	0	3																			
	2																						
3																							
		0	0	3																			
	2																						
3																							
										2	1	0	1	0	0	0							
		0	0	3																			
	2																						
3																							
										2	0	1	1	0	0	0							
																	1	2	0	2	2	0	0
		0	0	3																			
	2																						
3																							
																	1	2	0	2	2	0	0
		1	2	3																			
	2																						
2																							
2																							
✓																							
																	1	2	0	2	2	0	0
		1	2	3																			
✓																							
	2																						
2																							
3																							
3																							
																	1	2	0	2	2	0	0
		1	2	3			1	2	3														
✓																							
	2					2																	
2																							

(*continued*)

OAU/AU Decision Making (Continued)

		Accession			Sus-pension		Constitution				Budget			Com-pliance	
Years		Agenda	Decision	Ratification	Agenda	Decision	Agenda	Decision	Ratification	Revenue source	Agenda	Decision	Binding	Agenda	Decision
	E3: Commission				3						3			3	
	E4: Peace and Security Council				2									2	
	GS1: Commission				3						3			3	
	DS2: Commission on Human Rights														
2004–2005	Not body-specific			2					2	1			2		
	Member states	✓					✓								
	A1: Assembly of the Union		2		✓	✓		2				2			2
	E1: Executive Council						2				2			2	
	E3: Commission				3						3			3	
	E4: Peace and Security Council				2									2	
	GS1: Commission				3						3			3	
	CB1: Pan-African Parliament														
	DS2: Commission on Human Rights														
2006–2007	Not body-specific			2					2	1			2		
	Member states	✓					✓								
	A1: Assembly of the Union		2		✓	✓		2				2			2
	E1: Executive Council						2				2			2	
	E3: Commission				3						3			3	
	E4: Peace and Security Council				2									2	
	GS1: Commission				3						3			3	
	CB1: Pan-African Parliament														
	DS2: **African Human Rights Court (ACHR)**														
2008–2010	Not body-specific			2					2	1			2		
	Member states	✓					✓								
	A1: Assembly of the Union		2		✓	✓		2				2			2
	E1: Executive Council						2				2			2	
	E3: Commission				3						3			3	
	E4: Peace and Security Council				2									2	
	GS1: Commission				3						3			3	
	CB1: Pan-African Parliament														
	CB2: ECOSOCC														
	DS2: African Human Rights Court (ACHR)														

Note: A = automatic/technocratic procedure; N = no written rule; R = rotation; ✓ = body co-decides, but no voting rule; ← = change in status. Shaded areas refer to institutions or policy areas that are non-existent for those years.

predecessors. It holds compulsory jurisdiction over the interpretation and application of all legal instruments adopted by the African Union, including the validity of secondary law and compatibility with international law. The Court also has jurisdiction to rule on the nature and extent of reparation if a member state breaches an international obligation (Art. 28). The Court's

Policy 1 (resolutions/decisions/ regulations, directives)					Policy 2 (peace & security)					Dispute settlement 1 (peacekeeping)							Dispute settlement 2 (human rights)						
Agenda	Decision	GS role	Binding	Ratification	Agenda	Decision	GS role	Binding	Ratification	Coverage	Third party	Binding	Tribunal	Non-state access	Remedy	Preliminary ruling	Coverage	Third party	Binding	Tribunal	Non-state access	Remedy	Preliminary ruling
3					3																		
					2																		
3					3																		
																	1	2	0	2	2	0	0
		1	2	3			1	2	3														
✓																							
	2					2																	
2																							
3					3																		
					2																		
3					3																		
																	1	2	0	2	2	0	0
		1	2	3			1	2	3														
✓																							
	2					2																	
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3					3																		
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rulings are final and binding (Art. 46). It is a standing tribunal composed of sixteen judges (Art. 3), who are elected by the Executive Council and nominated by the Assembly (Art. 7) for six years (Art. 8). It grants private access to a wide range of actors other than member states. These include the Assembly, the Parliament, and other AU organs authorized by the Assembly, staff members

of the AU, the African Commission on Human and Peoples' Rights, the African Committee of Experts on the Rights and Welfare of the Child, other African intergovernmental organizations that are accredited by the AU, African national human rights institutions, as well as individuals and non-governmental organizations accredited to the AU (Arts. 29 and 30). Parties are held to comply with the Court's rulings and to "guarantee its execution" (Art. 46.3). In case of non-compliance, the Court refers the matter to the Assembly, which may impose sanctions under Article 23 of the Constitutive Act (Art. 46). The Protocol does not provide for preliminary rulings.

Economic and Monetary Community of Central African States (CEMAC)

The Economic and Monetary Community of Central African States (known by its French acronym CEMAC) is the chief organization for economic and monetary integration in Central Africa and "the oldest of all integration bodies in Africa" (Awoumou and Georges 2008: 112). It has six member states: Chad, the Central African Republic, Cameroon, the Republic of Congo, Gabon, and Equatorial Guinea. Its stated objective is "to promote peace and the harmonious development of its member states through the establishment of an Economic Union and a Monetary Union and the shift from a situation of cooperation to one of economic and monetary integration" (2008 Revised CEMAC Treaty, Art. 2). This includes the establishment of a customs union, a common market, and a common currency, the CFA franc. The headquarters are located in Bangui, Central African Republic.

CEMAC has its origins in French colonialism. In 1919 France combined Gabon, Middle Congo (today, the Republic of Congo), Oubangui-Chari (today, the Central African Republic), Chad, and Cameroon in the Federation of Equatorial French Africa to streamline their governance. In 1945, France introduced the CFA franc in the Federation alongside a similar CFA currency in neighboring West Africa. The colonial CFA franc was created to avoid devaluation and to make it easier for the colonies to continue to export goods to France. The common currency survived decolonization even though the Federation was dissolved in 1958 and each country went its separate way (Meyer 2011a: 3–4). France encouraged a customs union that would allow "maintaining easy access to the markets of her former colonies" (Mytelka 1974: 300). One outcome was the Equatorial Customs Union (UDE) among Chad, the Central African Republic, Congo, and Gabon in 1959.

After several years of negotiation, the Central African Customs and Economic Union (known by its French acronym UDEAC, Union Douanière et

Économique de l'Afrique Centrale) was created with the Brazzaville Treaty in 1964. The Treaty envisaged a customs union and a common market built around the CFA franc (for an overview, see Mytelka 1974). UDEAC set out with five members: the four UDE members plus Cameroon. Chad left in 1968 but rejoined in 1984, and Equatorial-Guinea, a former Spanish colony, joined in 1984. Progress was compromised by financial problems, poor communication among the members, limited political commitment, and haphazard implementation. As time went by UDEAC fell into a slumber (Mbaku and Kamerschen 1988; Meyer 2011a).

In the early 1990s, a revival of regionalism throughout Africa paved the way for reform in Central Africa. The six member states concluded a new treaty, the N'Djaména Treaty, in 1994, and renamed the organization CEMAC (Communauté Économique et Monétaire d'Afrique Centrale), which replaced UDEAC in June 1999. The new mission, according to the Treaty's preamble, is to move "from a situation of cooperation, which already exists between them, towards a situation that could complete the process of economic and monetary integration." Since the 1990s, member states have made gradual progress in implementing economic union. Amongst other initiatives, they have adopted tax and customs reforms, a common external tariff, a harmonized value-added tax, and common regulations on competition and investment. Today, CEMAC countries share a financial, regulatory, and legal structure, and maintain a common external tariff on imports from non-CEMAC countries. Capital can move freely and member states have taken measures to improve macro-economic convergence (for an overview, see Awoumou and Georges 2008: 113–14).

Security cooperation has become a second focus. In 2002 CEMAC organized its first regional peacekeeping operation to curb political instability and violence in the Central African Republic, albeit with mixed success (Meyer 2009). Member states have also upgraded cooperation in combating transnational crime.

CEMAC is markedly supranational compared to other African regional organizations. The current treaty "contains no provision regarding the sovereignty of states" (Godwin Bongyu 2009: 390) and institutes supremacy of Community law, which has direct effect in member states.

The key legal documents are the Brazzaville Treaty (signed 1964; in force 1966) with amendments in 1974, 1983, 1984, and 1991;[9] the CEMAC Treaty (signed 1994; in force 1999) and the 1996 Addendum; two Conventions Governing the Economic and Monetary Unions of Central Africa, respectively (UEAC and UMAC, signed 1996; in force 1999); the Convention setting up a

[9] Documentation for CEMAC is scarce. We could only obtain the 1991 consolidated treaty, which includes previous changes.

Court of Justice (signed 1994; in force 2000); the Convention setting up the Community Parliament (signed 2008; in force 2010); and the Revised CEMAC Treaty and revised Conventions on Economic and Monetary Union (signed 2008, not yet in force, except for the 2007 Addendum on the Commission). Today, the organization has two assemblies (Conference of Heads of State and two Councils of Ministers), a Commission acting as both executive and general secretariat, and a Central Bank.

Institutional Structure

A1: FROM THE COUNCIL OF HEADS OF STATE (1966–98) TO THE CONFERENCE OF HEADS OF STATE (1999–2010)

The 1964 Brazzaville Treaty established the Council of Heads of State, composed of the Heads of State or of their representatives as the "supreme organ of the Union," responsible for realizing the Treaty's objectives and with the "power of decision" (Arts. 7 and 3). It coordinated customs, fiscal, and economic policies among the member states, controlled the Management Committee, nominated the secretary general, adopted the budget, and concluded trade negotiations (Art. 9). Decisions by the Council, which were binding on member states, were taken by consensus (Art. 10). The chair rotated among the member states in alphabetical order and the Council met at least once a year (Arts. 4 and 5).

The 1994 CEMAC Treaty renamed the previous Council as the Conference of Heads of State and designated it as the most important legislative body. It is also more involved in policy making than its predecessor (CEMAC Treaty, Art. 2; UEAC Convention, Art. 62). The Conference is responsible for determining the policy of the organization and directing the actions of the two ministerial councils described in the following two sections (1996 Addendum, Art. 3). The Conference acts through so-called Additional Acts, which complement the Treaty (without formally changing it) and are binding on member states (Arts. 20 and 21). In addition, it decides upon accession of new members and nominates the heads of most Community bodies. It decides by consensus (Art. 7). As before, the chair in the body rotates among member states each year and the Conference meets at least once a year (Arts. 4 and 5). The 2008 Revised Treaty leaves the composition and the general guidance role of the Conference largely unchanged.

A2: COUNCIL OF MINISTERS OF THE ECONOMIC UNION (1999–2010)

UDEAC had only one assembly. The CEMAC Treaty adds two more. Both have legislative competence independent of the Conference of Heads of State. The first of these is the Council of Ministers of the Economic Union (Art. 2), which provides direction to the economic union (1996 Addendum, Art. 8). It is

generally composed of ministers of finance and economic affairs from each member state, but it can also meet in other configurations. However, the Council of finance and economic affairs is primus inter pares and the decisions taken by sectoral ministers remain subject to its consent (1996 Addendum, Arts. 9 and 10). The body takes decisions by majority, supermajority (five out of six member states), or consensus (with the possibility of abstention) depending on the topic, even while the chair is instructed to seek consensus (UEAC Convention, Arts. 65 and 66). Each member state has one vote (Art. 65). The Council meets at least twice a year and is chaired by the minister from the member state that chairs the Conference (1996 Addendum, Art. 11).

It is assisted by an Interstate Committee, composed of two representatives nominated for three years. The Committee discusses the proposals on the Council's agenda (Art. 70) and it monitors the execution of legislative policy by the Executive Secretariat.

With the Revised Treaty of CEMAC (not in force by 2010), the Council of Ministers becomes the chief body for directing the Economic Union and it picks up any other matters that might arise (2008 Revised Treaty, Art. 17).

A3: MINISTERIAL COMMITTEE OF THE MONETARY UNION (1999–2010)

The second new legislative assembly is the Ministerial Committee of the Monetary Union (Art. 2), which is composed of two ministers from each member state, one of whom is the minister of finance. The finance minister heads her national delegation (1996 Addendum, Art. 13). The Ministerial Committee is responsible for examining members' economic policies and ensuring their consistency with CEMAC monetary policy (Art. 12). It also supervises the activities of BEAC (Bank of Central African States), CEMAC's central bank, signs off on the Bank's budget and accounts, and examines its annual report. It is chaired similarly to the Council of Ministers (Art. 13). It takes decisions by consensus and, failing that, by supermajority of five out of six member states (UMAC Convention, Art. 18). With the Revised Treaty of CEMAC, the Ministerial Committee, renamed the Ministerial Committee of the Economic Union of Central Africa, assumes responsibility for coordinating macro-economic policy among member states and with CEMAC monetary policy (2008 Revised Treaty, Art. 21).

The Council of Ministers and the Ministerial Committee act both through binding legal instruments (regulations, directives, and decisions) as well as non-binding recommendations (1996 Addendum, Arts. 20 and 21).

E1: MANAGEMENT COMMITTEE (1966–98)

The 1964 Brazzaville Treaty created the Management Committee as the chief executive body of the organization. It was composed of two representatives

from each member state, normally the minister of finance and the minister responsible for economic development or their respective representatives and up to four experts (Art. 11). Thus, representation was fully member state, all countries were represented, and representation was direct. The Committee was responsible for adopting common policies and activities within the guidelines set by the Council, including customs policy, industrial development, cooperation in research and development as well as social policies (Art. 17). It also had an important agenda setting function regarding the strategic decisions for common economic policies (Arts. 30, 42, 45). Each member state delegation had one vote, and decisions, binding on member states, were taken by consensus (Arts. 11 and 18). In case consensus could not be reached in the Committee, decisions were passed on to the Council for a final decision (Art. 9). Chairmanship in the Committee rotated among member states in alphabetical order (Art. 13). The Committee met at least twice a year (Art. 12).

With the 1991 Amendment, powers in a wider range of policy areas were delegated to the Management Committee (Arts. 15 and 16). The Committee's power remained contingent on delegation by the Council, which is why we continue to code it as an executive rather than an assembly. The CEMAC Treaty transfers the Management Committee's executive powers to two executives: one for economic union (the Executive Secretariat), and a new body for monetary union (Ministerial Committee). The Management Committee itself transforms into the Council of Ministers).

E2: FROM THE GENERAL SECRETARIAT (1991–8) TO THE EXECUTIVE SECRETARIAT (1999–2006) TO THE COMMISSION (2007–10)

The 1991 Amendment upgrades the powers of the General Secretariat so it makes sense to begin coding it as a secondary executive from 1991.[β] The chief executive tasks of the secretary general and her staff are to apply the Treaty and implement the decisions taken by the Council of Ministers, to prepare and promote framework programs for development and joint activities, to commission studies, and to contribute to decision making in the Council with respect to foreign economic policy. The secretary general also prepares an annual report which evaluates progress toward the objectives of the Treaty (Art. 71).

With these increased functions also comes a stronger organizational setup (Art. 17). The Council nominates the secretary general for three years, renewable once, by consensus (Art. 17). In the exercise of their functions, the members of the Secretariat cannot receive instructions from member states or other actors (Art. 19). Hence the Secretariat is selected by member states, not all member states are represented, and representation is indirect.

The CEMAC Treaty unambiguously designates the body, renamed the Executive Secretariat, as "l'organe exécutif de l'UEAC" (CEMAC Treaty, Art. 2; UEAC Convention, Section IV, Art. 71). This body now takes over the

executive functions on economic union from the Management Committee. The composition of the Secretariat remains the same as before. The Conference of Heads of State nominates the executive secretary, now for five years, renewable once (1996 Addendum, Art. 17). The Treaty includes a removal clause: the Conference can remove the executive secretary upon recommendation by the Council of Ministers in case he or she "no longer fulfills the conditions required for the performance of his duties or if he has committed serious misconduct" (Art. 18). The deputy is appointed in the same way as the secretary (Art. 19).

The executive secretary proposes measures on economic union to the Council and the Conference, ensures and supervises the implementation of the adopted measures, and represents the Union toward the outside (UEAC Convention, Art. 71). He also recruits and nominates the staff of the Secretariat (except for the deputy) (Art. 72).

In 2007, member states transform the Executive Secretariat into a Commission akin to the European Union's Commission. The collegiate body is composed of one commissioner per member state, including a president and a vice president (2007 Addendum, Arts. 2 and 3; Revised CEMAC Treaty, Arts. 26 and 28). Commissioners are proposed by member states and elected by the Conference by consensus for a period of four years, renewable once (Art. 27). Commissioners take an oath of independence (Art. 32). The voting rule in the Commission is simple majority (Art. 28).

E3: MINISTERIAL COMMITTEE (1999–2010)

With the CEMAC Treaty, the Ministerial Committee adopts the executive functions of the Management Committee with respect to monetary union. Hence, it doubles as a legislative and an executive body. Its main executive task is to "ensure the application of this Convention" (CEMAC Treaty, Art. 2; UMAC Convention, Art. 12a).

The Ministerial Committee's composition is similar to the Management Committee. Representatives are proposed and selected by the national governments, and the chair rotates among member states in one-year intervals in sync with rotation in the Conference (UMAC Convention, Art. 14). All member states are represented, and representation is direct. Each vote counts equally, and no member has a veto.

The governor of the Central Bank reports regularly to the Ministerial Committee, and the executive secretary "assists at the meetings" (1996 Institutional Addendum to the CEMAC Treaty, Art. 14).

GS1: FROM THE GENERAL/EXECUTIVE SECRETARIAT (1966–2006) TO THE COMMISSION (2007–10)

The 1964 Brazzaville Treaty established a General Secretariat with a secretary general, under the direct authority of the Council president, and technical

staff accorded to several divisions, initially on foreign trade, fiscal matters, statistics, and development and industrialization (Arts. 19 and 20). The secretary general was appointed by the Council for an indeterminate period by consensus (Art. 9). In the performance of their duties, the secretary general and his staff were barred from receiving instructions from any member state (Art. 21). There were no written rules on the removal of the secretary general.

The 1991 Brazzaville Treaty gave the Secretariat executive functions, and created a second political position alongside the secretary general. The term in office of the secretary general and her deputy is three years, renewable once (Art. 17). The Secretariat's functions were set out in greater detail in the 1994 CEMAC Treaty (Art. 2), the Economic Union Convention and its 1996 Addendum.

The 2007 Addendum transforms the Executive Secretariat into a Commission. Commissioners, including the president, serve four years, renewable once, and are appointed by the Conference by consensus (Revised CEMAC Treaty, Art. 27). They are irrevocable except in cases of "grave fault or recorded inability" by judgment of the Court upon recommendation by the Council (Art. 29). The Commission currently contains thirty-nine cadres and some sixty implementing and administrative personnel.[10]

CB1: FROM THE INTERPARLIAMENTARY COMMISSION (2000–9) TO THE COMMUNITY PARLIAMENT (2010)

The 1994 CEMAC Treaty envisages a Community Parliament (Arts. 2 and 4), and the 1996 Addendum sets up an Interparliamentary Commission (Art. 44), which begins to operate in 2000 as an interim body until the Community Parliament is established. The Commission is composed of five members for each member state, who are appointed by the national legislature. It can adopt resolutions or reports, examine the annual report of the executive secretary and summon for a hearing the chairpersons of the Council of Ministers and the Ministerial Committee as well as the executive secretary. The Commission meets at least once a year and is chaired by the member state holding the Presidency (Art. 44). It adopts resolutions by simple majority (Commission Rules of Procedure, Art. 40).

The Revised CEMAC Treaty includes the Community Parliament (Art. 10). It was inaugurated in April 2010 in Galabo, Equatorial Guinea. It forms the "representative assembly of the peoples of CEMAC" (Parliament Convention, Art. 3). It is composed of sixty members, ten from each member state (Arts. 6, 7, and 8). The Parliament is intended to be directly elected on a five-year cycle, but in the transition period its members continue to be elected by national

[10] See <http://www.cemac.int/service/la-commission-de-la-cemac> (accessed February 12, 2017).

legislatures (Art. 18). The Parliament has a strong advisory role but no legislative competences. It acts via directives, may issue recommendations, and its advice is required on questions related to the promotion of free mobility and communication, social integration, sectoral policies on health, research and education, the environment and agriculture, citizenship, human rights and liberties, and treaty revisions (Art. 4). It also controls the Commission. It can issue oral or written questions, organize audits, and, upon the request of two-thirds of the deputies, create a committee of inquiry (Art. 5). The Parliament holds at least two sessions a year. It has a bureau and its president is elected by the parliamentarians for one year (Art. 13).

Decision Making

MEMBERSHIP ACCESSION

Under the Brazzaville Treaty, "any independent and sovereign African State requesting admission" could join (Art. 1). Admission required the unanimous consent of member states (Art. 1). We code the Council or Conference at both the agenda setting and final decision stages. There is no mention of ratification. Subsequent amendments did not change this provision.

The 1994 CEMAC Treaty then codified that any African state "sharing the same ideals to which the founding States declare themselves solemnly attached" could apply for membership in the new Community. The accession procedure remains in place (Art. 6).

MEMBERSHIP SUSPENSION

No written rules.

CONSTITUTIONAL REFORM

According to the Brazzaville Treaty, amending the Treaty follows the same procedure as adopting the Treaty (Art. 67). Member states conduct the negotiations and are the chief agenda setters (see Mytelka 1974: 303), and the Council acts as the final decision maker by consensus. Amendments require ratification by all member states (Art. 66).

According to the 1996 Addendum to the CEMAC Treaty, final decisions on amendments continue to be taken by the Conference of Heads of State by consensus and require ratification by all member states (Art. 50). Various actors can propose changes: member states, the executive secretary, the Governor of the Bank of Central African States, the manager of any other specialized institution of the Community, the Council of Ministers, and the Ministerial Committee (Art. 50). It is unclear what the decision rule in the Council or Committee is, but since an individual member state can trigger the amendment process, it seems plausible that the threshold is low. We code simple

majority, which is a common decision rule in the Council or Committee (see also UMAC Convention, Art. 34).[γ]

This procedure is essentially maintained in the Revised CEMAC Treaty (Art. 57). However, with the inception of the Parliament in 2010, the Parliament now needs to be consulted (Parliament Convention, Art. 4). Its decision rule is presumably simple majority, like its predecessor, the Interparliamentary Commission.[α]

REVENUES

The organization was initially financed by regular member state contributions, provided in equal shares by the member states (1964 Brazzaville Treaty, Art. 26). The Treaty also established a Common Solidarity Fund to help landlocked countries. It was financed by a percentage of the import duties and charges (Art. 38). Even though there was some early outside funding from foreign donors, donor money primarily went directly to individual countries and did not appear to play a big role in regional integration (Mytelka 1973).

The 1991 Brazzaville Treaty mentions for the first time that the organization is to seek "own resources" and that subsidies and foreign aid can be used to finance the budget (Art. 25). The UEAC Convention sets up a Development Fund, the successor to the Solidarity Fund, to which all member states contribute (Art. 77). The 1996 Addendum details that the organization is financed primarily by own resources (Art. 28), including customs duties and excise rights, but member state contributions (in equal shares, Art. 29.a) and international or third-party donations (Art. 29.b) are also permissible. A 2000 decision on financial arrangements formally introduces the "Community Integration Contribution," which is an import levy on products from third countries (Additional Act No. 03/00). The various sources of direct Community income suggest that the organization disposes of significant own resources (more than 25 percent) from 1999 onwards, when the Treaty came into effect.

Today's CEMAC receives its revenue mainly from taxes levied from the common market. If the taxes do not suffice, member states supply the remainder (Revised Treaty, Art. 50). CEMAC also receives considerable support from the European Union and other international donors.

BUDGETARY ALLOCATION

Initially, the budget was adopted annually by the Council upon recommendation by the Management Committee (Arts. 9 and 25). Both bodies take binding decisions by consensus (Arts. 10 and 18).

Under the CEMAC Treaty, the Council of Ministers adopts the annual budget by supermajority (five of six members) upon proposal by the executive secretary (1996 Addendum, Art. 27). Decisions by the Council are binding (Art. 21). This procedure is maintained in the Revised CEMAC Treaty (Art. 49).

FINANCIAL COMPLIANCE

Initially, there was no financial compliance procedure. The 1996 Addendum to the CEMAC Treaty installs an automatic procedure unless there is "a force majeure." If a member state has not paid its contributions a year after the deadline, it is suspended from voting in the Community's organs. Another six months later, the state is banned from all CEMAC activities and ceases to enjoy the benefits under the Treaty. Once the financial contributions are regularized, these sanctions expire automatically (1996 Addendum, Art. 32). Hence, agenda setting is technocratic, but it is not clear which body decides what constitutes "force majeure." Given the strong role of the Council of Ministers in financial affairs, we assume that it is the final decision maker.$^{\alpha}$ In the 2008 Revised Treaty, this role is formalized (Art. 52). The Council's decision rule is not specified, but the default decision rules are simple majority or qualified majority. We err on the side of caution and code the latter.$^{\alpha}$

POLICY MAKING

As the customs union transformed into an economic and monetary union so the range of policy tasks grew but the policy process remained relatively unchanged. We code one policy stream throughout.

UDEAC's core activity was undoubtedly the creation of the customs union and common market. On most issues, the Management Committee initiated, presumably through technical committees (Brazzaville Treaty, Arts. 17, 29, 30, and 42). However, the secretary general also had an explicit, yet non-exclusive right to initiative in two important areas of activity: the harmonization of development and transport policy (Arts. 49 and 50) and industrial cooperation (Art. 57). While this is certainly not a general right to initiative, we code it because these policies were central to UDEAC.$^{\beta}$ Member states were consulted in several areas, and we code them as additional agenda setters (see Arts. 49, 53, 55, and 57). The Council was the final decision maker (Art. 9.2) and took binding decisions by consensus (Art. 10). Ratification was not required.

The 1991 revisions to the Brazzaville Treaty strengthen the role of the general secretariat, which is now called the Executive Secretariat. The Management Committee adopts common policies by consensus (Art. 15). The primary agenda setter is the Executive Secretariat (Art. 20), but individual member states and the Committee's technical commissions also play a role in many policy areas (Arts. 51, 53, and 56). Decisions taken by the Management Committee are binding and do not require ratification (Art. 16). Since the Management Committee operates under delegation of the Council, we continue to code the latter as well because it remains the supreme decision maker. This is also consistent with the secondary literature, which confirms its substantive role in policy making (Meyer 2011a: 5).

The 1996 CEMAC Treaty extends the policy portfolio to economic and monetary union and overhauls the institutional framework. The chief substantive policy maker for economic union is the Council of Ministers and the chief policy maker for monetary union is the Ministerial Committee. The primary policy instruments are regulations, directives, and decisions, all of which are binding, as well as non-binding recommendations.[11] Similar to the EU's legal instruments, regulations are binding in their entirety and directly applicable in member states; directives bind member states with respect to the ends but not the means; decisions are also binding in their entirety upon those to whom they refer (Arts. 20–23). None require ratification. Given that they all follow a similar procedure, we code regulations, directives, and decisions as the main policy stream. While there are some differences between economic and monetary policy making, they are small and we combine them in one policy stream.$^{\beta}$

Common market policy is CEMAC's core objective. The Executive Secretariat now obtains the exclusive right of initiative regarding all three legal instruments: it "transmits to the Conference of Heads of State and the Council of Ministers proposals, recommendations and opinions necessary or useful for the application of this Convention and the functioning of the Economic Union" (UEAC Convention, Art. 71). In monetary union, the Central Bank substitutes for the Secretariat. It has the sole right to propose measures directed at harmonizing the banking, monetary, and financial regulation of member states (UMAC Convention, Art. 33).

The Council of Ministers and the Ministerial Committee employ a range of decision rules. The Council of Ministers takes some decisions by simple majority (e.g. agriculture, environment), many, such as common market issues, external trade policy, or education, by supermajority (five out of six member states), and others by consensus (e.g. fiscal harmonization, or freedom of movement) (see UEAC Convention). The Ministerial Committee adopts regulations by consensus and directives by supermajority (five out of six member states) (UMAC Convention, Art. 33). Article 18 notes that, in general, the Committee takes decisions by supermajority if consensus cannot be reached. We code supermajority as the dominant decision rule. With the establishment of the Community Parliament in 2010, a new player enters the fray. Its advice is compulsory on several policies, including education, health, energy, citizenship, and human rights (Art. 4). Its decision rule is presumably simple majority like its predecessor, the Interparliamentary Commission.$^{\alpha}$

[11] These instruments are defined in the Addendum. A fifth instrument is the Act (acte additionnel), which is used primarily for procedural and institutional decisions, such as personnel decisions (e.g. nomination of the secretary general), the delegation of new powers, or the adoption of Rules of Procedure of different bodies. These Acts are decided by the Conference, and annexed to the Treaty. For an overview since 2005, see <http://www.cemac.int/textes-officiels> (accessed February 12, 2017).

The 2008 Revised Treaty significantly strengthens the agenda setting power of the Commission by stipulating that the Council can amend its proposals by consensus (Art. 34).

DISPUTE SETTLEMENT

The 1964 Brazzaville Treaty did not have legal dispute settlement. Disputes between member states regarding the application of the Treaty were to be settled by the Council (Art. 9). The CEMAC Treaty provides for the establishment of a Court of Justice (Art. 2), and in 1994, a separate Convention on the Court is adopted. All member states needed to ratify the convention, so coverage is obligatory. Court operations started in 2000 in N'Djaména, Chad.

The Court has broad jurisdiction: it is intended to ensure compliance with the organization's legal system, settle disputes regarding the interpretation and application of CEMAC law, and harmonize jurisprudence in matters within the scope of the Treaty (Court Convention, Art. 2). The Court has thirteen judges divided over two chambers (Art. 9). The Judicial Chamber has six judges, one per member state, who are appointed by the Conference of Heads of State upon nomination by member states for six years, renewable once (Art. 12). Similar stipulations pertain to the judges nominated to the Chamber of Accounts (Arts. 26 and 27). Candidates have to be of "good character," show integrity and independence, and have the qualifications to hold the highest judicial office in the member states (Art. 12).

The Court holds an automatic right to third-party review. Any member state, organs of the Community and any natural or legal person who holds a "clear and legitimate interest" in the matter can bring cases (Art. 14). Hence, non-state actors have access. Judgments are binding on member states, which are required to take all necessary measures to comply with a ruling (Arts. 5 and 16).

CEMAC is one of a handful of IOs that declares Court rulings directly applicable (Convention of the Court of Justice of CEMAC, Art. 5: "force exécutoire"). Direct applicability amounts to a strong form of direct effect. Legal scholars hold the same view and highlight the Court's supranational powers, as well as the fact that CEMAC law and Court rulings do not require domestic transposition to enter into force (Godwin Bongyu 2009: 391–4; Kamwe Mouaffo 2012). A Council of the Heads of States can be convened to authorize additional sanctions if a member state shirks compliance (Alter 2012: 142). The Convention also lays down a preliminary rulings procedure akin to that of the European Court of Justice. That means that, under certain conditions, national courts are required to refer a matter to the Court for a preliminary ruling, which is binding on all administrative and judicial authorities in the member states (Arts. 17 and 18).

UDEAC Institutional Structure (1966–98)

		A1			E1										E2										GS1		CB1
Years		Non-state selection	Indirect representation	Weighted voting	Head—agenda	Head—decision	Members—agenda	Members—decision	Non-state selection	Partial representation	Indirect representation	Reserved seats	Weighted voting	Partial veto	Head—agenda	Head—decision	Members—agenda	Members—decision	Non-state selection	Partial representation	Indirect representation	Reserved seats	Weighted voting	Partial veto	Select	Remove	Non-state selection
1966–1990	Not body-specific	0	0	0	R	R			0	0	0	0	0	0												N	
	Member states						✓	✓																			
	A1: Council of Heads of State																								0		
	E1: Management Committee																										
	GS1: General Secretariat																										
1991–1998	Not body-specific	0	0	0	R	R			0	0	0	0	0	0	N		N		0	1	2	0	0	0		N	
	Member states						✓	✓																			
	A1: Council of Heads of State															0		0							0		
	E1: Management Committee																										
	E2←GS1: Executive Secretariat																										
	GS1: **Executive Secretariat**																										

Note: A = automatic/technocratic procedure; N = no written rule; R = rotation; ✓ = body co-decides, but no voting rule; ← = change in status. Shaded areas refer to institutions or policy areas that are non-existent for those years.

CEMAC Institutional Structure (1999–2010)

		A1			A2			A3			E2										E3										GS1		CB1
Years		Non-state selection	Indirect representation	Weighted voting	Non-state selection	Indirect representation	Weighted voting	Non-state selection	Indirect representation	Weighted voting	Head—agenda	Head—decision	Members—agenda	Members—decision	Non-state selection	Partial representation	Indirect representation	Reserved seats	Weighted voting	Partial veto	Head—agenda	Head—decision	Members—agenda	Members—decision	Non-state selection	Partial representation	Indirect representation	Reserved seats	Weighted voting	Partial veto	Select	Remove	Non-state selection
1999	Not body-specific	0	0	0	0	0	0	0	0	0	N		N		0	1	2	0	0	0	R	R			0	0	0	0	0	0			
	Member states																						✓	✓									
	A1: **Conference Heads of State**											0		0																	0	0	
	A2←E1: Council of Ministers																																
	A3←E1: Ministerial Committee																																
	E2: Executive Secretariat																																
	E3: Ministerial Committee																																
	GS1: Executive Secretariat																																
2000–2006	Not body-specific	0	0	0	0	0	0	0	0	0	N		N		0	1	2	0	0	0	R	R			0	0	0	0	0	0			3
	Member states																						✓	✓									
	A1: Conference Heads of State											0		0																	0	0	
	A2: Council of Ministers																																
	A3: Ministerial Committee																																
	E2: Executive Secretariat																																
	E3: Ministerial Committee																																
	GS1: Executive Secretariat																																
	CB1: Interparliamentary Commission																																
	DS: CEMAC Court																																
2007–2009	Not body-specific	0	0	0	0	0	0	0	0	0					0	0	2	0	0	0	R	R			0	0	0	0	0	0			3
	Member states										✓		✓										✓	✓									
	A1: Conference Heads of State											0		0																	0		

(*continued*)

CEMAC Institutional Structure (1999–2010) (Continued)

		A1			A2			A3			E2										E3										GS1		CB1
Years		Non-state selection	Indirect representation	Weighted voting	Non-state selection	Indirect representation	Weighted voting	Non-state selection	Indirect representation	Weighted voting	Head—agenda	Head—decision	Members—agenda	Members—decision	Non-state selection	Partial representation	Indirect representation	Reserved seats	Weighted voting	Partial veto	Head—agenda	Head—decision	Members—agenda	Members—decision	Non-state selection	Partial representation	Indirect representation	Reserved seats	Weighted voting	Partial veto	Select	Remove	Non-state selection
	A2: Council of Ministers																															
	A3: Ministerial Committee																															
	E1: Ministerial Committee																															
	E2: Commission																															
	GS1: Commission																															
	CB1: Interparliamentary Commission																															
	DS: CEMAC Court																														3	
2010	Not body-specific	0	0	0	0	0	0	0	0	0	N		N		0	1	2	0	0	0	R	R			0	0	0	0	0	0			3
	Member states																						✓	✓								
	A1: Conference Heads of State											0		0																0		
	A2: Council of Ministers																															
	E1: Ministerial Committee																															
	E2: Commission																															
	GS1: Commission																															
	CB1: **Community Parliament**																															
	DS: CEMAC Court																														3	

Note: A = automatic/technocratic procedure; N = no written rule; R = rotation; ✓ = body co-decides, but no voting rule; ← = change in status. Shaded areas refer to institutions or policy areas that are non-existent for those years.

UDEAC/CEMAC Decision Making

		Accession			Sus-pension		Constitution				Budget			Com-pliance		Policy (directives & regulations)					Dispute settlement (general economic)						
Years		Agenda	Decision	Ratification	Agenda	Decision	Agenda	Decision	Ratification	Revenue source	Agenda	Decision	Binding	Agenda	Decision	Agenda	Decision	GS role	Binding	Ratification	Coverage	Third party	Binding	Tribunal	Non-state access	Remedy	Preliminary ruling
1966–1990	Not body-specific			2	N	N			0	1			2	N	N			1	2	3							
	Member states						✓									✓											
	A1: Council of Heads of State	0	0					0				0					0										
	E1: Management Committee										0					0											
	GS1: General Secretariat															✓											
1991–1998	Not body-specific			2	N	N			0	1			2	N	N			1	2	3							
	Member states						✓									✓											
	A1: Council of Heads of State	0	0					0				0					0										
	E1: Management Committee										0					0	0										
	E2←GS1: Executive Secretariat															✓											
	GS1: **Executive Secretariat**															✓											
1999	Not body-specific			2	N	N			0	2			2	A				2	2	3							
	Member states						✓																				
	A1: **Conference of Heads of State**	0	0					0																			
	A2←E1: Council of Ministers						3					2			2		2										
	A3←E1: Ministerial Committee						3										2										
	E2: Executive Secretariat						✓				✓					✓											
	E3: Ministerial Committee						3										2										
	GS1: Executive Secretariat						✓				✓					✓											
2000–2006	Not body-specific			2	N	N			0	2			2	A				2	2	3							
	Member states						✓																				
	A1: Heads of State Conference	0	0					0																			
	A2: Council of Ministers						3					2			2		2										
	A3: Ministerial Committee						3										2										

(*continued*)

UDEAC/CEMAC Decision Making (Continued)

		Accession			Sus-pension		Constitution				Budget			Com-pliance		Policy (directives & regulations)					Dispute settlement (general economic)						
Years		Agenda	Decision	Ratification	Agenda	Decision	Agenda	Decision	Ratification	Revenue source	Agenda	Decision	Binding	Agenda	Decision	Agenda	Decision	GS role	Binding	Ratification	Coverage	Third party	Binding	Tribunal	Non-state access	Remedy	Preliminary ruling
	E2: Executive Secretariat						✓				✓					✓											
	E3: Ministerial Committee						3										2										
	GS1: Executive Secretariat						✓				✓					✓											
	CB1: Interparliamentary Commission																										
	DS: CEMAC Court																				2	2	2	2	2	2	2
2007–2009	Not body-specific			2	N	N			0	2			2	A				2	2	3							
	Member states						✓																				
	A1: Heads of State Conference	0	0					0																			
	A2: Council of Ministers						3					2			2		2										
	A3: Ministerial Committee						3										2										
	E2: **Commission**						3				3					3											
	E3: Ministerial Committee						3										2										
	GS1: **Commission**						3				3					3											
	CB1: Interparliamentary Commission																										
	DS: CEMAC Court																				2	2	2	2	2	2	2
2010	Not body-specific			2	N	N			0	2			2	A				2	2	3							
	Member states						✓																				
	A1: Heads of State Conference	0	0					0																			
	A2: Council of Ministers						3					2			2		2										
	A3: Ministerial Committee						3										2										
	E2: Commission						3				3					3											
	E3: Ministerial Committee						3										2										
	GS1: Commission						3				3					3											
	CB1: **Community Parliament**						3									3											
	DS: CEMAC Court																				2	2	2	2	2	2	2

Note: A = automatic/technocratic procedure; N = no written rule; R = rotation; ✓ = body co-decides, but no voting rule; ← = change in status. Shaded areas refer to institutions or policy areas that are non-existent for those years.

Common Market for Eastern and Southern Africa (COMESA)

The Common Market for Eastern and Southern Africa is a general purpose regional organization in Eastern and Southern Africa with nineteen members. Its stated mission is to "achieve increased co-operation and integration in all fields of development, particularly in trade, customs and monetary affairs; in transport, communication and information; in technology, industry and energy; in agriculture, environment and natural resources; and in gender matters under an environment of peace and security" (2008 Annual Report: ii). Its headquarters are located in Lusaka, Zambia.

COMESA is a product of pan-Africanism following decolonization in the 1960s. Both the United Nations Economic Commission for Africa and the Organization of African Unity played a key role in the creation of the Preferential Trade Area for Eastern and Southern Africa (PTA-ESA), the predecessor of COMESA (Mwale 2001: 39). In 1965, the UN Commission convened a ministerial meeting in Lusaka to deliberate on economic integration among the newly independent states of Eastern and Southern Africa. An Interim Council of Ministers was set up to guide the negotiations and initiate programs of economic cooperation. Little progress was made in the early years as attention shifted to the much smaller and cohesive East African Community (EAC), which combined Kenya, Uganda, and Tanzania. When the EAC ceased operations in 1977 the idea of a large trade zone in Eastern and Southern Africa was revisited. At a 1978 meeting, ministers of trade, finance, and planning passed the Lusaka Declaration of Intent and Commitment to the Establishment of a Preferential Trade Area for Eastern and Southern Africa (PTA-ESA). The proposal envisaged starting with a preferential trade area, which would be gradually upgraded to a common market over a ten-year period. Nine heads of state signed the PTA Treaty in December 1981. The Treaty was agreed under the umbrella of the Organization for African Unity's Lagos Plan of Action on the formation of economic groupings in Africa (Anglin 1983: 684–5; Mwale 2001).

The PTA-ESA became COMESA in 1993. Membership has been volatile. Eritrea joined in 1993; Angola, Lesotho, Mozambique, Namibia, and Tanzania joined in 1994; Egypt in 1999; the Seychelles in 2001; and Libya in 2005. In 1997, Lesotho and Mozambique left the organization, followed by Tanzania in 2001, Namibia in 2004, and Angola in 2007. Still, it is one of the organizations that "dominate the [African] integration landscape" (Nyirabu 2004: 22).

Nine members launched a free trade agreement in October 2000 (Djibouti, Egypt, Kenya, Madagascar, Malawi, Mauritius, Sudan, Zambia, and Zimbabwe). Rwanda and Burundi joined the FTA in 2004, and the Comoros and Libya in 2006. Overlapping memberships and competences between different regional organizations have complicated achieving the objectives (for an overview, see

Draper, Halleson, and Alves 2007; Buigut 2006). In 2008, therefore, COMESA agreed to extend its free trade zone to the East African Community (EAC) and the Southern African Development Community (SADC). This so-called Tripartite Free Trade Area was signed in 2015. In 2009, the central bank governors agreed to a Monetary Institute, established in 2011, which aims to create a monetary union by 2018. Besides trade and financial integration, COMESA coordinates programs to promote investment, the private sector, infrastructure, and information technology (for an overview, see Karangizi and Musonda 2001: 46–61). COMESA also developed a foothold beyond economic cooperation when it established a Committee on Peace and Security in 2000.

The key documents are the Treaty Establishing the Preferential Trade Area for Eastern and Southern Africa (signed 1981; in force 1982) and the COMESA Treaty (signed 1993; in force 1994). The chief bodies are the Authority, which acts as an assembly, the Council of Ministers, which acts as an executive, and a relatively authoritative Secretariat.

Institutional Structure

A1: AUTHORITY (1982–2010)

The Authority is the chief decision body of the PTA-ESA. Composed of the heads of state and government of all member states, it sets the general direction (PTA Treaty, Arts. 6.1 and 6.2). The Authority takes decisions by consensus, and its decisions are binding (Arts. 6.5 and 6.3). It generally meets once a year (Art. 6.4).

The COMESA Treaty designates the Authority as the "supreme Policy Organ of the Common Market" and maintains its composition, role, and competences (Art. 8.2). Under its Rules of Procedure, the Authority elects a Bureau composed of a chair, vice-chair, and rapporteur for two years (Karangizi and Musonda 2001: 42).

E1: COUNCIL OF MINISTERS (1982–2010)

The Council of Ministers is the executive body. Composed of ministers designated by member states, the Council monitors the functioning and development of the organization. It can recommend policy to the Authority, give directions to subordinate bodies, and exercise other powers conferred upon it (PTA Agreement, Arts. 7.1 and 7.2). The Council takes binding decisions by consensus, and if no consensus can be found, it sends the proposal to the Authority for a final decision (Arts. 7.4, 7.6, and 7.7). The Council meets twice a year and its chair rotates between the member states (Arts. 7.4 and 7.5).

Under the PTA Treaty, the Council is assisted by a variety of commissions and technical committees including the Intergovernmental Commission of

Experts, the Customs and Trade Committee, the Committee on Agricultural Cooperation, the Payment and Clearings Committee, and others. All but one (the Payment and Clearings Committee) are composed of state representatives (Arts. 11.1 and 11.3). They play an important role in supervising implementation, and report directly to the Council (Art. 11.5c).

The COMESA Treaty fills out detail. The Council generally adopts decisions by consensus, but can also decide by two-thirds majority if it cannot reach consensus (Art. 9.6). Most decisions of the Council are binding (regulations, directives, and decisions) (Arts. 9.3 and 10). The Council is now chaired by a Bureau comprised of a chair, a vice-chair, and a rapporteur. The Council elects the chair and vice-chair for one year, with the possibility of one re-election, and elections should observe geographical and linguistic balance (Council Rules of Procedure, Arts. 5.1 and 5.3). This stands in tension with Article 7.1 in the Council Regulations, which states that the chair and vice-chair are supposed to be from the same member state as the chair and vice-chair of the Authority. As a result, the Council's own election of its leadership appears to be quite constrained.[δ] We code rotation as well as election by the Council (by the general decision rule of supermajority).

The Treaty also expands the list of technical committees under the purview of the Council (COMESA Treaty, Art. 15), and strengthens the coordinating role of the Intergovernmental Committee (Annex II, Rule 3). This body takes decisions by simple majority (Annex II, Rule 10). The new Treaty also authorizes the secretary general and the Council bureau to convene sectoral ministerial meetings to consider "technical sectoral issues not having budgetary implications" (Art. 7.2). Several such Councils meet on a regular basis, including the ministers of justice and attorneys general, the ministers of finance, and the ministers of economic development (Karangizi and Musonda 2001: 42).

GS1: THE SECRETARIAT (1982–2010)

The PTA Treaty creates a Secretariat to administer the organization. Its head, the secretary general, is the "principal executive officer" of the organization (Art. 9.3). She is appointed by the Authority for a four-year term, renewable (Art. 9.2), and can be removed from office by the Authority upon recommendation by the Council (Art. 9.4). The Council and Authority decide by consensus. The secretary general's primary role is to administer, monitor, and collect information. She draws up the budget (Art. 9.7 (c)), monitors implementation of the Treaty (Art. 9.7 (d) and (f)), and may conduct studies related to the trade area on her own initiative or upon request. The secretary general also submits regular activity reports to the Council and the Authority.

The COMESA Treaty expands the term in office of the secretary general to five years and introduces two assistant secretary generals, also appointed by the Authority (Arts. 17.1 and 17.3). The secretary general now becomes the

legal representative of the organization (Art. 17.2). The Treaty also states explicitly that the Secretariat staff should be completely independent from member state influence (Arts. 17.6 and 17.7). In contrast to the earlier treaty, the new treaty has no written rules on how to remove the secretary general.

CB1: COMESA BUSINESS COUNCIL (2005–10)

The 1994 COMESA Treaty provides for the creation of a Consultative Committee of the Business Community and Other Interest Groups (Art. 18.1). Its tasks are to voice business and other interests in the decision process, make recommendations to the Intergovernmental Committee, and take part in the meetings of the technical committees (Art. 18.3). It is composed chiefly of "private sector national associations representing various sectors of national economies" (CBC Constitution, Art. 4). Associate membership is an option for non-business groups. The COMESA Business Council (CBC) became operational in 2005, even though its constitution was adopted only in 2007.[12]

Decision Making

MEMBERSHIP ACCESSION

Under the PTA Treaty, membership was open to twenty-one Eastern and Southern African countries named in the Treaty (Art. 2.2) and their immediate neighbors (Art. 2.3). The provisions on membership are ambiguous,[δ] and indicate two routes to accession. In the first option, the listed countries are automatically eligible for accession, but the Authority could determine specific terms and conditions (Art. 50.2). In the second option, immediate neighbors of a member state could join if they transmitted a request to the secretary general. In that case, member states negotiate on accession (PTA Treaty, Art. 46). Thus, we code both a technocratic procedure and member states at the initiation stage, and infer that the Authority takes the final decision on accession. Ratification is not mentioned.

The COMESA Treaty retains the decision procedure (Art. 1), but adds Botswana and post-apartheid South Africa to the list (Art. 1.3).

MEMBERSHIP SUSPENSION

The 1981 PTA Treaty did not have a suspension clause, but the 1994 COMESA Treaty introduced one. The Authority can impose sanctions, designed as a graduated system from the suspension of certain membership rights through financial penalties to full expulsion (Art. 171.3). The Treaty lays down two

[12] See <http://www.comesabusinesscouncil.org> (accessed March 2017).

reasons for imposing sanctions: a member state "defaults in performing an obligation under this Treaty," or a state's "conduct, in the opinion of the Authority, is prejudicial to the existence or the attainment of the objectives of the Common Market" (Art. 171.2).

The Authority takes decisions by consensus, the general decision rule (presumably without the member state concerned). The Authority appears to set the agenda on the second condition, while the secretary general and the Council set the agenda if the cause for sanctions concerns a violation of treaty obligations. The secretary general has the power "either on his own initiative or on the basis of a complaint, [to] investigate a presumed breach of the provisions of this Treaty and report to the Council" (Art. 17.8f). The default decision rule in the Council is supermajority (Art. 9.6). Hence we code the Authority, the secretary general, and the Council as agenda setters.

CONSTITUTIONAL REFORM

Under the PTA Treaty, constitutional amendments could be proposed by any member state (Art. 47.1). They were transmitted by the secretary general through the Council to the Authority for final decision by consensus. They entered into force when ratified by two-thirds of the member states (Arts. 47.3 and 47.4). We code member states as initiators and the Authority as the final decision maker. The secretary general and the Council's roles appear to be merely administrative.

The COMESA Treaty adds the Council as an initiator besides member states (Art. 190.1). Presumably, such decisions can be taken by supermajority if no consensus can be reached (Art. 9.6).$^{\alpha}$ Otherwise the procedure remains unchanged (see Art. 190).

REVENUES

The PTA Treaty initially prescribed annual member state contributions and "other resources as may be decided by the Council" (Art. 36.3). Member state contributions were calculated on the basis of GDP, per capita GDP, and internal exports. Member states could not contribute more than 20 percent or less than 1 percent of the total budget (Arts. 36.4 and 36.5).[13] However, various documents suggest that external funding has been central to the organization from its early days. According to a report written for the Food and Agriculture Organization, external donors contributed US$ 1.2 billion to COMESA between 1985 and 1992 (FAO 2014: Appendix 2C).[14]

[13] The Comoros and Djibouti were exempted from contributions for the first three years and received special treatment thereafter (Art. 37.1, PTA Treaty). The formula and the ceilings were changed several times (see, for example, Council decision No. 43, Official Gazette 1994).

[14] Available online at <http://www.fao.org/docrep/W5973E/w5973e06.htm> (accessed March 2017).

The COMESA Treaty retains annual member state contributions to finance the annual budget (Art. 166.4), but opens the door wide for extra-budgetary resources such as "grants, donations, funds for projects and programs and technical assistance" and introduces a common market levy ("income earned from activities undertaken by the common market") (Art. 168). While little information is available on the relative importance of the levy, we know that COMESA continues to rely heavily on external funding.[α] In 2008, the EU's contribution to the budget amounted to more than member states' annual contributions taken together (2008 Annual Report: 72–3). We code own sources from 1985 onwards—the first date for which we have reliable information.[β]

BUDGETARY ALLOCATION

The secretary general prepares an annual draft budget which is approved by the Council by unanimity (PTA Treaty, Art. 36.7). We code budgetary decisions as binding because the Council generally takes binding decisions and there is a financial compliance procedure.

The COMESA Treaty retains by and large the previous rules (Art. 166.2), but can now take decisions by two-thirds majority (Art. 9.6).

FINANCIAL COMPLIANCE

Under the PTA Treaty, a member state in arrears for more than one year for "reasons other than those caused by public or natural calamity or exceptional circumstance that gravely affects its economy" can be suspended by the Authority (Art. 37.2). We code agenda setting as technocratic and the final decision by the Authority (by consensus).

The COMESA Treaty retains the same procedure but extends the period of arrears for which sanctions kick in to two years (Art. 171.6).

POLICY MAKING

The PTA Treaty is vague on policy instruments; it simply mentions that the Council can pass protocols and decisions or regulations. Our focus here is on decisions and regulations because protocols are instruments for constitutional reform rather than day-to-day policy making.[15]

The Council passes regulations "for the better carrying out of the provisions of this Protocol" (e.g. PTA Treaty, Art. 9, Annex 2). The secondary literature

[15] Protocols are used to amend the various Annexes to the initial Treaty or to add new Annexes, such as the 1984 Protocol on Gradual Relaxation and Eventual Elimination of Visa Requirements within the PTA or the 1986 Protocol on the Establishment of a Third Party Motor Vehicle Insurance Scheme. Hence, protocols form an integral part of the initial Treaty. They are decided by the Authority.

suggests that the bulk of these concern projects and programs in functional areas such as transport, communications, and agriculture.[16] Policy is generally initiated by the Intergovernmental Commission or by one of the technical committees (e.g. Annex 1, Art. 7). Apparently, decision making in these committees could be by majority vote, but since the responsibility lies with the Council we code consensus.$^{\gamma}$ The secretary general has a right to initiate policy, which is etched in the Treaty: she has the power to "act in relation to any particular matter which appears to merit examination either on his own initiative or upon the request of a Member State" and can undertake studies and other work upon her own initiative (PTA Treaty, Arts. 9.6d and 9.6e; see also Anglin 1983: 695). The Council of Ministers takes the final decision by consensus. We also code the Authority (by consensus) as a second final decision maker. Indeed, proposals that do not find consensus in the Council are referred to the Authority. Also, the Authority needs to endorse Council decisions on trade (Art. 7.2b). Decisions appear to be binding,$^{\alpha}$ and there is no need for ratification.

The COMESA Treaty specifies that the Council can adopt regulations, directives, decisions, recommendations, and opinions (Art. 10). The first three instruments are binding on member states, and the latter two are not. Based on the few recent annual reports available on the website, it appears that regulations, directives, and decisions as well as programs and projects continue to be the primary policy instruments of the organization today, still governed by a similar decision process. The Council's subcommittees (Arts. 14 and 16) and the secretary general (Arts. 17.8g and 17.8j) are the chief initiators. From 2005 the Business Council becomes an actor with a strong legal standing in the Treaty with explicit responsibility for "ensuring that the interests of the business community and other interest groups in the Common Market are taken into consideration by the organs of the Common Market" (Art. 18.3a). Its voting rule is unspecified.$^{\alpha}$

The Council takes the final decision under the direction of the Authority, which sets the general policy (Arts. 9.2d and 10). In contrast to the consensus rule under the PTA Treaty, the Council now takes decisions by two-thirds majority. The Authority remains involved by virtue of its mandate to take decisions by consensus when a member state objects in the Council (Art. 9.7), which is akin to a "vital interest" clause. Decisions are binding and ratification is not required.

DISPUTE SETTLEMENT

The 1981 PTA Treaty creates a Tribunal to interpret and apply the Treaty and to adjudicate disputes (Art. 10). This body became operational in 1982 (Kiplagat

[16] See <http://www.fao.org/docrep/W5973E/w5973e06.htm> (accessed February 12, 2017).

1995: 445). Coverage is obligatory since the mechanism is an integral part of the PTA Treaty.

The Tribunal constituted a mechanism of last resort. It could be invoked after parties had failed to settle a dispute and only after political mediation. Either disputing party could refer a matter to the Tribunal for a final verdict (Art. 40)—a weak form of automatic third-party review.[β] Non-state actors did not have access to the Tribunal. The standing Tribunal consisted of four regular members and a chair appointed by the Authority for minimally five years. The chair was to be a "jurist of recognized competence," while the other members had to be qualified "by reason of their knowledge or experience in industry, commerce or public affairs"; all were to be impartial and independent (Tribunal Statute, Arts. 3 and 4). The Tribunal rendered disputes that were "final and conclusive" (Art. 7.1) and therefore binding. While member states committed to taking "without delay, the measures required to implement a decision of the Tribunal" (Art. 11.3), there were no remedies for non-compliance. Nor was there a preliminary rulings procedure (Art. 8). Reportedly, the Tribunal proved ineffective, and scholars attribute this to the lack of private access and to its restricted jurisdiction (Kiplagat 1995: 445–7; see also Ntumba 1997).

The COMESA Treaty steps up provisions concerning dispute settlement. It lays the groundwork for a Court of Justice (Art. 7) which is obligatory for all COMESA member states. This Court began to operate in 1998 when the Authority appointed the first judges. Initially, the Court had its seat within the Secretariat but in 2003 it moved to Khartoum, Sudan (Gathii 2011: 265). The Court consists of seven "impartial and independent" judges, appointed by the Authority for a five-year term with the possibility of a one-time renewal (Arts. 20 and 21.1). No two judges may be of the same member state (Art. 20.2).

The Court is now given "broadness of jurisdiction" (Gathii 2011: 266), and it is a lot easier for aggrieved parties to kick-start the judicial process. Any member state claiming that another member state (or the Council) has failed to fulfill a Treaty obligation or has infringed the Treaty can bring the matter to the Court (Art. 24.1). Moreover, not only member states, but also the Secretariat and, importantly, natural and legal persons can refer cases to the Court, though natural persons must first have exhausted all national remedies (Arts. 25 and 26). As before, the Court's judgments are "final and conclusive and not open to appeal" (Art. 31.1). Member states "shall take, without delay, the measures required to implement a judgment of the Court" (Art. 34.3). Thus, the Court's judgments are binding. They also "have precedence over decisions of national courts" (Karangizi and Musonda 2001: 45). The Court is authorized to prescribe retaliatory sanctions if a party "defaults in implementing the decisions of the Court" (Art. 34.4). We do not score direct

PTA-ESA/COMESA Institutional Structure

		A1			E1										GS1		CB1
Years		Non-state selection	Indirect representation	Weighted voting	Head—agenda	Head—decision	Members—agenda	Members—decision	Non-state selection	Partial representation	Indirect representation	Reserved seats	Weighted voting	Partial veto	Select	Remove	Non-state selection
1982–1993	Not body-specific	0	0	0	R	R			0	0	0	0	0	0			
	Member states						✓	✓									
	A1: Authority														0	0	
	E1: Council of Ministers																
	GS1: Secretariat																
	DS: Tribunal																
1994–1997	Not body-specific	0	0	0	R	R			0	0	0	0	0	0		N	
	Member states						✓	✓									
	A1: Authority														0		
	E1: Council of Ministers				2	2											
	GS1: Secretariat																
	DS: Tribunal																
1998–2004	Not body-specific	0	0	0	R	R			0	0	0	0	0	0		N	
	Member states						✓	✓									
	A1: Authority														0		
	E1: Council of Ministers				2	2											
	GS1: Secretariat																
	DS: **Court of Justice**																
2005–2010	Not body-specific	0	0	0	R	R			0	0	0	0	0	0		N	1
	Member states						✓	✓									
	A1: Authority														0		
	E1: Council of Ministers				2	2											
	GS1: Secretariat																
	CB1: COMESA Business Council																
	DS: Court of Justice																

Note: A = automatic/technocratic procedure; N = no written rule; R = rotation; ✓ = body co-decides, but no voting rule; ← = change in status. Shaded areas refer to institutions or policy areas that are non-existent for those years.

effect, but note that the COMESA Court has recently moved to develop a doctrine of direct effect: it asserted direct effect in the Polytol Paints vs. Mauritius ruling of 2012 (Tino 2015: 502; Mwanza 2014). A preliminary rulings procedure uses almost word for word the language of the Treaty on European Union. National courts can request a preliminary ruling by the Court on whether there is a conflict between national law and the COMESA Treaty (COMESA Treaty, Art. 30.1; see also Tino 2015: 492). National courts of final appeal must refer the issue to the Court (Art. 30.2). Hence we apply the highest score on preliminary rulings.

PTA-ESA/COMESA Decision Making

		Accession			Suspension		Constitution				Budget			Compliance		Policy (regulations, programs)					Dispute settlement (trade/broad economic)						
Years		Agenda	Decision	Ratification	Agenda	Decision	Agenda	Decision	Ratification	Revenue source	Agenda	Decision	Binding	Agenda	Decision	Agenda	Decision	GS role	Binding	Ratification	Coverage	Third party	Binding	Tribunal	Non-state access	Remedy	Preliminary ruling
1982–1984	Not body-specific	A		2	N	N			2	1			2	A				1	2	3							
	Member states	✓					✓																				
	A1: Authority		0					0							0		0										
	E1: Council of Ministers											0				0	0										
	GS1: Secretariat										✓					✓											
	DS: Tribunal																				2	2	2	2	0	0	0
1985–1993	Not body-specific	A		2	N	N			2	2			2	A				1	2	3							
	Member states	✓					✓																				
	A1: Authority		0					0							0		0										
	E1: Council of Ministers											0				0	0										
	GS1: Secretariat										✓					✓											
	DS: Tribunal																				2	2	2	2	0	0	0
1994–1997	Not body-specific	A		2					2	2			2	A				1	2	3							
	Member states	✓					✓																				
	A1: Authority		0		0	0		0							0		0										
	E1: Council of Ministers				2		2					2				2	2										
	GS1: Secretariat				✓						✓					✓											
	DS: Tribunal																				2	2	2	2	0	0	0
1998–2004	Not body-specific	A		2					2	2			2	A				1	2	3							
	Member states	✓					✓																				
	A1: Authority		0		0	0		0							0		0										
	E1: Council of Ministers				2		2					2				2	2										
	GS1: Secretariat				✓						✓					✓											
	DS: **Court of Justice**																				2	2	2	2	2	1	2
2005–2010	Not body-specific	A		2					2	2			2	A				1	2	3							
	Member states	✓					✓																				
	A1: Authority		0		0	0		0							0		0										
	E1: Council of Ministers				2		2					2				2	2										
	GS1: Secretariat				✓						✓					✓											
	CB1: Business Council															N											
	DS: Court of Justice																				2	2	2	2	2	1	2

Note: A = automatic/technocratic procedure; N = no written rule; R = rotation; ✓ = body co-decides, but no voting rule; ← = change in status. Shaded areas refer to institutions or policy areas that are non-existent for those years.

East African Community (EAC I and EAC II)

The East African Community is a regional organization comprising longstanding members Kenya, Uganda, and Tanzania, and two recent members, Rwanda and Burundi. Originally set up in 1967, the EAC folded in 1977, but was re-established two decades later. Its mission is to develop "policies and programs aimed at widening and deepening co-operation among the partner states in political, economic, social and cultural fields, research and technology, defense, security and legal and judicial affairs" with the ultimate objective of a "political federation" (EAC Treaty, Art. 5.1 and Art. 5.2). The EAC Secretariat is based in Arusha, Tanzania.

Cooperation among Kenya, Tanzania, and Uganda dates back to the colonial period of the late nineteenth century when the British protectorate actively fostered cooperation in order to "advance a more unified administrative control over their East African territories" (Kasaija 2004: 25). Early efforts include the establishment of a Court of Appeal for East Africa in 1902, a postal union in 1911, and a customs union between Kenya and Uganda in 1917, which Tanganyika (later Tanzania after its merger with Zanzibar) joined in 1927. After World War II, the British set up a quasi-federation in the so-called High Commission which established a common market alongside the East African Railway and Harbor Administration and the East African Posts and Telecommunications Administration. With the independence of Tanganyika in 1961, the High Commission became the East African Common Services Organization (1961–7) which continued to exist following the decolonization of Kenya and Uganda. Nevertheless, an attempt to unify the three countries in a full-fledged federation failed (Nye 1965: ch. 6).

After several years of arduous negotiation, the three countries signed the Treaty on East African Cooperation in December 1967. It placed the common market and the common services under a single framework and gave the former a legal basis. The organization initially raised high hopes and it was quickly seen as "one of the most integrated and most advanced of regional organizations for economic and political co-operation" (Sebalu 1972: 345). The participating countries inherited a well-functioning organization from Britain. In an effort to spread the benefits of cooperation, the EAC devolved its institutions across the constituent states and even established a system of transfer taxes (Fitzke 1999: 134). Nevertheless, the organization collapsed in 1977. Causes for the collapse included demands by Kenya for more seats than Uganda and Tanzania in the decision organs, the disproportionate economic benefits accruing to Kenya, disagreements with Ugandan dictator Idi Amin, and the disparate economic systems of socialism in Tanzania and capitalism in Kenya (Mugambo 1978; Hazlewood 1979; Ravenhill 1979). The assets of the East African Community were finally wrapped up in 1984 when the former

members signed a Mediation Agreement for the Division of Assets and Liabilities. However, this agreement already contained the seeds for renewed efforts at integration.

In 1993, the presidents of Kenya, Tanzania, and Uganda signed the Treaty for East African Co-operation in Arusha, Tanzania, and established a Tripartite Commission for Co-operation. The Commission was intended to spearhead re-integration focused on broad-ranging cooperation in trade, research, technology, defense, security, legal, and judicial affairs. This led to the revival of the EAC with the Treaty for Establishment of the East African Community signed in November 1999 (Fitzke 1999: 141–3). It marked the beginning of an integration process that has proceeded steadily since then, albeit with occasional setbacks (Thorp 2010). A customs union was established in March 2004, which came into full operation in 2010. A common set of tariffs applies to goods imported from third-party countries. Rwanda and Burundi acceded to the EAC Treaty in 2007. In 2010, the EAC launched a common market for goods, labor, and capital with the goal of a common currency by 2012 and, in time, full political federation (for skeptical views on monetary union, see Kishor and Ssozi (2012) and on political federation, see Kasaija (2004)).

The EAC is one of the pillars of the African Economic Community, and it receives substantial external support from international donors (Bachmann and Sidaway 2010). Its key legal documents are the Treaty for East African Cooperation between Kenya, Tanzania, and Uganda (Kampala Agreement, signed and in force 1967), the Agreement for the Establishment of the Permanent Tripartite Commission for East African Co-operation (signed and in force 1993), the Arusha Treaty for the Establishment of the East African Community (signed 1999; in force 2000); and subsequent revisions in 2006 and 2007. Today, the EAC has two assemblies (the Summit and the East African Legislative Assembly), one executive (Council), and a secretariat.

Institutional Structure

A1: FROM THE EAST AFRICAN AUTHORITY (1967–76) TO THE SUMMIT (2000–10)

The Kampala Agreement established the East African Authority, composed of the member states' presidents, as the supreme decision making body (Arts. 46 and 47.1). It had general direction and control over the Community's executive and could give instructions to subordinate bodies, in particular the ministerial Councils and the so-called East African Ministers (Art. 48). It also needed to give its consent to decisions by the Assembly (Art. 59). The Authority took decisions by unanimity, which were then binding on member states (Arts. 60 and 96.2). The chair rotated among member states (Annex XI,

Art. 1a). The Authority could delegate to the Councils and to the East African Ministers (Annex XI, Art. 2).

The Authority's daily governance was conducted by three East African Ministers, one from each member state. These were high government officials (ministers, deputy ministers, or parliamentary secretaries) appointed by the Authority (Art. 49.2). They served at the pleasure of the Authority, and so did not have a fixed term of office (Art. 50). The East African Ministers' primary task was to assist the Authority in its executive functions, advise on Community Affairs, and negotiate on behalf of the Community in air services in conjunction with the East African Airways Corporation (Art. 51). The Authority could also decide, if need be, to appoint three Deputy East African Ministers (Art. 52).

After its collapse in 1976, the 1993 Agreement revived the East African Community. The agreement set up the Permanent Tripartite Commission for Cooperation, composed of ministers from the three member states, which we code as the most senior assembly because of its broad-ranging constitutional functions.[β] Ministers for regional cooperation chaired the Commission, and sectoral ministers convened depending on the topic (Arts. 1 and 2.1). The Commission's main responsibility was to "promote cooperation in various fields including political, economic, social, cultural and security among the States for their mutual benefit" (Art. 1). It initiated, planned, and implemented tripartite programs of cooperation (Art. 3.1). The Commission took decisions by consensus; when consensus could not be reached, decisions were referred to the heads of state (Art. 4.5). The heads of state met irregularly, whereas the Commission held at least three meetings a year (Art. 4.1). The chair rotated annually among member states (Art. 5).

With the 1999 Treaty, the Summit is reinstated as the central decision body. Composed of heads of state or government, it is responsible for providing general direction and impetus to the integration process, considering annual progress reports, and providing assent to Bills (Art. 11). The Summit meets once a year and takes binding decisions by consensus (Arts. 8.2b and 12.3). The chair rotates among the member states.

A2: EAST AFRICAN LEGISLATIVE ASSEMBLY (1967–76/2001–10)

The 1967 Kampala Treaty created the East African Legislative Assembly as the "legislative body" of the organization (Art. 56). The Assembly was composed of the three East African Ministers, the three Deputy East African Ministers (if the Authority decided to create these posts), twenty-seven appointed members, the Assembly's chair, the secretary general and the Counsel to the Community[17]

[17] The Counsel is a post in the "service of the Community," appointed by the Authority, but with unclear competences (Arts. 61 and 63).

(Art. 56.2). The twenty-seven members, nine per member state, were appointed by their respective national legislatures and could not be a member of a community institution or of the national government (Arts. 57 and 58). Their tenure coincided with the tenure of the national legislature that appointed them (Art. 58). The twenty-seven members made up more than half of all Assembly members, so we code that "more than 50 percent are selected by non-state actors." Hence, member state representation is mostly indirect.

The Assembly, which met at least once a year, adopted legislative measures in the form of Bills (Annex XI, Art. 12a and Art. 59). Decisions were taken by majority vote; the chair, the secretary general, and the Counsel to the Community could not vote (Arts. 15a and 15b, Annex XI). Decisions became binding if adopted by the Authority; if not, they lapsed after nine months (Arts. 59 and 60). The Authority appointed the chair (Annex XI, Art. 10a). Observers note that the Authority lost momentum in the wake of the 1971 military coup in Uganda, at which point it became the premier "pressure group for East African co-operation" and showed signs of "becoming the conscience of the Community" (Hazlewood 1975: 91).

The 1999 EAC Treaty revives the East African Legislative Assembly (EALA) as the "legislative organ of the Community" (Art. 49.1). Made operational in 2001, it was initially composed of twenty-seven elected members, nine from each member state, and five ex officio members, including the three ministers responsible for regional cooperation as well as the secretary general and the Counsel of the Community (Art. 48.1). It was expanded with each enlargement, and now has fifty-two members. The elected members are chosen by each national assembly for five years, renewable once (Arts. 50 and 51). The Assembly deliberates and votes on bills which are then submitted to the Summit for its assent. The body also has extensive oversight functions: it approves the budget of the Community, discusses all matters pertaining to the Community, questions the Council, makes recommendations to the Council, and liaises with national assemblies (Art. 49). Decisions are taken by majority, with ex officio members not entitled to vote (Art. 58). The Assembly elects a chair from among its elected members on a rotational basis for five years and meets at least once a year (Arts. 53.1 and 55.2).

E1: COUNCIL (1967–76/2000–10)

Created by the 1967 Kampala Agreement, the Council is a multi-tiered body that can meet in sectoral configurations. Initially, the Agreement established five such Councils on the common market, communications, economic consultation and planning, finance, and research and social issues (Art. 53). The Councils were composed of the three East African Ministers nominated by the Authority plus an equal number of ministers from each country, ranging from one to three (Art. 54). The East African Ministers were nominated by the Authority

(Art. 49.2). Council members were proposed by member states and the final decision was taken by member states in conjunction with the Authority.

The premier council was the Common Market Council (Art. 30). Each Council took decisions by unanimity, and when a member state objected, the proposal was referred to the Authority (Art. 8a, Annex XI). The chair of the Council rotated among the member states in four-month intervals, in the order determined by the Authority (Annex XI, Art. 6a).

Under the 1993 Agreement, the Tripartite Commission served as the executive body because it was responsible for implementation (Art. 3.1a). The chair, which rotated among member states (Art. 5.2), played an important role in implementing activities and monitoring progress (Art. 5.3).

Under the 1999 EAC Treaty, the Council becomes the "policy organ of the Community" (Art. 14.1). It is normally composed of ministers responsible for regional cooperation in each member state, though it can also convene sectoral ministers depending on the issue at hand. It is empowered to "promote, monitor and keep under constant review the implementation of the programs of the Community and ensure the proper functioning and development of the Community" (Art. 14.2). The secondary literature also locates "the responsibility for implementing EAC law" with the Council (Thorp 2010: 24). Hence we code the Council as an executive rather than an assembly. Its functions include making policy decisions in the form of regulations, directives, recommendations, and decisions, initiating Bills for adoption by the Assembly, considering the budget, submitting annual progress reports to the Summit, and implementing Summit decisions (Art. 14.3). The Council takes most of its decisions, which are binding on member states, by consensus (Arts. 15.4 and 16; Council Protocol, Art. 2.1h). The Council's chair is appointed by rotation and the body meets at least twice a year (Art. 15).

The Council is assisted by a Coordination Committee composed of the Permanent Secretaries responsible for regional cooperation (Arts. 17–19). The Coordination Committee can establish, with the consent of the Council, special Sectoral Committees to oversee implementation in particular sectors (Arts. 20–22).

When the Treaty is amended in 2007, Council membership is expanded to include the Attorneys General (Art. 13c).

E2: GENERAL SECRETARIAT (1967–76/1996–2010)

The 1967 Kampala Agreement gave the Secretariat the task to "keep the functioning of the Common Market under continuous examination," to "act in relation to any particular matter," and to "make proposals" to the Councils on the functioning of the common market (Art. 31; see also Sebalu 1972: 352).

The secretary general was denoted as the "principal executive officer of the organization" (Art. 61.1a) and was appointed by the Authority by consensus (Art. 63.1). The Secretariat consisted further of a Counsel, an Auditor-General, as well as other officers as determined by the Authority (Arts. 61.1 and 61.2). Like the secretary general, they were appointed by the Authority, presumably also by consensus, after consultation with the Service Commission and with the secretary general (Art. 63.2). Thus, we code these two as agenda setters.

Hence, the composition of the Secretariat is determined fully by member states. There are no assurances in the Treaty that each member state has a top post.$^{\alpha}$ The designation of these posts as "offices in the service of the Community" (Art. 61.1) and the immunities that holders of these posts enjoy (Art. 3.4) suggest that they are independent from member states.

The 1993 Agreement reinstates the Secretariat, which starts its operations in 1996 in Arusha. In the preceding years units in the national administrations coordinated the administration of regional cooperation (Art. 6). The Secretariat is described as the "principal executive organ of the Commission" (Secretariat Protocol, Art. 4.1). Its chief responsibility is to "ensure that the objectives set out in the Agreement are attained" (Art. 4.2). It has the power to strategically plan, manage, and implement programs of the Tripartite Commission, to implement decisions of the Commission, to manage the organization's finances, to represent and promote the aims of the organization, to coordinate and harmonize national policies, and to provide administrative services (Art. 4.3). The Secretariat consists of the executive secretary, two deputies, and staff. The former is appointed for five years on a rotational basis by the heads of state upon recommendation by the Commission (Art. 5.1). Even though the Treaty mentions that he could also be removed, the permissible grounds seem to be technical rather than political (see Art. 5.1b). The two deputy executive secretaries are appointed on a rotational basis by the Commission for three years, renewable once (Art. 5.2). We conclude that all states are guaranteed representation. There is a provision in the Treaty that members of the Secretariat should not receive instructions from member states or any other external authority (Art. 5.7).

With the 1999 Treaty, the Secretariat becomes the "executive organ of the Community" (Art. 66.1), while the earlier Tripartite Commission Secretariat ceases to exist (Art. 139).[18] It is composed of a secretary general, several deputy secretary generals as well as the regular staff (Arts. 67–70). The Treaty introduces rotation: countries take turns in suggesting a secretary general, who is then appointed by the Summit for five years (Art. 67). The Council

[18] The Commission Secretariat staff "transferred over" to the newly established Secretariat, including the secretary general and his Deputies (1999 Treaty, Art. 140.1).

determines the number of deputy secretary generals. The country where the secretary general is from cannot also have a deputy. Deputies are appointed by the Summit upon recommendation of the Council for a period of three years, renewable once, according to a system of rotation (Art. 68). Even after enlargement, each member state has been entitled to either the secretary general or a deputy post. Thus, the executive is fully composed of member state representatives and all member states are represented; representation is indirect as the Secretariat's staff is held to act independently of member state influence (Art. 72). The Secretariat's tasks include initiating, receiving, and submitting recommendations to the Council, initiating studies and research, strategic planning, management and monitoring of Community programs, coordinating and harmonizing policies and strategies, managing the Community finances, mobilizing funds from development partners and other sources, submitting the budget of the Community to the Council and implementing Summit and Council decisions (Art. 71.1). In short, it has "day-to-day operational oversight" (Thorp 2010: 24).

E3: SERVICE COMMISSION (1967–76)

The Kampala Agreement also created a Service Commission, which is a specialized executive body responsible for recruitment, grading, and deployment of professional staff as well as disciplinary control in the EAC corporations (Art. 64.1). We code it because EAC organs and institutions were important in the early years of the EAC. It is composed of officials or experts appointed by the Authority (Art. 62). There are no written rules on who proposes the members or the chair. The composition of the body is fully member state controlled. Member state representation is coded as partial because there is no provision that all member states are represented. Representation is indirect.

The Commission fell into disrepair when the EAC collapsed in 1977. It was not reinstated with the 1999 Treaty. In 2011, the EAC Parliament passed a bill proposing an autonomous EAC Service Commission to oversee the recruitment of professional staff in the East African Community, its organs, and institutions. The first five members of the East African Service Commission were sworn in to their position in July 2016.[19]

GS1: SECRETARIAT (1967–76/1996–2010)

The 1967 Kampala Agreement established a Secretariat as the main administrative body of the organization (Art. 3.3). There were no written rules on the dismissal of the secretary general.

[19] See <http://www.eac.int/news-and-media/press-releases/20160728/commissioners-eac-ad-hoc-service-commission-sworn> (accessed March 2017).

The 1993 Agreement established a Secretariat to coordinate and service the work of the Commission (Art. 6); when the Secretariat was established in 1996, it was also given executive tasks. The 1999 Treaty retains the previous Secretariat and enlarges its staff and competences (Arts. 66–71).

CONSULTATIVE BODIES

The EAC does not have routinized consultative bodies composed of non-state representatives.

The Kampala Agreement created an East African Tax Board as an advisory body to member states for taxation and fiscal planning. The Board was also tasked to smooth cooperation between the East African Customs and Excise Department and the East African Income Tax Department (Arts. 29a and 88). It was composed almost exclusively of government officials (Art. 88.2).

In the contemporary East African Community various non-governmental organizations have "observer status" conformant to Article 3.5 of the 1999 Treaty. These include the East African Business Council, the East African Trade Union Council, the East African Center for Constitutional Development, the East African Magistrates and Judges Association, and the East African Law Society. Representatives can attend and participate in EAC meetings provided the chair allows them to. EAC bodies are not legally bound to invite or consider statements by these bodies (Procedure, Art. 5.4). Besides organizations with formal observer status, there is also an East African Civil Society Organization Forum, created in 2007, which promotes civil society participation in the integration process.

Decision Making

MEMBERSHIP ACCESSION

Initially, the 1967 Kampala Treaty did not contain rules on accession, but it had a provision on association: it simply stated that the "partner states may together negotiate with any foreign country with a view to the association of that country with the Community" (Art. 93).

The 1999 EAC Treaty is more explicit. It lays out a range of accession criteria, including geographical proximity, interdependence, a market-driven economy, and compatible social and economic policies (Art. 3.3). The Treaty specifies that member states may "together negotiate with any foreign country the granting of membership" and that the Council lays down the process (Arts. 3.2 and 3.6). A special protocol specifies that the recommendation is made by the Council by consensus, and that the Summit takes the final decision, also by consensus (Council Protocol, Art. 2.1hiii). Ratification by all is required. The accession treaties for Burundi and Rwanda, which joined the EAC in 2007, suggest that the Summit invited these countries to apply,

that these invitations were followed by detailed negotiations over the terms of accession, and that the resulting accession treaty was ratified by all EAC members (Treaty of Accession of the Republic of Burundi into the East African Community). Hence, we code both the Summit and the Council as initiators.[δ]

MEMBERSHIP SUSPENSION

Rules on suspension were inserted for the first time in the 1999 Treaty. The Summit may suspend a member state from Community activities if "that State fails to observe and fulfill the fundamental principles and objectives of the Treaty including failure to meet financial commitments to the Community" (Art. 146). It may expel a member state "for gross and persistent violation of the principles and objectives of this Treaty" (Art. 147). Hence, the Summit takes the final decision by consensus in the absence of the member state in question (Art. 148). The Treaty does not specify who can initiate the process, but it appears that both the Secretariat and the Council play a role. Indeed, the Protocol on Council decision making details that the Council makes a recommendation by consensus to the Summit concerning the suspension of a member state (Council Protocol, Art. 2.1hvi). And the Secretariat's broad powers suggest that it can also take the initiative.[β] According to the Treaty, the Secretariat is entitled to "undertak[e] either on its own initiative or otherwise, of such investigations, collection of information, or verification of matters relating to any matter affecting the Community that appears to it to merit examination" (Art. 71.1d). We code both the Council and the Secretariat as agenda setters.

CONSTITUTIONAL REFORM

The Kampala Treaty merely stipulated that "this Treaty may be modified at any time by agreement of all the Partner States," with the exception of the Charter of the East African Development Bank, for which special rules applied (Art. 94). Thus, we code the Authority as taking the final decision on constitutional reforms by unanimity, and no written rules for agenda setting. No ratification appeared to be required.

The 1993 Agreement allows for amendments by "mutual consent of the States" in the form of exchanging letters between heads of state (Art. 11). We code the Commission as taking the final decision by consensus, with no ratification required.

The 1999 Treaty introduces a more detailed procedure. Any member state and the Council, by the general decision rule of consensus, may submit proposals (Art. 150.2). The Summit takes the final decision, again by consensus. Ratification by all member states is now required before amendments enter into force (Art. 150.6).

REVENUES

The original EAC had own resources from an income tax on business profits collected by the East African Income Tax Department, and duties collected by the East African Customs and Excise Duty Department (Art. 68 and Annex XIV). The bulk of this revenue was deposited in a General fund (Kampala Treaty, Arts. 65 and 66).[20] A smaller part (20 percent of the income tax levy and 3 percent of customs and excise duties) was donated to the Distributable Pool Fund, which allocated the monies in equal shares to the three member states (Art. 67).

The 1993 Agreement did not provide for a regular stream of revenue. The host state bore the meeting costs for the various bodies (Art. 8), and the rotating chair was made co-responsible for "mobilizing funds for regional projects and in working out financial arrangements including contributions by the States" (Art. 5.3d). Hence, we code ad hoc financing. This changed in 1996, when the Secretariat obtained an independent budget funded by annual member state contributions, shared equally among the member states, and by donations from regional and international parties (Secretariat Protocol, Arts. 7.2 and 7.7). From 1996 we code regular member state contributions.

The 1999 Treaty confirms that the budget "shall be funded by equal contributions by the Partner States and receipts from regional and international donations and any other sources as may be determined by the Council" (Art. 132.4). International donor funding appears dominant. In the 2012/13 budget, for example, 70 percent of the US$ 138 million budget came from development partners.[21] We code own resources from 2001 onwards, when the new budgetary process enters into force.[β]

BUDGETARY ALLOCATION

Under the Kampala Treaty, the Assembly and the Authority co-decided annually on an appropriation act which regulated the allocation of resources from the General Fund (Kampala Treaty, Arts. 66.5 and 66.6). The Authority was also the chief agenda setter: it prepared detailed estimates of receipts into and payments out of the General Fund before submitting them to the Assembly (Art. 66.5). The Assembly decided by simple majority, and the Authority by consensus. Acts adopted by the Authority were binding on member states (Art. 96.2), and so was the budget. There appeared to be also a role for the Finance Council in supervising the EAC corporations and agencies: it "considers and approves major financial decisions relating to the services administered by the

[20] The East African Income Tax Department ceased to exist in 1974 (Hazlewood 1975: 95–6).

[21] East African Legislative Assembly, 2013. "Press Release: EAC's $138 Million Budget for Fy 2012/2013 Presented to EALA" (exact date unknown; see <http://www.eala.org/index.php/media/view/eacs-138-million-budget-for-fy-2012-2013-presented-to-eala> (accessed September 28, 2016)).

Community, including their estimates of expenditure and related loan and investment programs" (Art. 55.4). Each autonomous corporation drafted its own budget, which was sanctioned by its primarily non-state board of directors (Art. 78), and this is reflected in our coding.[α] Neither the Service Commission nor the Secretariat appear to be involved.

After its revival in 1993, the EAC initially had no budget procedure. Cooperation projects were financed on an ad hoc basis. The 1996 Secretariat Protocol introduced a budgetary procedure, whereby the executive secretary drafts the budget and the Commission decides by consensus (Secretariat Protocol, Art. 7.6). We code the budget as binding because there is a financial compliance procedure.

The 1999 Treaty brings the budgetary procedure in line with the new institutional configuration. The secretary general drafts the budget, which is then considered by the Council, taking decisions by consensus, and approved by the Assembly by majority vote (Council Protocol, Arts. 132.2 and 2.1c). Thus, we code the Secretariat and the Council as initiators and the Assembly as final decision maker from 2001 onwards.[22]

FINANCIAL COMPLIANCE

The Kampala Treaty did not need rules on financial compliance because the EAC was run on own resources.

The 1996 Secretariat Protocol introduced a financial compliance procedure. In case of non-compliance the Commission recommends action to the heads of state (Art. 7.12). While the general decision rule among ministers and heads of state is consensus, we presume that a decision does not require consent by the member state in question.[α]

The procedure for membership suspension under the 1999 EAC Treaty also applies to financial compliance.

POLICY MAKING

The chief two policy streams under the initial EAC Treaty are the creation of a common market with a common external tariff, and the provision of common services that EAC inherited from the colonial period. We code these as separate policy streams. After the EAC relaunch, we initially code one policy stream, and from 2001 two policy streams.

Common market policy in EAC I initially took the form of Acts. The Legislative Assembly, as the main decision organ, adopted Bills by an absolute majority (Annex XI, Art. 15a). Once adopted, the Authority enacted these Bills by unanimity and renamed them as Acts (Art. 59). Acts were binding

[22] The budgetary process is detailed in the East African Community Budgetary Act of 2008.

on member states (Art. 96.2), and did not require ratification. Member states were obliged to "confer upon Acts of the Community the force of law within its territory" (Art. 95.1b). If the Authority did not enact the Bills within nine months of their adoption by the Assembly, they lapsed (Art. 60). Bills or so-called motions could be introduced in the Assembly by any of its members (Annex XI, Art. 16a). Hence, we code several actors at the agenda stage: individual member states by virtue of the East African Ministers, the Secretariat, and the Assembly (deciding by majority). The Secretariat's initiation role is codified in the Treaty, which stipulates that it "may act in relation to any particular matter which appears to merit examination . . . on its own initiative" and that it "shall make proposals thereto [related to the Common Market] as it considers may assist" in the development of the common market (Art. 31).

The second policy stream was the provision of common services, through East African Corporations in postal and telecommunication services, railways, harbors, and airways (Art. 71.2). Even though there is slight variation in the policy procedures regarding each of these corporations, the general process was the same: policy was proposed by the Board of Directors of each corporation and adopted by the Communications Council. The Board of Directors had the competence to "consider legislative proposals and recommend their enactment" (see Arts. 4e in the various parts of Annex XIII). We code these Boards as non-state because three of six members were "persons with experience in commerce, industry, finance and administration, or with technical experience or qualifications" (Art. 74.2). The other three were appointed by member states, but a contemporary observer noted that their "terms of appointment and qualifications attempted to ensure that they would not simply be representatives of their own governments" (Hazlewood 1975: 83). The Treaty states furthermore that no member state can "impose any duty upon an officer or authority of the Community, or of a Corporation as such" (Art. 95.2). Corporations were to be run "according to commercial principles" (Art. 72.1), and they were organized hierarchically. Hence, the Acts establishing the various corporations all note that "the control and executive management of the Corporation shall be vested in the Director-General" (e.g. 1967 East African Airways Corporation Act, Art. 10.2). The Communications Council then had the power "to consider and approve in principle legislative proposals submitted by the Board of Directors" by consensus (Arts. 5d, Annex XIII). Its competence in this regard entails a caveat ("in principle") because when a member state raised an objection, the proposal was referred to the Authority (Annex XI, Art. 8a). Decisions became binding once endorsed by the Authority by consensus (Art. 96.2). Hence we also code the Authority as final decision maker. No ratification was required.

The EAC ceased to operate in 1977, and the common services were fragmented in national corporations. Under the 1993 Agreement, none of these

services was reinstated. Instead the organization started cautiously by encouraging member states to cooperate on particular projects. These projects were initiated and decided by the Tripartite Commission under consensus. The Commission's role was primarily advisory; it could make suggestions to governments on how to develop cooperation, but its decisions were not binding (Arts. 3.2 and 3.3). No ratification was required (Art. 3.1a). When the Secretariat was created in 1996, it could also initiate projects and programs. It acquired responsibility for the strategic management of programs and for the coordination and harmonization of member state policies (Secretariat Protocol, Arts. 4.3a and 4.3i). The Secretariat could take decisions "on questions relating to the formulation of programs and projects . . . provided that final decisions . . . shall be made by the Commission" (Art. 6.1). Hence, we code the Secretariat as a second agenda setter besides the Commission with a codified but non-exclusive right to initiative.

The 1999 EAC Treaty expands the organization's policy scope and lays out three chief legal instruments, all of which are binding on member states (see Art. 8.2): protocols; Bills or Acts; and decisions, directives, and regulations. We code the latter two as policy stream 1 and 3 respectively.

Bills and Acts are the closest approximation to the pre-1977 Bills and Acts, even though their purpose is different. Contemporary Bills/Acts set out regulatory frameworks rather than detailed legislation. The Council, by consensus, is the chief initiator of Bills (Art. 14.3b), but the Assembly, acting by majority, can formally request the Council to present a Bill on a specific matter (Art. 59.3b). The Secretariat, similarly, holds responsibility for "initiating, receiving, and submitting recommendations to the Council" (Art. 71.1a; see also Arts. 71.1b and c), which we code as a non-exclusive right to initiative. Thus, all three have the right to initiate. Bills are adopted by the Assembly, once again acting by majority, and require the unanimous assent of the Summit. Once a Bill has been approved by the Summit, it is called an Act and enters in force. It does not require ratification (Art. 62). We code this stream from 2001, when the Assembly begins its work.

The EAC can also pass decisions, directives, and regulations, which we code as the contemporary EAC's newest policy stream from 2000. They are used to implement policy priorities set out in the Treaty, design strategies to achieve given objectives, and initiate technical studies, some of which may eventually result in higher order legislation, such as Acts. The Council or its subordinate bodies can initiate decisions, directives, or regulations (Arts. 14.3, 18a, and 21), and the Secretariat can also do so (Arts. 71.1a, b, and d). Decisions, directives, and regulations are adopted by the Council by consensus (Art. 14.3d). They are legally binding on member states and do not require ratification (Arts. 14.5 and 16). Each year, the Council adopts a plethora of decisions; it is clearly the most often used legal instrument.

Finally, protocols pertain to core policy stipulations of the Treaty; they detail concrete measures and action plans. They require ratification. To date, the Community has adopted twelve in areas as diverse as customs cooperation, foreign policy, or the establishment of various cooperation commissions.

DISPUTE SETTLEMENT

Legal dispute settlement was weakly developed in the Kampala Treaty (Nye 1965: 478), notwithstanding the fact that the Treaty mentions three bodies: a Common Market Tribunal (Art. 32), a Court of Appeal (Art. 80), and an Industrial Court (Art. 85). The chief body was clearly the Common Market Tribunal. It is the only one mentioned in the list of Community institutions (Art. 3.1) and the only one addressing the core purpose of the organization. It became operational in 1974, with its headquarters in Arusha, Tanzania, and was disbanded two years later when the EAC dissolved.[23] The Tribunal had compulsory jurisdiction for all member states.

The Tribunal was responsible for ensuring the "observance of law and of the terms of this Treaty in the interpretation and application" regarding the common market (Art. 32.1).[24] The Treaty provided for an explicit right to third-party review: any member state could refer a case to the Tribunal after it had been considered by the Common Market Council and no consensual solution had been found (Art. 36). The Tribunal consisted of a chair and four other members appointed by the Authority (by consensus) for at least three years (Arts. 33.1 and 34.1). The chair was proposed and selected by the Authority from among "jurists of a recognized competence" (Art. 33.2); each member state chose one other member; the fifth and last member was selected by common agreement between the four others from among qualified people "by reason of their knowledge or experience in industry, commerce or public affairs" (Art. 33.4). The Tribunal took decisions by majority vote, and its decisions were "final and conclusive and not open to appeal" (Art. 37). The Tribunal lacked the authority to impose sanctions, even though member states were obliged to "take, without delay, the measures required to implement a decision of the Tribunal" (Art. 41.3). We code no remedy.$^{\beta}$ Only member states could access the Tribunal, and no preliminary rulings procedure existed. The Common Market Council could request advisory opinions from the Tribunal (Art. 38).

[23] By that time, some disputes "awaited reference to the Common Market Tribunal" because they had not been settled by governmental agreement (Hazlewood 1975: 88).

[24] The Counsel of the EAC noted that the Authority had the final say with regard to the interpretation of the Treaty but that, not until 1972, interpretation matters had been referred to the Authority (Sebalu 1972: 352).

EAC I Institutional Structure (1967–76)

		A1			A2			E1										E2										E3										GS1	
Years		Non-state selection	Indirect representation	Weighted voting	Non-state selection	Indirect representation	Weighted voting	Head—agenda	Head—decision	Members—agenda	Members—decision	Non-state selection	Partial representation	Indirect representation	Reserved seats	Weighted voting	Partial veto	Head—agenda	Head—decision	Members—agenda	Members—decision	Non-state selection	Partial representation	Indirect representation	Reserved seats	Weighted voting	Partial veto	Head—agenda	Head—decision	Members—agenda	Members—decision	Non-state selection	Partial representation	Indirect representation	Reserved seats	Weighted voting	Partial veto	Select	Remove
1967–1973	Not body-specific	0	0	0	2	2	0	R	R			0	0	0	0	0	0	N				0	1	2	0	0	0			N		0	1	2	0	0	0		N
	Member states									✓	✓																												
	A1: Authority										0								0		0								0		0							0	
	A2: Legislative Assembly																																						
	E1: Council of Ministers																																						
	E2: Central Secretariat																																						
	E3: Service Commission																			N								N											
	GS1: Central Secretariat																																						
	Head E1																			✓																			
	Non-state actors: EAC Corporations																																						
1974–1976	Not body-specific	0	0	0	2	2	0	R	R			0	0	0	0	0	0	N				0	1	2	0	0	0			N		0	1	2	0	0	0		N
	Member states									✓	✓																												
	A1: Authority										0								0		0								0		0							0	
	A2: Legislative Assembly																																						
	E1: Council of Ministers																																						
	E2: Central Secretariat																																						
	E3: Service Commission																			N								N											
	GS1: Central Secretariat																																						
	Head E1																			✓																			
	Non-state actors: EAC Corporations																																						
	DS: Common Market Tribunal																																						

Note: A = automatic/technocratic procedure; N = no written rule; R = rotation; ✓ = body co-decides, but no voting rule; ← = change in status. Shaded areas refer to institutions or policy areas that are non-existent for those years.

EAC II Institutional Structure (1993–2010)

		A1			A2			E1										E2										GS1	
Years		Non-state selection	Indirect representation	Weighted voting	Non-state selection	Indirect representation	Weighted voting	Head—agenda	Head—decision	Members—agenda	Members—decision	Non-state selection	Partial representation	Indirect representation	Reserved seats	Weighted voting	Partial veto	Head—agenda	Head—decision	Members—agenda	Members—decision	Non-state selection	Partial representation	Indirect representation	Reserved seats	Weighted voting	Partial veto	Select	Remove
1993–1995	Not body-specific	0	0	0				R	R			0	0	0	0	0	0												
	Member states									✓	✓																		
	A1: Tripartite Commission																												
	E1: Tripartite Commission																												
1996–1999	Not body-specific	0	0	0				R	R			0	0	0	0	0	0	R	R	R	R	0	0	2	0	0	0	R	N
	Member states									✓	✓																		
	A1: Tripartite Commission																	0	0	0	0							0	
	E1: Tripartite Commission																	0		0									
	E2: Secretariat																												
	GS1: Secretariat																												
2000	Not body-specific	0	0	0				R	R			0	0	0	0	0	0	R	R	R	R	0	0	2	0	0	0	R	N
	Member states									✓	✓							✓											
	A1: **Summit**																		0		0							0	
	E1**: Council**																			0									
	E2: Secretariat																												
	GS1: Secretariat																												
2001–2010	Not body-specific	0	0	0	2	2	0	R	R			0	0	0	0	0	0	R	R	R	R	0	0	2	0	0	0	R	N
	Member states									✓	✓							✓											
	A1: Summit																		0	0								0	
	A2: Legislative Assembly																												
	E1: Council																			0									
	E2: Secretariat																												
	GS1: Secretariat																												
	DS: East African Court of Justice (EACJ)																												

Note: A = automatic/technocratic procedure; N = no written rule; R = rotation; ✓ = body co-decides, but no voting rule; ← = change in status. Shaded areas refer to institutions or policy areas that are non-existent for those years.

EAC I Decision Making (1967–76)

		Accession			Sus-pension		Constitution				Budget			Com-pliance		Policy 1 (bills/acts)					Policy 2 (common services)					Dispute settlement (common market)						
Years		Agenda	Decision	Ratification	Agenda	Decision	Agenda	Decision	Ratification	Revenue source	Agenda	Decision	Binding	Agenda	Decision	Agenda	Decision	GS role	Binding	Ratification	Agenda	Decision	GS role	Binding	Ratification	Coverage	Third party	Binding	Tribunal	Non-state access	Remedy	Preliminary ruling
1967–1973	Not body-specific	N	N	N	N	N	N		3	2			2					1	2	3			0	2	3							
	Member states															✓																
	A1: Authority							0			0	0					0					0										
	A2: Legislative Assembly											3				3	3														
	E1: Council of Ministers											0										0										
	E2: Central Secretariat															✓																
	E3: Service Commission																															
	GS1: Central Secretariat															✓																
	Non-state actors: EAC corporations										✓										✓											
1974–1976	Not body-specific	N	N	N	N	N	N		3	2			2					1	2	3			0	2	3							
	Member states															✓																
	A1: Authority							0			0	0					0					0										
	A2: Legislative Assembly											3				3	3														
	E1: Council of Ministers											0										0										
	E2: Central Secretariat															3																
	E3: Service Commission																															
	GS1: Central Secretariat															3																
	Non-state actors: EAC corporations										✓										✓											
	DS: Common Market Tribunal																									2	2	2	2	0	0	0

Note: A = automatic/technocratic procedure; N = no written rule; R = rotation; ✓ = rule not applicable; ← = change in status. Shaded areas refer to institutions or policy areas that are non-existent for those years.

EAC II Decision Making (1993–2010)

		Accession			Sus-pension		Constitution				Budget			Com-pliance		Policy 1 (bills/acts)					Policy 2 (cooperation projects)					Policy 3 (decisions, regulations, directives)					Dispute settlement (broad jurisdiction—except human rights)							
Years		Agenda	Decision	Ratification	Agenda	Decision	Agenda	Decision	Ratification	Revenue source	Agenda	Decision	Binding	Agenda	Decision	Agenda	Decision	GS role	Binding	Ratification	Agenda	Decision	GS role	Binding	Ratification	Agenda	Decision	GS role	Binding	Ratification	Coverage	Third party	Binding	Tribunal	Non-state access	Remedy	Preliminary ruling
1993–1995	Not body-specific	N	N	N	N	N	N		3	0														0	3											
	Member states																																			
	A1: Tripartite Commission							0													0	0														
	E1: Tripartite Commission							0													0	0														
1996–1999	Not body-specific	N	N	N	N	N	N		3	1			2										1	0	3											
	Member states																																			
	A1: Tripartite Commission							0				0		0	0						0	0														
	E1: Tripartite Commission							0				0		0	0						0	0														
	E2: Secretariat										3										3															
	GS1: Secretariat										3										3															
2000	Not body-specific			0					0	1			2															1	2	3							
	Member states						✓																													
	A1: **Summit**	0	0			0		0							0																					
	E1: **Council**	0			0		0							0												0	0									
	E2: Secretariat				3						3			3												3										
	GS1: Secretariat				3						3			3												3										
2001–2010	Not body-specific			0					0	2			2					1	2	3								1	2	3							
	Member states						✓																													
	A1: Summit	0	0			0		0							0		0																			
	A2: Legislative Assembly											3				3	3																			
	E1: Council	0			0		0				0			0		0										0	0									
	E2: Secretariat				3						3			3		3										3										
	GS1: Secretariat				3						3			3		3										3										
	DS: East African Court of Justice (EACJ)																														2	2	2	2	2	2	1

Note: A = automatic/technocratic procedure; N = no written rule; R = rotation; ✓ = body co-decides, but no voting rule; ← = change in status. Shaded areas refer to institutions or policy areas that are non-existent for those years.

The 1993 Agreement did not contain legal dispute settlement. Interstate disputes were to be settled politically.

The 1999 Treaty establishes an East African Court of Justice (EACJ) to follow in the footsteps of the Common Market Tribunal. The East African Court was made operational in 2001. The Court has broad jurisdiction over the interpretation, application, and compliance with the Treaty, including disputes between the Community and its employees (Arts. 23, 27.1, and 31). Human rights are excluded. The Treaty provides for an automatic right to third-party review regarding the fulfillment of member state obligations, infringements upon Treaty stipulations, and the legality of Community acts (Art. 28). Natural and legal persons have direct access to the Court (Art. 30). The secretary general may bring cases to the Court, especially regarding compliance with treaty stipulations, or if the Council agrees or is unable to resolve the matter (Art. 29). The Court has six judges who are nominated by the Summit for a term of seven years from among persons with the necessary skills and proven integrity and independence (Art. 24). The Court renders judgments that are final and directly binding upon member states (Arts. 35, 38, and 44); in other words, the EAC economic acquis communautaire is "self-executing" (Thorp 2010: 30). Whether this amounts to direct effect is contested (Gathii 2011, 2016; Tino 2015: 502), but direct effect is certainly not prohibited and, moreover, the Court has more than once referred to the EU's *Van Gend en Loos* or other landmark EU cases that establish the principle (Frimpong Oppong 2011: 195–7; Tino 2015: 502). Hence we lean toward direct effect.[γ] There is also a non-compulsory preliminary rulings procedure. A national court can refer a case to the Court "if it considers that a ruling on the question is necessary to enable it to give its judgment" (Art. 34). The East African Court of Justice received its first case in December 2005.

With the Treaty amendment of 2007, the Court was expanded to include an Appellate Division to hear appeals to judgments by the First Instance Division and the number of judges was increased to cope with the growing workload (Arts. 23 and 24).[25]

Economic Community of Central African States (ECCAS)

The Economic Community of Central African States (ECCAS; French: Communauté Économique des États d'Afrique Centrale) is the leading organization for economic cooperation in Central Africa and currently has ten members: Angola, Burundi, Cameroon, Central-African Republic, the Democratic Republic

[25] See <http://www.aict-ctia.org/courts_subreg/eac/eac_home.html> (accessed September 28, 2016).

of Congo, Congo Brazzaville, Gabon, Equatorial Guinea, Sao Tome & Principe, and Chad. Rwanda left the organization in 2007 (Stevens, Hoebeke, and Vlassenroot 2008). ECCAS includes all members of the Economic Community of Great Lakes Countries (CEPGL), with the exception of Rwanda, and all members of the Central African Economic and Monetary Community (CEMAC). It aims "to achieve collective autonomy, raise the standard of living of its peoples, increase and maintain economic stability, foster close and peaceful relations between Member States and contribute to the progress and development of the African continent" (ECCAS Treaty, Art. 4). It is recognized by the African Union as one of the six regional economic communities that constitute the building blocks for the eventual creation of a pan-African market. The organization's headquarters are located in Libreville, Gabon.

The genesis of ECCAS is closely intertwined with the history of CEPGL and UDEAC, the two older integration organizations in Central Africa.[26] At a summit meeting in December 1981, UDEAC leaders agreed to form a wider economic community of Central African states (Awoumou and Georges 2008: 127–8). ECCAS was established in 1983 in the context of the Organization of African Unity's Lagos Plan which envisaged a pan-African common market by 2000. Angola remained an observer until 1999. Due to non-payment of membership fees and severe political conflicts among its members in the Great Lakes region, ECCAS underwent a severe crisis in the 1990s (Awoumou and Georges 2008: 128–9; Meyer 2011b: 4–5).

The organization entered a new phase when it shifted attention to security issues in the second half of the 1990s. In 1996, ECCAS members adopted a pact of non-aggression under the auspices of the UN Consultative Committee on Security in Central Africa. In 2000, the heads of state signed a protocol that created a joint Council for Peace and Security in Central Africa (COPAX). This has the task to promote, maintain, and consolidate peace and security in the region and it established three new bodies: the Commission for Defense and Security, the Central African early warning system, and the Central African Multinational Force.[27]

Economic integration was also given new impetus. In 1999, ECCAS signed a treaty with the African Union confirming it as a central pillar of pan-African economic integration. In 2004, member states adopted the ECCAS Preferential Tariff to phase out intra-community tariffs. Even though the timetable was not met completely, the free trade area has been largely in operation since 2010.

Various authors suggest that "ECCAS legitimacy does not come from its achievements, but rather from the determined support of its international partners" (Awoumou and Georges 2008: 130). These partners provide financial

[26] UDEAC became CEMAC in 1999 (see CEMAC profile).
[27] For an evaluation, see MacAulay and Karbo 2008; Elowson and Hull Wiklund 2011.

resources and shape the organization's integration agenda in important ways. In 2003, the European Union concluded a financial agreement with ECCAS and CEMAC in the context of the Economic Partnership Agreements with African sub-regions. This foresees an eventual merger of the two organizations, whereby ECCAS institutions would take responsibility for peace and security through COPAX, and CEMAC institutions would be responsible for economic and monetary integration (Awoumou and Georges 2008: 137–42). As of March 2017, the two organizations still operate separately.

Key documents are the ECCAS Treaty (signed 1983; in force 1985); the Protocol creating the Council for Peace and Security in Central Africa (signed 2000; in force 2004); and the Protocol Establishing a Network of Parliamentarians of Central Africa (signed 2002; partial entry into force 2010). ECCAS has a Conference of Heads of State and Government, a Council of Ministers, and a General Secretariat.

Institutional Structure

A1: CONFERENCE OF HEADS OF STATE AND GOVERNMENT (1985–2010)

The ECCAS Treaty established the Conference of Heads of State and Government as the "supreme organ of the Community" (Art. 8), and, as Ntumba (1997: 305) notes, the "only policymaking unit worthy of the name." It is responsible for "implementing the aims of the Community." It defines the general policy and major guidelines of the Community, harmonizes national socio-economic policy, appoints the secretary general and the deputy secretary generals, and prepares the Community budget (Art. 9). The Conference adopts decisions by consensus (Art. 11). The chair rotates among member states in alphabetical order and the Conference meets at least once a year (Art. 10).

In 2000, the Conference acquired "supreme authority" over the newly established Council for Peace and Security in Central Africa (COPAX). The Conference decides on the measures related to the prevention and management of conflicts, especially military action, including the formation of a regional peacekeeping force or humanitarian assistance, nominates the Special Representative and determines her mandate, and nominates the Force Commander, the deputy, and the Commander in Chief for each mission (COPAX Protocol, Art. 8). The Conference's decisions are binding on member states (Art. 10).

E1: COUNCIL OF MINISTERS (1985–2010)

The Council of Ministers is the chief executive body. It is composed of ministers responsible for economic development or it can take on any other

sectoral composition depending on the topic (ECCAS Treaty, Art. 12). It is responsible for "the functioning and development of the Community," makes recommendations to the Conference, submits the draft budget to the Conference and proposes the annual contributions of each member state (Art. 13). It acts through regulations, which are binding on member states and adopted by consensus (Art. 15). The body is executive—not legislative—because it is ultimately subject to delegation by the Conference, and even the Council's Rules of Procedure are set by the Conference (Art. 13).[β] The chair rotates in sync with the Conference. The Council of Ministers meets at least twice a year (Art. 14).

The Council of Ministers is assisted by a Consultative Commission composed of member state experts, which studies questions and projects submitted by other Community institutions (Art. 24). Several specialized technical committees support the Commission (Art. 26).

With the creation of COPAX, the Council in its composition of the ministers for foreign affairs, defense, and internal security becomes responsible for "monitoring and implementing the decisions taken by the conference" in regard to peace and security (COPAX Protocol, Arts. 11 and 12).

E2: GENERAL SECRETARIAT (1985–2010)

The General Secretariat takes on both executive and secretarial functions. Indeed, the secretary general is characterized as the "chief executive official of the Community" (Art. 20.1). The Secretariat comprises a secretary general, deputy secretary generals, a financial controller, an accountant, and other staff (Art. 19). The secretary general prepares and carries out the decisions of the Conference and the Council, promotes development programs and projects, prepares the draft budget, prepares an annual program of action, and conducts studies (Art. 20.2).

The top staff are appointed by the Conference for a four-year term, renewable once, by consensus (Art. 21). There are no rules on how candidates for these posts are proposed, but the Treaty states that the secretary general cannot come from Gabon, where the headquarters of the Secretariat are located. Initially, there were two deputy secretary generals, but when Angola acceded in 1999, it was given a third deputy post.[28] Hence, this creates the peculiar situation whereby not every member state is represented in the executive but Angola apparently holds a designated seat, which is reflected in our coding from 1999 onwards. The financial controller and accountant are also appointed by the Conference for a three-year term, presumably by consensus (Art. 21.3).[α] In the performance of their duties, the Secretariat staff, including the top officials, are instructed to

[28] See <http://www.au.int/en/recs/eccas> (accessed October 2, 2016).

represent Community interests and member states should refrain from influencing staff (Art. 22). Representation is indirect.

E3: DEFENSE AND SECURITY COMMISSION (2005–2010)

A third executive body—the Defense and Security Commission (COPAX: Conseil de Paix et de Sécurité de l'Afrique Centrale)—was created in 2005 as a "consultative organ" to the Conference and the Council of Ministers (COPAX Protocol, Art. 13). It is composed of the chiefs of staff and commanders-in-chief of the military and the police as well as technical experts from the Ministries of Foreign Affairs, Defense, and the Interior of all member states (Art. 13). Representation is direct. It assists the Council in evaluating the need for peacekeeping operations and in examining strategies of the fight against crime (Arts. 14 and 16). The Commission is not simply an emanation of the Council: it can coordinate and follow up on peace operations under the authority of its chair, and not merely under the authority of the Council. Hence we code it as an independent executive (Art. 15).[β] The chair is assumed by the commander-in-chief of the member state that holds the rotating presidency.

GS1: GENERAL SECRETARIAT (1985–2010)

The General Secretariat, created under Article 19 of the ECCAS Treaty, also acts as the administrative body. There are no written rules on suspension of the secretary general.

With the creation of COPAX, the General Secretariat also becomes responsible for the administration of the peace and security arm of ECCAS (COPAX Protocol, Art. 19).

CB1: ECCAS PARLIAMENTARY NETWORK (2010)

In 2002, the Summit adopted a protocol that creates the ECCAS Parliamentary Network (Réseau des Parlementaires de la CEEAC, REPAC) as a prelude to a full-fledged parliament (Parliament Protocol, Preamble). The Network acts as the "representative assembly of the Community" and is composed of fifty members, five from each member state, who are elected for a period of five years by their respective national legislatures (Arts. 2 and 7).[29] It gives advice on matters related to the Treaty, inter alia, on human rights and fundamental freedoms, social integration, treaty revisions, environmental policy, minority rights, education policy, and energy integration (Art. 6). It takes decisions by simple majority (Art. 18). The Network holds two short sessions

[29] The initial number of fifty-five seats was reduced to fifty after Rwanda withdrew in 2007.

a year (not more than fifteen days each) and has control over its own budget (Arts. 13 and 19).

Negotiations on the financing of the body have delayed operation (Meyer 2011b: 9–10). The Parliament's Secretariat opened in spring 2010 in Malabo, Equatorial Guinea, and since 2010, there appear to be regular seminars and workshops for national parliamentarians (Meyer 2011b: 10–11). We register the Network from 2010 though it is not clear how active the body is.[α]

Decision Making

MEMBERSHIP ACCESSION

The ECCAS Treaty states that the terms and conditions of accession are the subject of an agreement between the Community and the applicant and that the resulting agreement is subject to ratification by all member states (Art. 93). We interpret this to mean that the Conference dominates agenda setting and final decision,[β] and that ratification by all members is required.

MEMBERSHIP SUSPENSION

No written rules.

CONSTITUTIONAL REFORM

Constitutional amendments may be proposed by any member state. The Conference takes the final decision by consensus. Amendments require ratification by at least seven member states to enter into force (ECCAS Treaty, Art. 90).

REVENUES

According to the founding Treaty, ECCAS has two sources of funding. One source is member state contributions, which are determined annually by the Conference based upon the budget estimates and "other sources determined by the Conference" (Art. 79.4). The second source is a Community Cooperation and Development Fund, which finances projects to promote the economic and social development of member states (Art. 76). Membership in the Fund is open to member states and other approved institutions (such as international organizations or third countries). The Community also receives substantial contributions from outside sources. Significant funding comes also from the African Development Bank, the African Capacity Building Foundation, and the European Union (see Awoumou and Georges 2008: 130–2). We opt to code regular member state contributions because there is a financial non-compliance procedure.[β]

Since 2011, the Community extracts own resources from a Community tax (Contribution Communautaire d'Intégration: CCI). The CCI is a 0.4 percent levy on the customs value of imports. Based on a 2002 agreement to replace annual member state contributions with the CCI, the tax came into effect in January 2011 when the Conference agreed to implement the original agreement. Implementation is a problem: press reports in 2013 suggest that only five member states were properly collecting the tax.[30]

BUDGETARY ALLOCATION

The General Secretariat drafts an annual budget and submits it to the Council for consideration. The Council passes it on to the Conference for adoption, together with its recommendations (ECCAS Treaty, Art. 79). Hence we code both the General Secretariat and the Council as agenda setters. The Council and the Conference take decisions by consensus and their decisions are binding on member states, so the budget must be as well (Arts. 11 and 15).$^{\alpha}$

FINANCIAL COMPLIANCE

The financial-compliance procedure envisages that a member state who is in arrears for more than one year "for reasons other than public disturbances or natural disasters or any other exceptional circumstances that seriously affect its economy," may be banned from taking part in the Community's activities or may cease to enjoy the benefits provided for under the Treaty. We code technocratic agenda setting. The Conference takes the decision by consensus (ECCAS Treaty, Art. 80.2). The organization has had a longstanding issue with non-payment (Meyer 2011b).

POLICY MAKING

The chief focus of ECCAS policy making is economic development, which we code as the first stream. From 2005, we code a second stream related to security.

The first stream produces decisions, directives, and regulations. Decisions and directives are adopted by the Conference and are binding on member states; regulations are adopted by the Council and are also binding (Arts. 11 and 15). The three instruments set the legal framework for the General Secretariat's annual action program.

The General Secretariat has the chief initiating role by virtue of its authority to "prepare[s]... the decisions and directives of the Conference and the regulations of the Council" (Art. 20.2a). The Council may also "make

[30] See <http://french.peopledaily.com.cn/96852/8135465.html> (accessed February 13, 2017).

ECCAS-CEEAC Institutional Structure

		A1			E1									E2									E3									GS1		CB1
Years		Non-state selection	Indirect representation	Weighted voting	Head—agenda	Head—decision	Members—agenda	Members—decision	Non-state selection	Partial representation	Indirect representation	Reserved seats	Weighted voting	Partial veto	Head—agenda	Head—decision	Members—agenda	Members—decision	Non-state selection	Partial representation	Indirect representation	Reserved seats	Weighted voting	Partial veto	Head—agenda	Head—decision	Members—agenda	Members—decision	Non-state selection	Partial representation	Indirect representation	Reserved seats	Weighted voting	Partial veto	Select	Remove	Non-state selection
1985–1998	Not body-specific	0	0	0	R	R			0	0	0	0	0	0	N		N		0	1	2	0	0	0											N	
	Member states						✓	✓																												
	A1: Conference Heads of State															0		0																0		
	E1: Council of Ministers																																			
	E2: General Secretariat																																			
	GS1: General Secretariat																																			
1999–2004	Not body-specific	0	0	0	R	R			0	0	0	0	0	0	N		N		0	1	2	1	0	0											N	
	Member states						✓	✓																												
	A1: Conference Heads of State															0		0																0		
	E1: Council of Ministers																																			
	E2: General Secretariat																																			
	GS1: General Secretariat																																			
2005–2009	Not body-specific	0	0	0	R	R			0	0	0	0	0	0	N		N		0	1	2	1	0	0	R	R			0	0	0	0	0	0		N	
	Member states						✓	✓																			✓	✓								
	A1: Conference Heads of State															0		0																0		
	E1: Council of Ministers																																			
	E2: General Secretariat																																			
	E3: Defense & Security Commission																																			
	GS1: General Secretariat																																			
	Non-state: African Union, UN																																			
2010	Not body-specific	0	0	0	R	R			0	0	0	0	0	0	N		N		0	1	2	1	0	0	R	R			0	0	0	0	0	0		N	3
	Member states						✓	✓																			✓	✓								
	A1: Conference Heads of State															0		0																0		
	E1: Council of Ministers																																			
	E2: General Secretariat																																			
	E3: Defense & Security Commission																																			
	GS1: General Secretariat																																			
	CB1: Parliamentary Network																																			
	Non-state: African Union, UN																																			

Note: A = automatic/technocratic procedure; N = no written rule; R = rotation; ✓ = body co-decides, but no voting rule; ← = change in status. Shaded areas refer to institutions or policy areas that are non-existent for those years.

ECCAS-CEEAC Decision Making

		Accession			Sus-pension		Constitution				Budget			Com-pliance		Policy 1 (decisions, directives, regulations)					Policy 2 (security missions)					Dispute settlement							
Years		Agenda	Decision	Ratification	Agenda	Decision	Agenda	Decision	Ratification	Revenue source	Agenda	Decision	Binding	Agenda	Decision	Agenda	Decision	GS role	Binding	Ratification	Agenda	Decision	GS role	Binding	Ratification	Coverage	Third party	Binding	Tribunal	Non-state access	Remedy	Preliminary ruling
1985–2004	Not body-specific			0	N	N			2	1			2	A				1	2	3												
	Member states						✓																									
	A1: Conference Heads of State	0	0					0				0			0		0															
	E1: Council of Ministers										0					0	0															
	E2: General Secretariat										✓					✓																
	GS1: General Secretariat										✓					✓																
2005–2009	Not body-specific			0	N	N			2	1			2	A				1	2	3			0	2	3							
	Member states						✓														✓											
	A1: Conference Heads of State	0	0					0				0			0		0					0										
	E1: Council of Ministers										0					0	0				0											
	E2: General Secretariat										✓					✓																
	E3: Defense & Security Commission																				0											
	GS1: General Secretariat										✓					✓																
	Non-state: African Union, UN																				✓											
2010	Not body-specific			0	N	N			2	1			2	A				1	2	3			0	2	3							
	Member states						✓														✓											
	A1: Conference Heads of State	0	0					0				0			0		0					0										
	E1: Council of Ministers										0					0	0				0											
	E2: General Secretariat										✓					✓																
	E3: Defense & Security Commission																				0											
	GS1: General Secretariat										✓					✓																
	CB1: Parliamentary Network																															
	Non-state: African Union, UN																				✓											

Note: A = automatic/technocratic procedure; N = no written rule; R = rotation; ✓ = body co-decides, but no voting rule; ← = change in status. Shaded areas refer to institutions or policy areas that are non-existent for those years.

recommendations to the Conference on any action aimed at achieving the aims of the Community" (Art. 13.2a). The Consultative Commission scrutinizes reports of the specialized technical committees, makes recommendations to the Council, and studies "questions and projects submitted to it by the other Community institutions" under the Council's responsibility (Art. 24). We code both the Council and the Secretariat as agenda setters. Final decisions are taken by the Council or the Conference by consensus (Arts. 11 and 15).

From 2005, we code a second policy stream related to peace and security operations, and this policy has become central to ECCAS. The decision tree has three tiers: the Defense and Security Commission reports on conflict situations and makes recommendations to the Council, which then presents them to the Conference for final adoption (COPAX Protocol, Art. 15). Decisions of the Conference are binding on member states and do not require ratification (Art. 10). Thus, the initiation of decisions in this stream comes from the Commission, but the Council is involved as active intermediary. We assume that decisions in the Commission are taken, as in the Council, by consensus.$^{\alpha}$ Member states can also initiate. We also code international organizations as having agenda setting power. Indeed, international actors, and in particular the African Union and the United Nations (Art. 26), can ask for a multinational troop deployment. The General Secretariat does not appear have any policy functions in peace and security, but it does take care of the administrative side.

DISPUTE SETTLEMENT

The ECCAS Treaty envisaged a Court of Justice with competence to adjudicate disputes between member states, the legality of community instruments, and procedural infringements or misuses of power (Arts. 7c and 16.1). The Court has not yet been established.

Economic Community of West African States (ECOWAS)

The Economic Community of West African States is a general purpose regional organization set up in 1975 which aims to "promote cooperation and integration, leading to the establishment of an economic union in West Africa" (Revised Lagos Treaty, Art. 3). It seeks to do so by harmonizing and coordinating national policies, including those concerned with trade, the environment, joint enterprises, the legal environment, and balanced development. In recent years, ECOWAS has developed a strong military and security capacity and its Court has come to play a significant role in human rights. ECOWAS currently has fifteen member states. The organization's headquarters are located in Abuja, Nigeria.

International cooperation in West Africa was stimulated by the United Nations Economic Commission for Africa which proposed regional economic integration as a development strategy for Africa and divided the continent into regions including one encompassing West Africa (Okolo 1985: 124). The idea was picked up by the Liberian president, William Tubman, and in February 1965, Liberia, Guinea, the Ivory Coast, and Sierra Leone negotiated a free trade agreement. In 1968, nine countries signed a protocol for a West African regional grouping (Asante 1985). Both initiatives stalled, but in 1972 Nigeria and Togo relaunched the idea. This culminated in the Lagos Treaty in May 1975, and ECOWAS was born. Fifteen states joined the organization which focused on achieving a common market with cooperation in functionally related fields. Reduction in tariffs was staggered according to its member states' levels of economic development (Ojo 1980; Oteng Kufuor 2006: 26). Membership, which includes both Francophone and English-speaking countries, has been relatively stable (Okolo 1985).[31] Progress in economic integration was very slow, in part due to enduring national rivalries and the ambivalence of Nigeria, the largest member state (Bach 1983; Okolo 1985; Brown 1989).

Over time, the chief thrust of the organization has shifted to security. In 1976, the member states signed a mutual non-aggression pact and in 1981 they agreed to a mutual defense protocol which creates an armed force under regional command (Okolo 1985: 146–8). The protocol, which sets out a framework for joint intervention in a member state, was activated for the first time in 1990 when an ECOWAS ceasefire monitoring group was sent to Liberia (Adeleke 1995; Howe 1996; Oteng Kufuor 1993). The following year ECOWAS established a Mediation and Security Council with wide-ranging powers over political and military regional intervention. In 2001, ECOWAS passed a protocol on democracy and good governance to deter military coups and unconstitutional regime change (Adebajo 2002; Cowell 2011). In 2008, member states established the ECOWAS Conflict Prevention Framework which draws together these diverse measures on security. Today, ECOWAS has "the most advanced mechanism for addressing regional peace and security in Africa" (Obi 2009: 119; see also Bah 2013).

Progress on economic integration has been slow, and longstanding aspirations to create a common external tariff and a monetary union have proven difficult to realize (for recent analyses, see Elhiraika, Mukungu, and Wanjiku 2015; Ncube, Faye, and Verdier-Chouchane 2015). ECOWAS' common external tariff finally came into effect in February 2016, and a single currency is projected for 2020.[32]

[31] Cape Verde joined in 1977 and Mauritania left in 1999.

[32] In 1994, seven of the fifteen ECOWAS member states (Benin, Burkina Faso, Côte d'Ivoire, Mali, Niger, Senegal, and Togo) created the West African Economic and Monetary Union (better

The key legal documents are the Treaty Establishing the Economic Community of West African States (signed and in force 1975); the revision of the Lagos Treaty (signed 1993; in force 1995); the Protocol of the Community Court of Justice (signed 1991; in force 1996); the Protocol Relating to the Mechanism for Conflict Prevention, Management, Resolution, Peace-keeping and Security (signed 1999; in force 2000), and the Memorandum on the Restructuring of Community Institutions (signed 2006; in force 2007). Today, the Community consists of three assemblies (Authority of Heads of State and Government, Council of Ministers, and Mediation and Security Council), one executive (Commission) which also serves as a secretariat, and one consultative body (ECOWAS Parliament).

Institutional Structure

A1: AUTHORITY OF HEADS OF STATE AND GOVERNMENT (1975–2010)
The 1975 Lagos Treaty established the Authority of Heads of State and Government as the "principal governing institution of the Community" (Art. 5.1). It set "the general direction and control of the performance of the executive functions of the Community" (Art. 5.2), and appointed the executive secretary (Art. 8.2). It met at least once a year and was chaired by rotation (Art. 5.4). The Treaty does not make the decision rule explicit, which led to "the presumption [...] that decisions were to be arrived at by using the unanimity principle" (Oteng Kufuor 2006: 30; see also Bach 1983: 615; Oteng Kufuor 2006: 31, 41), and this is what we code.

The 1993 revised Lagos Treaty continues to designate the Authority as the "supreme institution" with similar general responsibilities as before (Arts. 7.1 and 7.2). It adds more specific language, such as to harmonize and coordinate member state policies, to follow up on the implementation of Community objectives, and to refer non-compliance cases to the Community Court of Justice (Art. 7.3). The Authority elects its own chair annually (Art. 8). The Authority acts by consensus. The Treaty foresees that a Protocol will determine which decisions may be taken by two-thirds majority (Art. 9.2), but we find no evidence that this Protocol has been adopted.[α] Hence we code consensus as the general decision rule. Decisions are binding on member states (Art. 9).

known under its French acronym UEMOA, Union économique et monétaire ouest-africaine), which has the CFA as common currency. In 1997 Guinea-Bissau, a former Portuguese colony, joined. Most Anglophone countries of ECOWAS maintained their own currencies. In 2000 five states established the West African Monetary Zone (WAMZ) as a first step to the adoption of a common currency, the Eco. The idea was that both currency zones would eventually merge.

A2: COUNCIL OF MINISTERS (1975–2010)

The Lagos Treaty established the Council of Ministers, composed of two representatives from each member state, as the second decision body (Art. 6.1). It had the responsibility to keep under review the functioning and development of the Community, to make recommendations to the Authority on policy, to give directions to subordinate bodies, and to adopt the budget (Arts. 6.2 and 53.3). The Council initially met at least twice a year and its chair rotated on an annual basis (Arts. 6.4 and 6.6). Similar to the Authority, the Council took decisions by consensus (Bach 1983: 615; Oteng Kufuor 2006: 31, 41).

Both the Authority and the Council were assisted by specialized Technical Commissions on trade, customs, immigration, monetary policy, financial affairs, transport, telecommunications, and energy. Each had one representative per member state (Art. 9). They wrote reports and recommendations, either at the behest of the Council, on the request of the executive secretary, or on their own initiative (Art. 9.4).

With the revised Lagos Treaty of 1993, the Council of Ministers is composed of the minister in charge of ECOWAS affairs and another minister from each member state (Art. 10.2). It extends its competence to issuing directives for economic integration and to approving the work programs (Art. 10.3). The chair is held by the same country that chairs the Authority (Art. 11.2). The Council adopts decisions by consensus. Regulations are binding on member states after approval by the Authority (Art. 12). The Treaty also expands the number of Technical Commissions (Art. 22).

E1: COUNCIL OF MINISTERS (1975–7/1995–2010)

The Council of Ministers was presumably in charge of the key executive functions before the creation of the Secretariat in 1977.$^{\alpha}$ We code the Council as fully composed of member state representatives. All member states were represented, and representation was direct. The chair rotated. The Council ceased to be an executive from 1977 through 1994.

The Council of Ministers came back on line as an executive alongside the Secretariat with the 1993 revised Lagos Treaty, which considerably strengthens the executive functions of the Council's Technical Commissions. These bodies now prepare Community projects and programs, ensure their harmonization and coordination, and monitor and facilitate the application of the Treaty and related Protocols (Art. 23). The Commissions consist of national representatives; all member states are represented; representation is direct, and we infer that the chair rotates in line with the chair in the Council itself,$^{\alpha}$ which is held by the country that holds the presidency of the Authority (Arts. 8, 11.2, 22.3).

E2: FROM THE EXECUTIVE SECRETARIAT (1977–2006) TO THE COMMISSION (2007–10)

The 1975 Lagos Treaty established the Executive Secretariat as the chief executive and the executive secretary as the "principal executive officer" (Art. 8.4). It became operational in 1977 (Bach 1983: 613). The Authority appointed the executive secretary for four years by consensus, renewable once (Art. 8.2), while the Council of Ministers, also acting by consensus, appointed the two deputy secretaries and the financial controller (Art. 8.4). No written rules existed on initiation. The secretary general could be removed from office by the Authority upon recommendation by the Council of Ministers, both acting by consensus (Art. 8.3).

All members of the Executive Secretariat "owe their loyalty entirely to the Community" (Art. 8.8), which has led observers to designate it as composed of "supranational or quasi-supranational officials" akin to the Andean Pact Junta or the EEC Commission (Okolo 1985: 137–8). Hence, the leadership of the Secretariat was selected by member states; only some member states were represented; and representation was indirect. The Secretariat drafted the budget and held a non-exclusive right of policy initiative (Arts. 8.10d and 53.5).

The revised Lagos Treaty introduces an elaborate procedure for the nomination of the executive secretary. The post is initially allocated to a member state, which can propose three candidates. A special ministerial Committee evaluates the candidates and makes a recommendation to the Council. The Council then nominates one candidate to the Authority (Art. 18.2). Hence, we code member states, Council technical committees, and the Council as agenda setters, while the Authority decides by consensus. The Treaty also states that the executive secretary can be removed by the Authority upon its own initiative or upon recommendation by the Council (Art. 18.1). The procedure to nominate deputy executive secretaries is similar to that for the executive secretary, but final decisions are taken by the Council—not the Authority (Art. 18.4). The Executive Secretariat executes Authority decisions and Council regulations, prepares programs of activity, and supervises execution (Art. 19.3).

With the 1999 Mechanism, the executive secretary becomes responsible for implementing the decisions taken by the Mediation and Security Council (Art. 15g).

In June 2006, the Authority converted the Executive Secretariat into a collegial Commission, a change that comes into effect in 2007.[33] The Commission consists of a president, a vice-president, and seven commissioners (2006

[33] See <http://www.modernghana.com/news/100500/1/chambas-to-head-ecowas-cssion.html> (accessed February 13, 2017).

Memorandum, Art. 7). It is now made explicit that Commission posts rotate among member states (2006 Memorandum, Art. 10). As before, a member state nominates several candidates for its national slot, while the Council or the Authority take the final decision. Hence, we code both rotation and the prior nomination system.

In addition, the powers of the Commission were enhanced (2006 Memorandum, Art. 12). Most importantly, the Commission gained an exclusive right to initiate policy in most areas: "the Commission proposes to the Council and the Authority all recommendations that it deems useful for promoting and developing the Community. It also makes proposals on the basis of which they can decide on the major policy orientations of member states" (Art. 12). It has the right to require from any institution or national agency information it deems useful to achieve its mission.

E3: MEDIATION AND SECURITY COUNCIL (2000–10)

The 1999 Mechanism for Conflict Prevention, Management, Resolution, Peace-keeping and Security establishes a Mediation and Security Council (Arts. 7 and 10).[34] It is composed of representatives from nine member states, seven of whom are elected by the Authority (by consensus) for a period of two years renewable while the other two are the current and past chair of the Authority (Art. 8). The current chair of the Authority serves as the chair of the Council (Art. 11). The body is composed of member state representatives, with direct representation, but only a subset of states are represented.

The Council can authorize interventions, deploy political and military missions, appoint the Special Representative of the executive secretary, and appoint the Force Commander (Art. 10). These powers are delegated by the Authority to facilitate "the implementation of the provisions of this Mechanism" (Art. 7). This means that the Council remains answerable to the Authority as the "Mechanism's highest decision-making body" (Art. 6). The Council meets in three different configurations: at the level of heads of state and government, at the ministerial level, and at ambassadorial level (Art. 11). It takes decisions by two-thirds majority (Art. 9). There is no weighted voting and no member state has veto power.

The Council is assisted in its work by several other bodies, including the Defense and Security Commission composed of experts, a Council of Elders composed of eminent personalities who conduct mediation and facilitation, and the ECOWAS Cease Fire Monitoring Group (ECOMOG) which consists of standby units that can be deployed for civilian or military ends (Arts. 17–22).

[34] The executive secretary manages the mechanism: he "implement[s] all decisions of the Mediation and Security Council" (1999 Mechanism, Art. 15g).

GS1: FROM THE EXECUTIVE SECRETARIAT (1977–2006) TO THE COMMISSION (2007–10)

The Executive Secretariat has been responsible for the "day to day administration of the Community and all its institutions" from its inception (1975 Lagos Treaty, Art. 8.9). This role continued under the revised Lagos Treaty (see Art. 19.3f) and the 2006 Memorandum.

CB1: ECOWAS PARLIAMENT (2002–10)

The 1993 revised Lagos Treaty provided for two non-state consultative bodies: an Economic and Social Council composed of "representatives of the various categories of economic and social activity" (Art. 14) and a Community Parliament (Art. 13). Only the Parliament is operational. It was established in Abuja, Nigeria, and the Protocol relating to the Parliament entered into force in 2002.

The "Assembly of the peoples of the Community" (Parliament Protocol, Art. 2.1) is composed of 115 parliamentarians.[35] Each country has at least five members, with the remaining seats distributed according to population (Art. 5). Nigeria has by far the largest delegation with thirty-five members. Even though the Protocol foresees direct elections, pending such election, parliamentarians are selected by the respective national parliaments for five years (Art. 7). The Parliament can issue non-binding recommendations and its consultation is mandatory on a wide range of policies as well as on treaty revisions (Art. 6). It holds at least two sessions annually (Art. 13.1) and takes decisions by simple majority (Parliament Rules of Procedure, Arts. 17.3 and 37.4).

In 2006, member states adopt a decision that formalizes consultation of the Parliament (Decision A/DEC.6/01/06), and a Supplementary Protocol that reduces the tenure of parliamentarians from five to four years (Arts. 4 and 7.2). It also seeks to progressively enhance its powers "from advisory to co-decision making and subsequently to a law making role" (Art. 6.2).

There is no standing body for civil society groups, but ECOWAS institutions maintain close links with civil society in the region. This has its basis in a 1994 decision by the Authority, which authorizes the organization to grant observer status to individual non-governmental organizations. Civil society organizations may gain the right to attend meetings of the Council and its Commissions, send documentation to the Council, place topics on the Council's agenda, or be consulted by the Executive Secretariat (Decision A/DEC.9/8/94, Art. 10). Besides NGOs, a number of other civil society organizations, such as the African Business Roundtable and the World Trade Centers Association,

[35] There were originally 120 members, but when Mauritania left ECOWAS in 2002, the number was reduced to 115.

have been granted observer status (Decisions A/DEC.8/12/2000 and A/DEC.9/12/00, respectively). Other authors also highlight the creation of the West African Civil Society Forum (WACSF) as "a notable development in the emerging ECOWAS–civil society partnership" (Bah 2013: 107; for a critical perspective see Oteng Kufuor 2006: 50).

Decision Making

MEMBERSHIP ACCESSION

The Lagos Treaty noted that "[a]ny West African State" can seek accession to the organization. The Authority decided, by consensus, on the terms of accession and no ratification by member states was required (Art. 62.2). We code no written rules on agenda setting.

The Revised Treaty does not contain rules on accession. It appears to assume that the Community is complete: "The members of the Community, hereinafter referred to as 'the Member States,' shall be the States that ratify this Treaty" (Revised Lagos Treaty, Art. 2.2). We code "no written rules" from 1995.[y] The last country to join was Cape Verde in 1977.

MEMBERSHIP SUSPENSION

Rules on suspension were introduced with the revised Lagos Treaty. The Authority can apply sanctions, which range from the suspension of new Community loans or assistance to a suspension of voting rights or suspension from participation in the activities of the Community (Art. 77). If a member state can prove, through a detailed report by an independent body submitted through the executive secretary, that the reasons for the failure to comply with its obligations are due to circumstances beyond its control, the Authority may decide to suspend sanctions (Art. 77.3). Hence, the procedure appears to be political. We are reasonably confident in assuming that the Secretariat is instrumental in the initiation stage and that the Authority takes the final decision by consensus, without the affected country.

"Failure to fulfill obligations" becomes concrete in the 2001 Protocol on Democracy and Good Governance. The Authority can sanction when "democracy is abruptly brought to an end by any means or where there is massive violation of human rights in a member state" (Protocol A/SP1/12/01, Art. 45.1). Sanctions are of three kinds: refusal to support candidates nominated by the respective member state; refusal to allow the member state to organize ECOWAS meetings; or suspension of the state from all ECOWAS decision bodies (Art. 45.2). The Protocol has been invoked several times, including in Niger and Guinea in 2009, the Ivory Coast in 2012, and Mali in 2011.

CONSTITUTIONAL REFORM

Under the initial Lagos Treaty, any member state could submit proposals for constitutional reform to be "considered" by the Authority. The executive secretary served in an administrative function (Art. 63). No mention is made of ratification.

The revised Lagos Treaty stipulates that constitutional reform requires consensus in the Authority and it introduced a ratification requirement, with revisions entering into force for all member states upon ratification by at least nine signatory states (Arts. 90.3 and 89; see also Diallo 2005: 3). Member states continue to propose, but the ECOWAS Parliament now has the right to be consulted on treaty revisions (Parliament Protocol, Art. 6.2j). Hence, we code the Parliament as a second agenda setter from 2002 onwards.

REVENUES

ECOWAS was initially funded through "annual contributions by Member States and such other sources as may be determined by the Council of Ministers" (1975 Lagos Treaty, Art. 53.3). These contributions were set according to a formula that combined total GDP and per capita GDP (1976 Budgetary Protocol, Art. 2). Member states "undertake to pay regularly," and this commitment is backed up by a compliance procedure (Art. 54.2).[36]

The Lagos Treaty also established a Fund for Cooperation, Compensation and Development to finance development projects and provide compensation for structural changes arising from economic liberalization (Art. 52). This was financed by member state contributions, income from Community enterprises, and donor money (Art. 52.2).

The revised Lagos Treaty foresees an autonomous source of income, the Community levy, which is "a percentage of the total value of import duty derivable from goods imported into the Community from third countries" (Art. 72.2). This levy was first imposed in 1998, when the Protocol on the Community levy (Protocol A/P1/7/96) enters in force (Treaty Manual 2009: 9). We code own revenues from 1998 onwards.

The region also receives major funding from external donors, including the African Union, the United Nations, the African Development Bank, and the European Commission; the latter providing around two-thirds of all external funding (EU-West Africa Regional Strategy Paper 2007: 38).

BUDGETARY ALLOCATION

Under the first Lagos Treaty, the executive secretary drafted the budget and the Council of Ministers approved it by consensus (Art. 53.5). Until 1977, we

[36] Non-payment was a problem in the early years. In 1984, outstanding contributions amounted to more than 10 million UA (see Irele 1990: 81).

code only the Council of Ministers as agenda setter as well as decision maker because the Secretariat was not yet operational. We code the budget as binding because member states are legally committed to pay their contributions regularly and a non-compliance procedure exists.

The 1988 Budgetary Protocol introduces a second agenda setter in the form of the state-dominated Administration and Finance Commission. The executive secretary drafts the budget, which is scrutinized by the Administration and Finance Commission, and passed on to the Council for approval (Art. 53.7). We assume that the decision rule in the interstate Commission is consensus.$^{\alpha}$ This procedure was subsequently embedded in the revised Lagos Treaty (see Art. 69).

FINANCIAL COMPLIANCE

A member state in arrears can be suspended from the Community by a decision of the Authority in case of "reasons other than those caused by public or natural calamity or exceptional circumstances that gravely affect its economy" (Art. 54.3). Since there is no information on how this procedure is initiated, we code no written rules on agenda setting. The Authority decides by consensus.

With the revised Lagos Treaty, financial non-compliance is subsumed under the general suspension procedure (Art. 77).

POLICY MAKING

ECOWAS transformed from an organization primarily focused on economic cooperation to a general purpose organization with a strong commitment to security.

The chief substantive policy under the initial and revised Lagos Treaty is the realization of a common market involving the free movement of goods, services, capital, and labor and a common external tariff (for overviews, see Okolo 1985; Bach 1983; Brown 1989). ECOWAS employs two instruments: protocols and conventions (by the Authority) which require ratification, and decisions (by the Authority) or regulations (by the Council) which do not require ratification. Given the importance of both policy instruments, we code both policy instruments.

Three actors can influence agenda setting on the common market: specialized interstate commissions that work under the auspices of the Council, the Secretariat/Commission (since 1977), and the Parliament (since 2002). Various specialized commissions are at the source of most decisions (e.g. Art. 14 on the Common Customs Tariff or Art. 18 on the elimination of quantitative restrictions). The Executive Secretariat (from 1977) holds a non-exclusive right to initiate policy by virtue of its right to "make such proposals as may assist in the efficient and harmonious functioning and development of the Community"

(Art. 8.10d). It also has the right to request technical commissions to make proposals (Art. 9.4a). From 2002, the ECOWAS Parliament is consulted on telecommunication, energy, public health, education, youth and sports, scientific and technological research, the environment, social integration, and human rights (Art. 6).

The Authority and the Council of Ministers decide by consensus. The Authority takes the final decision in case of disagreement. The bindingness of Authority and Council decisions is open to interpretation. The 1975 Treaty notes that decisions by the Authority are "binding on all institutions of the Community" (Art. 5.3) and decisions by the Council are "binding on all subordinate institutions of the Community unless otherwise determined by the Authority" (Art. 6.3), which suggests that they may not have been legally binding on member states. This assessment is shared by the secondary literature (Oteng Kufuor 2006: 30). By contrast, the language in the revised Lagos Treaty is unambiguous: "Decisions by the Authority shall be binding on the member states" (Art. 9), and regulations passed by the Council are "binding on member states after their approval by the Authority" (Art. 12). We code non-binding until 1994 and binding from 1995.[γ] Protocols and conventions are binding for all once ratified by a minimum number of states.

Security becomes a third policy stream with the adoption of the Mechanism for Conflict Prevention, Management, Resolution, Peace-keeping and Security in 2000. The Mediation and Security Council takes the final decision by two-thirds majority (Mechanism, Art. 9). A plethora of actors can weigh in on agenda setting: the Authority, the Mediation and Security Council, a member state, the executive secretary, and even external organizations such as the African Union and the United Nations (Art. 26). We code all of these actors as agenda setters. The Mediation and Security Council takes decisions on behalf of the Authority (1999 Mechanism, Art. 7), and we infer from this that the Council's decisions are binding.[α] There is no need for ratification.

Alongside the transformation of the Executive Secretariat into a Commission in 2007, the organization's legal instruments are also reformed. Conventions and Protocols are de-emphasized to avoid the lengthy parliamentary ratification process. Community Acts are introduced, including supplementary acts, regulations, and directives. The Authority adopts supplementary acts to complement the Treaty, and they are directly binding on member states (Art. 14). The Council passes regulations, which are directly binding in member states, and directives, which are binding in their objectives while leaving to member states the means to achieve them (Arts. 15 and 16). The Commission receives an exclusive right of initiative (2006 Memorandum, Art. 12). The policy stream of Protocols and Conventions is eliminated.

DISPUTE SETTLEMENT

The Lagos Treaty envisaged the establishment of a Tribunal to "ensure the observance of law and justice in the interpretation of the provisions of this Treaty" (Arts. 11.1 and 56). In 1991, member states adopted a Protocol on the ECOWAS Community Court of Justice (ECCJ) (Protocol A/P1/7/91), which entered into force in 1996 after its incorporation in the revised ECOWAS Treaty (Arts. 6 and 15). The Revised Treaty also provides for an Arbitration Tribunal (Art. 16). The Court began operations in 2001, but the Arbitration Tribunal awaits establishment.

Member states involved in a dispute, any other member state, or the Authority have an automatic right to third-party review by the Court, which they can invoke once amicable settlement has failed (Art. 76.2). The Court is a standing tribunal of seven independent judges, no two of whom can be nationals of the same state (CCJ Protocol, Arts. 3.1 and 3.2). Judges are nominated by the Authority from a list compiled by member states and the Council. They have a five-year term, renewable once (Arts. 3 and 4.1).

Judgments are binding on member states (revised Lagos Treaty, Art. 15.4). Member states and institutions of the Community are legally required to "take immediately all necessary measures to ensure execution of the decision of the Court" (Art. 22.3).

The Court has become significantly more supranational in its short history. Initially, the Court's jurisdiction was strictly interstate. It had jurisdiction only over disputes among member states or between member states and ECOWAS institutions (Art. 9.2). Neither the secretary general nor individuals could file disputes (Art. 9.3). This was reinforced by the Court's own jurisprudence. The Court dismissed its first case *Afolabi vs. Nigeria* in 2003 on the ground that individuals had no legal standing, concluding that the Protocol was "unambiguous" on jurisdiction and standing and must be "applied as written." It explicitly contrasted its approach with that of the European Court of Justice whose "activist judges [had] extended its review on jurisdiction to cover bodies which were not listed in the Treaties." Noting that "some of the decisions attracted criticisms . . . we therefore do not want to tow on the same line" (quoted in Helfer and Alter 2013: 497).[37] There was also no preliminary ruling procedure, even while the Court could issue advisory opinions at the request of the Authority, the Council, member states or the executive secretary (Art. 10).

[37] At the same time, the Court began to lobby member states to open access to non-state actors (Alter, Helfer, and McAllister 2013; Helfer and Alter 2013).

ECOWAS Institutional Structure

		A1			A2			E1							
Years		Non-state selection	Indirect representation	Weighted voting	Non-state selection	Indirect representation	Weighted voting	Head—agenda	Head—decision	Members—agenda	Members—decision	Non-state selection	Partial representation	Indirect representation	Reserved seats
1975–1976	Not body-specific	0	0	0	0	0	0	R	R			0	0	0	0
	Member states									✓	✓				
	A1: Authority														
	A2: Council of Ministers														
	E1: Council of Ministers														
1977–1994	Not body-specific	0	0	0	0	0	0								
	Member states														
	A1: Authority														
	A2←E1: Council of Ministers														
	E2: Executive Secretariat														
	GS1: Executive Secretariat														
1995–1999	Not body-specific	0	0	0	0	0	0	R	R			0	0	0	0
	Member states									✓	✓				
	A1: Authority							0	0						
	A2: Council of Ministers														
	E1←A2: Council of Ministers (TC)														
	E2: Executive Secretariat														
	GS1: Executive Secretariat														
2000	Not body-specific	0	0	0	0	0	0	R	R			0	0	0	0
	Member states									✓	✓				
	A1: Authority							0	0						
	A2: Council of Ministers														
	E1: Council of Ministers (TC)														
	E2: Executive Secretariat														
	E3: Mediation & Security Council														
	GS1: Executive Secretariat														
	Non-state actors: AU, UN														
2001	Not body-specific	0	0	0	0	0	0	R	R			0	0	0	0
	Member states									✓	✓				
	A1: Authority							0	0						
	A2: Council of Ministers														
	E1: Council of Ministers (TC)														
	E2: Executive Secretariat														
	E3: Mediation & Security Council														
	GS1: Executive Secretariat														
	DS: Community Court of Justice (ECCJ)														
	Non-state actors: AU, UN														

		E2										E3										GS1		CB1
Weighted voting	Partial veto	Head—agenda	Head—decision	Members—agenda	Members—decision	Non-state selection	Partial representation	Indirect representation	Reserved seats	Weighted voting	Partial veto	Head—agenda	Head—decision	Members—agenda	Members—decision	Non-state selection	Partial representation	Indirect representation	Reserved seats	Weighted voting	Partial veto	Select	Remove	Non-state selection
0	0																							
		N		N		0	1	2	0	0	0													
			0																			0	0	
					0																			
0	0					0	1	2	0	0	0													
		✓		✓																				
			0																			0	0	
		0			0																			
		0		0																				
0	0					0	1	2	0	0	0					0	1	0	0	0	0			
		✓		✓																				
			0									0	0	0	0							0	0	
		0			0																			
		0		0																				
0	0					0	1	2	0	0	0					0	1	0	0	0	0			
		✓		✓																				
			0									0	0	0	0							0	0	
		0			0																			
		0		0																				

(*continued*)

ECOWAS Institutional Structure (Continued)

		A1			A2			E1							
Years		Non-state selection	Indirect representation	Weighted voting	Non-state selection	Indirect representation	Weighted voting	Head—agenda	Head—decision	Members—agenda	Members—decision	Non-state selection	Partial representation	Indirect representation	Reserved seats
2002–2006	Not body-specific	0	0	0	0	0	0	R	R			0	0	0	0
	Member states									✓	✓				
	A1: Authority							0	0						
	A2: Council of Ministers														
	E1: Council of Ministers (TC)														
	E2: Executive Secretariat														
	E3: Mediation & Sec. Council														
	GS1: Executive Secretariat														
	CB1: ECOWAS Parliament														
	DS: Community Court of Justice (ECCJ)														
	Non-state actors: AU, UN														
2007–2010	Not body-specific	0	0	0	0	0	0	R	R			0	0	0	0
	Member states									✓	✓				
	A1: Authority							0	0						
	A2: Council of Ministers														
	E1: Council of Ministers (TC)														
	E2: **Commission**														
	E3: Mediation & Sec. Council														
	GS1: **Commission**														
	CB1: ECOWAS Parliament														
	DS: Community Court of Justice (ECCJ)														
	Non-state actors: AU, UN														

Note: A = automatic/technocratic procedure; N = no written rule; R = rotation; ✓ = body co-decides, but no voting rule; ← = change in status. Shaded areas refer to institutions or policy areas that are non-existent for those years.

A Supplementary Protocol on the Court, adopted in 2005, moved it closer to Karen Alter's "new-style courts." First, more actors were given access. Member states and the executive secretary were given access when a member state fails to fulfill an obligation or when there is a question on the legality of an action in relation to a Community decision. Individuals and corporate bodies were given access if a Community act may violate their rights; and individuals had access if their human rights were violated (Art. 10). Second, the protocol introduced a preliminary ruling procedure for national courts (Art. 10f).

		E2										E3										GS1		CB1
Weighted voting	Partial veto	Head—agenda	Head—decision	Members—agenda	Members—decision	Non-state selection	Partial representation	Indirect representation	Reserved seats	Weighted voting	Partial veto	Head—agenda	Head—decision	Members—agenda	Members—decision	Non-state selection	Partial representation	Indirect representation	Reserved seats	Weighted voting	Partial veto	Select	Remove	Non-state selection
0	0					0	1	2	0	0	0					0	1	0	0	0	0			3
		✓		✓																				
			0									0	0	0	0							0	0	
		0			0																			
		0		0																				
0	0	R	R	R	R	0	1	2	0	0	0					0	1	0	0	0	0			3
		✓		✓																				
			0									0	0	0	0							0	0	
		0			0																			
		0		0																				

And third, direct effect was established (Art. 24). At the same time, the jurisdiction of the Court was extended to include human rights.

It is debatable whether Court rulings had direct effect from the start, and it seems reasonable to date direct effect from 2005 (Frimpong Oppong and Niro 2014: 368). The new Article 24 now says that "the execution of any decision of the Court shall be in form of a writ of execution" and "upon the verification by the appointed authority of the recipient member state that the writ is from the Court, the writ shall be enforced." This is in keeping with scholarly research. Alter, Helfer, and McAllister (2013: 773) conclude that "since the . . . overhaul of the community, it can be argued persuasively that ECOWAS rules

ECOWAS Decision Making

		Accession			Sus-pension		Constitution				Budget		
Years		Agenda	Decision	Ratification	Agenda	Decision	Agenda	Decision	Ratification	Revenue source	Agenda	Decision	Binding
1975–1976	Not body-specific	N		2	N	N			3	1			2
	Member states						✓						
	A1: Authority		0					0					
	A2: Council of Ministers										0	0	
	E1: Council of Ministers										0	0	
1977–1987	Not body-specific	N		2	N	N			3	1			2
	Member states						✓						
	A1: Authority		0					0					
	A2←E1: Council of Ministers											0	
	E2: Executive Secretariat										✓		
	GS1: Executive Secretariat										✓		
1988–1994	Not body-specific	N		2	N	N			3	1			2
	Member states						✓						
	A1: Authority		0					0					
	A2: Council of Ministers											0	
	E1: Finance Commission										0		
	E2: Executive Secretariat										✓		
	GS1: Executive Secretariat										✓		
1995–1997	Not body-specific	N	N	N					2	1			2
	Member states						✓						
	A1: Authority of Heads of State					0		0					
	A2: Council of Ministers											0	
	E1←A2: Council of Ministers (TC)										0		
	E2: Executive Secretariat				✓						✓		
	GS1: Executive Secretariat				✓						✓		
1998–1999	Not body-specific	N	N	N					2	2			2
	Member states						✓						
	A1: Authority					0		0					
	A2: Council of Ministers											0	
	E1: Council of Ministers										0		
	E2: Executive Secretariat				✓						✓		
	GS1: Executive Secretariat				✓						✓		
2000	Not body-specific	N	N	N					2	2			2
	Member states						✓						
	A1: Authority					0		0					
	A2: Council of Ministers											0	
	E1: Council of Ministers (TC)										0		
	E2: Executive Secretariat				✓						✓		
	E3: Mediation & Security Council												
	GS1: Executive Secretariat				✓						✓		
	Non-state actors: AU, UN												

Compliance		Policy 1 (protocols)					Policy 2 (decisions, regulations, directives)					Policy 3 (security actions)					Dispute settlement (economic (2001–4), + human rights (2005–10))						
Agenda	Decision	Agenda	Decision	GS role	Binding	Ratification	Agenda	Decision	GS role	Binding	Ratification	Agenda	Decision	GS role	Binding	Ratification	Coverage	Third party	Binding	Tribunal	Non-state access	Remedy	Preliminary ruling
N					2	2				0	3												
	0		0					0															
		0					0	0															
		0					0	0															
N				1	2	2			1	0	3												
	0		0					0															
		0					0	0															
		✓					✓																
		✓					✓																
N				1	2	2			1	0	3												
	0		0					0															
		0					0	0															
		✓					✓																
		✓					✓																
				1	2	2			1	2	3												
	0		0					0															
			0					0															
		0					0																
✓		✓					✓																
✓		✓					✓																
				1	2	2			1	2	3												
	0		0					0															
								0															
		0					0																
✓		✓					✓																
✓		✓					✓																
				1	2	2			1	2	3			1	2	3							
												✓											
	0		0					0				0											
								0															
		0					0																
✓		✓					✓					✓											
												2	2										
✓		✓					✓					✓											
												✓											

(*continued*)

ECOWAS Decision Making (Continued)

		Accession			Sus-pension		Constitution				Budget		
Years		Agenda	Decision	Ratification	Agenda	Decision	Agenda	Decision	Ratification	Revenue source	Agenda	Decision	Binding
2001	Not body-specific	N	N	N					2	2			2
	Member states						✓						
	A1: Authority					0		0					
	A2: Council of Ministers											0	
	E1: Council of Ministers										0		
	E2: Executive Secretariat				✓						✓		
	E3: Mediation & Security Council												
	GS1: Executive Secretariat				✓						✓		
	DS: Community Court of Justice (ECCJ)												
	Non-state actors: AU, UN												
2002–2004	Not body-specific	N	N	N					2	2			2
	Member states						✓						
	A1: Authority					0		0					
	A2: Council of Ministers											0	
	E1: Council of Ministers (TC)										0		
	E2: Executive Secretariat				✓						✓		
	E3: Mediation & Security Council												
	GS1: Executive Secretariat				✓						✓		
	CB1: ECOWAS Parliament						3						
	DS: Community Court of Justice (ECCJ)												
	Non-state actors: AU, UN												
2005–2006	Not body-specific	N	N	N					2	2			2
	Member states						✓						
	A1: Authority					0		0					
	A2: Council of Ministers											0	
	E1: Council of Ministers (TC)										0		
	E2: Executive Secretariat				✓						✓		
	E3: Mediation & Security Council												
	GS1: Executive Secretariat				✓						✓		
	CB1: ECOWAS Parliament						3						
	DS: Community Court of Justice (ECCJ)												
	Non-state actors: AU, UN												
2007–2010	Not body-specific	N	N	N					2	2			2
	Member states						✓						
	A1: Authority					0		0					
	A2: Council of Ministers											0	
	E1: Council of Ministers (TC)										0		
	E2: **Commission**				3						3		
	E3: Mediation & Security Council												
	GS1: **Commission**				3						3		
	CB1: ECOWAS Parliament						3						
	DS: Community Court of Justice												
	Non-state actors: AU, UN												

Note: A = automatic/technocratic procedure; N = no written rule; R = rotation; ✓ = body co-decides, but no voting rule; ← = change in status. Shaded areas refer to institutions or policy areas that are non-existent for those years.

Com-pliance		Policy 1 (protocols)					Policy 2 (decisions, regulations, directives)					Policy 3 (security actions)					Dispute settlement (economic (2001–4), + human rights (2005–10)						
Agenda	Decision	Agenda	Decision	GS role	Binding	Ratification	Agenda	Decision	GS role	Binding	Ratification	Agenda	Decision	GS role	Binding	Ratification	Coverage	Third party	Binding	Tribunal	Non-state access	Remedy	Preliminary ruling
				1	2	2			1	2	3			1	2	3							
												✓											
	0		0					0				0											
								0															
		0					0																
✓		✓					✓					✓											
												2	2										
✓		✓					✓					✓											
																	2	2	2	2	0	0	0
												✓											
				1	2	2			1	2	3			1	2	3							
												✓											
	0		0					0				0											
								0															
		0					0																
✓		✓					✓					✓											
												2	2										
✓		✓					✓					✓											
		3					3																
																	2	2	2	2	0	0	0
												✓											
				1	2	2			1	2	3			1	2	3							
												✓											
	0		0					0				0											
								0															
		0					0																
✓		✓					✓					✓											
												2	2										
✓		✓					✓					✓											
		3					3																
																	2	2	2	2	2	2	1
												✓											
									2	2	3			1	2	3							
												✓											
	0							0				0											
								0															
							0	0															
3							3					3											
												2	2										
3							3					3											
							3																
																	2	2	2	2	2	2	1
												✓											

are now directly applicable in national legal orders, with the consequence that judges should, in theory, be able to apply those rules indirectly." We code direct effect from 2005.

In 2006, member states aligned judges' terms in office with those of other Community institutions. The term in office was reduced to a non-renewable four-year term (2006 Memorandum, Art. 35). Moreover, the posts of judges were included in the general rotation system for statutory posts among member states (Art. 37).

Inter-Governmental Authority on Development (IGAD)

The Inter-Governmental Authority on Development (IGAD) encompasses the seven Eastern African countries Djibouti, Ethiopia, Kenya, Somalia, Sudan, Uganda, and Eritrea. Its mission is to help achieve food security and environmental protection; peace and security; humanitarian aid; and economic cooperation and integration (IGAD Treaty, Art. 7). The headquarters are in Djibouti.

IGAD was motivated by efforts to fight the causes and consequences of drought in the Horn of Africa. In 1973, several states in the Sahel region set up the Intergovernmental Permanent Committee for the Fight Against Drought in the Sahel (CILSS) in response to a severe drought (USAID 2015).[38] CILSS appeared relatively successful in research and dissemination, and this convinced international donors and agencies, especially the United Nations Environment Programme (UNEP), to persuade the Sahel states to constitute an intergovernmental organization to coordinate drought and famine relief (El-Affendi 2009: 5–6). However, hostility and conflict among the Sahel states severly complicated negotiations (Cliffe 1999). Not until March 1986 did Djibouti, Ethiopia, Kenya, Somalia, Sudan, and Uganda sign the agreement establishing the Intergovernmental Authority on Drought and Development (IGADD). Its stated purpose was to serve as an early warning system, alert external actors and humanitarian actors to emergencies, attract resources, and coordinate emergency help. Eritrea acceded in 1993. However, the organization initially "made little progress in fostering effective regional cooperation, even in the limited area of fighting famine" (El-Affendi 2009: 6).

[38] CILSS conducts research and distributes information on topics that affect farmers, such as weather patterns and water management. In recent years it partners most closely with ECOWAS. It receives funding from USAID and other international donors (USAID 2015).

Regime changes in the early 1990s opened up new opportunities for regional cooperation and extended the organization's mandate to security (Cliffe 1999: 92–3; Healy 2011: 107–8). In April 1995, Djibouti, Eritrea, Ethiopia, Kenya, Sudan, and Uganda resolved to revitalize IGADD and a new international donor group, "the Friends of IGADD," pledged support to its new peacemaking and development role (El-Affendi 2009: 8). IGADD's organizational structure was revised, and in March 1996, these changes were formalized in a new treaty, which renamed the organization the Intergovernmental Authority on Development (IGAD).[39]

The key legal documents are the Agreement Establishing the Inter-Governmental Authority on Drought and Development (IGADD) (signed 1986; in force 1986) and the Agreement Establishing the Inter-Governmental Authority on Development (IGAD) (signed 1996; in force 1996). IGAD has two assemblies (Assembly of Heads of State and Government and the Council of Ministers), two executives (the Secretariat and the Committee of Ambassadors), and a secretariat.[40]

Institutional Structure

A1: ASSEMBLY OF HEADS OF STATE AND GOVERNMENT (1986–2010)

The IGADD Treaty established the Assembly of Heads of State and Government as the supreme body, but its operational role was limited (Art. 9). It was responsible for setting the principal objectives of the organization and took decisions by consensus. The chair rotated among member states and the Assembly convened irregularly, essentially whenever a majority of members sought a meeting.

The new IGAD Treaty retains the Assembly as the supreme organ, but extends its functions to include several operational decisions, such as appointing the executive secretary and approving the scale of assessment for member state financial contributions (Art. 9.2). The Assembly meets at least once a year and decisions are taken by consensus (Arts. 9.3 and 9.4).

A2: COUNCIL OF MINISTERS (1986–2010)

Under the 1986 Agreement, the Council of Ministers was the chief decision making body. With one minister from each member state, it formulated policy, examined and approved the program of activities and fund allocation, adopted the organization's budget and appointed the executive

[39] The international support groups were institutionalized into IGAD(D) Partners Forum (El-Affendi 2009: 8).

[40] As we write, IGAD is in the process of becoming a free trade area. The new draft Treaty was adopted by the Committee of Ambassadors in June 2016, and is being put forward to the Council of Ministers and the Assembly of Heads of State for approval.

secretary (IGADD Agreement, Art. 10). It was chaired by a coordinator, who was elected for two years from among his peers but taking into account rotation (Art. 11). Like the Assembly, the Council took decisions by consensus and met at least once a year (Art. 10).

The new IGAD Treaty downgrades the Council's role somewhat by transferring chief decision responsibility to the Assembly. The Council's composition is laid down in greater detail: it includes the ministers of foreign affairs and one other minister designated by each member state (Art. 10.1). It recommends policy to the Assembly, prepares the Assembly's agenda, approves the budget, and monitors implementation (1996 IGAD Treaty, Art. 10.2). The decision rule in the Council changes from consensus to supermajority. While the Treaty still favors the norm of consensus, it opens the door to rule by two-thirds majority if consensus cannot be reached (Art. 10.5).

E1: EXECUTIVE SECRETARIAT (1986–2010)

Under the 1986 IGADD Treaty, the Executive Secretariat was the chief executive with responsibility for "any tasks that the Council of Ministers might entrust upon it," including representing IGADD in external negotiations (Art. 13). It was headed by an executive secretary, who was appointed by consensus by the Council (Art. 10f). The appointment was for four years, renewable once (Art. 13). The Secretariat had a core of autonomous staff as well as technical experts seconded from member states, other governments, or regional and international organizations (Art. 13c). We do not know the numerical balance between seconded experts and the Secretariat's own personnel, so we code both pathways for the selection of Secretariat staff.$^{\alpha}$ The Secretariat's own personnel was usually selected through an internal procedure, while member states and other external actors could propose seconded experts. In either case, the executive secretary appears to make the final decision.$^{\alpha}$ Thus, we code the head of the executive, member states, and external actors as agenda setters, and the head of the executive as final decision maker. We code the Secretariat as composed by member states, but without the guarantee that all member states are represented. There is no direct mention of the nature of representation, and given the mixed composition of seconded officials and centrally appointed officials, we apply an intermediate score, which implies that "a majority, but not all members of the executive receive voting instructions by their government."$^{\alpha}$ The Secretariat was made operational in 1986.

Under the 1996 IGAD Treaty, the functions of the Secretariat are extended to include implementing Assembly and Council decisions, preparing draft proposals on matters arising from the decisions and recommendations of the Assembly and the Council, preparing studies to deepen cooperation, and initiating and coordinating development programs and projects (1996

IGAD Treaty, Art. 12.2). The executive secretary has considerable power of initiative in that he can initiate measures and prepare recommendations (Arts. 13.1a and 13.1e). He also coordinates with member states on implementation, prepares annual reports and the annual budget, and is the chief negotiator with external donors (1996 IGAD Treaty, Art. 13).

Selection rules change marginally. The text now specifies that the executive secretary is nominated by the Council, presumably under its general decision rule of two-thirds majority (failing consensus); he is appointed by the Assembly by consensus for a four-year term, renewable once (1996 IGAD Treaty, Arts. 9.2d and 12.1a). As before, the Secretariat is composed of own staff and experts alongside technicians from member states (Terlingen 2004). The new treaty drops the provision that these experts could also come from international or regional organizations (Art. 12.1 b). Coding on composition and representation remains unchanged.

E2: FROM THE COORDINATOR (1986–95) TO THE COMMITTEE OF AMBASSADORS (1996–2010)

The 1986 IGADD Agreement designated a so-called Coordinator as the second executive actor. The Coordinator "assisted by the Executive Secretariat, ensures the application and follow-up of recommendations, resolutions and programs of action emanating from the Council of Ministers" (Art. 12). The Coordinator is chosen by and from the members of the Council of Ministers for a two-year term based on rotation (Art. 11). It is unclear how much leeway member states have in deviating from the rotation principle, but since it is mentioned explicitly, we code it as the chief selection mechanism.$^{\alpha}$ Composition is fully controlled by member states. The Agreement is unclear on whether representation is direct or indirect, but since the Coordinator is a national minister who represents her country in the Council of Ministers, we code representation as direct.

The 1996 IGAD Treaty introduces a new executive body composed of member state ambassadors or plenipotentiaries accredited to Djibouti (Art. 11). This body advises the Executive Secretariat on the implementation of the work plan and guides it on the interpretation of policies and guidelines (Art. 11.2). The Committee may take decisions by supermajority (two-thirds) if consensus cannot be reached (Art. 11.4). It can meet as frequently as need demands. There are no explicit rules on who chairs the Committee though rotation in sync with the Council of Ministers appears to be the established norm.[41]

[41] This is apparent from browsing the IGAD website for 2015–16, when the Council of Ministers and the Committee of Ambassadors were both chaired by the representative from Ethiopia (<igad.int/communique>, accessed March 2017).

GS1: SECRETARIAT (1986–2010)
The Executive Secretariat also served as the general secretariat of the organization under the 1986 IGADD Treaty. There are no written rules on the removal of the executive secretary. These rules remain unchanged with the new IGAD Treaty.

CONSULTATIVE BODIES
In 2004 an inter-parliamentary union (IPU) was created. The protocol came into force in November 2007 after ratification by four IGAD member states, but the body has not yet met, so we do not code it (Weldesellassie 2011: 16–17). The IPU will be composed of four members per member state nominated by the speakers of the national parliaments. It will be a consultative organ without legislative powers.

IGAD has no other institutionalized standing body for non-state representation. The IGAD Business Forum and the IGAD Civil Society Organization have no recognized role in the organization (Weldesellassie 2011: 18).

Decision Making

MEMBERSHIP ACCESSION
The 1986 IGADD Treaty stipulates that "any country in East Africa that suffers from drought" can apply for accession (Art. 17). The decision is taken by consensus (Art. 18), presumably by the Assembly of Heads of State.[α] There are no written rules on who proposes accession. Accession decisions require ratification by each member state "according to the respective constitutional rules" (Art. 20). One country—Eritrea in 1993—joined the organization.

The new IGAD Treaty defines countries eligible for accession as "African states in the sub-region which subscribe to the principles, aims and objectives enshrined in the Agreement" (Art. 1Ab). Prospective members apply to the Assembly, which decides upon accession by consensus (Arts. 1Ac and 1Ad). We code the Assembly as the sole decision body in the accession process. The same ratification rules are maintained (Art. 20).

MEMBERSHIP SUSPENSION
There are no written rules for suspending or excluding members. The 1986 IGADD treaty provides for voluntary withdrawal (Art. 22), and this is retained in the 1996 IGAD Treaty (Art. 22). In 2007, Eritrea suspended membership after IGAD supported Ethiopia's intervention in Somalia, and reactivated its membership in 2011.

CONSTITUTIONAL REFORM

The 1986 IGADD treaty states that constitutional amendments may be suggested by any member state to the Coordinator (Art. 19). Hence we code member states as initiators of constitutional reform. The Treaty does not stipulate who takes the final decision on reform, but given its importance, we code the Assembly of Heads of State, which decides by consensus. An amendment requires ratification by all member states to enter into force (Art. 19).

The new IGAD Treaty states that constitutional amendments may be suggested by any member state by writing to the chair of the Council of Ministers. An amendment comes into effect after approval by two-thirds of the member states if consensus cannot be reached (Art. 19). Hence member states may put reform on the agenda and the Council of Ministers takes the final decision by supermajority. Interestingly, the Treaty does not mention ratification.[α] However, constitutional amendments such as the adoption of the Protocol on the Early Warning System, which became an integral part of the Treaty, suggest that ratification is indeed required (see also IGAD Treaty, Arts. 20 and 21). The Protocol on the Early Warning System comes into force for those that ratify, and we generalize this rule to all constitutional reform (CEWARN, Art. 16).[γ]

REVENUES

IGADD had both annual member state contributions and donations by third parties (Arts. 14 and 15, IGADD Agreement). The secondary literature suggests that "donor involvement remained minimal during the [initial] period to 1991," but has picked up since (El-Affendi 2009: 6). A report on IGADD from 1994 stated that donors included Canada, the EU, France, the Food and Agriculture Organization, Germany, Great Britain, Italy, Japan, the Organization of African Unity, Sweden, the United States, the United Nations Sudano-Sahelian Organization, and the World Bank (IGADD 1994: 95). We code regular member state contributions until 1991, and own resources from then onwards. The agreement also provided for the establishment of a Special Drought Fund to be used during emergencies (Art. 16).

With the new IGAD Treaty, external donor funding continues to be the most important source of revenue, but the system of compulsory member state contributions is strengthened. The new Treaty mentions that the organization's resources derive from "contributions of Member States as well as assistance from other sources" (Art. 14), and it formally recognizes the IGAD Partners Forum (IPF), a group of external partners who work closely with the Secretariat. By 1998 this forum had more than twenty

members (El-Affendi 2009: 8; Weldesellassie 2011: 4). The IPF website (an integral part of IGAD's website) lists as partners many Western European countries, the United States, the World Bank, the European Commission, the International Organization for Migration, and the United Nations Development Programme. The 2009 Annual Report shows that external donors contributed 9.8 million dollars to the 2009 budget (with the biggest share from the World Bank), whereas member state contributions came to 8.1 million dollars (IGAD 2007: 73). We continue to code external resources as the primary source, though member state contributions have become more reliable and more substantial.[β]

The Assembly approves the scale of assessment for member state contributions upon recommendation by the Council (Art. 9.2e).

BUDGETARY ALLOCATION

The 1986 IGADD Agreement determines that the Council of Ministers adopts the budget, presumably by consensus (Art. 10c). There are no written rules on who drafts the budget. Given the absence of a non-compliance procedure or any other indication of bindingness, we code non-binding.

Under the 1996 IGAD Treaty, the Council approves the budget, by its new decision-rule of supermajority (if consensus cannot be reached). The budget is drafted by the Executive Secretariat (Arts. 10.2b and 13j). We code budgetary decisions as binding given that a non-compliance procedure now exists and that the Treaty instructs member states to "promptly pay their annual contributions to the budget" (Art. 14b).

FINANCIAL COMPLIANCE

The 1996 IGAD Treaty introduces a non-compliance procedure. "[A]ny Member State which, without the dispensation of the Assembly, falls in arrears of its financial contributions to the Authority for the preceding two years and above" is barred from speaking and voting in the organization's meetings and from presenting candidates for managerial positions at the Secretariat (Art. 14c). Hence we code agenda setting as administrative and the final decision is in the hands of the Assembly which can deviate from automatic sanctions by consensus.

POLICY MAKING

Under the 1986 Agreement, the organization's chief policy was to coordinate development, mobilize assistance, and conduct projects and programs. The Treaty does not lay out a decision procedure, but the responsibilities of

individual organs can be discerned by tying passages together. The chief policy maker is the Council of Ministers which makes decisions by consensus (Arts. 10b, c). There are no written rules on initiation, but it is clear that individual member states can propose policies and programs. The Coordinator's role appears limited to follow-up of decisions—not initiation (Art. 12). The Executive Secretariat has no initiation power; it can act only upon explicit mandate from the Council of Ministers (Art. 13d). So we conclude that neither the Coordinator nor the Executive Secretariat have a right to initiate policy.[β]

IGADD's primary function is to help member states in their fight against drought (Art. 7). We code decisions as non-binding because the organization's primary goals are to "coordinate," "sensitize," "launch appeals," "mobilize," "identify projects," and "assist" member states in developing programs and raising money (Art. 7). There is no ratification.

The 1996 Treaty signifies "the reinvention of IGAD as a general purpose regional organization" (Kefale 2015: 7). It extends its role from facilitating the campaign against drought and desertification to being an active promoter of regional development, security, and more recently, trade and economic integration. This expansion of purpose is also reflected in the organization's policy instruments. While coordinating development policy and implementing projects and programs still forms an important part of its activities, it also seeks to harmonize trade policies and promote peace and stability, inter alia through the adoption of Protocols and Conventions that may, subsequently, become an integral part of the IGAD treaty. Two of the most prominent protocols are the Conflict Early Warning Network and Response Mechanism (CEWARN) of 2002 and the IGAD Convention on Mutual Assistance in Criminal Matters (MLA) of 2007 which together strengthen IGAD's security management capacity. CEWARN aims to prevent conflict by providing timely early warning reports or "alerts" (Kefale 2015; Weldesellassie 2011). The IGAD MLA system is designed to help law enforcement officials prevent terrorism, money laundering, and human trafficking. Both come into force only for those member states that ratify.

Based on a review of the organization's website and the Treaty, we continue to code programs and projects as IGAD's central policy stream, but with an extended policy process. Programs and projects have become a prominent part of the Secretariat's annual work program. The Assembly sets the general guidelines by consensus (1996 IGAD Treaty, Art. 9). The Council has the task to "make recommendations to the Assembly on matters of policy," and acts by supermajority if consensus cannot be

reached (Art. 10.2a). The Executive Secretariat can also initiate policy, and contrary to the 1986 Treaty, this right is codified in the 1996 Treaty: the Secretariat can "initiate measures aimed at promoting the objectives of the Authority," and "prepare recommendations concerning the work of the Authority for consideration by the appropriate policy organ" (Art. 13a, e). Thus, both the Council and the Executive Secretariat have the power to initiate policy. We also code the Committee of Ambassadors as a junior partner in initiating policy because it provides guidance to the Secretariat on the interpretation of policies and guidelines (Art. 11.2). Whether policy is legally binding is unspecified. Given that there is no mechanism to settle disputes regarding policy implementation and in view of the executive secretary's function to "consult and coordinate with the Governments and other institutions of the Member States to ensure conformity and harmony with agreed policies, programs and projects," it is plausible to infer that policy implementation is non-binding.[β] Programs and projects do not require ratification.

DISPUTE SETTLEMENT

The 1986 IGADD Agreement does not contain a legal dispute settlement mechanism.

The new IGAD Treaty merely provides for the creation of an "effective mechanism of consultation and cooperation for the pacific settlement of differences" and member states explicitly agree to refer disputes to "this sub-regional mechanism before they are referred to other regional or international organizations" (Art. 18c). However, no mechanism has been set up to date (Healy 2011: 120).

In early 2002, the Council of Ministers adopted the Protocol on the Establishment of a Conflict Early Warning and Response Mechanism (CEWARN), which aims to prevent cross-border conflicts. The unit collects information on livestock rustling, conflicts over grazing and water points, nomadic movements, smuggling, and illegal trade. Its initial focus has been on monitoring cross-border pastoral activity—a common source of conflict in the region. It is linked to a network of national Early Warning and Early Response Units, composed of government officials, security agencies, members of parliament, and representatives of civil society which have been established in all member states except Somalia. The unit has no enforcement capacity and functions only for those member states that have ratified the protocol. In June 2003, the CEWARN Unit was officially opened in Addis Ababa, Ethiopia.

IGADD/IGAD Institutional Structure

		A1			A2			E1										E2										GS1	
Years		Non-state selection	Indirect representation	Weighted voting	Non-state selection	Indirect representation	Weighted voting	Head—agenda	Head—decision	Members—agenda	Members—decision	Non-state selection	Partial representation	Indirect representation	Reserved seats	Weighted voting	Partial veto	Head—agenda	Head—decision	Members—agenda	Members—decision	Non-state selection	Partial representation	Indirect representation	Reserved seats	Weighted voting	Partial veto	Select	Remove
1986–1995	Not body-specific	0	0	0	0	0	0	N				0	1	1	0	0	0	R	R			0	1	0	0	0	0		N
	Member states									✓																			
	A1: Assembly of Heads of State																												
	A2: Council of Ministers								0																			0	
	E1: Executive Secretariat																												
	E2: Coordinator																												
	GS1: Executive Secretariat																												
	Head E1									✓	✓																		
	External actors: IOs, third countries									✓																			
1996–2010	Not body-specific	0	0	0	0	0	0					0	1	1	0	0	0	R	R			0	0	0	0	0	0		N
	Member states									✓										✓	✓								
	A1: Assembly of Heads of State								0																			0	
	A2: Council of Ministers							2																				2	
	E1: Executive Secretariat																												
	E2: **Committee of Ambassadors**																												
	GS1: Executive Secretariat																												
	Head E1									✓	✓																		
	External actors: IOs, third countries																												

Note: A = automatic/technocratic procedure; N = no written rule; R = rotation; ✓ = body co-decides, but no voting rule; ← = change in status. Shaded areas refer to institutions or policy areas that are non-existent for those years.

IGADD/IGAD Decision Making

		Accession			Sus-pension		Constitution				Budget			Com-pliance		Policy (programs, projects)					Dispute settlement						
Years		Agenda	Decision	Ratification	Agenda	Decision	Agenda	Decision	Ratification	Revenue source	Agenda	Decision	Binding	Agenda	Decision	Agenda	Decision	GS role	Binding	Ratification	Coverage	Third party	Binding	Tribunal	Non-state access	Remedy	Preliminary ruling
1986–1990	Not body-specific	N		0	N	N			0	1	N		0	N	N			0	0	3							
	Member states						✓									✓											
	A1: Assembly of Heads of State		0					0																			
	A2: Council of Ministers											0					0										
	E1: Executive Secretariat																										
	E2: Coordinator																										
	GS1: Executive Secretariat																										
1991–1995	Not body-specific	N		0	N	N			0	2	N		0	N	N			0	0	3							
	Member states						✓									✓											
	A1: Assembly of Heads of State		0					0																			
	A2: Council of Ministers											0					0										
	E1: Executive Secretariat																										
	E2: Coordinator																										
	GS1: Executive Secretariat																										
1996–2010	Not body-specific			0	N	N			1	2			2	A				1	0	3							
	Member states						✓																				
	A1: Assembly of Heads of State	0	0												0		0										
	A2: Council of Ministers							2				2				2	2										
	E1: Executive Secretariat										✓					✓											
	E2: **Committee of Ambassadors**															2											
	GS1: Executive Secretariat										✓					✓											

Note: A = automatic/technocratic procedure; N = no written rule; R = rotation; ✓ = body co-decides, but no voting rule; ← = change in status. Shaded areas refer to institutions or policy areas that are non-existent for those years.

Southern African Customs Union (SACU)

The Southern African Customs Union (SACU) between Botswana, Lesotho, Namibia (since 1990), South Africa, and Swaziland, was founded in 1910 and is the oldest existing customs union in the world. It coordinates economic and trade policy, and seeks to promote economic development throughout the region. SACU is a common customs area in which tariffs and other barriers to the trade of goods are eliminated; there is a common external tariff; and revenue from customs and excise duties is redistributed through a common revenue pool. The SACU Secretariat is located in Windhoek, Namibia. The organization is "widely regarded as the most effectively functioning regional trade agreement in Africa" (Gibb 2006: 583).

SACU's predecessor was the 1889 Customs Union Convention between the British colony of Cape of Good Hope and the Orange Free State Boer Republic. SACU came into being in June 1910, when the previous Convention was extended to the newly founded Union of South Africa and the British High Commission Territories of Basutoland (Lesotho), Bechuanaland (Botswana), and Swaziland.[42] The SACU agreement was renegotiated after the independence of Lesotho, Swaziland, and Botswana in the mid-1960s, and entered into force in 1969, when we start coding SACU as an IO with at least three independent states as members and having a separate institutional structure.β[43] The 1969 Agreement "institutionalised an effective transfer of sovereignty" (Gibb 2006: 591) from the three smaller independent states to South Africa. South Africa took decisions on tariffs, excise duties, and sales duties, and ran the administration, while the other member states implemented the rules and received a fixed share from the common revenue pool. After the end of apartheid in 1994, the share of the revenues allocated to the other members was increased, but initially the asymmetrical arrangement survived (Hancock 2009: 101).[44] In 2002 the member states rewrote the rules from the ground up to create a more egalitarian intergovernmental organization, giving each member state a veto (Kirk and Stern 2005). The agreement came into force in 2004.

[42] South West Africa (Namibia) was a de facto member from 1918 because it was administered by South Africa.

[43] This is consistent with the Correlates of War dataset, which lists 1969, and not 1910, as the inception of SACU.

[44] SACU transfers make up about one-third of fiscal revenue in Botswana and Namibia and about 70 percent in Lesotho and Swaziland.

The key documents are the 1969 and 2002 Southern African Customs Union Agreement. Its chief bodies are the Council of Ministers, the Customs Union Commission, the Tariff Board (yet to be established), and the SACU Secretariat.

Institutional Structure

Prior to the 2002 Agreement, the institutional structure of SACU was minimal. The 2002 SACU Agreement, which seeks "to entrench a democratic approach to trade policy" (Kirk and Stern 2005: 169), formalizes the institutional structure.

A1: COUNCIL OF MINISTERS (2004–10)

Until 2004, decisions were taken unilaterally by South Africa: the Ministry of Trade and Industry took decisions on tariffs, and the Ministry of Finance governed excise duties. The remaining SACU members adjusted their policies to South Africa's.

The 2002 agreement, which came into force in 2004, creates the Council of Ministers as "the supreme decision-making authority of SACU matters" (Art. 8.1). It is responsible for "the overall policy direction of and functioning of SACU institutions," supervision of the implementation of SACU policies, and approval of trade measures (Arts. 8.2, 8.6, and 8.7). It is composed of one or several ministers from each member state and takes decisions by consensus (Art. 17). The chair rotates between the member states every twelve months (Art. 8.10).

E1: CUSTOMS UNION COMMISSION (1969–2010)

The Customs Union Commission was established with the 1969 SACU Agreement "for the purpose of discussing any matter arising out of this Agreement" (Art. 20.1). It was composed of member state representatives, and the chair rotated every year among the members. When called upon, the Commission was expected to use "its best endeavours to find a mutually agreeable solution to a particular problem or difficulty" (Art. 20.4). We code this as consensus. The body was assisted by three Liaison Committees for transport, trade and industry, and customs which met at least once a year (Gibb 2006: 592).

The 2002 Agreement transformed the Customs Union Commission into the chief executive. It is now responsible for implementing Council decisions and SACU agreements, overseeing the common resource pool, and supervising the Secretariat (Arts. 9.3–9.6). The Commission consists of senior

officials from each member state and takes decisions by consensus (Art. 17). It meets at least every three months. The chair rotates in sync with the chair of the Council (Art. 9.7). The Commission is assisted by Technical Liaison Committees on agriculture, customs, trade and industry, transport, and finance (Art. 12).

The 2002 Agreement foresees the creation of a second executive, the Tariff Board, consisting of Council-appointed national experts, to advise the Council on the level of customs, anti-dumping, countervailing and safeguard duties on imported goods, rebates, refunds, or duty drawbacks (Art. 11.2). As of March 2017, the Tariff Board has yet to be established.[45] To help the Tariff Board, each country is expected to set up national bodies to "carry out preliminary investigations and recommend any tariff changes necessary to the Tariff Board" (Art. 14.1).

GS1: SACU SECRETARIAT (2004–10)

The 2002 SACU Agreement created an independent full-time administrative Secretariat. It has been operational since January 2004. It takes care of the day-to-day administration, and coordinates and monitors the implementation of the Council and Commission decisions (Arts. 10.1, 10.2). It also "assist[s] in the harmonization of national policies and strategies" (Art. 10.3). It can place items on the agenda of the Council and the Commission (Rules of Procedure Council, Commission, Rule 7.3). And it is empowered to "coordinate and assist in the negotiation of trade agreements with third parties" (Art. 10.8).

The executive secretary is appointed by the Council of Ministers by consensus (Art. 8.3). All member states can propose candidates (Council Rules of Procedure, Art. 16a). The term of office of the executive secretary shall "be determined by Council at its discretion in accordance with the Agreement" (Council Rules of Procedure, Art. 16d). The first holder was in office for ten years until 2014. The second holder, Paulina Mbala Elago from Namibia, is appointed for five years. There are no written rules on removal.

CONSULTATIVE BODIES

There are no standing non-state consultative bodies.

[45] See <http://www.sacu.int/category.php?cat=Tariff%20Board> (accessed October 7, 2016).

Decision Making

MEMBERSHIP ACCESSION

There were initially no written rules on accession. This changed in 1990, when in the context of Namibia's accession, an amendment to the 1969 Agreement was passed that sets out accession rules. The contracting parties were to decide collectively and consensually on admission (Art. 23.1). The new rules constituted the first significant departure from the traditional South African dominated decision process. Agenda setting is unspecified.[α]

The revised 2002 SACU agreement authorizes the Council of Ministers to decide on accession by consensus (Art. 6.2). No ratification is required. Once again, agenda setting is not specified (Rules of Procedure of the Council, Art. 24).

MEMBERSHIP SUSPENSION

No written rules.

CONSTITUTIONAL REFORM

The 1969 Agreement did not have rules on constitutional reform, but the way by which the Agreement was adopted became routine for subsequent constitutional amendments. In the absence of joint decision bodies the decision process was monopolized by the member states. Member states themselves proposed amendments and these entered into force upon signature by "the four Governments" (five after the accession of Namibia). No ratification was required (for an account of the revision of the 1969 Agreement, see Landell Mills 1971: 266–9).

The 2002 Agreement pencils in a constitutional role for the newly created bodies. Agenda setting remains in the hands of member states, while the Council of Ministers now takes the final decision by consensus (Art. 17). Article 43 reads: "Any Member State desirous of amending this Agreement shall put forward its proposal for such amendment, together with its submissions in motivation of the proposed amendment, to the Council for consideration and decision. An amendment of this Agreement shall be adopted by a decision of the Council." Constitutional amendments do not require ratification.

Interestingly, the SACU agreement makes a distinction between amending the Treaty and writing a new treaty. The 2002 Agreement required ratification by all member states to enter into force (Art. 45).

REVENUES

SACU's customs revenues are collected through a common revenue pool. Hence the organization has a significant source of own income. Initially, the

common revenue pool consisted of the revenue generated by the common tariff and excise duties (1910 SACU Agreement, Art. 2.1). The 1969 agreement added sales taxes (Art. 14.1; for background, see Landell-Mills 1971: 267). The 2002 Agreement, once again, bases the revenue pool chiefly on customs and excise duties (Art. 32). The size of this pool has grown as the economies have expanded and trade has increased.

Under the 2002 system, duties are in principle collected by the national customs administrations and tax authorities. Most customs duties, however, continue to be collected by South Africa, as was the case before 2002. This is so because the bulk of imports to Botswana, Lesotho, and Swaziland transit through South Africa. The smaller member states transfer their collected duties every four months into the common revenue pool (1969 Agreement, Art. 13).

Until the 2002 Agreement, the pool was administered by South Africa. With the new Agreement, South Africa was supposed to transfer administration to another member state or to a newly created SACU institution (Art. 33.1) (Kirk and Stern 2005: 183).

BUDGETARY ALLOCATION

Until 2002, the common revenue was distributed among the member states according to a revenue sharing formula which was occasionally renegotiated. Over the decades the formula evolved from a system of fixed shares of the common revenue pool to a system that added compensation and, from 1978, a stabilization mechanism to partially make up for the smaller economies' dependence on South Africa under apartheid (Landell-Mills 1971: 264–8; McCarthy 1994; Grynberg and Motswapong 2003: 7–8).[46] The upshot is that the allocation of revenues became decoupled from the actual size of the common revenue pool—a situation which by the late 1980s had arguably grown "beyond politically sustainable levels" (Grynberg and Motswapong: 9).[47] The 2002 Agreement recouples redistribution to customs and excise revenues (Kirk and Stern 2005: 179). Since South Africa was administering the customs union until 2004, we do not code a regular SACU decision process.

[46] A compensation formula was included in the 1969 Agreement (Art. 14), and a stabilization system was introduced ten years later (1978 Agreement Amending the Customs Union Agreement of December 11, 1969, Art. 14.3).

[47] Kirk and Stern (2005: 176) mention that by the late 1990s the smaller member states received around 50 percent of collected revenues from the pool.

With the creation of common institutions in 2004, SACU's budgetary decision making was centralized. The Secretariat is financed from the common revenue pool on a proportional basis and the remainder is redistributed to the member states (Art. 34.2). The Secretariat prepares its operating budget, and the Customs Union Commission (as well as the Finance and Audit Committee) reviews the draft. The Council approves the budget by unanimity (Art. 8.5).[48] Decision making on the budget is binding.[α]

FINANCIAL COMPLIANCE

No written rules. Under the current arrangement, South Africa continues to distribute proceeds from the common revenue pool to member states and SACU bodies.

POLICY MAKING

The core of SACU policy making concerns the common external tariff and regulation of the free movement of goods within the customs union. Initially, this involved setting tariffs, quantitative restrictions, and excise duties, but in recent times, many decisions are concerned with non-tariff barriers to trade, including technical regulations, sanitary and phytosanitary norms, and customs procedures.

The 1910 Agreement gave South Africa full control over tariff and excise policy, while the smaller member states were expected to "as far as possible, conform to the laws and regulations for the time being in force within the Union" (Art. 4). The South African Ministry of Trade approved changes to the external tariff upon recommendation by the South African Board of Trade and Industries, a publicly funded but autonomous organization composed of industry representatives, academics, and senior civil servants (Kirk and Stern 2005: 174; Gibb 2006: 593).

We code policy making as a SACU competence from the 1969 Agreement which created the Customs Union Commission as a consultation forum for the smaller member states (Art. 20). The revised agreement required the South African government to consult with the Commission on any changes to the common external tariff or excise duties that could have a substantial effect on the common revenue pool (Arts. 5.1, 14.7; see also Art. 17 on bilateral consultations). So there are now two bodies that can influence agenda setting:

[48] Southern African Customs Union Annual Report 2008/2009, part II, 49ff.

the SACU Customs Union Commission, and the South African Board of Trade and Industries. The South African government continues to control the final decision. The other member states obtain the right to deviate from the common tariff under particular circumstances (Art. 4.4), restrict imports and exports "for economic, social, cultural or other reasons" (Art. 11.1), or protect infant industries for specified time periods (up to eight years) (Arts. 6, 7, 9),[49] which implies that the policy was conditionally binding.

The 2002 Agreement introduces, for the first time, common decision making on free movement of goods and the common external tariff. The Council, as the supreme decision body, takes decisions by unanimity (Arts. 8, 17).[50] Policy is recommended to the Council by the Customs Union Commission (Art. 9.2) based upon the technical work done by liaison bodies—the actual workhorses of the organization. Decision making is now coded as binding and ratification is not required.

The Secretariat's role is chiefly administrative, but it has some agenda setting power. It plays a meaningful role in helping to harmonize national policies and in coordinating trade negotiations with third parties (Arts. 10.4 and 10.8, respectively). Also, the secretary general can add items to the Council or the Commission agenda at any time (Rules of Procedure, Art. 7.3). We recognize these agenda setting powers, albeit shared with member state bodies, in the coding.$^{\beta}$

DISPUTE SETTLEMENT

Prior to 2002, SACU agreements did not provide for legal dispute settlement. The 2002 SACU Treaty envisages the establishment of a Tribunal, which is to provide final and binding adjudication "regarding the interpretation or application of this Agreement, or any dispute arising thereunder" (Art. 13.1). It is to consist of ad hoc arbitrators drawn from a roster of Council-approved legal experts. Third-party access is mediated by a political body because the Tribunal considers a dispute "at the request of the Council" (Art. 13.1). Non-state actors cannot initiate litigation, there are no remedies in case of non-compliance, and there is no preliminary rulings procedure. The Tribunal has not yet been established (Ruppel 2010: 131).

[49] A secret memorandum attached to the 1969 Agreement restricted infant industry protection: smaller members had to supply at least 60 percent of total demand of that product within the customs union—a requirement that was almost impossible to meet (see Gibb 2006: 594).

[50] South Africa had pushed for a majoritarian voting arrangement which it thought would give it greater influence over decisions, but did not prevail (Gibb 2006: 596–9).

SACU Institutional Structure

		A1			E1										GS1	
Years		Non-state selection	Indirect representation	Weighted voting	Head—agenda	Head—decision	Members—agenda	Members—decision	Non-state selection	Partial representation	Indirect representation	Reserved seats	Weighted voting	Partial veto	Select	Remove
1969–2003	Not body-specific				R	R			0	0	0	0	0	0		
	Member states						✓	✓								
	South African Trade Ministry															
	E1: Customs Union Commission															
2004–2010	Not body-specific	0	0	0	R	R			0	0	0	0	0	0		N
	Member states						✓	✓								
	A1: Council of Ministers														0	
	E1: Customs Union Commission															
	GS1: Secretariat															

Note: A = automatic/technocratic procedure; N = no written rule; R = rotation; ✓ = body co-decides, but no voting rule; ← = change in status. Shaded areas refer to institutions or policy areas that are non-existent for those years.

SACU Decision Making

		Accession			Suspension		Constitution				Budget			Compliance		Policy					Dispute settlement						
Years		Agenda	Decision	Ratification	Agenda	Decision	Agenda	Decision	Ratification	Revenue source	Agenda	Decision	Binding	Agenda	Decision	Agenda	Decision	GS role	Binding	Ratification	Coverage	Third party	Binding	Tribunal	Non-state access	Remedy	Preliminary ruling
1969–1989	Not body-specific	N	N	N	N	N			3	2									1	3							
	Member states						✓	✓																			
	South African Trade Ministry															✓	✓										
	E1: Customs Union Commission															0											
1990–2003	Not body-specific	N		2	N	N			3	2									1	3							
	Member states		✓				✓	✓																			
	South African Trade Ministry															✓	✓										
	E1: Customs Union Commission															0											
2004–2010	Not body-specific	N		2	N	N			3	2			2					1	2	3							
	Member states						✓																				
	A1: Council of Ministers		0					0				0					0										
	E1: Customs Union Commission										0					0											
	GS1: Secretariat										✓					✓											

Note: A = automatic/technocratic procedure; N = no written rule; R = rotation; ✓ = body co-decides, but no voting rule; ← = change in status. Shaded areas refer to institutions or policy areas that are non-existent for those years.

Southern African Development Community (SADC)

The Southern African Development Community (SADC)'s mission is to "promote the interdependence and integration of [our] national economies for the harmonious, balanced, and equitable development" (2001 SADC Treaty, Preamble). Currently, SADC has fifteen member states. Its headquarters are in Gaborone, Botswana.

The organization grew out of intergovernmental cooperation between the Frontline States—the majority ruled countries of Angola, Botswana, Lesotho, Mozambique, Swaziland, Tanzania, and Zambia—which were united in their fight against South Africa's apartheid regime. Intense collaboration among these countries reaching back to the 1970s led to the creation of the Southern African Development Coordination Conference (SADCC) with the adoption of the Lusaka Declaration in April 1980 (Anglin 1983).[51] The Lusaka Declaration was followed by a memorandum of understanding in July 1981 which set out an institutional structure. The initial goal of SADCC was "to reduce economic dependence on South Africa" through regional cooperation and development (Lee 2003: 44). Guided by a jointly agreed program of action, each member state assumed responsibility for managing regional development projects in a particular policy sector. The idea was to coordinate countries' development initiatives with outside donors (Mandaza and Tostensen 1994). SADC was a direct challenge to SACU, which was dominated by South Africa (Gibb 1998: 292).

After South Africa's transition to black majority rule, SADCC leaders negotiated the SADC Treaty and Declaration, signed in August 1992, which established the Southern African Development Community. Following the independence of Namibia, its objective widened to include economic integration. After its first free elections in 1994, South Africa joined. Membership was expanded to Mauritius (1995), the Democratic Republic of Congo and the Seychelles (1997), and Madagascar (2005).

Progress in regional economic integration remained patchy, but SADC became more involved in election monitoring, democratic and good governance, and human rights (Gibb 1998; Sidaway 1998).

In 2001, the amended SADC Treaty overhauled the institutional structure. Since then, the organization has sought to broaden its profile, adopting ambitious goals in economic integration with the eventual creation of a common currency alongside deeper security and political cooperation (van Nieuwkerk 2012).

[51] Several accounts highlight the important role of officials of the European Community (Anglin 1983: 685; Lee 2003: 48–9).

The key legal documents are the 1981 Memorandum of Understanding on the Institutions of SADCC (signed and in force 1981), the Treaty of the Southern African Development Community (signed 1992; in force 1993), its amendment (signed 2001; in force 2002); the Protocol Establishing the SADC Tribunal (signed and in force 2001); the Regional Indicative Strategic Development Plan (RISDP) (signed and in force 2003); and the Strategic Indicative Plan for the Organ on Politics, Defense and Security Cooperation (SIPO) (signed and in force 2004). The various treaty instruments and subsequent amendments to the treaties since 2002 have been combined in the Consolidated Treaty (signed in 2015). SADC has an assembly (Summit of Heads of State and Government), two executive bodies (Council of Ministers and Secretariat), and a general secretariat. The SADC Parliamentary Forum and the National Committees serve as consultative bodies.

Institutional Structure

A1: SUMMIT OF THE HEADS OF GOVERNMENT (1981–2010)

The Summit, composed of heads of state or government from all member states, has been the "supreme institution of SADCC" from the beginning (1981 Memorandum, Art. II.1). Before the transformation of the organization in the early 1990s, it was responsible for the "general direction and control of the functions of SADCC and the achievement of its objectives" (1981 Memorandum, Art. II.1). It also had the final say on accession and constitutional reform. The bulk of policy making was in the hands of the Council, which was directly responsible to the Summit (Art. III.6).

The 1992 Windhoek Treaty designates the Summit as the "supreme policy making Institution of SADC" (Art. 10.1). Besides a general political guidance function, it assumes direct responsibility for "[adopting] legal instruments for the implementation" of the Treaty (Art. 10.3). The 2002 revised SADC Treaty maintains these tasks.

Until 1992, the chair of the Summit was decided by the Summit "from among its members for an agreed period" (Art. II.3), and thereafter the chair is selected by rotation (1992 Treaty, Art. 10.4). All decisions are taken by consensus (Art. II.4) and are, since the 1992 Treaty, explicitly binding (1992 Treaty, Art. 10.8). The Summit meets once a year.

E1: THE COUNCIL (1981–2010)

Under the 1981 Memorandum, the Council was the only executive body of the organization. It had responsibility for "the overall policy of SADCC, its general coordination, the supervision of its institutions and the supervision of the execution of its programs" as well as responsibility "to adopt a work

program for SADCC and designate a member state to coordinate activities in specified areas" (1981 Memorandum, Arts. III.1 and III.4). It was composed of ministers from all member states and convened in different configurations depending on the issue at hand. Representation was direct. The chair was appointed by the country chairing the Summit, who, in turn, was chosen by the Summit (by unanimity) for an agreed period (Arts. II.3 and III.2). The Council took decisions by consensus and met at least once a year (Arts. III.3 and III.8).

The Council was assisted by a Standing Committee of Officials, which convened at least once a year. As in SADCC's other bodies, decisions required consensus (Art. 5).

With the Windhoek Treaty, the Council lost its centrality in policy making, becoming one of three policy making bodies alongside the Summit and the Secretariat. The Treaty describes its role as "advis[ing] the Summit on matters of overall policy" (Art. 11.2). The chair of the Council was the minister from the country that chaired and hosted the Summit, determined by rotation (Arts. 10.4 and 11.3). Thus, we code rotation as well as selection by the Summit. Consensus was confirmed as the general decision rule (Art. 11.6).

The revised SADC Treaty gives the Council the task to "develop and implement the SADC Common Agenda and strategic priorities" (Art. 11.2j). The Council coordinates an array of subsidiary and parallel bodies, including the Integrated Committee of Ministers, created in 2003 to oversee activities in the core areas of integration (revised SADC Treaty, Art. 12); the Organ on Politics, Defense and Security set up in 2004 to handle security; the Standing Committee of Officials (revised SADC Treaty, Art. 12); and SADC National Committees set up to provide policy input at the national level and oversee implementation of SADC programs (revised SADC Treaty, Art. 16).

E2: SECRETARIAT (1993–2010)

With the Windhoek Treaty, the Secretariat became the "principal executive institution" of the organization (Art. 14.1). Its wide-ranging powers include strategic planning and managing SADC programs, implementing SADC decisions, representation and promotion, and coordinating and harmonizing national policies and strategies (Art. 14.1). The Secretariat also drafts the budget, and the secretary general can "on his/her own initiative, undertak[e] measures aimed at promoting the objectives of SADC and enhancing its performance" (Art. 15.1b).

The Secretariat is composed of an executive secretary and one or more deputies plus additional staff. The executive secretary and her deputy are nominated by the Summit (by consensus) upon recommendation by the

Council (Arts. 10.7 and 11.2h).[52] The executive secretary's term in office is four years, renewable once (Art. 15.3).

In accordance with guidelines set by the Council, the executive secretary appoints the staff of the Secretariat, including the senior staff heading the Directorates (Art. 15.1f). So we code the composition of the executive as more than 50 percent selected by non-state actors. There appears to be no requirement that every member state is represented at the higher managerial levels.$^{\alpha}$ All secretarial staff are held to be independent, and so representation is indirect (Windhoek Treaty, Art. 17).

The revised SADC Treaty extends the number of secretarial tasks from six to sixteen (Art. 14.1f–p). Some of the new tasks include gender mainstreaming, inception and submission of harmonized policies; monitoring programs; collecting data; mobilizing resources; devising strategies for self-financing; and conducting research on Community building.

GS1: THE SECRETARIAT (1981–2010)

The 1981 Memorandum established a Secretariat for administrative support. It was responsible for the "general servicing of and liaison with SADCC institutions" (1981 Memorandum, Art. 6.4). It was headed by a secretary general and a deputy nominated by the Summit upon recommendation by the Council (Art. 6.3). Both the Summit and Council decide by consensus. There was no mention of the term of office or the potential removal of the secretary general. The Secretariat had a very small staff.[53]

The Secretariat became SADC's chief executive with the Treaty of Windhoek in 1992. The length of tenure of the secretary general is now set at four years, renewable once (SADC Treaty Art. 15.3).

CB1: SADC PARLIAMENTARY FORUM (1997–2010)

SADC recognizes two bodies that allow for input by non-state actors. The oldest is the SADC Parliamentary Forum, created in 1996 and formally recognized by the Summit in 1997 as an "autonomous institution." It represents thirteen national parliaments (the Seychelles and Madagascar do not send members) and has its seat in Windhoek. Its self-proclaimed aim is to "provide a platform to support and improve regional integration through parliamentary involvement," to promote good governance and human rights, hasten the pace of economic cooperation, promote the participation of non-governmental organizations, and disseminate information about SADC in

[52] In 2010, a second deputy executive post was created.
[53] In the early 1980s, it had just five staff (Anglin 1983: 696).

the member states.[54] The Forum has organized election observation missions and runs a parliamentary leadership center to enhance the capacity of national parliamentarians (Karuuombe 2008; Ogbonnaya and Ogujiuba 2015). It also seeks to promote best practices in the home countries. The Forum has been actively pushing for the creation of a SADC Parliament with decision powers (Ogbonnaya and Ogujiuba 2015).

CB2: SADC NATIONAL COMMITTEES (2003–10)

SADC National Committees, which are written into the revised SADC Treaty, are a second venue for routinized consultation (Art. 16A.13). They bring together "key stakeholders" at the national level including from the government, the private sector, civil society, non-governmental organizations as well as workers and employer organizations. The committees are unusual in that they convene in country-specific forums rather than as single bodies, and they comprise governmental alongside non-governmental representatives.$^{\beta}$ These committees became operational in most member states in 2003, and they "provide input at the national level in the formulation of SADC policies, strategies, and programs of action; coordinate and oversee, at the national level, implementation of SADC programs of action" (Art. 16A.2). There is no indication that they exercise a role in decision making.$^{\alpha}$ Their composition, size, and operation appears to vary from member state to member state (Matlosa 2006).

Decision Making

MEMBERSHIP ACCESSION

According to the 1981 Memorandum, accession was entirely determined by the Summit. An application for membership was addressed to the chair of the Summit, and the Summit decided by consensus. No ratification was required (1981 Memorandum, Art. 13.4). The procedure was unchanged in the Windhoek Treaty (Art. 8).

With the revised SADC Treaty, the Council assumes a key role. A request for membership is first considered by the Council, which makes a recommendation to the Summit by consensus. The Summit approves membership by unanimity (Art. 8). There is no mention of ratification.

[54] See <http://www.sadc.int/about-sadc/sadc-institutions/sadc-parliamentarian-forum/> (accessed February 13, 2017).

MEMBERSHIP SUSPENSION

The Windhoek Treaty introduced the possibility of sanctions against a member state that "persistently fails, without good reason, to fulfill obligations assumed under this Treaty" or "implements policies which undermine the principles and objectives of SADC" (Art. 33). Such sanctions, decided by the Summit "on a case-by-case basis," presumably may involve suspension as the most drastic measure.[δ] The Summit takes decisions by consensus, presumably without the member state concerned. The revised SADC Treaty retains the same formulation (Art. 33).

CONSTITUTIONAL REFORM

Under the 1981 Memorandum, any member state could propose amendments, which were passed on to the executive secretary for initial consideration by the Council. The Summit then decided by consensus (Art. 14). Hence, we code member states and the Council as initiators and the Summit as the final decision maker. Initially, there is no mention of ratification and the Memorandum itself also entered into force after signature by the heads of state (Art. 13.1).

With the Windhoek Treaty, the formal decision rule changes. A supermajority, that is, three-quarters of the member states in the Summit, can now adopt amendments (Art. 36.1). The Windhoek Treaty expressly required ratification by two-thirds of its members to enter into force for all (Arts. 40 and 41), but does not prescribe ratification for subsequent treaties. However, it does specify that protocols adopted by the Summit require ratification (Art. 22.3). Thus, it seems reasonable to code ratification for constitutional change. There is no change with the revised SADC Treaty (Art. 36).

REVENUES

In the early years, the organization was financed by regular member state contributions according to a formula decided by the Council (1981 Memorandum, Art. 7.1). However, from the beginning a chief goal of the organization has been to attract external donor funding to implement national and regional development programs (see 1981 Memorandum, Preamble). These funds have also been used to sustain core bodies including the Secretariat. External funding is negotiated at annual consultative conferences with donors, and have been an important source of own income (Adelmann 2008). The 2011/12 budget amounts to US$83.5 million, of which 62 percent comes from external development partners. We therefore code own resources.[β]

BUDGETARY ALLOCATION

Under the 1981 arrangement, the Secretariat drafted the budget and the Council adopted it by consensus (1981 Memorandum, Art. 7.2). The Council

was also responsible for financial regulations (Art. 7.3). The initially loose character of the organization suggests that these decisions were not binding on member states.[α]

This changed with the Windhoek Treaty. While the procedure remained the same (Art. 28), the Treaty introduced a budgetary non-compliance procedure. Hence, we code the budget as binding from 1993 onwards. The executive secretary monitors compliance.

FINANCIAL COMPLIANCE

The Windhoek Treaty introduced a skeletal budgetary non-compliance procedure. Countries that are in arrears for more than one year may be sanctioned by the Summit "on a case-by-case basis," unless "reasons other than those caused by natural calamity or exceptional circumstances that gravely affect its economy" were involved (Art. 33). Decisions are presumably taken by consensus, but without the member state concerned.

This procedure is comprehensively revised in the 2002 SADC Treaty, which introduces a detailed, graded, and automatic sanctions system, potentially leading to suspension of voting rights, suspension of recruitment and renewal of personnel contracts by SADC, or freezing of funds (Art. 33). The Secretariat has the authority to apply the sanction catalogue "without reference to the Summit or Council" (Art. 33.4). There is one small political window through which a member state may escape: the Summit may grant dispensation if it decides that arrears are due to "natural calamity or exceptional circumstances that gravely affect its economy" (Art. 33.2c). Hence we code the initiation and decision stage as automatic, but with the possibility that the Summit can reverse this in the final stage.

POLICY MAKING

SADC policy making has become more diversified over time. The core continues to be programs and projects on economic development, but from the early 1990s SADC also negotiated a series of protocols. Under the 1981 Memorandum, the chief focus of cooperation was economic development. Cooperation was highly decentralized. Member states played a definitive role, and set up intergovernmental Sector Coordinating Units to identify and coordinate specific programs. Overall coordination rested with the Council, which adopted an annual work program by consensus and designated a member state to coordinate activities in a particular area (Art. 3.4). There was no role for the Secretariat. Since cooperation was highly decentralized and there is no indication in the Treaty or in other sources to the contrary, we code policy making as non-binding.[α]

Development projects and programs continue to be an important policy stream for SADC under the Windhoek Treaty. However, the Secretariat is now

given responsibility for "strategic planning and management of the programs of SADC" and for the "coordination and harmonization of the policies and strategies of member states" (Arts. 14.1a and f). We code this as a non-exclusive right on the part of the Secretariat to set the agenda. It had to vie with the influential Sector Coordinating Units for attention and resources. The Council retains its coordinating role. With the revised SADC Treaty, the Secretariat's policy role is strengthened considerably, and we code this as an exclusive right of initiative for most SADC projects and strategies (Arts. 14.1a and h).[β] The final decision continues to be taken by the Council (or its subsidiary body—the Integrated Committee of Ministers). Policy programs are not legally binding since neither the Secretariat nor the Council have the authority to take binding decisions; only the Summit can do so (Afadameh-Adeyemi and Kalula 2011). With the adoption of the Regional Indicative Strategic Development Plan (RISDP) in 2003, we also code the possibility that the National Committees initiate programs because they are assigned a strong role under the RISDP. National Committees report to the Secretariat (Art. 16A.10). Projects and programs do not require ratification.

The Windhoek Treaty generates a second policy stream of protocols, and this is strengthened in the revised SADC Treaty. Protocols set out "the objectives and scope of, and institutional mechanisms for, co-operation and integration" in concrete functional areas (Art. 22.1). They commit member states to develop domestic regulation to implement specified goals and principles, and they can also provide the backbone for programs developed by the SADC Secretariat. Protocols are approved by the Summit by consensus upon the recommendation of the Council (Art. 22.2). The Secretariat has no formal role in generating protocols, even though the broadly worded stipulations of its competences might eventually form the basis for this. For the time being, we do not code it in this function. Protocols are binding on member states that ratify (Art. 22.9), and ratification is required by two-thirds of member states for a protocol to come into force (Art. 22.4). Other member states can accede to the protocol at a later time (Art. 22.6). As of October 2016 SADC had concluded twenty-six protocols.

DISPUTE SETTLEMENT

For a long time, SADC's dispute settlement mechanism was solely political and intergovernmental. Under the 1981 Memorandum, disputes were to be settled through direct negotiation between the disputing parties. If no agreement could be reached, the dispute was referred to the Summit whose decision was to be final and binding (1981 Memorandum, Art. 15).

The Windhoek Treaty provided for the establishment of a Tribunal, but this never materialized (Arts. 9.1f and 16). The revised SADC Treaty reiterates this goal (Art. 16).

SADCC/SADC Institutional Structure

		A1			E1										E2										GS1		CB1	CB2
Years		Non-state selection	Indirect representation	Weighted voting	Head—agenda	Head—decision	Members—agenda	Members—decision	Non-state selection	Partial representation	Indirect representation	Reserved seats	Weighted voting	Partial veto	Head—agenda	Head—decision	Members—agenda	Members—decision	Non-state selection	Partial representation	Indirect representation	Reserved seats	Weighted voting	Partial veto	Select	Remove	Non-state selection	Non-state selection
1981–1992	Not body-specific	0	0	0					0	0	0	0	0	0												N		
	Member states						✓	✓																				
	A1: Summit				0	0																			0			
	E1: Council																											
	GS1: Secretariat																											
1993–1996	Not body-specific	0	0	0	R	R			0	0	0	0	0	0					2	1	2	0	0	0		N		
	Member states						✓	✓																				
	A1: Summit				0	0										0									0			
	E1: Council														0		0											
	E2←GS1: Secretariat																											
	GS1: Secretariat																											
	Head E2																✓	✓										
1997–2002	Not body-specific	0	0	0	R	R			0	0	0	0	0	0					2	1	2	0	0	0		N	3	
	Member states						✓	✓																				
	A1: Summit				0	0										0									0			
	E1: Council														0		0											
	E2: Secretariat																											
	GS1: Secretariat																											
	CB1: Parliamentary Forum																											
	Head E2																✓	✓										

2003–2005	Not body-specific	0	0	0	R	R			0	0	0	0	0	0					2	1	2	0	0	0		N	3	2
	Member states						✓	✓																				
	A1: Summit				0	0										0									0			
	E1: Council														0		0											
	E2: Secretariat																											
	GS1: Secretariat																											
	CB1: Parliamentary Forum																											
	CB2: National Committees																											
	Head E2																✓	✓										
2006–2010	Not body-specific	0	0	0	R	R			0	0	0	0	0	0					2	1	2	0	0	0		N	3	2
	Member states						✓	✓																				
	A1: Summit				0	0										0									0			
	E1: Council														0		0											
	E2: Secretariat																											
	GS1: Secretariat																											
	CB1: Parliamentary Forum																											
	CB2: National Committees																											
	DS: SADC Tribunal																											
	Head E2																✓	✓										

Note: A = automatic/technocratic procedure; N = no written rule; R = rotation; ✓ = body co-decides, but no voting rule; ← = change in status. Shaded areas refer to institutions or policy areas that are non-existent for those years.

SADCC/SADC Decision Making

		Accession			Suspension		Constitution				Budget		
Years		Agenda	Decision	Ratification	Agenda	Decision	Agenda	Decision	Ratification	Revenue source	Agenda	Decision	Binding
1981–1992	Not body-specific			2	N	N			3	2			0
	Member states						✓						
	A1: Summit	0	0					0					
	E1: Council						0					0	
	GS1: Secretariat										✓		
1993–1996	Not body-specific			2					2	2			2
	Member states						✓						
	A1: Summit	0	0		0	0		2					
	E1: Council						0					0	
	E2←GS1: Secretariat										✓		
	GS1: Secretariat										✓		
1997–2001	Not body-specific			2					2	2			2
	Member states						✓						
	A1: Summit	0	0		0	0		2					
	E1: Council						0					0	
	E2: Secretariat										✓		
	GS1: Secretariat										✓		
	CB1: Parliamentary Forum												
2002	Not body-specific			2					2	2			2
	Member states						✓						
	A1: Summit		0		0	0		2					
	E1: Council	0					0					0	
	E2: Secretariat										✓		
	GS1: Secretariat										✓		
	CB1: Parliamentary Forum												
2003–2005	Not body-specific			2					2	2			2
	Member states						✓				✓		
	A1: Summit		0		0	0		2					
	E1: Council	0					0					0	
	E2: Secretariat										✓		
	GS1: Secretariat										✓		
	CB1: Parliamentary Forum												
	CB2: National Committees												
2006–2010	Not body-specific			2					2	2			2
	Member states						✓				✓		
	A1: Summit		0		0	0		2					
	E1: Council	0					0					0	
	E2: Secretariat										✓		
	GS1: Secretariat										✓		
	CB1: Parliamentary Forum												
	CB2: National Committees												
	DS: SADC Tribunal												

Note: A = automatic/technocratic procedure; N = no written rule; R = rotation; ✓ = body co-decides, but no voting rule; ← = change in status. Shaded areas refer to institutions or policy areas that are non-existent for those years.

Compliance		Policy 1 (projects, programs)					Policy 2 (protocols)					Dispute settlement (general purpose)						
Agenda	Decision	Agenda	Decision	GS role	Binding	Ratification	Agenda	Decision	GS role	Binding	Ratification	Coverage	Third party	Binding	Tribunal	Non-state access	Remedy	Preliminary ruling
				0	0	3												
		0	0															
				1	0	3			0	2	1							
0	0							0										
		0	0				0											
		✓																
		✓																
				1	0	3			0	2	1							
0	0							0										
			0				0											
		✓																
		✓																
A	A			2	0	3			0	2	1							
	0							0										
			0				0											
		✓																
		✓																
A	A			2	0	3			0	2	1							
	0							0										
			0				0											
		✓																
		✓																
		✓																
A	A			2	0	3			0	2	1							
	0							0										
			0				0											
		✓																
		✓																
		✓																
												2	2	2	2	2	0	1

The Tribunal Protocol, adopted in 2001, laid the basis for its establishment, and the Tribunal became operational in 2006 in Windhoek, Namibia. The Tribunal became an integral part of the amended Treaty in 2002, and is compulsory. The Tribunal is potentially "even more politically intrusive than the ECJ" because it has broad jurisdiction over any dispute related to the interpretation and application of the Treaty, its protocols, or subsidiary instruments (such as SADC Acts), as well as any other matters provided for in other intergovernmental agreements (Art. 14) (Alter 2012: 140). There is an automatic right to review regarding disputes between states and the Community, between natural or legal persons and the Community, and between the Community and its staff (Tribunal Protocol, Arts. 17, 18, 19). It is composed of a standing body of justices who serve for a five-year term, renewable once (Art. 6.2). For each case, the Tribunal selects three judges who decide by majority (Art. 3.3, 24.2). There is direct access for non-state actors. The Tribunal has jurisdiction over individuals (Art. 15.1) provided that those in question exhaust domestic remedies before turning to the court (Art. 15.2).

Court rulings are final and binding (Art. 24.3), and in principle, the SADC Tribunal has direct effect: "States and institutions of the Community shall take forthwith all measures necessary to ensure execution of decisions of the Tribunal" (Art. 32.2), However, in case of non-compliance or non-enforcement, the follow-up mechanism is weak. The Treaty merely states that the Tribunal can establish that a country fails to comply/enforce and refer this finding to the Summit "to take appropriate action" (Art. 32.5). So the Treaty provisions are ambiguous with respect to remedy.[γ] We decide on coding no direct effect because of the constitutionally entrenched gatekeeper role of the Summit. The SADC court can provide preliminary rulings (Art. 16), but domestic courts are not required to ask for preliminary rulings.

In recent years, the SADC Tribunal has been through a tumultuous period. In a high-profile case—the Campbell case in 2008—a white farmer sued Zimbabwe in the Tribunal because Mugabe's land reform had expropriated his farm. The Tribunal ruled that this was in breach of SADC law. However, Zimbabwe questioned the jurisdiction of the Tribunal and refused to implement the ruling. Amidst bitter controversy over the Tribunal's jurisdiction, the Summit decided on a "temporary suspension" of the Tribunal in August 2010 (see Afadameh-Adeyemi and Kalula 2011). In 2013, the Tribunal was disbanded (Nathan 2013).

Americas

Code	Name	Years in MIA
3430	Latin American Integration Association (ALALC/ALADI)	1961–2010
330	Andean Community (CAN)	1969–2010
880	Caribbean Community (CARIFTA/CARICOM)	1968–2010
4260	Common Market of the South (MERCOSUR)	1991–2010
3670	North American Free Trade Agreement (NAFTA)	1994–2010
3900	Organization of American States (OAS)	1951–2010
3830	Organization of Eastern Caribbean States (ECCM/OECS)	1968–2010
3390	Latin American and Caribbean Economic System (SELA)	1976–2010
990	Central American Integration System (ODECA/SICA)	1952–2010

Latin American Integration Association (ALADI)

The Latin American Integration Association (generally known by its Spanish acronym ALADI, Asociación Latinoamericana de Integración) brings together twelve countries: Argentina, Bolivia, Brazil, Chile, Colombia, Cuba, Ecuador, Mexico, Paraguay, Peru, Uruguay, and Venezuela. Its mission is "to promote the harmonious and balanced socio-economic development of the region" through regional integration with the ultimate objective to establish a Latin American common market (1980 Treaty of Montevideo, Art. 1). The headquarters are located in Montevideo, Uruguay.

ALADI is the successor of the Latin American Free Trade Association (or in Spanish: Asociación Latinoamericana de Libre Comercio, LAFTA/ALALC), which was established by the 1960 Treaty of Montevideo among seven Latin American countries (Argentina, Brazil, Chile, Mexico, Paraguay, Peru, and Uruguay) upon initiative of the Economic Commission for Latin America of the United Nations (ECLAC/CEPAL). It was the "most ambitious

experiment" in the economic integration of developing countries at the time (Wionczek 1966). The idea was to achieve trade liberalization through periodic (annual) negotiations. These would conclude national-specific schedules, in which each member could specify the concessions it was willing to make, against the backdrop of a common schedule of products on which all members agreed to eliminate restrictions. Colombia and Ecuador joined in 1961, Bolivia in 1966, and Venezuela in 1967. Despite some initial success (see Aitken and Lowry 1972), the agreement soon plunged into crisis. The product-by-product negotiations turned out to be very cumbersome and a variety of escape clauses made substantive progress increasingly difficult. By the late 1960s, the liberalization process had ground to a halt (Bezuijen 2015).

A comprehensive revision of the Treaty of Montevideo in 1980 revived trade liberalization. LAFTA was renamed ALADI (for an overview of the transition period, see Ferrere 1985). ALADI is a more flexible arrangement that serves as an umbrella for bilateral or plurilateral trade liberalization (Edwards 1993: 324). It explicitly encourages partial scope agreements between subsets of countries. The main task of ALADI, then, is to ensure mutual compatibility. Since the late 1990s, more countries have joined the organization: Cuba acceded in 1999, Nicaragua in 2009, and Panama in 2012.

The key legal documents are the Treaty Establishing the Latin American Free Trade Association (LAFTA) (signed 1960; in force 1961) and the Treaty Establishing the Latin American Integration Association (ALADI) (signed 1980; in force 1981). The Council of Ministers of Foreign Affairs as well as the Evaluation and Convergence Conference are the assemblies of the organization. The Committee of Representatives is the executive body and the General Secretariat serves as secretariat. ALADI has two consultative bodies, the Business Advisory Council, and the Labor Advisory Council.

Institutional Structure

A1: FROM THE CONFERENCE (1961–80) TO THE COUNCIL OF MINISTERS OF FOREIGN AFFAIRS (1981–2010)

The founding Treaty of Montevideo constituted the Conference as the supreme body of LAFTA, which "took all the decisions on issues that require common decision" (1960 Montevideo Treaty, Art. 34). It was composed of accredited delegations of member state governments (Art. 35). It adopted norms necessary for the execution of the Treaty and for examining

its effects; it promoted regular negotiations on reducing trade barriers; it adopted the budget; and it nominated the executive secretary of the Committee (Art. 34).

The Conference took decisions by an affirmative two-thirds majority of its members in the absence of negative votes, with each delegation having one vote (Arts. 35 and 38). We code this as consensus because each member state retains a veto. Decisions were binding on member states (Art. 8). For each session, the Conference elected a president and two vice-presidents by two-thirds majority (Art. 38b). It met at least once a year (Art. 36a).

With the 1980 Montevideo Treaty, the Council of Ministers of Foreign Affairs becomes the supreme decision making body (1980 Montevideo Treaty, Arts. 30–31), with functions similar to its predecessor.[1] It issues general rules for the achievement of the Treaty's objectives, establishes guidelines for other bodies to follow, and adopts Treaty amendments (Art. 32). Even though the general voting rule is changed to a two-thirds majority, member states retain their veto on most issues (see Art. 43). The Council meets only when convened by the Committee (Art. 32).

A2: EVALUATION AND CONVERGENCE CONFERENCE (1961–2010)

The 1980 Montevideo Treaty established a second assembly "composed of Plenipotentiaries of member countries" (Art. 34), which exists today. It is a strategic body that has the power to review the integration process, make recommendations to the Council on multilateral measures, promote action regarding economic integration, adopt measures in favor of the less developed countries, and guide multilateral negotiations (Art. 33). Each country has one vote and the general decision rule is two-thirds majority, but there are several exceptions (Art. 43). The Conference holds sessions every three years (Art. 34).

E1: FROM THE COMMITTEE (1961–80) TO THE COMMITTEE OF REPRESENTATIVES (1981–2010)

The founding Montevideo Treaty designed the Committee to be the permanent executive organ. It was composed of one permanent representative per member state (Art. 40) and submitted to the Conference the annual work plan and budget. It also represented the organization externally, conducted studies, proposed measures, and formulated recommendations to

[1] Ad hoc Council meetings began in 1965 (Mathis 1969: 23).

the Council (Art. 39). Representation was member state-dominated: all member states were represented, and representation was direct. Decisions were taken by a two-thirds majority (Wehner 1965: 24), and each country had one vote (Art. 40). There were no written rules on the selection of the chair.

With the 1980 Montevideo Treaty the body is renamed the Committee of Representatives, with, as before, one permanent representative per member state (Art. 36). Its powers are expanded to include the adoption of implementing measures, the determination of annual financial contributions, and commissioning studies (Art. 35). The Committee takes most decisions by two-thirds majority, with each country having one vote and with important decisions requiring effective unanimity (Rules of Procedure, Arts. 43 and 19). The presidency and vice-presidency rotate alphabetically among member states (Rules of Procedure, Art. 6). The Committee meets at least twice a month (Rules of Procedure, Art. 15).

The Committee of Representatives is assisted by auxiliary committees and working groups for consultation, advice, and technical support. Some thirteen auxiliary committees have been set up, including on the budget, customs, tourism, sectoral policies, financial and monetary affairs, export subsidies, commerce, and regulation.[2] The Secretariat can propose establishing auxiliary committees.

GS1: GENERAL SECRETARIAT (1961–2010)

The founding Montevideo Treaty created a Secretariat. Its chief function was to prepare the annual budget (Art. 41). It is headed by an executive secretary who is also the general secretary of the Conference (Art. 41). He is elected by the Conference by two-thirds majority (Art. 38b) for renewable periods of three years (Art. 41). Members of the Secretariat are not permitted to request or receive instructions from any government or from national or international entities (Art. 42).

The 1980 Montevideo Treaty introduces minor institutional changes. The secretary general is now elected by the Council of Ministers of Foreign Affairs (Art. 39) by two-thirds majority (Art. 43), and he can be re-elected once (Art. 38). Even though the General Secretariat remains a "technical body" (Art. 29), it obtains additional competences, including the right to set the agenda, prepare the IO's annual work plan, and represent the organization in international fora (Art. 38).

[2] See <http://www.aladi.org/sitioAladi/organizInstComiteRepOrgAux.html> (accessed February 13, 2017).

CB1: BUSINESS ADVISORY COUNCIL (1988–91, 2004–10)

Under the founding Montevideo Treaty, the organization did not have non-state consultative bodies. The 1980 Montevideo Treaty made explicit provision for consultative bodies "composed of representatives of the various sectors of economic activity of each one of the member countries" (Art. 42).

The first body is the Business Advisory Council (Consejo Asesor Empresarial), established in 1988 (Resolution 97). It was originally composed of one business representative per member state, nominated by the national business organizations and accredited by the government (Agreement 145, Arts. 1, 4, and 5). The Business Advisory Council is expected to express the views of the business community on any matters submitted to it, to advise the Committee of Representatives on formulating policy, and, more generally, to contribute to the integration process (Arts. 2 and 3). It meets once a year and adopts recommendations by simple majority (Arts. 8 and 14).

The Council was inactive between 1992 and 2004. It was revamped in 2004 with a different structure.[3] The body is now composed of three sections, one for big corporations, one for small and medium sized enterprises, and one for cooperatives, indigenous communities, and other nonconventional businesses (Agreement 255, Art. 2).

CB2: LABOR ADVISORY COUNCIL (1993–2010)

The second consultative body is the Labor Advisory Council (Consejo Asesor Laboral) created in 1993 (Resolution 171). It consists of up to six representatives of trade unions from each member state (Agreement 156, Arts. 1 and 5). It makes recommendations on labor-related issues at the request of the Committee of Representatives. It also promotes coordination and cooperation with labor advisory councils in other sub-regional integration processes, and engages with the Business Advisory Council (Art. 3). It operates by simple majority and meets once a year (Arts. 7 and 12).

Decision Making

MEMBERSHIP ACCESSION

The founding Montevideo Treaty was "open for accession from other Latin American countries" willing to abide by the terms of the agreement (Arts. 55 and 58). The Treaty contains a bare-bones accession procedure. A state applies by depositing an instrument of accession with the government of Uruguay. In

[3] See <http://www.aladi.org/sitioAladi/organizInstComiteRepOrgAux.html> (accessed February 13, 2017).

the final session of the Conference prior to accession, the acceding state concludes negotiations on the country's national list of tariff reductions (Art. 58). Every country, including acceding countries, can capitalize on other countries' concessions only once their own tariff barrier reductions enter into force and the minimum requirements of membership have been complied with (Art. 59). Thus, the accession procedure involves complex negotiation, with the final decision taken by the Conference by consensus. Ratification is not required. There are no written rules on the procedure for launching an application for membership.

The 1980 Montevideo Treaty put the final decision on accession into the hands of the Council of Foreign Ministers (Art. 30i), acting by unanimity (two-thirds majority without a negative vote) (Art. 43e).

When Cuba requested accession to ALADI in 1998, the Committee of Representatives adopted a more elaborate accession procedure. After receiving an application, the Committee establishes a working group composed of all member states to advise the Committee on the accession request (Resolution 239, Arts. 1 and 2). The working group decides by consensus (Arts. 2, 4, and 8). Next, the Committee advises, also by consensus, the Council of Foreign Ministers. From 1998 we code the Committee as agenda setter.

MEMBERSHIP SUSPENSION

No written rules.

CONSTITUTIONAL REFORM

According to the first Montevideo Treaty, any member state could initiate a constitutional amendment which is formalized through a protocol which requires ratification by all member states (Art. 60). Given that protocols are subject to the regular decision procedure, we infer that the Conference takes the final decision by the general decision rule, which is consensus.$^{\alpha}$

The 1980 Montevideo Treaty does not alter the procedure much. Member states initiate amendments, the Council of Ministers (instead of the Conference) takes the final decision (Art. 30j) by consensus (Art. 43a), and an amendment requires ratification by all member states (Art. 61).

REVENUES

LAFTA and ALADI are financed by regular member state contributions. Initially, the Conference set member states' annual contributions (1960 Montevideo Treaty, Art. 34c) by the general decision rule of two-thirds majority in the absence of a negative vote. With the 1980 Montevideo Treaty, the

Committee of Representatives takes over the responsibility, and it does so by consensus (Arts. 35f and 43g).

BUDGETARY ALLOCATION

Under the 1960 Treaty, the executive secretary drafted the annual budget (Art. 41b), which was then scrutinized by the Committee (by two-thirds majority; Wehner 1965: 24) and submitted to the Conference for approval (Art. 39b). The Conference took budgetary decisions by two-thirds majority (Art. 38a). Thus, we code the executive secretary and the Committee as agenda setters and the Conference as final decision maker. Neither the Treaty nor secondary materials specify whether budgetary decisions are binding.$^{\alpha}$

The 1980 Montevideo Treaty changes the budgetary procedure somewhat. While the Secretariat prepares the draft budget (Art. 38m), the Committee of Representatives approves it by two-thirds majority (Arts. 35e and 43). Again, bindingness is not made explicit.$^{\alpha}$

In 2004, the Committee of Representatives created a Commission for the program budget (Resolution 279), whose task it is to coordinate the budgetary and programmatic components of ALADI's activities and supervise execution.[4] This tightened the process, and it leads us to begin coding a binding budget from 2004.$^{\beta}$

FINANCIAL COMPLIANCE

No written rules.

POLICY MAKING

Under the 1960 Montevideo Treaty, the chief policy instrument consisted of agreements negotiated among the member states on national and common schedules. National schedules detail country-specific annual reductions in trade restrictions (tariffs, fees, quotas) vis-à-vis other members amounting to 8 percent of the weighted average applicable to third countries (Arts. 4a and 5). Concessions can only be "withdrawn by negotiation among the Contracting Parties and on a basis of adequate compensation" (Art. 8). Common schedules contain a list of products on which all members agree to eliminate restrictions in three-year intervals (Arts. 4b and 7). Once a product is included in the common schedule, its inclusion is irrevocable (Art. 8). Hence schedules are binding on member states that agree. The negotiation process is set out in an annual work program prepared by the Committee under consensus (Art. 39b),

[4] Resolution 367 of the Committee of Representatives creating a Commission of budget and institutional affairs replaced this resolution. However, this did not substantially change the mandate of the Commission on budget control.

and approved by the Conference, also under consensus (Arts. 34a and 38). The Treaty does not mention ratification.

With the 1980 Montevideo Treaty, policy making and legal instruments are made more explicit. ALADI can adopt resolutions, agreements, and declarations. At the same time, it continues to facilitate the separate negotiation of regional and partial scope agreements. We code two policy streams: regional or partial scope agreements negotiated under the umbrella of the organization, and resolutions adopted by the Committee of Representatives.

The first policy stream continues to consist of agreements, relabeled now as regional and partial scope agreements. Regional agreements are signed by all members; partial scope agreements are signed by a subset. The agreements address trade, economic coordination, agriculture, and trade promotion. Negotiations on regional and partial scope agreements are initiated by the Committee of Representatives by the general decision rule of two-thirds majority (Arts. 35a and n). In addition, the General Secretariat may "carry out studies and actions leading to proposals to member countries, through their Permanent Representatives, regarding conclusion of the agreements foreseen by the present Treaty" (Art. 38c). We code the Secretariat as co-agenda setter, albeit a weak one because the studies are filtered by the Committee, which can adopt or dismiss them. Negotiations are then carried out chiefly by the Evaluation and Convergence Conference (Arts. 33e and f). ALADI web sources also indicate that some agreements are negotiated by the Council of Foreign Ministers, and this leads us to include the Council as a final decision maker.[5] While no explicit decision rule is given, we infer that unanimity is the rule on account of Articles 43c and d, which suggest that decisions related to these negotiations require effective consensus ("two-thirds affirmative vote, provided there is no negative vote").$^{\alpha}$ These agreements come into effect as soon as all involved countries have transposed the modalities in domestic law. We conceive this as equivalent to ratification by all, and we code partially binding because several agreements apply only to some members.

The second policy stream consists of resolutions with respect to the classification of economic and trade rules (NALADISA—nomenclatura arancelaria de la Asociación Latinoamericana de Integración). Resolutions are prepared by the Secretariat in consultation with auxiliary committees or working groups (Art. 38). The latter operate, as does the Committee itself, by two-thirds majority (Art. 43). Resolutions can be adopted by the Council of Ministers, the Evaluation and Convergence Conference, and the Committee

[5] See <http://consultawebv2.aladi.org>, accessed March 2017.

of Representatives—each time by two-thirds majority. These resolutions appear to be binding on member states, and they do not require ratification (ALADI 1992).[α] The nomenclature is regularly updated, most recently in 2012.[6]

DISPUTE SETTLEMENT

The founding Montevideo Treaty did not contain a dispute settlement procedure, but a special protocol was adopted in 1967, which entered into force after the fifth member state had signed in 1971. It established an Arbitral Tribunal, which held compulsory jurisdiction and was composed of ad hoc arbitrators drawn from a roster (Resolution 172, Art. 12). Each contracting party to the Montevideo Protocol must sign up ipso facto to the dispute settlement protocol, so coverage is obligatory for all member states (Art. 399). Each member state nominates one arbiter, who is requested to have "high moral reputation and fulfill the conditions required for exercising the highest judicial functions in his country or be a lawyer of renowned competence" (Art. 12), for a renewable period of eight years (Art. 13). Access to the Tribunal was automatic: any disputing party could bring a case (Resolution 172, Art. 9). When a case is heard, a tribunal is comprised of three arbiters agreed by the disputing parties (Art. 18). The tribunal takes decisions by majority vote (Art. 28). Its judgment is legally binding: "the decision is compulsory for the parties to the controversy . . . and has to be complied with immediately" (Art. 30). In case of non-compliance with an award to the injured party, the Conference may authorize retaliatory sanctions, the decision being taken without participation by the disputing parties (Art. 34). There is no mention of non-state actors having standing or of preliminary rulings.

With the 1980 Montevideo Treaty, all bodies created under LAFTA ceased to exist, including the Arbitral Tribunal (Art. 66). However, unlike the other bodies of LAFTA, ALADI did not set up an alternative dispute settlement procedure. The Treaty merely notes that the Committee of Representatives shall "propose formulae to solve issues brought forth by member countries claiming non-observance of some of the rules or principles of the present Treaty" (Art. 35m). This is a rare case in which a dispute settlement institution has actually been abolished (Bezuijen 2015).

In 1990, the Committee of Representatives adopted a resolution that structures consultation between member states in a dispute. The resolution says that if the parties cannot reach a satisfactory solution, the Committee of Representatives can issue a non-binding recommendation (Resolution 144, Art. 5).

[6] See <http://consultawebv2.aladi.org/sicoexV2/jsf/correlaciones_nomenclaturas.seam> (accessed March 2017).

ALALC/ALADI Institutional Structure

		A1			A2			E1										GS1		CB1	CB2
Years		Non-state selection	Indirect representation	Weighted voting	Non-state selection	Indirect representation	Weighted voting	Head—agenda	Head—decision	Members—agenda	Members—decision	Non-state selection	Partial representation	Indirect representation	Reserved seats	Weighted voting	Partial veto	Select	Remove	Non-state selection	Non-state selection
1961–1970	Not body-specific	0	0	0				N	N			0	0	0	0	0	0		N		
	Member states									✓	✓										
	A1: Conference																	2			
	E1: Committee																				
	GS1: Secretariat																				
1971–1980	Not body-specific	0	0	0				N	N			0	0	0	0	0	0		N		
	Member states									✓	✓										
	A1: Conference																	2			
	E1: Committee																				
	GS1: Secretariat																				
	DS: Arbitral Tribunal																				
1981–1987	Not body-specific	0	0	0	0	0	0	R	R			0	0	0	0	0	0		N		
	Member states									✓	✓										
	A1: **Council of Foreign Ministers**																	2			
	A2: Evaluation Conference																				
	E1: **Committee of Representatives**																				
	GS1: **General Secretariat**																				
1988–1991	Not body-specific	0	0	0	0	0	0	R	R			0	0	0	0	0	0		N	1	
	Member states									✓	✓										
	A1: Council of Foreign Ministers																	2			
	A2: Evaluation Conference																				
	E1: Committee of Representatives																				
	GS1: General Secretariat																				
	CB1: Business Advisory Council																				

1992	Not body-specific	0	0	0	0	0	0	R	R			0	0	0	0	0	0		N		
	Member states									✓	✓										
	A1: Council of Foreign Ministers																	2			
	A2: Evaluation Conference																				
	E1: Committee of Representatives																				
	GS1: General Secretariat																				
1993–2003	Not body-specific	0	0	0	0	0	0	R	R			0	0	0	0	0	0		N		1
	Member states									✓	✓										
	A1: Council of Foreign Ministers																	2			
	A2: Evaluation Conference																				
	E1: Committee of Representatives																				
	GS1: General Secretariat																				
	CB2: Labor Advisory Council																				
2004–2010	Not body-specific	0	0	0	0	0	0	R	R			0	0	0	0	0	0		N	1	1
	Member states									✓	✓										
	A1: Council of Foreign Ministers																	2			
	A2: Evaluation Conference																				
	E1: Committee of Representatives																				
	GS1: General Secretariat																				
	CB1: Business Advisory Council																				
	CB2: Labor Advisory Council																				

Note: A = automatic/technocratic procedure; N = no written rule; R = rotation; ✓ = body co-decides, but no voting rule; ← = change in status. Shaded areas refer to institutions or policy areas that are non-existent for those years.

ALALC/ALADI Decision Making

		Accession			Sus-pension		Constitution				Budget		
Years		Agenda	Decision	Ratification	Agenda	Decision	Agenda	Decision	Ratification	Revenue source	Agenda	Decision	Binding
1961–1970	Not body-specific	N		2	N	N			0	1			N
	Member states						✓						
	A1: Conference		0					0				2	
	E1: Committee										2		
	GS1: Secretariat										✓		
1971–1980	Not body-specific	N		2	N	N			0	1			N
	Member states						✓						
	A1: Conference		0					0				2	
	E1: Committee										2		
	GS1: Secretariat										✓		
	DS: Arbitral Tribunal												
1981–1987	Not body-specific	N		2	N	N			0	1			N
	Member states						✓						
	A1: Council of Foreign Ministers		0					0					
	A2: Evaluation Conference												
	E1: Committee of Representatives											2	
	GS1: **General Secretariat**										✓		
1988–1991	Not body-specific	N		2	N	N			0	1			N
	Member states						✓						
	A1: Council of Foreign Ministers		0					0					
	A2: Evaluation Conference												
	E1: Committee of Representatives											2	
	GS1: General Secretariat										✓		
	CB1: Business Advisory Council												
1992	Not body-specific	N		2	N	N			0	1			N
	Member states						✓						
	A1: Council of Foreign Ministers		0					0					
	A2: Evaluation Conference												
	E1: Committee of Representatives											2	
	GS1: General Secretariat										✓		
1993–1997	Not body-specific	N		2	N	N			0	1			N
	Member states						✓						
	A1: Council of Foreign Ministers		0					0					
	A2: Evaluation Conference												
	E1: Committee of Representatives											2	
	GS1: General Secretariat										✓		
	CB2: Labor Advisory Council												
1998–2003	Not body-specific			2	N	N			0	1			N
	Member states						✓						
	A1: Council of Foreign Ministers		0					0					
	A2: Evaluation Conference												
	E1: Committee of Representatives	0										2	
	GS1: General Secretariat										✓		
	CB2: **Labor Advisory Council**												

Compliance		Policy 1 (agreements)					Policy 2 (resolutions)					Dispute settlement (trade)						
Agenda	Decision	Agenda	Decision	GS role	Binding	Ratification	Agenda	Decision	GS role	Binding	Ratification	Coverage	Third party	Binding	Tribunal	Non-state access	Remedy	Preliminary ruling
N	N			0	2	3												
			0															
		0																
N	N			0	2	3												
			0															
		0																
												2	2	2	1	0	1	0
N	N			0	1	0			1	2	3							
			0					2										
			0					2										
		2					2	2										
		✓					✓											
N	N			0	1	0			1	2	3							
			0					2										
			0					2										
		2					2	2										
		✓					✓											
N	N			0	1	0			1	2	3							
			0					2										
			0					2										
		2					2	2										
		✓					✓											
N	N			0	1	0			1	2	3							
			0					2										
			0					2										
		2					2	2										
		✓					✓											
N	N			0	1	0			1	2	3							
			0					2										
			0					2										
		2					2	2										
		✓					✓											

(*continued*)

ALALC/ALADI Decision Making (Continued)

		Accession			Sus-pension		Constitution				Budget		
Years		Agenda	Decision	Ratification	Agenda	Decision	Agenda	Decision	Ratification	Revenue source	Agenda	Decision	Binding
2004–2010	Not body-specific			2	N	N			0	1			2
	Member states						✓						
	A1: Council of Foreign Ministers		0					0					
	A2: Evaluation Conference												
	E1: Committee of Representatives	0										2	
	GS1: General Secretariat										✓		
	CB1: Business Advisory Council												
	CB2: Labor Advisory Council												

Note: A = automatic/technocratic procedure; N = no written rule; R = rotation; ✓ = body co-decides, but no voting rule; ← = change in status. Shaded areas refer to institutions or policy areas that are non-existent for those years.

Andean Community (CAN)

The Andean Community (generally known by its Spanish acronym CAN, Comunidad Andina de Naciones) is the chief regional organization in the Andean region of Latin America. It currently encompasses Bolivia, Colombia, Ecuador, and Peru. The purpose of the organization is "to promote the balanced and harmonious development of the member states under equitable conditions, through integration and economic and social cooperation; to accelerate their growth and the rate of creation of employment; and to facilitate their participation in the regional integration process, looking ahead toward the gradual formation of a Latin American common market" (Cartagena Agreement, Art. 1). The headquarters of the Andean Community are in Lima, Peru. Argentina, Brazil, Chile (which withdrew as a full member in 1976), Paraguay, and Uruguay are associate members.

CAN (also known as Andean) grew out of frustration with the slow progress of the Latin American Free Trade Association (LAFTA/ALALC) and the "common desire to offset the power of Argentina, Brazil, and Mexico" in LAFTA (Avery and Cochrane 1973: 183–4). After a first meeting in Bogotá in August 1966, Bolivia, Chile, Colombia, Ecuador, and Peru signed the Andean Subregional Integration Agreement (Cartagena Agreement) in May 1969, which set up the Andean Pact, "a mechanism for common action that would deal with the members' problems of economic underdevelopment" (Ferris 1979: 83). Venezuela participated in the initial negotiations, but did not join until 1973. In contrast to other Latin American integration efforts, the Cartagena Agreement was unusual in that it laid out an automatic program of trade integration and created supranational institutions (Avery and Cochrane 1973). Initially, the organization was successful

Compliance		Policy 1 (agreements)					Policy 2 (resolutions)					Dispute settlement (trade)						
Agenda	Decision	Agenda	Decision	GS role	Binding	Ratification	Agenda	Decision	GS role	Binding	Ratification	Coverage	Third party	Binding	Tribunal	Non-state access	Remedy	Preliminary ruling
N	N			0	1	0			1	2	3							
			0					2										
			0					2										
		2					2	2										
		✓					✓											

in expanding intra-regional trade, and it was soon hailed as a general "model of economic integration for developing countries" (French-Davis 1977: 137).

The Andean Court of Justice was established in 1979 in the expectation that it would be able to deal with implementation problems more effectively than the LAFTA Tribunal which the Andean members had been using but which was abolished in 1981 (Alter, Helfer, and Saldías 2012). Also in 1979, the Andean Parliament was set up. The Court became operational in 1983, and the Andean Parliament one year later. Notwithstanding these institutional innovations, the Andean Pact's program of economic integration stagnated (Ferris 1979; Vargas-Hidalgo 1979).

The Quito Protocol, agreed in 1987, shifted the organization in a more market-friendly direction. The Protocol set new deadlines for liberalization and a common external tariff, introduced safeguarding mechanisms, and abolished the industrial development programs.

From 1996 onwards, a fresh wave of institutional change overhauled the organization. The 1996 Trujillo Protocol renamed the Andean Pact as the Andean Community and established the Andean Integration System, consisting of the Andean Presidential Council, the Andean Council of Foreign Ministers, and the General Secretariat. The new organization was infused with free market-oriented policies (O'Keefe 1996: 818). The 1996 Cochabamba Protocol extended the Court's jurisdiction to encompass the new institutional framework and introduced new adjudication procedures. The Sucre Protocol, adopted in 1997, regulated deeper integration with other regional economic blocs, introduced a common foreign policy to coordinate joint positions in international fora, and set new targets for social affairs and trade in services (Adkisson 2003). Since 2003, the organization has also pursued a social development plan.

In 2006, Venezuela withdrew after a drawn-out dispute concerning a free trade agreement with the United States (Malamud 2006). Today, CAN's areas of action encompass social and political affairs, the environment, external relations, economy, and trade.

The key legal documents are the Andean Subregional Integration Agreement (signed and in force 1969), the Treaty Creating the Andean Court of Justice (signed 1979; in force 1983), the Quito Protocol (signed 1987; in force 1988), the Trujillo Protocol (signed 1996; in force 1999), and the Sucre Protocol (signed 1997; in force 2003). Today, the Andean Community has three assemblies: the Andean Presidential Council, the Andean Council of Foreign Ministers, and the Andean Community Commission. The Andean Community General Secretariat is both an executive and a secretariat. There are five consultative bodies: the Andean Parliament, the Business Advisory Council, the Labor Advisory Council, the Advisory Council of Municipalities, and the Advisory Council of Indigenous People.

Institutional Structure

A1: COMMISSION (1969–2010)

The original Cartagena Agreement of 1969 created the Commission as the highest decisional organ. It was composed of one plenipotentiary representative from each member state (Art. 6). Its main function was to "formulate the general policy of the Agreement and adopt the measures necessary for the achievement of its objectives" (Cartagena, Art. 7a). Besides that, it formulated norms to coordinate national development and economic integration policies, nominated and removed the members of the Junta, approved the proposals of the Junta, and ensured compliance with Treaty obligations (Art. 7). The Commission generally took binding decisions by two-thirds majority, with a few exceptions (see Art. 11). A president, rotating annually among member states, chaired the body (Art. 9). It met at least three times a year (Art. 10).

It controlled the work of the Junta, the organization's initial executive, through a consultative committee, which provided a more permanent link between member states and the Junta (Art. 19). One of the tasks of that body was, upon request of the Commission, to analyze the Junta's policy proposals (Art. 21b).

The Commission's role in the organization was strengthened with the Quito Protocol of 1987. It was now explicitly endowed with a "capacity to *legislate exclusively*" (Quito, Art. 6, our emphasis) and it was given the mandate to review the integration process with the possibility of adjusting deadlines and altering legislation (Art. 7l).

With the Trujillo Protocol in 1996, the Commission loses its exclusive legislative role, which it now has to share mainly with the Council of Foreign Ministers. In particular, the Treaty mentions the Commission's responsibility for formulating and implementing trade and investment policy (Trujillo, Art. 22a).

The decision rule changes from two-thirds to an absolute majority, with each member state holding one vote (Arts. 25 and 26). The chair rotates in sync with the rotation of the chair of the Presidential Council (Art. 23).

A2: ANDEAN PRESIDENTIAL COUNCIL (1996–2010)

The Presidential Council was created on an ad hoc basis in 1990, and institutionalized in the Trujillo Protocol, which is when we start coding. It is the most senior body of the Andean Integration System, and it is composed of the Heads of State (Trujillo, Art. 11). Its chief responsibilities are to define the political direction of the integration process and to evaluate its "development and results" (Art. 12). It issues guidelines, which the other bodies then translate into concrete measures (Art. 11). It generally meets once a year, and the chair rotates annually among the members (Arts. 13 and 14). Even though the voting rule is not made explicit, there is every reason to believe it is consensus.$^{\alpha}$

A3: ANDEAN COUNCIL OF FOREIGN MINISTERS (1996–2010)

The Andean Council of Foreign Ministers is composed of the ministers for foreign affairs of the member states. The body operated on an ad hoc basis before it was institutionalized with the Trujillo Protocol. It is chiefly responsible for coordination in foreign policy, including joint positions in international forums, for the execution and implementation of the presidential guidelines as well as for the formulation, implementation, and evaluation of CAN general policy. The Council operates through Declarations and Decisions which, in contrast to the Commission, it adopts by consensus (Trujillo Protocol, Arts. 16 and 17). It is presided over by the minister of foreign affairs of the member state that chairs the Andean Presidential Council, and so the chair rotates annually (Art. 19).

E1: FROM THE JUNTA (1969–98) TO THE GENERAL SECRETARIAT (1999–2010)

The founding Cartagena Agreement intended the Junta to be a "technical organ" (Cartagena, Art. 13). It acted as both the executive and general secretariat of the organization. It followed up on the application of the Treaty and checked member state compliance with Commission decisions, had the monopoly of initiative in policy, conducted studies, and drew up the annual budget (Art. 15).

The Junta was a collegiate body of three members nominated by the Commission by unanimous vote for a term of three years, renewable once (Arts. 13 and 11d).[7] Hence while its members were nominated by member states, not all member states were represented. These members were "to act solely in

[7] The chair of the Junta rotates annually. The chair coordinates the work of the Junta and represents the CAN to the outside world (Decision 6, Arts. 8 and 9).

function of the interests of the Subregion as a whole" and should not "request nor accept instructions from any government" (Arts. 13 and 14). So state representation was indirect. The Junta took decisions by consensus, but could present alternative proposals to the Commission (Art. 17). Members of the Junta could be removed by a two-thirds majority in the Commission in case of a "serious mistake" or when a member "systematically obstructs the work of the Junta" (Decision 6, Art. 7c; Arts. 7 and 8).

With the Trujillo Protocol in 1996, the Junta is renamed as the "General Secretariat" and restructured from a collegiate to a hierarchical body. It explicitly becomes "the executive body of the Andean Community" (Trujillo, Art. 29). Its two chief functions are similar to its predecessor: to ensure the application and implementation of regional norms, and to formulate draft decisions for the Council of Foreign Ministers or the Commission (Art. 30). It also retains budgetary prerogatives (Art. 34e).

The General Secretariat consists of a secretary general as well as various directors general (plus technical and administrative staff). The secretary general is elected by the Andean Council of Foreign Ministers, meeting in a joint session with the Commission. These bodies decide by consensus, and appoint the secretary general for a five-year term, renewable once (Arts. 20b and 32). We code both bodies as final decision makers. Since 1999, the Andean Parliament can make recommendations to the joint session, which the Council is bound to consider (Council Rules of Procedure, Art. 7h), so we code the Parliament as an agenda setter. Member states can also act as agenda setters for the secretary general, which we derive from the fact that the secretary general can be removed at the initiative of a member state.[β] The member state needs to demonstrate gross misconduct, and the final decision for removal is taken by the Commission and the Council by consensus (Arts. 20b and 33).

Directors general are appointed by the secretary general in consultation with member states (Art. 35). Hence we code both member states and the secretary general as initiators and the latter as taking the final decision. Given that the Council and the secretary general select most members jointly, we estimate that more than 50 percent of the staff are selected by non-member-state bodies. Initially, there were three directors general and one secretary general among five member states, so not every member state was represented. Since Venezuela left the organization, the situation is less clear. The Protocol merely states that in nominating the directors general, the secretary general shall ensure that there is a "balanced subregional geographic distribution" among the member states (Art. 35), but this does not indicate that each state has a right to a leading executive post. We therefore continue to code partial member state representation. As before, the personnel should not "request nor accept instructions from any governments as well as national or international bodies" (Art. 38); thus, representation is indirect.

GS1: FROM THE JUNTA (1969–98) TO THE GENERAL SECRETARIAT (1999–2010)

Under the Cartagena Agreement, the Junta served as both executive and general secretariat. It was a collegiate body, so we code the procedure for the nomination and removal of members.

With the Trujillo Protocol, the Junta was renamed as the General Secretariat, whose role it was to provide technical support to IO bodies and institutions (Art. 29).

CB1: FROM THE ECONOMIC AND SOCIAL CONSULTATIVE COMMITTEE (1969–98) TO THE BUSINESS AND LABOR ADVISORY COUNCILS (1999–2010)

The 1969 Cartagena Agreement established an Economic and Social Consultative Committee composed of three employer and three labor representatives from each member state (Cartagena, Art. 22). The members were elected by their respective organizations for a renewable period of two years (Decision 17, Arts. 3 and 6). The Committee held its first session in 1971 (Temporary Stipulations of Decision 17, Art. 1).

Committee members had a dual advisory function: to advise the principal organs of the Agreement, and to issue, on their own initiative, opinions on the Agreement (Art. 2). Opinions require a two-thirds majority vote (Art. 15). The Committee met at least once a year (Art. 8).

The Trujillo Protocol divides the Economic and Social Consultative Committee into the Business Advisory Council and the Labor Advisory Council (Trujillo, Art. 44). We code these seperately from 1999. The Protocol does not change composition or functions, but it adds that each body has the right to submit opinions to the Council of Ministers of Foreign Affairs, the Commission, or the General Secretariat regarding regional integration programs or activities. Representatives have also the right to speak at Commission meetings (Art. 44).

CB2: ANDEAN PARLIAMENT (1984–2010)

The Constitutive Treaty of 1979 created the Andean Parliament as a "body for common deliberation about the subregional integration process" (Art. 1). It came into existence in 1984, with its initial seat in Lima, Peru. Each country has five representatives elected for a period of two years with the possibility of re-election by the respective national legislative bodies (Parliament Treaty, Arts. 3 and 5). The Parliament promotes the regional integration process, democracy and human rights as well as popular participation in the integration process (Art. 12). It can also propose measures to harmonize national laws (Art. 13c). It operates mainly through recommendations adopted by two-thirds majority (Arts. 14 and 15). It meets once a year (Art. 5).

The Trujillo Protocol envisages direct elections and moves the seat from Lima to Santafé de Bogotá, Colombia (Trujillo, Art. 42). In 1997, member states adopted an Additional Protocol on direct elections. Even though the Protocol has yet to be ratified by all member states, three (Ecuador, Peru, and Colombia) have held direct elections. The third, Colombia, did so in 2010, which is when we start coding direct representation.

The Trujillo Protocol also significantly extended the functions of the Andean Parliament. The Parliament can now also submit amendments to the annual budget and suggest new legal provisions to other bodies (Parliament Rules of Procedure, Art. 43; see also Art. 5). The Parliament takes decisions by simple majority (Decision 1152, Art. 2c).

CB3: ANDEAN ADVISORY COUNCIL OF MUNICIPALITIES (2005–10)

The Andean Advisory Council of Municipalities institutionalizes the previously informal "Andean Network of Cities," which had been created by mayors in 2003. It is comprised of three mayors from each member state, including the mayor of each capital city. The other two are elected for a one-year term by mayors participating in the network (Decision 585, Art. 2). Hence, we code the Council as composed of elected officials. The Council can submit opinions to the Andean Council of Foreign Ministers, the Commission, and the General Secretariat, and it can present proposals on local government to the member states or the General Secretariat (Art. 4). Andean bodies can also request opinions from the Council (Art. 5). The Council takes decisions by absolute majority (CCAAM Rules of Procedure, Art. 18), and it meets at least once a year (Decision 585, Art. 6). It held its first meeting in July 2005, which is when we start coding.

CB4: ADVISORY COUNCIL OF INDIGENOUS PEOPLE (2008–10)

The Advisory Council of Indigenous People institutionalizes the previous "Working Table on the Rights of Indigenous People," which had been established by the Presidential Council in July 2002 (Decision 524). Created in September 2007, the Council is composed of observers from regional indigenous organizations alongside one representative of the indigenous community from each member state elected by national indigenous organizations (Decision 674, Art. 2). The Advisory Council can submit opinions to the Andean Council of Foreign Ministers, the Commission, and the General Secretariat, assist in governmental meetings on topics related to the Advisory Council's interests, as well as participate, with a right to speak, in meetings of the Andean Council of Foreign Ministers and the Commission (Art. 3). The Advisory Council takes decisions by consensus (Art. 4). It held its first meeting in 2008, which is when we start coding.

Decision Making

MEMBERSHIP ACCESSION

The 1969 Cartagena Agreement stipulated that the Agreement "shall remain open to the accession of the remaining Contracting Parties of the Treaty of Montevideo" (Art. 109), but did not specify an accession procedure. Venezuela's accession in 1970 led the Andean Pact to develop such a procedure, which we code from 1973, when Venezuela acceded. The Commission sets out the conditions for accession on the basis of reports from an ad hoc working group (Decisions 35 and 70; Cartagena Agreement, Art. 109). The decision to initiate accession is taken by a two-thirds majority with no negative vote, i.e. by consensus (Art. 11a and Annex 1). The Commission takes the final decision after considering the "reiterated interest of member states" (Decision 42), which we interpret as providing member states a role in agenda setting.$^{\beta}$ The decision rule is not specified, but presumably it is consensus.$^{\alpha}$ No ratification is required.

The Quito Protocol opened the potential membership of Andean to "all other Latin American countries" (Art. 71). It also eliminated the item in the Annex stating that adopting the conditions for accession by new member states requires no negative vote in the Commission (former Annex 1.13). We interpret this to mean that agenda setting falls under the regular two-thirds majority procedure.

The Trujillo Protocol amends this procedure slightly (Chapter XVII). The Commission continues to determine the conditions of membership (Chapter XVII, Art. 133), but it reintroduces the consensus requirement (Art. 26a and Annex 1.13). The Protocol details that associate membership is decided by a joint session of the Council of Foreign Ministers and the Commission acting by consensus (Art. 136), but strangely does not detail how full accession is decided. We assume that a decision on accession requires a joint consensual decision by the two bodies.$^{\alpha}$ No mention is made of ratification.

MEMBERSHIP SUSPENSION

Initially, the organization did not have rules on suspension. This changed with the adoption of the "Andean Community Commitment to Democracy" in 1998—a Charter that prescribes potential action "if the democratic order is disrupted in any of the Member Countries" (Art. 2). In such an event, the Council of Foreign Ministers is convened with the authority to suspend the member state in question from Andean institutions and interstate cooperation projects (Art. 4). The decision rule is unanimity minus the member concerned (Art. 5). Since only three member states have ratified the protocol, it has not yet entered into force, and so we code "no written rules."

CONSTITUTIONAL REFORM

The Cartagena Agreement states that the Commission "proposes to the member states amendments to the current Agreement" (Art. 7j). Amendments are adopted by a two-thirds majority without negative votes (Art. 11a and Annex 1.2). Member state ratification is required. The Agreement does not specify who can initiate, and so we code the initiation phase as having "no written rules." The Agreement entered into force only for those member states that had ratified once it was ratified by a subset of them (at that time, the threshold was three of the initially five countries) (Art. 110). We infer a similar ratification procedure for subsequent constitutional reforms.[α]

The 1988 Quito Protocol specified and slightly modified the procedure. It substituted the initial clause in Annex 1 that detailed a special decision rule for the *adoption* of constitutional amendments to refer to "*proposals* for the amendment of the present Treaty" (new Annex 1.2). This suggests that the Commission now adopts proposals by consensus, and so it becomes the chief initiator. Article 79 empowered the Commission, upon recommendation by the Junta, to take the final decision on the amendment "on the basis of the present Protocol." It is not clear whether the Junta plays a substantive role in initiating constitutional amendments, and we interpret Art. 79 as charging the Junta with a primarily administrative function: to prepare a coherent draft of a new treaty based upon the changes adopted in the Protocol (see also Trujillo Protocol, Art. "segundo," Section J).[β] Hence the Commission acts both as sole initiator and as final decision maker by consensus. The Protocol requires ratification by all member states, which considerably tightens the ratification proviso compared to the Cartagena Agreement.

The Trujillo Protocol adapts the procedure for constitutional change to encompass the newly created bodies. A joint session of the Council of Foreign Ministers and the Commission meets to "propose to the Andean Presidential Council any amendments to this Agreement" (Art. 20). Both take decisions by consensus (see Arts. 17, 26a, and Annex 1.2). The Andean Parliament, acting by simple majority, can make suggestions to the joint session, which the Council is bound to consider (Council Rules of Procedure, Art. 7h). Hence we code the Council, Commission, and Parliament as agenda setters. The Presidential Council takes the final decision by unanimity. As before, ratification by all member states is required (see Art. "Fifth," Section J).

REVENUES

According to Article 7h of the Cartagena Agreement, the organization was initially financed by annual member state contributions determined by the Commission. Poorer countries paid much less than richer countries: in the initial allocation, Bolivia and Ecuador each contributed 8 percent of revenue, while Chile, Colombia, and Ecuador each contributed 28 percent (Decision 4).

This allocation remains in place today. The organization also receives significant funding from external sources, including the European Union (see EU 2007).

BUDGETARY ALLOCATION

Under the Cartagena Agreement the Junta draws up the annual budget, ostensibly by consensus, but with the provision that a dissenting member can submit a minority opinion (Arts. 15k and 17). Hence, we code this as supermajority.$^{\beta}$ The Commission approves the budget, presumably by the general decision rule of two-thirds majority (Arts. 7h and 11).$^{\alpha}$ The budget takes the form of a Commission decision, which is binding on member states (Court Treaty, Art. 2).

With the Quito Protocol, the budget of the Court was included in the Treaty, based on the same procedure (Art. 7h). The Trujillo Protocol largely retains the budgetary procedure. Article 34 notes that "[T]he General Secretary is responsible for presenting the annual budget estimate to the Commission, for approval" (see also Art. 22i). However, the decision rule in the Commission is now consensus rather than two-thirds majority (Art. 26). From 1999, there is an additional agenda setter: the Andean Parliament can now formulate "recommendations regarding the annual draft budgets of the System bodies and institutions that are financed through the direct contributions of the Member Countries" (Art. 43c). The decision rule is simple majority (Additional Protocol to the Parliament Treaty, Art. 14; Decision 1152, Art. 2c). Even though parliamentary recommendations can be ignored, Article 43b of the Quito Protocol empowers the Parliament to co-set the agenda on the budget.$^{\beta}$

FINANCIAL COMPLIANCE

A compliance procedure was introduced with the Trujillo Protocol which comes into force in 1999. Article 28 notes that "[T]he Member Country that is behind more than four quarters in regard to the payment of its contributions to the General Secretariat or to the Court of Justice of the Andean Community, shall not be able to exercise the right to vote in the Commission until it solves its situation." We code this as an administrative decision.

POLICY MAKING

The Cartagena Agreement (1969) defined decisions as the chief policy instrument (Art. 6).[8] The procedure was informed by the European Economic

[8] The Commission later also delegated decision powers to the Junta, which could adopt Resolutions on minor issues (Decision 9, Art. 11; see also Decision 2; Quito Protocol, Art. 12a).

Community. The Junta had the exclusive right to initiative and it took decisions by supermajority (Arts. 15c, 17),[9] while the Commission could reject, approve, or amend these proposals by a two-thirds majority (Art. 7f). Amending Junta proposals required that no negative vote be cast (Annex 1.3, Art. 11a), which amounts to consensus and gives the Junta a very strong initiating role. Commission decisions are directly binding on member states and do not require ratification (Court Treaty, Art. 2).

The Quito Protocol modifies policy making. While the Commission remains the final decision maker (by consensus), member states can now also initiate policy. A new Article 7k states that the Commission "approves, does not approve or modifies the proposals, which the member states, individually or jointly, submit to its consideration" (see also Art. 10). So from 1988 the Junta shares its right to initiative with member states.

The Trujillo Protocol changes the policy process for decisions.[10] The General Secretariat (previously called the Junta) continues to be the chief but not exclusive initiator of decisions (Art. 30c) alongside member states (Arts. 22f and 20e). The Protocol substantially enhances the role of non-state actors. The Andean Parliament is now an additional agenda setter. It can "participate in norm generation of the process by means of suggestions to the System bodies of draft provisions on subjects of common interest, for incorporation in Andean Community Law" (Art. 43e). The Council is bound "to consider suggestions by the Andean Parliament on programmatic goals and the institutional structure of the Andean Integration System, as well as on legal rules on issues of community interest" (2000 Council Rules of Procedure, Art. 6g). The Parliament takes decisions by simple majority. In addition, the Business and Labor Advisory Councils' consultative role is strengthened (see Art. 44). Both bodies have now an explicit right to speak at meetings of the Council, the Commission, and working groups (Decision 464, Art. 3b; see also Decision 442). Both take decisions by absolute majority (assumed for the Business Advisory Council) (Labor Council Rules of Procedure, Art. 20). Final decision making is in the hands of the Commission or the Council. On foreign policy, the Council is the final arbiter; on trade and other affairs, the Commission appears to be the final arbiter. The

[9] The same rule applies for policy making as for the budget: the three-member Junta takes decisions by consensus, but it can also furnish a dissenting opinion. We interpret this as equivalent to supermajority.

[10] The Trujillo Protocol introduces a second policy stream, declarations, which are mostly (but not exclusively) on foreign policy and which are non-binding (Art. 17). Declarations are taken by consensus. There have been relatively few, which is why we do not code an additional policy stream.

decision rule in the Council is unanimity (Art. 17); the decision rule in the Commission changes to absolute majority, with an almost identical list of exceptions compared to before (Art. 26).

From 2008, we also code the Advisory Council of Indigenous People as an agenda setter (Lucero 2008). The Advisory Council has the authority to "participate, with the right to speak, in the meetings of the Andean Council of Foreign Ministers and the Commission of the Andean Community" (Decision 674, Art. 3c; Decision 674). It takes decisions by consensus. We do not code the Andean Advisory Council of Municipalities, created in 2005, as formal agenda setter because its role is marginal.[α]

DISPUTE SETTLEMENT

The initial Cartagena Agreement drew on the LAFTA/ALALC arbitration procedure (Resolution 172). It was obligatory for all members. This was to constitute the second step after conciliation efforts by the Commission had failed (Cartagena Agreement, Art. 23). The LAFTA Arbitration Protocol offered an automatic right to third-party review allowing any disputing party to bring a case to the Arbitral Tribunal (Resolution 172, Art. 9). The Tribunal was composed, on a case by case basis, of arbitrators drawn from a roster (Art. 12). Each member state could nominate one arbitrator with a "high moral reputation and [who] fulfill[s] the conditions required for exercising the highest judicial functions in his country" (Art. 12). Each arbitrator served on the panel for a renewable period of eight years (Art. 13). The Tribunal consisted of three arbitrators chosen in agreement by the two disputing parties (Art. 18) and it took decisions by majority vote (Art. 28). The member states agreed to submit to the compulsory jurisdiction of the Arbitral Tribunal under Art. 16 of Resolution 172 "all matters contained in the present Treaty and in the Decisions taken by the Commission" (Cartagena Agreement, Art. 23). Article 30 of Resolution 172 reiterates that "the decision is compulsory for the parties to the controversy . . . and has to be complied with immediately." Thus, decisions are directly binding on member states. In case of non-compliance, the LAFTA Conference may authorize retaliatory sanctions, the decision being taken without participation by the disputing parties (Resolution 172, Art. 34). No mention is made of non-state actors having standing or of preliminary rulings. The LAFTA/ALALC tribunal was abolished in 1981.

In 1979, Andean member states created their own standing tribunal, which started work in 1983 in Quito, Ecuador—the Andean Court of Justice. The dispute settlement system is obligatory for all members of the Andean Community. The Court consists of five judges with the same competences listed in Resolution 172 (see Court Treaty, Art. 7). They are selected by consensus among the member states for a period of six years, with

CAN Institutional Structure

		A1			A2			A3			E1										GS1		CB1	CB2	CB3	CB4
Years		Non-state selection	Indirect representation	Weighted voting	Non-state selection	Indirect representation	Weighted voting	Non-state selection	Indirect representation	Weighted voting	Head—agenda	Head—decision	Members—agenda	Members—decision	Non-state selection	Partial representation	Indirect representation	Reserved seats	Weighted voting	Partial veto	Select	Remove	Non-state selection	Non-state selection	Non-state selection	Non-state selection
1969–1970	Not body-specific	0	0	0							N		N		0	1	2	0	0	0						
	Member states																									
	A1: Commission											0		0							0	2				
	E1: Junta																									
	GS1: Junta																									
	DS1: ALADI Arbitration Tribunal																									
1971–1980	Not body-specific	0	0	0							N		N		0	1	2	0	0	0			1			
	Member states																									
	A1: Commission											0		0							0	2				
	E1: Junta																									
	GS1: Junta																									
	CB1: Ecosoc Consult. Committee																									
	DS1: ALADI Arbitration Tribunal																									
1981–1982	Not body-specific	0	0	0							N		N		0	1	2	0	0	0			1			
	Member states																									
	A1: Commission											0		0							0	2				
	E1: Junta																									
	GS1: Junta																									
	CB1: Ecosoc Consult. Committee																									
1983	Not body-specific	0	0	0							N		N		0	1	2	0	0	0			1			
	Member states																									
	A1: Commission											0		0							0	2				
	E1: Junta																									
	GS1: Junta																									
	CB1: Ecosoc Consult. Committee																									
	DS2: Andean Court of Justice																									

1984–1998	Not body-specific	0	0	0							N		N		0	1	2	0	0	0			1	3		
	Member states																									
	A1: Commission											0		0							0	2				
	E1: Junta																									
	GS1: Junta																									
	CB1: Ecosoc Consult. Committee																									
	CB2: Andean Parliament																									
	DS2: Andean Court of Justice																									
1999–2004	Not body-specific	0	0	0	0	0	0	0	0	0					2	1	2	0	0	0			1	3		
	Member states										✓		✓													
	A1: Commission											0									0	0				
	A2: Presidential Council																									
	A3: Council of Foreign Ministers											0									0	0				
	E1: **General Secretariat**																									
	Head E1												✓	✓												
	GS1: **General Secretariat**																									
	CB1: **Business & Labor Councils**																									
	CB2: Andean Parliament										3															
	DS2: Andean Court of Justice																									
2005–2007	Not body-specific	0	0	0	0	0	0	0	0	0					2	1	2	0	0	0			1	3	3	
	Member states										✓		✓													
	A1: Commission											0									0	0				
	A2: Presidential Council																									
	A3: Council of Foreign Ministers											0									0	0				
	E1: General Secretariat																									
	Head E1												✓	✓												
	GS1: General Secretariat																									
	CB1: Business & Labor Councils																									
	CB2: Andean Parliament										3															
	CB3: Council of Municipalities																									
	DS2: Andean Court of Justice																									

(*continued*)

CAN Institutional Structure (Continued)

		A1			A2			A3			E1										GS1		CB1	CB2	CB3	CB4
Years		Non-state selection	Indirect representation	Weighted voting	Non-state selection	Indirect representation	Weighted voting	Non-state selection	Indirect representation	Weighted voting	Head—agenda	Head—decision	Members—agenda	Members—decision	Non-state selection	Partial representation	Indirect representation	Reserved seats	Weighted voting	Partial veto	Select	Remove	Non-state selection	Non-state selection	Non-state selection	Non-state selection
2008–2009	Not body-specific	0	0	0	0	0	0	0	0	0					2	1	2	0	0	0			1	3	3	3
	Member states										✓		✓													
	A1: Commission											0									0	0				
	A2: Presidential Council																									
	A3: Council of Foreign Ministers											0									0	0				
	E1: General Secretariat																									
	Head E1												✓	✓												
	GS1: General Secretariat																									
	CB1: Business & Labor Councils																									
	CB2: Andean Parliament										3															
	CB3: Council of Municipalities																									
	CB4: Council of Indigenous People																									
	DS2: Andean Court of Justice																									
2010	Not body-specific	0	0	0	0	0	0	0	0	0					2	1	2	0	0	0			1	4	3	3
	Member states										✓		✓													
	A1: Commission											0									0	0				
	A2: Presidential Council																									
	A3: Council of Foreign Ministers											0									0	0				
	E1: General Secretariat																									
	Head E1												✓	✓												
	GS1: General Secretariat																									
	CB1: Business & Labor Councils																									
	CB2: Andean Parliament										3															
	CB3: Council of Municipalities																									
	CB4: Council of Indigenous People																									
	DS2: Andean Court of Justice																									

Note: A = automatic/technocratic procedure; N = no written rule; R = rotation; ✓ = body co-decides, but no voting rule; ← = change in status. Shaded areas refer to institutions or policy areas that are non-existent for those years.

the possibility of one re-election (Court Treaty, Arts. 8 and 9). The Court holds jurisdiction over any deed of nullification or non-compliance that can be brought by member states, the Commission, the Board, individuals, or corporations (Arts. 17–19). Hence, non-state actors have standing. The Court also has the final say over non-compliance, though the process is elaborate. Non-compliance can lead the Court to authorize the suspension of benefits or retaliatory sanctions (Art. 25). These decisions are directly binding on member states, which "shall take the necessary steps to execute the judgment within three months after notification" (Art. 25). Moreover, Court verdicts, at least regarding nullification, have direct effect, which means that aggrieved private parties can enforce their rights under the Cartagena Agreement in national courts. Article 27 states: "In the event the rights of individuals or companies are affected by the failure of Member Countries to fulfill the provisions set forth in Article 5 herein above, they would be entitled to gain access to competent national Courts." The Treaty also contains a preliminary rulings procedure, called "pre-judicial interpretation," according to which national judges may request the Court for a preliminary ruling which is binding on the national court (Arts. 28–31). However, the preliminary ruling procedure is voluntary—no national court is required to request a Court ruling.[11]

The changes introduced by the Trujillo Protocol in 1996 required the amendment of the statute of the Andean Court of Justice. This was introduced with the Cochabamba Protocol, adopted in 1996 and in force from 1999. The Court has now jurisdiction over all institutions of the Andean Integration System and its competences have been broadened. Under the rules governing "Action due to Omission or Inactivity," any natural or legal person with standing, whose rights or interests are affected, can request that the bodies of the Andean Community carry out an activity for which it is legally responsible (Art. 37). The Court can also provide binding arbitration regarding disputes resulting from the application or interpretation of contracts, conventions, or agreements among Andean bodies or between those bodies and third parties. The Court also has the right to arbitrate private contracts that are governed by the Andean Community's legal system (Art. 38). Finally, the Court has jurisdiction over labor disputes related to the institutions of the Community (Art. 40).

[11] There is a debate as to the extent to which the Andean Court of Justice has followed the ECJ template (Alter and Helfer 2010; Phelan 2015).

CAN Decision Making

		Accession			Sus-pension		Constitution				Budget		
Years		Agenda	Decision	Ratification	Agenda	Decision	Agenda	Decision	Ratification	Revenue source	Agenda	Decision	Binding
1969–1970	Not body-specific	N	N	N	N	N	N		1	1			2
	Member states												
	A1: Commission							0				2	
	E1: Junta										2		
	GS1: Junta										2		
	DS1: ALADI Arbitration Tribunal												
1971–1972	Not body-specific	N	N	N	N	N	N		1	1			2
	Member states												
	A1: Commission							0				2	
	E1: Junta										2		
	GS1: Junta										2		
	CB1: Ecosoc Consult. Committee												
	DS1: ALADI Arbitration Tribunal												
1973–1980	Not body-specific			2	N	N	N		1	1			2
	Member states	✓											
	A1: Commission	0	0					0				2	
	E1: Junta										2		
	GS1: Junta										2		
	CB1: Ecosoc Consult. Committee												
	DS1: ALADI Arbitration Tribunal												
1981–1982	Not body-specific			2	N	N	N		1	1			2
	Member states	✓											
	A1: Commission	0	0					0				2	
	E1: Junta										2		
	GS1: Junta										2		
	CB1: Ecosoc Consult. Committee												
1983	Not body-specific			2	N	N	N		1	1			2
	Member states	✓											
	A1: Commission	0	0					0				2	
	E1: Junta										2		
	GS1: Junta										2		
	CB1: Ecosoc Consult. Committee												
	DS2: Andean Court of Justice												
1984–1987	Not body-specific			2	N	N	N		1	1			2
	Member states	✓											
	A1: Commission	0	0					0				2	
	E1: Junta										2		
	GS1: Junta										2		
	CB1: Ecosoc Consult. Committee												
	CB2: Andean Parliament												
	DS2: Andean Court of Justice												

Compliance		Policy (decisions)					Dispute settlement 1 (economic integration)							Dispute settlement 2 (economic integration)						
Agenda	Decision	Agenda	Decision	GS role	Binding	Ratification	Coverage	Third party	Binding	Tribunal	Non-state access	Remedy	Preliminary ruling	Coverage	Third party	Binding	Tribunal	Non-state access	Remedy	Preliminary ruling
N	N			2	2	3														
			0																	
		2																		
		2																		
							2	2	2	1	0	1	0							
N	N			2	2	3														
			0																	
		2																		
		2																		
							2	2	2	1	0	1	0							
N	N			2	2	3														
			0																	
		2																		
		2																		
							2	2	2	1	0	1	0							
N	N			2	2	3														
			0																	
		2																		
		2																		
N	N			2	2	3														
			0																	
		2																		
		2																		
														2	2	2	2	1	2	1
N	N			2	2	3														
			0																	
		2																		
		2																		
														2	2	2	2	1	2	1

(*continued*)

CAN Decision Making (Continued)

		Accession			Sus-pension		Constitution				Budget		
Years		Agenda	Decision	Ratification	Agenda	Decision	Agenda	Decision	Ratification	Revenue source	Agenda	Decision	Binding
1988–1998	Not body-specific			2	N	N			0	1			2
	Member states	✓											
	A1: Commission	2	0				0	0				2	
	E1: Junta										2		
	GS1: Junta										2		
	CB1: Ecosoc Consult. Committee												
	CB2: Andean Parliament												
	DS2: Andean Court of Justice												
1999–2004	Not body-specific			2	N	N			0	1			2
	Member states	✓											
	A1: Commission	0	0				0					3	
	A2: Presidential Council							0					
	A3: Council of Foreign Ministers		0				0						
	E1: **General Secretariat**										✓		
	GS1: **General Secretariat**										✓		
	CB1: Business & Labor Councils												
	CB2: Andean Parliament										3		
	DS2: Andean Court of Justice												
2005–2007	Not body-specific			2	N	N			0	1			2
	Member states	✓											
	A1: Commission	0	0				0					3	
	A2: Presidential Council							0					
	A3: Council of Foreign Ministers		0				0						
	E1: General Secretariat										✓		
	GS1: General Secretariat										✓		
	CB1: Business & Labor Councils												
	CB2: Andean Parliament										3		
	CB3: Council of Municipalities												
	DS2: Andean Court of Justice												
2008–2010	Not body-specific			2	N	N			0	1			2
	Member states	✓											
	A1: Presidential Council							0					
	A2: Council of Foreign Ministers		0				0						
	A3: Commission	0	0				0					3	
	E1: General Secretariat										✓		
	GS1: General Secretariat										✓		
	CB1: Business & Labor Councils												
	CB2: Andean Parliament										3		
	CB3: Council of Municipalities												
	CB4: Council of Indigenous People												
	DS2: Andean Court of Justice												

Note: A = automatic/technocratic procedure; N = no written rule; R = rotation; ✓ = body co-decides, but no voting rule; ← = change in status. Shaded areas refer to institutions or policy areas that are non-existent for those years.

Com-pliance		Policy (decisions)					Dispute settlement 1 (economic integration)							Dispute settlement 2 (economic integration)						
Agenda	Decision	Agenda	Decision	GS role	Binding	Ratification	Coverage	Third party	Binding	Tribunal	Non-state access	Remedy	Preliminary ruling	Coverage	Third party	Binding	Tribunal	Non-state access	Remedy	Preliminary ruling
N	N			1	2	3														
		✓																		
			0																	
		2																		
		2																		
														2	2	2	2	1	2	1
A	A			1	2	3														
		✓																		
			3																	
			0																	
		✓																		
		✓																		
		3																		
		3																		
														2	2	2	2	1	2	1
A	A			1	2	3														
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		✓																		
		✓																		
		3																		
		3																		
														2	2	2	2	1	2	1
A	A			1	2	3														
		✓																		
			0																	
			3																	
		✓																		
		✓																		
		3																		
		3																		
		3																		
														2	2	2	2	1	2	1

Caribbean Community (CARICOM)

The Caribbean Community (CARICOM), encompassing fifteen states and dependencies, is the largest organization for regional cooperation in the Caribbean. Its chief objectives are "improve[d] standards of living and work, sustained economic development and convergence, expansion of trade and economic relations with third States, achievement of a greater measure of economic leverage and effectiveness of Member States in dealing with third States" (Revised CARICOM Treaty, Art. 6). The headquarters are located in Georgetown, Guyana.

As in many other parts of the world, the colonial powers laid the basis for regional integration after independence. In 1958, the British established the British West Indies Federation in an attempt to create a political union among ten colonies that were deemed too small to be economically viable as independent states. The Federation was flanked by several regional service institutions, such as the West Indies Shipping Corporation, the University of the West Indies, and the Meteorological Services, but collapsed in 1962 following the withdrawal of Jamaica and Trinidad and Tobago (Hall and Blake 1977: 214–15). In 1963, governments established the Conference of Heads of Government of the Commonwealth Caribbean countries to consider the fate of the common services, and the body subsequently became "the principal stimulus for the regional integration movement" (Pollard 1974: 40). These meetings laid the groundwork for a free trade area in the Caribbean (for an in-depth analysis of this early period, see Payne 2008: introduction and ch. 1).

The Caribbean Free Trade Association (CARIFTA) agreement was signed in 1965 as "literally a transcription of the European Free Trade Association Treaty, including its errors" (Brewster 1970: 285). It came into effect in 1968 between Antigua, Barbados, Trinidad and Tobago, and Guyana, with more countries following later that year. It focused on free trade in goods and functional cooperation in other matters, but eschewed any political impetus. So it "represented a minimal approach to regional integration" (Axline 1979: 89). Economic polarization and uneven dependence led the lesser developed members to "push to deepen integration and force the industrial base to spread across the region" (Atkinson 1982: 508; see also Brewster 1970). After extended negotiations, a new treaty was signed in 1973 which transformed CARIFTA into the Caribbean Community and Common Market (CARICOM) (Axline 1979: ch. 5). The agreement created a common external tariff, common rules on fiscal harmonization and double taxation, and a Caribbean Investment Corporation (which never got off the ground). According to some observers, CARICOM was primarily an effort "to formalize and amalgamate into one structure the many facets of regional cooperation in existence in the Caribbean immediately prior to its establishment" (Payne 2008: 194).

CARICOM's first fifteen years were difficult. Cumbersome decision making and limited state capacity hampered integration (Hall and Blake 1977; Payne 2008). Moreover, Cold War politics, which fueled deep divisions over Grenada in the early 1980s, was "very nearly the cause of CARICOM's complete disintegration" (Payne 2008: 258). However, member states' retreat into "ritual" (Payne 2008: 258) helped the organization survive.

Regional integration picked up again at the end of the Cold War and was spurred by developments in Europe. In 1989, governments agreed to create a CARICOM Single Market and Economy (CSME) with free movement of goods, capital, services, and labor. In 1992, the governments agreed to establish a currency union, but the governors of the central banks soon recommended its indefinite postponement. Between 1993 and 2000, an intergovernmental task force prepared nine protocols establishing the legal framework for the common market. These were bundled in the Revised Treaty of Chaguaramas of 2001 (Payne 2008: ch. 10). Economic integration remains the core of CARICOM, but there are now also joint initiatives in security (Byron 2011).

The key legal documents are the three major treaties: the CARIFTA Agreement (signed and in force 1968), the original Treaty Establishing the Caribbean Community (signed and in force 1973), and the Revised Treaty of Chaguaramas (signed 2001; in force 2006). The Caribbean Community has one assembly (the Conference of Heads of Government), one executive body (the Community Council of Ministers), and a general secretariat.

Institutional Structure

A1: CONFERENCE OF HEADS OF GOVERNMENT (1973–2010)

During CARIFTA, the Conference of Heads of Government played an important informal role alongside the CARIFTA Council. The Conference met annually to discuss the broader evolution of cooperation and approve important decisions on economic integration. One observer even notes that "the Conference was the moving force behind nearly all the major developments in Caribbean integration in the late 1960s and early 1970s" (Payne 2008: 195). It was also responsible for approving the budget of the organization.[12]

With the transition from CARIFTA to CARICOM, the Conference of Heads of Government is incorporated into the Treaty. While its "primary responsibility is to determine the policy of the Community" (Art. 8.1), it is also responsible for issuing "directions of a general or special character," concluding treaties, for taking decisions on the Community's financial affairs and for establishing new institutions. The Treaty stipulates that decisions in the Conference are

[12] Communiqués issued by the Conference during this period can be accessed at <http://caricom.org/jsp/communications/communiques/6hgc_1970_communique.jsp>.

taken "by the affirmative vote of all its members" (Art. 9.2), that is, by unanimity with the possibility of individual abstentions (Art. 9.4). Decisions by the Conference are binding; its recommendations are not binding, but non-compliance with a Conference recommendation requires a written justification (Art. 9.3). Its role has not changed with the Revised Treaty (see Art. 12).

In 1992, member states created the Bureau to assist the Conference. The Bureau meets whenever necessary and reports to the Conference. It was codified in 1997 with the Protocol on Organs and Institutions of the Community (Art. 7a).

A2: CARIFTA COUNCIL (1968–72)

The CARIFTA Council doubled as a secondary assembly and executive.[β] Composed of ministers from each member state, it took many decisions on the economic matters detailed in the Treaty and supervised the application of the agreement (CARIFTA Agreement, Art. 28.1). Generally, decisions were taken by "unanimous vote" (Art. 28.5), with a few exceptions, such as safeguard measures in extreme cases of trade deflection (Art. 6.3) or recommendations to member states on how to handle balance-of-payment difficulties in a "community-friendly" way (Art. 21.3), which could be taken by majority vote (Art. 28.5). With the institutionalization of the Conference of Heads of Government in the 1973 CARICOM Treaty, the Council became the organization's chief executive (see following section).

E1: FROM THE CARIFTA COUNCIL (1968–72) TO THE COMMON MARKET COUNCIL (1973–97) TO THE COMMUNITY COUNCIL (1998–2010)

Under CARIFTA, the Council also served as the chief executive (Art. 28.1). The chair rotated among the member states on a six-month basis.[α] It is fully composed of member state representatives, all member states are represented, and representation is direct.

Renamed the Common Market Council with the CARICOM Treaty, the body was designated the "principal organ of the Common Market" (Annex to CARICOM Treaty, Art. 5). Nevertheless, it operated within the formal constraints and guidelines given by the Conference.[13] We designate it now as the executive. It was responsible for "ensuring the efficient operation and development of the Common Market" and for "making proposals to the Conference for the progressive development of the Common Market" (Annex, Art. 7.1). Besides that, the Treaty established a range of specialized ministerial bodies such as the Conference of Ministers for Health, the Standing Committee of Ministers for Education, or the Standing Committee of

[13] The Conference is designated as the principal organ in the Treaty on the Caribbean Community (Art. 6), but not in the Annex. However, the Annex states that the Common Market Council's authority is subject to guidelines set out by the Conference (Art. 5.1). Hence there is no ambiguity about the basic organizational structure of CARICOM (Pollard 1974: 47–51).

Ministers for Foreign Affairs, which had a similar responsibility to "formulate such policies and perform such functions as are necessary for the achievement of the objectives of the Community within their respective spheres of competence" (CARICOM Treaty, Art. 12.1).[14] Decisions in all ministerial bodies are taken by unanimity with the possibility of abstention (CARICOM Treaty, Art. 13.2, and Annex, Art. 8). With the exception of the Common Market Council, non-binding recommendations issued by ministerial bodies are taken by two-thirds majority, which must include at least two more developed member states (CARICOM Treaty, Art. 13.3). The chair rotates (Hall and Blake 1977: 221).

In 1997, Protocol I on Organs and Institutions revises the institutional provisions in the Treaty. The protocol enters into force in 1998. The Common Market Council is renamed the Community Council, and is now composed of "Ministers responsible for Community Affairs and any other Minister designated by the Member States in their absolute discretion" (Revised Treaty, Art. 13.1). The Community Council has primary responsibility for developing Community strategic planning and for coordinating economic integration, functional cooperation, and external relations. It approves the budget, decides on the allocation of resources to Community programs, monitors national implementation, and prepares the Conference meetings. It can also instruct the sectoral Ministerial Councils to develop proposals or it can amend them (Revised Treaty, Art. 13).

The decision rule in the Council changes from unanimity to a supermajority of three-fourths. Issues of "critical importance to the national well-being of a member state" continue to require the affirmative vote of all members (Revised Treaty, Art. 29.3). Interestingly, individual member states need the consent of at least two-thirds of the member states to have an issue declared "of critical importance" (Art. 29.4). Finally, the tiered structure of ministerial councils and committees is routinized and expanded. New bodies include the Council for Finance and Planning, the Council for Trade and Economic Development, the Legal Affairs Committee, and the Committee of Central Bank Governors.

GS1: COMMUNITY SECRETARIAT (1973–2010)

The CARIFTA Treaty does not create a secretariat, but merely instructs the Council to "make arrangements for the Secretariat Services required by the Association" (Art. 29.1b). Documents from that period suggest there was a Commonwealth Caribbean Regional Secretariat, but it played a marginal role, and we therefore do not code a Secretariat for the early years$^{\alpha}$ (see, for example, the press release of the sixth Heads of Government Conference).[15]

[14] For a discussion of their legal role and the negotiations leading to their creation, see Pollard (1974: 51–4).

[15] See <http://archive.caricom.org/jsp/communications/communiques/6hgc_1970_communique.jsp> (accessed March 2017).

The 1973 CARICOM Treaty designates the Commonwealth Caribbean Regional Secretariat as the new Community Secretariat and "principal administrative organ" (Art. 15.1). It services the meetings, follows up on decisions taken by Community institutions, and it can initiate and conduct studies on economic and functional cooperation (Art. 16). The Community Secretariat is a hierarchical organization which is headed by a secretary general, the "chief administrative officer of the Community," who is appointed by the Conference upon recommendation of the Council for a five-year term, with the possibility of reappointment (Art. 15.2). After a reorganization in 1977, the secretary general is assisted by a deputy and five directors. Senior staff are recruited from national governments, but are expressly prohibited from receiving instructions from governments (Hall and Blake 1977: 218–19).[16] Despite its modest legal competences, the Secretariat is often seen as "the most dynamic element in the process of Caribbean integration" (Axline 1979: 78; Payne 2008: 203–4).

The 1997 Protocol gives the secretary general additional competences. He becomes the representative of the Community, can mobilize external resources, guides implementation with the consent of the member states, and can take Community decisions for which neither administrative nor legislative action by national authorities is necessary (Revised Treaty, Art. 24.2). Moreover, the right to initiative is now made explicit and less restricted. The secretary general can "initiate or develop proposals for consideration and decision by competent Organs in order to achieve Community objectives" (Revised Treaty, Art. 24.2g). These powers are vested in the secretary general rather than the Secretariat, and we therefore continue to code the Secretariat as a primarily administrative body rather than an executive.$^{\beta}$ There are no written rules on the removal of the secretary general.

CB1: JOINT CONSULTATIVE GROUP (1973–2010)

From the early 1970s the organization has held annual consultations with non-state actors. Initially the Common Market Council maintained institutionalized contacts with a Joint Consultative Group composed of transnational business, trade union, and consumer groups, including the Caribbean Association of Industry and Commerce (CAIC), the Caribbean Congress of Labor (CCL), and the Caribbean Consumers Committee (defunct by the end of the 1970s) (Hall and Blake 1977: 224). Beginning in the late 1980s, these groups began holding consultations with the Conference. Non-governmental organizations (NGOs) joined the Group from 1996.

With the revision of the CARICOM Treaty in 2001, consultation was codified (Art. 26), even though the Group no longer took part in the

[16] Hall and Blake (1977) discuss the Secretariat's structure at the time.

annual meetings of the Conference (Hinds-Harisson 2013: 6). Still, the Joint Consultative Group is widely discussed in the secondary literature, and it is mentioned on the organization's website as having "institutionalized annual exchanges" with CARICOM bodies since 1973.[17] Payne (2008: 201) notes that, by virtue of the Joint Consultative Group, non-state actors "at least have a presence within the institutions of the Community" (for an early assessment see Axline 1979: 77–8). We code this group as a formal consultative body from 1973.[18]

CB2: ASSEMBLY OF CARIBBEAN COMMUNITY PARLIAMENTARIANS (ACCP) (1996–2000)

In the early 1990s, governments created the Assembly of Caribbean Community Parliamentarians (ACCP) as a "deliberative and consultative body for the discussion of policies, programmes and other matters falling within the scope of the Treaty" (ACCP Agreement, Art. 5.1). The ACCP consisted of no more than four representatives per country, appointed or elected by member state parliaments (ACCP Agreement, Art. 3). Its consultative remit was broad: it could make recommendations to various CARICOM bodies including the Conference, the Council, and the Secretariat; submit recommendations on matters related to the objectives of the Community as well as matters brought to it by a CARICOM body; and adopt resolutions on the Treaty (ACCP Agreement, Art. 5.2). The body held its inaugural session in 1996.

The ACCP held two further meetings: one in Grenada in October 1999 and one in Belize in November 2000, but has not operated since and has been described as "dormant due to inaction" (Kangalee 2011: 3). There is intermittent discussion on reforming the ACCP (Isaac 2004; see also the Report of the Technical Sub-Group on the ACCP 2003; Kangalee 2011: 2–4). We code the ACCP until 2001.

Decision Making

MEMBERSHIP ACCESSION

The CARIFTA Treaty states that "[A]ny Territory . . . may participate in this Agreement, subject to prior approval of the Council . . . on terms and conditions decided by the Council . . . This Agreement shall have effect in relation to the participating Territory as, and from the time, indicated in the Council's decision" (Art. 32.1). Hence the Council initiates and takes the final decision on accession, presumably by its general decision rule of unanimity. Ratification is not mentioned.[α]

[17] See <http://archive.caricom.org/jsp/community/caricom_history.jsp?menu=community> (accessed March 2017).

[18] Some sources mention 1971 as the date when the Joint Consultative Group was established.

With the 1973 CARICOM Treaty, eligible applicants for accession are "[a]ny State or Territories of the Caribbean Region" (Art. 29.1). Setting the conditions and making the final decision on membership are transferred to the Conference of Heads of State (Arts. 29.1 and 29.2). The decision rule—unanimity—remained unchanged (Art. 9.2).[19]

The revised CARICOM Treaty of 2001 leaves decision making unchanged (Art. 238). But the Treaty clarifies that membership is only "open to any other State or Territory of the Caribbean Region that is, in the opinion of the Conference, able and willing to exercise the rights and assume the obligations of membership" (Art. 3).

MEMBERSHIP SUSPENSION

There are no written rules on suspension, but a member state has in fact been suspended.

Haiti was suspended for two years in 2004 when it was deemed to have violated "democracy-related rights and values of the Charter of Civil Society," which had been adopted as a principle of the organization by CARICOM governments in 1997 (Berry 2005: 257). The circumstances were contested. In February 2004 Jean-Bertrand Aristide left office claiming he had been ousted by a coup organized by the US and France, though his opponents argued that he had voluntarily resigned to avoid bloodshed. Invoking the Charter of Civil Society, CARICOM Heads of State quickly criticized Aristide's departure as an unconstitutional interruption in democratic governance and refused to recognize Haiti's interim government. Upset by this move, the interim Haitian Prime Minister, Gérard Latortue, announced that Haiti would withdraw from CARICOM. In response, the Conference of Heads of Government suspended the interim government from participating in the principal CARICOM institutions but retained Haiti's membership. Following the election of Haitian President René Préval in June 2006, the country was re-admitted and the new president gave the opening address at the Council of Ministers meeting in July (Goldberg 2007). Since the Charter of Civil Society is not legally binding, some commentators have questioned whether Haiti's suspension was consistent with CARICOM rules (Berry 2005: 260–1).

CONSTITUTIONAL REFORM

Article 34 of the CARIFTA Treaty states that "amendment to the provisions of this Agreement shall be submitted to the Governments of Member Territories for acceptance if it is approved by a decision of the Council, and it shall have effect provided it is accepted by all such Governments." We code this as

[19] There are separate rules for associate membership in the Common Market, where the Council also plays a role (Art. 72, Annex; Pollard 1974: 50).

follows: there are no explicit rules on initiation; the Council takes the final decision by unanimity, its general decision rule; all member states ratify before an amendment enters into force.

The final decision over constitutional reform was transferred to the Conference with the CARICOM Treaty. Decisions are taken by unanimity and amendments need ratification by all member states before they enter into force (Art. 26.2). These basic rules remain unchanged with the revised CARICOM Treaty.

Detail on the revision process for the CARICOM Treaty enables us to specify agenda setting. The revision process started in 1993 following the governments' decision to advance toward a common market (see Revised Treaty, Arts. 236 and 233), and it took the form of nine separate protocols. The first protocol was passed in 1996, which is when we start coding.[α] The protocols were developed by an intergovernmental task force composed of representatives of all member states.[20] The task force considered proposals developed by the Legal Affairs Committee, which is a sub-group to the Community Council and which works under the authority of the Community Council but is presided over by the secretary general.[21] Hence we code as agenda setters: member states, which are involved through their delegates to the task force, the Community Council of Ministers (with unanimity as decision rule; see Art. 29.3), and the secretary general.[β]

REVENUES

The CARIFTA Treaty stipulates that the expenses of the organization should be shared equally between the member territories (Art. 29.2), which seems to imply that contributions were ad hoc.[β] This interpretation is reinforced by the fact that the Treaty did not provide for a budgetary procedure, but obliquely stated that the Council shall "establish the financial arrangements necessary for the administrative expenses of the Association" (Arts. 29.1c and 29.2).

The 1973 CARICOM Treaty is equally vague, but from the early 1990s CARICOM begins to attract major external funding from the European Union. These efforts gain a firm footing when, with the 1997 Protocol, the secretary general obtains the explicit authority to "identify and mobilize, as required, external resources to implement decisions at the regional level" (Protocol, Art. 14.2(c)). This was triggered by the European Union's seventh European Development Fund, agreed in 1990, which emphasized the promotion of regional integration following CARICOM's decision to move toward

[20] See <http://archive.caricom.org/jsp/community/revised_treaty.jsp?menu=community> (accessed March 2017).

[21] See <archive.caricom.org/jsp/pressreleases/press_releases_2010/pres380_10.jsp> (accessed March 2017).

the creation of a Single Market (CARIFORUM-EC RIP 2003–07: 13). The upshot is that between 1975 and 2001, the European Union disbursed on average almost 100 million Euros per year to the Caribbean Community (see CARIFORUM-EC RIP 2003–07: 13). While funding has declined in recent years, EU sources still comfortably outstrip member state contributions (CARICOM Annual Report 2008–09: 41). We start coding "own resources" from 1998, the year in which the 1997 Protocol comes into effect.

Outside the regular budget, CARICOM has a development fund for "the purpose of providing financial or technical assistance to disadvantaged countries, regions and sectors" (1997 Protocol VII, Art. 66). The fund began operation in August 2009.[22] The fund seeks to promote economic convergence and to compensate for the dislocation resulting from regional economic integration. The fund's resources are derived from member state contributions based on an agreed formula and contributions by international development partners (CARICOM Development Fund Annual Report 2013).

BUDGETARY ALLOCATION

The annual budget of CARIFTA was drafted by the Secretariat in collaboration with the Budgetary and Economic Committee, a sub-body to the Council, and it was adopted by the Conference by consensus.[23] Since the Council takes decisions by unanimity, we assume that the subcommittees do as well (see Hall and Blake 1977: 219).$^{\alpha}$ We code the budget as binding because Conference decisions are binding.

This procedure was amended following the CARICOM Treaty. According to the financial Rules of Procedure, the Secretariat prepares the budget and submits its recommendation to the Budgetary and Economic Committee. This committee submits its recommendation in turn to the Council, which takes the final decision by unanimity. Hence we code the Secretariat and the Council as agenda setters, the latter through the subordinate Commission, which apparently takes decisions also by unanimity (Hall and Blake 1977: 219), with the Council as final decision maker. The role of the Conference is now confined to setting the broad guidelines for financial management (Art. 8.5).

The Protocol on Organs and Institutions of 1997 codifies that the Secretariat "prepare[s] the draft budget of the Community for examination by the Budget Committee" (Revised Treaty, Art. 25.g), which "submits recommendations to the Community Council" (Revised Treaty, Art. 19.2), and the Council "examine[s] and approve[s] the Community budget" (Revised Treaty, Art. 13.4a). The budget is now proposed and decided by a supermajority of three-quarters

[22] See <http://www.caricomdevelopmentfund.org/website/about-us> (accessed February 13, 2017).
[23] For example, press release No. 15/1970; available at: <http://archive.caricom.org/jsp/communications/communiques/6hgc_1970_communique.jsp> (accessed March 2017).

(Revised Treaty, Arts. 29.1 and 29.2). Council decisions are binding, and so budgetary decisions are binding as well (Revised Treaty, Art. 29.1). The role of the Conference in setting the broad parameters on financial matters is unchanged (Revised Treaty, Art. 12.4).

FINANCIAL COMPLIANCE

There were no explicit provisions to deal with budgetary non-compliance until 1997. The Protocol on the Organs and Institutions changes this. Article 27.2 of the Revised Treaty states: "Member States, whose contributions to the regular budget of the Community are in arrears for more than two years, shall not have the right to vote except on matters relating to the CSME, but may otherwise participate in the deliberations of Community Organs and Bodies. The Conference may, nevertheless, permit such Member States to vote if it is satisfied that the failure to contribute is due to conditions beyond their control." Hence, we code administrative decision in the proposal stage and the Conference as final decision maker, by unanimity (Revised Treaty, Art. 28.1).

POLICY MAKING

CARIFTA's chief objective was to establish a free trade area in goods. Hence policy making boiled down to reviewing and amending the Treaty provisions and the annexes on trade. Most individual articles of the Treaty contain a stipulation noting that the Council had the authority to review and amend. For example, Article 18.5 on public undertakings states that the "Council shall keep the provisions of this Article under review and may decide to amend them." Hence we code that the agenda is set by the Council and decisions are taken by unanimity, which is the general decision rule. These decisions are binding (Art. 28.4). No mention is made of ratification.

With the move toward CARICOM, the chief goal of the organization becomes the creation of a common market. The instruments are the decision, which is binding on member states, and the recommendation, which is non-binding (Arts. 9 and 13; Pollard 1974: 64–9). Our coding focuses on the more important of the two, the decision. The Common Market Council is the primary initiator, while the Conference has the final word. Article 7.1c of the Annex to the CARICOM Treaty states that the Council is responsible for "keeping this Annex under constant review with a view to making proposals to the Conference for the progressive development of the Common Market." Final decisions are taken by unanimity, the general decision making rule, and are binding on the member states (CARICOM Treaty, Art. 9.3). Ratification is not required.

The Secretariat has the role to "initiate, arrange, and carry out studies on questions of economic integration relating to the region" (Annex, Art. 10c). The use of the word "initiate" strongly suggests that the Secretariat has the

authority to play a pro-active policy role—an assessment shared in the secondary literature (Payne 2008: 204). Indeed, observers note that the Secretariat had "become the principal initiator of proposals advancing integration" owing to "its technical competence, its considerable prestige and the limited technical capacity of some member governments" (Hall and Blake 1977: 219–20). Hence the Secretariat has a non-exclusive right to initiative which it shares with the Council.

Over time, the legal instruments available for policy have diversified. In recent years, the key policy instruments are decisions and programs/projects.[24] Implementing the customs union and creating a single market by adopting decisions continue to be the central policy plank of the organization. The decision procedure has changed with Protocol I, which was later incorporated into the Revised Treaty. The secretary general's mandate is strengthened, but he still shares power of initiative with the Council (Arts. 24.2g and 13.3). The Community Council can now have the final word on decisions that implement policy or programs within the broad guidelines set by the Conference (Art. 29). And most importantly, the Community Council now takes decisions by supermajority rather than unanimity (Art. 29).

The shift to supermajority is counterbalanced somewhat by new language in the Protocol and Revised Treaty that creates an opening for conditional bindingness: member states can "opt out of obligations arising from the decisions of competent organs provided that the fundamental objectives of the Community, as laid down in the Treaty, are not prejudiced thereby" (Art. 27.4). So states can opt out but *only* if they obtain the consent of the Conference (presumably by unanimity). Because of the extremely high hurdle we continue to code decisions as unconditionally binding.[β] The new rules came into effect in 1998.

From the 1990s CARICOM has developed a second policy stream of programming and projects. The Secretariat role in proposing programs is more explicit than for decisions (Art. 25.e), but other community organs (in particular the tiered system of councils and committees) are the chief initiators. The Community Council takes the final decision by supermajority (Art. 13.3a). The current website lists seven areas in which CARICOM is active: renewable energy, agribusiness, climate change, HIV/AIDS, institutional cooperation, information and communication technology, and food security.[25]

DISPUTE SETTLEMENT

The CARIFTA Treaty established a member state-dominated "General Consultations and Complaints Procedure" (Art. 26), which was embedded in the Treaty and obligatory to all parties. The procedure envisaged that after direct

[24] For an overview, see <http://www.caricomlaw.org/> (accessed March 2017).
[25] See <http://archive.caricom.org/jsp/projects/projects_index.jsp?menu=projects%3E>.

bilateral consultations, the dispute could move to the Council which established an "Examining Committee" of independent experts if any of the concerned parties so requested (Art. 27). The experts were instructed not to represent any member state or territory (Art. 27), and while the Treaty is vague on their expertise (they do not appear to have to be judges or lawyers), the safeguards for their impartiality and expertise seem strong enough to warrant coding them as a legal rather than political dispute settlement body. The procedure included an automatic right to third-party review, since the Council did not have the power to block. The Committee would furnish a report to the Council that considered, among others, whether a party had violated its obligations under the Treaty. The Council could then issue a recommendation (see Art. 28.4), by majority vote, on how the dispute was to be settled in light "of the recommendation of any examining committee that may have been appointed" (Art. 26.3). Hence we code the Committee's rulings as non-binding. If the concerned member state "does not or is unable to comply with the recommendation" (Art. 26.4), the Council could vote, again by majority, to suspend concessions made to the member state in question. Thus, the procedure contains retaliatory sanctions as a remedy for non-compliance. Non-state actors had no access.

The dispute settlement procedure was amended when CARIFTA became CARICOM. The Annex of the CARICOM Treaty in 1973 (Arts. 11 and 12) establishes an ad hoc arbitration tribunal which replaced the "Examining Committee." It draws its arbitrators from a list of "qualified jurists" (Art. 12.1) with each member state nominating two persons for a period of five years, with the possibility for renewal. However, various sources mention that "the arbitral procedure was never used and serious disputes were never settled, thereby causing the integration movement to be hampered" (for example, Lilla 2008: 30).[26]

The revised CARICOM Treaty overhauls dispute settlement and sets up a multi-tier process involving good offices, mediation, consultations, conciliation, arbitration, and adjudication by the Caribbean Court of Justice (CCJ) (Revised CARICOM Treaty, Art. 188). Upon failure to resolve a dispute by the first four modes of dispute settlement, either party may have recourse to arbitration or adjudication. But while arbitration is an integral part of the Treaty and obligatory for all, the Court of Justice's jurisdiction is laid down in a separate protocol and optional for member states. Hence, we code arbitration and adjudication as separate streams.

The Revised Treaty introduces several changes in the arbitration procedure. Access to arbitration is no longer automatic; it depends on the consent of the

[26] For an analysis of dispute settlement by the Heads of State, see Payne (2008: 197–9).

other party (Art. 204). The arbitration mode involves a judgment rendered by an arbitral tribunal composed of three experts chosen from a list of legal experts serving five-year renewable terms (Arts. 204 and 205). Each arbitral panel consists of three legal experts, one chosen by each party and the third by consent of the two other arbitrators. The tribunal issues an award and, if the disputing parties cannot agree on the interpretation or implementation of the award, either party may request a ruling by the tribunal, taken by majority, which is now final and binding (Art. 207). So we score unconditionally binding. There is no mention of sanctions or direct effect, and so we now code 0 on remedy. While the reference to final and binding award rulings has the appearance of direct effect, observers claim that the strongly entrenched dualism in most member states of the Caribbean Community makes this inoperable (McDonald 2003).[γ] These changes become live in 2006, when the new Treaty enters into force.

The Revised Treaty also establishes a Caribbean Court of Justice (CCJ), which sits at the apex of the dispute settlement architecture, but only for those member states that have adopted the protocol. Hence acceptance of the Court's jurisdiction is optional. The Court has both original and appellate jurisdiction (Agreement Establishing the Caribbean Court of Justice, Art. 3.1): it has *original* jurisdiction over Community law in twelve CARICOM member states and it has *appellate* jurisdiction over other civil and criminal matters (replacing the British Privy Council) in four member states. Here we are concerned with its jurisdiction over CARICOM community law.

The Court consists of nine judges plus the president (Caserta and Madsen 2016). The nine judges are appointed, and may be removed, by a majority vote of member states for unlimited tenure until the age of seventy-two (Agreement, Arts. 4.7 and 9.3). The president is appointed, and may be removed, by the qualified majority of three-quarters of the member states, and has a non-renewable term of seven years (Agreement, Arts. 4.6 and 9.2).

The Caribbean Court of Justice has "exclusive and compulsory jurisdiction to hear and determine disputes concerning the interpretation and application of the Treaty" (Revised Treaty, Art. 211). Hence, the Court's rulings are binding on member states.

There has been considerable scholarly debate concerning whether the Court's rulings have direct effect. The emerging consensus appears to be that Court rulings did not have direct effect prior to a landmark ruling of 2012. At first blush, the Treaty language appears to open the door to direct effect. According to Article 215 of the Treaty (and Art. 15 of the Agreement): "The Member States, Organs, Bodies of the Community, entities or persons to whom a judgment of the Court applies, shall comply with that judgment promptly." Article 26 of the Agreement specifies: "all authorities of a Contracting Party act in aid of the Court and that any judgment, decree, order or sentence of the Court

given in exercise of its jurisdiction shall be enforced by all courts and authorities in any territory of the Contracting Parties as if it were a judgment, decree, order or sentence of a superior court of that Contracting Party." However, initial expectations were that the CCJ was unlikely to follow the lead of the ECJ and declare direct effect, and indeed, the CCJ's first president, Justice de la Bastide, stated that the Revised Treaty had not transferred sovereignty to the Caribbean Community and therefore that CARICOM was not supranational enough to warrant direct effect (O'Brien and Foadi 2008: 351–2; see also O'Brien 2011; Alvarez Perez 2008). Several scholars attributed this to the strong dualist tradition among CARICOM members (McDonald 2003; Alvarez Perez 2008). Hence we score no direct effect.[27]

Private actors are granted access to the Court under a specified range of circumstances (Arts. 211.1d and 222; O'Brien and Foadi 2008: 348–50). This is more restrictive than the right to private access in the EU. The intention of the framers was that only member states would be allowed to bring cases to the Court. However, the convoluted language of the Treaty has given individual plaintiffs the opportunity to challenge this, and the Court has supported non-state access (Caserta and Madsen 2016). Article 222 of the Revised Treaty which constrains the circumstances in which individuals may have access to the Court, states that the contracting party (i.e. the member states) must have "expressly agreed that the persons concerned may espouse the claim" and the Court must consider that "the interest of justice requires that the person be allowed to espouse the claim" (Revised Treaty, Art. 222; and Agreement, Art. 24). However, an early landmark ruling (*Trinidad Cement vs. Guyana* 2009) interpreted these conditions liberally so that individuals or private actors can initiate a case before the Court over and above the objections of their national government (Caserta and Madsen 2016: 117). We score non-state access from 2006.

[27] The ground appears to shift with the Court's landmark *Myrie vs. Barbados* ruling of 2012, which has been described as a mix of the ECJ's *Costa vs. Enel* and *Van Gend en Loos* rulings—the rulings that established supremacy of EU law and direct effect respectively. Shanique Myrie, a Jamaican national held in captivity overnight by Barbados border officers, sued the Barbados government for violating her rights of free movement. The Court used the case to establish that "the very idea and concept of a Community of States necessarily entails as an exercise of sovereignty the creation of a new legal order and certain self-imposed, albeit perhaps relatively modest, limits to particular areas of State sovereignty." The language is more tentative than in *Van Gend en Loos*, and so Caserta and Madsen conclude that "the contours of the framework are in place for an ECJ-style direct effect, but they have yet to be fully established" (Caserta and Madsen 2016: 122). The CARICOM Court is a textbook example of how a court can successfully broaden its authority through jurisprudence (Caserta and Madsen 2016; see also Alter, Helfer, and Madsen 2015). But with respect to direct effect, the legal basis continues to be fragile.

CARIFTA/CARICOM Institutional Structure

		A1			A2			E1										GS1		CB1	CB2
Years		Non-state selection	Indirect representation	Weighted voting	Non-state selection	Indirect representation	Weighted voting	Head—agenda	Head—decision	Members—agenda	Members—decision	Non-state selection	Partial representation	Indirect representation	Reserved seats	Weighted voting	Partial veto	Select	Remove	Non-state selection	Non-state selection
1968–1972	Not body-specific	0	0	0	0	0	0	R	R			0	0	0	0	0	0				
	Member states									✓	✓										
	A1: Conference of Heads of State																				
	A2: CARIFTA Council																				
	E1: CARIFTA Council																				
	DS1: Examining Committee																				
1973–1995	Not body-specific	0	0	0				R	R			0	0	0	0	0	0		N	1	
	Member states									✓	✓										
	A1: Conference of Heads of State																	0			
	E1←A2: Common Market Council																				
	GS1: Community Secretariat																				
	CB1: Joint Consultative Group																				
	DS1: **Ad hoc arbitration**																				
1996–1997	Not body-specific	0	0	0				R	R			0	0	0	0	0	0		N	1	3
	Member states									✓	✓										
	A1: Conference of Heads of State																	0			
	E1: Common Market Council																				
	GS1: Community Secretariat																				
	CB1: Joint Consultative Group																				
	CB2: Parliamentarians Assembly (ACCP)																				
	DS1: Ad hoc arbitration																				

1998–2000	Not body-specific	0	0	0				R	R			0	0	0	0	0	0		N	1	3
	Member states									✓	✓										
	A1: Conference of Heads of State																	0			
	E1: **Community Council**																				
	GS1: Community Secretariat																				
	CB1: Joint Consultative Group																				
	CB2: Parliamentarians Assembly (ACCP)																				
	DS1: Ad hoc arbitration																				
2001–2005	Not body-specific	0	0	0				R	R			0	0	0	0	0	0		N	1	
	Member states									✓	✓										
	A1: Conference of Heads of State																	0			
	E1: Community Council																				
	GS1: Community Secretariat																				
	CB1: Joint Consultative Group																				
	DS1: Ad hoc arbitration																				
2006–2010	Not body-specific	0	0	0				R	R			0	0	0	0	0	0		N	1	
	Member states									✓	✓										
	A1: Conference of Heads of State																	0			
	E1: Community Council																				
	GS1: Community Secretariat																				
	CB1: Joint Consultative Group																				
	DS1: Ad hoc arbitration																				
	DS2: Caribbean Court of Justice (CCJ)																				

Note: A = automatic/technocratic procedure; N = no written rule; R = rotation; ✓ = body co-decides, but no voting rule; ← = change in status. Shaded areas refer to institutions or policy areas that are non-existent for those years.

CARIFTA/CARICOM Decision Making

		Accession			Sus-pension		Constitution				Budget		
Years		Agenda	Decision	Ratification	Agenda	Decision	Agenda	Decision	Ratification	Revenue source	Agenda	Decision	Binding
1968–1972	Not body-specific			2	N	N	N		0	0			2
	Member states												
	A1: Conference of Heads of State											0	
	A2: CARIFTA Council	0	0					0			0		
	E1: CARIFTA Council	0	0					0			0		
	DS1: Examining Committee												
1973–1989	Not body-specific			2	N	N	N		0	0			2
	Member states												
	A1: Conference of Heads of State	0	0					0					
	E1←A2: Common Market Council										0	0	
	GS1: Community Secretariat										✓		
	CB1: Joint Consultative Group												
	DS1: **Ad hoc arbitration**												
1990–1995	Not body-specific			2	N	N	N		0	0			2
	Member states												
	A1: Conference of Heads of State	0	0					0					
	E1: Common Market Council										0	0	
	GS1: Community Secretariat										✓		
	CB1: Joint Consultative Group												
	DS1: Ad hoc arbitration												
1996–1997	Not body-specific			2	N	N			0	0			2
	Member states						✓						
	A1: Conference of Heads of State	0	0					0					
	E1: Common Market Council						0				0	0	
	GS1: Community Secretariat						3				✓		
	CB1: Joint Consultative Group												
	CB2: Parliamentarians Assembly (ACCP)												
	DS1: Ad hoc arbitration												
1998–2000	Not body-specific			2	N	N			0	2			2
	Member states						✓						
	A1: Conference of Heads of State	0	0					0					
	E1**: Community Council**						0				2	2	
	GS1: Community Secretariat						✓				✓		
	CB1: Joint Consultative Group												
	CB2: Parliamentarians Assembly (ACCP)												
	DS1: Ad hoc arbitration												
2001–2005	Not body-specific			2	N	N			0	2			2
	Member states						✓						
	A1: Conference of Heads of State	0	0					0					
	E1: Community Council						0				2	2	
	GS1: Community Secretariat						✓				✓		
	CB1: Joint Consultative Group												
	DS1: Ad hoc arbitration												

Compliance		Policy (decisions)					Dispute settlement 1 (trade)							Dispute settlement 2 (economic integration)						
Agenda	Decision	Agenda	Decision	GS role	Binding	Ratification	Coverage	Third party	Binding	Tribunal	Non-state access	Remedy	Preliminary ruling	Coverage	Third party	Binding	Tribunal	Non-state access	Remedy	Preliminary ruling
					2	3														
		0	0																	
		0	0																	
							2	2	0	1	0	1	0							
				1	2	3														
			0																	
		0																		
		✓																		
							2	2	0	1	0	1	0							
				1	2	3														
			0																	
		0																		
		✓																		
							2	2	0	1	0	1	0							
				1	2	3														
			0																	
		0																		
		✓																		
							2	2	0	1	0	1	0							
A				1	2	3														
	0		0																	
		2	2																	
		✓																		
							2	2	0	1	0	1	0							
A				1	2	3														
	0		0																	
		2	2																	
		✓																		
							2	2	0	1	0	1	0							

(*continued*)

CARIFTA/CARICOM Decision Making (Continued)

		Accession			Suspension		Constitution				Budget		
Years		Agenda	Decision	Ratification	Agenda	Decision	Agenda	Decision	Ratification	Revenue source	Agenda	Decision	Binding
2006–2010	Not body-specific			2	N	N			0	2			2
	Member states						✓						
	A1: Conference of Heads of State	0	0					0					
	E1: Community Council						0				2	2	
	GS1: Community Secretariat						✓				✓		
	CB1: Joint Consultative Group												
	DS1: Ad hoc arbitration												
	DS2: Caribbean Court of Justice (CCJ)												

Note: A = automatic/technocratic procedure; N = no written rule; R = rotation; ✓ = body co-decides, but no voting rule; ← = change in status. Shaded areas refer to institutions or policy areas that are non-existent for those years.

The Treaty also has a voluntary preliminary ruling system of national court referrals. According to Article 214 of the revised CARICOM Treaty (and Art. 14 of the Agreement), when an issue is brought before a national court or tribunal that involves the interpretation or application of the Treaty, "the court or tribunal concerned shall, if it considers that a decision on the question is necessary to enable it to deliver judgment, refer the question to the Court for determination before delivering judgment."

Common Market of the South (MERCOSUR)

The Common Market of the South (known by its Spanish acronym Mercosur, Mercado Común del Sur) was established in 1991 by Argentina, Brazil, Paraguay, and Uruguay. It aims to create a common market, including a common external tariff, and to coordinate sectoral policies (Treaty of Asunción, Art. 1). Venezuela joined in 2012 after a lengthy ratification procedure which was successful only after Paraguay, which had objected to accession, was temporarily suspended following Paraguayan President Lugo's impeachment (Marsteintredet, Llanos, and Nolte 2013). Bolivia signed the treaty of accession in 2012, and appears on the road to full membership. Chile, Colombia, Ecuador and Peru, Guyana, and Surinam currently have associate member status. Mercosur's headquarters are located in Montevideo, Uruguay.

Rapprochement between Brazil and Argentina in the early years of democratic transition laid the groundwork for Mercosur. The desire to consolidate their fledgling democracies was decisive. As Oelsner (2013: 119) observes, "The

Compliance		Policy (decisions)					Dispute settlement 1 (trade)							Dispute settlement 2 (economic integration)						
Agenda	Decision	Agenda	Decision	GS role	Binding	Ratification	Coverage	Third party	Binding	Tribunal	Non-state access	Remedy	Preliminary ruling	Coverage	Third party	Binding	Tribunal	Non-state access	Remedy	Preliminary ruling
A				1	2	3														
	0		0																	
		2	2																	
		✓																		
							2	1	2	1	0	0	0							
														1	2	2	2	2	0	1

need to consolidate the democratic transitions in the Southern Cone and throughout South America was the key motivation for creating Mercosur, just as avoiding a renewed Franco–German confrontation underlay the founding of the European Coal and Steel Community." In 1985, the presidents of both countries signed a cooperation agreement on security and energy, which was subsequently extended to economic cooperation. The 1986 Argentina–Brazilian Economic Integration Program, the 1988 Treaty of Integration and Cooperation, and the 1989 Treaty of Integration, Cooperation and Development marked a step-change in relations that had been characterized by mistrust and strategic rivalry for decades. These treaties contained the ambition to establish a free trade area and, eventually, a common market—the future centerpiece of Mercosur (Gardini 2005). However, with the Latin American debt crisis taking its toll on the two economies in the late 1980s, continued bilateral cooperation appeared uncertain (for an overview of the early history, see Manzetti 1993).

After new presidents came to power in Argentina and Brazil in 1989 and 1990 respectively, bilateral cooperation received a fresh impetus. In 1991, Paraguay and Uruguay alongside Brazil and Argentina signed the Treaty of Asunción which created the Common Market of the South. The Protocol of Ouro Preto (1994) established the institutional structure of the organization. Since then, no major treaty amendment has taken place, but institutional reform has occurred through piecemeal changes laid down in protocols and decisions by the Common Market Council (Bouzas and Soltz 2007).

Mercosur's short history has been volatile (Gómez-Mera 2013; Hoffmann 2015). The first decade is generally seen as the most successful. Intraregional trade expanded between 1991 and 1999, Mercosur's organizational structure

developed, and Mercosur membership helped prevent democratic backsliding in Paraguay (Malnight and Solingen 2014: 281; Pevehouse 2005: 179–86). Economic upheaval around the turn of the century plunged the organization into crisis. In 1999, Brazil devalued its currency, which subsequently dragged Argentina into a sustained economic recession. As a result, economic integration stagnated and was even reversed (Carranza 2003). Since then, the organization has been able to stabilize, but the creation of a common market—its major objective—is stalled. With Brazil increasingly pursuing other, partly competitive ventures such as the the Union of the South Americas (UNASUR), some observers view Mercosur as having passed its heydays (Gómez Mera 2005, 2013; Gardini 2011; Oelsner 2013).

The key legal documents are the Treaty of Asunción (signed and in force 1991), the Protocol of Brasilia (signed 1991; in force 1993), the Ouro Preto Protocol (signed 1994; in force 1995), and the Protocol of Olivos (signed 2002; in force 2004). The decision bodies are the Common Market Council and the Common Market Group. The Mercosur Administrative Secretariat, upgraded to the Technical Secretariat (or simply Mercosur Secretariat) in 2002, serves as general secretariat. The Summit of Heads of State plays an important overarching role. There are three consultative bodies: the Economic and Social Consultative Forum; the Mercosur Parliament; and the Consultative Forum of Municipalities, Federal States, Provinces and Departments.

Institutional Structure

A1: COMMON MARKET COUNCIL (1991–2010)

The Common Market Council (Consejo del Mercado Común, CMC), composed of the member states' ministers for foreign affairs and the economy (Ouro Preto Protocol, Art. 4), is the highest decision making organ (Treaty of Asunción, Art. 10). The Council is responsible for the "political leadership of the integration process and for making the decisions necessary to ensure the achievement of the [organization's] objectives" (Ouro Preto, Art. 3). It supervises the implementation of the treaties and other agreements, formulates policies, adopts proposals submitted by the Common Market Group, including financial and budgetary decisions, and appoints the director of the Mercosur Secretariat (Ouro Preto, Art. 8).

The Council takes decisions by consensus, which are binding on member states (Treaty of Asunción, Art. 16; Ouro Preto, Arts. 9 and 37). Its presidency rotates among the states in alphabetical order (Treaty of Asunción, Art. 12). Its members are selected by member states and directly represent them.

Over the years, the Summit of Mercosur Heads of States, which meets alongside the Common Market Council, has assumed an important framing role, even though it does not have legal status in the Treaties. It now

typically meets twice a year, generally at the end of a country's presidency, and it gives direction to the integration process and resolves, through "presidential diplomacy," knotty political disputes (Malamud 2005). For the purposes of our coding it is conceived as the highest emanation of the Common Market Council.

E1: COMMON MARKET GROUP (1991–2010)

The Common Market Group (Grupo del Mercado Común, GMC), composed of four members and four alternates representing the ministries of foreign affairs, economy, and the central banks, is the executive (Treaty of Asunción, Arts. 13 and 14). The Group monitors compliance with the Treaty, takes the necessary steps to enforce decisions adopted by the Council, proposes specific measures on trade liberalization, macro-economic policy coordination, and trade agreements with third parties, and draws up work programs toward realizing the common market (Treaty of Asunción, Art. 13; Ouro Preto, Art. 14). The Ouro Preto Protocol gave the Group authority to negotiate trade agreements with third parties on behalf of Mercosur, approve the budget, and select the director of the Secretariat (Art. 14). The Group acts through Resolutions, which are adopted by consensus and are binding on member states (Treaty of Asunción, Art. 16; Ouro Preto, Arts. 9 and 37).

Similar to the Common Market Council, the Group is chaired in alphabetical rotation and meets once every three months in one of the member states. The Group is assisted by a range of working groups, staffed with specialists from the member states, whose number has constantly grown over the years (Treaty of Asunción, Art. 13). The Ouro Preto Protocol also created a Trade Commission, which assists the Group in Mercosur trade policy, both internal and external, and serves as a first-step dispute resolution body for trade disputes (Arts. 16–21). The Trade Commission passes directives or proposals, which are adopted by consensus. Directives are binding on member states (Ouro Preto, Art. 20).

Since 2005, the Group is supported by a Committee of Permanent Representatives, which prepares the decisions (Decision CMC/11/03).

GS1: FROM THE MERCOSUR ADMINISTRATIVE SECRETARIAT (1995–2002) TO THE MERCOSUR SECRETARIAT (2003–10)

The Treaty of Asunción only envisaged the establishment of an administrative secretariat (Secretaría Administrativa del Mercosur) to "keep documents and communicate its activities" (Art. 15). With Ouro Preto, the Mercosur Administrative Secretariat officially became a general secretariat with administrative functions for the entire organization. Its director is chosen on a rotational basis by the Common Market Group, after consultation with the state parties,

and appointed by the Common Market Council by consensus. The term in office is two years and non-renewable (Ouro Preto, Art. 33). There are no written rules about the removal of the director.

In 2002, the Administrative Secretariat becomes the Mercosur Technical Secretariat (Decision CMC/30/02). It is expanded to include a "technical unit" consisting of two lawyers and two economists, chosen on the basis of meritocracy but with due regard to national representation, who serve as a "common space of reflection on the development and consolidation of the integration process" (Decision CMC/30/02, Annex I). The unit lends technical support: it compiles information and proposals, conducts surveys and studies including comparative studies of other integration processes, and monitors integration as well as the legal consistency of Mercosur acts and decisions.

The technical consultants are appointed by the Council by consensus for three years, renewable. The director of the Secretariat is consulted.

CB1: FROM THE JOINT PARLIAMENTARY COMMISSION (1995–2006) TO THE MERCOSUR PARLIAMENT (2007–10)

The Joint Parliamentary Commission (Comisión Parlamentaria Conjunta, CPC) was established with the Treaty of Asunción "to facilitate progress towards the establishment of the Common Market" (Art. 24). Its first (informal) meeting took place in 1991. We code it from 1995, when the Ouro Preto Protocol designates the Commission as the "representative organ of the Parliaments of the member states" (Art. 22) and gives it the right to issue recommendations to the Council through the Common Market Group (Art. 26). The CPC was composed of a fixed number of parliamentarians from each national parliament, and it was assigned the task to "accelerate internal procedures in the respective member states in order to ensure the timely entry into force of norms emanating from Mercosur organs" (Art. 22).

The CPC becomes the Mercosur Parliament (known as Parlasur or Parlasul) in December 2005 and begins operations in 2007 in Montevideo, Uruguay. Its stated purpose is to facilitate the transposition of Mercosur decisions, promote stability and human rights, and reinforce political integration (Constitutive Protocol, Art. 2). Its competences revolve around representation and control and are almost identical to those of the Common Assembly of the European Coal and Steel Community (Dri 2009). It can pose questions to the decision making institutions, it scrutinizes the outgoing presidency's activity report and the incoming presidency's work plan, it makes recommendations, and it develops a "fast-track" procedure for the adoption of Mercosur decisions in national parliaments.

Until December 2010, the Parliament had eighteen parliamentarians from each country. Thereafter, the plan was to phase in direct elections, first country by country and, next, simultaneously. The number of seats by country

would be proportional to the population size (Constitutive Protocol, Art. 6(1)). Paraguay (since 2013) and Argentina (since 2015) are sending eighteen and forty-three directly elected representatives respectively to the Parliament.[28] The first simultaneous elections, originally scheduled for 2015, have been delayed until 2020.

CB2: ECONOMIC AND SOCIAL CONSULTATIVE FORUM (1996–2010)
The Economic and Social Consultative Forum (Foro Consultivo Económico-Social, FCES) received legal standing with the Protocol of Ouro Preto (Arts. 28–30). It is "the organ representing the economic and social sectors" and consists of nine members from each member state, four union representatives, four people representing the business sector, and one NGO member. It expresses its views by means of recommendations to the Common Market Group (Ouro Preto, Art. 29). It began to operate in 1996 (see Decision GMC/68/96).

CB3: CONSULTATIVE FORUM OF MUNICIPALITIES, FEDERAL STATES, PROVINCES, AND DEPARTMENTS (2007–10)
The Consultative Forum of Municipalities, Federal States, Provinces and Departments (Foro Consultivo de Municipios, Estados Federados, Provincias y Departamentos del Mercosur) was established in 2004 and began to operate in 2007. It consists of representatives of the different subnational levels of the member states and may make recommendations to the Common Market Group (Decision CMC/41/04). The members of the Forum are selected by the member states.

Decision Making

MEMBERSHIP ACCESSION
The Treaty of Asunción simply states that membership is restricted to "other members of the Latin American Integration Association" (Art. 20). Decisions on accession "require the unanimous decision of the States Parties" (Art. 20). The rules are confirmed in the Ouro Preto Protocol (Art. 50).

The full procedure was codified in a Common Market Council decision of 2005 (CMC/DEC. Nº 28/05). Candidate countries submit their application to the Presidency of the Common Market Council. After the application is approved, the Council appoints a working group of member state representatives and the candidate state, which negotiates the terms of accession. The CMC evaluates the results of the negotiation, and submits the protocol for

[28] Currently Brazil has thirty-seven, Uruguay eighteen, and Venezuela twenty-three representatives. These numbers will be adjusted once these countries hold direct elections. See <https://www.parlamentomercosur.org/innovaportal/v/149/1/parlasur/historia.html> (accessed March 2017).

ratification to the legislative bodies of all signatory countries (Arts. 3–6). We conceive this to take the form of unanimity in the supreme body, the Council, at both decision making stages. Ratification by all member states is required. Even though the entire procedure was only detailed in 2005, the language in the Treaty of Asunción suggests that these rules were intended to guide accession from 1991.[α]

Democratic consolidation was a central motivation for Mercosur. The three bilateral Argentinian–Brazilian documents that paved the way to Mercosur make explicit reference to democracy as an essential condition for collaboration. However, the Treaty of Asunción mentions neither democracy nor rule of law as preconditions for membership, and nor does the 2005 Council decision. Still, observers note that democracy has remained central to the young organization's identity and has been routinely confirmed at summits (Oelsner 2013: 120). In the aftermath of a failed coup in Paraguay in 1996, the Mercosur states signed a presidential declaration of principle that states that the "full exercise of democratic institutions is an essential condition for cooperation within the framework of the Treaty of Asunción, its Protocols and other subsidiary acts" (Presidential Declaration of June 1996). The declaration became incorporated in the Treaty of Asunción with the Protocol of Ushuaia on democratic commitment of 1998, which entered into force in 2002. Hence since 2002 it is fair to say that democracy is a formal precondition for membership. With the Protocol of Asunción on Human Rights, adopted in 2005 and in force since 2010, respect for human rights has also become a precondition (Genna and Hiroi 2015: 125–45).

MEMBERSHIP SUSPENSION

Until 1996 there were no written rules on the suspension of members. In the Presidential Declaration of June 1996, in reaction to the near-coup in Paraguay, the Mercosur parties made a formal pledge that, in case of democratic breakdown, the Parties will "consider the application of relevant measures" such as "suspension of the right of participation in Mercosur forums, suspension of the rights and obligations emerging of Mercosur regulations and agreements" (1996 Presidential Declaration, Arts. 2 and 4; for details on Mercosur's role in preempting a coup, see Oelsner 2013: 120; Genna and Hiroi 2015: 132–4, 169; Pevehouse 2005: 184–6; Hoffmann 2015: 62–3).

The rules were formulated more precisely in the Ushuaia Protocol, adopted in 1998 and legally binding from 2002 after ratification by all member states.[29]

[29] The Ushuaia Protocol was agreed among the four Mercosur members *plus* Bolivia and Ecuador. However, the language clearly states that the protocol enters into force for Mercosur members as soon as it is adopted by the four Mercosur members (Art. 10), and so its application appears not to depend on Bolivia's and Ecuador's consent.

If negotiations with the violating state fail, the other states, "within the specific framework of the integration agreements in force among them, shall consider the nature and scope of measures" which "may range from suspension of the right to participate in various bodies of the respective integration processes to suspension of the rights and obligations resulting from those processes" (Art. 5) and the parties shall adopt the measures "by consensus . . . The state concerned . . . shall not participate in the process of their adoption" (Art. 6). Hence we code a suspension procedure from 2002. The language suggests that individual member states or the Council, presumably meeting in its emanation of heads of state, can initiate the procedure. The final decision appears to be taken by the Council by consensus (minus the vote of the violating state).[γ]

The Ushuaia Protocol was invoked to suspend Paraguay in June 2012 after the impeachment of President Lugo (Marsteintredet, Llanos, and Nolte 2013). Paraguay was reinstated in August 2013 (Hoffmann 2015: 71). In September 2016, Mercosur again invoked the Ushuaia Protocol to send Venezuela an ultimatum that it would have until December 1 to incorporate an economic agreement and commit to protecting human rights, or else be suspended (Renwick 2016). A few weeks earlier Argentina, Brazil, and Paraguay had refused to let Venezuela take over the presidency of Mercosur. This was out of protest against Venezuela's President Maduro's handling of opposition forces.

The Ushuaia Protocol was amended in December 2011 and renamed as the Montevideo Protocol (or Ushuaia II). It specifies that Mercosur can impose sanctions "in case of rupture *or threat of rupture* of democratic order," it is more precise in the type of sanctions that can be imposed (e.g. closing borders, disruption of air or maritime traffic, disruption of energy supply, or promotion of suspension from other international and regional organizations), and it expands mediation mechanisms (2011 Montevideo Protocol, Art. 6). Paraguay has so far refused to ratify the protocol.

CONSTITUTIONAL REFORM

There are no written rules in the Treaty of Asunción, but the Ouro Preto Protocol stipulates that a diplomatic conference is needed to amend the Treaty (Art. 47). We can infer the procedure from the process that governed the negotiations of the Ouro Preto Procotol as well as other protocols amending the Treaty of Asunción, such as the Ushuaia Protocol. Any member state can propose amendments. These are then adopted, by consensus, by the diplomatic conference. Thus, we code the Council as the final decision maker. Ratification is required for the amendment to enter into force, but the threshold varies from three-quarters of member states (Ouro Preto, Art. 48) to all member states (Ushuaia Protocol, Art. 10). We apply the most conservative rule, which is that ratification is required by all member states.

REVENUES

The Organization does not have a general budget, but individual institutions do. The chief budget, coded here, is that of the Mercosur Secretariat, which covers both operating expenses and expenses authorized by the Common Market Group for Mercosur activities. The Ouro Preto Protocol determines that the budget is funded by equal member state contributions (Ouro Preto, Art. 45). In 2011, the budget amounted to US$2.3 million (Decision GMC/55/10). In the same year, the Parliament had a budget of US$1.5 million, funded in unequal shares by the member states (Argentina 24 percent, Brazil 44 percent, and Paraguay and Uruguay 16 percent each) (Decision CMC/62/10). The Secretariat of the Permanent Review Tribunal disposed of US$340,000, which was contributed in equal shares by the member states (Decision GMC/56/10). We start coding from 1995.

Since 2006 Mercosur has also a redistributive mechanism—the Structural Convergence Fund (FOCEM or Fondo para la Convergencia Estructural del Mercosur)—which is outside the standard budget and is intended to increase the competitiveness of the smaller economies and reduce regional inequality (Decision CMC/45/04; in operation since 2006). According to its website, it aims to "promote structural convergence, develop competitiveness, promote social cohesion, especially in the smaller economies and less developed regions, and support the functioning of the institutional structure as well as the strengthening of the process of regional integration."[30] In 2010 the fund's budget approximated $100 million. Resources are allocated to national projects according to a formula that takes into account the size of the economy and per capita GDP. The fund is highly redistributive: while Paraguay contributes 1 percent, it receives 48 percent; Uruguay contributes 2 percent and receives 32 percent; Argentina and Brazil contribute 27 and 70 percent respectively, and receive 10 percent each. A "Technical Unit FOCEM" in the Mercosur Secretariat evaluates the quality of the projects, and the Committee of Permanent Representatives takes the final decision.

BUDGETARY ALLOCATION

The Treaty of Asunción was silent on the budgetary procedure, but the Ouro Preto Protocol introduces one. The budget is drafted by the Secretariat and approved by the Common Market Group (Ouro Preto, Article 14.VIII). In addition, Article 14.IX indicates that the Common Market Group takes "financial and budgetary resolutions based on the guidelines laid down by the Council." Article 8.X mentions that the Council of the Common Market adopts budgetary and financial decisions. We code this as a shared role for the

[30] See <http://www.mercosur.int/innovaportal/v/385/2/innova.front/fondo_para_la_convergencia_estructural_del_mercosur_focem> (accessed February 13, 2017) (author's translation).

Council and the Group with respect to budgetary decisions (all made by unanimity). These bodies' decisions are binding (Ouro Preto, Arts. 9 and 15).

From 2007 we also code the Mercosur Parliament as an agenda setter on financial matters. The Constitutive Protocol not only strengthens the body's ability to make recommendations to Mercosur's decision bodies, but also empowers it to propose legal acts, which require a "special majority," that is, two-thirds of all members which must include parliamentarians from all countries (2005 Constitutive Protocol, Arts. 4.13, 15.4, and Parlasur Rules of Procedure, Art. 136.b). This competence includes the budget.[31]

FINANCIAL COMPLIANCE

No written rules.

POLICY MAKING

The chief objective of Mercosur is the establishment of a common market. The organization employs several legal instruments, including decisions adopted by the Common Market Council, resolutions adopted by the Common Market Group, and directives adopted by the Trade Commission. All are binding on member states and do not require ratification (Ouro Preto, Arts. 9, 15, and 20). Even though these instruments were only codified with the Ouro Preto Protocol, the respective bodies adopted them from the start. We code directives, resolutions, and decisions in a single policy stream, as they are very much alike in their general procedure.

The Common Market Group and its various sub-bodies, including the Trade Commission, can initiate legislation (Treaty of Asunción, Art. 13; Ouro Preto, Arts. 8.V, 12, 14.II). The Common Market Council has the general authority to "formulate policies and promote the measures necessary to build the common market" (Art. 8.II), but specific measures seem to emanate from the Group, which is why we do not code the Council as having initiating authority.$^{\beta}$ The Joint Parliamentary Commission (later Parlasur), the Consultative Economic and Social Forum, and the Consultative Forum for Municipalities, Federal States, Provinces and Departments have limited initiating authority: the first can "submit recommendations to the Council" (Ouro Preto, Art. 26),[32] the second can

[31] The Parliament has a Permanent Commission for Budgetary and Internal Matters, whose task it is to analyze Mercosur's budget (Parlasur Rules of Procedure, Art. 79.b).

[32] This right was diversified and strengthened in the Constitutive Protocol of the Mercosur Parliament, passed in 2005. Recommendations are now specified as "general indications directed at the decision making organs of Mercosur" (Parlasur Rules of Procedure, Art. 99) and differentiated from proposed legal acts (2005 Constitutive Protocol of the Mercosur Parliament, Art. 4.13; Parlasur Rules of Procedure, Art. 95). Article 4.11 of the Constitutive Protocol refers to recommendations and reads: "To emit declarations, recommendations and information on

"express its views in the form of recommendations to the Common Market Group" (Ouro Preto, Art. 29), and the third "may propose measures for the coordination of policies to promote well-being and improve the quality of life of the inhabitants of the Municipalities, Federated States, Provinces and Departments of the region, as well as to make recommendations through the Common Market Group" (Mercosur/CMC/Dec. N 41/04, Art. 4). This meets the bar for inclusion as initiators. There is no explicit role for the Secretariat in drafting policy proposals. Even after the expansion of its role in 2002 and the creation of a "Technical Unit," its primary responsibility continues to be to provide legal support or conduct background studies.[β] The final decision is made by the Common Market Group (or Trade Commission) or by the Common Market Council (Ouro Preto, Arts. 8.II, V).

In the interstate bodies, the general decision rule, consensus, applies (Ouro Preto, Art. 9). The decision quorum in the parliamentary body for issuing recommendations on legislative acts has changed with the establishment of the Parliament. The Joint Parliamentary Committee adopted such recommendations by special majority: they had to achieve an absolute majority of votes in *all* national delegations (Rules of Procedure, Art. 13). Decision quorums in the Parliament vary by the type of decision taken. Recommendations are adopted by a simple majority of parliamentarians (Parlasur Rules of Procedure, Art. 136.e), whereas proposals of legal acts require a "special majority," that is, two-thirds of all members which must include parliamentarians from all countries (2005 Constitutive Protocol, Art. 15.4, and Parlasur Rules of Procedure, Art. 136.b). We continue to code recommendations as the "low threshold" ability to set the agenda on decision making, and therefore record a change in the decision quorum from two-thirds to simple majority. Both the Consultative Economic and Social Forum and the Consultative Forum for Municipalities, Federal States, Provinces and Departments adopt their recommendations by consensus (Rules of Procedure of the Consultative Economic and Social Forum, Art. 15; Rules of Procedure of the Consultative Forum for Municipalities, Federal States, Provinces and Departments, Art. 11).

DISPUTE SETTLEMENT

The Treaty of Asunción contained a provisional dispute settlement system, which was political (Annex III/2 and 3). Disputes were to be settled through direct negotiations between the parties. If unsuccessful, both parties could refer

questions concerning the development of the integration process, by own initiative or at the request of other organs of the MERCOSUR." Article 4.13 reads: "To propose legal acts of Mercosur for consideration by the Common Market Council, who, each semester, must report concerning their treatment."

the matter to the Common Market Group, or, in case of failure, to the Common Market Council, which could make a (non-binding) recommendation.

The 1991 Protocol of Brasilia introduced judicialized third-party review, which became an integral part of the Treaty of Asunción (Protocol of Brasilia, Art. 33) and its successor, the Ouro Preto Protocol (Art. 43). So coverage is obligatory for all members. The first stage is political: the parties negotiate directly and the Common Market Group can, if asked, issue a recommendation (Arts. 2–7). Intervention by the Common Market Council is abolished. The second stage is judicial: if no solution is found, either party can refer the dispute to an ad hoc panel (Art. 7). Hence there is a right to third-party review. Each arbitration panel consists of three arbiters drawn from a roster, one chosen by each disputing party and the third one, who cannot be a national of either of the two parties, chosen by consensus between the first two (Art. 9). Rulings are majoritarian and are binding on the member states (Arts. 8, 20, and 21). The ad hoc panel can also mandate, upon request by one of the disputing parties, the imposition of "temporary compensatory measures," which inter alia could mean the temporary suspension of concessions (Art. 23). Private access is very indirect, so we do not code it.[β] Private actors need to file a brief with the national sections of the Common Market Group, which act as gatekeepers (Arts. 21). No preliminary ruling procedure exists initially.

The procedure was significantly strengthened with the 2002 Olivos Protocol, which is also obligatory to all members (Art. 54). This protocol maintains the automatic right to review by an ad hoc arbitration panel (Art. 10), but it adds a Permanent Review Tribunal as a second layer, whereby the Permanent Review Tribunal acts as a court of last instance (Tribunal Permanente de Revisión, Art. 17). The court was set up in 2004 with its seat in Asunción, Paraguay, and it is composed of five arbitrators who hold office for two or three years (Art. 18).

The decisions of the Arbitration Court are directly binding (Olivos Protocol, Art. 26.1). Private individuals or corporations have the right to file claims provided these are approved by national committees (Art. 39). So private access remains very indirect, so we still do not code it (Alter 2014).[β] The Mercosur Secretariat cannot initiate proceedings; its role is restricted to secretarial support (Tallberg and McCall Smith 2014: 122). Non-compliance with the Court's decisions allow the other party "to start the application of temporary compensatory measures" (Art. 31), that is, retaliatory sanctions.

In addition to being a means of last resort for ad hoc arbitration, the Permanent Review Tribunal can also issue non-binding consultative opinions (*opiniones consultativas*). These can be requested by member states acting jointly, by Mercosur decision making bodies, by the Mercosur Parliament, and by national supreme courts (Olivos Protocol, Chapter 2) (for an overview, see Arnold and Rittberger 2013; Lenz 2012). Because national supreme courts can initiate the process, we code advisory preliminary ruling.

Mercosur Institutional Structure

		A1			E1										GS1		CB1	CB2	CB3
Years		Non-state selection	Indirect representation	Weighted voting	Head—agenda	Head—decision	Members—agenda	Members—decision	Non-state selection	Partial representation	Indirect representation	Reserved seats	Weighted voting	Partial veto	Select	Remove	Non-state selection	Non-state selection	Non-state selection
1991–1992	Not body-specific	0	0	0	R	R			0	0	0	0	0	0					
	Member states						✓	✓											
	A1: Common Market Council																		
	E1: Common Market Group																		
1993–1994	Not body-specific	0	0	0	R	R			0	0	0	0	0	0					
	Member states						✓	✓											
	A1: Common Market Council																		
	E1: Common Market Group																		
	DS: Ad hoc arbitration panels																		
1995	Not body-specific	0	0	0	R	R			0	0	0	0	0	0	R	N	3		
	Member states						✓	✓											
	A1: Common Market Council														0				
	E1: Common Market Group																		
	GS1: Administrative Secretariat																		
	CB1: Joint Parliamentary Commission																		
	DS: Ad hoc arbitration panels																		
1996–2002	Not body-specific	0	0	0	R	R			0	0	0	0	0	0	R	N	3	1	
	Member states						✓	✓											
	A1: Common Market Council														0				
	E1: Common Market Group																		
	GS1: Administrative Secretariat																		
	CB1: Joint Parliamentary Commission																		
	CB2: Economic and Social Forum																		
	DS: Ad hoc arbitration panels																		

2003	Not body-specific	0	0	0	R	R			0	0	0	0	0	0	R	N	3	1	
	Member states						✓	✓											
	A1: Common Market Council														0				
	E1: Common Market Group																		
	GS1: **Mercosur Secretariat**																		
	CB1: Joint Parliamentary Commission																		
	CB2: Economic and Social Forum																		
	DS: Ad hoc arbitration panels																		
2004–2006	Not body-specific	0	0	0	R	R			0	0	0	0	0	0	R	N	3	1	
	Member states						✓	✓											
	A1: Common Market Council														0				
	E1: Common Market Group																		
	GS1: Mercosur Secretariat																		
	CB1: Joint Parliamentary Commission																		
	CB2: Economic and Social Forum																		
	DS: **Permanent Review Tribunal**																		
2007–2010	Not body-specific	0	0	0	R	R			0	0	0	0	0	0	R	N	3	1	3
	Member states						✓	✓											
	A1: Common Market Council														0				
	E1: Common Market Group																		
	GS1: Mercosur Secretariat																		
	CB1: **Mercosur Parliament (Parlasur)**																		
	CB2: Economic and Social Forum																		
	CB3: Forum of Subnational Governments																		
	DS: Permanent Review Tribunal																		

Note: A = automatic/technocratic procedure; N = no written rule; R = rotation; ✓ = body co-decides, but no voting rule; ← = change in status. Shaded areas refer to institutions or policy areas that are non-existent for those years.

Mercosur Decision Making

		Accession			Sus-pension		Constitution				Budget			Com-pliance		Policy (decisions, resolutions, directives)					Dispute settlement (common market)						
Years		Agenda	Decision	Ratification	Agenda	Decision	Agenda	Decision	Ratification	Revenue source	Agenda	Decision	Binding	Agenda	Decision	Agenda	Decision	GS role	Binding	Ratification	Coverage	Third party	Binding	Tribunal	Non-state access	Remedy	Preliminary ruling
1991–1992	Not body-specific			0	N	N	N	N	N	N	N	N	N	N	N				N	3							
	Member states																										
	A1: Common Market Council	0	0														0										
	E1: Common Market Group															0	0										
1993–1994	Not body-specific			0	N	N	N	N	N	N	N	N	N	N	N				N	3							
	Member states																										
	A1: Common Market Council	0	0														0										
	E1: Common Market Group															0	0										
	DS: Ad hoc arbitration panels																				2	2	2	1	0	1	0
1995	Not body-specific			0	N	N			0	1			2	N	N			0	2	3							
	Member states						✓																				
	A1: Common Market Council	0	0					0				0					0										
	E1: Common Market Group											0				0	0										
	GS1: Administrative Secretariat										✓																
	CB1: Joint Parliamentary Commission															2											
	DS: Ad hoc arbitration panels																				2	2	2	1	0	1	0
1996–2001	Not body-specific			0	N	N			0	1			2	N	N			0	2	3							
	Member states						✓																				
	A1: Common Market Council	0	0					0				0					0										
	E1: Common Market Group											0				0	0										
	GS1: Administrative Secretariat										✓																
	CB1: Joint Parliamentary Commission															2											
	CB2: Economic and Social Forum															0											
	DS: Ad hoc arbitration panels																				2	2	2	1	0	1	0

2002	Not body-specific			0					0	1			2	N	N			0	2	3								
	Member states				✓		✓																					
	A1: Common Market Council	0	0		0	0		0				0					0											
	E1: Common Market Group											0				0	0											
	GS1: Administrative Secretariat										✓																	
	CB1: Joint Parliamentary Commission															2												
	CB2: Economic and Social Forum															0												
	DS: Ad hoc arbitration panels																				2	2	2	1	0	1	0	
2003	Not body-specific			0					0	1			2	N	N			0	2	3								
	Member states				✓		✓																					
	A1: Common Market Council	0	0		0	0		0				0					0											
	E1: Common Market Group											0				0	0											
	GS1: **Mercosur Secretariat**										✓																	
	CB1: Joint Parliamentary Commission															2												
	CB2: Economic and Social Forum															0												
	DS: Ad hoc arbitration panels																				2	2	2	1	0	1	0	
2004–2006	Not body-specific			0					0	1			2	N	N			0	2	3								
	Member states				✓		✓																					
	A1: Common Market Council	0	0		0	0		0				0					0											
	E1: Common Market Group											0				0	0											
	GS1: Mercosur Secretariat										✓																	
	CB1: Joint Parliamentary Commission															2												
	CB2: Economic and Social Forum															0												
	DS: **Permanent Review Tribunal**																				2	2	2	2	0	1	0	
2007–2010	Not body-specific			0					0	1			2	N	N			0	2	3								
	Member states				✓		✓																					
	A1: Common Market Council	0	0		0	0		0				0					0											
	E1: Common Market Group											0				0	0											
	GS1: Mercosur Secretariat										✓																	
	CB1: **Mercosur Parliament (Parlasur)**										2					3												
	CB2: Economic and Social Forum															0												
	CB3: Forum of Subnational Governments															0												
	DS: Permanent Review Tribunal																				2	2	2	2	0	1	0	

Note: A = automatic/technocratic procedure; N = no written rule; R = rotation; ✓ = body co-decides, but no voting rule; ← = change in status. Shaded areas refer to institutions or policy areas that are non-existent for those years.

North American Free Trade Agreement (NAFTA)

The North American Free Trade Agreement (NAFTA) is a regional agreement between Canada, Mexico, and the United States for a free trade area in goods, services, and investment. Negotiated in the early 1990s, it has, by stages, eliminated tariffs, reduced non-tariff barriers, liberalized capital movement, and opened up trade in select services (Art. 102.1; Duina 2013: 10; Boskin 2014; Villareal and Fergusson 2015). The agreement is institutionally light; in the words of Bow and Anderson (2015: ch. 1), it is an example of "building without architecture." NAFTA has no single headquarters but houses its secretariat among its member states.

NAFTA has its roots in prior bilateral economic agreements, particularly the Canada–US Free Trade Agreement of 1988. Reversing decades of inward-looking economic policies in Mexico, the then President Carlos Salinas requested a free trade agreement with the United States in June 1990. Recognizing that "the moment was ripe for a historic political reconciliation," the Bush administration consented, while Canada could "not afford to be absent from the negotiation table" even though it already had a functioning agreement with the United States (Baer 1991: 132, 141). Negotiations began in June 1991 and were concluded with the signing of a formal NAFTA agreement at the end of 1992. The agreement essentially extends the Canada–US Free Trade Agreement to Mexico with two supplements—the North American Agreement on Environmental Cooperation and the North American Agreement on Labor Cooperation—that chiefly reflect the concerns of US labor unions, environmentalists, and church groups (Bow and Santa-Cruz 2015; French 2002).

NAFTA is unusual among regional organizations in that it is a highly complete contract which eschews the need for secondary legislation. "NAFTA is among the most highly detailed international agreements ever negotiated between governments" (Abbott 2000: 524). This high level of precision has its corollary in its thin institutional structure which is designed to facilitate implementation and ensure the credibility of commitments rather than develop an initially vague founding rationale over time. Thus, NAFTA has not seen a single major reform of the initial contract. The very limited extent of cross-temporal evolution in NAFTA is not the result of a politically directed process of reform but of case law adopted by its dispute settlement system. Implementation of the agreement has proceeded smoothly and largely according to schedule, with the last of its provisions implemented in January 2008.

The key legal document is the North American Free Trade Agreement (signed 1992; in force 1994). The Free Trade Commission serves as both assembly and executive body of the organization. Three national sections of the secretariat are responsible for the administration of NAFTA business.

Institutional Structure

A1: FREE TRADE COMMISSION (1994–2010)
Even though, formally, there is no body that adopts secondary legislation in NAFTA, we code the Free Trade Commission as an assembly.[β] It has the task of supervising the "implementation and further elaboration of the Agreement and helps resolve disputes arising from its interpretation" and it "oversees the work of the NAFTA Committees, Working Groups and other subsidiary bodies" (NAFTA Agreement, Art. 2001.2). The Commission consists of cabinet-level representatives from each country (Art. 2001.1) and, thus, all delegates are selected by the member states and directly represent them. Decisions are taken by consensus and are binding on member states (Art. 2001.4). It convenes at least once a year and its meetings are chaired by rotation (Art. 2001.5).

E1: FREE TRADE COMMISSION (1994–2010)
The Free Trade Commission is also coded as an executive body because it oversees implementation.

GENERAL SECRETARIAT (1994–2010)
NAFTA does not have a centralized secretariat. Instead, each member state runs a national section with a secretary appointed by the respective government (Art. 2002.1).

CONSULTATIVE BODIES
NAFTA does not have a consultative body composed of non-state representatives that is formally associated with the core decision process. Nevertheless, the agreement mentions several technical advisory committees, such as the Advisory Committee on Private Commercial Disputes regarding Agricultural Goods (Art. 707) or the general Advisory Committee on Private Commercial Disputes (Art. 2022.4), which are comprised of "persons with expertise or experience in the resolution of private international commercial disputes."

Moreover, the Commission for Environmental Cooperation in the side accord on Environmental Cooperation has an advisory forum, the Joint Public Advisory Committee (JPAC), which is comprised of government-appointed state and non-state actors in the field.

Decision Making

MEMBERSHIP ACCESSION
Accession to the NAFTA is regulated by Article 2204: "Any country or group of countries may accede to this Agreement subject to such terms and conditions as may be agreed between such country or countries and the Commission and

following approval in accordance with the applicable legal procedures of each country." Thus, the Free Trade Commission (A1 and E1 respectively) is coded as being involved and making the final decision regarding accession (applying the general decision rule, consensus) and ratification by existing members is required.

MEMBERSHIP SUSPENSION
No written rules.

CONSTITUTIONAL REFORM
The Agreement only specifies that the decision over amendments is made by the parties (Art. 2202), which we code as a decision by the Free Trade Commission (A1 and E1). No specific decision rule is given, so the general consensus rule applies (Art. 2001.4). Ratification of amendments by all members is required (Art. 2202). There are no written rules on who can initiate amendments.

FINANCIAL REVENUES
NAFTA does not have a central budget and, hence, there are no member state contributions. Instead, each country covers the costs of its national section of the secretariat (Art. 2002).

BUDGETARY ALLOCATION
Given the lack of funds of the organization, there is no budgetary procedure.

FINANCIAL COMPLIANCE
No written rules.

POLICY MAKING
The main focus of policy making by NAFTA institutions is the implementation and elaboration of the legal texts (e.g. rules of procedures, code of conduct) along with the task of refining the dispute settlement mechanisms relating to the NAFTA agreement.

The exceptional completeness of the NAFTA contract means that there are no provisions for policy making. As Abbott (2000: 535) writes: "The NAFTA parties have not delegated authority for promulgating secondary rules to supplement or clarify the precise rules set out in its charter document." He adds: "NAFTA's main political decision making institution, the Free Trade Commission, acts to oversee the implementation of the agreement, to make recommendations to the parties, to appoint arbitrators in the context of dispute settlement and to negotiate accession agreements. The commission . . . has no power to adopt legislative measures with binding effect on the parties in the sense of secondary

legislation promulgated by the Council of the European Community" (Abbott 2000: 535).

We nevertheless code a truncated decision process based on the self-description of the organization, which notes that "Political direction for the NAFTA work program is provided by Ministers through the NAFTA Commission."[33] Thus, the Free Trade Commission is coded as having initiating and decisional power under the general decision rule of consensus. NAFTA and its trade regulations are binding. Article 105 stipulates: "The Parties shall ensure that all necessary measures are taken in order to give effect to the provisions of this agreement, including their observance." Ratification of decisions is not mentioned and coded as not required.

DISPUTE SETTLEMENT

The dispute settlement system is the most elaborate institutional structure in NAFTA. The organization has three dispute settlement procedures for different aspects of its trade agenda: for investment disputes (Chapter 11), countervailing duty and antidumping matters (Chapter 19), and a general dispute settlement mechanism (Chapter 20). We code the procedure under Chapter 20 as the main and most general one, but we also briefly describe the other two procedures in the following paragraphs and code as second stream the procedure on investment disputes. All procedures are an integral and obligatory part of the NAFTA agreement.

Chapter 20 contains provisions on an automatic right to third-party review in the form of ad hoc panels. When direct consultations between the disputing parties (Art. 2006) and conciliation and mediation services rendered by the Free Trade Commission (Art. 2007) fail, a disputing party can request the establishment of an Arbitral Panel—a request that cannot be denied by a political body (Art. 2008.2). The panel members are drawn from a roster of thirty trade experts who are appointed by consensus for a tenure of three years, with the possibility of reappointment (Art. 2009). A panel comprises five arbiters who are selected by the disputing parties, with the chair being selected by mutual agreement (Art. 2011.1).

What is special about this NAFTA dispute settlement procedure is that the final report by the panel is not legally binding on the disputing parties; it serves more as a recommendation providing a focal point for the parties to settle the dispute among themselves, so we code non-binding.$^{\beta}$ Abbott (2000: 532) notes: "The complained-against party is not strictly speaking obligated to remedy a breach. As such, NAFTA incorporates a level of obligation somewhat lower than that of the EC treaty, which

[33] <http://archive.today/elIRj> (accessed February 13, 2017).

requires that member states comply in a strict sense with decisions of the European Court of Justice." This assessment is based on Article 2018.1: "On receipt of the final report of a panel, the disputing Parties shall agree on the resolution of the dispute, which normally shall conform with the determinations and recommendations of the panel."

However, when the two disputing parties fail to agree on a resolution of the dispute within a specified period (and the panel has ruled that a measure is inconsistent with the obligations under the NAFTA agreement), the complaining party is entitled to suspend concessions under the agreement, that is, impose retaliatory sanctions (Art. 2019). Thus, trade lawyers have debated whether member states may opt out of compliance with a panel ruling in exchange for compensation (see references in Abbott 2000: fn. 69). Under this general dispute settlement procedure, non-state actors do not enjoy direct access and there is no preliminary rulings procedure that connects regional dispute settlement to the national court system. In fact, it explicitly bars private actors from suing country parties to the agreement in the courts of another party "on the ground that a measure of another Party is inconsistent with the Agreement" (Art. 2021).

A second dispute settlement procedure refers to countervailing duties and antidumping matters and is more legalized.[34] It creates a NAFTA version of the World Trade Organization's dispute resolution process in which "supranational panels . . . assess the national administrative decisions" and "have the *de facto* power to overturn certain international trade rulings of United States courts" (Westbrook 2008: 351). In the WTO, however, rulings rendered by arbitral panels are directly binding on the parties (Art. 1904.9).

Yet more legalized is the third procedure, which refers to disputes regarding investment decisions, and which we code here as NAFTA's second stream of dispute settlement. It is to date the most frequently used procedure under NAFTA rules. Chapter 11, Section B, gives individual plaintiffs (e.g. private investors) or corporate plaintiffs from a member state the right to invoke binding arbitration against the government of another for failing to meet treaty obligations owed to that investor and its investment (Ch. 11, Section B, Arts. 1116 and 1117; see Herman 2010: 1). So there is automatic third-party access and non-state actors have legal standing. Arbitration is conducted by an ad hoc panel of three arbitrators, one chosen by each disputing party and the third appointed by mutual agreement. If the parties cannot agree, the secretary general appoints the panel.

There is some debate about whether arbitration awards under Chapter 11 are binding (for divergent views, see Alter 2014; Schreuer 2014; Sinclair

[34] If we were to include this procedure, we would code automatic access, binding, ad hoc tribunal, non-state access, retaliatory sanctions, and no preliminary ruling.

2015).[7] The agreement appears to suggest conditional bindingness because a tribunal's decision can be overruled or changed by an interpretation of the Trade Commission, and "[A]n interpretation by the Commission of a provision of this Agreement shall be binding on a Tribunal" (Art. 1131.2). If the Commission does not provide an interpretation within sixty days, the tribunal decides (Art. 1132.2). In any case, an award by a tribunal is only binding between the disputing parties and with respect to the particular case (Art. 1136.1). This power was used by the Trade Commission to restrict the applicability of Chapter 11 jurisprudence after a few initial judgments had seemed to interpret the provisions expansively (Alter 2014: 228–34).

Similar to the general procedure, the procedure for investment adjudication entitles parties to apply retaliatory sanctions, in the form of compensation of monetary damage or restitution of property (Art. 1135.1). The stipulation was inserted at the insistence of US (and Canadian) negotiators who wished to protect foreign investments against expropriation. However, the provision was broadly worded and has been invoked in response to regulatory and court actions that were not explicitly proprietary, but were claimed to have had the effect of taking property without compensation. Thus, actions under this article "have resulted in the application of Chapter 11 being broadened considerably" (Westbrook 2008: 351). Between 1994 and 2015, seventy-seven NAFTA investor-state dispute settlement cases were initiated, of which thirty-five involved Canada, twenty involved the US, and twenty-two involved Mexico (Sinclair 2015).

NAFTA Institutional Structure

		A1			E1										GS1	
Years		Non-state selection	Indirect representation	Weighted voting	Head—agenda	Head—decision	Members—agenda	Members—decision	Non-state selection	Partial representation	Indirect representation	Reserved seats	Weighted voting	Partial veto	Select	Remove
1994–2010	Not body-specific	0	0	0	R	R			0	0	0	0	0	0		
	Member states						✓	✓								
	A1: Free Trade Commission															
	E1: Free Trade Commission															
	DS1: Arbitral Tribunal															
	DS2: Chapter 11 Tribunal															

Note: A = automatic/technocratic procedure; N = no written rule; R = rotation; ✓ = body co-decides, but no voting rule; ← = change in status. Shaded areas refer to institutions or policy areas that are non-existent for those years.

NAFTA Decision Making

		Accession			Sus-pension		Constitution				Budget			Com-pliance		Policy 1					Dispute settlement 1 (general trade)							Dispute settlement 2 (investment)						
Years		Agenda	Decision	Ratification	Agenda	Decision	Agenda	Decision	Ratification	Revenue source	Agenda	Decision	Binding	Agenda	Decision	Agenda	Decision	GS role	Binding	Ratification	Coverage	Third party	Binding	Tribunal	Non-state access	Remedy	Preliminary ruling	Coverage	Third party	Binding	Tribunal	Non-state access	Remedy	Preliminary ruling
1994–2010	Not body-specific			0	N	N	N		0										2	3													
	Member states																																	
	A1: Free Trade Commission	0	0					0								0	0																	
	E1: Free Trade Commission	0	0					0								0	0																	
	DS1: Arbitral Tribunal																				2	2	0	1	0	1	0							
	DS2: Chapter 11 Tribunal																											2	2	1	1	2	1	0

Note: A = automatic/technocratic procedure; N = no written rule; R = rotation; ✓ = body co-decides, but no voting rule; ← = change in status. Shaded areas refer to institutions or policy areas that are non-existent for those years.

Organization of American States (OAS)

The Organization of American States (OAS) is a political, juridical, and social intergovernmental forum that encompasses all thirty-five independent states of the Americas. It seeks to achieve "an order of peace and justice, to promote their solidarity, to strengthen their collaboration, and to defend their sovereignty, their territorial integrity, and their independence" (OAS Charter, Art. 1). It is a general purpose organization with a strong emphasis on human rights, democracy promotion, interstate security (interstate conflict resolution, and internal security such as combating transnational crime), economic and social development, and legal harmonization. It is headquartered in Washington, DC.

The OAS is one of the world's oldest general purpose regional organizations. It is in part informed by pan-Americanism, the idea of American continental unity that was the dream of Simón Bolívar and his contemporaries and which was also expressed, albeit unilaterally, in the 1823 Monroe doctrine (Braveboy-Wagner 2009: 64).

The First International Conference of American States took place in Washington, DC, in 1889 under sponsorship of the US Department of State (Horwitz 2010: 18; Stoetzer 1993: 13–15). Eighteen countries participated. The Conference established the Commercial Bureau of the American Republics (later renamed the Pan-American Union or PAU), but failed to gain support for a customs or monetary union. Soon tensions between a rising power, the United States, and the Latin American countries undermined political integration efforts. The PAU focused primarily on non-political cooperation and utilized a system of ad hoc conferences to achieve sectoral agreements (Braveboy-Wagner 2009: 64–5). This marked the inception of institutionalized hemispheric cooperation anchored in a web of provisions and institutions that came to be known as the inter-American system. In the first half of the twentieth century, member states adopted numerous agreements, such as the Treaty to Avoid or Prevent Conflicts Between American States (1923) or the Convention on the Rights and Duties of States (1933), and established several institutions to facilitate cooperation in specific areas such as the Pan American Health Organization (1902) or the Inter-American Commission of Women (1928). By the mid-1940s it became clear that "a complete reorganization" was necessary to streamline the various legal instruments and institutions (Kunz 1948: 569).

The modern Organization of American States came into being in 1948 with the signing of the OAS Charter in Bogotá, Colombia, at the Ninth International Conference of American States, which entered into force in 1951.[35] In its structural

[35] The twenty-one founding members include the United States and all then-sovereign Latin American countries. Canada joined in 1990.

elements, the Charter was "deeply influenced by the UN Charter" (Kunz 1948: 587). Like the United Nations, the OAS has a panoply of Councils and a secretary general, and functional cooperation is hived off to Specialized Organizations with names reminiscent of the global UN institutions and with a similar relationship to the mother organization. The formulas for defining the legal capacity of the OAS, and the privileges and immunities of its personnel are strongly influenced by the language in the UN Charter.

The OAS Charter has been revised several times. The 1967 Buenos Aires Protocol sought to "reaffirm and broaden the economic principles of the inter-American regional system" (Manger 1968: 2) and introduced changes in the institutions, which according to some observers made the OAS "structurally and functionally . . . weaker" (Manger 1968: 2). In 1969, the OAS adopted the American Convention on Human Rights and set up institutions to monitor observance. After the end of the Cold War, development and democracy promotion became central concerns. The former motivated the creation of the Inter-American Council for Integral Development. The latter led to the 1992 Protocol of Washington, which enables suspension of an OAS member in which a constitutionally elected government has been unconstitutionally overthrown. These rules were elaborated in the Inter-American Democracy Charter, adopted in 2001 (Boniface 2002; Cooper 2009).

Throughout its existence the organization has been hampered by a complex relationship between many of its Latin members and the United States (Cooper 2009: 160; for an overview, see Horwitz 2010; Legler 2014). In recent years, new hemispheric security organizations such as the Union of South American Nations (UNASUR) have been created in an attempt to reduce the influence of the OAS and its chief backer, the United States (Weiffen, Wehner, and Nolte 2013).

The organization's key legal documents include the founding Charter of the Organization of American States (signed 1948; in force 1951); subsequent revisions in the Protocol of Buenos Aires (signed 1967; in force 1970), the Protocol of Cartagena de Indias (signed 1985; in force 1988), the Protocol of Managua (signed 1993; in force 1996), and the Protocol of Washington (signed 1992; in force 1997); the Inter-American Convention on Human Rights (signed 1969; in force 1970), and the Inter-American Democracy Charter (signed 2001; in force 2002). Today, the OAS has two assemblies (General Assembly and the Meeting of Foreign Affairs Ministers), two executives (Permanent Council and Inter-American Council for Integral Development), a General Secretariat, and a Court of Human Rights. The Inter-American Commission on Human Rights serves as an advisory body.

Institutional Structure

A1: FROM THE INTER-AMERICAN CONFERENCE (1951–69) TO THE GENERAL ASSEMBLY (1970–2010)

The supreme organ of the OAS was initially called the Inter-American Conference. It is composed of member state representatives with each member having equal representation (OAS Charter, Art. 34). It decides upon "the general action and policy of the Organization," determines its institutional structure, and has "the authority to consider any matter relating to friendly relations among the American States" (Bogotá Charter, Art. 33). A voting procedure is not explicitly mentioned, but the secondary literature suggests that "the OAS Charter does not require that decisions be reached unanimously" (Stoetzer 1993: 37). Ordinary decisions are taken by an affirmative majority, and a two-thirds majority appears to be required for important decisions (Stoetzer 1993: 37; Ball 1969: 118).[α] The Conference was expected to meet every five years (OAS Charter, Art. 35), though in the nineteen years from its founding to the revision of the Charter in 1967, only one meeting was held.

With the revision of the Charter in 1967, the Inter-American Conference is renamed as "General Assembly" and gains considerable authority (Manger 1968: 8–9). Voting is formalized: "Decisions of the General Assembly shall be adopted by the affirmative vote of an absolute majority of the Member States, except in those cases that require a two-thirds vote as provided in the Charter" (Buenos Aires Protocol, Art. 57). The Assembly now convenes annually, has the final word on the budget (Art. 53), coordinates the activities of the several agencies, and serves as the liaison between the OAS and the United Nations.

A2: MEETING OF CONSULTATION OF MINISTERS OF FOREIGN AFFAIRS (1951–2010)

The Meeting, composed of the foreign ministers, is held "to consider problems of an urgent nature and of common interest to the American States, and to serve as the Organ of Consultation" (Bogotá Charter, Art. 39). Meetings can be held at the request of any member state and are decided by the Council by absolute majority (Art. 40). In case of an armed attack in a member state, meetings are called without delay by the chair of the Council (Art. 43). An Advisory Defense Committee, composed of the highest military authorities of the member states (Art. 45), assists the Meeting on "problems of military cooperation" (Art. 44).

Meetings are held irregularly. For example, no meeting took place between April 1951 and August 1959, but there were three meetings in a time span of twelve months in 1959–60. The twenty-eighth meeting took place in July 2014. A meeting may last several weeks, and occasionally months. Notwithstanding the irregularity in its convening routine, we code the body as "permanent" because of its strong legal standing in the Charter.[β]

E1: FROM THE COUNCIL (1951–69) TO THE PERMANENT COUNCIL (1970–2010)

As the chief executive the Council was responsible for "the proper discharge by the Pan-American Union of the duties assigned to it" (Bogotá Charter, Art. 51). It drafts proposals for changes in the structure of Specialized Organizations, draws up recommendations on their coordination and determines their relation to the OAS, and it mediates cooperation with the UN and other international agencies (Art. 53). It also establishes the basis for fixing the quotas of member state financial contributions (Art. 54).

The Council is composed of one representative at the rank of ambassador from each member state (Art. 48). Similar to the Conference, the Charter did not detail voting rules, but we can infer from the secondary literature that it took decisions by simple majority or, for important decisions, by two-thirds majority (Stoetzer 1993: 37).[α] The chair was elected by the Council for one year, presumably by simple majority (Art. 49).[α]

Three subsidiary technical organs reported to the Council: the Inter-American Economic and Social Council, the Inter-American Council of Jurists, and the Inter-American Cultural Council (Art. 57). They too were composed of member state representatives (Art. 59). "In a very real sense the Council was the hub around which the inter-American regional system revolved" (Manger 1968: 3).

The 1967 revised Charter renames the body into the Permanent Council. The protocol also writes down the rules that govern its composition and functioning. The text now says that "all member states have the right to be represented in each of the Councils. Each state has the right to one vote" (Protocol of Buenos Aires, Art. 69). The body's chief task is described as "mak [ing] recommendations on matters within their authority" (Art. 70), including to "present to the General Assembly studies and proposals, drafts of international instruments" (Art. 71). It also implements the decisions of the General Assembly (Art. 91). And it is now explicitly tasked to keep "vigilance over the maintenance of friendly relations among the Member States, and for that purpose shall effectively assist them in the peaceful settlement of their disputes" (Art. 82). The 1985 revision strengthened further the Council's role in security (Braveboy-Wagner 2009: 68).

The Permanent Council is considered to be considerably weaker than its predecessor. For one, it loses the power of the purse to the Assembly. Furthermore, it has no longer a hierarchical relationship with the technical Councils, and as a consequence, is no longer the chief coordinator of the Specialized Organizations. And it no longer appoints the secretary general. For these reasons, one observer claims that it was "legislated out of existence" and "is reduced to a channel of communication" (Manger 1968: 4, 6).

With the exception of decisions relating to dispute settlement and a few other issues (see Art. 89; Rules of Procedure, Art. 56), the Council generally

takes decisions by absolute majority (Rules of Procedure, Art. 54.1). The chair is now held in rotation for a "term not more than six months" (Art. 79) rather than being elected by the Council.

E2: INTER-AMERICAN COUNCIL FOR INTEGRAL DEVELOPMENT (1996–2010)

In the 1990s the OAS made development a major focus. The 1993 Protocol of Managua created the Inter-American Council for Integral Development (CIDI) to deal with development and the elimination of extreme poverty. It is composed of "one principal representative, of ministerial or equivalent rank, for each Member State, especially appointed by the respective Government" (Art. 93). It can "formulate and recommend to the General Assembly a strategic plan which sets forth policies, programs, and courses of action in matters of cooperation for integral development" and to "promote, coordinate, and assign responsibility for the execution of development programs and projects to the subsidiary bodies and relevant organizations, on the basis of the priorities identified by the Member States" (Art. 95). Each state has one vote and decisions are taken by majority (CIDI Statutes, Art. 26). For each meeting of the Council, which takes place at least once a year, its members elect a chair and vice-chair by majority vote (Rules of Procedure, Art. 2).

The Council has several subsidiary organs: the Permanent Executive Committee, which adopts decisions and makes recommendations for the planning, programming, budgeting, follow-up, and evaluation of activities; the Inter-American Agency for Cooperation and Development, which coordinates and manages the planning and execution of programs; several Inter-American Committees, which conduct sectoral dialogues on development in a given sector and follow up mandates given by the ministers; and Nonpermanent Specialized Committees, which review project proposals for funding in related areas (CIDI Statutes, Arts. 6–22).

GS1: FROM THE PAN-AMERICAN UNION (1951–69) TO THE GENERAL SECRETARIAT (1970–2010)

The pre-existing Pan-American Union became the General Secretariat of the OAS (Bogotá Charter, Arts. 78 and 82). Its tasks included advising the Council in the preparation of programs and regulations, lending technical support to the government that hosts an Inter-American Conference, keeping the archives and acting as depository of legal instruments, and submitting an annual report on the activities of the OAS to the Council as well as a regular report on the OAS organs to the Conference (Art. 83). The Pan-American Union (PAU) was headed by a secretary general, elected by the Council for a non-renewable ten-year period, presumably by simple majority, the Council's general decision rule (Art. 79). The secretary general could be removed by the Council by a two-thirds vote

of its members "whenever the proper functioning of the Organization so demands" (Art. 87).

The Protocol of Buenos Aires renames the PAU as General Secretariat and revises its functions and composition (Art. 113). It obtains chief responsibility for preparing the budget (Art. 118). The secretary general is now elected by the General Assembly rather than the Council, and for a five-year period (rather than ten years) by absolute majority, the general decision rule (Art. 114). The Protocol keeps the stipulation on removal, but transfers the final decision to the General Assembly (Art. 122).

CB1: INTER-AMERICAN COMMISSION FOR HUMAN RIGHTS (1970–2010)

The inter-American human rights system began with the adoption of the American Declaration of the Rights and Duties of Man signed in Bogotá, Colombia, in April 1948. In 1959, the OAS set up the Inter-American Commission for Human Rights as "an autonomous entity" (Statute of the Commission, Art. 1). With the revision of the Charter in 1967, it was incorporated into the OAS "to promote the observance and protection of human rights and to serve as a consultative organ of the Organization in these matters" (Protocol of Buenos Aires, Art. 112; see also Padilla 1993: 96–7). It provides recommendations to governments, prepares reports and studies, holds on-site fact-finding missions, takes actions on individual petitions or petitions by non-governmental entities as well as communications from member states, and issues an annual report to the General Assembly (Pact of San José, Arts. 41 and 44).[36] Since the creation of the Inter-American Court of Human Rights it can also initiate cases with the Court against states that have accepted the jurisdiction of the Court.

The Commission consists of seven "persons of high moral character and recognized competence in the field of human rights" (Pact of San José, Art. 34). The members are elected "in a personal capacity" by the General Assembly for a period of four years, renewable once, based on a list of candidates proposed by the governments (Arts. 36–37).

Decision Making

MEMBERSHIP ACCESSION

Membership in the OAS is restricted to "all American states" (Bogotá Charter, Art. 2). Hence there was initially no accession procedure because "If an entity [was] a sovereign American state, it [had] a right to become a member by ratification" (Kunz 1948: 571); as Article 109 states, the Charter was to

[36] The Commission can also bring cases to the Court of Human Rights, which was established in 1979.

"remain open for signature by the American States." We conceive this as equivalent to an automatic procedure.

The first revision of the Charter in 1967 introduced an accession procedure. After a request for membership, the "General Assembly, upon the recommendation of the Permanent Council of the Organization, shall determine whether it is appropriate that the secretary general be authorized to permit the applicant State to sign the Charter and to accept the deposit of the corresponding instrument of ratification. Both the recommendation of the Permanent Council and the decision of the General Assembly shall require the affirmative vote of two thirds of the Member States" (Protocol of Buenos Aires, Art. 7). Thus, we code the Permanent Council as agenda setter, and the General Assembly as final decision maker. The General Secretariat's role is administrative. No need for ratification is mentioned.

The 1985 Protocol of Cartagena de Indias inserts a new stipulation (Art. 8) noting that membership "shall be confined to independent States of the Hemisphere that were Members of the United Nations as of December 10, 1985," which seems to suggest that UN membership has become a precondition for OAS membership. There is no effect on the coding.

MEMBERSHIP SUSPENSION

There were no written rules on the suspension of member states until the late 1990s. Still, the Inter-American Conference suspended Cuba in 1962 on the grounds that "Marxism-Leninism is incompatible with the inter-American system."[37]

A procedure was included with the Protocol of Washington in 1992, which states that a member "whose democratically constituted government has been overthrown by force may be suspended from the exercise of the right to participate" in the various bodies (Art. 9). The respective decision "shall be adopted at a special session of the General Assembly by an affirmative vote of two-thirds of the Member States" (Art. 9b), which is also the quorum required to lift a suspension.[38] We code "no written rules" for initiation, and supermajority in the Assembly for taking the final decision. The protocol came into force in 1997.

In 2002, the Inter-American Democracy Charter clarified that any member state or the secretary general could call an immediate meeting of the Permanent Council to assess the situation and take appropriate action, such as diplomatic initiatives or, if the situation is urgent or grave, convene a special session of the General Assembly to decide on suspension (Art. 20). Hence from 2002,

[37] In 2009, this resolution was renounced, which opened the door for Cuba's readmission (see <https://web.archive.org/web/20090729135815/http://www.huffingtonpost.com/2009/06/03/cuba-readmitted-to-oas-wi_n_211008.html>) (accessed March 2017).

[38] Arts. 20–22 of the Inter-American Democratic Charter provide more detail.

we code member states, the General Secretariat, and the Permanent Council for agenda setting. It is not clear whether the Permanent Council votes by majority or supermajority, but since it votes by supermajority on accession it seems prudent to apply the more conservative voting rule.[α]

The clause was invoked during an attempted coup d'état against Hugo Chavez in Venezuela in 2002, but order was restored before further action by the General Assembly was taken. On the basis of the clause, Honduras was suspended from active participation in 2009 (Legler 2012).

CONSTITUTIONAL REFORM

The founding Charter notes that amendments are adopted by the Inter-American Conference (Art. 111), which takes important decisions by supermajority (see Stoetzer 1993: 37; Ball 1969: 118). They require ratification by member states and enter into force when two-thirds of the signatories have deposited their instruments of ratification. For the other states, it enters into force as soon as they deposit ratification (Art. 109). There are no explicit rules on who can initiate the process.

REVENUES

The OAS relies on annual contributions based on fixed member state quotas. According to Article 54 of the founding Charter, "The Council shall establish the bases for fixing the quota that each Government is to contribute to the maintenance of the Pan American Union, taking into account the ability to pay of the respective countries and their determination to contribute in an equitable manner."

A General Assembly Resolution in 2007 revised the financial contribution system to render it automatic (AG/RES. 1 (XXXIV—E/07)). The organization now reviews the member state scales every three years based on the UN methodology, and assessments of member states' ability to pay contributions became standardized. Calculations use World Bank and IMF data to estimate the size of the economy adjusted for external debt, per capita income and an application of floor and ceiling rates, and periodic variations in individual contributions are capped at 25 percent.[39]

BUDGETARY ALLOCATION

Initially, the Council adopted the budget of the organization by two-thirds majority before it was "transmitted to the Governments at least six months before the first day of the fiscal year" (Bogotá Charter, Art. 54).[40] The rules did not specify who drafted the budget, and it was also unclear whether the

[39] See <http://scm.oas.org/pdfs/2011/CP25590E.ppt> (accessed February 13, 2017).

[40] This entailed expenses for the Pan-American Union, the Council and its sub-organs, and the Secretariat of the Inter-American Defense Board (Resolution 7: 13–14, cited in Kunz 1948: 580).

budget was binding.[α] Secondary sources claim that "the budget has been the product of close collaboration between the Secretariat and the Council before going to the governments" (Manger 1968: 10), which is indicative of an initiating role for the Secretariat and the Council. We code the Council, by supermajority, as the body taking the final decision on behalf of the member states (Manger 1968). We code "no written rules" on bindingness.

This skeletal procedure was extended with the 1967 revised Charter. The final decision on the budget is allocated to the General Assembly. It approves the programmatic budget of the organization by two-thirds majority (Protocol of Buenos Aires, Arts. 52e and 53). It is now clear that the budget is prepared by the General Secretariat and deliberated by the various Councils, which then submit the budget to the Preparatory Committee of the General Assembly (Protocol of Buenos Aires, Art. 118).

Hence we code the General Secretariat and the Council as agenda setters, and the latter votes by two-thirds majority (Rules of Procedure, Art. 56a.i). The General Assembly takes the final decision on the basis of the input of the Preparatory Committee of the General Assembly which "review[s] the proposed program-budget . . . and present[s] to the General Assembly a report thereon containing the recommendations it considers appropriate" (Art. 58b).[41] From 1996, the Inter-American Council for Integral Development becomes a third agenda setter (CIDI Statutes, Art. 3m), and it too takes budgetary decisions by two-thirds majority (CIDI Statutes, Art. 28).

Initially, it was not clear whether budgetary decisions were binding, and we code "no written rules" for the first two decades. This ambiguity faded when the Permanent Council passed a series of decisions on budgetary non-compliance. Hence from 1990 we code the budget as binding.

FINANCIAL COMPLIANCE

We conceive financial compliance procedures to refer to rules penalizing member states that fail to pay their contributions or misuse IO funds, and we score the OAS as having no procedure for non-compliance even while it has developed an elaborate system of positive incentives.

Initially, the organization had no means for extracting financial compliance. However, in the face of mounting arrears in the 1980s, the Permanent Council developed a sophisticated "carrot" non-compliance policy, which is distinctly different from the typical "stick" approach taken by most other international organizations.[42] Permanent Council Decision CP/RES 541

[41] The Convention on Human Rights added the Court's budget to the general budgetary procedure (see Art. 72).

[42] See <http://www.oas.org/consejo/caap/Quotas%20documentos.asp> (accessed February 13, 2017).

(816/90) of 1990 sets out a procedure that induces member states to pay arrears, in which case they can count on a 2 percent reduction to be applied to the following year's quota provided that such payment be received by April 30 of the financial year. As arrears nevertheless continued to grow, Resolution AG/RES. 1757 (XXX—O/00), adopted by the General Assembly in 2000, instituted further positive measures to encourage the member states to bring their quota contributions up to date. There were also some "sanctions" in the form of making funds for member states hosting meetings conditional upon those member states having paid up.

Over the last decade, the member states have largely fulfilled their financial obligations. As of December 2009, arrears balances were brought to minimal levels, amounting to less than $1 million. In May 2011, the Permanent Council adopted an amendment that tightens up the conditions under which member states get a discount on their contributions.

POLICY MAKING

The OAS is a general purpose organization with activities in a range of substantive areas but its policy instruments are relatively simple. We code one policy stream that consists of resolutions, and from 1970, a second policy stream of protocols on human rights.

The chief policy instrument of the OAS are resolutions adopted by the Inter-American Conference or the Assembly. Article 83b of the Bogotá Charter outlines a skeletal policy procedure: the Pan-American Union "advise[s] the Council and its organs in the preparation of programs and regulations of the Inter-American Conference, the Meeting of Consultation of Ministers of Foreign Affairs, and the Specialized Conferences" (Art. 83.b). This suggests that the Council initiates by simple majority, its general decision rule, while the Conference takes the final decision, also by simple majority (Stoetzer 1993: 37; Ball 1969: 118). We also include the Secretariat as a (relatively weak) initiator with a role enshrined in the Charter. Resolutions tend to be non-binding: "Generally resolutions of the International Conferences of American States and other such meetings constitute only recommendations and are not legally binding" (Kunz 1948: 568). Ratification is not required.

The policy procedure becomes more detailed with the revision of the Charter in 1967, but the General Secretariat's role seems to be scaled back to a primarily administrative function. The new article reads simply that it shall "Advise the other organs, when appropriate, in the preparation of agenda and rules of procedure" (Art. 118). The Charter suggests that the Permanent Council and the various specialized Councils are the primary initiators. According to Article 71 of the Protocol of Buenos Aires, "The Councils, on matters within their respective competence, may present to the General Assembly studies and proposals, drafts of international

instruments, and proposals on the holding of specialized conferences, on the creation, modification, or elimination of specialized organizations and other inter-American agencies, as well as on the coordination of their activities." The general decision rule is absolute majority (Rules of Procedure, Art. 54.1). The General Assembly takes final decisions by absolute majority (Protocol of Buenos Aires, Arts. 52a and 57).

With the 1993 Managua Protocol, the newly established Inter-American Council for Integrated Development obtains agenda setting power. Articles 3a and 3b of the Statute stipulate that the body shall "formulate and recommend the strategic plan [for integral development] to the General Assembly" and "formulate proposals for strengthening inter-American dialogue on integral development." Decisions are taken by majority (CIDI Statute, Art. 28).

The adoption of the American Convention on Human Rights in 1969 produces a second policy stream of protocols and conventions "to gradually [include] other rights and freedoms within its system of protection" (Art. 77.1). Any member state or the Inter-American Commission for Human Rights can propose measures, the latter acting by the general decision rule of simple majority (IACHR Rules of Procedure, Art. 18.2). The General Assembly takes the final decision, presumably by the general rule of absolute majority (Pact of San José, Art. 77.1). Regarding bindingness and ratification, Article 77.2 stipulates: "Each protocol shall determine the manner of its entry into force and shall be applied only among the States Parties to it." Moreover, these protocols themselves note, for example, that "the States Parties may, at the time of approval, signature, ratification or accession, make reservations to one or more specific provisions of this Protocol, provided that such reservations are not incompatible with the object and purpose of the Protocol" (Protocol of San Salvador, Art. 20). Hence we code conditional bindingness. Ratification is required; the Protocols enter into force for those that ratify once a subset of member states has deposited its ratification instrument (see Protocol of San Salvador, Art. 21.3).

DISPUTE SETTLEMENT

The OAS has as one of its central objectives "to ensure the pacific settlement of disputes that may arise among the Member States" (Bogotá Charter, Art. 4b). The procedure is briefly mentioned in Articles 20–23 of the Charter and worked out in the Bogotá Pact, also adopted in 1948 (in force in 1949). The procedure is only applicable for members that have ratified the Bogotá Pact, so membership is optional.[43]

[43] As of early 2017 only sixteen OAS members have acceded to the Treaty (see <http://www.oas.org/juridico/english/sigs/a-42.html> (accessed February 13, 2017).

After direct negotiations between the disputing parties, they can have recourse to a variety of mechanisms: good offices and mediation, investigation and conciliation, arbitration, and judicial settlement. The first entails drawing on the independent mediating skills of a government or eminent citizen of a country not party to the dispute (Bogotá Pact, Chapter 2). The second procedure involves, at the request of one of the parties, the creation of a Commission of Investigation and Conciliation. This consists of five members chosen by member states, and it produces non-binding recommendations (Chapter 3). Arbitration means that the parties create an Arbitral Tribunal, which is normally composed of independent jurists from the Permanent Court of Arbitration in The Hague.[44] This tribunal renders a final and directly binding arbitration award (Chapter 5). Note that parties only have access to arbitration if *both* agree: "the High Contracting Parties may, *if they so agree*, submit to arbitration differences of any kind" (Art. 38, our emphasis). The final route is judicial settlement through the International Court of Justice (ICJ), and this route does provide automatic access. A disputing party may submit the dispute to the ICJ once other procedures fail and provided an arbitral procedure has not been agreed (Chapter 4), and cannot be blocked by an adversary. We code the latter route.

Access to the ICJ route is, as we have seen, automatic (see Bogotá Pact, Art. 32). ICJ decisions are only binding on member states if they have previously recognized "the jurisdiction of the Court as compulsory *ipso facto*" (Art. 31). The ICJ is a standing body of judges without standing for non-state actors, no remedies in case of non-compliance to a ruling, and no preliminary rulings procedure.

It is worth noting that, over the years, political dispute settlement has been reinforced. The 1967 Protocol of Buenos Aires assigned the Permanent Council the role to "keep vigilance over the maintenance of friendly relations among the Member States" and to "effectively assist them in the peaceful settlement of their disputes" (Art. 82). It can, by two-thirds majority excluding the disputing parties (Art. 89), make "suggestions for bringing the parties together . . . and, if it considers it necessary, it may urge the parties to avoid any action that might aggravate the dispute" (Art. 88). In addition, it may refer disputes to the Inter-American Committee on Peaceful Settlement, which offers good offices to the disputing parties and "recommend the procedures that it considers suitable for the peaceful settlement of the dispute" (Art. 86). Since 1985, the Permanent Council, with the consent of the disputing parties, can additionally establish ad hoc committees to help mediate (Protocol of Cartagena de Indias, Art. 86).

[44] Alternatively, member states can agree to "establish the Tribunal in the manner they deem most appropriate" (Bogotá Pact, Art. 41).

The most significant development on the legal dispute settlement front is the adoption of the American Convention on Human Rights (Pact of San José) in 1969. This Convention establishes a separate dispute settlement procedure for human rights, and we code it as a second dispute settlement stream from 1979, when the new Inter-American Court of Human Rights (IACHR) is established in San José, Costa Rica. It sits at the apex of the inter-American human rights system and it interprets and enforces the American Convention on Human Rights. The Court has seven members, who are "elected in an individual capacity from among jurists of the highest moral authority and of recognized competence in the field of human rights" (Pact of San José, Art. 52.1) for six years, renewable once (Art. 54.1). They are nominated by the absolute majority of member states in the General Assembly from a panel of candidates proposed by the member states (Art. 53.1).

IACHR dispute settlement is optional: a member state must have ratified the Convention. Before a case on alleged human rights violations reaches the Court, an elaborate procedure needs to be followed through the Inter-American Commission on Human Rights and all domestic remedies must have been exhausted. But the bottom line is that a state cannot block allegations brought against it (see Arts. 48, 50, and 61.2). Thus, we code automatic right to third-party review.

Cases can be brought to the Court by member states or by the Inter-American Commission on Human Rights (Art. 61.1). Non-state parties and, under some restrictions, states can submit allegations of human rights abuses to the Commission (Arts. 44 and 45).[45] Unlike the European human rights system, individual citizens are not allowed to take cases directly to the Court (Padilla 1993). Once a judgment is rendered, it is "final and not subject to appeal" (Art. 67).

The respective rulings are conditionally binding: "A State Party may, upon depositing its instrument of ratification or adherence to this Convention, or at any subsequent time, declare that it recognizes as binding, ipso facto, and not requiring special agreement, the jurisdiction of the Court on all matters relating to the interpretation or application of this Convention. [...] Such declaration may be made unconditionally, on the condition of reciprocity, for a specified period, or for specific cases" (Art. 62.2). However, when member states have consented to accept the Court's jurisdiction, they are required to "undertake to comply with the judgment of the Court in any case to which they are parties" (Art. 68.1).

In terms of remedies for non-compliance, the Convention merely states: "If the Court finds that there has been a violation of a right or freedom protected by this Convention, the Court shall rule that the injured party be ensured the

[45] The Commission has actively used this right only since 2001 (Alter 2014: 85).

OAS Institutional Structure

		A1			A2			E1										E2										GS1		CB1
Years		Non-state selection	Indirect representation	Weighted voting	Non-state selection	Indirect representation	Weighted voting	Head—agenda	Head—decision	Members—agenda	Members—decision	Non-state selection	Partial representation	Indirect representation	Reserved seats	Weighted voting	Partial veto	Head—agenda	Head—decision	Members—agenda	Members—decision	Non-state selection	Partial representation	Indirect representation	Reserved seats	Weighted voting	Partial veto	Select	Remove	Non-state selection
1951–1969	Not body-specific	0	0	0	0	0	0	N				0	0	0	0	0	0													
	Member states									✓	✓																			
	A1: Inter-American Conference																													
	A2: Meeting of Foreign Affairs Ministers																													
	E1: Council								3																			3	2	
	GS1: Pan-American Union																													
	DS1: International Court of Justice																													
1970–1978	Not body-specific	0	0	0	0	0	0	R	R			0	0	0	0	0	0													1
	Member states									✓	✓																			
	A1: **General Assembly**																											3	2	
	A2: Meeting of Foreign Affairs Ministers																													
	E1: **Permanent Council**																													
	GS1: **General Secretariat**																													
	CB1: Inter-Am. Commiss. Human Rights																													
	DS1: International Court of Justice																													

1979–1995	Not body-specific	0	0	0	0	0	0	R	R			0	0	0	0	0	0													1
	Member states									✓	✓																			
	A1: General Assembly																											3	2	
	A2: Meeting of Foreign Affairs Ministers																													
	E1: Permanent Council																													
	GS1: General Secretariat																													
	CB1: Inter-Am. Commiss. Human Rights																													
	DS1: International Court of Justice																													
	DS2: Inter-Am. Court of Human Rights (IACHR)																													
1996–2010	Not body-specific	0	0	0	0	0	0	R	R			0	0	0	0	0	0	N				0	0	0	0	0	0			1
	Member states									✓	✓									✓	✓									
	A1: General Assembly																											3	2	
	A2: Meeting of Foreign Affairs Ministers																													
	E1: Permanent Council																													
	E2: Council for Integral Development																		3											
	GS1: General Secretariat																													
	CB1: Inter-Am. Commission Human Rights																													
	DS1: International Court of Justice																													
	DS2: Inter-Am. Court of Human Rights (IACHR)																													

Note: A = automatic/technocratic procedure; N = no written rule; R = rotation; ✓ = body co-decides, but no voting rule; ← = change in status. Shaded areas refer to institutions or policy areas that are non-existent for those years.

OAS Decision Making

		Accession			Sus-pension		Constitution				Budget		
Years		Agenda	Decision	Ratification	Agenda	Decision	Agenda	Decision	Ratification	Revenue source	Agenda	Decision	Binding
1951–1969	Not body-specific	A	A	N	N	N	N		1	1			N
	Member states												
	A1: Inter-American Conference							2					
	A2: Meeting of Foreign Ministers												
	E1: Council										2	2	
	GS1: Pan-American Union										✓		
	DS1: International Court of Justice												
1970–1978	Not body-specific			2	N	N	N		1	1			N
	Member states												
	A1: **General Assembly**		2					2				2	
	A2: Meeting of Foreign Ministers												
	E1: **Permanent Council**	2									2		
	GS1: **General Secretariat**										✓		
	CB1: **Int.-Am. Comm. Human Rights**												
	DS1: International Court of Justice												
1979–1989	Not body-specific			2	N	N	N		1	1			2
	Member states												
	A1: General Assembly		2					2				2	
	A2: Meeting of Foreign Ministers												
	E1: Permanent Council	2									2		
	GS1: General Secretariat										✓		
	CB1: Int.-Am. Comm. Human Rights												
	DS1: International Court of Justice												
	DS2: Inter-Am. Court Human Rights (IACHR)												
1990–1995	Not body-specific			2	N	N	N		1	1			2
	Member states												
	A1: General Assembly		2					2				2	
	A2: Meeting of Foreign Ministers												
	E1: Permanent Council	2									2		
	GS1: General Secretariat										✓		
	CB1: Int.-Am. Comm. Human Rights												
	DS1: International Court of Justice												
	DS2: Int.-Am. Court of Human Rights (IACHR)												
1996	Not body-specific			2	N	N	N		1	1			2
	Member states												
	A1: General Assembly		2					2				2	
	A2: Meeting of Foreign Ministers												
	E1: Permanent Council	2									2		
	E2: Council for Integral Development										2		
	GS1: General Secretariat										✓		
	CB1: Int.-Am. Comm. Human Rights												
	DS1: International Court of Justice												
	DS2: Int.-Am. Court of Human Rights (IACHR)												

Com-pliance		Policy 1 (resolutions)					Policy 2 (human rights protocols)					Dispute settlement 1 (peace and conflict)							Dispute settlement 2 (human rights)						
Agenda	Decision	Agenda	Decision	GS role	Binding	Ratification	Agenda	Decision	GS role	Binding	Ratification	Coverage	Third party	Binding	Tribunal	Non-state access	Remedy	Preliminary ruling	Coverage	Third party	Binding	Tribunal	Non-state access	Remedy	Preliminary ruling
N	N			1	0	3																			
			3																						
		3																							
		✓																							
												1	2	1	2	0	0	0							
N	N			0	0	3			0	1	1														
							✓																		
			3					3																	
		3																							
							3																		
												1	2	1	2	0	0	0							
N	N			0	0	3			0	1	1														
							✓																		
			3					3																	
		3																							
							3																		
												1	2	1	2	0	0	0							
																			1	2	1	2	1	1	0
N	N			0	0	3			0	1	1														
							✓																		
			3					3																	
		3																							
							3																		
												1	2	1	2	0	0	0							
																			1	2	1	2	1	1	0
N	N			0	0	3			0	1	1														
							✓																		
			3					3																	
		3																							
		3																							
							3																		
												1	2	1	2	0	0	0							
																			1	2	1	2	1	1	0

(*continued*)

OAS Decision Making (Continued)

		Accession			Sus-pension		Constitution				Budget		
Years		Agenda	Decision	Ratification	Agenda	Decision	Agenda	Decision	Ratification	Revenue source	Agenda	Decision	Binding
1997–2001	Not body-specific			2	N		N		1	1			2
	Member states												
	A1: General Assembly		2			2		2				2	
	A2: Meeting of Foreign Ministers												
	E1: Permanent Council	2									2		
	E2: Council for Integral Development										2		
	GS1: General Secretariat										✓		
	CB1: Int.-Am. Comm. Human Rights												
	DS1: International Court of Justice												
	DS2: Int.-Am. Court of Human Rights (IACHR)												
2002–2010	Not body-specific			2			N		1	1			2
	Member states				✓								
	A1: General Assembly		2			2		2				2	
	A2: Meeting of Foreign Ministers												
	E1: Permanent Council	2			2						2		
	E2: Council for Integral Development										2		
	GS1: General Secretariat				✓						✓		
	CB1: Int.-Am. Comm. Human Rights												
	DS1: International Court of Justice												
	DS2: Int.-Am. Court of Human Rights (IACHR)												

Note: A = automatic/technocratic procedure; N = no written rule; R = rotation; ✓ = body co-decides, but no voting rule; ← = change in status. Shaded areas refer to institutions or policy areas that are non-existent for those years.

enjoyment of his right or freedom that was violated. It shall also rule, if appropriate, that the consequences of the measure or situation that constituted the breach of such right or freedom be remedied and that fair compensation be paid to the injured party" (Art. 63.1). Art. 68.2 further stipulates: "That part of a judgment that stipulates compensatory damages may be executed in the country concerned in accordance with domestic procedure governing the execution of judgments against the state." This suggests that the Court can issue compensation, even though the extent and type is not specified. We code the intermediate category for remedies.

There is no direct link between the Court and national legal systems through national court referrals. But the Court can issue advisory opinions "regarding the interpretation of this Convention or of other treaties concerning the protection of human rights in the American states" (Art. 64.1). Any state or treaty organ can consult the Court, which then provides an opinion "regarding the

Compliance		Policy 1 (resolutions)					Policy 2 (human rights protocols)					Dispute settlement 1 (peace and conflict)							Dispute settlement 2 (human rights)						
Agenda	Decision	Agenda	Decision	GS role	Binding	Ratification	Agenda	Decision	GS role	Binding	Ratification	Coverage	Third party	Binding	Tribunal	Non-state access	Remedy	Preliminary ruling	Coverage	Third party	Binding	Tribunal	Non-state access	Remedy	Preliminary ruling
N	N			0	0	3			0	1	1														
							✓																		
			3					3																	
		3																							
		3																							
							3																		
												1	2	1	2	0	0	0							
																			1	2	1	2	1	1	0
N	N			0	0	3			0	1	1														
							✓																		
			3					3																	
		3																							
		3																							
							3																		
												1	2	1	2	0	0	0							
																			1	2	1	2	1	1	0

compatibility of any of its domestic laws with the aforesaid international instruments" (Art. 64.2). This advisory jurisdiction is available to all member states, irrespective of whether they have ratified the Convention and accepted the Court's jurisdiction in adjudication. It is not available to courts.

As of March 2017, twenty-five of the thirty-five member states (the US and Canada are not among them) have ratified the Convention, and only twenty-one have done so unconditionally.[46]

Organization of Eastern Caribbean States (OECS)

The Organization of Eastern Caribbean States (OECS) combines seven small states: Antigua and Barbuda, Dominica, Grenada, Montserrat, the Federation of Saint Kitts and Nevis, Saint Lucia, Saint Vincent and the Grenadines. The

[46] See <http://corteidh.or.cr/index.php/en/about-us/historia-de-la-corteidh> (accessed March 13, 2017).

British Virgin Islands and Anguilla are associate members.[47] It is fully nested within the Caribbean Community. The OECS' mission is to promote cooperation, unity, and solidarity, defend territorial integrity and independence, harmonize foreign policy, and establish an economic union (1981 Treaty, Art. 3.1; 2010 Revised Treaty, Art. 4.1). The islands share a single currency, the East Caribbean dollar, and a Supreme Court. The headquarters are in Castries, St. Lucia.

The history of the OECS is closely intertwined with that of the Caribbean Community. Both are successors of the British West Indies Federation, which was set up by the British in 1958 to integrate small colonies into an economically viable entity (Mawby 2012). After the collapse of the Federation in 1962 and the departure of its two largest members—Jamaica and Trinidad—the remaining eight islands began to discuss with UK officials the possibilities of a smaller Eastern Caribbean federation. At the same time, discussions for the conclusion of a Caribbean Free Trade Association (CARIFTA) were ongoing (Axline 1979: 83; for a more general overview, see Williams 1973).

All this induced the poorer and smaller Caribbean islands to pursue a two-pronged strategy. They joined the wider Caribbean integration efforts through CARIFTA, but also pressed ahead to create their own integration initiative, the West Indies Associated States (WISA) Council of Ministers in 1967. This new link with Britain of "associated statehood" was a stage leading to independence (O'Brien 2014: 258). WISA constituted "an administrative arrangement for joint action"—not a formal legal agreement (Menon 1986: 297; Gilmore 1985: 314). The Council's first substantive act was to coordinate a common position on CARIFTA (Axline 1979: 100; Payne 2008: ch. 3). But its most significant achievement was the creation of the East Caribbean Common Market (ECCM) in February 1968, which was signed by Antigua and Barbuda, Dominica, St. Kitts-Nevis, Montserrat, Saint Lucia, Saint Vincent and the Grenadines, and Grenada.

ECCM was more integrationist in ambition than CARIFTA. It sought to provide "a common negotiating front with which to face the other member countries of CARIFTA" and create "within the sub-region an integration scheme with corrective measures, a common external tariff, and regional development planning" (Axline 1979: 104). It was accompanied by a common currency, which some argue is one of the very few significant achievements to date (Nassar, McIntyre, and Schipke 2013).

WISA and ECCM continued to operate as separate legal entities with their distinctive secretariat, but they had exactly the same membership and similar decision bodies (O'Brien 2014: 258–9). Our coding focuses on the ECCM institutions.

[47] Martinique became the third associate member in 2015.

As one island after another gained independence, pressure grew to restructure cooperation. In 1981, the Organization of Eastern Caribbean States was born with the Treaty of Basseterre. It merged the ECCM and WISA council institutions. It was set up in response to dissatisfaction with the slow progress under CARICOM and the common desire of the newly independent states "to exercise their individual sovereign rights in a collective manner" (Menon 1986: 298; see also Gilmore 1985: 314; Müllerleile 1993: 198). The OECS played a major role in the intervention in Grenada following a military coup in 1983 (Gilmore 1985: 311–12). It has thus been described as a pioneer in regional security governance, "moving early and deliberately to collective security management" (Byron 2011: 138). The Treaty also strengthened the institutional structure for monetary cooperation with the establishment of an Eastern Caribbean Central Bank in 1983 (Nassar, McIntyre, and Schipke 2013: 56). But by and large, the institutional structure and decision making were highly intergovernmentalist, and it appeared virtually impossible to enforce national commitments. As an observer notes, "this failure to establish an enforcement mechanism under the Treaty of Basseterre came in time to be identified as one of the chief obstacles to greater economic integration within the region" (O'Brien 2014: 260).

In 2010, the Treaty was comprehensively revised. Member states signed up to an economic union and a single financial and economic space, and they considerably strengthened the central institutions.[48] The single-most important change is the creation of a system of secondary law that no longer depends on transposition into domestic law. That is to say, OECS Acts, Regulations, and Orders are intended to have direct effect (O'Brien 2014: 261).

The chief legal documents are the Agreement Establishing the East Caribbean Common Market (ECCM) (signed and in force 1968); the Treaty Establishing the Organization of Eastern Caribbean States (OECS) (signed and in force 1981); the Revised Treaty of Basseterre Establishing the Organization of Eastern Caribbean States Economic Union (signed 2010; in force 2011). The post-2010 OECS has one assembly (Authority of Heads of Government), three executives (Council of Ministers, Economic Affairs Council, and the OECS Commission), and a secretariat (the OECS Commission).

Institutional Structure

A1: COUNCIL OF MINISTERS (1968–80)

The Agreement Establishing the East Caribbean Common Market created the Council of Ministers as the "principal organ of the Common Market" with the powers to make policy regarding the common market, to supervise its

[48] The Treaty entered into force in January 2011, but we decide to code it from 2010 because much of the new infrastructure was already in place.

application, and to establish links with other countries or international organizations (Art. 18.2). It was composed of one representative at ministerial level from each member state (Art. 18.1). Thus, all members of the assembly are selected by states, and all member states are represented. The Council generally took decisions by unanimity, with the possibility of abstention, with certain exceptions such as tariffs, procedure, and complaints, where the decision rule was two-thirds majority (Art. 18.5). These decisions were conceived to be binding on member states (Art. 18.4).

A2: FROM THE AUTHORITY OF HEADS OF GOVERNMENT (1981–2009) TO THE OECS AUTHORITY (2010)

The 1981 Treaty abolished the Council of Ministers and the Authority of Heads of Government became the "supreme policy-making institution" (1981 Treaty, Art. 6.4). It is responsible for "the progressive development of the Organization and the achievement of its purposes" (Art. 6.4). It has the power to adopt decisions, make recommendations and directives, and conclude treaties and international agreements, and it takes final decisions on financial arrangements (Art. 6). Even though a range of ministerial councils with some decision power were established alongside the Authority, we code the Authority as the sole assembly because it sits atop a decision hierarchy as "the real locus of power within the OECS" (Gilmore 1985: 317). The Authority takes conditionally binding decisions by unanimity with the possibility of abstention (Art. 6.5). It meets at least twice a year and the chair rotates alphabetically each year (Art. 6.10).

One of the seven signatories—Montserrat—was not an independent state and subject to a special accession clause: "Notwithstanding that territory or group of territories listed in paragraph 1 of this Article is not a sovereign independent State, the Heads of Government of the Member States of the Organization (hereinafter referred to as 'the Authority') may by unanimous decision admit such territory or group of territories as a full member of the Organization and such territory or group of territories shall thereby qualify as a Member State under this Treaty" (Art. 2.3). It was admitted at the first meeting of Heads of State (Art. 19.1a) and continues to hold a distinctive position. For example, its ratification of Treaty revisions does not count toward the quorum (Art. 21). Nevertheless, we code full member state representation, all member states are represented, and representation is direct.

The 2010 Revised Treaty does not substantially change the set-up and role of the Authority. Decisions by the Authority now have direct effect in five policy areas: common market and customs union; monetary policy; trade policy; maritime jurisdiction and maritime boundaries; and civil aviation (Art. 8.8).

E1: FROM THE COUNCIL OF MINISTERS (1968–80) TO THE ECONOMIC AFFAIRS COMMITTEE (1981–2009) TO THE ECONOMIC AFFAIRS COUNCIL (2010)

Under the 1968 Agreement, the Council of Ministers also served as the executive body with responsibility for "supervising the application of this Agreement and keeping its operation under review" (Art. 18.2b). There were no written rules on how the head of the Council is selected. Member states appointed the members, all members were represented, and representation was direct.

With the 1981 Treaty, the Council is renamed the Economic Affairs Committee, which consists, as before, of ministers appointed by the heads of government of each country (Art. 9.1), and as in the previous agreement it is one of three executive bodies (Art. 9.3) (see also Menon 1986: 305–6). Even though not explicitly stated, we assume that the chair rotates, as in the other executive bodies of the organization.[α] The Committee is fully selected by member states. There is a proviso on participation that suggests that not all member states participate on all topics: "Only Member States possessing the necessary competence in respect of matters under consideration from time to time shall take part in the deliberations of the Council" (Art. 9.2). This is the only OECS body with such restriction, and we code partial representation. Representation is direct.

With the Revised Treaty, the Committee is renamed the Economic Affairs Council, and has special standing in the new architecture (Art. 11). It takes over the functions of the previous Economic Affairs Committee and becomes the principal organ of the newly established Economic Union (Protocol of Eastern Caribbean Economic Union, Art. 1.4). Most importantly, it is in charge of implementing the economic union under the direction of the Authority (Protocol of Eastern Caribbean Economic Union, Art. 28.2). The proviso on membership representation that restricts representation in the Economic Affairs Committee is maintained (Art. 11.2).

E2: FROM THE FOREIGN AFFAIRS COMMITTEE AND DEFENSE AND SECURITY COMMITTEE (1981–2009) TO THE COUNCIL OF MINISTERS (2010)

The 1981 Treaty established a Foreign Affairs Committee, consisting of ministers for foreign affairs or equivalents from all member states, as the second executive body (Art. 7). The Committee is responsible for "the progressive development of the foreign policy of the Organization and for the general direction and control of the performance of the executive functions of the Organization in relation to its foreign policy" (Art. 7.4). It is accountable to the Authority and takes action "on any matters referred to it by the Authority" (Art. 7.3).

The Committee takes decisions and directives, which are binding "on all subordinate institutions of the Organization," by unanimity (Art. 7.5). The

chair rotates alphabetically and annually. It meets when necessary "subject to any directives that the Authority may give" (Art. 7.6). Composition is fully controlled by member states and all members are represented (but not the territories). Representation is direct.

The 1981 Treaty also established a Defense and Security Committee at the ministerial level (Art. 8.1)—as a third executive.[49] The Committee is responsible to the Authority and takes action "on any matters referred to it by the Authority" with "the power to make recommendations to the Authority" on matters in its competence and to coordinate actions of member states (Arts. 8.3 and 8.4). It issues directions and directives which are binding "on all subordinate institutions of the Organization." Its decision rule is consensus (Art. 8.5). As with the Foreign Affairs Committee, the chair rotates annually in alphabetical order. It meets when necessary subject to directives by the Authority (Art. 8.6), and it has the same composition and representation rules as the Foreign Affairs Committee.

The 2010 Revised Treaty combines the various Committees into a general purpose Council of Ministers, which can meet in different functional configurations. It is composed of national ministers, nominated by the heads of state (Art. 9.1). It can make recommendations to the Authority, consider legislative proposals by the newly established OECS Commission, and enact regulations and other implementing instruments that give effect to the Authority's Acts (Arts. 9.2 and 9.3). The chair rotates (Art. 9.10c). On flanking policies related to the common market, the Council takes decisions called Regulations, binding on member states, by consensus (Arts. 9.5, 9.6, and 9.8). However, procedural matters can be decided by majority (Art. 9.7). On other topics, including foreign policy, security and police cooperation, its decisions are conditionally binding.

E3: OECS COMMISSION (2010)

The 2010 Revised Treaty upgrades the secretariat, now named the Commission, to become the executive alongside the Council of Ministers. The Commission is responsible for the general functioning of the organization and for monitoring the implementation of legislative acts. It is also given the explicit authority to propose legislation (Art. 12.5). The director general is assigned the "Chief Executive Officer of the Organization" (Art. 13.1). She is appointed by the Authority for four years, renewable (Art. 13.1). There are no explicit rules on who can propose candidates. The Commission is a collegial body that has, besides the director general, one commissioner of ambassadorial rank nominated by each member state upon recommendation of the

[49] We treat the Foreign Affairs and Defense and Security Committee as a single executive because they are very similar in composition and decision rules.

Authority (Arts. 12.2 and 15.4). Unusually, these commissioners reside in and represent the Commission in the respective member states (Art. 15.4). So all seven member states (but not associated territories) are represented. And as before, representation is indirect: commissioners are instructed to act on behalf of the Organization (Arts. 13.6 and 13.7). The Commission takes decisions by simple majority (Revised Treaty, Art. 12.3).

GS1: FROM THE SECRETARIAT (1968–80) TO THE GENERAL SECRETARIAT (1981–2009) TO THE OECS COMMISSION (2010)

The 1968 Agreement established a Secretariat as the "principal administrative organ of the Common Market" (Art. 19.1). It serviced Council meetings, collected and distributed information on the common market, coordinated the work of Council committees, supervised the implementation of the Agreement, and reported violations to the Council (Art. 19.3). Since the Council of Ministers was responsible for the composition and functions of the Secretariat (Art. 19.2), we infer that the Council also selected the director general by the general decision rule—unanimity. The Treaty does not state the length of tenure of the director general, and there are no provisions for his/her removal.[α]

The 1981 Treaty reinforced the body, now called General Secretariat, as the "principal institution responsible for the general administration" of the OECS (Art. 10.1). It is headed by a director general, appointed by the Authority by consensus for four years, with the possibility of renewal (Arts. 6.5 and 10.3). The director general services the meetings of the institutions, follows up on decisions, regularly assesses the functioning of the organization, reports on the organization's activities and conducts studies (Art. 10.4). Neither the Treaty nor other sources provide information on how the director general might be removed from office. The director general appoints staff but directors need to be approved by the Authority (Art. 10.6). Secretariat staff are meant to be independent from member states in the conduct of their business (Arts. 10.8 and 10.9). In 2008, the Secretariat had some 170 full-time staff members.[50] Under the 2010 Treaty, the OECS Secretariat becomes the OECS Commission.

CB1: OECS ASSEMBLY (2012–)

Until recently the ECCM/OECS did not have non-state consultative bodies. The 2010 Revised Treaty creates an OECS Assembly of national parliamentarians elected or nominated for two years (Arts. 10.1, 10.3, and 10.5). Independent states have five seats, and autonomous territories three seats (Art. 10.2). The Assembly has the right to be consulted by the Authority or the Council of Ministers on any Community law, and its opinion on any matter

[50] Union of International Associations.

may be requested by the Authority (Art. 10.13). However, neither the Authority nor the Council are obligated to follow the Assembly's advice. The Assembly's inaugural session was held in August 2012, which falls outside our time frame.

Decision Making

MEMBERSHIP ACCESSION

The 1968 Agreement states that membership is open to all signatories as well as "any territory, though it be not a signatory hereto" (Art. 25.1). This was subject to approval by the Council of Ministers, presumably by the general decision rule of consensus,[α] which also decided on the terms and conditions of accession. We code the Council of Ministers as both agenda setter and final decision maker. No ratification was required (Art. 25.1).

The 1981 Treaty limited membership to "[a]ny independent State or Territory in the Caribbean region" (Art. 22.4). This includes both Caribbean states and autonomous territories (Menon 1986: 299). Decisions on accession were transferred to the Authority, including the terms and conditions of accession (Arts. 2.4 and 22). As before, ratification was not required. These rules continue with the Revised Treaty (Arts. 3 and 27).

MEMBERSHIP SUSPENSION

The Treaties have a procedure for withdrawal, but not for suspension or expulsion (for a discussion, see Carnegie 1979: 183). Still, after the military coup in Grenada in 1983, the Authority convened an extraordinary meeting to suspend the incoming government from all functional cooperation under the OECS umbrella (Gilmore 1985: 312–17).

CONSTITUTIONAL REFORM

The 1968 Agreement contained a skeletal procedure for constitutional amendments: "an amendment to the provisions of the Agreement shall be submitted to the Governments of Member States for acceptance if it is approved by decision of the Council of Ministers, and it shall have effect provided it is accepted by all such Governments" (Art. 27). We interpret this stipulation to mean that the Council of Ministers takes the decision, presumably by consensus,[α] and that ratification by all member states is required for an amendment to enter into force. No written rules exist on agenda setting.

The 1981 Treaty elaborates the procedure. Every member state can propose amendments to the Treaty and its protocols (Art. 25.1). These are subsequently "effected by a unanimous decision of the Authority" and "shall come into force on the thirtieth day following the date of their receipt by the Government of Saint Lucia" (Art. 25.2). This article needs to be read alongside Article 21

of the 1981 Treaty (see also the Revised Basseterre Treaty, Art. 26), which specifies that an amendment "shall enter into force immediately upon receipt by the Government of Saint Lucia of the second instrument of ratification," but only for those member states that deposit the ratification instrument. We infer this from footnote 1 of the 1981 Treaty, which lists the dates of entry into force for those countries that ratified after the two initial countries, the necessary quorum, had ratified the Treaty.[δ]

The Revised Treaty makes only marginal changes to the procedure for revising the Treaty (Art. 29). Here also, the Treaty enters into force only after a minimum number of member states—now four—have ratified (Revised Basseterre Treaty, Art. 26), and only for those member states that ratify. Article 2.2 states: "Until the coming into force of this Treaty in respect of a Member State, the provisions of the Treaty of Basseterre 1981 shall continue to apply between that Member State and any other Member State."

REVENUES

The 1968 Agreement provides that "the expenses of administering the Common Market shall be borne by Member States in equal shares" (Art. 18.8). This suggests that costs are distributed post hoc among member states, rather than based on regular member state contributions.[α] This interpretation is consistent with the fact that initially the Treaty does not contain a budgetary procedure. We thus code contributions as ad hoc.

The 1981 Treaty introduces regular annual contributions: "Revenues of the budget shall be derived from annual contributions by the Member States and from such other sources as may be determined by the Authority" (Art. 18.3). Part of the funding originates from donations and partner agencies (Communiqué of the forty-ninth meeting of the Authority). The organization's full budget is not available online, but annual member state contributions amount to about EC$11 million (TEU 2008: 4). We code regular member state contributions.[α] The same revenue stipulation is retained in the Revised Treaty (Art. 17.3).

BUDGETARY ALLOCATION

Under the 1968 Agreement, the Council of Ministers is charged with making arrangements for the annual budget (Art. 18.7c), but we have no further information on the procedure.

Under the 1981 Treaty the director general drafts the budget for approval by the Authority by consensus, the general decision rule (Art. 13.5). Decisions of the Authority are binding (Art. 6.5), and we infer that this also applies to the budget.[α]

The Revised Treaty broadly maintains this procedure. The OECS Commission prepares the budget, which is then transmitted to the Authority for a final decision by consensus (Art. 17.5).

FINANCIAL COMPLIANCE

The Revised Treaty introduces a non-compliance procedure. States in arrears for more than one full year shall not have the right to vote in the Authority or the Council of Ministers unless a majority of member states in the Authority (excluding the affected state) decides otherwise (Arts. 8.9b and 9.9). We code this as technocratic decision making at the initiation stage, with the final decision being political.

POLICY MAKING

The 1968 Treaty specifies two policy instruments: non-binding recommendations, and binding decisions (Art. 18.4). Decisions concern only procedural or financial matters (Art. 18.6), so we code recommendations as the principal policy instrument because they are central to the organization's core purpose, the creation of a common market. The Treaty is economical in specifying who can initiate, though the language suggests that the Council has an initiating role as the body responsible for "considering whether further action should be taken by Member States in order to promote the attainment of the objectives of the Common Market" (Art. 18.1c). Its proposals are presumably taken by consensus. Whether the Secretariat can initiate policy is less clear. On the one hand, the Treaty empowers the Council (by majority vote) to delegate tasks to the Secretariat (Arts. 18.3 and 19.1). On the other hand, the Treaty emphasizes the Secretariat's supporting role in the "collection, collation, analysis and distribution of information pertinent to the workings of the Common Market" (Art. 19.3b) and its responsibility to "supervise the workings of this Agreement and report . . . all breaches." We judge this to fall short of a policy role for the Secretariat. Recommendations are adopted by the Council of Ministers by consensus—or more precisely, a vote of two-thirds in favor with no dissenting votes (Art. 18.5). Recommendations are, as noted, non-binding (Art. 18.4). There is no mention of ratification.

The 1981 Treaty expands the policy portfolio to include security and foreign policy alongside economic cooperation and we consider both as important policy streams (Gilmore 1985: 320–3; Menon 1986: 307–8). The Treaty mentions several legal instruments including treaties and international agreements (Art. 6.8), recommendations and directives (Art. 6.6), and decisions (Art. 6.5). One major difference is that the first policy stream does not require a final

decision by the Authority while foreign and defense policy does. Hence, we code decisions as the key legal instrument in the second policy stream.

In the common market area, the Council of Ministers' role is subsumed by the Economic Affairs Committee (Art. 9.3), which becomes the primary initiator and decision maker. Decisions are taken by unanimity, are conditionally binding, and do not require ratification (Annex 1, Art. 18.4). The role of the Secretariat is somewhat strengthened but not enough to warrant coding as a co-initiation role.[β] Even though it is among the director general's tasks to "make such proposals relating thereto as may assist in the efficient and harmonious functioning and development of the Organization" (Art. 10.4e), this stipulation appears too diffuse to say that the Secretariat has an agenda setting role.

In foreign and defense policy, the power to initiate lies with the Foreign Affairs Committee (Art. 7.3) and the Defense and Security Committee (Art. 8.3), respectively. The role of the Secretariat is minimal. Proposals are subject to approval by the Authority which, like the Committees, decides by unanimity.[51]

Bindingness is ambiguous.[δ] The Treaty states that decisions are "binding on all subordinate institutions of the Organization unless otherwise determined by the Authority" (Arts. 7.5 and 8.5), which leaves open whether these decisions also bind member states. An explanatory handbook published by the Secretariat in 1981 suggests unconditional bindingness: "Decisions of the Authority will be unanimous . . . and will be binding on the Member States and on all institutions of the Organization" (quoted in Gilmore 1985: 318). However, legal experts point to Article 4 which suggests that "decisions of the Authority or other institutions of the OECS are only binding on member states to the extent that the latter gave a general undertaking to take all appropriate [domestic] measures" (O'Brien 2014: 260). So OECS decisions must be actively transposed into domestic law. We judge this to be equivalent to conditional bindingness.

With the Revised Treaty of 2010, the first policy stream becomes more supranational (O'Brien 2014: 260). The organization can now pass Authority Acts and Council Regulations and Orders, all of which have explicit direct effect (Art. 5). So these decisions are now unequivocally binding. Cooperation in other areas, including foreign policy and security in the second policy stream, remains non-binding. The second policy stream is broadly unchanged, with one exception: the OECS Commission has a role

[51] This appears to be the take-away from the complex language in the OECS Treaty. Article 6.5 requires that a decision by the Authority comes into force only if a government that is absent from a meeting explicitly consents to the decision or notifies the Authority that it abstains. If it does neither, the decision cannot enter into force (Gilmore 1985).

in initiating proposals by virtue of its newly acquired executive functions (Art. 12.5f).[β]

In the first stream, Council Regulations are now the primary policy instrument. Regulations are usually adopted by the Economic Affairs Council (Protocol of OECS Economic Union, Art. 28). Other Council bodies may also approve regulations in flanking policies, including monetary policy, trade, maritime policy, civil aviation, commercial policy, environment, and immigration (Art. 14). The OECS Commission now plays an important role in agenda setting, with a non-exclusive right to initiative by simple majority: the Commission shall "make recommendations to the OECS Authority and the Council of Ministers on the making of Acts and Regulations of the Organization and provide drafts of such Acts and Regulations to be considered for enactment" (Art. 12.5c). The Council adopts regulations by consensus (Arts. 9.3 and 9.6). Regulations by the Council are binding on member states and do not require ratification (Art. 9.8).

Authority Acts can also regulate any OECS matter specified in Article 14 of the Revised Treaty. They are initiated by the Council of Ministers or the Commission. The Council, always acting by consensus, may send recommendations to the Authority directly or it may send Commission regulations to the Authority after having examined them (Arts. 9.2 and 9.3a). Thus, we code both the Council and the Commission at the agenda setting stage. Decisions by the Authority are binding on member states (Arts. 8.8), and do not require ratification.

Consensus replaces unanimity. While it is still the case that member states which are not present at the time of a decision are invited to inform the Commission of their position within thirty days. A member state that does not respond is interpreted as abstaining (Art. 9.6).

The Assembly is a third agenda setter. It has the right to "consider and report, to the OECS Authority, on any proposal to enact an Act of the Organization" and on Regulations adopted by the Council of Ministers (Art. 10.13). This does not feature in our coding because it was established in 2012.

DISPUTE SETTLEMENT

The 1968 Agreement created a multi-step dispute settlement procedure ("general consultations and complaints procedure"), which was integral to the Treaty and compulsory. The first step was for members to settle disputes amicably. If this failed, a member state could refer the matter to the Council of Ministers (Art. 20.1), and if a concerned party so requested, the Council of Ministers referred the matter to an Examining Committee (Art. 20.2). This

amounts to unmediated third-party review by a quasi-legal body.[β] A Committee was to be formed for the specific dispute and consist of "persons selected for their competence and integrity." Its members were instructed to act independently from member states (Art. 21). The Council of Ministers was to make the final verdict taking into account the Committee's report though the Council was not bound by it (Art. 20.3). Hence we code the ruling of the Examining Committee as non-binding. If a member state "does not or is unable to comply with a recommendation" while "an obligation under this Agreement has not been fulfilled," the Council of Ministers may authorize, by majority, the suspension of concessions for the concerned member state (Art. 20.4). The Treaty does not provide for private actor access or preliminary ruling.

The 1981 Treaty strengthened dispute settlement. After an attempt to settle a dispute amicably, either party may trigger conciliation (Art. 14.2). Thus, there is an automatic right to review, and the procedure is compulsory for all member states (Art. 14.3). The Conciliation Commission is an ad hoc tribunal selected from a list of conciliators consisting of "qualified jurists," so it is judicialized. Each member state nominates two conciliators for a period of five years (Annex A, Art. 1). A Conciliation Commission is composed of five members, two of whom are chosen by each party to the dispute with the fifth member chosen by the other four conciliators (Annex A, Art. 2). Before taking a final decision, the Commission can make proposals for an amicable settlement (Annex A, Art. 5). In contrast to the prior arrangement, the Commission's verdict is final and binding (Art. 14.3 and Annex A, Art. 6). Moreover, the Commission now has broader discretion in interpreting a dispute (Gilmore 1985: 323). Only member states can initiate a dispute (Art. 14.1). There is no mention of remedy or preliminary ruling.

The 2010 Revised Treaty replaces the previous dispute settlement by declaring the Eastern Caribbean Supreme Court (ECSC) an OECS body (Revised Treaty of Basseterre, Art. 6). The ECSC is a standing body of justices that has been operating in the region for some fifty years as the successor of the West Indies Associated States Supreme Court which was established with the West Indies Act of 1967. Indeed, some legal scholars conceive the Court as a domestic rather than an international court (Alter 2014; online appendix). It is now also the final arbiter for the interpretation and application of the laws of the individual OECS member states for both civil and criminal matters. The Court's supreme jurisdiction has been codified in member states' domestic legislation.

With the Revised Treaty the ECSC doubles as an international court for OECS law. It stands at the apex of a multi-tiered dispute settlement system

ECCM/OECS Institutional Structure

		A1			A2			E1						
Years		Non-state selection	Indirect representation	Weighted voting	Non-state selection	Indirect representation	Weighted voting	Head—agenda	Head—decision	Members—agenda	Members—decision	Non-state selection	Partial representation	Indirect representation
1968–1980	Not body-specific	0	0	0				N	N			0	0	0
	Member states									✓	✓			
	A1: Council of Ministers													
	E1: Council of Ministers													
	GS1: Secretariat													
	DS1: Examining Committee													
1981–2009	Not body-specific				0	0	0	R	R			0	1	0
	Member states									✓	✓			
	A2: Authority of Heads of Government													
	E1: **Economic Affairs Committee**													
	E2: Foreign Affairs Committee/Defense & Security Committee													
	GS1: **Central Secretariat**													
	DS1: **Conciliation Committee**													
2010	Not body-specific				0	0	0	R	R			0	1	0
	Member states									✓	✓			
	A2: **OECS Authority**													
	E1: **Economic Affairs Council**													
	E2: **Council of Ministers**													
	E3←GS1: OECS Commission													
	GS1: **OECS Commission**													
	DS2: Eastern Caribbean Supreme Court (ECSC)													

Note: A = automatic/technocratic procedure; N = no written rule; R = rotation; ✓ = body co-decides, but no voting rule; ← = change in status. Shaded areas refer to institutions or policy areas that are non-existent for those years.

which includes conciliation, arbitration, and adjudication. The entire dispute settlement system is obligatory for all member states. Member states and treaty organs have automatic access to adjudication through the ECSC Court of Appeal (Annex on dispute settlement, Art. 1b). The ECSC renders final and binding judgments (Annex, Art. 6.3).[52] OECS organs now have legal standing, but private parties do not (Revised Treaty, Art. 18.5). We therefore code an intermediate category on non-state access. A judgment by

[52] The Court does not have jurisdiction to declare national acts that violate OECS law null and void. So there is no general supremacy of OECS law.

			E2										E3										GS1	
Reserved seats	Weighted voting	Partial veto	Head—agenda	Head—decision	Members—agenda	Members—decision	Non-state selection	Partial representation	Indirect representation	Reserved seats	Weighted voting	Partial veto	Head—agenda	Head—decision	Members—agenda	Members—decision	Non-state selection	Partial representation	Indirect representation	Reserved seats	Weighted voting	Partial veto	Select	Remove
0	0	0																						N
																							0	
																							0	
0	0	0	R	R			0	0	0	0	0	0												N
					✓	✓																		
																							0	
0	0	0	R	R			0	0	0	0	0	0	N				0	0	2	0	0	0		N
					✓	✓										✓								
														0	0								0	

the ECSC "may (a) award monetary compensation to a complainant State; (b) order the party complained against to take measures to comply with that party's obligations under this Treaty; (c) declare the right of a complainant state to exercise any right of redress available under international law; and (d) in the case of a judgment of the Eastern Caribbean Court of Appeal under this Annex in a complaint against the Organization, annul or declare void any wrongful or ultra vires act of an Organ of the Organization" (Annex, Art. 10). Thus, the ECSC can authorize retaliatory sanctions, but its rulings on interstate disputes have no direct effect except when they involve a treaty organ. There is no preliminary ruling procedure. The Court can give non-binding advisory opinions to the organization's bodies (Annex, Art. 7).

ECCM/OECS Decision Making

		Accession			Sus-pension		Constitution				Budget			Com-pliance	
Years		Agenda	Decision	Ratification	Agenda	Decision	Agenda	Decision	Ratification	Revenue	Agenda	Decision	Binding	Agenda	Decision
1968–1980	Not body-specific			2	N	N	N		0	0	N	N	N		
	Member states														
	A1: Council of Ministers	0	0					0							
	E1: Council of Ministers	0	0					0							
	GS1: Secretariat														
	DS1: Examining Committee														
1981–2009	Not body-specific			2	N	N			1	1			2	N	N
	Member states						✓								
	A2: Authority of Heads of Government	0	0					0				0			
	E1: **Economic Affairs Committee**														
	E2: **Foreign Affairs Committee/ Defense & Security Committee**														
	GS1: **Central Secretariat**										✓				
	DS1: **Conciliation Committee**														
2010	Not body-specific			2	N	N			1	1			2	A	
	Member states						✓								
	A2: **OECS Authority**	0	0					0				0			3
	E1: **Economic Affairs Council**														
	E2: **Council of Ministers**														
	E3←GS1: OECS Commission										3				
	GS1: **OECS Commission**										3				
	DS2: Eastern Caribbean Supreme Court (ECSC)														

Note: A = automatic/technocratic procedure; N = no written rule; R = rotation; ✓ = body co-decides, but no voting rule; ← = change in status. Shaded areas refer to institutions or policy areas that are non-existent for those years.

Latin American and Caribbean Economic System (SELA)

The Latin American and Caribbean Economic System (known by its Spanish acronym SELA, Sistema Económico Latinoamericano y del Caribe) encompasses twenty-seven countries. Its main objectives are to foster cooperation on socio-economic development and to serve as a forum for the coordination of common positions in international economic fora (Panama Convention, Arts. 1–5). Its headquarters are in Caracas, Venezuela.

Policy 1 (recommendations/ decisions/acts, regulations)					Policy 2 (decisions)					Dispute settlement 1 (economic union)							Dispute settlement 2 (general purpose)						
Agenda	Decision	GS role	Binding	Ratification	Agenda	Decision	GS role	Binding	Ratification	Coverage	Third party	Binding	Tribunal	Non-state access	Remedy	Preliminary ruling	Coverage	Third party	Binding	Tribunal	Non-state access	Remedy	Preliminary ruling
N		0	0	3																			
0	0																						
0	0																						
										2	2	0	1	0	0	0							
		0	1	3			0	1	3														
						0																	
0	0																						
					0																		
										2	2	2	1	0	0	0							
		1	2	3			1	1	3														
	0					0																	
0	0																						
0	0				0																		
3					3																		
3					3																		
																	2	2	2	2	1	1	0

SELA was the brainchild of the Special Committee for Latin American Coordination (Comisión Especial de Coordinación Latinoamerican, or CECLA), which sought to institutionalize coordination among Latin American countries in the 1960s. When the world economy plunged into crisis in the early 1970s, Mexican President Luis Echeverría launched the idea of a "permanent forum" in which Latin American countries could problem-solve. Supported by Venezuelan President Carlos Andrés Peréz, this led to the establishment of SELA in October 1975 with the adoption of the Panama Convention by twenty-five Latin American countries (Salazar Santos 1985: 7). During its first years of operation, the organization was relatively successful in structuring relations with extra-regional actors such as the European Economic Community and the United States, and it launched a variety of Latin American cooperation programs

(for an overview, see Salazar Santos 1985: 14–22). In the 1980s, the organization was heavily involved in the debt crisis that hit Latin America. By the 1990s, the organization focused chiefly on coordinating common positions vis-à-vis international bodies such as the World Trade Organization (Luengo 1995). Over the last decade it has increasingly sought to promote trade liberalization (for an early assessment, see INTAL 1986; Halperin 1985).

The key legal document is the Panama Convention Establishing the Latin American Economic System (signed 1975; in force 1976). Today, the organization has an assembly (Latin American Council), two executives (Permanent Secretariat and various Action Committees), and a General Secretariat.

Institutional Structure

A1: THE LATIN AMERICAN COUNCIL (1976–2010)

The Latin American Council is the supreme organ of SELA and consists of one representative from each member state at the ministerial level or below (Panama Convention, Arts. 9 and 11). The Council sets the general policy of SELA, decides on the interpretation of the Convention, approves constitutional amendments, and takes common positions in international fora and vis-à-vis third countries (Art. 15). The most important decisions, including those listed above, are taken by consensus (Art. 17a). Decisions characterized as "not being of fundamental importance [for a member state's] . . . own national interest" can be taken by supermajority (two-thirds) or absolute majority, whichever is greater (Art. 17b). A chair and two vice-chairs are elected by the Council for each session. The Council meets at least once a year at ministerial level (Art. 11).

E1: PERMANENT SECRETARIAT (1976–2010)

The Permanent Secretariat combines executive and secretarial tasks. Even though designated as a "technical administrative organ" (Panama Convention, Art. 27), it has extensive initiating and executive powers: it proposes programs and projects of common interest to the Council; carries out studies, programs, and projects; prepares the draft budget and work programs; negotiates with international organizations, national agencies, and third countries (subject to Council approval); and facilitates the activities of the Action Committees (Art. 31). It is also responsible for implementing Council decisions (Art. 31.1).

The Secretariat is headed by a permanent secretary who is elected by the Latin American Council for four years (renewable once but not consecutively) by supermajority (Arts. 15.2, 17, and 28). This person can be removed by the Council by supermajority (Arts. 15.2 and 17). Besides the permanent secretary,

the Secretariat consists of a deputy as well as technical and administrative personnel, who are recruited and hired by the Secretariat (Art. 31.12). No written rules exist on the nomination procedure. Thus, we code the Secretariat's composition as less than 50 percent chosen by member states. There is no indication that all member states are represented at the highest management levels. Because the permanent secretary and the personnel "shall not seek or receive instructions from any government, or national or international body" (Art. 30), we code indirect member state representation. The Secretariat appears to have played a "very dynamic and active role in the workings of SELA" in the early period (Salazar Santos 1985: 13, our translation), even while in recent decades it has been understaffed and under-financed (2010 Annual Report of the Permanent Secretariat: 9).

E2: ACTION COMMITTEES (1976–2010)

The signature feature of SELA is that it works by means of "Action Committees," non-permanent cooperation mechanisms set up by at least three member states to promote joint programs or projects in specific areas or to adopt joint negotiating positions (Panama Convention, Art. 20). Action Committees are interstate bodies among subsets of willing SELA members, but they are open to subsequent participation by other member states and "shall not discriminate against or create conflicts detrimental to other Member States" (Arts. 21 and 25).

Action Committees can be created in one of two ways: a) upon proposal by member states or the Secretariat and approved by the Council by (super) majority (Decision No. 5, Arts. 4–8); or b) upon initiative of at least three member states in cooperation with the Secretariat, and approved by the member states that participate (Panama Convention, Art. 21; Decision No. 5, Arts. 9–10). Hence member states and the Secretariat can propose members of the Executive, and individual member states (by consensus) or the Council (by two-thirds majority) can take the final decision. Each Action Committee has its own secretariat which is staffed by an official from the Permanent Secretariat (Art. 23). Committees are requested to keep the Permanent Secretariat informed of their work and submit annual activity reports to the Council (Arts. 23 and 26). Decisions by these committees are binding on the member states that participate (Art. 24). Once they have fulfilled their objectives, they are dissolved (Art. 21).

The decision rule in the Action Committee is set by the participant member states in the Constitutive Agreement (Decision No. 5, Art. 11g), and so can vary. We code consensus as the most common decision rule (Decision No. 5, Art. 13).[α] Action Committees are collegial bodies with no written rules on chairmanship.

GS1: PERMANENT SECRETARIAT (1976–2010)
See E1: Permanent Secretariat.

CONSULTATIVE BODIES
No consultative bodies.

Decision Making

MEMBERSHIP ACCESSION
All "sovereign Latin American states" are eligible for membership in the organization (Panama Convention, Art. 6). The procedure for accession is technocratic and no ratification is required: "The present Convention is open to accession . . . To this end, they [acceding states] shall deposit the appropriate instrument of accession with the Government of Venezuela. The Convention shall enter into force for the acceding State, thirty (30) days after the appropriate instrument is deposited" (Art. 7).

MEMBERSHIP SUSPENSION
No written rules. El Salvador decided to leave the organization in 2002.

CONSTITUTIONAL REFORM
Constitutional amendments can be proposed by any member state and are approved by the Council by consensus (Arts. 15.9, 17a, and 34). They "enter into force for the ratifying states when two-thirds of the member states have deposited their instruments of ratification" (Art. 34). The Panama Convention has never been amended.

REVENUES
The organization is financed through regular member state contributions based on a quota formula, which is set annually by the Council using supermajority (Arts. 15.5, 17, and 36). Financing of the Action Committees is the responsibility of the participating member states (Art. 22).

BUDGETARY ALLOCATION
The annual budget is prepared by the Permanent Secretariat (Art. 31.6) and approved by the Council by supermajority (Arts. 15.5 and 17). Given that there is a stipulation dealing with the types of decisions that are *not* binding on member states (Art. 18), we assume that all other decisions are binding, including the budget. Subject to the availability of funds, specific programs set up by a subset of member states in the context of an Action Committee may also be financed out of the general budget (Art. 31.2). Normally, however, the

SELA Institutional Structure

		A1			E1										E2										GS1	
Years		Non-state selection	Indirect representation	Weighted voting	Head—agenda	Head—decision	Members—agenda	Members—decision	Non-state selection	Partial representation	Indirect representation	Reserved seats	Weighted voting	Partial veto	Head—agenda	Head—decision	Members—agenda	Members—decision	Non-state selection	Partial representation	Indirect representation	Reserved seats	Weighted voting	Partial veto	Select	Remove
1976–2010	Not body-specific	0	0	0	N		N		2	1	2	0	0	0	N	N			0	1	0	0	0	0		
	Member states																✓	✓								
	A1: Latin American Council					2												2							2	2
	E1: Permanent Secretariat																✓									
	E1 head: Permanent Secretary							1																		
	E2: Action Committees																									
	GS1: Permanent Secretariat																✓									

SELA Decision Making

		Accession			Sus-pension		Constitution				Budget			Com-pliance		Policy (programs, projects)					Dispute settlement						
Years		Agenda	Decision	Ratification	Agenda	Decision	Agenda	Decision	Ratification	Revenue source	Agenda	Decision	Binding	Agenda	Decision	Agenda	Decision	GS role	Binding	Ratification	Coverage	Third party	Binding	Tribunal	Non-state access	Remedy	Preliminary ruling
1976–2010	Not body-specific	A	A	2	N	N			1	1			2	N	N			1	1	3							
	Member states						✓																				
	A1: Latin American Council							0				2					2										
	E1: Permanent Secretariat										✓					✓											
	E2: Action Committees															0	0										
	GS1: Permanent Secretariat										✓					✓											

Note: A = automatic/technocratic procedure; N = no written rule; R = rotation; ✓ = body co-decides, but no voting rule; ← = change in status. Shaded areas refer to institutions or policy areas that are non-existent for those years.

financing of the Action Committees and their activities is the responsibility of the member states involved (Art. 22).

FINANCIAL COMPLIANCE

There are no explicit provisions on financial non-compliance. Non-payment has caused financial stress in SELA. There has been a budget freeze since 2003. As a result, the organization has been unable to pay travel costs, some personnel expenses, and has left staff vacancies unfilled (2010 Annual Report: 9).

The organization developed a voluntary payment schedule for countries in arrears in the 1990s (Decision 414), which was revived in 2003 (Decision 440, Art. 6). However, the most recent annual reports continue to detail widespread non-payment. In 2016, SELA collected just under US$ 1 million in quotas, accounting for 43.3 percent of its annual budget. Outstanding member state debt amounted to just over US$ 4 million (2016 Annual Report: 44).

POLICY MAKING

The Panama Convention does not detail policy instruments. The chief policy instrument consists of programs and projects. The Permanent Secretariat appears to be the primary initiator, both for the organization as a whole as well as for subsets of states cooperating through Action Committees (Arts. 31.2 and 31.4).[α] Action Committees, constituted by individual member states, can also initiate programs and projects (Art. 20). The Latin American Council then approves programs for the entire organization by supermajority (Arts. 15.6, 15.10, 15.16, and 17), while Action Committees may take their own final decisions by consensus (Art. 25). Projects pertaining to regional cooperation are binding only for those countries that participate (Arts. 18 and 24). Hence we code the intermediate category on bindingness. There is no need for ratification.

SELA is also active in conducting studies related to intra-regional relations, extra-regional relations, and economic and technical cooperation. It maintains an extensive publications database on its website.

DISPUTE SETTLEMENT

There is no judicialized dispute settlement. The Panama Convention merely stipulates that the Latin American Council, acting unanimously, is the ultimate arbiter on the interpretation of the Convention (Arts. 15.8 and 17a).[53]

[53] SELA has had an Administrative Tribunal since 1998. It consists of three ad hoc arbitrators who are appointed by the Council for three years and has compulsory jurisdiction over labor claims involving officials of the Permanent Secretariat (Decisions No. 370 and No. 396).

Central American Integration System (SICA)

The Central American Integration System (Sistema de Integración Centroamericana, SICA) currently comprises eight countries: Belize (since 2000), Costa Rica, the Dominican Republic (since 2013), El Salvador, Guatemala, Honduras, Nicaragua, and Panama. The SICA states that its mission is "to bring about the integration of Central America as a region of peace, freedom, democracy, and development" (Tegucigalpa Protocol, Art. 3). Its headquarters are in San Salvador, El Salvador.

SICA was founded to regenerate cooperation among countries that, at one point, had been a single state. From 1823 to 1838, Costa Rica, El Salvador, Guatemala, Honduras, and Nicaragua formed a federal union—the United Provinces of Central America. The union fell apart as the country descended into civil war in 1838, and by 1840, four of the five units had broken away. In subsequent decades several attempts were made to re-establish the union, but each failed, even though "the sentiment for union, resting upon historical ties, remained" (Padelford 1957: 41). There were some noteworthy partial successes in collective dispute settlement, several under the aegis of the United States. In 1902, the Central American Arbitration Tribunal was created, and even though it never became operational, it was the first international court that "provided for compulsory adjudication of any kind of dispute between members, a feature that was ahead of its time and not to be found again in international adjudication until the rise of regional courts in Europe" (Romano 2014: 128). In 1907, a permanent Central American Court of Justice was set up, arguably the first international court in history (Alter 2014: 133). In 1923, the five countries concluded a treaty to establish the International Central American Tribunal, which, like its 1902 predecessor, was an arbitration tribunal, but it also failed after a few years (Romano 2014: 128–9). Subsequently, cooperation fell dormant until after World War II (for an overview, see Padelford 1957).

In 1951, two regional integration projects were initiated in parallel (Schmitter 1970). The first was multi-sectoral: the Organization of Central American States (Organización de Estados Centroamericanos, ODECA) was created in October 1951 to "seek joint solutions to common problems and promote their economic, social, and cultural development through cooperative action and solidarity" (1951 ODECA Charter, Art. 1; Busey 1961). The second was economic, and came off the ground under the tutelage of the Economic Commission for Latin America (ECLA). The Committee for Economic Cooperation of the Central American Isthmus, the product of the collective efforts of the five countries' ministers of economics—"the tecnicos" (Schmitter 1970: 7)—held its first meeting in August 1952 (Nye

1967: 17–20). Described by a contemporary as the "most vigorous approach to regional economic integration" in Latin America (Leuer Keller 1963: 267), its aim was to create a customs union and common market in Central America within five years (Art. 1). The Central American Common Market (CACM) began strongly with a common external tariff and a Central American Development Bank (BCIE). In subsequent years, several economic treaties were signed that laid the foundation for the General Treaty on Central American Economic Integration adopted in December 1960 (Bulmer-Thomas 1998: 314; also Nye 1967: 19–20). According to one source, "By 1965 the level and scope of integration approximated that of a customs union" (Wynia 1970: 323).

In 1962, the ODECA Charter brought the two integration projects together under a single umbrella.[54] The Preamble of the Charter describes the organization as an "economic-political community which aspires to the integration of Central America" (1962 ODECA Charter, Art. 1). One of its key institutions was an authoritative Central American Court of Justice (Corte Centroamericana de Justicia, CACJ) which eventually came into operation in 1993.

The Football War between Honduras and El Salvador paralyzed the organization in 1969, and regional integration came to a standstill. ODECA was never disbanded, but it appears that most interstate bodies became inactive. There were a few exceptions. For example, in 1976, a high-level committee (El Comite de Alto Nivel), which brought together representatives from all ODECA member states, produced a draft treaty with the goal of achieving full integration, including monetary union, in twenty-five years, but the plan went nowhere (Peralta 2016: 94). It is debatable whether ODECA institutions continued to function. Initially, ODECA bureaucrats, and especially ministers of economics, were intent on "maintaining some continuous political process within regional economic organs" (Schmitter 1970: 46). But as the interstate conflicts wore on, their success becomes less clear. Peralta notes that "the war paralyzed the development of ODECA and affected, but did not destroy the common market . . . the mechanisms of the common market in essence were maintained" (2016: 94–5). Bulmer-Thomas observes that regional institutions faced severe budget cuts, and that Honduras withdrew from the common market component of ODECA in the late 1970s (1998: 315, 316), but all this does not suggest that the institutions stopped working. We continue coding ODECA during this

[54] Our coding for the 1950s reflects ODECA because it is the predecessor of today's SICA. The Economic Commission was integrated in ODECA with the revised Charter of 1962.

period, though it is clear that, substantively, very little progress was made in this period.[γ]

Integration efforts picked up in the mid-1980s once the Cold War waned, domestic military conflicts lost intensity, and an era of cautious democratization took hold. One outcome was a new treaty, the Protocol of the Charter of the Organization of Central American States (Tegucigalpa Protocol), which created SICA—the Central American Integration System. SICA represents a marked shift in the approach to economic integration from closed regionalism favoring import substitution, to open regionalism lowering the transaction costs of international trade (Bulmer-Thomas 1998). Four members (Guatemala, El Salvador, Honduras, and Nicaragua) form a vanguard group, the Central America Four or CA-4. They have instituted common internal borders and a common passport. Belize, Costa Rica, Panama, and the Dominican Republic also participate in the CA-4 chiefly limited to the common market. There has also been a move to deepen coordination in foreign policy (Caldentey del Pozo 2014). However, SICA's record in achieving its goals is mixed (for an overview, see Kühnhardt 2010: 80–5).

The key legal documents of the organization are the initial Charter of the Organization of Central American States (signed 1951; in force 1952), the General Agreement on Central American Economic Integration (signed 1960; in force 1961), the revised Charter of the Organization of Central American States (signed 1962; in force 1965), the Tegucigalpa Protocol of the Charter of the Organization of Central American States (signed 1991; in force 1993), the Convention on the Statute of the Central American Court of Justice (signed 1992; in force 1994), and the Protocol on the General Treaty on Central American Economic Integration (signed 1993; in force 1997). Today, the organization has two assemblies (Meeting of the Presidents and Council of Ministers), one executive (Executive Committee), and a General Secretariat (with specialized Secretariats responsible for individual policy fields).

Institutional Structure

A1: MEETING OF PRESIDENTS (1993–2010)

The 1951 Charter established an Occasional Meeting of Presidents as "the supreme organ of the organization" (Art. 5). It met only rarely during the initial period, and we code "no written rules."

With the revision of the Charter in 1962, presidential negotiations were routinized in a new body, the Meeting of Heads of State (Art. 3). There were no written rules concerning how it would take decisions nor how often it would

meet. However, there is no clear indication that the presidents met in their ODECA capacity, and we do not code it.

With the 1991 Tegucigalpa Protocol, the Meeting of Presidents became the "supreme organ" of SICA (Art. 13). It is responsible for establishing guidelines for regional integration, harmonizing foreign policy, approving amendments to the Protocol, following up on fulfillment of the obligations of the relevant agreements, and deciding on member state accession (Art. 15). It can also take action "with regard to democracy, development, freedom, peace and security" (Art. 15). Decisions are taken by consensus and the chair rotates on a biannual basis (Art. 14). The protocol does not specify whether decisions are binding.

A2: FROM THE MEETING OF MINISTERS OF FOREIGN AFFAIRS (1952–64) TO THE CONFERENCE OF FOREIGN MINISTERS (1965–92) TO THE COUNCIL OF MINISTERS (1993–2010)

Ministers of foreign affairs have played a central role in the organization from its earliest days. In the 1951 Charter, their biennial meetings (plus extraordinary meetings as required) were described as the "principal organ" of ODECA (Arts. 6 and 7). The meetings were chaired by rotation (Art. 8) and substantive decisions were taken by unanimity (Art. 9). Ministers in other policy areas convened whenever they "confronted, in any sector of public administration, a problem whose solution required common study and a joint Central American plan" (Art. 10). The Charter also created a "Special Council" to help prepare the Foreign Ministers Meetings (1951 Charter, Art. 17).

With the revised Charter in 1962, the foreign ministers meeting was renamed "the Conference of Ministers of Foreign Affairs" to denote its routinization (Art. 3). It met once a year (instead of biennially) (Art. 4), and took decisions by unanimity (Art. 5).[55]

The 1991 Tegucigalpa Protocol streamlines the ministerial bodies and subsumes them under the generic label Council of Ministers, which is composed of "the ministers holding the relevant portfolios" (Art. 16). It is responsible for "provid[ing] the necessary follow-up to ensure the effective implementation of the decisions adopted by the Meeting of Presidents in the sector in which it is competent" (Art. 16).

The two most important Councils are the Council of Ministers for Foreign Affairs and the Council for Economic Integration. The Council of Ministers for Foreign Affairs is primus inter pares: the "main coordinating body" that

[55] Besides the Economic Council discussed in the following paragraphs, the revised Charter also explicitly established a Cultural and Educational Council as well as a consultative Defense Council, which "endeavour[s] to ensure the collective security of its members" (Arts. 20–22).

ensures inter-sectoral coordination with responsibility to "take cognizance of the proposals of the various ministerial forums so that it may bring them to the attention of the Meeting of Presidents, together with its comments and recommendations" (Arts. 16 and 17). It also advises on accession, approves the budget, prepares the Meetings of Presidents, follows up on their decisions, and acts as SICA's representative to the international community (Art. 17).

The Council for Economic Integration and its subsidiary bodies' distinctive role is set out in the 1993 Protocol of Guatemala. The Council's primary task is to implement the presidents' decisions on economic integration (Art. 18). It is jointly responsible with the Council of Foreign Ministers for proposing to the presidents and implementing "the regional strategy for the active participation of the region in the international economic system" (Art. 20). Today, the Council has become part and parcel of the Council of Ministers.

Until 2002, the composition of the Council for Economic Integration deviated from that of the other Councils because the presidents of the respective central banks as well as the ministers participated (Art. 38). The inclusion of central bankers injects an element of technical expertise, but it does not fundamentally alter the composition of the body which is still fully member state-controlled.[γ] The decision to include central bankers on the Council was reversed in February 2002.

Decisions in the Council of Ministers are taken by consensus (Art. 21). Decisions are generally binding, unless "provisions of [a] legal nature may serve to prevent their application" (Art. 22). In such cases, the Council can ask for "appropriate technical studies and, if necessary, adapt its decision to the needs of the legal system in question" (Art. 22). Member states that have not objected can apply the decisions (Art. 22), but others can opt out.[β] The chair rotates on a six-month basis (Art. 16).

A3: CENTRAL AMERICAN ECONOMIC COUNCIL (1965–92)

The 1962 Charter brought economic integration under the purview of ODECA (Engel 1965: 807). Hence the Committee for Economic Cooperation of the Central American Isthmus, renamed the Economic Council, became an ODECA organ. It had responsibility for the "planning, coordination and execution of Central American economic integration" (1962 Charter, Art. 17). It was autonomous in setting policy, albeit ultimately accountable to the Conference of Ministers of Foreign Affairs. According to Article 18, the Economic Council submits "a comprehensive annual report on its work to the Executive Council [discussed below] for the information of the Conference of Ministers of Foreign

Affairs." On economic integration it has the power to "examine the work of the Executive Council and [to] adopt such resolutions as it may deem appropriate" (General Treaty on Central American Economic Integration, Art. 20). Decisions are generally taken by unanimity (Simmonds 1967: 919).[56] The 1991 Tegucigalpa Protocol renames the Central American Council as the Council of Ministers of Economic Integration and subsumes it in the generic Council of Ministers structure.

E1: FROM THE ECONOMIC COUNCIL (1952–64) TO THE EXECUTIVE COUNCIL (1965–92) TO THE EXECUTIVE COMMITTEE (1993–2010)

The 1951 Charter designates the Economic Council as the organization's executive. It serves the Foreign Ministers Meeting, which it keeps informed and to which it submits proposals and recommendations. It is composed of member state representatives and meets at least once a year (Art. 14). We infer that the Council, similar to the Foreign Ministers Meeting, takes decisions by consensus and that the chair rotates.$^{\alpha}$

The revised Charter of 1962 provides ODECA with two executives: the Executive Council, and the Executive Council for Economic Integration. The Executive Council became the chief executive body and "the permanent organ" of the organization. Its seat was in San Salvador (Art. 3). It acted as the "channel of communication between the organs and Member States" and was responsible for "directing and coordinating the policy of the Organization with a view to the accomplishment of its purposes" (Art. 9). The chair rotated and the group met once a week (Art. 8). Decisions were taken by absolute majority (Rules of Procedure, Art. 14).

The 1991 Tegucigalpa Protocol renames the Executive Council the Executive Committee, and the new body absorbs the Executive Council of Economic Integration. One representative from each member state sits on the Committee (Art. 24). Its job is to implement and ensure compliance with decisions adopted by the Meetings of Presidents, and with interorganizational agreements. It also establishes sectoral policies and makes proposals in line with the general guidelines issued by the Meetings of Presidents, drafts the budget, approves decisions taken by the General Secretariat and reviews its biannual progress reports (Art. 24). Its rules for decision making are not set out in the Protocol, and we assume that majority voting continues to apply.$^{\alpha}$ The Executive Committee generally meets once a week and the chair rotates.

[56] This can also be inferred from Article 21 of the General Treaty on Central American Economic Integration, which stipulates that in cases of disagreement about resolutions in the Executive Council, the common market's executive organ, the Economic Council takes the final decision; before, member states (through the Executive Council) "shall determine unanimously whether the matter is to be decided by a concurrent vote of all its members or by a simple majority."

E2: EXECUTIVE COUNCIL FOR ECONOMIC INTEGRATION (1965–92)

The Executive Council for Economic Integration was created under the 1960 General Treaty on Central American Economic Integration and it was integrated into the ODECA structure in 1965. It was composed of member state representatives at the level of "titular officials" and was responsible for proposing multilateral agreements and for "applying and administering the present Treaty and undertaking all the negotiations and work designed to give practical effect to the Central American economic union" (Arts. 21 and 22). It took decisions by majority (Art. 21). We assume that, similar to the Executive Council, the chair rotates among member states.

GS1: GENERAL SECRETARIAT

Under the 1951 Charter, the Central American Office (Oficina Centroamericana) served as the secretariat of ODECA. It prepared the meetings of foreign and other ministers, coordinated the work, and prepared and distributed documentation (Art. 11). The office was headed by a secretary general, selected by the Foreign Ministers Meeting for a non-renewable term of four years (Art. 12).[57] We assume that the Meeting used the general rule of unanimity to select the secretary general.[α]

The 1962 Charter does not refer to the Central American Office or the secretary general, but the Rules of Procedure clarify that the Office and secretary general continue to provide infrastructural services (Arts. 1 and 2). The secretary general is now appointed by the Executive Council for four years (Rules of Procedure, Art. 3), presumably by the Council's general decision rule of absolute majority. It can also remove the secretary general by majority vote "when the good functioning of the organization so requires" (Rules of Procedure, Art. 5). The secretary general gains the authority to present initiatives to the Executive Council, but cannot compel the Council to vote on them (Art. 8d).

Under the 1991 Tegucigalpa Protocol, the secretary general is again appointed by the supreme body, the Meeting of Presidents, for four years (Arts. 25 and 26). She becomes the international face of SICA, and this includes the negotiation of international agreements (with the approval of the relevant Council of Ministers). She also ensures the execution of SICA decisions and monitors the implementation of Treaty provisions, prepares a work program, an annual progress report, and a draft budget, oversees member states' financial contributions, and prepares administrative regulations for approval by the Executive Committee (Art. 26). The Treaty commits the Secretariat to neither seek nor receive instructions from any government (Art. 27). The new Protocol does not contain rules on removing the secretary general.

[57] The first secretary general was chosen at the first meeting of the foreign ministers, which took place four years after the organization's founding, in 1955 (Padelford 1957: 47).

GS2: PERMANENT SECRETARIAT FOR ECONOMIC INTEGRATION (SIECA) (1965–2010)

The revised 1962 Charter brought the Permanent Secretariat for Economic Integration under ODECA's purview. It worked in parallel with the General Secretariat. The Permanent Secretariat, located in Guatemala City, was headed by a secretary general appointed for three years by the Economic Council, presumably by the general decision rule of consensus (General Treaty, Art. 23).[α] It was responsible for the execution of economic integration agreements (Art. 24), which included implementing Economic Council and Executive Council resolutions, adopting its own regulations approved by the Economic Council, as well as conducting studies. We code this as a second secretariat. There are no written rules on the removal of the secretary general.

The 1991 Tegucigalpa Protocol maintains the double-headed secretariat, but the Permanent Secretariat is now accountable to the General Secretariat "with a view to promoting a harmonious and balanced treatment of economic issues with political, social and cultural issues" (Art. 28).

The 1993 Protocol of Guatemala extends the term of the secretary general from three to four years (Art. 43.2), and, importantly, gives the Permanent Secretariat the right to initiate policy (Art. 44.2).

CB1: CENTRAL AMERICAN PARLIAMENT (PARLACEN) (1993–2010)

The revised Charter of 1962 created a "Legislative Council" composed of three representatives of each national legislature to "give advice and act as an organ of consultation in legislative matters" as well as to "study the possibility of unifying the legislation" of member states (Art. 10). The body appears to have existed on paper only (Schmitter 1970: 35), and we do not code it.

When the SICA member states considered relaunching the integration process in the mid-1980s, they wanted more popular engagement. Hence the 1986 Esquipulas Agreement, which ended years of civil war, noted that "the creation of the Parlacen is necessary."[58] A Constitutive Treaty was signed in October 1987 and the Parliament came into operation in October 1991 when its first Plenary Assembly was held in Guatemala City. The Tegucigalpa Protocol incorporates Parlacen into SICA as "an organ for exposition, analysis and recommendation" (Art. 12), that is, with a purely advisory role (Boschi and Santano 2012: 149; O'Keefe 2001: 12). Each member state has twenty representatives who are directly elected for five years concurrent with each country's presidential elections (Internal Regulations of Parlacen, Art. 2). The former

[58] See <http://www.parlacen.org.gt/> (accessed February 13, 2017).

president of every member state, as well as every vice-president and prime minister are de jure members of the Parlacen from the end of their term until the end of their successor's term (Constitutive Treaty, Art. 2).[59] Parlacen meets at least once a year and takes decisions by absolute majority (Arts. 11 and 12). Like the European Parliament, it is organized along party-political lines.

An attention-grabbing report by the UN Economic Commission and the Inter-American Development Bank in 1998 criticized Parlacen for absorbing about half of member states' annual contributions to SICA even though it was only consultative (O'Keefe 2001: 12). This sparked a debate that led to a reform which entered into force in 2010.[60] Parlacen now has an explicit right of initiative: it can "propose legislation in the area of regional integration and the respective norms in order to harmonize laws that boost the advance and strengthening of Central American integration. These proposals are referred, according to topic, to the respective Council of Ministers or other relevant bodies for their consideration and response not exceeding 180 days, for their later submission, if the case so be, to the Meeting of Presidents" (Protocol of Reforms, Art. 5a). The reform also gives the Parliamentary Assembly the right to question officials selected for leadership posts in SICA (Art. 5f).

Not all SICA member states participate in Parlacen. As of March 2017, El Salvador, Guatemala, Nicaragua, Honduras, Panama, and the Dominican Republic send representatives.

CB2: CONSULTATIVE COMMITTEE (1995–2010)

The Consultative Committee was created with the 1991 Tegucigalpa Protocol and comprises "representatives of business, labor, the academic sector and other community leaders within Central America representing the economic, social and cultural sectors" (Art. 12). The Committee advises the General Secretariat on the execution of policy (Art. 12).[61] It was inaugurated in November 1995 by twenty-seven civil society organizations.[62]

[59] If there is more than one eligible office holder, the national legislative body decides who will take up the seat.

[60] See <http://www.sciencespo.fr/opalc/sites/sciencespo.fr.opalc/files/Protocolo_08.pdf> (accessed February 13, 2017). In 2004, the presidents had already agreed to reform Parlacen but the reform was never implemented (see Preamble to 2008 Reform Protocol).

[61] The revised General Treaty on Central American Economic Integration of 1993 created a subcommittee responsible for economic integration. It, too, is an "exclusively consultative" body and can address consultations and submit opinions to the Secretariat for Economic Integration (Protocol of Guatemala, Art. 49).

[62] See <http://www.sica.int/consulta/preguntas.aspx?ident=63&idm=1&ident=63> (accessed March 30, 2017).

Decision Making

MEMBERSHIP ACCESSION

Neither the 1951 nor the revised 1962 Charter contain an accession procedure.[63] The 1991 Tegucigalpa Protocol sets out a procedure. According to Articles 17 and 15f, the Council of Foreign Ministers recommends the admission of new members by consensus (Art. 21), while the Meeting of the Presidents takes the final decision by consensus (Art. 14). There seems to be no ratification.

MEMBERSHIP SUSPENSION

No written rules.

CONSTITUTIONAL REFORM

The early treaties did not contain rules on constitutional reform, but the 1991 Tegucigalpa Protocol establishes a procedure. "Draft amendments to this Protocol shall be submitted for consideration by the Meeting of Presidents through the Council of Ministers for Foreign Affairs" (Art. 37). Thus, we code the Council of Foreign Affairs as initiator, presumably by the regular decision making procedure of consensus. The Meeting of Presidents approves amendments by consensus (Art. 15d). The Treaty does not directly address whether amendments need ratification, but it says that "This Protocol . . . shall enter into force in the states that ratified it eight days after the date on which a majority of states . . . deposit their instruments of ratification" (Art. 36). We infer that this provision applies to constitutional amendments.$^{\beta}$

REVENUES

The founding Charter suggests that member states make regular contributions based on fixed quotas (Art. 13). The revised 1962 Charter contains a temporary provision, which states that "the Member States shall cover the budgetary expenses of the Organization by making contributions which are proportional to the assessment established by the United Nations" (Temporary Provisions, Art. 3).[64] The temporary arrangement was to be replaced by a permanent funding system set out in a special protocol. As far as we know, the protocol was never agreed, but it appears that member state contributions were regular at least until the late 1960s (see Nye 1967: 61–2).

[63] Panama was explicitly mentioned as being able to join the organization "at any time" (1951 Charter, Transitional Provisions, Art. 1) and, later, as having the right "to join any of the subsidiary organs" (revised 1962 Charter, Temporary Provisions, Art. 2). For brief observations on this case, see Padelford (1957: 45).

[64] The Secretariat for Economic Integration is funded by equal annual member state contributions (General Treaty on Central American Economic Integration, Art. 23).

The Tegucigalpa Protocol retains member state contributions as the chief source of revenue, but replaces quotas with "assessed contributions of equal amounts" (Art. 32). Today, a good portion of the resources for financing SICA activities come from three external donors: the European Union, Spain, and South Korea (Caldentey del Pozo 2014: 117), but the core funding continues to be drawn from member state contributions.

BUDGETARY ALLOCATION

Under the founding Charter, the budget of the General Secretariat was drawn up by an ad hoc commission (presumably composed of member state representatives) and adopted by the Foreign Ministers Meeting (Art. 13). We assume that decisions in both bodies were taken by consensus.$^{\alpha}$ There is no indication whether the budget was binding or non-binding, so we code "no written rules."

With the revised 1962 Charter, the General Secretariat became responsible for preparing the budget (Rules of Procedure of the General Secretariat, Art. 7c), while the Executive Council approved the general budget, presumably based on the general decision rule, which is absolute majority (Rules of Procedure of the Executive Council, Art. 16l). It is unclear whether the budget was binding, though the existence of an opt-out clause suggests this might at least be a possibility (Art. 24). Given the absence of any clear indication, we continue to code "no written rules."$^{\alpha}$

The Tegucigalpa Protocol broadly retains the procedure. The secretary general prepares the budget estimates (Art. 26f), on the basis of which the Executive Committee prepares a draft budget (Art. 24d), which the Council of Ministers of Foreign Affairs then approves by consensus (Art. 17). Because Council decisions are binding unless there are specific legal provisions preventing member states from applying them (Art. 22), we code the budget as binding. We conceive this as the main budgetary procedure, but it deserves note that several bodies, including the Central American Parliament (Constitutive Treaty, Art. 19), the Central American Court of Justice (CACJ Statute, Arts. 41 and 42), and the Permanent Secretariat for Economic Integration, have separate procedures which deviate slightly.

FINANCIAL COMPLIANCE

No written rules.$^{\alpha}$

POLICY MAKING

Initially, the chief policy instrument was decisions taken by the Foreign Ministers Meeting (1951 Charter, Art. 9). Two bodies could initiate: the Economic Council, which can "make proposals and recommendations" (Art. 14), and the Foreign Ministers Meeting, which can create subsidiary organs to "study different problems" (Art. 15). The Foreign Ministers Meeting takes

the final decision by unanimity or consensus (Art. 9). These decisions appear only conditionally binding. Article 18 reads: "None of the stipulations of the present Charter shall affect . . . the special positions as any one of them [member state] may have adopted through specific reservations in existing treaties and conventions." Decisions do not require ratification.

With the revised 1962 Charter, it becomes appropriate to code two policy streams. The first, maintained from the founding Charter, consists of decisions taken by the Foreign Ministers Meeting, which continues to decide by unanimity (Art. 5). The right to initiative lies, as previously, with the foreign ministers (Art. 6) and the newly created Executive Council (which replaced the Economic Council) (Art. 9). There continues to be an opt-out clause (Art. 24) and no ratification is required. There is no substantive policy role for the General Secretariat.

The second policy stream concerns resolutions on economic integration. The Executive Council for Economic Integration has extensive initiating and delegation powers in "undertaking all the negotiations and work designed to give practical effect to the Central American Economic Union" and in taking "such measures as it may deem necessary to ensure fulfillment of the commitments entered into under this Treaty and to settle problems arising from the implementation of its provisions" (General Treaty on Central American Economic Integration, Arts. 21 and 22). It may also "propose to the Governments the signing of such additional multilateral agreements as may be required in order to achieve the purpose of Central American economic integration" (Art. 22). We code the Executive Council as the initiator, and it takes decisions by majority vote. The Economic Council is the final decision maker (by consensus) on account of the fact that "it shall examine the work of the Executive Committee and adopt such resolutions as it may deem appropriate" (Art. 20), suggesting a clear hierarchy between the two bodies. This is consistent with the secondary literature which characterizes the Economic Council as the "policy-making . . . political organ" (Simmonds 1967: 919) and Executive Council resolutions as "preliminary decisions" and "temporary decision[s] subject to Economic Council action" (Nye 1967: 45, 48). The Permanent Secretariat's substantive role is highly constrained: it ensures the implementation of decisions and it can only conduct studies if prompted by interstate bodies. Hence, we do not code it as an agenda setter.[β] It is not clear whether economic resolutions are binding on member states and we therefore code "no written rules."

The 1991 Tegucigalpa Protocol seeks to make the policy process more coherent by unifying political and economic issues under a common framework. The two policy instruments of decisions and regulations now cut across the politics–economics divide. Decisions are the general instrument to advance integration, and are taken by the Meeting of Presidents and the Council of Ministers (Arts. 15, 21, and 22). Regulations are administrative in

character and implement decisions (see Art. 26c). We code decisions. The Meeting of Presidents, which is now the supreme organ of SICA, has the final say on all important political decisions, and it takes decisions by consensus (Art. 14). It has the power to "define and direct Central American policy by establishing guidelines for the integration of the region, as well as the provisions necessary to ensure the coordination and harmonization of the activities of the bodies and institutions" (Art. 15a).

The question of agenda setting is trickier because of the long chain by which policies move through the system. The Council of Ministers has the key agenda setting role, with the Council of Ministers for Foreign Affairs preparing the agenda for presidential meetings: "The Council of Ministers for Foreign Affairs shall take cognizance of the proposals of the various ministerial forums so that it may bring them to the attention of the Meeting of Presidents, together with its comments and recommendations" (Art. 17). As before, the Executive Committee also has an agenda setting role focused on the competence to "establish sectoral policies and, through its chairman, submit to the Council of Ministers for Foreign Affairs the proposals necessary to comply with the general guidelines issued by the Meetings of Presidents" (Art. 24c). The General Secretariat's tasks are chiefly in implementation and monitoring, and we do not conceive it a substantive agenda setter. The consultative forums do not hold formal agenda setting power. This changes in 2010, when Parlacen is given the right of initiative in general policy making.

Decisions are generally binding on member states, yet with the subtle possibility for individual opt-outs. Article 22 reads: "Without prejudice to the provisions of article 10, the decisions of the Council of Ministers shall be binding on all Member States and only provisions of legal nature may serve to prevent their application. In such cases, the Council shall give further consideration to the matters by means of appropriate technical studies and, if necessary, shall adapt its decision to the needs of the legal system in question. However, such decisions may be applied by those Member States which have not objected to them." There is no need for ratification.

The 1993 revision of the General Treaty on Central American Economic Integration reforms the economic policy stream, and we continue to code it separately. It comes into force in 1997. The Revised Treaty outlines four policy instruments which vary in applicability and bindingness. Resolutions are binding; they are most often used to take decisions on institutional matters (Protocol of Guatemala, Art. 55.2). Regulations are "of general character, obligatory in all their elements and are directly applicable in all member states" and are the primary instrument on economic integration (Art. 55.3). Treaties are "specific or individual in character and are obligatory for its recipients" (Art. 55.4). Recommendations "contain guidelines that are only

ODECA/SICA Institutional Structure

		A1			A2			A3					
Years		Non-state selection	Indirect representation	Weighted voting	Non-state selection	Indirect representation	Weighted voting	Non-state selection	Indirect representation	Weighted voting	Head—agenda	Head—decision	Members—agenda
1952–1964	Not body-specific	N	N	N	0	0	0				R	R	
	Member states												✓
	A1: Meeting of Presidents												
	A2: Meeting of Foreign Ministers												
	E1: Economic Council												
	GS1: Central American Office												
1965–1992	Not body-specific	N	N	N	0	0	0	0	0	0	R	R	
	Member states												✓
	A1: Meeting of Presidents												
	A2: **Conference of Foreign Ministers**												
	A3: Central American Economic Council												
	E1: **Executive Council**												
	E2: Exec. Council for Econ. Integration												
	GS1: **General Secretariat**												
	GS2: Permanent Secretariat (SIEC)												
1993	Not body-specific	0	0	0	0	0	0				R	R	
	Member states												✓
	A1: Meeting of Presidents												
	A2: **Council of Ministers**												
	E1: **Executive Committee**												
	GS1: General Secretariat												
	GS2: Permanent Secretariat (SIEC)												
	CB1: Parlacen												
1994	Not body-specific	0	0	0	0	0	0				R	R	
	Member states												✓
	A1: Meeting of Presidents												
	A2: Council of Ministers												
	E1: Executive Committee												
	GS1: General Secretariat												
	GS2: Permanent Secretariat (SIEC)												
	CB1: Parlacen												
	DS: **Central American Court of Justice (CACJ)**												
1995–2010	Not body-specific	0	0	0	0	0	0				R	R	
	Member states												✓
	A1: Meeting of Presidents												
	A2: Council of Ministers												
	E1: Executive Committee												
	GS1: General Secretariat												
	GS2: Permanent Secretariat (SIEC)												
	CB1: Parlacen												
	CB2: Consultative Committee												
	DS: Central American Court of Justice (CACJ)												

Note: A = automatic/technocratic procedure; N = no written rule; R = rotation; ✓ = body co-decides, but no voting rule; ← = change in status. Shaded areas refer to institutions or policy areas that are non-existent for those years.

E1							E2										GS1		GS2		CB1	CB2
Members—decision	Non-state selection	Partial representation	Indirect representation	Reserved seats	Weighted voting	Partial veto	Head—agenda	Head—decision	Members—agenda	Members—decision	Non-state selection	Partial representation	Indirect representation	Reserved seats	Weighted voting	Partial veto	Select	Remove	Select	Remove	Non-state selection	Non-state selection
	0	0	0	0	0	0												N				
✓																						
																	0					
	0	0	0	0	0	0	R	R			0	0	0	0	0	0				N		
✓									✓	✓												
																			0			
																	3	3				
	0	0	0	0	0	0												N		N	4	
✓																						
																	0					
																			0			
	0	0	0	0	0	0												N		N	4	
✓																						
																	0					
																			0			
	0	0	0	0	0	0												N		N	4	1
✓																						
																	0					
																			0			

ODECA/SICA Decision Making

		Accession			Sus-pension		Constitution			
Years		Agenda	Decision	Ratification	Agenda	Decision	Agenda	Decision	Ratification	Revenue source
1952–1964	Not body-specific	N	N	N	N	N	N	N	N	1
	Member states									
	A1: Meeting of Presidents									
	A2: Meeting of Foreign Ministers									
	E1: Economic Council									
	GS1: Central American Office									
1965–1992	Not body-specific	N	N	N	N	N	N	N	N	1
	Member states									
	A1: Meeting of Presidents									
	A2: **Conference of Foreign Ministers**									
	A3: Central American Economic Council									
	E1: **Executive Council**									
	E2: Exec. Council for Econ. Integration									
	GS1: General Secretariat									
	GS2: Permanent Secretariat (SIECA)									
1993	Not body-specific			2	N	N			1	1
	Member states									
	A1: Meeting of Presidents		0					0		
	A2: **Council of Ministers**	0					0			
	E1: **Executive Committee**									
	GS1: General Secretariat									
	GS2: Permanent Secretariat (SIECA)									
	CB1: Parlacen									
1994	Not body-specific			2	N	N			1	1
	Member states									
	A1: Meeting of Presidents		0					0		
	A2: Council of Ministers	0					0			
	E1: Executive Committee									
	GS1: General Secretariat									
	GS2: Permanent Secretariat (SIECA)									
	CB1: Parlacen									
	DS: Central American Court of Justice (CACJ)									
1995–1996	Not body-specific			2	N	N			1	1
	Member states									
	A1: Meeting of Presidents		0					0		
	A2: Council of Ministers	0					0			
	E1: Executive Committee									
	GS1: General Secretariat									
	GS2: Permanent Secretariat (SIECA)									
	CB1: Parlacen									
	CB2: Consultative Committee									
	DS: Central American Court of Justice (CACJ)									

Budget			Com-pliance		Policy 1 (decisions)					Policy 2 (economic resolutions)					Dispute settlement (general purpose)						
Agenda	Decision	Binding	Agenda	Decision	Agenda	Decision	GS role	Binding	Ratification	Agenda	Decision	GS role	Binding	Ratification	Coverage	Third party	Binding	Tribunal	Non-state access	Remedy	Preliminary ruling
		N	N	N			0	1	3												
	0				0	0															
0					0																
		N	N	N			0	1	3			0	1	3							
					0	0															
											0										
	3				3																
										3											
✓																					
		2	N	N			0	1	3												
						0															
	0				0																
3					3																
✓																					
		2	N	N			0	1	3												
						0															
	0				0																
3					3																
✓																					
															1	2	2	2	2	2	1
		2	N	N			0	1	3												
						0															
	0				0																
3					3																
✓																					
															1	2	2	2	2	2	1

(*continued*)

ODECA/SICA Decision Making (Continued)

		Accession			Sus-pension		Constitution			
Years		Agenda	Decision	Ratification	Agenda	Decision	Agenda	Decision	Ratification	Revenue source
1997–2009	Not body-specific			2	N	N			1	1
	Member states									
	A1: Meeting of Presidents		0					0		
	A2: Council of Ministers	0					0			
	E1: Executive Committee									
	GS1: General Secretariat									
	GS2: Permanent Secretariat (SIECA)									
	CB1: Parlacen									
	CB2: Consultative Committee									
	DS: Central American Court of Justice (CACJ)									
2010	Not body-specific			2	N	N			1	1
	Member states									
	A1: Meeting of Presidents		0					0		
	A2: Council of Ministers	0					0			
	E1: Executive Committee									
	GS1: General Secretariat									
	GS2: Permanent Secretariat (SIECA)									
	CB1: Parlacen									
	CB2: Consultative Committee									
	DS: Central American Court of Justice (CACJ)									

Note: A = automatic/technocratic procedure; N = no written rule; R = rotation; ✓ = body co-decides, but no voting rule; ← = change in status. Shaded areas refer to institutions or policy areas that are non-existent for those years.

obligatory in regard to their objectives and principles" and prepare the adoption of the other three instruments (Art. 55.5). We code resolutions and regulations, which are the most general instruments.

The most significant change in the decision process is that the Permanent Secretariat obtains an explicit right to initiative (Protocol of Guatemala, Art. 44.2). Parlacen gains a right of initiative from 2010. The Council of Ministers for Economic Integration also initiates policy by consensus (Art. 52), while the Meeting of Presidents takes the final decision by consensus: "The proposals for general policies and fundamental guidelines of the Central American Economic Integration Subsystem are formulated by the Council of Ministers for Economic Integration, with the objective to submit them for approval by the Meeting of Central American Presidents" (Art. 39.1). We do not code the Executive Committee on economic integration as initiator because the Treaty describes it to be "organizationally dependent on the Council of Ministers for Economic Integration" (Protocol of

Budget			Com-pliance		Policy 1 (decisions)					Policy 2 (economic resolutions)					Dispute settlement (general purpose)						
Agenda	Decision	Binding	Agenda	Decision	Agenda	Decision	GS role	Binding	Ratification	Agenda	Decision	GS role	Binding	Ratification	Coverage	Third party	Binding	Tribunal	Non-state access	Remedy	Preliminary ruling
		2	N	N			0	1	3			1	1	3							
						0					0										
	0				0					0											
3					3																
✓																					
										✓											
															1	2	2	2	2	2	1
		2	N	N			0	1	3			1	1	3							
						0					0										
	0				0					0											
3					3																
✓																					
										✓											
					3					3											
															1	2	2	2	2	2	1

Guatemala, Art. 42.1). Decisions and regulations are binding and there is no need for ratification.[65]

DISPUTE SETTLEMENT

The founding Charter did not contain judicialized dispute settlement. This emerged only with the revision of the Charter in 1962, which created a Central American Court of Justice composed of the presidents of member states' Supreme Courts (Art. 14). It was responsible for hearing legal disputes between member states that were submitted by mutual agreement, and it could "formulate and express opinions on schemes for the unification of Central American legislation" upon request by the Conference of Foreign

[65] O'Keefe (2001: 11) notes that Article 55.3 on the direct applicability of regulations "has not been followed in actual practice . . . [A]ll legal norms issued by them [SICA's institutional bodies] must be ratified by each member state before it [*sic*] comes into full force and effect within its respective domestic legal order."

Ministers or the Executive Council (Art. 15). There are strong indications that it never took up its work, so we do not code it.[66]

The Central American Court of Justice was given new life with the Tegucigalpa Protocol (Art. 12). Its seat is in Managua, Nicaragua. The Court's Statute was signed in December 1992 by Costa Rica, El Salvador, Guatemala, Nicaragua, and Panama, but only El Salvador, Honduras, and Nicaragua ratified. It became operational only for those three countries in 1994. Guatemala joined in 2008. So coverage was, and continues to be, optional.

Article 35 establishes the Court's jurisdiction as compulsory regarding the interpretation and implementation of SICA treaties: "Any dispute concerning the implementation or interpretation of the provisions of this Protocol and other instruments . . . shall be submitted to the Central American Court of Justice (Corte centroamericana de justicia)" (see also CACJ Statute, Art. 1). Its jurisdiction is quite broad: it also has the power to render judgments on domestic law that appears to be in contradiction with regional rules, to act as "Tribunal of Permanent Consultation" to member states' Supreme Courts, to give advisory opinions to SICA organs and member states, and to act as a court of last resort regarding administrative resolutions by SICA organs (Statute, Arts. 22 and 23). However, its jurisdiction explicitly does not extend to human rights (CACJ Statute, Art. 25), and territorial, frontier, or maritime matters can be heard only when both sides of the dispute consent (CACJ Statute, Art. 22a).

The Court has an automatic right to review: "It shall have the authority to render judgments at the request of a party" (CACJ Statute, Art. 3; see also Art. 22a). Nevertheless, the Treaty requires that "prior to commencement of trial, the respective chanceries must seek to obtain an agreement on the issues"—an intergovernmental stage that can be finessed, but is hard to ignore (Art. 22a).

The Court is composed of two magistrates from each member state that signed the Statute plus two deputy magistrates per country (Art. 8). They should possess the qualifications necessary to hold "the highest judicial positions in their countries" and exercise their role in "complete independence" (Arts. 9 and 14). Magistrates are elected by their national Supreme Courts for ten years and can be re-elected (Arts. 10 and 11). The Court makes decisions by absolute majority (Art. 36). Judgments are final and binding (Arts. 24 and 38).

Private individuals can file cases (Art. 22g). Court decisions have direct effect in member states: "All such decisions are binding upon the Member States and upon the organs or organisms of the Central American Integration System and

[66] Simmonds (1967: 926) notes in 1967 that "Up to the time of writing the new Court has met only once to consider its internal working arrangements." A recent project on international courts notes that the Court created with the 1962 Charter "remained idle for the next three decades" (see <http://www.pict-pcti.org/courts/CACJ.html> (accessed February 13, 2017)). The Court's own website avoids mention of this period.

upon natural and legal persons, and shall be executed as would be a resolution, award or sentence of a national court . . . In the event that the Court's judgments or resolutions are not enforced by a Member State, the Court shall inform the other Member States, so that they may ensure the execution through appropriate means" (Art. 39). The Court can also issue preliminary rulings at the request of any national judge or court: "To resolve all pre-judicial consultations as requested by any judge or judicial tribunal which is hearing a pending case or which wants to obtain a uniform application or interpretation of the norms that conform to the legal principles of the 'Central American Integration System' created by the 'Protocol of Tegucigalpa,' its complementary instruments or acts derived from the same" (Art. 22k). A preliminary ruling is optional—not compulsory.[67]

[67] In 2002, a binding procedure for political arbitration was created for economic disputes. The Protocol adds: "If there are differences in the integration subsystem, economic relations as a result of intra-regional trade will be subject to a dispute settlement mechanism established by the Council of Ministers of Economic Integration, which contains an alternative method of resolving commercial disputes including arbitration, whose decisions are binding on Member States to intervene in the dispute. The breach of an arbitration award will result in the suspension of benefits of equivalent effect to those left to perceive, to be determined for the respective award" (2002 Amendment to the Treaty of Tegucigalpa, Art. 1). It appears that this procedure has not yet been ratified, but once in force, it could challenge the Central American Court of Justice's general jurisdiction.

Asia-Pacific

Code	Name	Years in MIA
750	Association of Southeast Asian Nations (ASEAN)	1967–2010
4200	Pacific Islands Forum (SPF/PIF)	1973–2010
4170	South Asian Association for Regional Cooperation (SAARC)	1986–2010
5550	Shanghai Cooperation Organization (SCO)	2002–2010
4200	Pacific Community (SPC)	1950–2010

Association of Southeast Asian Nations (ASEAN)

The Association of Southeast Asian Nations is a general purpose organization with ten members: Brunei Darussalam, Cambodia, Indonesia, Laos, Malaysia, Myanmar, Philippines, Singapore, Thailand, and Vietnam. The main purpose of the organization is to "promote active collaboration and mutual assistance on matters of common interest in the economic, social, cultural, technical, scientific, and administrative fields" (Bangkok Declaration). The 2008 ASEAN Charter also emphasizes the goal to "maintain and enhance peace, security and stability" and "to preserve Southeast Asia as a nuclear weapon-free zone" (Arts. 1.1 and 1.3). The headquarters of ASEAN are located in Jakarta, Indonesia.

ASEAN has predecessors in a variety of failed cooperation initiatives following decolonization in the 1940s and 1950s, including Malaysia's proposal for a Southeast Asian Friendship and Economic Treaty (1959), a Thai-initiated effort to help along economic cooperation among the Philippines, Malaysia, and Thailand through the Association of Southeast Asia (1961), and a Filipino proposal to merge Malaysia, the Philippines, and Indonesia in a single Malay confederation, Maphilindo (1963). Each of these foundered on deep-seated distrust (Gordon 1966; Leifer 1989; Turnbull 1999).

In the mid-1960s, Communist expansion and great power domination intensified fears of intra-regional conflict, and this propelled the regional leaders to try again, now with more success. ASEAN was founded in August 1967 in Bangkok, as the five founding members Indonesia, Malaysia, Philippines, Singapore, and Thailand signed the ASEAN Declaration (also known as the Bangkok Declaration). Cooperation started slowly and focused mostly on security. As Chin (1995: 425) summarizes, "the first decade of ASEAN's existence was characterized by cautious intra-regional confidence-building but rudimentary functional and economic cooperation." The organization contributed to the stabilization of interstate relations through the "diplomacy of accommodation" (Antolik 1990). This laid the foundation for the "ASEAN way"—an informal style of cooperation that upholds the principles of consultation and consensus, non-interference, and weak institutionalization. These principles were codified in the 1976 Treaty of Amity and Cooperation (Acharya 2001).

The first ASEAN Summit in 1976 gave the green light for closer economic cooperation. Early efforts, including a Preferential Trading Arrangement that provides a framework for voluntary tariff reductions for specific imports, and industrial cooperation schemes such as the ASEAN Industrial Projects, ASEAN Industrial Complementation, and ASEAN Industrial Joint Venture schemes, had mixed success (for an early assessment, see Langhammer 1991).

The organization deepened and widened in the 1990s. Growing economic interdependence and deeper regionalism in Europe and North America induced ASEAN states to negotiate the ASEAN Free Trade Agreement (AFTA) in 1992. For the first time, member states agreed a binding schedule for trade liberalization (Ravenhill 1995a, 1995b). Throughout the decade, the member states signed several additional economic integration agreements including a Framework Agreement on Services (1995), an Industrial Cooperation Scheme (1996), and the ASEAN Investment Area (1998). At the same time, the organization expanded: Vietnam joined in July 1995, Laos and Myanmar in July 1997, and Cambodia in April 1999.[1]

The Asian financial crisis of 1997 damaged ASEAN's credibility and legitimacy as member states sought national solutions to the crisis (Rüland 2000). This triggered ASEAN to reconsider the non-interference principle which was central to the "ASEAN way." Members came up with softer concepts, such as flexible engagement or enhanced interaction, in an effort to justify ASEAN involvement in domestic issues that have negative externalities for ASEAN members.

In the early 2000s deeper economic integration came back on the agenda, in part motivated by concerns about investment diversion to China. The Bali Concord II of 2003 envisaged the formation of a three-pillar ASEAN Community

[1] Brunei Darussalam had joined in January 1984.

consisting of an ASEAN Security Community, an ASEAN Economic Community, and an ASEAN Social-Cultural Community. This triggered the ASEAN Charter-making process, which produced the 2008 ASEAN Charter. The Charter rendered the organization more rule-governed, which could be conceived, at least potentially, as a departure from Kahler's (2000: 555) depiction of ASEAN as a "model of institutional development without legalization." At the time of writing, implementation of the Charter is progressing slowly, and as one observer notes, "a closer examination of the ASEAN Community and its component parts reveals it has poor prospects of success, largely because its member states continue to choose the preservation of their sovereignty over effective regional integration" (Narine 2016: 174).[2]

The key documents are the Bangkok Declaration (signed and in force 1967), the Treaty of Amity and Cooperation (signed and in force 1976), the Declaration of ASEAN Concord II (2003), the ASEAN Protocol on the Enhanced Dispute Settlement Mechanism (signed and in force 2004), and the Charter of the Association of Southeast Asian Nations (signed 2007; in force 2008). ASEAN has three main bodies: the ASEAN Summit, which acts as its assembly, the ASEAN Coordinating Council, which is the executive, and the Secretariat General.

Institutional Structure

A1: ASEAN MINISTERIAL MEETING (1967–2007)

When ASEAN was founded with the Bangkok Declaration in 1967, the annual meeting of the member states' foreign ministers, the so-called ASEAN Ministerial Meeting, formed the main decision making body (Art. 3a). It was entirely composed of member state representatives, all members were represented, and representation was direct.

ASEAN decision making has always been characterized by a strong preference for consensus—a "habit" that became known as the "ASEAN way" (Severino 2006: ch. 1). Consensus was also endorsed as ASEAN's chief decision mode in the ASEAN Charter.

The Meeting's decisions were prepared by the Standing Committee, which was chaired by the foreign minister of the host country or his representative and comprised the ambassadors of the other member states (Bangkok Declaration, Art. 3b).

With the ASEAN Charter, all ministerial meetings were subordinated to the ASEAN Coordinating Council, which is now ASEAN's executive. Today, the Summit is ASEAN's supreme and only assembly.

[2] The ASEAN Community was established on December 31, 2015 (Kuala Lumpur Declaration on the Establishment of the ASEAN Community).

A2: ECONOMIC MINISTERS MEETING (1992–2007)

With the move toward economic integration in the early 1990s, the Economic Ministers Meeting became the second assembly, tasked in particular to take decisions on ASEAN's Free Trade Agreement (AFTA) or Common Effective Preferential Tariff Agreement (1992 CEPT Agreement, Art. 7.1). Composition and character of representation were the same as for the ASEAN Ministerial Meeting.

A3: ASEAN SUMMIT (1992–2010)

During the first three decades, the heads of state met only three times within the ASEAN framework. These meetings were formalized with the 1992 Singapore Declaration, which decides that they "shall meet formally every three years" (Para. 8). The Summit gives political guidance and resolves disputes. It is composed of member state representatives, all members are represented, and it takes decisions by consensus. Until 2001, it met every three years; between 2001 and 2006, it met annually; since then, it has been meeting almost twice a year.

The ASEAN Charter makes the Summit "the supreme policy making body of ASEAN" (Art. 7.2a). It provides guidance on general policy, takes decisions on important issues, instructs the other councils, addresses emergencies, and appoints the secretary general. It is composed of the heads of state or government from all member states (Charter, Art. 7). The presidency rotates. The general decision rule under the Charter continues to be "consultation and consensus" (Art. 20.1), even though the Summit could decide to use a different decision quorum if consensus cannot be reached (Art. 20.2).[β]

E1: FROM THE ASEAN NATIONAL SECRETARIATS (1967–2007) TO THE ASEAN COORDINATING COUNCIL (2008–10)

In the first decades executive decision making was decentralized. Each member state had an ASEAN National Secretariat "to carry out the work of the Association on behalf of that country and to service the Annual or Special Meetings of Foreign Ministers, the Standing Committee and such other committees as may hereafter be established" (Bangkok Declaration, Art. 3d). There was no chair to coordinate the work.

The ASEAN Charter centralizes executive decision making in the ASEAN Coordination Council, which sits atop a layered institutional structure of executive and administrative bodies. The Coordinating Council prepares the meetings of the Summit, coordinates the implementation of agreements and Summit decisions, considers the annual report of the secretary general, and appoints the deputy secretary generals. The Council comprises the ASEAN foreign ministers and meets at least twice a year (Charter, Art. 8). The Charter omits to say how the chair is selected, but it seems sensible that the chair

rotates among the members according to the same time clock as for the Summit and the Community Councils.[δ]

Reporting to the Coordinating Council are three Community Councils: the Political-Security Community Council, the Economic Community Council, and the Socio-Cultural Community Council. Each Community Council meets at least twice a year and is chaired by the appropriate minister from the member state holding the ASEAN chair (Charter, Art. 9.5).

The Community Councils provide guidance to a number of specialist sectoral ministerial bodies, which meet regularly in the following sectors: agriculture and forestry, economics (trade), energy, environment, finance, health, information, investment, labor, law, regional haze, rural development and poverty alleviation, science and technology, social welfare, telecommunications, transnational crime, transportation, tourism, and youth. These ministerial bodies, in turn, are supported by committees of senior officials, technical working groups, and task forces.

Since 2009, a Committee of Permanent Representatives, to which each ASEAN member state appoints a delegate with the rank of Ambassador, coordinates affairs in Jakarta. It collaborates closely with the National Secretariats (Charter, Art. 12.2(b)), each of which is to "serve as the national focal point" between ASEAN and its polity and society (Charter, Art. 13a).

E2: SENIOR ECONOMIC OFFICIALS' MEETING (1992–2007)

With the move toward economic integration in the early 1990s, the Senior Economic Officials' Meeting (SEOM) obtained a central role in agenda setting and implementation of the AFTA and CEPT agreements (1992 CEPT Agreement, Arts. 7.1 and 7.3; also 1992 Singapore Agreement, Art. 8). We code it as a second executive from 1992 until the ASEAN Charter entered in force in 2008, which centralized executive functions in the ASEAN Coordinating Council. The SEOM consisted of high level officials from the member states' ministries of economy and trade. It was fully composed of member state representatives, all members were represented, and representation was direct. The agreements do not specify how the chair of these meetings was selected.[α]

GS1: ASEAN SECRETARIAT (1981–2010)

The ASEAN General Secretariat was established in 1976 (Declaration of ASEAN Concord, Art. F.1) and became operational in 1981 (Chin 1995: 434), which is when we start coding. It initially consisted of seven staff, seconded from national ministries, and a secretary general, who was "appointed by the ASEAN Foreign Ministers upon nomination by a Contracting Party on a rotational basis" for two years (1976 ASec Agreement, Art. 3.1). He serves as

the administrative head of the Secretariat, but can also "initiate plans and programs of activities for ASEAN regional cooperation in accordance with approved policy guidelines" (ASec Agreement, Art. 3.2.viii). He also prepares the annual budget.

With ASEAN's move toward market integration in 1992, the role of the Secretariat and its secretary general was considerably strengthened. The secretary general was elevated to ministerial status, and the tenure was extended to five years. Nomination was explicitly based on merit, and the nominee had to be endorsed by the Summit, upon recommendation of the ASEAN Ministerial Meeting (1992 Protocol amending the Agreement on Establishment of the ASEAN Secretariat, Art. 2.1). The secretary general was given the authority to "initiate, advise, co-ordinate and implement ASEAN activities" and to "serve as spokesman and representative of ASEAN on all matters" (1992 Protocol amending the ASec Agreement, Arts. 2.1.4 and 2.1).

The ASEAN Charter codifies mandate and selection procedure. The secretary general is appointed by the ASEAN Summit for a non-renewable term of five years based on the recommendation of the ASEAN Coordinating Council (Charter, Art. 7). The position rotates among ASEAN member states in alphabetical order but "with due consideration to integrity, capability and professional experience, and gender equality" (Charter, Art. 11.1). So there continues to be a strong element of rotation in recruiting the ASEAN Secretariat's most senior officer, even though the final decision is collective. Article 7.2g of the Charter specifies that the secretary general serves "with the confidence and at the pleasure of the Heads of State or Government," which is why we code the Summit as having the authority to remove the person from office.$^{\alpha}$

CB1: ASEAN INTER-PARLIAMENTARY ASSEMBLY (AIPA) (2010)

The ASEAN Inter-Parliamentary Assembly (AIPA) is a regional parliamentary organization and arguably the most important consultative body. It was originally formed in 1977 as the ASEAN Inter-Parliamentary Organization, but for a long time it had no formal links to the ASEAN institutional machinery.

Its origins lie in the ASEAN parliamentary meetings initiated by the Indonesian parliament in 1975. During the Charter-making process, the organization renamed itself the Inter-Parliamentary Assembly, and all member states except Myanmar sent representatives. Its stated goals are, according to its 2006 Statute, to promote solidarity and understanding among parliaments, keep AIPA parliaments informed, facilitate ASEAN goals, exchange information and consult with ASEAN institutions, study and suggest solutions to common problems, and promote human rights, democracy, peace, security, and prosperity throughout ASEAN. The ASEAN Charter mentions AIPA only in the

Annex that lists associated entities of the organization (Annex 2). AIPA has no formal rights to consultation.

In 2010, the ASEAN Summit and AIPA established an official consultative channel, which allows for regular coordination on AIPA resolutions prior to ASEAN summit meetings (Rüland and Bechle 2014). As from 2010, AIPA is judged to meet our minimal criterion for inclusion as a consultative body.[3]

Decision Making

MEMBERSHIP ACCESSION

The Bangkok Declaration of 1967 merely stated that "the Association is open for participation to all States in the South-East Asian Region subscribing to the aforementioned aims, principles and purposes" (Art. 4), but did not outline a procedure. Membership decisions throughout the 1990s followed ad hoc rules. The ASEAN Charter changes this. The ASEAN Summit makes decisions on admission by consensus based on the recommendation of the ASEAN Coordinating Council, which also decides by unanimity (Charter, Art. 6.1). No ratification is required.

MEMBERSHIP SUSPENSION

Until 2008, there were no explicit rules on suspension. During the negotiations leading up the ASEAN Charter an advisory group, the Eminent Persons Group, recommended to make it possible for ASEAN to temporarily suspend rights and privileges of a member country (the background was Myanmar), but these provisions were substantially watered down by the political leaders (Tomotaka 2008: 2). The ASEAN Charter merely states that "[I]n the case of a serious breach of the Charter or non-compliance, the matter shall be referred to the ASEAN Summit for decision" (Art. 20.4). The wording of the Charter is considerably weaker than what we usually find in an IO contract, and we come down on not coding this as empowering ASEAN to suspend members.[β]

CONSTITUTIONAL REFORM

The Bangkok Declaration was primarily a document of intent with skeleton institutional provisions and no language on how this might be amended. The 1976 Treaty of Amity and Cooperation also did not contain an amendment provision, but we can trace its decision process as well as the decision process of the declarations, agreements, and protocols which, together with the

[3] AIPA remains weak compared to other transnational parliamentary bodies.[β] Rüland (2014: 9) characterizes it as "a merely consultative body without representative, oversight or legislative functions" that "remains a highly affirmative body which seeks to persuade fellow legislators at home to support ASEAN policies."

Treaty, make up ASEAN's Constitution. This reveals that member states are consistently the sole initiators, and that member states convening at ministerial or heads of state level decide. Hence, we code member states as initiators, and the ASEAN Ministerial Meeting as the final decision maker from 1976. With the formalization of the Summit in 1992, we code the Summit as final decision maker. Ratification by all member states is required (e.g. Treaty of Amity and Cooperation, Art. 18).

The rules on constitutional reform were formalized in the 2008 ASEAN Charter. Any member state can propose an amendment, which is then discussed by the Coordinating Council. If the Council endorses the amendment by consensus, it goes to the ASEAN Summit which decides, also by consensus. All member states need to ratify (Charter, Arts. 48.1–3). Hence, we add the Coordinating Council at the initiation stage.

REVENUES

The original institutional machinery was so lean that it needed no organizational revenues. Each member state financed its own participation. This changed with the establishment of the ASEAN Secretariat in 1981. The Agreement creating the body stated that "recurrent expenditure shall be shared on a basis to be determined by the ASEAN Foreign Ministers" (ASec Agreement, Art. 9.6). Since that time, all member states contribute equally to ASEAN's budget. This formula was codified in the Charter (Art. 30).

BUDGETARY ALLOCATION

The creation of the ASEAN Secretariat also meant that the organization developed a budgetary procedure. From the start, the secretary general had the authority "to prepare the Annual Budget Estimates," which the ASEAN Ministerial Meeting approves, presumably by consensus (ASec Agreement, Art. 3.2x). It was initially not clear whether the budget was binding, so we code "no written rules."

The ASEAN Charter codifies the procedure. It states that "the Secretary-General shall prepare the annual operational budget of the ASEAN Secretariat for approval by the ASEAN Coordinating Council upon the recommendation of the Committee of Permanent Representatives" (Art. 30.3). Although the decision rule in the Coordinating Council for budget allocation is not discussed explicitly, ASEAN takes decisions by consensus (Charter, Art. 20.1). Since we conceive of the Committee of Permanent Representatives as auxiliary to the Coordinating Council, we code the Coordinating Council in agenda setting as well as final decision. The budget becomes binding because the Charter states that member states "shall take all necessary measures . . . to effectively implement the provisions of this Charter and to comply with all obligations of membership" (Art. 5.2).

FINANCIAL COMPLIANCE

The ASEAN Charter, for the first time, mentions a rudimentary non-compliance procedure in Art. 20.4, but not specific to financial non-compliance: "In the case of a serious breach of the Charter or non-compliance, the matter shall be referred to the ASEAN Summit for decision" (Art. 20.4). Similar to the wording on membership suspension, we find this language to be too imprecise to qualify as a legal basis for a financial compliance procedure.[β]

POLICY MAKING

ASEAN uses a range of legal instruments to make policy: treaties, protocols or agreements, Summit declarations, and multi-annual programs. The protocols set out intentions and instruments, but Summit declarations and multi-annual programming give the intentions flesh. ASEAN works mainly through intergovernmental coordination in a broad range of policy areas, and these efforts are described in the secretary general's annual report.

The literature suggests that ASEAN's early period was characterized more by conversations and negotiations aimed at establishing trust among deeply suspicious states than by concrete policy output (e.g. Poon-Kim 1977: 758–9). There were some high-profile declarations, such as the ZOPFAN Declaration (Zone of Peace, Freedom and Neutrality), and from 1976 onwards, there was a fairly constant stream of programs and projects, especially in the economic realm (Severino 2006). Both declarations and projects/programs appear to have dominated policy making in the early decades. Fortunately, the procedure for their adoption is very similar. The initial procedure, as laid out in the Bangkok Declaration, was rudimentary. The Annual Meeting of Foreign Ministers took final decisions, presumably by consensus. No written rules existed on initiation and bindingness. There is no indication that declarations, projects, or programs required ratification. Following the first Summit in 1976, the initiation stage was specified. The newly created secretary general was given the authority to "initiate plans and programs of activities for ASEAN regional cooperation in accordance with approved policy guidelines" (ASec Agreement, Art. 3.2.vii). We code this as a non-exclusive right to set the agenda from 1981 onwards, when the Secretariat was made operational. The role of the Secretariat was further expanded by the 1992 Manila Protocol, which details that it shall "initiate, advise, coordinate and implement ASEAN activities; (a) develop and provide the regional perspective on subjects and issues before ASEAN; (b) prepare the ASEAN three-year plan of cooperation for submission to appropriate ASEAN bodies and approval by the Heads of Governments" (Arts. 4a and b). At the same time, the National Secretariats as well as member states themselves could propose initiatives (Art. 3d), and we code these from 1976.

With the inception of the ASEAN Free Trade Agreement (AFTA) in 1992, we consider a second policy stream: protocols and conventions. While economic cooperation gained some pace throughout the 1980s, including the adoption of several economic agreements, it was only with the inception of AFTA that a consistent policy pattern emerged (Severino 2006). The Economic Ministers Meeting decided by consensus. Both the Secretariat (CEPT Agreement, Arts. 7.1 and 7.3) and the Senior Economic Officials' Meeting (SEOM) had a codified but non-exclusive right to initiative. The latter proposed initiatives to the "economic ministers by 'flexible consensus,' a break with ASEAN traditional insistence on effective unanimity" (Kahler 2000: 554). These agreements were binding (CEPT Agreement, Art. 10.1). During this period, most agreements did not require domestic ratification.

The ASEAN Charter centralizes policy making by streamlining the organization's institutional architecture, but it makes sense to continue coding two policy streams: projects and programs, which appear mostly non-binding, and agreements or protocols, which are binding. The Charter clarifies that the ASEAN Summit is the supreme decision body on major issues; it can deliberate, provide policy guidance, and "take decisions on important issues pertaining to the goals and principles of ASEAN" (Charter, Art. 7).

Initiation of programs and projects is mostly in the hands of the secretary general, who is instructed to "carry out the duties and responsibilities of this high office in accordance with the provisions of this Charter and relevant ASEAN instruments, protocols and established practices" (Charter, Art. 11a). The Coordinating Council coordinates the Community Councils and a myriad of sectoral policy meetings at ministerial and bureaucratic level—some 400 in 2010, all of which have an explicit right to initiate (Art. 9.4c and Art. 10.1c and d). We no longer code member states as having a right of initiative because the National Secretariats have been downgraded. Hence we code the Secretariat and the Coordinating Council in setting the policy agenda. It is not clear whether the Summit is involved in day-to-day policy making; the buck seems to stop at the Community Councils and the Coordinating Council.$^{\alpha}$ Since only the Summit is authorized to take binding decisions,[4] we infer that programming and projects are at most conditionally binding.$^{\gamma}$ As a basic

[4] The Charter stipulates that all other bodies "recommend." At the same time, Articles 5.3 and 20.4 of the Charter indicate the intention of ASEAN members to move beyond voluntary policy making. Still, the Charter and other policy documents that we consulted fall short of making policy making binding.$^{\gamma}$ A note on the ASEAN website suggests that only agreements and protocols can generate unambiguous legal commitments: "There are various understandings and interpretations of what is considered international legal instruments. As such, the Matrix only focuses on legal instruments by which the consent to be bound is expressed through either signature of the authorized representatives of Member States or the signature is subject to ratification and/or acceptance in accordance with the internal procedures of respective Member States." The list only includes agreements or protocols, and no programs or projects. See <http://agreement.asean.org/explanatory/show.html> (accessed February 13, 2017).

principle, all voting in interstate bodies is subject to consensus (Art. 20.1). Ratification is not required.

With the Charter, agreements become a more widely used instrument. They can be concluded in each of the three pillars of the ASEAN Community: ASEAN political-security Community, ASEAN economic Community, and ASEAN socio-cultural Community. The decision process is similar for agreements and protocols. The Secretariat and the Coordinating Council (through the Community Councils and the sectoral meetings) initiate. The Community Council in charge recommends these proposals to the Summit, which takes the final decision.

Agreements are generally binding. The Charter obliges member states "to effectively implement the provisions of this Charter and to comply with all obligations of membership" (Art. 5.2). The legal literature concurs that ASEAN "agreements still have binding force as ASEAN commitments" (Inama and Sim 2015: 163). Reviewing the lists of agreements and protocols posted on the ASEAN website suggests that, with the Charter, ratification has become the norm.[5] Conditions of ratification vary, but the most common option appears to be binding after ratification for those that ratify.

DISPUTE SETTLEMENT

Ever since the early days of ASEAN, there is a strong preference for political dispute resolution, which has prevented member states from creating meaningful legal dispute settlement in the form of an independent court or tribunal. However, since 1997 there is some legal dispute settlement for economic disputes.

ASEAN's first formal dispute mechanism was political and involved security. The 1976 Treaty of Amity and Cooperation (TAC) envisaged a so-called "High Council" composed of ministerial representatives from all member states to settle disputes that were "likely to disturb regional peace and harmony" through negotiations, mediation, or other measures. It required all parties to the dispute to consent to apply the TAC (Arts. 13–15). Member states could also use dispute settlement under Art. 33(1) of the UN Charter (TAC, Art. 17). The rules of procedure of this mechanism were only adopted in 2001. Dispute settlement by politicians or their delegates belongs in the political sphere.

An important step to legal dispute settlement was the 1996 Protocol on Dispute Settlement Mechanism, which followed in the footsteps of the creation of a free trade area in 1992. The Protocol establishes a binding dispute settlement mechanism that applies to all ASEAN economic agreements. Coverage is obligatory (Art. 12). It first envisages direct consultations between

[5] See <http://agreement.asean.org/search/by_pillar/2/6.html> (accessed February 13, 2017).

disputing parties. If this is unsuccessful, parties can raise the issue with the Senior Economic Officials' Meeting (SEOM), which can decide to establish a panel or decide to deal with the dispute directly in order "to achieve an amicable settlement without appointing a panel" (Art. 4.3). So third-party access is conditional on the decision by a political body. If a panel is established, the panel report needs to be adopted by the SEOM by simple majority, excluding the disputing parties (Art. 7). The respective SEOM decision can be appealed before the ASEAN Economic Ministers, which has final authority to settle the dispute. Hence we score adjudication as conditionally binding. Only state parties can initiate dispute settlement; the Secretariat's role is explicitly restricted to secretarial support to the panels and to monitoring implementation. The ministers of economics can also authorize suspension of concessions in case of non-compliance. So retaliatory sanctions are tightly controlled politically and far from automatic, which is why we do not code this as an effective remedy for non-compliance.

The 2004 Protocol for Enhanced Dispute Settlement Mechanism considerably strengthens the procedure. It introduces a standing tribunal—the Appellate Body—that consists of seven legal experts, appointed for a four-year term and renewable once (Art. 12.2); they are independent and "unaffiliated with any government" (Art. 12.3). However, the judges of the Appellate Body have not been appointed (Alter 2014: 153), and so we continue to code the tribunals as ad hoc. Access to third-party review as well as the Tribunal's final recommendations remain politically influenced, but much less so than under the earlier agreement. Panels are now created by reverse consensus: when a disputing party requests a panel, the SEOM can only reject the demand by consensus (Art. 5.1), which we conceive as equivalent to automatic access.[β] Panel recommendations are also subject to reverse consensus (Arts. 9.1 and 12.13). When the recommendations are not implemented within a set time, the complaining party may suspend concessions toward the other party subject to approval by the SEOM (instead of the Economics Ministers as before). Approval is, once again, by reverse consensus: "the SEOM, upon request, shall grant authorization to suspend concessions or other obligations . . . unless the SEOM decides by consensus to reject the request" (Art. 16.6). We continue to code conditional bindingness, but we increase the score on remedy to reflect the fact that a member state can impose sanctions barring near-unanimous opposition amongst the member states.[β] To date, private actors or other treaty organs have no access to third-party review, and there is no preliminary rulings procedure that links regional dispute settlement to national legal systems.

The ASEAN Charter codifies and unifies these different agreements on dispute settlement without substantially altering them. It maintains that conflicts have to be resolved, first, by recourse to dialogue, consultation, and

ASEAN Institutional Structure

		A1			A2			A3			E1										E2										GS1		CB1
Years		Non-state selection	Indirect representation	Weighted voting	Non-state selection	Indirect representation	Weighted voting	Non-state selection	Indirect representation	Weighted voting	Head—agenda	Head—decision	Members—agenda	Members—decision	Non-state selection	Partial representation	Indirect representation	Reserved seats	Weighted voting	Partial veto	Head—agenda	Head—decision	Members—agenda	Members—decision	Non-state selection	Partial representation	Indirect representation	Reserved seats	Weighted voting	Partial veto	Select	Remove	Non-state selection
1967–1980	Not body-specific	0	0	0							N	N			0	0	0	0	0	0													
	Member states												✓	✓																			
	A1: Ministerial meeting																																
	E1: National Secretariats																																
1981–1991	Not body-specific	0	0	0							N	N			0	0	0	0	0	0											R	N	
	Member states												✓	✓																			
	A1: Ministerial meeting																														0		
	E1: National Secretariats																																
	GS1: Secretariat																																
1992–1996	Not body-specific	0	0	0	0	0	0	0	0	0	N	N			0	0	0	0	0	0	N	N			0	0	0	0	0	0	R	N	
	Member states												✓	✓									✓	✓									
	A1: Ministerial meeting																																
	A2: Economic min. meeting																																
	A3: Summit																														0		
	E1: National Secretariats																																
	E2: Senior Economic Officials																																
	GS1: Secretariat																																
1997–2007	Not body-specific	0	0	0	0	0	0	0	0	0	N	N			0	0	0	0	0	0	N	N			0	0	0	0	0	0	R	N	
	Member states												✓	✓									✓	✓									
	A1: Ministerial meeting																																
	A2: Economic min. meeting																																
	A3: Summit																														0		

	E1: National Secretariats																																	
	E2: Senior Economic Officials																																	
	GS1: Secretariat																																	
	DS1: Dispute settlement mech.																																	
2008–2009	Not body-specific							0	0	0	R	R			0	0	0	0	0	0												R		
	Member states												✓	✓																				
	A3: Summit																															0	0	
	E1: **Coordinating Council**																																	
	GS1: Secretariat																																	
	DS1: **Enhanced dispute settlement**																																	
2010	Not body-specific							0	0	0	R	R			0	0	0	0	0	0												R		3
	Member states												✓	✓																				
	A1: Summit																															0	0	
	E1: Coordinating Council																																	
	GS1: Secretariat																																	
	CB1: Interparliamentary Assembly (AIPA)																																	
	DS1: Enhanced dispute settlement																																	

Note: A = automatic/technocratic procedure; N = no written rule; R = rotation; ✓ = body co-decides, but no voting rule; ← = change in status. Shaded areas refer to institutions or policy areas that are non-existent for those years.

ASEAN Decision Making

		Accession			Sus-pension		Constitution				Budget			Com-pliance		Policy 1 (programs)					Policy 2 (agree-ments & protocols)					Dispute settlement (economic)						
Years		Agenda	Decision	Ratification	Agenda	Decision	Agenda	Decision	Ratification	Revenue source	Agenda	Decision	Binding	Agenda	Decision	Agenda	Decision	GS role	Binding	Ratification	Agenda	Decision	GS role	Binding	Ratification	Coverage	Third party	Binding	Tribunal	Non-state access	Remedy	Preliminary ruling
1967–1975	Not body-specific	N	N	N	N	N	N	N	N	N	N	N	N			N			N	3												
	Member states																															
	A1: Ministerial meeting																0															
	E1: National Secretariats																															
1976–1980	Not body-specific	N	N	N	N	N			0	N	N	N	N						N	3												
	Member states						✓									✓																
	A1: Ministerial meeting							0									0															
	E1: National Secretariats															✓																
1981–1991	Not body-specific	N	N	N	N	N			0	1			N	N	N			1	N	3												
	Member states						✓									✓	0															
	A1: Ministerial meeting							0				0																				
	E1: National Secretariats															✓																
	GS1: Secretariat										✓					✓																
1992–1996	Not body-specific	N	N	N	N	N			0	1			N	N	N			1	N	3			1	2	3							
	Member states						✓									✓																
	A1: Ministerial meeting											0					0															
	A2: Economic min. meeting																					0										
	A3: Summit							0																								
	E1: National Secretariats															✓																
	E2: Senior Economic Officials																				1											
	GS1: Secretariat										✓					✓					✓											

1997–2003	Not body-specific	N	N	N	N	N			0	1			N	N	N			1	N	3			1	2	3							
	Member states						✓									✓																
	A1: Ministerial meeting											0					0															
	A2: Economic min. meeting																					0										
	A3: Summit							0																								
	E1: National Secretariats															✓																
	E2: Senior Economic Officials																				1											
	GS1: Secretariat										✓					✓					✓											
	DS1: Dispute settlement mech.																									2	1	1	1	0	0	0
2004–2007	Not body-specific	N	N	N	N	N			0	1			N	N	N			1	N	3			1	2	3							
	Member states						✓									✓																
	A1: Ministerial meeting											0					0															
	A2: Economic min. meeting																					0										
	A3: Summit							0																								
	E1: National Secretariats															✓																
	E2: Senior Economic Officials																				1											
	GS1: Secretariat										✓					✓					✓											
	DS1: **Enhanced dispute settlement**																									2	2	1	1	0	1	0
2008–2009	Not body-specific			2	N	N			0	1			2	N	N			1	1	3			1	2	1							
	Member states						✓																									
	A3: Summit		0					0														0										
	E1: **Coordinating Council**	0					0					0				0	0				0											
	GS1: Secretariat										✓					✓					✓											
	DS1: Enhanced dispute settlement																									2	2	1	1	0	1	0
2010	Not body-specific			2	N	N			0	1			2	N	N			1	1	3			1	2	1							
	Member states						✓																									
	A3: Summit		0					0								0	0															
	E1: Coordinating Council	0					0					0				0					0											
	GS1: Secretariat										✓					✓					✓											
	CB1: Interparliamentary Assembly (AIPA)																															
	DS1: Enhanced dispute settlement																									2	2	1	1	0	1	0

Note: A = automatic/technocratic procedure; N = no written rule; R = rotation; ✓ = body co-decides, but no voting rule; ← = change in status. Shaded areas refer to institutions or policy areas that are non-existent for those years.

negotiation (Art. 24.2), before arbitration can be sought. Disputes not concerning the application or interpretation of ASEAN agreements are resolved in accordance with the TAC. Disputes relating to ASEAN economic agreements are covered by the 2004 Enhanced Dispute Settlement Mechanism. ASEAN agreements with their own built-in dispute settlement measures continue to apply. Where not otherwise specifically provided, all other disputes are covered by the 2010 Protocol to the ASEAN Charter on Dispute Settlement Mechanism, which has, as of March 2017, not yet entered into force. It provides for consultations and, subsequently, the possibility to convene an arbitral tribunal. Disputes that are unresolved and cases of non-compliance are referred to the ASEAN Summit (Arts. 27.1 and 27.2). Finally, the Charter assures its member states' right of recourse to the modes of dispute settlement listed in the United Nations Charter.

Pacific Islands Forum (PIF)

The Pacific Islands Forum (PIF) is composed of sixteen independent or self-governing islands: Fiji, Tonga, Cook Islands, Samoa, the Federated States of Micronesia, Kiribati, Nauru, Niue, Marshall Islands, French Polynesia, New Caledonia, Palau, Papua New Guinea, Solomon Islands, Tuvalu, and Vanuatu alongside Australia and New Zealand. Its key objectives are to "strengthen regional cooperation and integration, including through the pooling of regional resources of governance and the alignment of policies, in order to further Forum members' shared goals of economic growth, sustainable development, good governance, and security" (PIF Agreement, Art. 2). The organization's headquarters are in Suva, Fiji.

The Forum was established in 1971 "as a counterpoint" to the South Pacific Commission (SPC) (see SPC profile), which had been set up by the administering countries of UN trustees in the Pacific Ocean to coordinate technical assistance (Braveboy-Wagner 2009: 199). The SPC had been perceived as "paternalistic and metropolitan-centered" (Braveboy-Wagner 2009: 199) and as the islands became independent, beginning in 1962 with Western Samoa, they sought to establish "new organizations which would represent indigenous, rather than colonial, interests" (Fry 1994: 137).

The Pacific Islands Producers Organization (PIPO), set up in 1965, was an early precursor (Haas 1989: 81–4). Its success prompted the creation of the South Pacific Forum as an annual forum to discuss cooperation among the Pacific states. The first meeting, initiated by New Zealand and held in Wellington in August 1971, convened the leaders of Fiji, Tonga, Cook Islands, Western Samoa, and Nauru as well as Australia and New Zealand. It facilitated

private and informal discussion across a wide range of issues of common concern, including trade, shipping, tourism, and education. In subsequent years the Forum produced a series of task-specific initiatives.

In 1973, the Forum institutionalized cooperation by means of the Treaty on the South Pacific Bureau for Economic Cooperation (SPBEC) (Haas 1989: 98). We code the South Pacific Forum as a regional organization from 1973.

In subsequent years, the organizational core expanded as member states created new institutions such as the Pacific Forum Line, a regional shipping line between the islands in 1977, and the Forum Fisheries Agency in 1979.

In the early years, the South Pacific Forum was instrumental in negotiating regional agreements, including a multilateral tuna treaty with the United States, the Lomé Convention with the European Community, and the South Pacific Regional Trade and Economic Cooperation Agreement with Australia and New Zealand (Tarte 2015: 314). As decolonization progressed, the Forum's membership grew from the seven founding members to eighteen today.

In 1988, the Secretariat was renamed the South Pacific Forum Secretariat (SPFS), and this was codified in a 1991 agreement. After several countries north of the Equator joined the organization in the 1990s, the name of the organization was changed to Pacific Islands Forum in 1999, and this was codified in a new agreement in 2000.

Since the early 2000s, the Forum has been active in trade liberalization. This has produced the Pacific Island Countries Trade Agreement (PICTA) and the Pacific Agreement on Closer Economic Relations (PACER), both signed in 2001. The former seeks to develop a free trade area among the Pacific island states, while the latter aims to include Australia and New Zealand in the FTA (for an overview, see Morgan 2014).

In 2005, member governments adopted a Charter that reformed the organization's institutions, which is currently under ratification. The members also agreed a Pacific Plan seeking deeper integration (Blatt 2011: 10). The organization is currently undergoing major transformation (for an overview, see Tarte 2015).

The key documents are the Agreement Establishing the South Pacific Bureau for Economic Cooperation (SPBEC) (signed and in force 1973), the Agreement Establishing the South Pacific Forum Secretariat (SPFS) (signed 1991; in force 1993), the Tarawa Agreement Establishing the Pacific Islands Forum Secretariat (PIFS) (signed 2000; in force 2005), the "Biketawa" Declaration (signed and in force 2000), the Pacific Island Countries Trade

Agreement (PICTA) (signed 2001; in force 2003), and the Agreement Establishing the Pacific Islands Forum (signed in 2005; not in force as of March 2017). The three chief bodies of the PIF are the Forum Leaders' Meeting, the Forum Officials' Meeting, and the Pacific Islands Forum Secretariat.

Institutional Structure

A1: FROM THE SOUTH PACIFIC FORUM (1973–2004) TO THE LEADERS' MEETING (2005–10)

Under the 1973 SPBEC Agreement, the South Pacific Forum, that is the members' leaders annual meeting, became the chief decision making body, responsible for cooperation across a variety of areas (Preamble; Arts. 5.2a and 7.1). The general decision rule was consensus (Shibuya 2004: 105, 108; Haas 1989: ch. 1). The Forum was given a more clearly defined role in the 1991 SPFS Agreement (Art. 1) and became the Leaders' Meeting with the 2001 PIFS Agreement (Art. 1).

Since 1997, there have also been regular ministerial meetings in different configurations. The Forum Economic Ministers Meeting was the first to meet recurrently starting in July 1997; the latest one is the Pacific Energy Ministers Meeting, which has been convening on a regular basis since April 2007 (Blatt 2011: 16).

The consensus rule has been retained as the default rule over time (e.g. 2007 PIF Annual Report: 6; Blatt 2011: 12–13). The 2005 PIF Agreement confirms and formalizes the Forum Leaders' Meeting as the "preeminent decision making body" (Art. 3.1).

E1: FROM THE SOUTH PACIFIC COMMITTEE FOR ECONOMIC COOPERATION (1973–92) TO THE SOUTH PACIFIC FORUM OFFICIALS COMMITTEE (1993–2004) TO THE PACIFIC ISLANDS FORUM OFFICIALS COMMITTEE (2005–10)

The 1973 SPBEC Agreement established the South Pacific Committee for Economic Cooperation as the chief executive. It was composed of one representative from each member state, and the chair rotated annually (Art. V.4). We code both rotation and the Committee as setting the agenda and taking the final decision on the chair. It meets at least once a year and prior to meetings of the Forum (Art. V.5). The Committee's composition can vary, though it generally meets as foreign ministers or trade ministers.

The chief responsibilities of the Committee consist of preparing the annual budget, making recommendations to the Forum and member governments,

and giving general directions to the Bureau (Art. V). Under the 1973 agreement, the Committee took decisions by simple majority (Art. V.7).

The 1991 SPFS Agreement changes the body's name to South Pacific Forum Officials Committee, and designates it as the "Executive Committee" (Art. 5). Its mandate is broadened somewhat to "give general policy directions to the secretary general and to make reports and recommendations to the Forum" (Art. 5.3). It is now also instructed to decide "wherever possible by consensus," though the simple majority rule is maintained if consensus cannot be reached (Art. 5.8). With the 2001 PIFS Agreement, the body becomes the Pacific Islands Forum Officials Committee (Art. 5). The new PIF Agreement does not change the Committee (Art. 5).

GS1: FROM SECRETARIAT (1975–92) TO SOUTH PACIFIC FORUM SECRETARIAT (1993–2004) TO PACIFIC ISLANDS FORUM SECRETARIAT (2005–10)

The South Pacific Forum began life without a central secretariat. In its first two years, it borrowed the services of the Secretariat of the South Pacific Bureau for Economic Co-operation. In 1975 the Forum absorbed the Bureau, and officially designated it to become its secretariat (Haas 1989: 98).

The Secretariat initially consisted of a director and a deputy director; the director was appointed by the Forum for three years, with the possibility of reappointment once (SPBEC, Arts. VI and VII). The general decision rule in the Forum is consensus. The Secretariat was given a broad remit in regional development: it could research options for trade, development, transport, and other policies in the region; help member states obtain technical assistance, aid, and investment; assist member states with trade and tourist promotion; and act as a clearing house for information on issues of mutual interest (Art. 8).

In 1988, the Secretariat was renamed the South Pacific Forum Secretariat (Haas 1989: 98). This name change was codified in the SPFS Agreement, which formally established the body (Art. 2). The Secretariat was charged with facilitating, developing, and maintaining cooperation and consultation between governments (Art. 3). The Secretariat's functions in preparing studies are extended to political, security, legal issues, and free trade (Arts. 9.2b and c). The Forum continues to appoint the secretary general by consensus, but the Pacific Islands Forum Officials Committee can now set the working conditions for her appointment (Art. 7.1).[6] Since 1995, the secretary general has also

[6] We continue to code consensus, even though the formal rule has been broken once. In 2004, the Australian diplomat Greg Urwin was nominated secretary general of the Forum Secretariat by a majority of member states despite the opposition of some island states (see Blatt 2011: 36–7).

been acting as the permanent chair of the South Pacific Organizations Coordinating Committee.

In 2002, the member states agreed to formalize the appointment procedure for the secretary general. Each government can now nominate one candidate (Agreed Record of the 2002 Leaders' Meeting, cited in Blatt 2011: 38).

Today, the Secretariat runs four programs (economic governance, political governance and security, strategic partnerships and coordination, and corporate services), each headed by a program director. The two deputy secretary generals are each responsible for two programs. The Secretariat employs about 120 staff (Blatt 2011: 39).

The new PIF Agreement codifies only the position of the secretary general, not those of the deputies, and it stipulates that the secretary general appoints all other staff (Art. 6.3). The conditions of the secretary general's appointment are now set by the Leaders' Meeting instead of the Officials Committee (Art. 6.2). The secretary general is given the additional function, in cooperation with the Forum Chair, to frame the agenda of the Leaders' Meeting and to coordinate member state responses to crises (Art. 7.2). With this extended mandate the Secretariat begins to assume some executive functions though the agreement stops short of endowing it with executive powers.[β]

CB1: SOUTH PACIFIC ORGANIZATIONS' COORDINATING COMMITTEE (1988–2010)

The South Pacific Organizations Coordinating Committee (SPOCC) was established in 1988 (Stanley 1993: 40–1). It consists initially of the heads of the SPFS, the SPC, the South Pacific Regional Environment Program, and the East–West Center "in order to improve cooperation and coordination among institutions of the region" (1988 Forum Communiqué, Para. 20). There were no formal links with the Forum, so we do not code SPOCC as a body with consultative status.

This appears to change in 1995 when the Forum intensifies its cooperation with SPOCC (1995 Communiqué, Para. 51). The Forum Secretariat's secretary general now chairs SPOCC and takes up a "coordination role." At this time, the secretary general begins to report SPOCC matters to the South Pacific Forum.[α] In 1999, the body was renamed the Council of Regional Organizations of the Pacific (CROP).[7]

Today, CROP acts as a high-level advisory body which assists policy formulation at the national, regional, and international levels. It is composed of the heads of the regional organizations in the Pacific including the Pacific Islands Forum Secretariat, the SPC, the Pacific Islands Forum Fisheries Agency, the South Pacific Applied Geoscience Commission, the Secretariat of the Pacific

[7] See <http://www.dfat.gov.au/international-relations/regional-architecture/pacific-islands/Pages/pacific-islands-regional-organisation.aspx> (accessed February 13, 2017).

Regional Environment Program (SPREP), the South Pacific Tourism Organization, the University of the South Pacific (USP), the Pacific Islands Development Program, the Fiji School of Medicine, the Pacific Power Association (PPA), and the South Pacific Board for Educational Assessment.[8] Some participants in CROP have since been swallowed in other intergovernmental organizations. For example, the functions of the South Pacific Applied Geoscience Commission were transferred to the South Pacific Forum and the SPREP in 2010.

The SPOCC/CROP is an unusual non-state consultative body because it is composed of unelected transnational officials rather than non-state national representatives. We code it as a consultative body from 1995 when its association with the Forum is institutionalized.[β]

Since the mid-1990s civil society groups have been holding meetings parallel to the annual Forum Summit, and in 2002, the Secretariat integrated these groups in the consultative process surrounding the Pacific Plan. The result is the Regional Public–Private Sector Consultative Mechanism (RCM) (Braveboy-Wagner 2009: 201). We have no further detail on composition or functions.[α] Since it reports to the Secretariat and not the interstate bodies, it falls just short of meeting criteria for inclusion as a standing consultative body.[β]

Decision Making

MEMBERSHIP ACCESSION

The agreement establishing the South Pacific Bureau for Economic Co-operation was open for accession by other governments upon approval by the Forum (Art. 11.4). There were no written rules on agenda setting and no mention of ratification, but secondary sources indicate that the Forum dominated the accession process throughout, and we code it at the agenda setting stage as well as in the final decision (see Blatt 2011: 20).

In 1978, the Forum agreed specific accession criteria. Membership was to be open to "any independent or self-governing country in the South Pacific" or one that was near self-government with the capacity "to implement all decisions, including political decisions" (Summary Record 1978, cited in Blatt 2011: 19). No ratification is mentioned. Beyond the later admittance of countries north of the Equator, these stipulations remain in place (Arts. 11.6–11.8).

[8] See <http://www.forumsec.org/pages.cfm/about-us/our-partners/crop/> (accessed February 13, 2017).

MEMBERSHIP SUSPENSION

Initially, the organization had no formal rules on suspension. This changed with the adoption of the Biketawa Declaration in 2000, which made a commitment to good governance and set out a procedure for crisis situations and for a member state requesting assistance. "Biketawa demonstrated a form of recognition that the internal and external security of the state had become increasingly interconnected and regional stability was required for internal securitization" (Evans-Locke 2016: 4).

The secretary general is the chief initiator. She assesses the situation and initiates the response, which can include creating an action group, requesting third-party mediation, or convening a special meeting of the Forum Regional Security Committee. She does so in consultation with the Forum Chair and with the Forum foreign ministers (Art. 2). Hence we code the secretary general, the Forum Chair, and the Committee as actors at the initiation stage, the latter taking decisions by majority. If the crisis persists, the Forum Leaders convene to "consider other options including if necessary targeted measures" (Art. 2.iv). Hence the Forum Leaders take the final decision on suspension by consensus.

The Biketawa Declaration served as the basis for the indefinite expulsion of Fiji in May 2009. The reason was that its military government failed to meet a Forum deadline to specify a date for democratic elections. The suspension was lifted in October 2014 after elections were held.

CONSTITUTIONAL REFORM

In the early days, constitutional amendments could be initiated by any member government and were decided by consensus by the Forum. Amendments required ratification by all member states before entering into force (SPBEC, Art. 12).

The SPFS Agreement of 1991 alters the procedure slightly. While any member state can still propose amendments, it needs the support of at least two other governments before it can be discussed by the Committee (Art. 13.2). We add the Committee as agenda setter from 1993, presumably by the general decision rule of simple majority.$^{\alpha}$ The ratification language was softened somewhat in that ratification is necessary only if domestic provisions require it. An amendment enters into force once all members for which ratification is required have ratified (Arts. 13.3 and 13.4). Since this does not break the rule that all members must follow a domestic consent process—whether it is by ratification or executive order–we continue to code that ratification by all is required. The new PIF Agreement does not change the wording (Art. 12).

REVENUES

The organization initially relied exclusively on regular member state contributions: Australia and New Zealand each contributed one-third of the budgetary revenue, while the five Pacific island members shared the final third in equal parts (Art. 9.2). This scale was revised with each Treaty revision. According to the 2000 PIFS Agreement, Australia and New Zealand together contribute almost three-quarters of the regular revenue, while the remaining quarter is distributed among the Pacific islands (Annex of the PIFS Agreement). In 2009, contributions by member states amounted to 3.5 million Fiji dollars (FJD) (Blatt 2011: 44).

Since the late 1970s, the organization has come to depend heavily on discretionary grants from its two largest members (Australia and New Zealand) as well as from third parties, such as the European Union, the United Nations Development Programme, European states, Japan, South Korea, and recently China (Haas 1989; Blatt 2011). Since 1989, the Forum has held annual dialogues with external donors (Blatt 2011: 14–16).

An internal document of the Secretariat from early 2014 notes that in 2013 just 14.8 percent of the total budget came from compulsory member state contributions, 42.8 percent from "regular and consistent funding for the core [working program] budget from Australia and New Zealand" that "may be subject to some restrictions on the activities it may be allocated to, but is generally relatively flexible, with unspent balances available for reapplication to emerging priorities," and 42.4 percent from "irregular, inconsistent and unreliable" external donor money that is "inflexible, and can only be spent on a specific set of activities" (PIF Secretariat 2014: 1–3). While Australia and New Zealand's contribution has been predictable, it is discretionary in that it is not determined in the organization's regular decision making procedures, but is extra-institutional. So only a small and shrinking proportion of the total budget is compulsory and unconditional. Our coding shifts from regular member state contributions to irregular contributions in 1984 which is the earliest time point at which we know that the balance had tipped toward voluntary contributions (Haas 1989: 100).

BUDGETARY ALLOCATION

Under the SPBEC Agreement, the director of the Secretariat drafted the budget in consultation with the Committee, which took decisions by simple majority. The Forum then took the final decision by consensus (Arts. 5.2a and 9.1). There are no formal rules on the bindingness of the budget. Given the declaratory and consultative character of most of the organization's activities, we initially code the budget as non-binding.

This procedure changed with the SPFS Agreement in 1991, when the Committee started approving the budget submitted by the Secretariat (Art. 10.1).

Consensus is the preferred decision rule, but the Committee can, if necessary, take decisions by simple majority (Art. 5.8), which is what we code. There is an explicit stipulation that allows the secretary general to commit some monies even prior to the Committee's approval of the budget (Art. 10.3), which gives us additional reason to code budgetary decision making as binding. The new PIF Agreement maintains this procedure (Art. 9.1).

FINANCIAL COMPLIANCE
No written rules.

POLICY MAKING
The Forum was initially created "to facilitate cooperation and consultation between members" (SPBEC Agreement, Art. 3), by providing an institutionalized means "to deliberate on matters of policy" (Haas 1989: 97). These deliberations produce projects and programs, and agreements and treaties. We code both policy streams. Programs and projects are the core of the PIF's ongoing activities. Agreements and treaties shape the structure and portfolio of the organization. They have led to institutional innovations such as the establishment of a regional airline, a regional shipping line, and a regional university (see Haas 1989: 97–8; Shibuya 2004: 107–8; Naisali 1991: 190). From 2000 we code resolutions as a third stream.

Under the SPBEC and SPFS agreements, projects and programs can be initiated by all the major players: the Forum can request the Secretariat to prepare proposals (Haas 1989: 100); the Committee can "make recommendations to the member governments" and request studies from the Secretariat (SPCEC Agreement, Arts. 5.1d and 8.1i); and the Secretariat (from 1975) can initiate programs on its own initiative (Art. 8.1). The final decision is taken by the Forum by consensus (Haas 1989: 100). There is little indication that these programs were binding on member states or required ratification.[α] From 1995 we also code the Council of Regional Organizations of the Pacific as involved in agenda setting, on the ground that it has a "mandate to improve cooperation, coordination, and collaboration among the various intergovernmental regional organizations in order to work toward achieving the common goal of sustainable development" (2004 CROP Charter, Preamble) and the secretary general reports CROP advice to the Forum Leaders.

In 2005, governments decided to bundle projects, programs, and strategic plans in the Pacific Plan. This coordinates national and regional initiatives under four pillars: economic growth, sustainable development, good governance, and security. This strategic plan, which initially runs for ten years, has shaped Forum activity since 2005. The Secretariat's role is enhanced but it falls short of having a monopoly of initiative. It initiates most measures, and it is also mandated to coordinate implementation (Pacific Plan, Art. 20). Its decisions are subject to "political oversight and guidance" by a so-called

Pacific Plan Action Committee, which comprises representatives from all member states and is chaired by the Forum Chair (Pacific Plan, Art. 21). Thus, we code the Secretariat as proposing measures and the Officials Committee, deciding by majority, as the final decision maker. There continues to be a strong emphasis on national sovereignty (e.g. Pacific Plan, Arts. 6 and 12), which is why we continue to code policy as non-binding.[γ] No ratification is required.

Treaties and agreements constitute the second policy stream. Examples are the Regional Long Term Sugar Agreement (1975), the South Pacific Regional Trade and Economic Cooperation Agreement (1980), and the South Pacific Nuclear Free Zone Treaty (1985). Agreements could be proposed either by the Committee (Art. 5.1d) or by the Forum and were adopted by the Forum. Such treaties and agreements were binding, but member states could opt out. Various earlier agreements included only a subset of member states (Naisali 1991: 190) and Article 14.1 of the South Pacific Regional Trade and Economic Cooperation Agreement notes that the agreement was "open for acceptance by signature." Agreements entered into force for states that have ratified once a minimum number of states have done so.

Treaties/agreements lost significance in the 1990s as the focus shifted from signing new treaties and creating new institutions to managing existing institutions and agreements. This found institutional expression in the creation of the South Pacific Organizations Coordinating Committee (SPOCC), later called the Council of Regional Organizations of the Pacific (CROP), in the second half of the 1990s. We code treaties and agreements until 1999.

From 2000 Forum resolutions have emerged as a policy output. They take the form of Leaders' statements on policy issues, such as climate change, regional fishing, or regional security.[9] They are based on recommendations by the Officials Committee (Art. 5.3) and are adopted by the Leaders' Meeting by consensus. Resolutions are not binding (Blatt 2011: 71) and do not require ratification.

DISPUTE SETTLEMENT

In its first decades the Pacific Islands Forum did not have judicialized dispute settlement. In 2001 the thirteen Pacific Islands concluded the PICTA Treaty, which introduced a judicial channel for disputes. Australia and New Zealand do not take part. The Treaty entered into force in 2003 after six of thirteen eligible countries had ratified. Coverage is partial and optional because the

[9] For the complete list of Forum resolutions see: <http://www.forumsec.org.fj/pages.cfm/newsroom/documents-publications/forum-resolutions/major-forum-resolutions/?printerfriendly=true> (accessed February 13, 2017).

SPF/PIF Institutional Structure

		A1			E1										GS1		CB1
Years		Non-state selection	Indirect representation	Weighted voting	Head—agenda	Head—decision	Members—agenda	Members—decision	Non-state selection	Partial representation	Indirect representation	Reserved seats	Weighted voting	Partial veto	Select	Remove	Non-state selection
1973–1974	Not body-specific	0	0	0	R	R			0	0	0	0	0	0			
	Member states						✓	✓									
	A1: South Pacific Forum																
	E1: South Pacific Committee				3	3											
1975–1992	Not body-specific	0	0	0	R	R			0	0	0	0	0	0		N	
	Member states						✓	✓									
	A1: South Pacific Forum														0		
	E1: South Pacific Committee				3	3											
	GS1: Secretariat																
1993–1994	Not body-specific	0	0	0	R	R			0	0	0	0	0	0		N	
	Member states						✓	✓									
	A1: South Pacific Forum														0		
	E1: **SPF Officials Committee**				3	3											
	GS1: **SPF Secretariat**																
1995–1998	Not body-specific	0	0	0	R	R			0	0	0	0	0	0		N	3
	Member states						✓	✓									
	A1: South Pacific Forum														0		
	E1: SPF Officials Committee				3	3											
	GS1: Forum Secretariat																
	CB1: SP Organ. Coordinating Comm.																
1999–2002	Not body-specific	0	0	0	R	R			0	0	0	0	0	0		N	3
	Member states						✓	✓									
	A1: South Pacific Forum														0		
	E1: SPF Officials Committee				3	3											
	GS1: SPF Secretariat																
	CB1: **CROP-Council Reg.Organ.Pacific**																
2003–2004	Not body-specific	0	0	0	R	R			0	0	0	0	0	0		N	3
	Member states						✓	✓									
	A1: South Pacific Forum														0		
	E1: SPF Officials Committee				3	3											
	GS1: SPF Secretariat																
	CB1:CROP-Council Reg.Organ.Pacific																
	DS: PICTA arbitration																
2005–2010	Not body-specific	0	0	0	R	R			0	0	0	0	0	0		N	3
	Member states						✓	✓									
	A1: **Leaders' Meeting**														0		
	E1: **PIF Officials Committee**				3	3											
	GS1: **PIF Secretariat**																
	CB1: CROP-Council Reg.Organ.Pacific																
	DS: PICTA arbitration																

Note: A = automatic/technocratic procedure; N = no written rule; R = rotation; ✓ = body co-decides, but no voting rule; ← = change in status. Shaded areas refer to institutions or policy areas that are non-existent for those years.

SPF/PIF Decision Making

		Accession			Sus-pension		Constitution				Budget			Com-pliance		Policy 1 (programs, projects)					Policy 2 (treaties, agreements)					Policy 3 (resolutions)					Dispute settlement (trade)						
Years		Agenda	Decision	Ratification	Agenda	Decision	Agenda	Decision	Ratification	Revenue source	Agenda	Decision	Binding	Agenda	Decision	Agenda	Decision	GS role	Binding	Ratification	Agenda	Decision	GS role	Binding	Ratification	Agenda	Decision	GS role	Binding	Ratification	Coverage	Third party	Binding	Tribunal	Non-state access	Remedy	Preliminary ruling
1973–1974	Not body-specific			2	N	N			0	1			0	N	N				0	3			0	1	1											
	Member states						✓																												
	A1: South Pacific Forum	0	0					0				0				0	0				0	0													
	E1: South Pacific Committee										3					3					3														
1975–1983	Not body-specific			2	N	N			0	1			0	N	N			1	0	3			0	1	1										
	Member states						✓																												
	A1: South Pacific Forum	0	0					0				0				0	0				0	0													
	E1: South Pacific Committee										3					3					3														
	GS1: Secretariat										✓					✓																				
1984–1992	Not body-specific			2	N	N			0	0			0	N	N			1	0	3			0	1	1										
	Member states						✓																												
	A1: South Pacific Forum	0	0					0				0				0	0				0	0													
	E1: South Pacific Committee										3					3					3														
	GS1: Secretariat										✓					✓																				
1993–1994	Not body-specific			2	N	N			0	0			2	N	N			1	0	3			0	1	1										
	Member states						✓																												
	A1: South Pacific Forum	0	0					0								0	0				0	0													
	E1: **SPF Officials Committee**						3					3				3					3														
	GS1: **SPF Secretariat**										✓					✓																				
1995–1998	Not body-specific			2	N	N			0	0			2	N	N			1	0	3			0	1	1										
	Member states						✓																												
	A1: South Pacific Forum	0	0					0								0	0				0	0													

(*continued*)

SPF/PIF Decision Making (Continued)

		Accession			Sus-pension		Constitution				Budget			Com-pliance		Policy 1 (programs, projects)					Policy 2 (treaties, agreements)					Policy 3 (resolutions)					Dispute settlement (trade)						
Years		Agenda	Decision	Ratification	Agenda	Decision	Agenda	Decision	Ratification	Revenue source	Agenda	Decision	Binding	Agenda	Decision	Agenda	Decision	GS role	Binding	Ratification	Agenda	Decision	GS role	Binding	Ratification	Agenda	Decision	GS role	Binding	Ratification	Coverage	Third party	Binding	Tribunal	Non-state access	Remedy	Preliminary ruling
	E1: SPF Officials Committee											3				3					3															
	GS1: Forum Secretariat										✓					✓																				
	CB1: SP Organ. Coordinating Comm.															✓																				
1999	Not body-specific			2	N	N			0	0			2	N	N			1	0	3			0	1	1											
	Member states						✓																													
	A1: South Pacific Forum	0	0					0								0	0				0	0														
	E1: SPF Officials Committee						3					3				3					3															
	GS1: SPF Secretariat										✓					✓																				
	CB1: **CROP-Council Reg.Organ.Pacific**															✓																				
2000–2002	Not body-specific			2					0	0			2	N	N			1	0	3								0	0	3						
	Member states						✓																													
	A1: South Pacific Forum	0	0			0		0								0	0										0									
	E1: SPF Officials Committee				3		3					3				3										3										
	GS1: SPF Secretariat				✓						✓					✓																				
	CB1: CROP-Council Reg.Organ.Pacific															✓																				
2003–2004	Not body-specific			2					0	0			2	N	N			1	0	3										3						
	Member states						✓																													
	A1: South Pacific Forum	0	0			0		0								0	0										0									
	E1: SPF Officials Committee				3		3					3				3										3										
	GS1: SPF Secretariat				✓						✓					✓																				
	CB1: CROP-Council Reg.Organ.Pacific															✓																				
	DS: PICTA arbitration																													1	2	2	1	0	1	0
2005–2010	Not body-specific			2					0	0			2	N	N			1	0	3								0	0	3						
	Member states						✓																													
	A1: **Leaders' Meeting**	0	0			0		0																			0									
	E1: **PIF Officials Committee**				3		3					3					3									3										
	GS1: **PIF Secretariat**				✓						✓					✓																				
	CB1: CROP-Council Reg.Organ.Pacific															✓																				
	DS: PICTA arbitration																													1	2	2	1	0	1	0

Note: A = automatic/technocratic procedure; N = no written rule; R = rotation; ✓ = body co-decides, but no voting rule; ← = change in status. Shaded areas refer to institutions or policy areas that are non-existent for those years.

Treaty is binding only on states that have ratified. Any party to a dispute can, after direct negotiations and a mediation procedure, have recourse to arbitration (PICTA Treaty, Arts. 21 and 22). Hence there is an automatic right to third-party review. One independent arbitrator, agreed upon by both parties and drawn from a roster of qualified individuals, conducts arbitration. If the parties cannot agree, the secretary general chooses the arbitrator (Annex 5, Art. 3). No later than 180 days from the start of the proceedings, the arbitrator renders a final and binding reward (Annex 5, Arts. 11 and 12). In case of non-compliance, the agreement makes it possible for the affected party to suspend concessions if (and after) it fails to persuade the other party to comply (Art. 22.6). Hence we code explicit right to third-party review, binding, ad hoc arbitration, no non-state access, and sanctions. There is no preliminary rulings procedure. We begin coding the mechanism from 2003.

South Asian Association for Regional Cooperation (SAARC)

The South Asian Association for Regional Cooperation (SAARC), founded in 1986, organizes regional cooperation among eight South Asian countries. Its founding members are Bangladesh, Bhutan, India, Maldives, Nepal, Pakistan, and Sri Lanka; Afghanistan joined in 2007. It seeks to enhance development, collective self-reliance, and mutual trust through regional cooperation in a broad range of functional areas (1985 SAARC Charter, Preamble and Art. 1). The SAARC Secretariat is based in Kathmandu, Nepal, and is supported by various specialized agencies throughout the region.

SAARC grew out of a Bangladeshi initiative by President Ziaur Rahman after the country's quest for membership in the Association of Southeast Asian Nations (ASEAN) was rejected. Rahman turned toward Bangladesh's neighbors in South Asia with "the idea of an ASEAN-like organization" (Dash 1996: 186; Braveboy-Wagner 2009: 194–6). Nepal, Sri Lanka, the Maldives, and Bhutan were quick to endorse the idea, while India and Pakistan were skeptical. When Bangladesh dropped reference to security matters, exploratory talks took off. After a series of meetings at technical level, the foreign ministers, meeting in New Delhi in 1983, adopted a Declaration on South Asian Regional Cooperation (SARC) and launched an Integrated Program of Action on five mutually agreed areas of cooperation, including agriculture and regional development, health, and human resource development. Two years later, the name was changed to the South Asian Association for Regional Cooperation, and the SAARC Charter was adopted by the heads of state in Dhaka in December 1985 (Dash 1996: 187–8).

SAARC has been impeded by political antagonism between India and Pakistan. Cooperation has been most effective on economic issues, including

the signing of the South Asian Preferential Trading Arrangements (SAPTA) in 1993 and the South Asian Free Trade Agreement (SAFTA) in 2006, which aimed to lower intra-trade tariffs and create a customs union by 2016. In short, "economic cooperation seems to have become the vehicle for regional co-operation in South Asia" (Paranjpe 2002: 350). However, implementation has been spotty, and cooperation in other areas has frequently been overshadowed by security concerns. SAARC decisions are adopted by unanimity, "making the organization strongly statist" (Braveboy-Wagner 2009: 196).

The key legal document is the Charter of the South Asian Association for Regional Cooperation (signed 1985; in force 1986). The Summit and the Council of Ministers act as the organization's assemblies, the Standing Committee functions as the organization's executive. SAARC has also a weak secretariat.

Institutional Structure

A1: SUMMIT (1986–2010)

From the start, the Meeting of the Heads of State or Government took up an overall guiding function. Its declarations provide "directives and mandate for regional co-operation."[10] It takes decisions by unanimity (Charter, Art. 10.1). While being the organization's "prime mover" (Kathmandu Declaration 1987, Art. 2), it is little involved in ongoing cooperation.

A2: COUNCIL OF MINISTERS (1986–2010)

The Council of Ministers is the organization's second assembly. It is composed of the member states' foreign ministers, and formulates policies, reviews the progress of cooperation, decides on new areas of cooperation, and takes decisions on other matters of general interest to the organization (Charter, Art. 4.1).

Decisions are taken by unanimity (Charter, Art. 10.1). It generally meets twice a year, once prior to the Meetings of Heads of State or Government and once in the interregnum. It may, "by agreement among the Member States," hold an extra-ordinary session (Charter, Art. 4.2). The chair of the Council rotates annually and is held by the state hosting the Summit.

The South Asian Free Trade Agreement (SAFTA) of 2006 established a Ministerial Council (SMC), which consists of the ministers of commerce and trade, and becomes the highest decision organ on economic cooperation (SAFTA Agreement, Art. 10.2).

[10] See <http://www.saarc-sec.org/SAARC-Summit/7/> (accessed February 13, 2017).

E1: STANDING COMMITTEE (1986–2010)

The Standing Committee acts as the organization's executive. It is composed of each member state's top civil servant in the respective foreign ministry. It monitors and coordinates cooperation; approves projects and programs as well as their financing; it determines inter-sectoral priorities; mobilizes regional and external resources; and it identifies new areas of cooperation (Charter, Art. 5.2). The Committee is accountable to the Council (Charter, Art. 5.3). It normally meets before Council meetings, but it can also meet in-between.[11] Again, decisions are taken by unanimity (Charter, Art. 10).

There are no written rules on the selection of the head of the executive, but it seems that the country hosting the SAARC Summit also chairs meetings of all lower-tier bodies, including the Standing Committee. We code rotation. The members of the Standing Committee, the foreign secretaries, are chosen by each member state, all member states are represented, and representation is direct.

The Standing Committee can set up Technical Committees to handle the implementation, coordination, and monitoring of programs. These committees appear to conduct the bulk of the ongoing project work. The members can be technical experts, heads of national technical agencies, bureaucrats, or members of recognized centers of excellence in the region (Art. 6.5). All are state representatives and do not sit in a personal capacity (Braveboy-Wagner 2009: 196).

The Standing Committee shares its executive work with the Committee on Economic Cooperation, which monitors and coordinates cooperation in the economic field. It is composed of the bureaucratic heads of commerce. When SAFTA came into force in 2006, a Committee of Experts (COE) took up the task of monitoring, reviewing, and facilitating implementation. The Committee doubles also as a dispute settlement body. It is composed of one nominee per member state who must be a senior economic official, and the chair rotates (SAFTA Agreement, Art. 10.5–8).

GS1: SECRETARIAT (1987–2010)

The SAARC founding Charter mentions a secretariat (Art. 8), but the Council created it only in November 1986 (Memorandum of Understanding). It began work in January 1987 in Kathmandu, Nepal. The Secretariat is responsible for "coordination and monitoring of the SAARC activities," preparing SAARC meetings, and acting as a "channel of communication and linkage" between SAARC and other international organizations upon request of the Standing Committee (Memorandum, Chapters 3 and 8).

[11] See <http://www.saarc-sec.org/Standing-Committee/54/> (accessed February 13, 2017).

The Secretariat is headed by the secretary general who is appointed by the Council of Ministers (by unanimity) after being nominated by member states. His tenure was initially for a non-renewable term of two years (Memorandum of Understanding on the Establishment of the Secretariat, Art. 5.1), and in 1997 this was extended to three years, non-renewable (Declaration of the Ninth SAARC Summit, Art. 5). The post rotates among member states in alphabetical order. There are no written rules on the removal of the secretary general.

The SAARC Secretariat has remained weak. As one commentator notes, it "hardly exercises even the modest role assigned to it by the Charter. It has only occasionally been involved in the preparation of documentation for important meetings" (Ashan 2006: 146).

CONSULTATIVE BODIES

The SAARC Charter does not mention non-state consultative bodies, though SAARC has given special status to various non-state bodies such as the SAARC Chamber of Commerce & Industry, a SAARC regional lawyers group (SAARC-LAW), and regional accountants (SAFA). These are designated as "Apex" bodies, and they can occasionally make presentations to the interstate bodies. SAARC has also engaged civil society associations concerned with health, women's rights, media, and children, which it calls "recognized bodies" (Braveboy-Wagner 2009: 197; Tripathi 2006).[12] There is no indication that these bodies have a routinized channel in decision making.

SAARC has no parliament.[13] In 1993, the Heads of State endorsed the Association of SAARC Speakers and Parliamentarians, which had been launched the year before (Declaration of the Seventh SAARC Summit in Dhaka, Art. 46). The body has held meetings irregularly (Muni 2006; Braveboy-Wagner 2009: 197).

Decision Making

MEMBERSHIP ACCESSION

There are no specific rules on accession. The admission of Afghanistan in 2007 was handled by the Heads of State or Government which invited the country to become a member "subject to the completion of formalities" (2005 Dhaka Declaration, Art. 49). The Council of Ministers set out the process (Art. 49). However, this procedure was articulated for a special case, and in the absence of a general procedure we code "no written rules."[γ]

[12] See <http://www.saarc-sec.org/Apex-and-Recognised-Bodies/14/> (accessed February 13, 2017).
[13] There have been several proposals, and one of the first was by Sondhi and Paranjpe (1995).

MEMBERSHIP SUSPENSION
No written rules.

CONSTITUTIONAL REFORM
No written rules.

REVENUES
The organization does not have a predictable stream of revenue. The Charter states unambiguously that member state contributions "towards financing of the activities of the Association shall be voluntary" (Art. 9.1). Technical experts collect financial contributions on an ad hoc basis when a particular project or program is launched. These can come from member states or from external sources (Charter, Art. 9).

SAARC has tried to raise funds for development. One of the most ambitious initiatives was the South Asian Development Fund (SADF), set up in 1996, to finance regional projects on industrial development, poverty alleviation, protection of the environment, human resource development, and infrastructure. It combined two prior funds, the SAARC Fund for Regional Projects (SFRP) and the SAARC Regional Fund.[14] It initially had an endowment of US$5 million, contributed on a pro-rata basis by the member states, but struggled to attract additional funding. It was abolished in 2008, and in 2010, replaced by the SAARC Development Fund (SDF), which functions as the "umbrella financial mechanism" for all SAARC projects and programs (Charter of the SAARC Development Fund, Art. 1).

BUDGETARY ALLOCATION
Each technical committee makes recommendations regarding the allocation of costs related to programs (Charter, Art. 9.2). The Standing Committee, then, takes the final decision, as it is responsible for the "approval of projects and programs, and the modalities of their financing" (Charter, Art. 5.1b). As we have seen, decisions are taken by unanimity. Hence we code the executive as initiator (because technical committees are answerable to the Standing Committee) and as the final decision maker.

SAARC has voluntary member state contributions, voluntary program participation, no centralized annual budget, no written rules on budgetary noncompliance, and a vague commitment to consider external funding as backstop. This points to non-binding budgetary commitments. The language in Art. IX in the Charter underlines this: "The contribution of each Member State towards financing of the activities of the Association shall be voluntary."

[14] See <http://www.sdfsec.org/about-sdf> (accessed February 13, 2017).

FINANCIAL COMPLIANCE
No written rules.

POLICY MAKING
SAARC has diverse policy instruments: agreements and conventions, declarations, and programs and projects. Agreements and conventions are technically binding after ratification; programs and projects are voluntary. Declarations, issued by the heads of state or government or by the ministers, call upon member states to cooperate in particular areas or to pursue specific issues domestically. They are often very broadly worded and do not mandate concrete action. The core of SAARC policy making consists of projects and programs on the one hand, and agreements and conventions on the other.

We code projects and programs as the first policy stream. Cooperation projects and programs were initiated before the inception of the organization, with the adoption of the Integrated Program of Action (IPA) in 1983. The technical committees propose projects and programs in their respective area of cooperation (Charter, Art. 6.2b); the Standing Committee, assisted by a Programming Committee, takes the final decision (Art. 5.1b). The Secretariat plays a marginal role. Decisions are non-binding since participation by member states is voluntary, and no ratification is required.

Agreements and conventions are a second policy stream. They constitute statements of intent about the objectives and means of cooperation in particular policy areas. The SAARC website lists eight agreements (covering matters like taxation and free trade) and six conventions (covering topics like children's welfare and terrorism). Both the Council of Ministers and the Standing Committee have the authority to initiate policies; the former by virtue of its responsibility for "the formulation of the policies of the Association" (Charter, Art. 4.1a), the latter given its task to contribute to the "identification of new areas of cooperation based on appropriate studies" (Charter, Art. 5.1e). The Council of Ministers takes the final decision by unanimity (Charter, Arts. 5.1a and 5.3). Implementation remains purely national or depends on voluntary coordination. Agreements and conventions become binding only after ratification by all members.

The South Asian Free Trade Agreement (SAFTA), which came into effect in 2006, is a partial departure from the practice of ultra-voluntarism. SAFTA contains specific targets for the reduction of tariffs by a certain margin or by a certain date. Still, even this agreement continues to have some vaguely worded text which provides loopholes for member states to elide binding commitments. In fact, Pakistan has consistently refused to apply SAFTA to its trade with India (Dubey 2007: 1238). As one legal expert comments: "This broadly written provision [Arts. 20.11 and 21 of the SAFTA Agreement]

permits Contracting States to opt out of the agreement without providing any reason, thereby shirking otherwise binding obligations" (Nath 2007: 343, fn. 41). To reflect the ambivalence of SAFTA with respect to bindingness we score conditionally binding from 2006.[β]

DISPUTE SETTLEMENT

The SAARC Preferential Trading Arrangement (SAPTA) of 1993 established political rather than legal dispute settlement. It calls for the amicable resolution of disputes between parties and, in case of failure, for referral of the dispute to a Committee of Participants—a body of member state representatives—which can issue a recommendation (SAPTA Agreement, Art. 20).[15] Even though the stipulation asks the Committee to operationalize Article 20, no rules appear to have been adopted (Nath 2007: 339).

The dispute settlement arrangement under the 2006 SAFTA agreement introduces, for the first time, a modest form of third-party review that "mirrors the WTO's dispute settlement apparatus" (Harrington 2008: 52). However, the key body appears politically controlled (Nath 2007: 346–8), and therefore does not qualify as judicialized dispute settlement.

If the two disputing parties fail to settle their dispute, the complaining party can submit the matter to a Committee of Experts (SAFTA, Art. 20.4), which may refer the dispute to "a panel of specialists . . . for peer review of the matter referred to it" (Art. 20.8). However, this Committee is composed not of legal experts who sit in a personal capacity, but of trade experts (Art. 10.5) who represent their country.[γ] Consequently we code no third-party access.

Decisions by the expert committee have purely advisory status, and an affected party may appeal a Committee decision with the SAFTA Ministerial Council (Art. 10.3), which "may uphold, modify or reverse the recommendations of the Committee of Experts" (Art. 10.9).[16] If the violating state fails to comply, the Committee of Experts "may authorize other interested Contracting States to withdraw concessions having trade effects," which amounts to partial remedy. Non-state actors cannot initiate.

[15] For a short description of the first dispute addressed under the SAPTA stipulation and its inadequacies, see Nath (2007: 339).

[16] The SAARC Arbitration Council, agreed in 2005 and operational from 2011, provides compulsory adjudication. It falls outside our remit because it handles private commercial disputes and does not have jurisdiction over interstate disputes (see 2005 Arbitration Council Agreement).

SAARC Institutional Structure

		A1			A2			E1										GS1	
Years		Non-state selection	Indirect representation	Weighted voting	Non-state selection	Indirect representation	Weighted voting	Head—agenda	Head—decision	Members—agenda	Members—decision	Non-state selection	Partial representation	Indirect representation	Reserved seats	Weighted voting	Partial veto	Select	Remove
1986	Not body-specific	0	0	0	0	0	0	R	R			0	0	0	0	0	0		
	Member states									✓	✓								
	A1: Heads of State (Summit)																		
	A2: Council of Ministers																		
	E1: Standing Committee																		
1987–2005	Not body-specific	0	0	0	0	0	0	R	R			0	0	0	0	0	0		N
	Member states									✓	✓								
	A1: Heads of State (Summit)																		
	A2: Council of Ministers																	0	
	E1: Standing Committee																		
	GS1: Secretariat																		
2006–2010	Not body-specific	0	0	0	0	0	0	R	R			0	0	0	0	0	0		N
	Member states									✓	✓								
	A1: Heads of State (Summit)																		
	A2: Council of Ministers																	0	
	E1: Standing Committee																		
	GS1: Secretariat																		

Note: A = automatic/technocratic procedure; N = no written rule; R = rotation; ✓ = body co-decides, but no voting rule; ← = change in status. Shaded areas refer to institutions or policy areas that are non-existent for those years.

SAARC Decision Making

		Accession			Sus-pension		Constitution				Budget			Com-pliance		Policy 1 (projects, programs)					Policy 2 (agreements, conventions)					Dispute settlement						
Years		Agenda	Decision	Ratification	Agenda	Decision	Agenda	Decision	Ratification	Revenue source	Agenda	Decision	Binding	Agenda	Decision	Agenda	Decision	GS role	Binding	Ratification	Agenda	Decision	GS role	Binding	Ratification	Coverage	Third party	Binding	Tribunal	Non-state access	Remedy	Preliminary ruling
1986	Not body-specific	N	N	N	N	N	N	N	N	0			0						0	3				0	0							
	Member states																															
	A1: Heads of State (Summit)																															
	A2: Council of Ministers																				0	0										
	E1: Standing Committee										0	0				0	0				0											
1987–2005	Not body-specific	N	N	N	N	N	N	N	N	0			0					0	0	3			0	0	0							
	Member states																															
	A1: Heads of State (Summit)																															
	A2: Council of Ministers																				0	0										
	E1: Standing Committee										0	0				0	0				0											
	GS1: Secretariat																															
2006–2010	Not body-specific	N	N	N	N	N	N	N	N	0			0					0	0	3			0	1	0							
	Member states																															
	A1: Heads of State (Summit)																															
	A2: Council of Ministers																				0	0										
	E1: Standing Committee										0	0				0	0				0											
	GS1: Secretariat																															

Note: A = automatic/technocratic procedure; N = no written rule; R = rotation; ✓ = body co-decides, but no voting rule; ← = change in status. Shaded areas refer to institutions or policy areas that are non-existent for those years.

Shanghai Cooperation Organization (SCO)

The Shanghai Cooperation Organization (SCO) is a general purpose regional organization with a strong internal security bent. It consists of six countries in Central and Eastern Asia: China, Kazakhstan, Kyrgyzstan, Russia, Tajikistan, and Uzbekistan. India and Pakistan signed a Memorandum on Accession in June 2016. The SCO's stated purpose is to "strengthen mutual trust, friendship and good-neighborliness" among the member states, promote "comprehensive cooperation" in a broad range of functional areas, and "jointly contribute to the strengthening of peace and ensuring of security and stability in the region" (SCO Charter, Preamble and Art. 1). The headquarters are in Beijing, China.

The organization came out of bilateral cooperation between Moscow and Beijing in the final years of the Soviet Union. The two powers sought to resolve border issues, and after the dissolution of the Soviet Union, these efforts continued on a multilateral level with Russia and the newly independent Central Asian republics. Upon Chinese initiative, the five countries began a diplomatic dialogue on border security and mutually acceptable border demarcation in 1993. In April 1996, the presidents signed several agreements on border issues, a package that soon became known as the Shanghai Accord. Since then, the Shanghai Five or Shanghai Forum has "evolved into a region-wide front to address the challenges to political normalization in the Central Asian Region" (Gleason 2001: 1092). This involved regular meetings of heads of state, confidence-building measures, and common military exercises.

In 2000, the five states (with Uzbekistan as observer) agreed to deepen cooperation. In 2001, Uzbekistan joined the effort and the six adopted a declaration. One year later, the member states adopted the Shanghai Cooperation Charter, which established the organization under international law.

The Shanghai Cooperation Organization has conducted activities on a range of topics from economic cooperation to counterterrorism. In 2003, the members agreed on a free trade area as a long-term objective. They also conducted their first joint military exercise. Since then, cooperation has expanded to energy, transport, and communication (Huasheng 2006; Cooley 2010). The organization has been variously described as "an indispensable forum for strategic co-operation for the former Central Asian states as well as an essential conduit between East and Central Asia" (Lanteigne 2006/07: 605) and as a forum to mitigate the acute competition in Central Asia between Russia and China (Facon 2013; Cabestan 2013). Observers have also noted that the SCO helps to enforce autocratic norms in the region. As in the Commonwealth of Independent States, cooperation in counterterrorism and law enforcement has the dual purpose of strengthening the authority of domestic elites and advancing an alternative to liberal democratic norms

(Ambrosio 2008: 1322). Its focus on regime security and its preference for consensus, flexibility, and informality has been likened to ASEAN (see Aris 2009, 2011).

The chief legal documents are the SCO Charter (signed and in force 2002) and the RATS (Regional Anti-Terrorist Structure) Agreement (signed 2002; in force 2004). The SCO has two assemblies (Council of Heads of State and Council of Heads of Government), two executives (the Council of Ministers of Foreign Affairs and the RATS Council), and a secretariat.

Institutional Structure

A1: THE COUNCIL OF HEADS OF STATE (2002–10)
The Council of Heads of State is the supreme decision body (SCO Charter, Art. 5). It determines political priorities, delineates the major areas of activity, decides on institutional arrangements, and handles external relations. Decisions by the Council, as by all other SCO bodies, are taken by consensus and are considered adopted when no member state raises objections (Art. 16). The chair of the Council rotates and is occupied by the member state that organizes the meeting, which takes place once a year (Art. 5).

A2: THE COUNCIL OF HEADS OF GOVERNMENT (2002–10)
The Council of Heads of Government (Prime Ministers) approves the budget and decides on important issues pertaining to specific issue areas, especially economic cooperation (SCO Charter, Art. 6). Decisions are taken by consensus (Art. 16). Meetings of the Council, which take place once a year, are chaired by the prime minister of the host country.

E1: THE COUNCIL OF MINISTERS OF FOREIGN AFFAIRS (2002–10)
The chief executive is a multi-tiered bureaucracy with the Council of Ministers of Foreign Affairs at its apex. The Council of Ministers runs the organization, prepares meetings of the Council of Heads of State, and holds consultations on international problems. It can also pronounce statements on behalf of the SCO (SCO Charter, Art. 7). The Council takes decisions by consensus (Art. 16), and it is chaired by the minister of the country that hosts the Summit. We code this as rotation. The Council generally meets a month prior to the Heads of State, and can convene extraordinary meetings at the initiative of at least two member states and the consent of all (Art. 7). The chair of the Council represents the organization in the outside world.

One tier below stands the Council of National Coordinators, which "coordinates and directs day-to-day activities of the Organization" (SCO Charter, Art. 9). Each member state is represented. It meets at least three times a year and is chaired by the host country.

There are also regular civil servant meetings on functional topics. These meetings of heads of ministries or agencies may convene if authorized by either the Council of Heads of State or the Council of Heads of Government (SCO Charter, Art. 8). Working groups of technical experts prepare these meetings.

E2: THE REGIONAL ANTI-TERRORIST STRUCTURE (RATS) (2004–10)

RATS occupies a unique place in the SCO architecture. Established in 2004 in Tashkent, Uzbekistan (Cabestan 2013: 424), it is a permanent SCO agency that helps the member states and SCO bodies to implement the 2001 Shanghai Convention on Combating Terrorism, Separatism, and Extremism (2002 RATS Agreement, Arts. 10 and 3; also SCO Charter, Art. 10). Aside from developing proposals and recommendations, and assisting national agencies in coordinating their activities, it collects and analyzes information on terrorism (RATS Agreement, Art. 6).

The Structure has its own tiered organization consisting of a Council and an Executive Committee. We code the Council, which "is organized so as to be able to function continuously" (RATS Agreement, Art. 10). Its membership consists of one permanent representative per member state. The Council chooses its chair, presumably by consensus.[α] So there is full and direct member state representation. It has one non-state member, the director of the Executive Committee, with agenda setting power but no vote. The RATS Council, then, is less than perfectly state-controlled, but since the director cannot vote, we come down on a fully statist composition.[β]

The Executive Committee is the permanent arm. The director is appointed by the Council of Heads of State for three years based on the recommendation of the RATS Council (RATS Agreement, Art. 11), presumably by consensus. He attends the Council meetings and can "bring to the Council any questions within RATS competence" (Art. 11). The director is the chief administrative officer of the Executive Committee and appoints in that capacity, with the consent of the Council, the other officers of the Executive Committee. The Executive Committee "shall not seek or receive instructions from authorities or officials of the Parties" (Art. 11).

The Council takes "decisions binding on all matters of substance, including financial questions" and does so by consensus, that is, a decision is adopted "if none of the parties protested against it" (Art. 10). It reports directly to the Council of Heads of State.

GS1: SECRETARIAT (2004–10)

The Secretariat provides organizational and technical support and prepares the annual budget (SCO Charter, Art. 11). The Secretariat was inaugurated in January 2004 (Al-Qahtani 2006: 131).

It is headed by an executive secretary, who is appointed by the Council of Heads of State on nomination by the Council of Ministers of Foreign Affairs. These nomination decisions are taken by consensus and the post rotates among the member states (Al-Qahtani 2006: 136). The term of service is three years. Three executive secretary deputies are appointed by the Council of Ministers of Foreign Affairs upon nomination by the Council of National Coordinators. They cannot be from the same country as the executive secretary. Once in office, the members of the Secretariat "should not request or receive instructions from any member State and/or government, organization or physical persons" (Art. 11) (for more information, see Al-Qahtani 2006: 136–7).

CB1: BUSINESS COUNCIL (2006–10)

The Business Council was created by Resolution 12 of the Council of the Heads of State in September 2004 and it was established in June 2006. It is based in Moscow. Its website describes it as "a non-governmental structure that integrates the most respectful [sic] representatives of business communities of the six countries" in order to "promote economic cooperation, forge direct relationships and dialogue between businessmen and financial institutions of the SCO member states, and facilitate implementation of multilateral projects."[17] The Council can also formulate recommendations and proposals for economic cooperation.[α] Its structure is three-tiered: an Annual Session, a Board consisting of three members from each National Branch, and the Secretariat. The Session takes binding decisions by unanimity.[18] The Business Council is a gray case because, while it is a standing non-state body with formal status, it is not clear to what extent its right to be consulted is institutionally protected. We come down on the side of coding the Business Council as a consultative body from 2006.[β]

Decision Making

MEMBERSHIP ACCESSION

Membership is "open for other States in the region that undertake to respect the objectives and principles of this Charter" (SCO Charter, Art. 13). The accession procedure envisages, upon request by the respective state, an initial assessment by the Council of Ministers of Foreign Affairs, with the final decision taken by the Council of Heads of State. The general decision rule of consensus applies. Ratification is not mentioned.

In 2010, the Council of Heads of State adopted the "Rules of Procedure and the Statute on the Order of Admission of New Members to the SCO," which details the procedure in view of several accession requests (Declaration 2010:

[17] See <http://bc-sco.org/?level=2&lng=en> (accessed February 13, 2017).
[18] See <http://bc-sco.org/?level=5&lng=en> (accessed February 13, 2017).

Para. 11; also Berdibaevich et al. 2015). We could not track down the Regulations, but rely on a secondary source that lists the following conditions: an interested member should be in the Euro-Asian region, have diplomatic relations with all SCO members, have observer or partner status, not be under sanctions of the UN Security Council, and not be at war (Berdibaevich et al. 2015: 6–7). India and Pakistan signed a Memorandum of Accession at the June 2016 Tashkent Summit, and are expected to join in 2017.[19]

MEMBERSHIP SUSPENSION

The SCO Charter contains a clause on suspension. It can be triggered in case of violations of the provisions of the Charter or systematic failure to meet SCO legal obligations (Charter, Art. 13). Once again, the Council of Heads of State takes the final decision on the basis of a proposal by the Council of Ministers of Foreign Affairs. If violations continue, a member state can be expelled by the Council of Heads of State. Decisions on suspension are taken by consensus without the vote of the state concerned (Art. 16) (for an extended discussion, see Al-Qahtani 2006: 140–3).

CONSTITUTIONAL REFORM

The SCO Charter sets out a bare-bones procedure for constitutional amendments. Article 23 stipulates that "by mutual agreement of Member States the Charter can be amended and supplemented." No rules are specified on who can initiate. The final decision is taken by the Council of Heads of State and it is formalized through separate protocols. It appears that amendments require ratification by four out of six member states to enter into force for those who have ratified (Arts. 21 and 23).[α]

REVENUES

The organization draws its finances from annual member state contributions (SCO Charter, Art. 12). A separate agreement lays out the size of contributions by each member state, which is renegotiated each year. Secondary sources indicate that Russia and China are equal contributors and provide about half of the budget (Grieger 2015: 6; Aris 2011).

BUDGETARY ALLOCATION

The budget is drafted by the Secretariat (from 2004) (Art. 11) and approved by the Council of Heads of Government by consensus (Art. 6). The annual budget contains only expenditure "to finance standing SCO bodies in accordance with the above [special] agreement" (Art. 12), while project expenses are distributed ad hoc among willing participants (Art. 16). An annual

[19] "India, Pakistan edge closer to joining the SCO security bloc," *The Express Tribune*, June 24, 2016.

agreement sets out regular member state contributions and such agreements are binding: "The decisions taken by the SCO bodies shall be implemented by the member States in accordance with the procedures set out in their national legislation" (Art. 17).

FINANCIAL COMPLIANCE

No written rules. There is a generic stipulation that emphasizes the need to comply with obligations (SCO Charter, Art. 17).

POLICY MAKING

The SCO bodies pass resolutions, regulations, and declarations, but their content is only sparsely available on the website. Based on the secondary literature and the self-presentation of the organization, it appears that the core consists of programs and projects in economic cooperation. Even though no policy-making procedure is outlined in the Charter, the website provides the following description: The Secretariat "[i]n interaction with Permanent Representatives composes draft documents based on proposals of the member states and with the consent of the Council of National Coordinators circulates them among the member states for further consideration by the SCO institutions."[20] We interpret this to mean that both member states and the Secretariat can set the agenda, but that the Secretariat's agenda setting role is weak and not legally based. Final decisions are taken by the Council of Heads of State or the Council of Heads of Government by consensus (Art. 16). Even though decisions are generally binding (Art. 17), member states can opt out of specific programs when they are "not interested in implementing particular cooperation projects of interest to other Member States" (Art. 16). We code this as partial bindingness (see also Al-Qahtani 2006: 140). No ratification is required.

Since 2004, we code a second policy stream which is related to security and counterterrorism within the RATS framework. Agenda setting and decision making are centralized in the RATS Council, where decisions are taken by consensus. The Council-appointed director of the Executive Committee, who is an ex officio member of the Council, also has an initiating role. Since the director stands at the head of a permanent bureaucracy that is instructed to be impartial, we conceive his role as equivalent to that of a general secretary. Decisions are binding and without opt-out (RATS agreement, Art. 10). Ratification is not required.

DISPUTE SETTLEMENT

The SCO Charter contains a political dispute settlement mechanism that relies on consultations and intergovernmental negotiations (Art. 22).

[20] See <http://en.sco-russia.ru/about_sco/20140905/1013179603-print.html> (accessed March 2017).

SCO Institutional Structure

		A1			A2			E1									E2										GS1		CB1
Years		Non-state selection	Indirect representation	Weighted voting	Non-state selection	Indirect representation	Weighted voting	Head—agenda	Head—decision	Members—agenda	Members—decision	Non-state selection	Partial representation	Indirect representation	Reserved seats	Weighted voting	Partial veto	Head—agenda	Head—decision	Members—agenda	Members—decision	Non-state selection	Partial representation	Indirect representation	Reserved seats	Weighted voting	Partial veto	Select	Remove	Non-state selection
2002–2003	Not body-specific	0	0	0	0	0	0	R	R			0	0	0	0	0	0													
	Member states									✓	✓																			
	A1: Council of Heads of State																													
	A2: Council of Heads of Government																													
	E1: Ministers of Foreign Affairs																													
2004–2005	Not body-specific	0	0	0	0	0	0	R	R			0	0	0	0	0	0					0	0	0	0	0	0		N	
	Member states									✓	✓									✓	✓									
	A1: Council of Heads of State																											0		
	A2: Council of Heads of Government																													
	E1: Ministers of Foreign Affairs																													
	E2: RATS Council																	0	0											
	GS1: Secretariat																													
2006–2010	Not body-specific	0	0	0	0	0	0	R	R			0	0	0	0	0	0					0	0	0	0	0	0		N	1
	Member states									✓	✓									✓	✓									
	A1: Council of Heads of State																											0		
	A2: Council of Heads of Government																													
	E1: Ministers of Foreign Affairs																													
	E2: RATS Council																	0	0											
	GS1: Secretariat																													
	CB1: Business Council																													

Note: A = automatic/technocratic procedure; N = no written rule; R = rotation; ✓ = body co-decides, but no voting rule; ← = change in status. Shaded areas refer to institutions or policy areas that are non-existent for those years.

SCO Decision Making

		Accession			Sus-pension		Constitution				Budget			Com-pliance		Policy 1 (resolutions, regulations, declarations)					Policy 2 (RATS decisions)					Dispute settlement						
Years		Agenda	Decision	Ratification	Agenda	Decision	Agenda	Decision	Ratification	Revenue source	Agenda	Decision	Binding	Agenda	Decision	Agenda	Decision	GS role	Binding	Ratification						Coverage	Third party	Binding	Tribunal	Non-state access	Remedy	Preliminary ruling
2002–2003	Not body-specific			2			N		1	1			2	N	N				1	3												
	Member states															✓																
	A1: Council of Heads of State		0			0		0									0														
	A2: Council of Heads of Government											0					0														
	E1: Ministers of Foreign Affairs	0			0																										
2004–2005	Not body-specific			2			N		1	1			2	N	N			0	1	3			1	2	3						
	Member states															✓																
	A1: Council of Heads of State		0			0		0									0														
	A2: Council of Heads of Government											0					0														
	E1: Ministers of Foreign Affairs	0			0																										
	E2: RATS Council																				0	0									
	GS1: Secretariat										3					✓					✓											
2006–2010	Not body-specific			2			N		1	1			2	N	N			0	1	3			1	2	3						
	Member states															✓																
	A1: Council of Heads of State		0			0		0									0														
	A2: Council of Heads of Government											0					0														
	E1: Ministers of Foreign Affairs	0			0																										
	E2: RATS Council																				0	0									
	GS1: Secretariat										3					✓					✓											
	CB1: Business Council																														

Note: A = automatic/technocratic procedure; N = no written rule; R = rotation; ✓ = body co-decides, but no voting rule; ← = change in status. Shaded areas refer to institutions or policy areas that are non-existent for those years.

Pacific Community (SPC)

The Secretariat of the Pacific Community (SPC), since 1997 the Pacific Community, is an intergovernmental organization with twenty-six members, encompassing twenty-two Pacific islands plus four of the region's former UN trustee administrators: Australia, New Zealand, the United States, and France. Its chief purpose is to act as "a consultative and advisory body to the participating Governments in matters affecting the economic and social development of the territories within the scope of the Commission and the welfare and advancement of their peoples" by providing technical and policy advice, conducting research, and lending development assistance (1947 Canberra Agreement, Art. 4). From the start, the organization has banned political issues from its agenda (Shibuya 2004: 103). The organization's headquarters are in Noumea, New Caledonia, and it has regional offices in Fiji, Micronesia, and the Solomon Islands.

The SPC was established in 1947 by the Canberra Agreement. The founders were Australia, France, New Zealand, the Netherlands, Britain, and the United States, the six countries that were administering the Polynesian, Melanesian, and Micronesian islands, either as colonies or as trustee territories for the United Nations (Padelford 1959: 381; Braveboy-Wagner 2009: 197; for a discussion of UN trusteeship, see Wilde 2007). In 1962, the Netherlands withdrew when its former colony and territory in trust, Irian Jaya (West New Guinea), became Indonesian. Britain withdrew in 2004. Samoa was the first independent island-nation to become a full member of the SPC in 1965.

Over the years, the island states exerted pressure to distance the organization from its colonial origins leading to a series of institutional reforms (Ball 1973: 237–8; Shibuya 2004: 103–4; Fry 1981: 461–8).[21] In 1983, at the twenty-third South Pacific Conference in Saipan, all Pacific member countries and territories were recognized as full and equal members; they achieved full voting rights and became contributors to the SPC. Soon thereafter, the former colonial powers complained that the organization "wasn't run to their satisfaction" (Keith-Reid 1997: 24). Britain left the organization in 1995 and returned in 1998 after the organization reformed financially and administratively, but left again in 2004 (Keith-Reid 1997: 23). The South Pacific Commission was renamed the Pacific Community at its fiftieth anniversary conference in 1997 to reflect the fact that the organization now had members across the Pacific region.

[21] The reluctance of the former colonial powers to abandon the "no-politics" stipulation in the SPC Charter motivated the islands to create a competing regional organization, the South Pacific Forum (Fry 1981: 464–6; 1994: 139–40).

The SPC has transformed itself from a colonial to a developmental organization, a metamorphosis rooted in an "assertion of indigenous Pacific values and control" (Fry 1981: 468). The tensions accompanying the change are reflected in its institutions. For example, voting rules have shifted from equal weight among the founding colonial countries to weighted voting in the intermediate period back to equal weight following independence. The Secretariat has evolved from a primarily administrative support center to a centralized coordinating body with extensive executive competences.

The SPC has become a vital resource in the provision of public goods for countries that lack the economies of scale to provide them alone. The SPC has taken an especially active role in research on fisheries (Miller, Bush, and van Zwieten 2014: 2), health, disaster prevention, and disaster relief (Gero, Méheux, and Dominey-Howes 2010).

The key legal documents are the Agreement Establishing the South Pacific Commission (signed 1947; in force 1948), the Agreement Amending the Agreement Establishing the South Pacific Commission of February 6, 1947 (signed 1964; in force 1965), the 1974 Memorandum of Understanding (signed and in force 1974), the 1984 Canberra Agreement (signed and in force 1984), and the Resolution Adopted by the Thirty-Seventh South Pacific Conference (signed 1997 in force: varies by stipulation). Today, SPC has the South Pacific Conference and Committee of Governments and Administrations as assemblies, and the Permanent Secretariat, which doubles as executive and general secretariat.

Institutional Structure

A1: FROM THE SOUTH PACIFIC COMMISSION (1950–73) TO THE (SOUTH) PACIFIC CONFERENCE (1974–2010)

The 1947 Canberra Agreement created the South Pacific Commission as the chief decision body. It was composed of two Commissioners from each member state, one of whom served as the senior Commissioner (Art. 4). The Commission was a "consultative and advisory body" to member governments on economic and social development and was instructed to "study, formulate, and recommend measures," "to provide for and facilitate research," to provide technical assistance and information as well as "to make recommendations for the coordination of local projects" (Art. 6). The Commission took most decisions by two-thirds majority, with the exceptions of procedural matters which were taken by simple majority, and financial matters which required consensus

(Art. 14). These decisions were non-binding on member states. The chair rotated and the commission met at least twice a year (Arts. 11 and 12).[22]

After the accession of Western Samoa, the decision rules in the Commission were adapted in anticipation of future accessions. A weighted voting system was introduced whereby each new member received one vote and each founding member received one vote for itself plus one vote for each of the territories under its administration. Hence, founding members lost votes as their territories became independent (1964 Agreement, Art. 14).[23] As before, the default rule was a supermajority of two-thirds with consensus required for financial matters, except for the budget (Haas 1989: 9).

In 1974 the South Pacific Commission was replaced by the South Pacific Conference, which had started life as a consultative body (1974 Memorandum of Understanding, Art. 2; see also Fry 1981: 462). Its functions were initially limited to adopting an annual work program and budget (Arts. 5, 14, and 15), but it soon assumed the entire range of functions from the Commission. Each member government and each territorial administration could send one representative (and an unspecified number of alternates) and each representative had the right to cast one vote (Arts. 3 and 4). So there is no longer weighted voting, all members are selected by governments, and all member states (or territories) are represented.

The 1974 Memorandum also created two auxiliary committees, the Planning and Evaluation Committee, and the Committee of Representatives of Participating Governments (Art. 12). The voting rule in the Conference was changed to simple majority (Art. 9.2).

The 1997 Resolution designates the Conference as the "governing body of the Commission" (Art. 1). It clarifies that its "key focus is to appoint the Director-General and to establish the policy of the organization" (Art. 1). From 1997 onwards, the Conference meets only every other year (Art. 3).

A2: COMMITTEE OF REPRESENTATIVES OF GOVERNMENTS AND ADMINISTRATIONS (CRGA) (1998–2010)

The 1997 Resolution merges the two auxiliary bodies of the Conference—the Planning and Evaluation Committee and the Committee of Representatives of Participating Governments—and elevates them to a second assembly, the Committee of Representatives of Governments and Administrations (CRGA), which becomes the chief policy organ from 1998. While it combines legislative

[22] In 1954, member states reduced the number of meetings to one per year (see 1954 Agreement).

[23] At the start, Australia had five votes, France four, New Zealand four, Britain four, the US four, and Western Samoa one.

and executive tasks, we code the CRGA as an assembly because this is how the SPC itself conceives the body.[24]

Each member state has a representative, and each has one vote. We assume that the CRGA has the same decision rule as the Conference, that is, simple majority.$^{\alpha}$ The Committee considers annual evaluations of the work program and approves policy changes; it approves administrative and work program budgets; it conducts annual performance evaluations of the director general, and proposes a candidate for the post of director general (Art. 3).

E1: SOUTH PACIFIC COMMISSION (1950–73)

In the early years, the South Pacific Commission served also as the executive (1947 Canberra Agreement, Art. 6). The Commission consisted of no more than twelve Commissioners, two appointed by each member state (1947 Canberra agreement, Art 4). The chair rotated (1947 Canberra Agreement, Art 11). The composition of the Commission was monopolized by member states, representation was direct, and all member states were represented.

With the 1964 Agreement, the composition of the Commission remained largely the same, but the decision rule changed to weighted voting. No country had a veto.

E2: SPC SECRETARIAT (1974–2010)

The 1974 Memorandum of Understanding abolished the Commission, and shifted its executive functions to the Secretariat. The Conference directed the secretary general "as to the policy to be followed in the preparation of the Work Programme and Budget" and gave "instructions on the preparation and the control of long-term projects" (Art. 15).

Rules regarding the appointment and dismissal of the secretary general remain the same as under the Canberra Agreement. No written rules exist on who proposes the secretary general.

According to the 1947 Canberra Agreement, the secretary general has the power to appoint and dismiss the staff of the Secretariat, subject to instructions from the Commission/Conference, which operates by supermajority (1947 Canberra Agreement, Art. 41). Hence we code the Conference in conjunction with the secretary general as proposing members, and the secretary general as taking the final decision. Given the number of deputies and the role of the secretary general in nominating them, less than

[24] See <http://www.spc.int/crga45/> (accessed March 2017).

50 percent of the executive is selected by member states, and member state representation is partial. Representation is indirect, which is reinforced by a Treaty stipulation that requires the independence of the staff (Arts. 44 and 45).

The 1997 Resolution streamlines the Secretariat, which is now designated as the "chief executive." The director general, formerly the secretary general, is given "full responsibility and authority to manage the organization within the guidelines of established policy" (Art. 1).

The director general continues to be appointed by the Conference, but is nowadays recruited in an open competition. The CRGA ranks the candidates and recommends one name to the Conference which decides by two-thirds majority (1997 Resolution, Art. 1). The director general needs to pass an annual performance evaluation conducted by the CRGA (Art. 1). Hence the CRGA sets the agenda on the selection of the head of the executive, which we code from 1998.

The Secretariat further consists of an executive team that comprises, from 1999, a deputy director general and three directors (heading the Divisions of Marine, Land, and Social Resources) (1997 Resolution, Art. 4).[25] The director general "has the authority to appoint his Deputy" upon consultation with member governments (Art. 2), and we infer that the three directors are chosen in similar fashion. Hence both member states and the head of the executive propose the members of the executive, and the head decides. We continue to code more than 50 percent non-state representation and partial member state representation. Given the strong emphasis on technical proficiency and managerial principles, it seems sensible to code representation as indirect.$^{\alpha}$ Current staff numbers around 600.[26]

GS1: SECRETARIAT (1950–2010)

The 1947 Canberra Agreement established a Secretariat "to serve the Commission and its auxiliary and subsidiary bodies" (Art. 39). The secretary general "carr[ied] out all directions of the Commission" (Art. 41). He was appointed by the Commission, by two-thirds majority, for a term of five years with the possibility of reappointment (Art. 40). The staff of the secretariat was to be recruited from the local inhabitants of the territories (Art. 42) and all members were required to be fully independent in the discharge of their duties (Arts. 44 and 45). The Commission could terminate the appointment of the secretary general before the end of his term in office, presumably also by two-thirds

[25] In 2017 there were two deputy director generals, twelve directors, and a chief advisor (see <http://www.spc.int/about-us/executive-management/> (accessed March 2017)).

[26] See <http://www.un.org/esa/forests/wp-content/uploads/2015/06/SPC.pdf> (accessed March 2017).

majority (Art. 40). In 1969, the first Islander, Afioga Afoafouvale Misimoa, was appointed as secretary general (Ball 1973: 237).

With the 1974 Memorandum, the Secretariat becomes the chief executive body, but the rules for appointment and dismissal remain intact, except that the Conference now takes the decisions.

The 1997 Resolution reduces the term in office of the director general to two years and makes contract renewal explicitly performance-based: "The Director-General may hold office for three two-year terms, with renewal of contract after each term being dependent on performance" (Art. 1).

CB1: RESEARCH COUNCIL (1950–62)

The founding Canberra Agreement designated the Research Council as a "standing advisory body auxiliary to the Commission." It was composed of "persons distinguished in the fields of research" with "a small number of persons highly qualified in the several fields of health, economic development and social development." All were nominated by the Commission (Art. 21). In the late 1950s, the Council had twenty-two members, eighteen nominated by governments and four drawn from the Secretariat (Padelford 1959: 384). We infer that these people served in personal capacity (see Robson 1955: 188).

The Council was to assess research needs in the member territories, make recommendations to the Commission on research to be conducted, initiate new research, and coordinate ongoing research (Art. 26). The Research Council lapsed in 1963 (1984 Canberra Agreement, Historical Note 1, p. 13).

CB2: SOUTH PACIFIC CONFERENCE (1950–73)

The second consultative body under the Canberra Agreement was the South Pacific Conference, which was composed of two delegates from each of the administered territories. The members were chosen by the territories—not the administering colonial or entrusted power (Arts. 34 and 36). The Conference discussed questions of common interest and formulated recommendations to the Commission (Art. 38). Each territorial delegation had one vote and the body generally took decisions by two-thirds majority (procedural matters were decided by simple majority) (Conference Rules of Procedure, Art. 26).

The Conference was influential "in surmounting linguistic and cultural differences, so that an awareness of common problems and interests [was] beginning to develop" (Padelford 1959: 385). It became more assertive over time, and its recommendations gained increasing weight. By 1969, a norm had developed that "Conference recommendations on both work program and budget would be accepted by the Commission virtually without change"

(Ball 1973: 237). The Conference ceased to exist as a consultative body in 1974, when it assumed the role of the Commission as an assembly.[27]

The contemporary Pacific Community works closely, but on an ad hoc basis, with several organizations on particular development projects. Regular partners include the East–West Center, the Pacific Parliamentary Assembly on Population and Development (PPAPD), and the South Pacific Tourism Organization.

Decision Making

MEMBERSHIP ACCESSION

The founding Canberra Agreement delineated the territorial scope of the organization to "non-self-governing territories in the Pacific Ocean… which lie wholly or in part south of the Equator and east from and including Netherlands New Guinea" (Art. 2).[28] Initially intended, as it was, as a cooperative arrangement between colonial governments, it did not have an accession procedure.

Following the accession of Western Samoa, the SPC's territorial scope was extended south of the Equator and east of Papua (1964 Agreement, Art. 2). A new skeletal accession procedure opened up the possibility for any territory or state within this geographical area to apply for accession upon invitation "by all the participating Governments" (1964 Agreement, Art. 66). Hence we code member states as initiating the process and the Commission, as the chief decision organ, taking the final decision by unanimity. Ratification by existing member states is not required. With the abolition of the Commission in 1973, we code the Conference as the decision body.

The Pacific Community revised its territorial scope again in November 2013, by means of a unanimous resolution passed, to pave the way for Timor-Leste to join the organization.

MEMBERSHIP SUSPENSION

No written rules.

CONSTITUTIONAL REFORM

The 1947 Canberra Agreement noted that the "provisions of this Agreement may be amended by consent of all the participating Governments" (Art. 60).

[27] Some of the early independent islands were initially members of both the Commission and the Conference (Ball 1973: 238).

[28] This was first amended in 1951 to include Guam and the Trust Territory of the Pacific Islands (1951 Agreement).

No information was given on who could initiate though it is likely that member states could do so. We code that the Commission takes the final decision by consensus, and from 1974, the Conference does so.[α] There is no mention of ratification, and it seems that member states decided this on a case by case basis. The 1947 Canberra Agreement and the 1964 Agreement gave member states a choice between signature without reservation or ratification, and the 1974 Agreement entered into force by signature. We code "no written rules" on ratification.[δ]

REVENUES

The 1947 Canberra Agreement established a fund to finance the expenses of the Commission and its auxiliary bodies (Art. 48). Contributions were based on a key: 30 percent for Australia, 15 percent each for the Netherlands, New Zealand, and Britain, and 12.5 percent each for France and the US. The formula could be amended by mutual consent (Art. 49). However, the bulk of the expenses—financing projects, and programs—were not covered by this fund, but were paid for by the participating governments on an ad hoc basis. This is clear from the 1984 Canberra Agreement, but can also be inferred from the provision that "decisions on budgetary and financial matters which may involve a financial contribution by the participating Governments (other than a decision to adopt the annual administrative budget of the Commission)" were subject to consensus (1947 Canberra Agreement, Art. 14c). We initially code ad hoc contributions as the chief source of revenue.

The 1974 Memorandum of Understanding confirms the ad hoc nature of member state contributions, and extends this to self-governing territories: each government shall "indicate, if possible in January of each year, the level of its assessed financial contribution. Similarly, each Government and each Territorial Administration will endeavor to indicate the level of any voluntary contribution and any other assistance which it is willing to make available in the following year" (Art. 13.2).

In 1984 the SPC shifted from voluntary to mandatory contributions for member states (but not self-governing territories). The obligations of the Commission are assessed annually and apportioned among the members "in such manner as the participating governments may unanimously determine" (1984 Memorandum, 49). The 1999 Memorandum of Understanding introduces set annual contributions according to a key that allocates 90 percent to the four metropolitan members and 10 percent to the islands. The islands' share is assessed on the basis of capacity to pay. The formula is reviewed every three years (1999 Memorandum, VI).

Mandatory member state contributions are the chief, but not the sole source of funding for the SPC. From the 1970s, external donors such as the United Nations Development Programme (UNDP) have contributed substantial

funding (Ball 1973: 239). By the early 1990s, most of the budget appears to have become extra-budgetary (Island Business 1990: 29). According to contemporary SPC brochures, between half and two-thirds of SPC resources are project funds from external donors and development agencies (principally the European Union and the UNDP). The metropolitan member states also provide significant discretionary resources. In 2014, 72 percent of project-based funding came from the European Union, which represented 34 percent of the entire SPC budget for that year (SPC Green Book 2014: Annex 4–2). These project contributions are negotiated between the Secretariat and the funding agency. On the one hand, this provides the Secretariat with considerable discretion vis-à-vis the member states; on the other, the net result is to inject a serious element of uncertainty and fluctuation in budgetary planning.

Nevertheless, even today, member state contributions constitute the predictable financial core of SPC administration. We score voluntary contributions until 1983, and mandatory member state contributions from 1984.

BUDGETARY ALLOCATION

Under the first Agreement, the secretary general drafted the annual budget which was approved by the Commission by two-thirds majority (1947 Canberra Agreement, Arts. 46 and 14d).

From 1972 the Conference was an additional agenda setter in that it could make "agreed recommendations to the Commission" on the budget (1972 Annex, referenced in the 1984 Canberra Agreement, Art. 46, endnote; Ball 1973: 237). The decision rule in the Conference is two-thirds majority (Conference Rules of Procedure, Art. 26).

From 1974 the Conference becomes the final decision maker on the budget, by two-thirds majority, while the secretary general continues to draft (1974 Memorandum, Arts. 13.2 and 14.1c). The Committee of Representatives of Participating Governments, an auxiliary body of the Conference, is a second agenda setter; it vets the secretary general's initial draft budget (by two-thirds majority) before passing it to the Conference (Art. 14.2).

The 1997 Resolution introduces the Committee of Representatives as a second decision maker on the budget for both administrative and work program budgets (Art. 3.f). Initiation and decision rules remain unchanged.

We estimate that budgetary decision making shifts from non-binding to binding in 1984.[γ] The 1947 Canberra agreement characterized the Commission as consultative and advisory, and merely stated that governments "undertake to contribute" their respective shares (Art. 53). It appears

reasonable to conceive all decisions, including budgetary allocation, as non-binding. From 1984 the Treaty establishes the principle of a binding commitment. Member states must assess the needs of the SPC annually and apportion the financial costs among the members "in such manner as the participating governments may unanimously determine" (1984 Memorandum, 49), and since 1999, the core budget is tied to a specific "formula [which] shall reflect the principle of burden sharing." Programs and projects are reviewed by a Planning and Evaluation Committee composed of member state representatives, which reports to the Conference or to the Committee of Representatives of Governments and Administrations.

FINANCIAL COMPLIANCE

There are no written rules on financial compliance. The 2009 Annual Report of the Secretariat mentions that the "Secretariat has discussed options for settlement of arrears with members" (p. 13).[29]

POLICY MAKING

The SPC has always been a development organization. In its first decades, the SPC's key policy output consisted of individual projects. Then, from the early 1970s, the organization shifted to a more holistic country-by-country programmatic approach.[30]

Projects constitute the first stream. Most projects involve financial commitments by all member states, and on the basis of this, we initially code consensus as the final decision rule for the Commission.[γ] While the Commission itself can initiate projects and programs, two other bodies can also act as agenda setters: the Research Council and the South Pacific Conference. The Research Council was a hierarchical organization with full-time members under the direction of the deputy chairman (1947 Canberra Agreement, Art. 24). Hence, we code "decision rule not applicable" until its demise in 1963.[31] The Conference took decisions by two-thirds majority (Conference Rules of Procedure, Art. 26). The Secretariat did not have agenda setting powers, though it apparently gained a substantial role over time as the Research Council faded away

[29] This appears to be a longstanding concern (see Islands Business 1990: 29).

[30] The 1947 Canberra Agreement contains a list of priority projects to be enacted immediately after the Agreement entered into force (see Resolution Concerning Immediate Projects: 427–8).

[31] The Research Council worked out the scientific and technical aspects of the Commission's work (Robson 1955: 187), and was called "the heart of the organization" (Padelford 1959: 384). However, a historical note attached to the 1984 edition of the Canberra Agreement points out that "the SPC Research Council lapsed through the lack of a real role at an early stage, with the Secretariat and the Conference assuming greater project-finding roles in its place" (Consolidated version of the Canberra Agreement as amended, fourth edition of August 1984, p. 13, Historical Note 1). The Research Council did not meet after 1963.

SPC Institutional Structure

		A1			A2			E1										E2										GS1		CB1	CB2
Years		Non-state selection	Indirect representation	Weighted voting	Non-state selection	Indirect representation	Weighted voting	Head—agenda	Head—decision	Members—agenda	Members—decision	Non-state selection	Partial representation	Indirect representation	Reserved seats	Weighted voting	Partial veto	Head—agenda	Head—decision	Members—agenda	Members—decision	Non-state selection	Partial representation	Indirect representation	Reserved seats	Weighted voting	Partial veto	Select	Remove	Non-state selection	Non-state selection
1950–1962	Not body-specific	0	0	0				R	R			0	0	0	0	0	0													1	3
	Member states									✓	✓																				
	A1: South Pacific Commission																											2	2		
	E1: South Pacific Commission																											2	2		
	GS1: Secretariat																														
	CB1: Research Council																														
	CB2: South Pacific Conference																														
1963–1964	Not body-specific	0	0	0				R	R			0	0	0	0	0	0														3
	Member states									✓	✓																				
	A1: South Pacific Commission																											2	2		
	E1: South Pacific Commission																											2	2		
	GS1: Secretariat																														
	CB2: South Pacific Conference																														
1965–1973	Not body-specific	0	0	1				R	R			0	0	0	0	1	0														3
	Member states									✓	✓																				
	A1: South Pacific Commission																											2	2		
	E1: South Pacific Commission																											2	2		
	GS1: Secretariat																														
	CB2: South Pacific Conference																														

1974–1997	Not body-specific	0	0	0														N				2	1	2	0	0	0				
	Member states																														
	A1←CB2: South Pacific Conference																		2	2								2	2		
	E2←GS1: Secretariat																														
	GS1: Secretariat																														
	Head E2																			✓	✓										
1998–2010	Not body-specific	0	0	0	0	0	0															2	1	2	0	0	0				
	Member states																			✓											
	A1: **Pacific Conference**																		2									2	2		
	A2: CRGA: Comm. Rep.Govts & Admin																	2										2	2		
	E2: Secretariat																														
	GS1: Secretariat																														
	Head E2																			✓	✓										

Note: A = automatic/technocratic procedure; N = no written rule; R = rotation; ✓ = body co-decides, but no voting rule; ← = change in status. Shaded areas refer to institutions or policy areas that are non-existent for those years.

SPC Decision Making

		Accession			Sus-pension		Constitution				Budget			Com-pliance		Policy 1 (projects)					Policy 2 (programming)					Dispute settlement						
Years		Agenda	Decision	Ratification	Agenda	Decision	Agenda	Decision	Ratification	Revenue source	Agenda	Decision	Binding	Agenda	Decision	Agenda	Decision	GS role	Binding	Ratification	Agenda	Decision	GS role	Binding	Ratification	Coverage	Third party	Binding	Tribunal	Non-state access	Remedy	Preliminary ruling
1950–1962	Not body-specific	N	N	N	N	N			N	0			0					0	0	3											
	Member states						✓																								
	A1: South Pacific Commission							0				2				2	0														
	E1: South Pacific Commission															2	0														
	GS1: Secretariat										✓																				
	CB1: Research Council															✓															
	CB2: South Pacific Conference															2															
1963–1964	Not body-specific	N	N	N	N	N			N	0			0					0	0	3											
	Member states						✓																								
	A1: South Pacific Commission							0				2				2	0														
	E1: South Pacific Commission															2	0														
	GS1: Secretariat										✓																				
	CB2: South Pacific Conference															2															
1965–1971	Not body-specific			2	N	N			N	0			0					0	0	3											
	Member states	✓					✓																								
	A1: South Pacific Commission		0					0				2				2	0														
	E1: South Pacific Commission															2	0														
	GS1: Secretariat										✓																				
	CB2: South Pacific Conference															2															
1972–1973	Not body-specific			2	N	N			N	0			0										1	0	3							
	Member states	✓					✓																								
	A1: South Pacific Commission		0					0				2										2									

	E1: South Pacific Commission																						2													
	GS1: Secretariat											✓											✓													
	CB2: South Pacific Conference											2											2													
1974–1983	Not body-specific			2	N	N			N	0				2										1	0	3									
	Member states	✓					✓																													
	A1:←CB2: South Pacific Conference		0					0				2	2										3	3												
	E2:←GS1: Secretariat											✓											✓													
	GS1: Secretariat						3					✓											✓													
1984–1989	Not body-specific			2	N	N			N	1				2	N	N								1	0	3									
	Member states	✓					✓																													
	A1: South Pacific Conference		0					0				2	2										3	3												
	E2: Secretariat											✓											✓													
	GS1: Secretariat						3					✓											✓													
1990–1997	Not body-specific			2	N	N			N	1				2	N	N								1	0	3									
	Member states	✓					✓																													
	A1: South Pacific Conference		0					0				2	2										3	3												
	E2: Secretariat											✓											✓													
	GS1: Secretariat						3					✓											✓													
1998–2010	Not body-specific			2	N	N			N	1				2	N	N								1	0	3									
	Member states	✓					✓																✓													
	A1: **Pacific Conference**		0					0					2																							
	A2: CRGA: Comm.Rep. Govts & Admin												2											3												
	E2: Secretariat											✓											✓													
	GS1: Secretariat						3					✓											✓													

Note: A = automatic/technocratic procedure; N = no written rule; R = rotation; ✓ = body co-decides, but no voting rule; ← = change in status. Shaded areas refer to institutions or policy areas that are non-existent for those years.

(Consolidated version of the Canberra Agreement as amended, fourth edition of August 1984: 13).[α] Given that the Commission is merely a "consultative and advisory body to the participating Governments" (1947 Canberra Agreement, Art. 6; reinforced in the 1999 Canberra Agreement, Section II), we code its decisions as non-binding (see also Padelford 1959: 390). No ratification was required.

We code a new, second, policy stream from 1972, when the Annex to the new Agreement introduces an annual work program that outlines priority areas of activity and sets a programmatic framework that replaces individual projects. The Secretariat prepares the annual work program in consultation with the Conference which decides by two-thirds majority, giving the Secretariat a non-exclusive right to initiative in this policy stream. Thus, we code both as agenda setters, with the Commission taking the final decision by two-thirds majority (1984 Canberra Agreement, Art. 46). Policy decisions are non-binding.

With the 1974 Memorandum, the Conference, now the SPC's assembly, becomes the final decision maker on the annual work program by simple majority (Art. 14.1c). The secretary general continues to prepare an initial draft, with the Planning and Evaluation Committee, a new auxiliary body to the Conference, examining it before it is returned to the secretary general for revision (Arts. 13 and 14.1a). We code both bodies as initiators. We assume that the Committee employs simple majority, in line with the Conference.[α]

The 1997 Resolution reforms the work program to adapt it to the organization's widening focus. Today, specific policy initiatives need to be compatible with a general three-year policy program developed by the Secretariat which contains fairly detailed policy guidelines (Arts. 5 and 3.b). The director general has the authority to shift budgetary resources (up to 20 percent). So the Secretariat is clearly the dominant player in agenda setting, though member states can also raise policy issues (Arts. 3c and d). The final decision on programming is in the hands of the Committee of Representatives of Governments and Administrations (Art. 3d). The Conference merely considers "major national and regional policy issues" (Art. 3) and we no longer code it as a policy maker.

DISPUTE SETTLEMENT

The Pacific Community has no legal dispute settlement procedure.

Europe

Code	Name	Years in MIA
840	Benelux Union (BENELUX)	1950–2010
1230	Commonwealth of Independent States (CIS)	1992–2010
1390	Council of Europe (CoE)	1950–2010
1370	Council for Mutual Economic Assistance (COMECON)	1959–1991
1670	European Free Trade Association (EFTA)	1960–2010
1830	European Union (EU)	1952–2010
3590	Nordic Council (NORDIC)	1952–2010

Benelux Union (BENELUX)

The Benelux Economic Union is an economic regional organization with Belgium, the Netherlands, and Luxembourg as members. It seeks "to defend their common interests and to promote the well-being of their populations" through the development of an economic union with three pillars: an internal market with free movement of goods, capital, services, and labor; coordination of economic, financial, and social policy; and a common trade policy (1958 Treaty, Art. 1). The Treaty was comprehensively revised in 2008. The core objectives were extended to include sustainable development and cooperation in justice and internal affairs (2008 Revised Benelux Agreement, Art. 2.2).

The three member states of Benelux are also three of the founding members of the European Union (EU), but over the years, EU membership has come to overshadow Benelux membership. Still, part of the official rationale for the Benelux is to "continue its role as precursor within the European Union" (2008 Revised Treaty, Art. 2.1). The headquarters of Benelux are in Brussels.

The Benelux has its roots in the bilateral economic union between Belgium and Luxembourg of 1921.[1] During World War II, these two countries sought to

[1] The founding Treaty states that the "provisions of the present Treaty shall not be contrary to the existence or possible development of the Economic Union between the Kingdom of Belgium

extend the Belgo–Luxembourg Union to the Netherlands. The three governments-in-exile decided in 1944—as the Preamble to the Treaty notes—"to create, at the moment of Liberation [...] the most propitious conditions for the ultimate creation of a durable Customs Union and for the restoration of economic activity" (Baudhuin 1949). They signed the London Customs Convention, which entered into force in 1948. The London Treaty led to a rapid liberalization of tariffs so that, by 1956, nearly all internal trade in the Benelux was tariff-free and a common external tariff regulated trade with third countries (for a discussion, see Mead 1956).

Shortly after the European Economic Community's (EEC) Treaty of Rome, the Benelux was reformed to become the Benelux Economic Union (Dutch: Benelux Economische Unie; French: Union Économique Benelux) with the objective of forming an economic union as a precursor to similar developments in the EEC.[2] The Treaty was signed in February 1958 and came into force in 1960. As the EC/EU deepened, Benelux struggled to find a purpose. When the original treaty came to expire after fifty years, member states were faced with the problem that most of its policies "have been adopted by the European Union, resulting in the supplanting of much of the BEU's purpose" (Walsh 2008: 25). They overhauled the organization to shift cooperation to new areas and to adjust decision making to the new federal state structure in Belgium. The new Treaty is less detailed but broader in policy scope than the old one.[3] It came into effect in January 2012 so its provisions are not reflected in the coding, but we describe them throughout the IO (international organization) profile.

The key documents are the Netherlands–Belgium–Luxembourg Customs Convention (signed 1944; in force 1948), the Treaty Establishing the Benelux Economic Union (signed 1958; in force 1960), as well as the new Treaty revising the Treaty Establishing the Benelux Economic Union (signed 2008; in force 2012). Another key document is the Convention Establishing the Benelux Court of Justice (signed 1965; in force 1974). The main institutions are the Benelux Committee of Ministers (assembly), the Council of the Union

and the Grand Duchy of Luxembourg insofar as the objectives of that Union are not attained by the application of the present Treaty" (Art. 94).

[2] The EEC Treaty contained a special "enabling clause" (Art. 233) for the Benelux countries, allowing them deeper cooperation in advance of EEC integration: "The provisions of this Treaty shall not preclude the existence or completion of regional unions between Belgium and Luxembourg, or between Belgium, Luxembourg and the Netherlands, to the extent that the objectives of these regional unions are not attained by application of this Treaty." For an interpretation, see Krück (2000).

[3] It focuses on three key themes: internal market and economic union, sustainable development, and justice and home affairs.

(executive), the Secretariat General, and the Benelux Court of Justice. The Interparliamentary Consultative Council (also called the Benelux Parliament) and the Economic and Social Advisory Council act as consultative bodies (the latter was abolished with the latest treaty).

Institutional Structure

A1: COMMITTEE OF MINISTERS (1960–2010)

The 1944 London Customs Convention did not institutionalize a regional decision making body. It merely states that the "common measures mentioned under articles 3, 5, and 6 are adopted by the competent ministers from the Belgian–Luxembourgish Economic Union, on the one side, and the Netherlands on the other side" (Art. 7). Hence the ministers were made responsible for taking final decisions, and they met regularly to conclude conventions and to give political approval to committee work, but their meetings were not routinized. Decisions were taken by unanimity between the BLEU and Dutch side.

The 1958 Treaty established the Committee of Ministers as the highest decision making body. Initially composed of "at least three members" of each government,[4] it served to "see to the application of this Treaty and ensure the realization of the aims covered thereby" (1958 Treaty, Arts. 17.1 and 16). In so doing, the Committee may take binding decisions, draft agreements (binding after ratification), pass recommendations on the functioning of the Union (not binding), and issue directives to subordinate organs (Art. 19). Decisions by the Committee are taken by consensus, one vote for each member state, with the possibility of abstention (Art. 18; Schermers and Audretsch 1994: 134). Meetings of the Committee are chaired in rotation among the member states for a period of six months (Art. 20.2). The body meets every three months (Art. 20.1).[5]

The 2008 Revised Treaty reaffirms the central role of the Committee of Ministers. It emphasizes its political guidance role—"it shall determine the orientations and priorities of the cooperation in the Benelux Union" (Art. 6.1) and allocates more specific functions, including "to determine the modes of implementation of the provisions of the present Treaty," to adopt the common work program, the annual plan, the annual report and the budget, to establish agreements, to formulate recommendations on the functioning of

[4] Initially, these were usually the ministers of foreign affairs, finance, and economic affairs (Hitzberger 2007: 27).

[5] In practice, however, it has met much more rarely (less than once a year), partly because decisions are often taken at the margins of meetings of the EU Council (Wouters and Vidal 2008: 8). Usually only the ministers of foreign affairs attend (Schermers and Audretsch 1994: 134).

the Union, and to direct the Council of the Economic Union and the General Secretariat (Art. 6.2).

The Revised Treaty stipulates explicitly that the composition of the Committee "may vary as a function of the agenda and of the division of competences within each High Contracting Party" and reduces the number of officials from at least three in the old Treaty to "at least one representative on the ministerial level" (Art. 7). Normally, these are the ministers of foreign affairs or their representatives. Chairing remains by rotation, but on an annual rather than six-monthly basis (Art. 9.2).

E1: ADMINISTRATIVE CUSTOMS COUNCIL (1950–9)

The London Customs Convention established several executive bodies to prepare economic union. The principal bodies were the Administrative Customs Council, responsible for the customs union (Art. 3), the Administrative Council for external trade, responsible for issues concerning "imports, exports, and transit" (Art. 5), and the Council for trade agreements (Art. 6).

The composition of these bodies was identical: three representatives for the Belgium–Luxembourg Economic Union and three representatives for the Netherlands. They were proposed and appointed by the member states, representation was direct, and all member states were represented. No member state had a veto. It is interesting to note that the number of Dutch representatives was equal to that of Belgium and Luxembourg combined. Initially, Benelux seemed to be conceived as a union of two economic units rather than three countries. Chairmanship rotated between the BLEU and the Netherlands. Our coding reflects the characteristics of all three councils.

During their brief existence, these councils operated alongside two extra-treaty bodies: the Council of the Economic Union and its panoply of sectoral committees, which prepared the harmonization of legislation, and the Meeting of Presidents of the Councils, which coordinated the work of all councils (Jaspar 1949: 321).

E2: COUNCIL OF THE ECONOMIC UNION (1960–2010)

With the 1958 Treaty on Economic Union, the three executive councils were replaced by a single Council of the Economic Union, which entered the Treaty as Benelux's pre-eminent executive body. It is charged with composing a work program, coordinating the activities of the sectoral committees and special committees, implementing decisions taken by the Committee of Ministers, and proposing new initiatives to the Committee of Ministers (1958 Treaty, Art. 25).

The Council sits on top of an elaborate structure of committees on, inter alia, foreign economic relations, customs tariffs and taxes, budgetary policy, statistics, and public health (see Arts. 28 and 29). They are usually composed

of national civil servants, assisted by a representative of the Secretariat General, and can perform a variety of functions, including implementation of agreements, monitoring, and agenda setting (Art. 30). Usually, committees cannot take binding decisions, but there are exceptions. For example, the Committee on Personal Traffic, created in 1960 to implement the agreement to introduce border controls on personal traffic at the external borders of Benelux, could take binding decisions (Schermers and Audretsch 1994: 135).

The Council itself consists of maximum ten delegates of each member state. In principle, the presidents of the national delegations in the committees sit in the Council, but the number of civil servants and composition of the Council delegation are flexible. The chair of the Council is held in rotation by three persons, one from each member state, who may or may not be members of the national delegation (Schermers and Audretsch 1994). The Committee of Ministers arranges rotation. Apparently, the Council of the Economic Union was proactive in the early years, but "later the political support dissipated, and the cooperation ran aground" (former secretary general Kruijtbosch, quoted in Schermers and Audretsch 1994: 138, our translation). For many topics, the coordination has de facto been devolved to the secretary general (Schermers and Audretsch 1994: 139).

Decision rules are not explicit in the Treaty, but the website and secondary literature suggest that decisions in all intergovernmental institutions are made by consensus (Wouters et al. 2006).

With the 2008 Revised Treaty, the Council was renamed the Benelux Council of the Economic Union. Its functions and composition remain essentially the same. In contrast to the old Treaty, however, it can now "set up and dissolve working groups of the administration and committees of independent experts" and direct their work. This function was previously in the hands of the Committee (Art. 12). The number and titles of the various committees are removed from the new Treaty.

The new Treaty states that "The Council shall be formed by at least one representative from each High Contracting Party" (Art. 13.1), and instead of collective chairmanship, it is now held "by the High Contracting Party which holds the Chairmanship of the Committee of Ministers" (Art. 13.2) for a period of one year instead of six months.

GS1: FROM SECRETARIAT GENERAL OF THE COUNCILS (1950–9) TO SECRETARIAT GENERAL (1960–2010)

The London Customs Convention does not mention a secretariat, even though a Secretariat of the Councils existed (Jaspar 1949: 322). It provided administrative coordination to the Councils, could "make any propositions or suggestions useful to the good functioning of the convention," and "execute

the directives given by the Council presidents" (Jaspar 1949: 322). "The Secretary-General has an international character and has its own statute. It is only subject to the jurisdiction of the three governments if these act jointly" (Jaspar 1949: 322). This suggests that the secretary general was appointed or dismissed by unanimity among the member states.[α]

The 1958 Treaty formally introduces the institution of the Secretariat General. The Brussels-based Benelux Secretariat General became the central administration of the organization and is comprised of a secretary general, two deputies as well as other staff from the three member countries (Treaty Establishing the Benelux Economic Union, Arts. 33–35). It is responsible for coordinating the administrative activities of the secretariat of the Committee of Ministers, the Council of Economic Union and the various committees and working parties, for making proposals in the execution of the Treaty and for acting as the Registry of the College of Arbitrators (Art. 36.1).

The Secretariat is headed by three persons based on strict national proportionality. The secretary general is always of Dutch nationality, while his two deputies are from the other two member states. Article 34 reads: "1. The management of the Secretariat-General shall be entrusted to a Secretary-General of Dutch Nationality. 2. The Secretary-General is assisted by an Assistant Secretary-General of Belgian nationality and another of Luxembourg nationality." The secretary general and his/her deputies are appointed and can be dismissed by the Committee of Ministers (Art. 34.3). The Treaty does not mention fixed terms, but since 1975, the term is set at five years, once renewable (M-75 (10); Schermers and Audretsch 1994: 141).

In 1975, the Committee of Ministers considerably strengthened the Secretariat. First, the secretary general's right of initiative was reinforced with decision M-75 (13), which elevated the Secretariat from a primarily administrative actor to one with "a political status" (Schermers and Audretsch 1994: 142). At the same time, and to balance its more pronounced political role, the Committee of Ministers formalized the collegial character of the Secretariat. It determined that, in case of disagreement in the college, the Secretariat General communicates the minority opinion alongside the majority opinion (M-75 (15)). So from 1975, we code the Secretariat General as a collegial body which may vote by supermajority, even while decision making is generally by consensus (Schermers and Audretsch 1994: 141).

The Revised Treaty recognizes the collegial nature by entrusting the management of the Secretariat to a Board of Secretary Generals consisting of the secretary general and two deputies (Art. 19.1). It also removes the stipulation that the secretary general has to be Dutch and states instead that the "three nationalities shall be represented within the Board" (Art. 19.1). It also introduces a fixed term for the three Board members: five years, renewable once (Arts. 19.3 and 19.4).

The new Treaty contains a more detailed description of the General Secretariat's role: it makes a coordinated proposal for the common work program, coordinates the administrative activities of the Committee of Ministers, the Council, and the various working groups, establishes the annual plan and makes "all suggestions which are useful for the execution of the present Treaty" (Art. 21). Today, the secretariat has about sixty employees.

CB1: CONSULTATIVE INTERPARLIAMENTARY COUNCIL (TODAY: BENELUX PARLIAMENT) (1958–2010)

The London Customs Convention did not create consultative bodies composed of non-state representatives. However, a Consultative Interparliamentary Council existed since 1955 (Schermers and Audretsch 1994: 135), and was integrated into the 1958 Treaty (Benelux Treaty, Art. 24).[6] It comprises forty-nine members, of whom twenty-one are delegates from the Dutch parliament, twenty-one of the Belgian national and regional parliaments, and seven of the Luxembourg parliament (Convention on the Interparliamentary Consultative Council (CICC), Art. 1).

The Council can "deliberate and address opinions to the three Governments, notably in the form of recommendations, on problems, which directly affect the realization and functioning of the economic union among the three States . . . " (Art. 3). Recommendations are adopted by a two-thirds majority; other decisions are taken by simple majority (Art. 5). The Council has no formal right of initiative, but it can send signals through its advice on Benelux draft decisions, its questions, and its debates. The Council's advice is mandatory when the Committee of Ministers seeks to provide a member state with an exemption from Treaty obligations. Article 14.1 of the 1958 Treaty states that "In the event of the vital interests of one of the High Contracting Parties being endangered, the Committee of Ministers, after advice has been sought from the Consultative Interparliamentary Council and from the Economic and Social Advisory Council, may decide what measures may be taken in derogation of the stipulations of this Treaty during a certain period, the length of which is to be fixed simultaneously." Exemptions to the rule are possible for "urgent reasons" (Art. 14.2). On other topics, the Council's advice is voluntary. In either case, the Committee of Ministers can discard recommendations without having to justify its action. As Schermers and Audretsch (1994: 138) remark, "Of the IPR was no great influence expected. And that has, so it seems, also not materialized."[7]

[6] Its activities continue to go beyond the ambit of the Benelux Economic Union. Besides questions related directly to Benelux, it also has the authority to pass recommendations on cultural collaboration, foreign affairs, and legal harmonization among the member states (CICC Convention, Art. 3).

[7] IPR is the Dutch acronym for Interparlementaire Raad.

The Council initially met once a year (Art. 2). Today, it meets in three plenary sessions per year, and parliamentary commissions meet more frequently (Schermers and Audretsch 1994). Its meetings alternate, in two-year intervals, between The Hague, Brussels, and Luxembourg, while the standing Secretariat of the Parliament is based in Brussels. It discusses the annual reports presented by the governments and can direct questions to the relevant ministers.[8] The Council also holds an annual debate on the state of the Benelux, and insists that a representative of the Committee of Ministers is present.

The Benelux Interparliamentary Council prefers to call itself the Benelux Parliament, but the Revised Treaty continues to use its formal name.

CB2: ECONOMIC AND SOCIAL ADVISORY COUNCIL (1958–2010)

The Economic and Social Advisory Council (ECOSOC) was created with the 1958 Treaty and serves as a consultative body of non-state representatives (Art. 54). It is composed of twenty-seven members (and the same number of substitute members), a third of which are appointed by "the national corporate body or corporate bodies representing the highest level of the economic and social organizations of that country" (Art. 54.2). ECOSOC provides advisory opinions "regarding questions directly related to the functioning of the Union," either by direct request of the Committee of Ministers or by own initiative (Art. 54.1). With the exception of decisions dealing with the derogation of Treaty stipulations by individual member states (see Art. 14, which still allows exemptions), the Committee of Ministers is not required to consult the Advisory Council. The Council takes decisions by simple majority (Art. 54.4). The Revised Treaty abolishes the Economic and Social Advisory Council.

Decision Making

MEMBERSHIP ACCESSION AND SUSPENSION

The 1944 London Customs Convention did not contain provisions on accession or suspension. The 1958 Treaty notes explicitly that it applies "only to the territories of the High Contracting Parties in Europe" (Art. 93)—a stipulation that was designed to exempt the colonies from treaty obligations, not to block the entrance of other countries per se, but there are also no specific provisions on membership.

[8] For a listing of recommendations that laid the groundwork for policy decisions, see <https://www.beneluxparl.eu/nl/verwezenlijkingen-van-de-beneluxsamenwerking/> (accessed March 2, 2017).

The Revised Benelux Treaty is more explicit. It limits membership to the three current countries: "The application of the present Treaty shall be limited to the territory of Belgium, Luxembourg and the Netherlands" (Art. 36.1). A change in membership would probably require a new Treaty.

CONSTITUTIONAL REFORM

The Benelux does not have formal stipulations on constitutional amendments, neither in the London Customs Convention nor in the later Benelux Treaties. For the 1958 Treaty, this might have to do with the fact that it was "concluded for a period of fifty years" (Art. 99.1); thus, member states excluded amendments to the Treaty with the exception of the "Convention containing the Transitional Provisions" and the "Protocol implementing the Provisions of the Treaty."

This might justify a coding of "no written rules." Another approach, and the one we take, is to code the process that led to the Revised Treaty of 2008. This process was clearly conceived, and we expect it would be followed in any subsequent constitutional overhaul.[γ] The first stage of informal negotiations took place at the national level, before moving to the Benelux level for the formal stage. In Belgium, the governments and parliaments of the subnational authorities were closely involved. Initiation and preparation were in the hands of the Committee of Ministers and the respective working groups, and the Benelux Parliament was consulted (Annual Report 2008). Since 1975 the Secretariat General is explicitly authorized to "take all initiatives that are useful for the implementation of the Benelux Economic Union Treaty and of the conclusions of the Third Intergovernmental Conference" (M (75) 13, Arts. 1 and 2). This has been interpreted broadly to mean that the Secretariat General can, like the Council, propose "any initiatives that are beneficial to cooperation in the Benelux" (Schermers and Audretsch 1994: 142), which makes it feasible to infer a substantive role. The Committee of Ministers, meeting at the level of heads of state, acts as a final decision maker. The new Treaty is ratified by all parties (Art. 40).

We code "no rules" until 1960, but from 1960 we code member states, the Committee of Ministers, the Secretariat General (from 1975, and by supermajority), and the Benelux Parliament (by two-thirds majority, Art. 5) in the initiation, and the Committee of Ministers on the final decision. Ratification by all member states is required for revisions to enter into force.

Like its predecessor, the 2008 Revised Treaty does not have language on the amendment process.

REVENUES

The 1944 London Customs Convention did not specify where the money came from. The Benelux Treaty is also economical on such details. According to

Article 37, "The High Contracting Parties arrange by separate agreement a) the supervision of the implementation of the budgets [sic]; b) the closing of financial accounts; c) the granting of required advances; d) the allocation among the High Contracting Parties of the shortfall between receipts and expenditure."[9] The language is suggestive of a formal, routinized procedure, which we interpret to be equivalent to regular member state contributions.[α]

The Revised Treaty contains a similar provision in Article 22.2: "By agreement, the High Contracting Parties shall regulate: a) the control of the execution of the budgets; b) the adoption of the accounts; c) the granting of the necessary advances; d) the distribution between the High Contracting Parties of the surplus of the expenditures over the receipts."

BUDGETARY ALLOCATION

The 1958 Treaty lays out, succinctly, a budgetary procedure in Article 37. The Secretariat General prepares each year a draft budget for the several institutions of the Union and submits a draft for approval to the Committee of Ministers. The Council of the Economic Union provides an opinion. Thus, we code the Secretariat General as the initiator of the budget, with the Council as also involved in the initiation stage, and the Committee of Ministers as the final decision maker. The decision rule is supermajority in the Secretariat General from 1975, and "not applicable" before. The general decision rule of consensus applies in the Council and the Committee (Art. 18). The Committee of Ministers' approval is binding because it concerns "the manner in which the provisions of this Treaty are to be put into effect in accordance with the conditions laid down in the Treaty" (Art. 19a); in short, the budgetary decision is based on the legal instrument of a decision, which is binding. The Revised Treaty confirms this procedure (Arts. 22.1 and 6.2c).

FINANCIAL COMPLIANCE

No written rules.

POLICY MAKING

From the beginning, the organization has chiefly pursued the liberalization of intra-regional trade and a common trade policy. The London Customs Convention's chief objective was to create a customs union by harmonizing and coordinating customs legislation (Art. 1). The Convention does not outline specific legal instruments for this purpose, though other sources indicate

[9] The agreement came into effect in 1964. It determines that any shortfall in the Benelux finances will be distributed as follows: 48.5 percent for Belgium, 3 percent for Luxembourg, and 48.5 percent for the Netherlands (*Overeenkomst van 14 januari 1964 ter uitvoering van artikel 37, lid 2, van het Verdrag tot instelling van de Benelux Economische Unie*).

that the key instrument was the protocol (Jaspar 1949). The Convention outlines the following procedure: the Administrative Customs Council proposes common legal measures by unanimity (Art. 3), while the competent ministers take the final decision by unanimity (Art. 7). The Secretariat General of the Councils may propose drafts (Jaspar 1949: 321). These ministerial decisions are then "submitted for approval by the competent governmental or legislative bodies" (Art. 7), which is interpreted as a reference to ratification. Ratification by all member states was required for a decision to come into force, which then becomes binding.

The 1958 Treaty upgrades the central objective from a customs union to a common market, including the coordination of economic, financial, and social policies. Four legal instruments are outlined: decisions (*beschikkingen*), agreements (*overeenkomsten*), recommendations (*aanbevelingen*), and directives (*richtlijnen*) (1958 Treaty, Art. 19). Decisions set "forth the manner in which the Provisions of this Treaty are to be put into effect"; they are binding on member states, but require transposition into national legislation to bind citizens. Agreements extend the Treaty into new areas; they require ratification. Recommendations address "the functioning of the Union" and have no legally binding force. Directives are binding orders to lower level institutions such as the Council of the Economic Union, the Secretariat General, and the various committees.

Agreements and decisions are the key policy streams of the organization. The first stream consists of agreements which are the successor of the pre-1960 protocols. Between 1960 and 2015, 111 agreements or revisions to agreements were decided.[10] The second stream consists of decisions, which have been the main day-to-day policy-making instrument with more than 500 passed between 1960 and 2015. The decision process is similar for both policy streams. The same actors have the power to initiate and decide on agreements and decisions, but agreements are binding after ratification while decisions are binding without ratification.

Several bodies have agenda setting power. The Secretariat General's power of initiative is entrenched in the Treaty—Article 36 states that he or she "should also make any proposals which may be useful for the execution of the present Treaty"—and this power was reinforced by the Committee of Ministers in a decision of 1975. The Secretariat General shares this power with the Council of the Economic Union, whose task it is to "[submit] proposals to the Committee of Ministers which it may deem advantageous for the functioning of the Union" (Art. 25c). This initiative has usually come from the committees working under the supervision of the Council (Schermers and Audretsch 1994). The Benelux Parliament can also "deliberate and address opinions to the three Governments, notably in the form of

[10] Juridische databank on the Benelux website <http://www.benelux.int/nl/juridische-databank> (accessed February 10, 2017).

recommendations, on problems, which are directly related to the realization and functioning of the economic union among the three States" (CICC Convention, Art. 3). It takes such recommendations by two-thirds majority. ECOSOC may also provide advice, and it does so by simple majority (Art. 54.1). The final decisions are taken by the Committee of Ministers by consensus, the general decision rule.

The Revised Treaty retains the same legal instruments—binding decisions, agreements (binding after ratification), non-binding recommendations, and directives (Art. 6.2).

DISPUTE SETTLEMENT

The London Customs Convention included a purely intergovernmental procedure for dispute settlement. At its center stood the Commission for Customs Disputes composed of member state representatives, two from each side. It gave final rulings on complaints about legislative decisions concerning the "application of the legal and regulative dispositions ensuing from the present Treaty" (Art. 4). The Commission communicated its decisions to the ministers who were tasked with implementation (Art. 4).

With the 1958 Benelux Treaty a form of legalized third-party review emerged as a second step in a two-tier dispute settlement process: a College of Arbitrators (College van Scheidsrechters), which nominated its first arbitrators in 1962,[11] could settle disputes between the member states "with regard to the application of the present Treaty and of Convention related to the aims of this Treaty" (Art. 41). However, member states should first try to resolve the dispute in the Committee of Ministers. Only if this is unsuccessful could the dispute be submitted to the College, and either party to the dispute could put in a request (Art. 44). This is a gray area between automatic third-party access and access mediated by a political body.[β] We come down on the side of the latter because the experience of dispute settlement in Benelux reveals that political conflict resolution was the more routinized channel. The system is obligatory for all member states.

The College consists of ad hoc arbitrators who are allocated to thematic divisions. Each member state nominates an arbitrator and a substitute arbitrator to each division. If there is a dispute, a College of three arbitrators is assembled, one from each party to the dispute and a third chosen in rotation from a list drawn up by the Committee of Ministers (Art. 42). The College can issue judgments or propose a compromise; decisions are taken by

[11] According to Romano's Project on International Courts and Tribunals, "since the first nomination of arbitrators in 1962, however, no new arbitrators have been appointed and the disputes between the governments have been resolved at the level of the political bodies" <http://www.pict-pcti.org/courts/beneluxCJ.html> (accessed February 10, 2017).

majority and are final (Art. 46). Article 46.1 states: "The College of Arbitrators shall pronounce its judgments *or* propose a compromise arrangement by a majority of votes. The judgments will be final and not open to appeal. A compromise arrangement accepted by the parties and a judgment given by the College will be *equally valid*" (our emphasis). Hence, we code an intermediate category for bindingness because this article suggests that a compromise, which can be proposed by the College "before passing judgment and in any phase of the hearing" (Art. 45.1), has equal legal standing. The College can authorize retaliatory sanctions: "The College of Arbitrators may pass judgment that a judicial decision or a measure taken by any other authority of one of the High Contracting Parties is wholly or partially contrary to the provisions of this Treaty or of a convention related to the aims of this Treaty. If the national law of the said High Contracting Party does not allow undoing the consequences of this decision or measure, the injured State shall have a right to just compensation. Failing agreement between the parties, the College of Arbitrators determines the nature and quantity of the compensation to be paid at the request of the party concerned" (Art. 48). If non-compliance continues, the aggrieved party can appeal to the International Court of Justice (Art. 50). Only member states can initiate disputes. The Treaty also stipulates that the Committee of Ministers can request advisory opinions from the College "regarding questions of law in respect of the provisions of the present Treaty and of conventions related to the aims of this Treaty" (Art. 52.1). But disputes relating to the EEC Treaty or the Treaty of the European Atomic Energy Community, to which all three members are parties, must be submitted to the European Court of Justice (Art. 51.2).

No case was ever brought to the College (Wouters and Vidal 2008: 14, fn. 55), and Schermers and Audretsch (1994: 145) noted in the 1990s that "The College of Arbitrators has so far had a purely academic value." The College was abolished with the Revised Treaty, and the decision was implemented in 2012. Until then, the body could in principle have been convened, and hence we continue coding it through 2010.[γ]

In 1965, the member states established a Benelux Court of Justice, which began work in January 1974 to "promote the uniform application of legal rules" (Court Treaty, Art. 1.2).[12] This introduced "a supranational element . . . into an organization with a highly intergovernmental character" (Wouters and Vidal 2008: 14). The system is obligatory for all member states.

The Court did not replace the College of Arbitrators. The intention of the framers was that the Committee of Ministers and the College of Arbitrators would remain the main venue for the general resolution of interstate disputes,

[12] See <http://www.courbeneluxhof.be/fr/hof_intro.asp> (accessed February 10, 2017).

BENELUX Institutional Structure

		A1			E1										E2										GS1		CB1	CB2
Years		Non-state selection	Indirect representation	Weighted voting	Head—agenda	Head—decision	Members—agenda	Members—decision	Non-state selection	Partial representation	Indirect representation	Reserved seats	Weighted voting	Partial veto	Head—agenda	Head—decision	Members—agenda	Members—decision	Non-state selection	Partial representation	Indirect representation	Reserved seats	Weighted voting	Partial veto	Select	Remove	Non-state selection	Non-state selection
1950–1959	Not body-specific				R	R			0	0	0	0	0	0														
	Member states						✓	✓																	✓	0		
	E1: Administrative Customs Council																											
	GS1: Sec.-Gen. of the Councils																											
1960–1961	Not body-specific	0	0	0											R	R			0	0	0	0	0	0			3	1
	Member states																✓	✓										
	A1←E1: Committee of Ministers														0	0									0	0		
	E2: Council of Economic Union																											
	GS1: **Secretariat-General**																											
	CB1: Interparliamentary Council																											
	CB2: Econ. Social Advisory Council																											
1962–1973	Not body-specific	0	0	0											R	R			0	0	0	0	0	0			3	1
	Member states																✓	✓										
	A1: Committee of Ministers														0	0									0	0		
	E2: Council of Economic Union																											
	GS1: Secretariat-General																											
	CB1: Interparliamentary Council																											
	CB2: Econ. Social Advisory Council																											
	DS1: College of Arbitrators																											

1974–2010	Not body-specific	0	0	0										R	R			0	0	0	0	0	0			3	1
	Member states															✓	✓										
	A1: Committee of Ministers													0	0									0	0		
	E2: Council of Economic Union																										
	GS1: Secretariat-General																										
	CB1: Interparliamentary Council																										
	CB2: Econ. Social Advisory Council																										
	DS1: College of Arbitrators																										
	DS2: Benelux Court of Justice																										

Note: A = automatic/technocratic procedure; N = no written rule; R = rotation; ✓ = body co-decides, but no voting rule; ← = change in status. Shaded areas refer to institutions or policy areas that are non-existent for those years.

BENELUX Decision Making

		Accession			Sus-pension		Constitution				Budget			Com-pliance	
Years		Agenda	Decision	Ratification	Agenda	Decision	Agenda	Decision	Ratification	Revenue source	Agenda	Decision	Binding	Agenda	Decision
1950–1959	Not body-specific	N	N	N	N	N	N	N	N	1	N	N	N	N	N
	Member states														
	E1: Administrative Customs Council														
	GS1: Sec.-Gen. of the Councils														
1960–1961	Not body-specific	N	N	N	N	N			0	1			2	N	N
	Member states						✓								
	A1←E1: Committee of Ministers						0	0				0			
	E2: Council of Economic Union										0				
	GS1: **Secretariat-General**										✓				
	CB1: Interparliamentary Council						2								
	CB2: Econ. Social Advisory Council														
1962–1973	Not body-specific	N	N	N	N	N			0	1			2	N	N
	Member states						✓								
	A1: Committee of Ministers						0	0				0			
	E2: Council of Economic Union										0				
	GS1: Secretariat-General										✓				
	CB1: Consultative Council						2								
	CB2: Economic Advisory Council														
	DS1: College of Arbitrators														
1974	Not body-specific	N	N	N	N	N			0	1			2	N	N
	Member states						✓								
	A1: Committee of Ministers						0	0				0			
	E2: Council of Economic Union										0				
	GS1: Secretariat-General										✓				
	CB1: Interparliamentary Council						2								
	CB2: Econ. Social Advisory Council														
	DS1: College of Arbitrators														
	DS2: Benelux Court of Justice														
1975–2010	Not body-specific	N	N	N	N	N			0	1			2	N	N
	Member states						✓								
	A1: Committee of Ministers						0	0				0			
	E1: Economic Union Council										0				
	GS1: Secretariat-General						2				2				
	CB1: Interparliamentary Council						2								
	CB2: Econ. Social Advisory Council														
	DS1: College of Arbitrators														
	DS2: Benelux Court of Justice														

Note: A = automatic/technocratic procedure; N = no written rule; R = rotation; ✓ = body co-decides, but no voting rule; ← = change in status. Shaded areas refer to institutions or policy areas that are non-existent for those years.

Policy 1 (protocols/ agreements)					Policy 2 (decisions)					Dispute settlement 1 (economic union)							Dispute settlement 2 (general purpose)						
Agenda	Decision	GS role	Binding	Ratification	Agenda	Decision	GS role	Binding	Ratification	Coverage	Third party	Binding	Tribunal	Non-state access	Remedy	Preliminary ruling	Coverage	Third party	Binding	Tribunal	Non-state access	Remedy	Preliminary ruling
		1	2	0																			
	✓																						
0																							
✓																							
		1	2	0			1	2	3														
	0					0																	
0					0																		
✓					✓																		
2					2																		
					3																		
		1	2	0			1	2	3														
	0					0																	
0					0																		
✓					✓																		
2					2																		
					3																		
										1	1	1	1	0	1	0							
		1	2	0			1	2	3														
	0					0																	
0					0																		
✓					✓																		
2					2																		
					3																		
										1	1	1	1	0	1	0							
																	2	2	2	2	0	1	2
		1	2	0			1	2	3														
	0					0																	
0					0																		
2					2																		
2					2																		
					3																		
										2	1	1	1	0	1	0							
																	2	2	2	2	0	1	2

while the Court's functions would be restricted (Alter 2012). The Court was also explicitly prohibited from responding to any other issues than those put to it. Moreover, the Committee of Ministers retained the right to exempt certain decisions or Treaty provisions from the Court's jurisdiction (Arts. 1.3–1.5). However, over the next decade or two the Court set out to deepen its role so that, by the mid-2000s, one observer notes that "the Benelux Court is by far the most important legal organ within the structure of the Benelux" (Wouters et al. 2006: 8).

Its chief role is to guarantee the uniform interpretation of common rules (Wouters and Vidal 2008: 14). For that purpose, the Court can issue preliminary rulings on questions of Treaty interpretation (Art. 6.2).[13] Similar to the EU, lower level national courts can refer questions for a preliminary ruling, and the highest national courts are obliged to do so (Arts. 6.2 and 6.3). Higher courts can avoid referral if there is "no reasonable doubt" about the solution of the given question, if the issue "constitutes a case of particular urgency," or if the court refers to "a solution previously given by the Court." However, the default is compulsory referral, which is reflected in the scoring. Non-state actors have no direct access (but they have indirect access through the preliminary ruling system).

The second role of the Court is to issue non-binding advisory opinions on common legal rules upon request by a member state government (Art. 10). And its third role is to exercise administrative jurisdiction over disputes involving officials of the Benelux institutions (1969 Court Protocol, Art. 1).

The Court is composed of nine judges nominated by the Supreme Courts of the member states (three from each state) and appointed for three years by the Committee of Ministers (Court Treaty, Art. 3). So the Court does not have full-time judges since these appointees continue to serve on their national courts. However, they are instructed to "exercise their functions with full impartiality and independence" (Art. 4.1). Given that they retain their positions in the Supreme Courts of their own countries, the Court "achieves a high degree of integration from an institutional point of view."[14] Plans are underway to strengthen the Court of Justice.

Commonwealth of Independent States (CIS)

The Commonwealth of Independent States (CIS) encompasses Azerbaijan, Armenia, Belarus, Georgia (until 2009), Kazakhstan, Kyrgyzstan, Moldova,

[13] Preliminary jurisdiction was copied from the European Court of Justice, but is broader in scope because it encompasses civil and criminal matters as well as economic matters.

[14] See <http://www.pict-pcti.org/courts/beneluxCJ.html> (accessed August 13, 2016).

Russia, Tajikistan, and Uzbekistan (Ukraine and Turkmenistan are associate members). All are former republics of the Soviet Union. Its stated goals are economic cooperation, defense and border security, and combating organized crime, terrorism, and drug trafficking. The headquarters of the CIS are located in Minsk, Belarus.

The Commonwealth is a response to the monumental changes brought about by the end of the Cold War and the dissolution of the Soviet Union. As the Soviet Union was breaking up, the former Soviet republics rejected political re-integration with the former regional hegemon, but were concerned to retain the "common economic and social space" of the Soviet era. In December 1991 Belarus, Russia, and Ukraine adopted the Minsk Agreement establishing the CIS, which formally declared the end of the Soviet Union and outlined a cooperation agenda that encompassed foreign policy, economic policy, communication and transport, the environment, migration, and organized crime. Two weeks later, eleven of the Soviet Union's fifteen former republics fleshed out the original Minsk Agreement in the Alma-Ata Declaration and Protocol. The three Baltic states (Estonia, Latvia, and Lithuania) and Georgia refused to sign, but Georgia joined in 1993 while Ukraine became an associate member. In January 1993 the heads of the ten member states adopted the CIS Charter, which continues to be the foundational document of the organization.

The CIS is the most authoritative IO formed by the former Soviet republics. It operates alongside several loosely structured overlapping IOs, including the Collective Security Treaty Organization (CSTO) and the Organization for Democracy and Economic Development (GUAM) (Weinstein 2007). These countries "opted for multi-speed and multi-option integration" to balance the contradictory pressures of "conflicting national interests and fear of domination by Russia" (Danilenko 1999: 893). Flexible institutional design, which combines rigid legalism, à la carte integration, and nested bilateralism, allows member states "to manage their mistrust, while at the same time reaping profits of cooperation" (Willerton, Goertz, and Slobodchikoff 2015: 29).

In September 1993, the member states signed the Treaty on the Creation of an Economic Union, which set out the legal framework for a customs union and eventually a common market as well as a system for payments and settlements. The first step was a free trade agreement (1994). In March 1996 the customs union was agreed and the following years saw a flurry of implementing agreements, even though "so far the CIS has failed to set up even a free trade area" (Libman and Vinokurov 2012: 115; Hancock and Libman 2016). In later years, the CIS has shifted toward sector-specific coordination in transport and energy and has engaged ineffectually with human rights (Libman

and Vinokurov 2012; Hancock and Libman 2016). The CIS has sent monitors who have controversially approved election results in CIS member states (Fawn 2006; Kelley 2012; Russo 2015).

CIS is the most encompassing post-Soviet organization in the region. Several bilateral and sub-regional agreements have been adopted under the CIS umbrella, the two most important of which are the Eurasian Economic Community, signed in 2000, and the Single Economic Space, adopted in 2003 (for overviews, see Gleason 2001; Hancock and Libman 2016). The former combines Russia, Belarus, Kazakhstan, Kyrgyzstan, and Tajikistan and reaffirms the commitment to create a customs union and common economic space.[15] The latter combines Belarus, Kazakhstan, Russia, and Ukraine and was intended to induce Ukraine to look east instead of to the European Union (Shadikhodjaev 2009). The Single Economic Space was never implemented (Hancock and Libman 2016: 216).

The key documents are the Agreement on the Establishment of the Commonwealth of Independent States (signed 1991; in force 1992), the Alma-Ata Declaration (signed 1991; in force 1992), the Charter of the Commonwealth of the Independent States (signed 1993; in force 1994), and the Treaty on the Creation of Economic Union (signed 1993; in force 1994). The CIS has two assemblies (Council of Heads of State and Council of Heads of Government), three executives (Executive Committee, Council of Ministers of Foreign Affairs, and Economic Council), one secretariat (Executive Committee), and one non-state consultative body (Inter-Parliamentary Assembly).

Institutional Structure

A1: COUNCIL OF HEADS OF STATE (1992–2010)

The Protocol to the Minsk Agreement established the Council of Heads of State as the "supreme organ of the Commonwealth." It is composed of the Heads of State from all member states and decides on "fundamental issues" of cooperation (Agreement on the Councils of Head of State and Government, Art. 1). Decisions are taken by consensus, with each state having one vote (Art. 2). Member states can abstain when they have no interest in a particular issue or decision (Art. 3). The Council of Heads of State meets twice a year and is chaired in rotation (Art. 4).

These stipulations were maintained by the CIS Charter, but two specialized Councils were recognized as well: the Council of Defense Ministers and the

[15] Uzbekistan joined in 2006 and was suspended again, upon the country's own request, in 2008.

Council of the Frontier Troops Chief Commanders (CIS Charter, Arts. 30 and 31). They report directly to the Council of Heads of State.

A2: COUNCIL OF HEADS OF GOVERNMENT (1992–2010)

The Protocol to the Minsk Agreement also established a Council of Heads of Government. Decisions are taken by consensus, with one vote per country and the possibility of abstention (Arts. 2 and 3). The Council meets four times a year and the chair rotates (Art. 5).

Initially, the division of labor between this Council and the Council of Heads of State was unclear. The Agreement on the Councils of Heads of State and Government merely states that both bodies "discuss and where necessary take decisions on the more important domestic and external issues" (Art. 3). The Charter clarifies the respective roles by restricting the Council of Heads of Government's responsibility to "coordinating cooperation among the executive power organs of member states in economic, social and other spheres of mutual interest" (Art. 22).

E1: FROM THE COORDINATION AND CONSULTATIVE COMMITTEE (1994–9) TO THE EXECUTIVE COMMITTEE (2000–10)

There were no executive bodies under the initial Minsk Protocol. The 1993 CIS Charter established a Coordination and Consultative Committee to act as a "permanently functioning executive and coordinating body" (Art. 28). It consists of two permanently authorized representatives per member state, one of whom must be the vice head of government (CIS Charter, Art. 29; CCC Rules of Procedure, Art. 5). Hence member states select the members, all member states are represented, and representation is direct. The Committee is managed by a troika consisting of the former, current, and next chair. The chair is chosen by rotation for six months (Rules of Procedure, Art. 5). The Committee meets at least once every two months (Rules of Procedure, Art. 6). It is supported by the Secretariat, and its chief officer, the coordinator, is vice-chair of the Committee.

The Committee is the primary initiator of proposals for "cooperation in political, economic, social, environmental, humanitarian, cultural, military, legal and other fields" (Rules of Procedure, Art. 3). It is also in charge of implementing economic and trade agreements. It drafts the agenda for the two Council meetings. It coordinates the various CIS bodies. And it drafts the budget (CIS Charter, Art. 28; Rules of Procedure, Art. 3). The Committee takes decisions by consensus, with the possibility of abstention (Rules of Procedure, Art. 7).

In 2000, the Coordination and Consultative Committee was restructured (2000 Protocol). The political tier was renamed the Council of Plenipotentiary Representatives of the State, essentially retaining the same composition and working rules as its predecessor. The administrative secretariat was upgraded to become the Executive Committee of the Commonwealth. It has

continued to work closely with the Plenipotentiaries, but from 2000, we opt to code the Executive Committee given its high-profile executive role in the CIS machinery.[β]

The Executive Committee is now the permanent executive, administrative, and coordinating body. Its chief function is to oversee the work of the Council of Heads of State, the Council of Heads of Government, the Council of Ministers of Foreign Affairs, and the Economic Council; to study and propose initiatives for cooperation in the Commonwealth; elaborate legal documents; oversee the implementation of decisions and agreements; be the contact point with the outside world; and help conduct international negotiations. At every step it works closely with member states or interstate CIS bodies (2000 Protocol, Arts. 6 and 7).

The composition of the Committee has pronounced supranational elements. The chair of the Committee is now an official on a fixed term. The executive secretary is the principal administrative officer of the Commonwealth. He is appointed by consensus by the Council of Heads of State, upon recommendation of member states. The chair can be dismissed by the Council of Heads of State by simple majority. He is assisted by up to four deputies, who are appointed on a rotational basis for three years (and can be removed) by the Council of Heads of Government. The deputies may not be citizens of the same state (2000 Protocol, Art. 8). So while all members are selected by member states, not all member states are represented in the top executive layer.[16] It seems apposite to code "indirect representation" since all employees, including the executive secretary and his deputies, are "international officials and are independent from state bodies and officials from their countries, cannot combine work in the apparatus of the Committee with other work or engage in activities that are not compatible with the fulfillment of their duties except for teaching, scientific or other creative activities" (Protocol, Art. 15).

E2: COUNCIL OF MINISTERS OF FOREIGN AFFAIRS (1994–2010)

The CIS Charter also created a Council of Ministers of Foreign Affairs, composed of each country's foreign minister, to carry out the coordination of foreign policies of member states based on decisions by the Council of Heads of State and of the Council of Heads of Governments (Art. 27). This entails coordinating activity in international organizations and holding consultations on questions of world politics in which member states have a

[16] Senior staff positions are distributed according to national quota. These individuals are on fixed-term positions, must be citizens of a Commonwealth member, have professional skills commensurate with the position, and have been, as a rule, civil servants in their home state. They cannot combine their CIS position with any other position. They are proposed by member states and appointed by the executive secretary (Art. 9). All other staff are recruited on a competitive basis.

mutual interest. The Council can also make recommendations to the legislative bodies on foreign policy (Rules of Procedure, Art. 8). The Council takes decision by consensus, with the possibility of abstention (1999 Rules of Procedure, Art. 15). The chair rotates among member states on a one-year clock (1999 Rules of Procedure, Art. 12).

E3: FROM THE INTERSTATE ECONOMIC COMMITTEE (1994–9) TO THE ECONOMIC COUNCIL (2000–10)

The 1993 Treaty on the Creation of Economic Union sketches only the broadest legal guidelines for achieving free trade, a customs union, and ultimately an economic union. The details need to be filled out with subsequent decisions or agreements. Under Article 28 of the Treaty, the member states established the Interstate Economic Committee to bring this about (Khabarov 1995). It started work in October 1994. The Economic Committee was in actuality a multi-tiered institutional construct with at its apex an interstate body composed of high-level member state representatives from each member state. The chair rotated among member states.

The Committee could adopt binding decisions. Some decisions required consensus (transition to the customs union, common market in goods, services, capital, and labor as well as the monetary union), but the default decision rule was a three-fourths majority to decide on quotas, reserve currencies, and the creation of financial funds. Voting was weighted when decisions were anticipated to have serious financial or economic implications. Russia had a veto since it has 50 percent of the vote. Ukraine has 14 percent, Kazakhstan, Belarus, and Uzbekistan 5 percent each, and the rest of the members 3 percent each (Khabarov 1995: 1300–1).

In 2000 the Interstate Economic Council was renamed the Economic Council. It continues to be composed of the deputy heads of government of all member states (2000 Rules of Procedure, Art. 7). The chair continues to rotate among member states (Art. 8). The Council is responsible for implementation of the decisions of the Council of Heads of State and Heads of Government on free trade and other areas of socio-economic cooperation (Art. 6). The default decision rule is now consensus: decisions that concern the formation of free trade zones, projects "with serious economic consequences," and other strategic development issues. Procedural issues merely require simple majority (Art. 10). The new Rules of Procedure no longer mention weighted voting.

GS1: FROM THE SECRETARIAT OF THE COORDINATION AND CONSULTATIVE COMMITTEE (1994–9) TO THE EXECUTIVE COMMITTEE (1999–2010)

The Secretariat lends organizational and technical support to the work of the various Councils and other bodies of the organization (CIS Charter, Art. 29).

Located in Minsk, Belarus, it operates under the authority of the Coordination and Consultative Committee. The Secretariat is headed by the coordinator, who is appointed by the Council of Heads of State, presumably by consensus (Art. 29); length of tenure is determined by informal consensus as well. There are no rules on agenda setting or for his/her removal.

Upon restructuring in 2000, the Secretariat of the Coordination and Consultative Committee is renamed the Executive Committee, which becomes both the chief executive and administration of the organization. The senior officer is now called the executive secretary.

CB1: INTER-PARLIAMENTARY ASSEMBLY (1995–2010)

The founding Charter envisages an Inter-Parliamentary Assembly composed of parliamentary delegations from the member states (Arts. 36 and 37). Seven CIS states—Armenia, Belarus, Kazakhstan, Kyrgyzstan, Russia, Tajikistan, and Uzbekistan—signed the Agreement on the Inter-Parliamentary Assembly in March 1992 (Voitovich 1993: 412, fn. 51). Established in March 1995, it holds parliamentary consultations, discusses issues of cooperation within the Commonwealth, and develops joint proposals (Art. 36). The seat of the body is in St. Petersburg. Ukraine, Moldova, and Azerbaijan now also participate, but Turkmenistan and Uzbekistan do not. The parliamentary delegation of Afghanistan is an observer.

The CIS also features a Commission for Human Rights, located in Minsk, Belarus, as a consultative body to "observe the fulfillment of human rights obligations" under the CIS framework (CIS Charter, Art. 33). Its most important function to date is extradition between member states, especially relating to suspects of terrorism, organized crime, and political opposition. It is composed of member state representatives and therefore falls outside our criteria for inclusion as a non-state consultative body.

Decision Making

MEMBERSHIP ACCESSION

The Minsk Agreement notes that the agreement is open for accession by former states of the Soviet Union and "other states sharing the purposes and principles of this Agreement" (Art. 13). However, it does not lay down rules on decision making. The Charter reaffirms the general openness of the organization to new members (Art. 7) and introduces a procedure. The Council of Heads of State takes decisions by consensus (CIS Charter, Art. 7). No ratification is required. The Charter also provides for associate membership by a country that "desires to participate in certain types of its activity" (Art. 8). These decisions are also taken by the Council of Heads of State.

MEMBERSHIP SUSPENSION

The CIS Charter introduces a clause that envisages a decision by the Council of Heads of State in the case of "violations by a member state of this Charter, [or] systematic failure by a State to fulfill its obligations pursuant to agreements concluded under the framework of the Commonwealth, or decisions of the bodies of the Commonwealth" (Art. 10). The "measures permitted under international law" as a result of such action presumably also include suspension (Art. 10).[α] Decisions are taken by consensus. No written rules exist on initiation.

CONSTITUTIONAL REFORM

The Minsk Agreement merely notes that the agreement could be amended by "mutual agreement" of the contracting parties (Art. 10). Thus, we code the Council of Heads of State as taking the final decision by unanimity. The Agreement does not say who can initiate.[α] There are no explicit rules on ratification, and we code the procedure applied to the adoption of the Minsk Agreement itself, which requires ratification by all member states to enter into force.[α] The Charter adds detail. It now says explicitly that any member state can propose amendments, with final decisions taken by the Council of Heads of State, presumably by consensus (Art. 42). Constitutional amendments have to be ratified by all member states to enter into force (Art. 42).

REVENUES

The Minsk Agreement does not contain rules on financing and we infer that contributions were voluntary. The Charter states that the Commonwealth is financed by regular member state contributions based on "the participatory share of member states" (CIS Charter, Art. 38). Annual contributions are determined through special budgetary agreements for CIS bodies (Art. 38).

BUDGETARY ALLOCATION

Initially, the Council of Heads of State decided on budgetary allocation based upon a draft budget prepared by the Council of Heads of Governments (CIS Charter, Art. 38). Both bodies decided by consensus. Given that member states could opt out of particular decisions (Art. 23), we code partial bindingness.

With the institutional restructuring in 1999, the Executive Committee becomes the drafter of the annual budget which combines financing for all CIS bodies, and it seems that the Committee decides by consensus.[α] The Council of Heads of State approves the budget. The Executive Committee is also explicitly charged with control over budget execution, which leads us to conclude that budgetary decision making can now be conceived as binding (Appendix to the Protocol on Approving the Regulation of the Executive Committee, Art. 7).[β]

FINANCIAL COMPLIANCE
No written rules.[α]

POLICY MAKING
The 1991 Minsk Agreement and its subsequent Protocol refer to consensus as the rule for decisions taken by the Council of Heads of State and the Council of Heads of Government. There are no rules on who could initiate. The Agreement on the Council of Heads of State and Government explicitly provides for an opt-out: "Any state may declare its having no interest in a particular issue or issues" (Art. 3). Ratification was not required.

The 1993 CIS Charter refines the policy procedure. The Coordination and Consultative Committee is the primary initiator of legislation in most areas of policy (CIS Charter, Art. 23) and the Council of Ministers of Foreign Affairs is the primary initiator in foreign policy (2000 Rules of Procedure, Art. 8). Both bodies decide by consensus. On economic union, the Interstate Economic Committee can also initiate legislation by supermajority (Khabarov 1995: 1301). The Secretariat has no agenda setting powers. Member states can opt out (Art. 23), and ratification is not required (except for agreements).

The 2000 restructuring of the CIS places the Executive Committee at the center of general purpose policy making. Because it is a dual executive-secretarial body, we now also code the Secretariat as having a legal right of initiative. According to the CIS website, decisions remain the chief policy instrument—with protocols and agreements secondary.[17] Alongside the Council of Ministers of Foreign Affairs and the Economic Council (which replaces the Interstate Economic Committee, and now decides by consensus), the Committee coordinates initiatives that can trickle up from a large number of bodies of sectoral cooperation engaged in shaping policy in their (usually narrow) policy field. Libman and Vinokurov (2012: 114) estimate that "a total of 87 institutions, mostly engaged in sector-specific cooperation and coordination," are involved.

DISPUTE SETTLEMENT
Dispute settlement in the Minsk Agreement is political and intergovernmental: disputes "shall be subject to resolution by way of negotiations between relevant bodies and, if necessary, at the state and governmental level" (Art. 9). The CIS Charter essentially maintains this. It provides for negotiations or an unspecified "appropriate alternative procedure" agreed upon by the parties, with the Council of Heads of State as the final arbiter, which also has the

[17] The substance of these decisions varies and includes recommendations as well as concrete action plans for cooperation in economic, cultural, educational, scientific, and other fields (see <http://cis.minsk.by/reestr/ru/index.html#reestr> (accessed February 2017)).

power to recommend appropriate procedures (Arts. 17 and 18). However, the Charter also incorporates the Economic Court into the CIS institutional framework. The Court had been created the year before in the Agreement on the Statute of the Economic Court, and it is this that we code.

The Economic Court of the Commonwealth of Independent States (ECCIS) has jurisdiction over disputes arising from the economic obligations of member states under the CIS framework and related issues that member states decide to subject to its jurisdiction (Art. 32). The Court is optional because it applies only to member states that ratify the agreement. Within one year, eight of ten member states had signed and ratified the Agreement, but Turkmenistan and Ukraine stayed out (Danilenko 1999: 895). The Court was officially established with the adoption of its Rules of Procedure in 1994 (Danilenko 1999: 895).

The Court forms the highest layer in a complex dispute settlement procedure that involves direct consultations between the disputing parties, a conciliation procedure, and procedures provided by international law if the Economic Court cannot settle a dispute (CIS FTA, Art. 19). Progression from one stage to the next is either by mutual consent or "by the order of one of them if agreement is not reached within six months" (CIS FTA, Art. 20). Hence there is automatic right to third-party review. The Court is composed of two regular judges from each member state as well as the chief justice of the highest economic or commercial court from each participating country (Danilenko 1999: 897). Judges are appointed for ten years. The chair and vice-chairs are proposed by the judges by majority vote and approved by the Council of Heads of State for five years.

The bindingness of Court rulings is debated (Alter 2014: appendix).[γ] On the one hand, Article 4 of the Statute stipulates that the Court only issues recommendations to disputing parties. However, the 1993 Treaty on the Creation of an Economic Union asserts that a state found in breach of an obligation "shall be required to take the necessary measures to comply with the judgment" (Art. 31). In an advisory opinion (No. C-1/19-96), the Court declared that "judgments of the Economic Court are binding on states members of the Economic Union" (Danilenko 1999: 906–8), and this stance is confirmed on the Court's website.[18] We come down on binding.

There are no sanctions in case of non-compliance. Article 4 of the Statute merely states that the losing states themselves are required to "ensure the enforcement" of the judgment. Non-compliance may, in principle, be referred

[18] See <http://www.sudsng.org/competence/sng/> (accessed February 11, 2017).

CIS Institutional Structure

		A1			A2			E1							
Years		Non-state selection	Indirect representation	Weighted voting	Non-state selection	Indirect representation	Weighted voting	Head—agenda	Head—decision	Members—agenda	Members—decision	Non-state selection	Partial representation	Indirect representation	Reserved seats
1992–1993	Not body-specific	0	0	0	0	0	0								
	Member states														
	A1: Council of Heads of State														
	A2: Council of Heads of Government														
1994	Not body-specific	0	0	0	0	0	0	R	R			0	0	0	0
	Member states									✓	✓				
	A1: Council of Heads of State														
	A2: Council of Heads of Government														
	E1: Coordin. and Consult. Committee														
	E2: Foreign Affairs Min. Council														
	E3: Interstate Econ. Committee														
	GS1: Secretariat														
	DS: Economic Court (ECCIS)														
1995–1999	Not body-specific	0	0	0	0	0	0	R	R			0	0	0	0
	Member states									✓	✓				
	A1: Council of Heads of State														
	A2: Council of Heads of Government														
	E1: Coordin. and Consult. Committee														
	E2: Foreign Affairs Min. Council														
	E3: Interstate Econ. Committee														
	GS1: Secretariat														
	CB1: Interparliamentary Assembly														
	DS: Economic Court (ECCIS)														
2000–2010	Not body-specific	0	0	0	0	0	0			R	R	0	1	2	0
	Member states							✓		✓					
	A1: Council of Heads of State								0						
	A2: Council of Heads of Government									0					
	E1←GS1: Executive Committee														
	E2: Foreign Affairs Min. Council														
	E3: **Economic Council**														
	GS1: **Executive Committee**														
	CB1: Interparliamentary Assembly														
	DS: Economic Court (ECCIS)														

Note: A = automatic/technocratic procedure; N = no written rule; R = rotation; ✓ = body co-decides, but no voting rule; ← = change in status. Shaded areas refer to institutions or policy areas that are non-existent for those years.

		E2										E3										GS1		CB1
Weighted voting	Partial veto	Head—agenda	Head—decision	Members—agenda	Members—decision	Non-state selection	Partial representation	Indirect representation	Reserved seats	Weighted voting	Partial veto	Head—agenda	Head—decision	Members—agenda	Members—decision	Non-state selection	Partial representation	Indirect representation	Reserved seats	Weighted voting	Partial veto	Select	Remove	Non-state selection
0	0	R	R			0	0	0	0	0	0	R	R			0	0	0	0	1	0		N	
				✓	✓									✓	✓									
																						0		
0	0	R	R			0	0	0	0	0	0	R	R			0	0	0	0	1	0		N	3
				✓	✓									✓	✓									
																						0		
0	0	R	R			0	0	0	0	0	0	R	R			0	0	0	0	0	0			3
				✓	✓									✓	✓									
																						0	3	

CIS Decision Making

		Accession			Sus-pension		Constitution				Budget			Com-pliance		Policy 1 (decisions)					Dispute settlement (economic cooperation)						
Years		Agenda	Decision	Ratification	Agenda	Decision	Agenda	Decision	Ratification	Revenue source	Agenda	Decision	Binding	Agenda	Decision	Agenda	Decision	GS role	Binding	Ratification	Coverage	Third party	Binding	Tribunal	Non-state access	Remedy	Preliminary ruling
1992–1993	Not body-specific	N	N	N	N	N	N		0	0	N	N	N			N			1	3							
	Member states																										
	A1: Council of Heads of State							0									0										
	A2: Council of Heads of Government																0										
1994	Not body-specific	N		2	N				0	1			1	N	N			0	1	3							
	Member states						✓																				
	A1: Council of Heads of State		0			0		0				0					0										
	A2: Council of Heads of Government										0						0										
	E1: Coordin. and Consult. Committee															0											
	E2: Foreign Affairs Min. Council															0											
	E3: Interstate Econ. Committee															2											
	GS1: Secretariat																										
	DS: Economic Court (ECCIS)																				1	2	2	2	0	0	0
1995–1999	Not body-specific	N		2	N				0	1			1	N	N			0	1	3							
	Member states						✓																				
	A1: Council of Heads of State		0			0		0				0					0										
	A2: Council of Heads of Government										0						0										
	E1: Coordin. and Consult. Committee															0											
	E2: Foreign Affairs Min. Council															0											
	E3: Interstate Econ. Committee															2											
	GS1: Secretariat																										
	CB1: Interparliamentary Assembly																										
	DS: Economic Court (ECCIS)																				1	2	2	2	0	0	0

2000–2010	Not body-specific	N		2	N				0	1			2	N	N			1	1	3							
	Member states						✓																					
	A1: Council of Heads of State		0			0		0				0					0											
	A2: Council of Heads of Government																0											
	E1←GS1: Executive Committee										0					0												
	E2: Foreign Affairs Min. Council															0												
	E3: **Economic Council**															0												
	GS1: **Executive Committee**										0					0												
	CB1: Interparliamentary Assembly																											
	DS: Economic Court (ECCIS)																				1	2	2	2	0	0	0	

Note: A = automatic/technocratic procedure; N = no written rule; R = rotation; ✓ = body co-decides, but no voting rule; ← = change in status. Shaded areas refer to institutions or policy areas that are non-existent for those years.

to the Council of Heads of State. However, the Council can merely make a recommendation, and every member state, including the losing party, has a veto. Hence we code no remedies for non-compliance. This lack of enforcement powers is the chief reason why scholars have argued that "the Economic Court's actual impact on the functioning of the CIS remains essentially marginal" (Danilenko 1999: 914; see also McCall Smith 2000: 151; Alter 2014: 252).

The Court's Statute stipulates that it has jurisdiction only over "interstate economic disputes" (Art. 3), which can be brought by "the interested states acting through their competent organs and by institutions of the Commonwealth."[19] Legal commentary and the organization's self-description suggest that non-state actors cannot bring cases (Danilenko 1999; see also McCall Smith 2000). It is not entirely clear whether the IO secretariat can initiate cases, but secondary literature suggests that the answer is negative (Alter 2014: 92; Tallberg and McCall Smith 2014).$^{\alpha}$

The Court can also provide opinions. Article 5 of the Statute states that the Court interprets CIS agreements (apparently not confined to economic agreements) by issuing opinions at the request of, inter alia, the highest economic and commercial courts of member states. This could contain the kernel of a preliminary ruling process, but only the highest courts can ask for an opinion and none is required to do so. Scholars have tended to interpret this basis as too thin for a preliminary ruling process (Alter 2014; Kembayev 2009: 66–7).[20]

Council of Europe (CoE)

The Council of Europe is a regional general purpose organization with a particularly high profile in human rights. Founded in 1949 by ten European countries, the Council of Europe (CoE) to date has forty-seven member states from Europe and Eurasia. Canada, the Holy See, Israel, Japan, Mexico, and the United States have observer status. Its headquarters are in Strasbourg, France.

The Statute establishing the Council of Europe says that its objective is "to achieve a greater unity between its members" so as to safeguard "their common heritage" (Statute, Art. 1). The scope of the organization is framed equally broadly to include "economic, social, cultural, scientific, legal and administrative matters and . . . the maintenance and further realization of human

[19] Moldova has lodged a reservation in that disputes can only be submitted by the mutual consent of states (Danilenko 1999: 899, fn. 18).

[20] From February 1994 to November 2013 the Economic Court of the CIS considered 113 cases and issued 122 acts. The large majority of these (96) were advisory opinions on how to interpret international agreements or other acts of the Commonwealth. <http://www.worldcourts.com/eccis/eng/decisions.htm> (accessed March 2017).

rights and fundamental freedoms . . . pursued . . . by discussion . . . and by agreements and common action" (Art. 1).

The Council of Europe has no independent or binding legislative authority, and it has been described as "an international organization operating in the field of soft security" by "negotiating conventions that develop common standards of political and social behavior, and by encouraging its members to accept regimes of mutual monitoring" (Bond 2012: 5). At the same time, it houses the most authoritative international court on human rights.

The Council of Europe was one of the few tangible outcomes of the Congress of Europe, held at The Hague in 1948 under the chairmanship of Winston Churchill (Laffan 1992). The Treaty of London that created the CoE was signed in May 1949 by ten governments (Belgium, Denmark, France, Ireland, Italy, Luxembourg, the Netherlands, Norway, Sweden, and Britain). The founders were soon joined by other European countries, but none from Eastern Europe because the CoE was seen as "the civilian arm of NATO" (Bond 2012: 8). The curtain was lifted with the end of the Cold War, and within ten years, membership increased from twenty-two in 1988 to forty in 1998, including Russia and Ukraine.

The Council of Europe was negotiated in the tension between an intergovernmentalist and a supranationalist conception of cooperation in postwar Europe. The former was defended by Britain, which wanted to confine the Council to non-defense and non-economic matters and retain the national veto. Ernest Bevin, UK Foreign Secretary, said that he wanted "a practical organism in Europe" and not "a mere talking-shop for the passing of resolutions" (quoted in Schuman 1950: 729). Supranationalists, particularly in France and the Benelux, conceived the Council as the vehicle for a federal Europe with a strong, perhaps directly elected, parliament (Grigorescu 2015: 235–7; Laffan 1992).[21] The intergovernmentalist view prevailed, and the "federalists" shifted their energy to the European Coal and Steel Community, which was established in 1952. However, the intergovernmental–supranational battles of the Council of Europe's early days continue to be reflected in its dual assemblies—the interstate Committee of Ministers, and the non-state Consultative/Parliamentary Assembly. The Committee of Ministers, together with its subsidiary bodies, also serves as executive body and the Secretariat is the administrative organ. Two institutions have consultative status: the Conference of INGOs (international non-governmental organizations) and the Congress of Local and Regional Authorities.

[21] In August 1948 the US State Department declared that "the United States Government strongly favors the progressively closer integration of the free nations of Western Europe" (Schuman 1951: 728).

The Council of Europe's chief policy output is a series of conventions. In 1950, the European Convention on Human Rights was signed. The European Court of Human Rights was established in 1959 and reformed in 1998. The Conference of Local Authorities of Europe, predecessor of the Congress of Local and Regional Authorities, first met in 1957. Other important landmarks are the European Social Charter (1961), the European Convention for the Prevention of Torture (1987), and the Convention on Action against Trafficking in Human Beings (2005).

The Statute of the Council of Europe (signed and in force 1949) is the key legal document of the organization. Equally important is the Convention for the Protection of Human Rights and Fundamental Freedoms (signed 1950; in force 1953).

Institutional Structure

A1: COMMITTEE OF MINISTERS (1950–2010)

The first rule-making and representative body of the Council of Europe is the Committee of Ministers. It remains "the ultimate authority for legislative decisions within the CoE, and on occasion will point this out in no uncertain terms" (Bond 2012: 12).

Each member state has one representative, and each representative has one vote. In its most senior composition, the representatives are the Ministers for Foreign Affairs (Art. 14). Article 14 also specifies that "When a Minister for Foreign Affairs is unable to be present or in other circumstances where it may be desirable, an alternate may be nominated to act for him [sic], who shall, whenever possible, be a member of his [sic] government." So all representatives are selected by member states, and there is full and direct member state representation. The general decision rule is two-thirds majority (Statute, Art. 20.2).

The Council of Europe has also held occasional Summits of Heads of State and Government. So far, three Summits have been held: Vienna (1993), Strasbourg (1997), and Warsaw (2005). The Summit is not a regularized part of the institutional structure of the CoE.

A2: FROM CONSULTATIVE ASSEMBLY (1950–93) TO PARLIAMENTARY ASSEMBLY (1994–2010)

The second representative body is the Parliamentary Assembly of the Council of Europe (Statute, Art. 10). Until 1993 it was referred to as the Consultative Assembly, but since then the label Parliamentary Assembly has been used in official documents. Article 22 of the Statute lays down that the Assembly "is the deliberative organ of the Council of Europe. It shall debate matters within its competence under this Statute and present its conclusions, in the form of

recommendations, to the Committee of Ministers." In contrast to the Committee of Ministers, it has limited formal decision powers, but as one of its former presidents, Pierre Pflimlin, summarized succinctly in 1963: "hardly any powers, but real authority" (Bond 2012: 13).

In the original Treaty of 1949, the government and not the parliament of a member state appointed representatives. The status of the representatives was left relatively vague. The Treaty merely stipulates that members of the Consultative Assembly cannot also be members of the Committee of Ministers (Art. 25(a)), and that no member can be replaced without the consent of the Assembly (Art. 25(b)). It seems pretty clear that these representatives were intended to be independent of member states, so we conceive the body as primarily non-state. However, we do code that member state governments select representatives.

The latter changed with an amendment adopted in 1951. The Parliamentary Assembly is now unambiguously composed of representatives selected by national parliaments: "The Consultative Assembly shall consist of representatives of each member, elected by its parliament from among the members thereof, or appointed from among the members of that parliament, in such manner as it shall decide, subject, however, to the right of each member government to make any additional appointments necessary when the parliament is not in session and has not laid down the procedure to be followed in that case. Each representative must be a national of the member whom he represents, but shall not at the same time be a member of the Committee of Ministers" (Art. 21 (a)).

Voting in the Parliamentary Assembly is not weighted. While larger countries have larger delegations (ranging from twelve to eighteen), members of the Assembly vote on an individual basis. Each representative has one vote. The normal voting rule is two-thirds majority of the votes cast (Rules of Procedure of the Assembly, Rule 39). In terms of policy making, the Assembly can adopt recommendations, resolutions, and opinions. Recommendations contain proposals addressed to the Committee of Ministers, the implementation of which is beyond the competence of the Assembly, but within the competence of governments. Resolutions embody decisions by the Assembly on questions, which it is empowered to put into effect or expressions of view, for which it alone is responsible (Rules of Procedure of the Assembly, Rule 25). Opinions are mostly expressed by the Assembly on questions put to it by the Committee of Ministers, such as the admission of new member states to the Council of Europe, but also on draft conventions, the budget, and the implementation of the Social Charter. None is binding.

The Assembly has a Joint Committee, which is the venue where representatives of the two assemblies meet. Its purpose is to exchange information, coordinate agendas, and deliberate on the practical execution of recommendations. Initially,

the Joint Committee was composed of twelve members, five representing the Committee of Ministers and seven representing the Consultative (Parliamentary) Assembly. Since 1963, upon request of the Assembly, the Committee contains a representative of each member state and an equal number of representatives from the Assembly. The Joint Committee takes decisions by consensus (Statutory Resolution 51(30), and footnote 2 on p. 38 of the Statute; Bond 2012: 15).

E1: COMMITTEE OF MINISTERS (1950–2010)

The primary role of the Committee of Ministers is to operate as the executive of the CoE. It implements, at its discretion, recommendations or resolutions from the Parliamentary Assembly. It is also the conduit between the Council of Europe and the national executives. The Committee handles some tasks with a clear executive character, including monitoring member state commitments, implementing cooperation and assistance programs, and supervising the execution of judgments of the European Court of Human Rights.[22]

Member states select the members of the Committee of Ministers, all member states are represented, and representation is direct (Statute, Art. 14). The chair of the Committee of Ministers is rotated alphabetically (Rules of Procedure of the Committee of Ministers, Art. 6).

The Committee of Ministers sits atop a multi-tiered structure of steering committees and expert committees, all appointed by member states (Bond 2012: 12). While the ministers meet annually, ministers' deputies meet on a weekly basis.[23] The Committee of Ministers can also convene as meetings of specialized ministers.

E2: COMMISSIONER FOR HUMAN RIGHTS (1999–2010)

The CoE has multiple channels and bodies that monitor or regulate human rights, broadly conceived, in the member states. The most significant non-legal body is the Commissioner for Human Rights, created in 1999 by means of the Committee of Ministers' resolution 99(50). It is no coincidence that the decision was taken just a year after Russia joined the CoE at a Summit in 1997.

The Commissioner is elected for a non-renewable term of six years by the Assembly, by majority, from a list of three candidates put together by the Council of Ministers (Art. 9). Member states can put forward candidates

[22] According to the website, the role of the Committee is threefold: "as the emanation of the governments which enables them to express on equal terms their national approaches to the problems confronting Europe's societies; as the collective forum where European responses to these challenges are worked out; as guardian, alongside the Parliamentary Assembly, of the values for which the Council of Europe exists." See <http://www.coe.int/t/cm/aboutCM_en.asp> (accessed February 11, 2017).

[23] See <http://www.coe.int/t/cm/aboutCM_en.asp> (accessed February 11, 2017).

(Art. 9.2). Hence we code member states and the Committee of Ministers as initiators, and the Assembly as taking the final decision on appointing the Commissioner. Given the role of the Parliament in appointing the Commissioner and that there are no further rules on the appointment of the members of the executive, we code the executive as primarily selected by non-state bodies. Not every member state is represented in the Office of the Commissioner, so we code partial member state representation. Representation is indirect because the Commissioner is instructed to function independently and impartially (Art. 2). Bond (2012: 44) describes the Commissioner as "a roving investigator and interlocutor for member states in an effort to promote their respect for human rights."

GS1: GENERAL SECRETARIAT (1950–2010)

The secretary general and deputy secretary general are appointed by the Consultative/Parliamentary Assembly on the recommendation of the Committee of Ministers (Art. 36 (b)).[24] The general decision rule for the Committee is supermajority (Statute, Art. 20 (d)). Voting in the Assembly is by majority (Rules of Procedure, VI.7.c). The term of office is five years, renewable (Rules of Procedure of the Assembly, VI.8, p. 164). There are no written rules on the possible removal of the secretary general.

One of the recruitment principles for the Secretariat is equitable representation of member states. This is apparent in special recruitment drives for nationals from underrepresented member states, as posted on the CoE recruitment website. A staff member has international status and needs to declare that "his duty is to the Council of Europe and that he will perform his duties conscientiously, uninfluenced by any national considerations, and that he will not seek or receive instructions" (Statute, Art. 36 (e)).

CONSULTATIVE BODIES

The Council of Europe has been identified as one of the leaders among international organizations in opening its decision making to consultative non-state actors (Tallberg et al. 2013: 12). Since 1951 the Council has had an explicit procedure for the creation of consultative channels. The decision is in the hands of the Committee of Ministers, which "may, on behalf of the Council of Europe, make suitable arrangements for consultation with international non-governmental organizations which deal with matters that are

[24] The interpretation of this provision has been a source of conflict between the Parliament and the Committee of Ministers (Bond 2012: 67–8). In the past, the Parliament has successfully demanded a relatively long shortlist of candidates from which it could have its pick. As a result, several past secretary generals were former Parliamentary Assembly members. In 2009 the Committee of Ministers insisted that the candidate should have extensive government experience, and it proposed a shortlist of just two candidates.

within the competence of the Council of Europe" (Statutory Resolution (51) 30). The two chief products of this are the Congress for Local and Regional Authorities and the Conference of INGOs.

CB1: FROM CONFERENCE FOR LOCAL AUTHORITIES (1961–74) TO CONFERENCE FOR LOCAL AND REGIONAL AUTHORITIES (1975–93) TO THE CONGRESS OF LOCAL AND REGIONAL AUTHORITIES (1994–2010)

The first Conference of Local Authorities took place in 1957, with the blessing of the Committee of Ministers. A Committee of Ministers resolution (Res. (61)20) passed in 1961 the Charter of the European Conference of Local Authorities, which established the body on a biennial basis.

The Conference has relatively strong consultative powers. It can pass resolutions on pretty much any topic that it conceives to be of relevance to its constituencies. While the resolutions are non-binding, the Committee of Ministers and the Assembly are obligated to address them: "such resolutions and opinions shall be submitted to the Consultative Assembly for an opinion and to the Committee of Ministers for action" (Art. 1c).

The representatives of the Conference are chosen by member states from representatives of national or international associations of local authorities. Initially, representatives were not required to be elected officials, but from 1975 they were required to hold an elected mandate or "a mandate as a person responsible either to an elected assembly or to a representative association of local authorities." At the same time, the composition was broadened to include regional authorities as well as local authorities (Committee of Ministers Res. (75)4). In 1979 the Conference was renamed the Standing Conference of Local and Regional Authorities of Europe.

In 1994 the body was restructured as two chambers, one for local authorities and one for regional authorities. It has now become the Congress of Local and Regional Authorities in Europe (CLRAE) and currently has 318 full members and the same number of substitutes, all of whom are local or regional politicians. They are appointed for two years and can be reappointed.

One of the major achievements of the Congress is the European Charter of Local Self-Government, which was passed in 1988 and has been signed and ratified by all member states. A chief goal is to promote regionalization and transnational cooperation between cities and regions. The Conference has also been active in deepening local democracy in Central and Eastern Europe.

CB2: FROM PLENARY CONFERENCE OF INGOS (1993–2004) TO INGO CONFERENCE OF THE COUNCIL OF EUROPE (2005–10)

Individual non-governmental organizations have been able to apply for consultative status since 1952 (Steffek 2010: 78), and this was formalized by a

decision of the Committee of Ministers in 1972 (Res. (72)35). In 1993 a consultative body for INGOs was recognized officially.

An unofficial forerunner, the Conference of INGOs, was set up in 1976 with some prodding from the CoE secretary general. A Liaison Committee, composed of seventeen INGOs elected by the "Plenary Conference of the INGOs enjoying consultative status with the Council of Europe," was set up to manage relations with the Secretariat General and other CoE bodies, and a few years later the Committee of Ministers chipped in with funding for a small secretariat.

The Liaison Committee of the Conference of INGOs became an official consultative body of the Council of Europe in 1993 following the Committee of Ministers' resolution (93)38 "on relations between the Council of Europe and the international non-governmental organizations." INGOs authorized by the Liaison Committee may be consulted—in writing or by means of a hearing—by any CoE body (Art. 3). In addition, INGOs may send memoranda to CoE bodies, receive all public documents of the Assembly, and can attend public sittings of the Assembly, the Standing Conference of Local and Regional Authorities, and general and sectoral meetings organized by the secretary general (but not meetings of the Committee of Ministers) (Art. 4).

In 2003, the Committee of Ministers deepened the role from consultative to participatory (Res. (2003)8). INGOs holding consultative status are automatically given participatory status, which can range from consultation to full-scale collaboration in preparing memoranda for the secretary general to making statements to the Parliamentary Assembly or the Congress of Local and Regional Authorities.

In 2005, the organization was renamed the INGO Conference of the Council of Europe. In 2010 the Conference consisted of 366 INGOs with participatory status. It meets in Strasbourg three to four times a year during ordinary sessions of the CoE's Parliamentary Assembly. The chair is elected every three years (Bond 2012: 17–19). Decisions in its Standing Committee are taken by simple majority (INGO Rules of Procedure, Art. 3.3.5).

Decision Making

MEMBERSHIP ACCESSION

The Committee of Ministers may invite any European state that "accepts the principles of the rule of law and of the enjoyment by all persons within its jurisdiction of human rights and fundamental freedoms, and collaborate sincerely and effectively in the realization of the aim of the Council as specified in Chapter I" (Statute, Art. 3). An invited state can move to become a member after it deposits an instrument of accession with the secretary general (Statute, Art. 4). The Committee of Ministers takes the final decision.

From 1951 the Consultative Assembly advises on the invitation (Statutory Resolution of the Committee of Ministers (51)30). The Committee of Ministers makes decisions on membership under Article 4 by supermajority (Art. 20 (c)), and the Assembly decides by supermajority as well (Rules of Procedure of the Assembly, Rule 40 (a)). There is no reference to ratification in the Statute, and fifty years of practice indicates that additional ratification by existing member states is not necessary.

MEMBERSHIP SUSPENSION

The Committee of Ministers can, under Article 7, request that a member of the Council of Europe that has violated Article 3 be suspended from its rights of representation. If a member does not comply with this request, the Committee may decide that it has ceased to be a member of the Council from the date that the Committee determines (Art. 8).

Decision making about suspension and expulsion is made by supermajority (Statute Art. 20 (d)). Similar to accession, Statutory Resolution (51)30 determines that, from 1951, the Committee of Ministers will first consult the Parliamentary Assembly (by supermajority, see Rules of Procedure of the Assembly, Rule 40 (a)).

CONSTITUTIONAL REFORM

Amendments may be proposed by the Committee of Ministers or by the Consultative (Parliamentary) Assembly (Art. 41 (a)). The final decision is taken by the Committee of Ministers: "The Committee shall recommend and cause to be embodied in a protocol those amendments which it considers to be desirable" (Statute, Art. 41 (b)). Whereas the decision rule in the Assembly is supermajority (Rules of Procedure of the Assembly, Rule 40 (a)), the decision rule in the Committee of Ministers depends on which article of the Statute is under consideration. The standard rule is supermajority for both agenda setting and final decision. Ratification by a two-thirds majority is necessary for an amendment to come into force for all member states (Statute, Art. 41 (c)).[25]

REVENUES

The organization is financed by regular member state contributions. The Committee of Ministers sets a member state's financial obligation on the basis of its population and GDP (Statute, Art. 38 (b)). Member states may also make voluntary contributions which in 2016 came to 3 percent of the budget. The EU contributes some 6 percent of the budget.

[25] Amendments on the composition and functioning of the Consultative Assembly or on financial contributions follow a different decision process: they require approval in both legislative assemblies, and ratification is not required.

BUDGETARY ALLOCATION

The budget is drafted by the Secretariat (Art. 38 (c)) and adopted by the Committee of Ministers by supermajority (Statute, Art. 20 (d)).

According to a change in the Rules of Procedure dating from 1997, the secretary general is required to "have an exchange of views" with the Assembly before he sets an overall ceiling to the budget, and the Committee of Ministers commits to "hold[ing] regular consultations [with the Assembly] of the kind envisaged in the preceding paragraph in order to discuss all issues of common interest in the budgetary and administrative fields" (Rules of Procedure of the Assembly, p. 176). Therefore, from 1997 we also code the Parliamentary Assembly in the drafting stage of the budget, deciding by supermajority (Rules of Procedure of the Assembly, Rule 40 (a)). There are penalties for non-compliance (Art. 9), which is consistent with a binding budget.

FINANCIAL COMPLIANCE

The Committee of Ministers may suspend representation on the Committee and on the Consultative Assembly of a member that has failed to fulfill its financial obligations (Art. 9). Since 1994, the process has become largely administrative. The Committee of Ministers agreed that, apart from exceptional circumstances having prevented a member state from fulfilling its obligation, Article 9 of the Council of Europe's Statute is be applied to any state that has failed to pay up for two years (Statute, footnote 2, p. 10). Hence, before 1994, we code the Committee of Ministers as agenda setter and final decision maker, and from 1994 we code administrative decision for proposing consequences of non-compliance and the Committee making the final decision. The decision rule for this is supermajority (Statute, Art. 20 (d)).

POLICY MAKING

The remit of the Council of Europe is to develop and monitor human rights standards. The policy instruments of the Council of Europe comprise, on the part of the Committee of Ministers, recommendations, conventions, protocols, and agreements, recommendations, and resolutions; on the part of the Assembly, recommendations to the Committee of Ministers, resolutions, and opinions.

We code three policy streams, each of which flows from the Committee of Ministers, the CoE's supreme legislature: recommendations to member states which are not binding and do not require ratification; conventions, protocols, and agreements which are binding and require ratification; and resolutions on the execution of European Court of Human Rights (ECtHR) judgments. Statutory resolutions, which are binding on member states and do not require ratification, are akin to constitutional reform and are not coded here.

Recommendations and resolutions to member states constitute the first stream (Statute, Art. 15b). These are decided by the Committee of Ministers. Until 1994, unanimity was required in the Committee of Ministers (Art. 20), but in 1994 the Ministers' Deputies decided to make the process more flexible and concluded a "Gentleman's agreement" not to apply the unanimity rule to recommendations (Art. 20: note 2). Recommendations are not binding on member states. The Statute instructs the Committee of Ministers to ask member governments "to inform it of the action taken by them" with respect to recommendations (Art. 15 (b)). In 1987, at their 405th meeting, the Ministers' Deputies sent a message to the intergovernmental committees (steering committees and committees of experts), urging them to improve their monitoring of the implementation of recommendations and resolutions.[26]

The Parliamentary Assembly, the Conference of Local Authorities/Conference of Local and Regional Authorities in Europe (since 1961), and INGO Conference (since 2003) as well as the various Committee of Ministers' expert committees can shape policy recommendations, and we therefore include all of them in agenda setting. The secretary general's role appears to be primarily administrative, and we do not code it here. Ratification is not required. Recommendations are non-binding.

In contrast to recommendations, conventions, protocols, and agreements can be binding but member states can opt out. Upon the proposal of the Consultative Assembly or on its own initiative, the Committee of Ministers can consider actions that it estimates to be required to further the aim of the Council of Europe (Art. 15 (a)). Its conclusions are communicated to the member states (Art. 15 (a)). Hence we code the Assembly and the Committee of Ministers as initiators. From 1961, we also include the Conference of Local Authorities (later Conference of Local and Regional Authorities) and from 2003, the INGO Conference in the initiation stage. The normal decision rule in the Conference of Local and Regional Authorities for resolutions and opinions is a two-thirds majority (Charter CLA, Art. 1 (c)). The Committee of Ministers takes the decision by supermajority (Statute, Art. 20 (d)). Ratification is required and binding only on those who have ratified. Some protocols require the consent of all member states. We begin coding in 1950.

In 1951, a statutory resolution expanded the scope of Article 15 (a) by stating that the conclusions of the Committee of Ministers may take the form of conventions and agreements, which need to be ratified and are binding on members that have ratified them (Statutory Resolution (51)). It was initially not clear whether this process could sideline the Parliament, but in 1999, it was clarified that the Committee needs to consult the Assembly on

[26] See <http://www.coe.int/t/cm/aboutCM_en.asp> (accessed February 11, 2017).

all draft treaties, except for "a small number of exclusively technical nature" (1951 Statutory Resolution, footnote 3).

From 1993, member states added a serious dose of flexibility in the production of agreements. Agreements can be partial, that is, involve only a subset of member states; enlarged, that is, involving non-member states; or enlarged and partial, that is, involving non-member states and a subset of member states (Statutory Resolution 93 (28)).

The final policy stream concerns decisions on human rights. Until 1999, the Committee of Ministers played the pivotal role as the final political adjudicator of the European Convention for Human Rights (ECHR Convention, Art. 32). The Committee of Ministers acted upon a report by the European Commission of Human Rights, composed of member state appointees. The Committee could dismiss the case, or choose between one of two courses of action: a) establish that there has been a violation of the Convention and impose measures upon the member state, or b) refer the matter to the European Court of Human Rights (Art. 32). The Committee of Ministers also supervised the execution of judgments of the European Court of Human Rights. We do not code this as an independent policy stream because it was deeply intertwined with legalized dispute settlement, which we code in the next section.[β] With the amendment of the Convention by Protocol 11 (entered into force in 1998), the Committee of Ministers' function was considerably narrowed, and the European Commission of Human Rights was abolished.

We code a political policy stream on human rights from 1999, when the Commissioner for Human Rights begins work as a "non-judicial institution to promote education in, awareness of and respect for human rights, as embodied in the human rights instruments of the Council of Europe" (Res. (99)50, Art. 1.1). She cannot take up individual complaints (Art. 1.2) or initiate proceedings with the Court (though she can provide evidence), but has otherwise a broad remit to investigate, be an interlocutor with member states, and formulate recommendations. In that vein, she can carry out country visits and write reports at her own initiative (Art. 3). She is explicitly authorized "to act on any information relevant to the Commissioner's functions," which includes information from non-state organizations and individuals, as well as state bodies. The Commissioner has the independent power to "issue recommendations, opinions and reports" (Art. 8.1), which we take as the primary policy output of the office. They are non-binding. Hence we code the Commissioner as someone who has significant agenda power *and* takes the final decision.

The Committee of Ministers and the Parliamentary Assembly have also agenda setting power: the Commissioner is instructed to "take into account views expressed by the Committee of Ministers and the Parliamentary Assembly" (Art. 4). She also submits annual reports to both legislative chambers, and

responds to their requests. We also acknowledge agenda setting power for the INGO Conference because of the explicit invitation for human rights groups to work with the Commissioner (Art. 5). The prominence of non-state actors in the human rights field is also consistent with assessments in the secondary literature (Steffek 2010: 78; Bond 2012). The Office of the Commissioner is established within the General Secretariat, but the substantive role of the General Secretariat is otherwise minimal.

DISPUTE SETTLEMENT

The European Court of Human Rights (ECtHR) was established by the European Convention on Human Rights (ECHR) in 1950 and is the final authority on the interpretation of this Treaty. In January 1959 the first judges were installed and the Court held its first session (Bond 2012). Hence we take 1959 as the first year in which a formal dispute settlement institution existed, though one component—the European Commission of Human Rights—began work in 1954.

The history of the ECtHR—"the crown jewel of the world's most advanced international system for protecting civil and political liberties" (Helfer 2008: 125)—can be broadly divided into two stages. Until 1998 access to the ECtHR was mediated by the European Commission of Human Rights (1950 European Convention on Human Rights; Alter 2011). The Convention that regulated the Court required separate ratification by members of the Council of Europe and was binding only on those who ratified. Hence, we code this as optional (1950 Convention, Art. 66). Since 1998, with the adoption of Protocol 11, there is full and unmediated direct access to the ECtHR, and ECtHR judgments are binding and have direct effect. Protocol 11 of 1998 also recast the Court into one with compulsory jurisdiction in all member states (Helfer 2008; for a discussion of recent reform proposals, see Keller, Fischer, and Kühne 2011).

In the first period, third-party access, the binding character (1950 Convention, Art. 46.1),[27] and the right of individuals to file claims against their governments (Art. 25.1)[28] were optional for member states (Alter 2011; Moravcsik 2000). At the beginning, only Belgium, Denmark, Germany, Ireland, and Sweden accepted the ECtHR's compulsory jurisdiction. From

[27] Art 46.1: "Any of the High Contracting Parties may at any time declare that it recognizes as compulsory 'ipso facto' and without special agreement the jurisdiction of the Court in all matters concerning the interpretation and application of the present Convention."

[28] Art 25.1: "The Commission may receive petitions addressed to the Secretary-General of the Council of Europe from any person, non-governmental organization or group of individuals claiming to the victim of a violation by one of the High Contracting Parties of the rights set forth in this Convention, provided that the High Contracting Party against which the complaint has been lodged has declared that it recognizes the competence of the Commission to receive such petitions." There was no right to individual petition to the Court: "Only the High Contracting Parties and the Commission shall have the right to bring a case before the Court" (Art. 44).

these, only Denmark, Ireland, and Sweden accepted the right of individual petition through the European Commission of Human Rights (Alter 2011: 397). Hence the European Commission of Human Rights acted as a filter for individual claims, but only if the High Contracting Party against which the complaint had been lodged declared that it recognized the competence of the Commission to receive such petitions (Art. 25.1). Commission members were elected by the Committee of Ministers (from a list proposed by the Assembly) and held office for six years. They acted in their individual capacity (Art. 23). The Commission's role was to consider if a petition was admissible to the Court, and if so, to try to broker a settlement. If a settlement could not be agreed upon, the Commission would write a report to the Council of Ministers. The Committee of Ministers could then find its own settlement, or decide to refer the case to the ECtHR. The Commission or a member state could also refer a case to the Court (Art. 48). Whether a case was brought by the Commission, the Council of Ministers, or a member state, the consent of the affected Contracting Party was required, unless the Contracting Party had accepted compulsory jurisdiction by the Court (Art. 48). Individual litigants did not have automatic recourse to the Court.

If allowed by the member states, the ECtHR could make a binding judgment (Art. 53). The ECtHR was composed of judges elected for nine years by the Assembly from a list of candidates presented by the member states. The final judgment was passed on to the Committee of Ministers to monitor execution of the judgment, but if the Contracting Party allowed only partial reparation, the Court could award just satisfaction (that is, payment of compensation) to the injured party (Art. 50).

Hence, starting in 1959 we code mediated third-party access; judgments optionally binding; standing body; member states can block access to individuals or non-state IO bodies;$^{\beta}$ retaliatory sanctions are possible (i.e. the Court can order "just satisfaction"); and no preliminary ruling procedure.

Protocol 11 to the ECHR, passed in 1994 and entering into force in 1998 after ratification by all member states, overhauled the Convention control mechanisms. It created a single Court of Human Rights to replace the Commission and Court system, and inserted automatic access, bindingness, and automatic right to individual petition. Judgments of the court became directly binding: "The High Contracting Parties undertake to abide by the final judgment of the Court in any case to which they are parties" (Art. 46.1). All member states of the Council of Europe are party to the Convention, and new members are expected to ratify the Convention at the earliest opportunity, so coverage becomes obligatory.

The Court is composed of a standing body of judges elected by the Consultative Assembly from a list of candidates proposed by member states (ECHR

CoE Institutional Structure

		A1			A2						
Years		Non-state selection	Indirect representation	Weighted voting	Non-state selection	Indirect representation	Weighted voting	Head—agenda	Head—decision	Members—agenda	Members—decision
1950	Not body-specific	0	0	0	0	2	0	R	R		
	Member states									✓	✓
	A1: Committee of Ministers										
	A2: Consultative Assembly										
	E1: Committee of Ministers										
	GS1: General Secretariat										
1951–1958	Not body-specific	0	0	0	2	2	0	R	R		
	Member states									✓	✓
	A1: Committee of Ministers										
	A2: Consultative Assembly										
	E1: Committee of Ministers										
	GS1: General Secretariat										
1959–1960	Not body-specific	0	0	0	2	2	0	R	R		
	Member states									✓	✓
	A1: Committee of Ministers										
	A2: Consultative Assembly										
	E1: Committee of Ministers										
	GS1: General Secretariat										
	DS: European Court of Human Rights (ECtHR)										
1961–1974	Not body-specific	0	0	0	2	2	0	R	R		
	Member states									✓	✓
	A1: Committee of Ministers										
	A2: Consultative Assembly										
	E1: Committee of Ministers										
	GS1: General Secretariat										
	CB1: Conference for Local Auth.										
	DS: European Court of Human Rights (ECtHR)										
1975–1992	Not body-specific	0	0	0	2	2	0	R	R		
	Member states									✓	✓
	A1: Committee of Ministers										
	A2: Consultative Assembly										
	E1: Committee of Ministers										
	GS1: General Secretariat										
	CB1: Conf. for Local & Regional Auth.										
	DS: European Court of Human Rights (ECtHR)										
1993	Not body-specific	0	0	0	2	2	0	R	R		
	Member states									✓	✓
	A1: Committee of Ministers										
	A2: Consultative Assembly										
	E1: Committee of Ministers										
	GS1: General Secretariat										

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E1						E2										GS1		CB1	CB2
Non-state selection	Partial representation	Indirect representation	Reserved seats	Weighted voting	Partial veto	Head—agenda	Head—decision	Members—agenda	Members—decision	Non-state selection	Partial representation	Indirect representation	Reserved seats	Weighted voting	Partial veto	Select	Remove	Non-state selection	Non-state selection
0	0	0	0	0	0												N		
																2			
																3			
																2			
0	0	0	0	0	0												N		
																2			
																3			
																2			
0	0	0	0	0	0												N		
																2			
																3			
																2			
0	0	0	0	0	0												N	2	
																2			
																3			
																2			
0	0	0	0	0	0												N	3	
																2			
																3			
																2			
0	0	0	0	0	0												N	3	1
																2			
																3			
																2			

(*continued*)

CoE Institutional Structure (Continued)

		A1			A2						
Years		Non-state selection	Indirect representation	Weighted voting	Non-state selection	Indirect representation	Weighted voting	Head—agenda	Head—decision	Members—agenda	Members—decision
	CB1: Conf. for Local & Regional Auth.										
	CB2: Plenary Conference of INGOs										
	DS: European Court of Human Rights (ECtHR)										
1994–1998	Not body-specific	0	0	0	2	2	0	R	R		
	Member states									✓	✓
	A1: Committee of Ministers										
	A2: Consultative Assembly										
	E1: Committee of Ministers										
	GS1: General Secretariat										
	CB1: **Congress of Local & Region. Auth.**										
	CB2: Plenary Conference of INGOs										
	DS: European Court of Human Rights (ECtHR)										
1999–2004	Not body-specific	0	0	0	2	2	0	R	R		
	Member states									✓	✓
	A1: Committee of Ministers										
	A2: Consultative Assembly										
	E1: Committee of Ministers										
	E2: Commissioner for Human Rights										
	GS1: General Secretariat										
	CB1: Congress of Local & Region. Auth.										
	CB2: Plenary Conference of INGOs										
	DS: European Court of Human Rights (ECtHR)										
2005–2010	Not body-specific	0	0	0	2	2	0	R	R		
	Member states									✓	✓
	A1: Committee of Ministers										
	A2: Consultative Assembly										
	E1: Committee of Ministers										
	E2: Commissioner for Human Rights										
	GS1: General Secretariat										
	CB1: Congress of Local & Region. Auth.										
	CB2: **INGO Conference of the CoE**										
	DS: European Court of Human Rights (ECtHR)										

Note: A = automatic/technocratic procedure; N = no written rule; R = rotation; ✓ = body co-decides, but no voting rule; ← = change in status. Shaded areas refer to institutions or policy areas that are non-existent for those years.

E1						E2										GS1		CB1	CB2
Non-state selection	Partial representation	Indirect representation	Reserved seats	Weighted voting	Partial veto	Head—agenda	Head—decision	Members—agenda	Members—decision	Non-state selection	Partial representation	Indirect representation	Reserved seats	Weighted voting	Partial veto	Select	Remove	Non-state selection	Non-state selection
0	0	0	0	0	0												N	3	1
																2			
																3			
																2			
0	0	0	0	0	0					2	1	2	0	0	0		N	3	1
						✓													
						2										2			
							3									3			
						2										2			
								✓	✓										
0	0	0	0	0	0					2	1	2	0	0	0		N	3	1
						✓													
						2										2			
							3									3			
						2										2			
								✓	✓										

CoE Decision Making

		Accession			Suspension		Constitution				Budget		
Years		Agenda	Decision	Ratification	Agenda	Decision	Agenda	Decision	Ratification	Revenue source	Agenda	Decision	Binding
1950	Not body-specific			2					2	1			2
	Member states												
	A1: Committee of Ministers	2	2		2	2	2	2				2	
	A2: Consultative Assembly						2						
	E1: Committee of Ministers	2	2		2	2	2	2				2	
	GS1: General Secretariat										✓		
1951–1958	Not body-specific			2					2	1			2
	Member states												
	A1: Committee of Ministers	2	2		2	2	2	2				2	
	A2: Consultative Assembly	2			2		2						
	E1: Committee of Ministers	2	2		2	2	2	2				2	
	GS1: General Secretariat										✓		
1959–1960	Not body-specific			2					2	1			2
	Member states												
	A1: Committee of Ministers	2	2		2	2	2	2				2	
	A2: Consultative Assembly	2			2		2						
	E1: Committee of Ministers	2	2		2	2	2	2				2	
	GS1: General Secretariat										✓		
	DS: European Court of Human Rights (ECtHR)												
1961–1974	Not body-specific			2					2	1			2
	Member states												
	A1: Committee of Ministers	2	2		2	2	2	2				2	
	A2: Consultative Assembly	2			2		2						
	E1: Committee of Ministers	2	2		2	2	2	2				2	
	GS1: General Secretariat										✓		
	CB1: Conference for Local Auth.												
	DS: European Court of Human Rights (ECtHR)												
1975–1992	Not body-specific			2					2	1			2
	Member states												
	A1: Committee of Ministers	2	2		2	2	2	2				2	
	A2: Consultative Assembly	2			2		2						
	E1: Committee of Ministers	2	2		2	2	2	2				2	
	GS1: General Secretariat										✓		
	CB1: **Conf. for Local & Regional Auth.**												
	DS: European Court of Human Rights (ECtHR)												
1993	Not body-specific			2					2	1			2
	Member states												
	A1: Committee of Ministers	2	2		2	2	2	2				2	
	A2: Consultative Assembly	2			2		2						
	E1: Committee of Ministers	2	2		2	2	2	2				2	
	GS1: General Secretariat										✓		
	CB1: Conf. for Local & Regional Auth.												
	CB2: Plenary Conference of INGOs												
	DS: European Court of Human Rights (ECtHR)												
1994–1996	Not body-specific			2					2	1			2
	Member states												

Compliance		Policy 1 (recommendations to MS)					Policy 2 (agreements/ conventions)					Policy 3 (human rights recommendations)					Dispute settlement (human rights)						
Agenda	Decision	Agenda	Decision	GS role	Binding	Ratification	Agenda	Decision	GS role	Binding	Ratification	Agenda	Decision	GS role	Binding	Ratification	Coverage	Third party	Binding	Tribunal	Non-state access	Remedy	Preliminary ruling
				0	0	3			0	1	1												
2	2	2	0				2	2															
		2					2																
2	2	2	0				2	2															
				0	0	3			0	1	1												
2	2	2	0				2	2															
		2					2																
2	2	2	0				2	2															
				0	0	3			0	1	1												
2	2	2	0				2	2															
		2					2																
2	2	2	0				2	2															
																	1	1	1	2	0	1	0
				0	0	3			0	1	1												
2	2	2	0				2	2															
		2					2																
2	2	2	0				2	2															
		2					2																
																	1	1	1	2	0	1	0
				0	0	3			0	1	1												
2	2	2	0				2	2															
		2					2																
2	2	2	0				2	2															
		2					2																
																	1	1	1	2	0	1	0
				0	0	3			0	1	1												
2	2	2	0				2	2															
		2					2																
2	2	2	0				2	2															
		2					2																
		3					3																
																	1	1	1	2	0	1	0
A				0	0	3			0	1	1												

(*continued*)

CoE Decision Making (Continued)

		Accession			Sus-pension		Constitution				Budget		
Years		Agenda	Decision	Ratification	Agenda	Decision	Agenda	Decision	Ratification	Revenue source	Agenda	Decision	Binding
	A1: Committee of Ministers	2	2		2	2	2	2				2	
	A2: Consultative Assembly	2			2		2						
	E1: Committee of Ministers	2	2		2	2	2	2				2	
	GS1: General Secretariat										✓		
	CB1: **Congress of Local & Region. Auth.**												
	CB2: Plenary Conference of INGOs												
	DS: European Court of Human Rights (ECtHR)												
1997	Not body-specific			2					2	1			2
	Member states												
	A1: Committee of Ministers	2	2		2	2	2	2				2	
	A2: Consultative Assembly	2			2		2				2		
	E1: Committee of Ministers	2	2		2	2	2	2				2	
	GS1: General Secretariat										✓		
	CB1: Congress of Local & Region. Auth.												
	CB2: Plenary Conference of INGOs												
	DS: European Court of Human Rights (ECtHR)												
1998	Not body-specific			2					2	1			2
	Member states												
	A1: Committee of Ministers	2	2		2	2	2	2				2	
	A2: Consultative Assembly	2			2		2				2		
	E1: Committee of Ministers	2	2		2	2	2	2				2	
	GS1: General Secretariat										✓		
	CB1: Congress of Local & Region. Auth.												
	CB2: Plenary Conference of INGOs												
	DS: European Court of Human Rights (ECtHR)												
1999–2004	Not body-specific			2					2	1			2
	Member states												
	A1: Committee of Ministers	2	2		2	2	2	2				2	
	A2: Consultative Assembly	2			2		2				2		
	E1: Committee of Ministers	2	2		2	2	2	2				2	
	E2: Commissioner for Human Rights												
	GS1: General Secretariat										✓		
	CB1: Congress of Local & Region. Auth.												
	CB2: Plenary Conference of INGOs												
	DS: European Court of Human Rights (ECtHR)												
2005–2010	Not body-specific			2					2	1			2
	Member states												
	A1: Committee of Ministers	2	2		2	2	2	2				2	
	A2: Consultative Assembly	2			2		2				2		
	E1: Committee of Ministers	2	2		2	2	2	2				2	
	E2: Commissioner for Human Rights												
	GS1: General Secretariat										✓		
	CB1: Congress of Local & Region. Auth.												
	CB2: **INGO Conference of the CoE**												
	DS: European Court of Human Rights (ECtHR)												

Note: A = automatic/technocratic procedure; N = no written rule; R = rotation; ✓ = body co-decides, but no voting rule; ← = change in status. Shaded areas refer to institutions or policy areas that are non-existent for those years.

Compliance		Policy 1 (recommendations to MS)					Policy 2 (agreements/conventions)					Policy 3 (human rights recommendations)					Dispute settlement (human rights)						
Agenda	Decision	Agenda	Decision	GS role	Binding	Ratification	Agenda	Decision	GS role	Binding	Ratification	Agenda	Decision	GS role	Binding	Ratification	Coverage	Third party	Binding	Tribunal	Non-state access	Remedy	Preliminary ruling
	2	2	2				2	2															
		2					2																
	2	2	2				2	2															
		2					2																
		3					3																
																	1	1	1	2	0	1	0
A				0	0	3			0	1	1												
	2	2	2				2	2															
		2					2																
	2	2	2				2	2															
		2					2																
		3					3																
																	1	1	1	2	0	1	0
A				0	0	3			0	1	1												
	2	2	2				2	2															
		2					2																
	2	2	2				2	2															
		2					2																
		3					3																
																	2	2	2	2	2	2	0
A				0	0	3			0	1	1			0	0	3							
	2	2	2				2	2				2											
		2					2					2											
	2	2	2				2	2				2											
												✓	✓										
		2					2																
		3					3					3											
																	2	2	2	2	2	2	0
A				0	0	3			0	1	1			0	0	3							
	2	2	2				2	2				2											
		2					2					2											
	2	2	2				2	2				2											
												✓	✓										
		2					2																
		3					3					3											
																	2	2	2	2	2	2	0

Art. 19: 22). Furthermore, individuals or groups can file a case with the Court (since 1998): "The Court may receive applications from any person, non-governmental organization, or group of individuals claiming to be the victim of a violation by one of the High Contracting Parties of the rights set forth in the Convention or the Protocols thereto. The High Contracting Parties undertake not to hinder in any way the effective exercise of this right" (Art. 34). Finally, there is a remedy in case of non-compliance by charging the Committee of Ministers to monitor compliance and, in case of non-compliance, to take appropriate sanctions (Art. 46). Importantly, however, one might also reasonably argue that ECHR rulings now have direct effect, or in Helfer's words, "diffuse embeddedness" whereby national institutions are persuaded to comply with the judgment in the domestic realm (Helfer 2008: 135; Alter, Helfer, and Madsen 2015; also Alter 2014: 389). The European Court of Human Rights does not have a preliminary ruling procedure that national judges could use to refer questions to the ECtHR (Helfer 2008).

In 2010, Protocol 14 came into force, which simplified Court proceedings and strengthened enforcement of Court judgments. Under the Protocol the Committee of Ministers can by a two-thirds majority decide to bring proceedings before the Court when a state refuses to comply with a judgment. The Committee of Ministers can now also ask the Court for an interpretation of a judgment to help it monitor implementation.

Council for Mutual Economic Assistance (COMECON)

The Council for Mutual Economic Assistance (COMECON) was the chief regional economic organization in the Communist bloc. It aimed to promote the "socialist economic integration" of its members through planning, bilateral and multilateral trade, industrial and agricultural specialization, technological and scientific cooperation, energy policy coordination, environmental protection, joint investments, and joint state enterprises. Its headquarters were in Moscow. The final COMECON Council session took place in June 1991 in Budapest.

COMECON was created in almost complete secrecy at a meeting of foreign ministers by Bulgaria, Czechoslovakia, Hungary, Poland, Romania, and the Soviet Union in January 1949.[29] Albania acceded in February 1949, the German Democratic Republic in 1950, Mongolia in 1962, Cuba in 1972, and Vietnam in 1978. Yugoslavia was an associate member with participation in some organs

[29] Press reports in the Communist media only appeared a few weeks later.

from 1965. Most other Communist countries had observer status. Many Western historians interpret its founding as "Stalin's propagandistic countermove to the Marshall Plan" (Szawlowski 1976: 46). However, it was virtually moribund during Stalin's lifetime. Between 1949 and 1954, its activities appear to have been restricted to registering bilateral trade agreements and signing conventions for the promotion of scientific and technical cooperation (Brine 1992: xi).[δ] It became more active after Stalin's death. A secretariat was established in 1954, and the organization began to tackle the coordination of economic plans, industrial specialization, and regional trade. We code COMECON from 1959, the year in which the Charter was adopted.

For most of its existence, the organization focused on economic cooperation. The late 1950s and much of the 1960s were dominated by a debate about the division of labor among socialist countries, which found its expression in the *Basic Principles of the Internationalist Socialist Division of Labor*, adopted in 1961. The *Basic Principles* theorized a division of labor whereby less developed countries would specialize in agriculture and the production of simple goods while advanced countries would focus on industrial production. The less developed countries, led by Romania, bristled at the idea, and the program never took off. It was eventually replaced with the *Comprehensive Programme for Further Extension and Improvement of Cooperation and the Development of Socialist Economic Integration*, adopted in 1971, which emphasized joint investment and long-term cooperative development in key industries in order to tackle the growing technological gap with the West. When Mikhail Gorbachev came to power in the Soviet Union in 1985, he sought to redirect the organization to intensive growth by strengthening the link between research and production. These aims found their expression in the *Comprehensive Programme for Scientific and Technological Progress up to the Year 2000* of 1985 and the *Collective Concept of the International Socialist Division of Labour for the Years 1991–2005* of 1988. Both plans entailed the ambition to form a "unified Socialist market," but before any of this could be tackled, the Communist regimes of the member states collapsed and COMECON was officially dissolved (Brine 1992: xii–xiv; Korbonski 1964).

COMECON's key legal documents are the Charter (signed 1959; in force 1960), and two subsequent revisions, one in 1974 (in force 1976) and one in 1979 (in force 1981). The central bodies are the Council for Mutual Economic Assistance, the Executive Committee, and the Secretariat.

Institutional Structure

A1: SESSION OF THE COUNCIL (1959–91)

The Session of the Council is the supreme governing body of COMECON with a "right to discuss all questions falling within the competence of the Council,

and to adopt recommendations and decisions" (1959 Charter, Art. VI.1). It considers proposals for cooperation submitted by member states, the Conference of Representatives (later: Executive Committee), the Standing Commissions, and the Secretariat; directs the course of action of other COMECON organs; and establishes new organs (Art. VI.5). It takes decisions by consensus, with the possibility of abstention (Art. IV.3).

The Council consists of delegations from all member states, the composition of which is determined by the respective governments (Art. VI.2). Council sessions formally take place twice a year in member state capitals in rotation, and they are chaired by the host country. They can also be attended by observer countries (Art. X).

With the revision of the Charter in 1974, the official frequency of Council meetings declined to one per year (Art. VI.3), which reflected the actual frequency of meetings during much of the previous period (for a listing up until 1964, see Korbonski 1964: 16–17; Brine 1992: xiv). Its structure, composition, and competences did not change significantly.

It should be noted that even though the Council was the highest decision making organ of COMECON, major policy decisions were often taken at occasional meetings of Communist Party secretaries. These "summits" fulfilled an unofficial leadership function.

E1: FROM THE CONFERENCE OF REPRESENTATIVES OF THE COUNTRIES IN THE COUNCIL (1959–73) TO THE EXECUTIVE COMMITTEE (1974–91)

The Conference of Representatives of the Countries in the Council was the executive organ between Council sessions. In particular, it considered proposals from member states and other organs on the implementation of Council decisions, discussed proposals made by member states or other organs regarding the agenda of the next Council session, coordinated the work of the Standing Commissions, and approved the Secretariat's budget (1959 Charter, Art. VII.4). It could also put issues on the agenda of the next Council session (Art. VII.3).

The Conference consisted of one representative from each member country. Each member state housed a delegation in Moscow with a deputy representative, advisors, and supporting staff in Moscow, the seat of the organization's secretariat (Art. VII.1). The Conference used the same decision rule as the Council: consensus with the possibility of abstention (Art. IV.3).

The 1959 Charter or subsequent amendments do not tell us how the chair of the executive was elected, but the secondary literature suggests that the chair rotated every four months (Korbonski 1964: 18).[α]

In 1962, the Communist Party leaders replaced the Conference with an Executive Committee, but this was only formalized with the revision of the

Charter in 1974. The revised Charter details that the Committee is the "principal executive organ of the Council" consisting of one representative per member state at the level of deputy head of government (Art. VII.1). It also details more thoroughly, but does not significantly change, the competences of the new body.

The Conference aka Committee is assisted in its functions by the Standing Commissions, which are composed of state-appointed experts. They are responsible for "promoting the further development of economic relations between the member countries of the Council and organizing comprehensive economic and scientific-technical co-operation" (1959 Charter, Art. VIII.1). They prepare implementation measures, and each Commission submits an annual report of its activities to the Conference/Committee (Art. VIII.4). Each Commission has a secretariat and permanent headquarters in a national capital (for a list, see Korbonski 1964: 22).

The 1974 revision of the Charter introduced another set of auxiliary bodies, Committees of the Council, alongside the Standing Commissions. They were created by the Council "for the purpose of considering from every aspect, and solving on a multilateral basis, the most important problems of co-operation among member countries" (Art. VIII.1).[α]

GS1: SECRETARIAT

The secretary of the Council serves as the head of the organization's Secretariat, which was located in Moscow. He represents COMECON vis-à-vis the member states, third countries, and international organizations. He is appointed by the Session of the Council, which takes all decisions by consensus, for an unspecified period (Art. IX.1). Throughout COMECON's lifetime, there were only three secretaries, and each came from the Soviet Union (Brine 1992: xiv).

The secretary had several deputies, who were elected by a unanimous decision of the Council. All other supporting staff were recruited among citizens of the member states (Art. IX.1). All Secretariat staff were instructed not to seek or receive instructions from member states (Art. IX.3). Under the 1974 Charter, the deputies were chosen by the Executive Committee instead of the Council (new Art. IX.1).

The Secretariat provided secretarial support to all the organs of the Council, prepared surveys and studies when instructed by member states, could submit proposals and initiatives to the various organs, and submitted a report on the organization's activities to the regular Council Sessions (Art. IX.2).

CONSULTATIVE BODIES

COMECON did not seem to have non-state consultative bodies. It maintained three research institutes—the Institute of Standardization, the Institute of

Economic Problems of the World Socialist System, and the International Centre for Scientific and Technical Information—and it created two banks, the International Investment Bank and the International Bank for Economic Cooperation (Brine 1992: xv).

Decision Making

MEMBERSHIP ACCESSION
The accession procedure is bare bones. A request for membership needs to be endorsed by a decision of the Council (1959 Charter, Art. II.2). The Council takes decisions by consensus, with the possibility of abstention (Art. IV.3). Agenda setting is not codified. Council decisions, in contrast to recommendations, do not require ratification (Art. IV.2).

MEMBERSHIP SUSPENSION
No written rules.

CONSTITUTIONAL REFORM
The 1959 Charter stipulates that any member state can submit amendments to the Charter. Constitutional reform is decided by the Council acting by consensus. All member states need to ratify before amendments enter into force (Art. XVI).

REVENUES
The organization was financed by regular member state contributions. The Council determined the financial contribution of each country (Art. XII.1).

BUDGETARY ALLOCATION
The budget was drafted by the Secretariat, which submitted it annually to the Conference of Representatives deciding, as all other interstate bodies, by consensus (Art. XII.2). After the Charter revision in 1974, the Executive Committee adopted the annual budget.

We code the budget as conditionally binding because the general obligation to implement the Council's decisions in the Charter seems qualified by an implicit opt-out: members of the Council commit themselves "to ensure implementation of the recommendations, *accepted by them*, of organs of the Council" (our emphasis, 1959 Charter, Art. II.4a; different wording, but similar meaning in the 1974 Charter, Art. II.4a).

FINANCIAL COMPLIANCE
No written rules.

POLICY MAKING

COMECON's chief policy instrument is recommendations on economic and scientific–technical cooperation. Several actors have the right to propose recommendations, including individual member states, the Conference of Representatives (subsequently the Executive Committee), the Standing Commissions, and the Secretariat (Arts. VI.5a, VII.4a and b, VIII.3, IX.2d). Hence we code the Secretariat with a non-exclusive right to initiate policy. The decision rule is consensus, with the possibility of abstention. The Council, as the highest decision organ, adopts these recommendations by consensus (1959 Charter, Arts. VI.5a, IV.3).

Even though the term "recommendation," in standard legal parlance, indicates non-bindingness, several provisions in the Charter suggest otherwise. Members of the Council commit themselves "to ensure implementation of the recommendations, accepted by them, of organs of the Council" and "to keep the Council informed of progress in the implementation of the recommendations adopted by the Council" (Art. II.4). This suggests that partial bindingness captures the meaning of the rules. Recommendations bind only those member states that have explicitly agreed to be bound by them: "Recommendations and decisions shall not apply to countries which state that they have no interest in the question at issue" (1959 Charter, Art. IV.3). At the same time, recommendations require ratification by interested member

COMECON Institutional Structure

		A1			E1										GS1	
Years		Non-state selection	Indirect representation	Weighted voting	Head—agenda	Head—decision	Members—agenda	Members—decision	Non-state selection	Partial representation	Indirect representation	Reserved seats	Weighted voting	Partial veto	Select	Remove
1959–1973	Not body-specific	0	0	0	R	R			0	0	0	0	0	0		N
	Member states						✓	✓								
	A1: Council for Econ. Assistance														0	
	E1: Conference of Members															
	GS1: Secretariat															
1974–1991	Not body-specific	0	0	0	R	R			0	0	0	0	0	0		N
	Member states						✓	✓								
	A1: Council for Econ. Assistance														0	
	E1: **Executive Committee**															
	GS1: Secretariat															

Note: A = automatic/technocratic procedure; N = no written rule; R = rotation; ✓ = body co-decides, but no voting rule; ← = change in status. Shaded areas refer to institutions or policy areas that are non-existent for those years.

COMECON Decision Making

		Accession			Sus-pension		Constitution				Budget			Com-pliance		Policy making (recommendations)					Dispute settlement						
Years		Agenda	Decision	Ratification	Agenda	Decision	Agenda	Decision	Ratification	Revenue source	Agenda	Decision	Binding	Agenda	Decision	Agenda	Decision	GS role	Binding	Ratification	Coverage	Third party	Binding	Tribunal	Non-state access	Remedy	Preliminary ruling
1959–1973	Not body-specific	N		2	N	N			0	1			1	N	N			1	1	1							
	Member states						✓									✓											
	A1: Council for Econ. Assistance		0					0									0										
	E1: Conference of Members											0				0											
	GS1: Secretariat										✓					✓											
1974–1991	Not body-specific	N		2	N	N			0	1			1	N	N			1	1	1							
	Member states						✓																				
	A1: Council for Econ. Assistance		0					0									0										
	E1: **Executive Committee**											0				0											
	GS1: Secretariat										✓					✓											

Note: A = automatic/technocratic procedure; N = no written rule; R = rotation; ✓ = body co-decides, but no voting rule; ← = change in status. Shaded areas refer to institutions or policy areas that are non-existent for those years.

states: "Recommendations adopted by member countries of the Council shall be implemented by them through decisions of the Governments or competent authorities of those countries, in conformance with their laws" (Art. IV.1). Hence recommendations become binding on member states that have ratified.$^{\beta}$

Partial bindingness, and the right of individual countries to opt out of collective decisions, was strengthened with the 1974 revision of the Charter (see new Arts. IV.3 and IV.4). The revised Charter introduced stronger monitoring mechanisms to police implementation of recommendations that member states had agreed to (Art. VII.4a). The right of individual member states to initiate policy appears very much narrowed: member states retain the right to submit proposals to the Executive Committee (Art. VII.4c), but lose the right to submit proposals to the Council (Art. VI.5) or to the auxiliary bodies (Arts. VIII and IX). Our coding reflects this change.$^{\beta}$

DISPUTE SETTLEMENT

COMECON had no legalized dispute settlement. A decision adopted in 1958—the *General Conditions for the Delivery of Goods Between Foreign Trade Organizations of Participating Countries of the Council for Mutual Economic Assistance*—contained an arbitration procedure for disputes emanating from sales contracts concluded between foreign trade organizations of member states (see Hoya and Quigley 1970, including the text of the 1968 revision). However, given that the mechanism concerned quasi-private trade organizations rather than governments, it falls outside our coding remit.

European Free Trade Association (EFTA)

The European Free Trade Association (EFTA) seeks to promote free trade among its members through the abolition of internal trade barriers and the negotiation of free trade agreements with third parties. At its genesis in 1960 EFTA had seven members, and since 1995, it has had four: Iceland, Liechtenstein, Norway, and Switzerland. EFTA's headquarters are located in Geneva, Switzerland.

This profile explains how we score EFTA's institutions. We code the institutions that govern EFTA countries' participation in the European Economic Area (EEA) because we conceive the EEA as a distinct international organization. Three of the current EFTA members form together with the twenty-eight European Union members the overarching EEA, which provides EFTA countries access to the European Union's internal market (Switzerland does not take part).

The European Free Trade Association was founded by the Stockholm Convention in 1960 to counterbalance the European Economic Community (EEC). It came into being after the breakdown of negotiations brokered by the Organization for European Economic Cooperation (OEEC) for a free trade area spanning Western Europe. Six non-EEC countries—Austria, Denmark, Norway, Sweden, Switzerland, and Britain—with Portugal joining later, created EFTA as "an instrument to achieve a wider West European trade settlement" (Kaiser 1997: 9). It promised a sharply different form of integration to the EEC: "In tone and content it concentrated on economic integration of a very limited kind. There was no underlying political ambition to go beyond a free trade area, nor any link established between economic and political integration. EFTA presented a minimalist or purely intergovernmental approach to interstate relations" (Laffan 1992: 35; see also Laursen 1991: 544).

Coexistence alongside the European Community (EC)/EU has profoundly influenced EFTA's membership and policy portfolio. Three countries joined the organization over the years: Iceland in 1970, Finland in 1986, and Liechtenstein in 1991. With the exception of Norway and Switzerland, all EFTA's initial members eventually switched to the EU: Britain and Denmark in 1973, Portugal in 1986, and Austria, Finland, and Sweden in 1995.

Initially, EFTA was a vehicle for trade liberalization in industrial goods, which was achieved in 1966. After the departure of the United Kingdom and Denmark, the remaining members signed bilateral free trade agreements with the EC, and it was around this time that EFTA "became essentially a vehicle for managing relations with the Community" (Church 1990: 403). At the end of the Cold War, EFTA began negotiations with the EC to acquire access to the EU single market. The European Economic Area (EEA), a new international organization, became operational in 1994. Switzerland rejected participation after a referendum (Gstöhl 1994; Church 1990). In 2001, EFTA revised its Convention to extend its free trade remit to services, public procurement, and intellectual property rights. The Convention also strengthened EFTA's hand for pursuing trade deals with third countries in Europe and beyond.

EFTA's key legal documents are the original EFTA Convention (signed and in force 1960) and the consolidated version of the Convention establishing EFTA (signed 2001; in force 2002). The chief bodies are the EFTA Council, which acts both as an assembly and as an executive, the secretary general, and the EFTA Arbitration Tribunal.

Institutional Structure

A1 AND E1: EFTA COUNCIL (1960–2010)

Legislative and executive functions in EFTA are in the hands of a single body, the EFTA Council. It was the only body created with the 1960 Stockholm

Convention. It is composed of representatives from all member states, and so representation is direct. The chair of the EFTA Council rotates among the member states.[30]

The Council amends the Convention and supervises its application (Convention, Art. 32.1). It also has the general authority "to consider whether further action should be taken by Member States in order to achieve the attainment of the objectives of the Association" (Art. 32.1). The Council usually takes binding decisions by unanimous vote with the possibility of abstention (Arts. 32.4 and 32.5). However, it can take decisions by supermajority in exceptional circumstances (Art. 32.5), such as on trade measures in particular cases (e.g. the authorization of safeguard measures in specifically severe cases of trade deflection, Art. 5.3) or to pass on recommendations to member states in specific situations (e.g. on how to deal with balance-of-payment difficulties, Art. 19.3). Today, the quorum is three out of four member states (new Convention, Art. 43.5).

The EFTA Council usually meets once a month at the ambassadorial level (Heads of Permanent Delegations to EFTA). It generally meets twice a year at the ministerial level. It has a panoply of specialized committees and expert groups at its disposal. There are specialized committees for third-country relations, movement of persons, customs, and rules of origin. EFTA has expert groups on legal matters, public procurement, and intellectual property. A budget committee assists the Council on budgetary matters, while the Board of Auditors audits the Secretariat.

GS1: SECRETARIAT (1960–2010)

The EFTA Convention merely instructs the Council to "make arrangements for the secretariat services required by the Association" (Art. 34b). According to the website, the first secretary general, Britain's Frank Figgures, took up his post in June 1960.

The Convention does not specify how secretary generals are selected. However, perusal of the list of former secretary generals on the website suggests that they are selected on the basis of rotation.[31] We therefore code the EFTA Council as taking the final decision by consensus but tempered by rotation. Most previous secretary generals have been in office for three to six years. This is consistent with general staff policy available on the website,[32] which explains that all staff members are appointed on renewable three-year contracts, so this is what we code as the length of service for the Secretariat

[30] See <http://www.efta.int/about-efta/chairmanship.aspx> (accessed February 11, 2017).
[31] See <http://www.efta.int/about-efta/secretaries-general/previous-secretaries-general.aspx> (accessed February 2017).
[32] See <http://www.efta.int/about-efta/the-efta-secretariat> (accessed February 2017).

General.α There are no rules on potential removal. The secretary general is assisted by two deputy secretary generals, one based in Geneva and the other in Brussels.

In the early years, the Secretariat provided chiefly administrative support to the Council in Geneva. From 1970 it has also assisted in managing and negotiating free trade agreements with outside countries. After the creation of the EEA, the Secretariat set up a branch in Brussels and a small outpost in Luxembourg to manage the EEA Agreement, to help member states in preparing new EEA legislation, and to support member state input in the EU decision process. Of the hundred staff members employed by the Secretariat, one third are located in Geneva and the remaining two-thirds in Brussels and Luxembourg.

CB1: CONSULTATIVE COMMITTEE (1961–2010)

A Consultative Committee composed of trade union and employers' organization representatives was created in 1961 to facilitate dialogue and consultation between the EFTA social partners and the EFTA authorities.[33] It provides input to the EFTA Council at the ministerial level. Since 1994, it also advises the EFTA Standing Committee, an interstate body composed of the three EFTA countries that are also members of the EEA and which prepares the common positions of EFTA members during EEA negotiations. EFTA's Consultative Committee also sends delegates to the EEA Consultative Committee, where they meet with representatives of the EU's Economic and Social Committee, to jointly advise on EEA policy.

Members of the Committee, six from each country (and alternates), are elected by the respective social partner organizations in each member state. The Committee elects its chairperson from among its members for a period of two years, with due regard for rotation among the two sides of industry as well as among the member states (Rules of Procedure, Rule 2). The Committee normally meets once a year with the chair or vice-chair of the EFTA Council and at least one other time with all members of the EFTA Council at the ministerial level (Rules of Procedure, Art. 4). In contrast to the EEA Consultative Committee, which can, if necessary, resort to a qualified majority vote, the Rules of Procedure or the Terms of Reference for the EFTA Consultative Committee studiously avoid specifying the decision rule. Given the pronounced consensual culture in EFTA, we surmise it to be consensus.α

[33] Adopted by Council Decision No. 5 of 1961, as amended by Council Decision No. 10 of 1968, Council Decision No. 11 of 1988, Council Decision No. 1 of 1994, and Council Report EFTA/C.SR 9/95 of 1995.

The Committee began informal cooperation with the European Economic and Social Committee of the European Community in 1975. Contacts were formalized with the EEA Agreement in 1992 (Terms of Reference, Art. 2).

CB2: EFTA PARLIAMENTARY COMMITTEE (1977–2010)

The Committee of Members of Parliament of the EFTA Countries (short: EFTA Parliamentary Committee) was founded in October 1977 by a Council decision (No. 11), after almost fifteen years of informal consultations among parliamentarians from EFTA countries.

The Parliamentary Committee serves as a venue for discussing issues of common concern among member states and, twice a year, it jointly meets with EFTA ministers. It has the authority to adopt recommendations and resolutions by absolute majority (Rules of Procedure, Arts. 4.5 and 5).

The Parliamentary Committee consists of up to five national parliamentarians from each member state. The delegates elect their own chair (and a vice-chair) for one year with due regard for rotation among the member states.

With the signing of the EEA Agreement, a second parliamentary committee called the Committee of Members of Parliament of the EFTA States was added as a "consultative body of the EFTA States on matters of relevance to the EEA" (Agreement on a Committee of Members of Parliament of the EFTA States, Art. 3.1). It is the counterpart to the European Parliament in the EEA Joint Parliamentary Committee.

Decision Making

MEMBERSHIP ACCESSION

The original EFTA Convention states that "[a]ny State may accede to this Convention, provided that the Council decides to approve its accession, on such terms and conditions as may be set out in that decision" (Art. 41.1). Hence we code the Council as taking the initiative because it details the conditions for membership in individual cases as well as taking the final decision. It decides by unanimity, the general decision rule. Member states accede on the date decided by the Council, which suggests that no ratification is required.$^{\alpha}$

The 2001 Convention leaves the decision process unchanged (Art. 56.1), but adds the provision that "any state acceding to this convention shall also apply to become a party to the free trade agreements between the Member States on the one hand and third states, unions of states or other international organizations on the other" (Art. 56.3). This appears to imply membership of the EEA as well as of the multiple trade agreements that EFTA has signed with third states and regional groupings.

MEMBERSHIP SUSPENSION
No written rules.

CONSTITUTIONAL REFORM
Article 44 under the Stockholm Convention states that an amendment should be submitted to member states for acceptance if it is approved by a decision of the Council, and it enters into force if it is accepted by all member states. While the Convention does not specify who can initiate amendments, it is most likely that member states can. The Council makes the final decision and ratification by all member states is required. The revised Convention does not change this stipulation (Art. 59).

REVENUES
The EFTA Convention initially merely noted that the Council establishes "the financial arrangements necessary for the administrative expenses of the Association, the procedure for establishing a budget and the apportionment of those expenses between the Member States" (Art. 34c). This provision was put in practice by subsequent financial regulations. The revenue of the organization consists of regular member state contributions, which vary by population size and economic strength. In the early days, Britain was the chief financier; today it is Norway. Each country's contribution is set out in an annual Council decision (according to Art. 44c), which nowadays apportions the expenses according to fairly stable distribution keys: Norway 56–7 percent; Switzerland 38 percent; Iceland 4.3 percent; Liechtenstein less than 1 percent. The organization's budget in 2014 amounted to 22.4 million Swiss Francs.[34]

BUDGETARY ALLOCATION
Article 44.c of the original Convention states that the Council establishes the "financial arrangements necessary for the administrative expenses of the Association, the procedure for establishing a budget and the apportionment of those expenses between the Member States." We code the Council as the final decision maker, and decisions are binding. It appears that the budget is drafted by the Budget Committee, a subcommittee to the Council, which "assists the Council in matters related to the EFTA budget."[35] The Secretariat's role is mostly administrative.

[34] See <http://www.efta.int/sites/default/files/publications/this-is-efta/this-is-efta-2014.pdf> (accessed March 2, 2017).
[35] See <http://www.efta.int/about-efta/efta-council/stucture-of-the-efta-council.aspx> (accessed February 11, 2017).

FINANCIAL COMPLIANCE
No written rules.

POLICY MAKING
EFTA's policy making has revolved around liberalizing trade among its members and, in later years, with third countries. We code these as separate policy streams because of differences in the decisional process.

EFTA's free trade area in industrial goods was largely achieved by 1966, and subsequent policy making has consisted primarily of elaborating and amending the respective rules in the Treaty and its annexes. Article 14.5 on public undertakings states, for example, that the "Council shall keep the provisions of this Article under review and may decide to amend them." The Council sets the agenda and takes the final decision by unanimity. The Consultative Committee "may, as appropriate, be invited by the Council to give its opinion on major issues facing the Association" (Terms of Reference, Art. 1). Since 1977, the Parliamentary Committee plays a similar consultative role. The decisions of the Council are final (Art. 32.4). Ratification is not required.

The 2001 Convention broadens the policy portfolio from free trade in goods to include free movement of people, liberalization of trade in services and investment, competition policy, public procurement, and common rules on intellectual property rights (2001 Convention, Art. 2). The decision process is unchanged.

From the early 1990s, EFTA began to lay the groundwork for a second policy stream, which we code from 2002: free trade agreements with third countries and regional groupings. During the 1990s and early 2000s, EFTA signed eighteen free trade agreements, mainly with countries in Central and Eastern Europe. This incipient policy stream was initially not based in treaty language, but the revision of the Stockholm Convention in 2001 specifically provides for the "establishment of closer links with other States and unions of States" (Revised EFTA Convention, Art. 43.1e). Similar to the first policy stream, the EFTA Council is the chief player (Art. 43.1g). It has the sole responsibility for conducting the negotiations and it signs the final agreement (Art. 43.1g).

However, there are four innovations in decision making. First, member states play an active role in negotiations alongside the EFTA Council. Unlike the EU, EFTA does not have a centralized negotiation machinery. All EFTA members are represented by their respective chief negotiators, one of whom also acts as EFTA spokesperson (Study Group Report 2011: 4, para. 8). Second, the Secretariat plays a routinized role in agenda setting, even though this role has no treaty basis. It is instrumental in preparing Joint Study Reports which assess the desirability and feasibility of an agreement

EFTA Institutional Structure

		A1			E1										GS1		CB1	CB2
Years		Non-state selection	Indirect representation	Weighted voting	Head—agenda	Head—decision	Members—agenda	Members—decision	Non-state selection	Partial representation	Indirect representation	Reserved seats	Weighted voting	Partial veto	Select	Remove	Non-state selection	Non-state selection
1960	Not body-specific	0	0	0	R	R			0	0	0	0	0	0	R	N		
	Member states						✓	✓										
	A1: EFTA Council														0			
	E1: EFTA Council														0			
	GS1: Secretariat																	
	DS: Examining Committee																	
1961–1976	Not body-specific	0	0	0	R	R			0	0	0	0	0	0	R	N	1	
	Member states						✓	✓										
	A1: EFTA Council														0			
	E1: EFTA Council														0			
	GS1: Secretariat																	
	CB1: Consultative Committee																	
	DS: Examining Committee																	
1977–2001	Not body-specific	0	0	0	R	R			0	0	0	0	0	0	R	N	1	3
	Member states						✓	✓										
	A1: EFTA Council														0			
	E1: EFTA Council														0			
	GS1: Secretariat																	
	CB1: Consultative Committee																	
	CB2: Parliamentary Committee																	
	DS: Examining Committee																	

2002–2010	Not body-specific	0	0	0	R	R			0	0	0	0	0	0	R	N	1	3
	Member states						✓	✓										
	A1: EFTA Council														0			
	E1: EFTA Council														0			
	GS1: Secretariat																	
	CB1: Consultative Committee																	
	CB2: Parliamentary Committee																	
	DS: **Arbitration Tribunal**																	

Note: A = automatic/technocratic procedure; N = no written rule; R = rotation; ✓ = body co-decides, but no voting rule; ← = change in status. Shaded areas refer to institutions or policy areas that are non-existent for those years.

EFTA Decision Making

		Accession			Sus-pension		Constitution				Budget			Com-pliance		Policy 1 (decisions on internal trade)					Policy 2 (FTA agreements)					Dispute settlement (trade)						
Years		Agenda	Decision	Ratification	Agenda	Decision	Agenda	Decision	Ratification	Revenue source	Agenda	Decision	Binding	Agenda	Decision	Agenda	Decision	GS role	Binding	Ratification	Agenda	Decision	GS role	Binding	Ratification	Coverage	Third party	Binding	Tribunal	Non-state access	Remedy	Preliminary ruling
1960	Not body-specific			2	N	N			0	1			2	N	N			0	2	3												
	Member states						✓																									
	A1: EFTA Council	0	0					0			0	0				0	0															
	E1: EFTA Council	0	0					0			0	0				0	0															
	GS1: Secretariat																															
	DS: Examining Committee																									2	2	0	1	0	1	0
1961–1976	Not body-specific			2	N	N			0	1			2	N	N			0	2	3												
	Member states						✓																									
	A1: EFTA Council	0	0					0			0	0				0	0															
	E1: EFTA Council	0	0					0			0	0				0	0															
	GS1: Secretariat																															
	CB1: Consultative Committee															0																
	DS: Examining Committee																									2	2	0	1	0	1	0
1977–2001	Not body-specific			2	N	N			0	1			2	N	N			0	2	3												
	Member states						✓																									
	A1: EFTA Council	0	0					0			0	0				0	0															
	E1: EFTA Council	0	0					0			0	0				0	0															
	GS1: Secretariat																															
	CB1: Consultative Committee															0																
	CB2: Parliamentary Committee															3																
	DS: Examining Committee																									2	2	0	1	0	1	0

2002–2010	Not body-specific			2	N	N			0	1			2	N	N			0	2	3			0	1	1							
	Member states						✓																									
	A1: EFTA Council	0	0					0			0	0				0	0						0	0									
	E1: EFTA Council	0	0					0			0	0				0	0						0	0									
	GS1: Secretariat																				✓											
	CB1: Consultative Committee															0					0											
	CB2: Parliamentary Committee															3					3											
	DS: **Arbitration Tribunal**																										1	2	2	1	0	1	0

Note: A = automatic/technocratic procedure; N = no written rule; R = rotation; ✓ = body co-decides, but no voting rule; ← = change in status. Shaded areas refer to institutions or policy areas that are non-existent for those years.

and generally precede the negotiation of a free trade agreement (FTA). As two members from the FTA division of the Secretariat note, "joint studies are drafted to a large extent by the EFTA Secretariat, in consultation with the Member States and the potential partner. They often pave the way for the preparation of draft texts and proposals later on used in the negotiations of an FTA" (Gschwend and Poretti 2012: 362). The Secretariat also "plays an important role in the preparation of EFTA's text proposals. The experts of the Trade Relations Division (TRD) . . . prepare the draft texts in their respective field of expertise . . . either based on agreed model texts or on previous agreements concluded by EFTA that are considered as appropriate for the upcoming negotiations" (Gschwend and Poretti 2012: 362).

Third, ratification is required. Free trade agreements enter into force after a subset of EFTA countries have ratified, and are binding only on those countries that have ratified. And finally, non-ratification allows individual member states to opt out of FTAs, which indicates that decisions are partially binding. Article 72.2 of the EFTA-Singapore FTA states, for example: "This Agreement shall enter into force on 1 January 2003 *in relation to those Signatory States* which by then have deposited their instruments of ratification, acceptance or approval with the Depositary, and provided that Singapore is among the States that have deposited their instruments of ratification, acceptance or approval" (our emphasis). Other agreements have similar clauses.

DISPUTE SETTLEMENT

The original EFTA Convention established a "General Consultations and Complaints Procedure" with a legal and impartial component (Art. 31). It was obligatory for all member states. After direct bilateral consultations, a dispute could be referred to the EFTA Council, a political body, and at the request of any party concerned in the dispute, the Council would establish an "Examining Committee" of experts. Hence the procedure contained an automatic right to third-party review by experts because the Council could not formally block its establishment. The Committee consisted of "persons selected for their competence and integrity" who shall "neither seek nor receive instructions from any State" (Art. 33).[36] In light "of the recommendation of any examining committee which may have been appointed" (Art. 31.3), the Council issued a non-binding recommendation by majority vote (Art. 32.4). If the concerned member state "does not or is unable to comply with the recommendation" (Art. 31.4), the Council could authorize,

[36] In three of the first four cases member states chose to set up a Committee of Inquiry staffed with national officials of non-involved member states, assisted by the EFTA Secretariat—not independent experts (Szokoloczy-Syllaba 1971: 520). So one might argue that, for those early days, it is debatable whether the system met the criteria for judicialized dispute settlement.[Y]

again by majority vote, to suspend concessions to that member state. Hence the procedure involved retaliatory sanctions as a remedy for non-compliance. Non-state actors did not have legal standing, and there was no preliminary ruling procedure.

The 2001 Convention set out a new, two-step system of consultations and adjudication which now produces binding rulings. Consultations operate via the Council, which convenes within thirty days to examine a request for consultations brought by a member state "with a view to finding an acceptable solution" (Revised EFTA Agreement, Art. 47). If member states fail to resolve the dispute within forty-five days, either member may refer the matter to an Arbitration Tribunal (Art. 48.1), so the automatic right to third-party review from the previous system is maintained. As before, the Tribunal consists of three ad hoc arbitrators, one of whom is chosen by either party to the dispute and the third one, who cannot be a national of a disputing state, is chosen by mutual agreement (Annex T, Art. 1.4). The Tribunal adopts its awards by majority vote (Annex T, Art. 1.7), and under the new system, these awards "shall be final and binding upon the Member States parties to the dispute and shall be complied with promptly" (Art. 48.3). If a member state fails to comply, the complainant can impose retaliatory sanctions (Annex T, Art. 3). Contrary to the pre-2001 agreement, the Council no longer has the last word on either the judgment or the sanctions.

The accession of three of the four EFTA states (all but Switzerland) to the EEA in 1994 spurred the creation of several new bodies that straddle EFTA and EEA. The EFTA Surveillance Authority, an interstate body, monitors the implementation and application of EEA stipulations. The EFTA Court of Justice, a non-state body, has binding jurisdiction over the EEA members of EFTA, non-state access, direct effect, and preliminary ruling. Beginning in September 1995, the EEA/EFTA states nominate and appoint the EFTA Court which consists of three judges and six ad hoc judges. We code the EFTA Court and the EFTA Surveillance Authority when we evaluate the authority of the EEA.

European Union (EU)

The European Union (EU) is the world's most authoritative general purpose international organization. Its antecedent, the European Coal and Steel Community (ECSC), established in 1951, was reconstituted in 1958 as a customs union with the goal of "creating an ever closer union among the peoples of Europe, in which decisions are taken as openly as possible and as closely as possible to the citizen" (2009 Treaty of the European Union, Title I, Art. 1). The EU's core policy competences are in economic areas, and encompass the free movement of people, goods, services, and capital, as well as trade,

agriculture, fisheries, competition policy, and regional development. It shares policy competences with its member states in a number of other areas, including the environment, research, social regulation, health, consumer protection, transport, energy, justice and home affairs, and foreign policy. The EU has permanent diplomatic missions across the world, is represented in diverse international fora, including the United Nations, the WTO, the G8, and the G20, and is a major donor to regional organizations in Africa, Latin America, and the Asia-Pacific. A monetary union, the Eurozone, was established in 1999, with nineteen member states as of March 2017.

The administrative headquarters are in Brussels; the European Court of Justice is based in Luxembourg; the European Central Bank in Frankfurt; and the European Parliament holds its plenary sessions in Strasbourg. The EU also has thirty-seven agencies in thirty-one cities across Europe.

The organization has deep historical roots—apocryphally reaching back to Charlemagne (Heater 1992; Marks 2012). The prominent English Quaker, William Penn, is said to be the first intellectual to have proposed a European Parliament, in 1693 (Urwin 1991: 2). In the eighteenth century, Jeremy Bentham proposed a European army, and Jean-Jacques Rousseau a European federation. In 1814, Henri Saint-Simon published a detailed design for a European constitutional monarchy. At the third International Peace Congress held in Paris in 1849, Victor Hugo called for a United States of Europe (Paris Peace Committee 1849). After World War I, prominent politicians, including Aristide Briand, Konrad Adenauer, Carlo Sforza, and Georges Pompidou, voiced support for a united Europe.

The proximate origins of the European Union lie in wartime collaboration among resistance movements (Urwin 1991). From his prison cell on the Italian island of Ventotene, Altiero Spinelli wrote a manifesto (1941) for a federal Europe, which continues to be a reference point for the European federalist movement. In September 1946, Winston Churchill's speech in Zurich called for a United States of Europe built on Franco-German reconciliation.

A conference convened in The Hague in 1948 to discuss the future of Europe, but differences ran wide on both the scope and institutional character of integration. Proponents of economic integration disagreed with advocates of political cooperation, and federalists clashed with intergovernmentalists. In the end, the conference produced little more than declarations, though it paved the way for the creation of the Council of Europe—a predominantly intergovernmentalist organization focusing on political cooperation and human rights. In August 1949, the Consultative Assembly of the Council of Europe held its first session. However, a "United States of Europe" was off the agenda.

The failure of European-wide supranational cooperation, the anticipated benefits of scale in coordinating economic recovery, and the need to re-integrate Germany in the Western anti-Communist bloc led to a French

initiative in May 1950 to form the European Coal and Steel Community. The Treaty came into effect in July 1952 for Germany, France, Italy, and the Benelux countries, and since it had a sunset clause, it expired in 2002. For purposes of our coding we conceive the ECSC as the forerunner of the EU even though it is a legally independent international organization.[β]

The ECSC is the first of several major treaties that have shaped the European Union (EU), née European Community (EC), née European Economic Community (EEC). In 1954, attempts to institutionalize supranational political and defense cooperation among the six member states failed. In response, the 1957 Rome Treaty set up two economic organizations: the EEC for a common market in goods, services, capital, and labor, and the European Atomic Energy Community (EAEC or Euratom) for the peaceful utilization of nuclear energy. The institutions and budgets of the ECSC, the EEC, and the EAEC were combined following the 1965 Merger Treaty, and this was put into effect in 1967.[37] Since they shared an institutional blueprint and were considered part of the same political project from the beginning, we code them as a single organization.[β]

Following a twelve-year transitional period, a customs union was established in 1969. The 1986 Single European Act (SEA) was the first major reform since the Rome Treaty of the 1950s. Its purpose was to eliminate non-tariff barriers by 1992 and so complete the internal market (Sandholtz and Zysman 1989; Hooghe and Marks 1999; Marks, Hooghe, and Blank 1996).

The 1993 Maastricht Treaty changed the name of the overarching organization to the European Union, combined the three economic organizations under one roof in the European Community, and introduced two additional areas of cooperation with distinct decision rules: Common Foreign and Security Policy, and Justice and Home Affairs. In the European Community pillar, the Treaty set out a detailed timeline for economic and monetary union and a common currency, to be completed by 2002. The 1999 Amsterdam Treaty extended co-decision powers of the European Parliament and broadened the scope of cooperation to environment and social policy.

The 2003 Nice Treaty extended majoritarian voting and redistributed voting weights among member states in the Council (aka the Council of Ministers), reallocated seats in the Parliament, and increased the number of Commissioners in an organization about to grow from fifteen to twenty-five member states. The most recent constitutional reform, the Treaty of Lisbon, came into force in 2009. It includes, among other things, rules for exiting the European Union.

[37] For a useful summary of the evolution of the Council and the High Authority across the three organizations, see Hayes-Renshaw and Wallace (1997: box 1.1, p. 5).

The EU began with six member states and by 2016 had twenty-eight. In 1973, Britain, Ireland, and Denmark joined. Greece entered in 1981, Spain and Portugal in 1986, followed by Sweden, Austria, and Finland in 1995. After the breakup of the Soviet Union and the Warsaw Pact, eight former Communist countries from Central and Eastern Europe joined in 2004, along with two islands in the Mediterranean, Malta and Cyprus. Romania and Bulgaria joined in 2007, and Croatia joined in 2013. Three countries are currently in formal accession talks: Montenegro, Serbia, and Turkey. Macedonia and Albania are in the queue for accession negotiations. Iceland and Norway were at one point in negotiation talks, but both pulled back. Switzerland has a special bilateral relationship with the EU but has never initiated accession. In June 2016, the United Kingdom voted by referendum to leave the EU.

The key legal documents are the Treaty Establishing the European Coal and Steel Community (signed 1951; in force 1952), the Rome Treaty Establishing the European Atomic Energy Community (signed 1957; in force 1958), the Rome Treaty Establishing the European Economic Community (signed 1957; in force 1958) and subsequent revisions with the Merger Treaty (signed 1965; in force 1967), the Single European Act (SEA) (signed 1986; in force 1987), the Maastricht Treaty on European Union (signed 1992; in force 1993), the Amsterdam Treaty (signed 1997; in force 1999), the Treaty of Nice (signed 2001; in force 2003), and the Lisbon Constitutional Treaty (signed 2007; in force 2009). The chief institutions are the European Council, the Council of the European Union (or Council of Ministers), the European Commission, the European Parliament, the European Court of Justice, and the European Central Bank.

Institutional Structure

A1: THE SPECIAL COUNCIL (1952–66), AND FROM THE COUNCIL OF THE EEC (1958–66) TO THE COUNCIL OF MINISTERS (1967–2008) AND THE COUNCIL OF THE EUROPEAN UNION (2009–10)

The ECSC Treaty established a Special Council composed of one delegate from each member state government (Art. 26). This is the ECSC's legislative body with authority to take the final decision on issues such as accession and constitutional amendments, even though its role in policy making is mostly consultative. Indeed, its main function is to serve as a non-binding check on the High Authority, which is required to consult the Council on many issues and on some needs its approval (Art. 28). The Council takes binding decisions by simple majority, absolute majority, or consensus depending on the issue. Decisions by simple or absolute majority are always weighted. They require the support of at least one member producing 20 percent or more of the total value of coal and steel in the community. Decisions requiring an absolute majority need four votes in favor, or in case of equal votes and in second reading, the

support of three members of which two members produce 20 percent of the total value of coal and steel (i.e. France and Germany) (Art. 28). The chairmanship rotates among the members in three-month intervals (Art. 27).

The 1957 Rome Treaty strengthened the role of the Council, more commonly known as the Council of Ministers, as the body that "disposes of a power of decision" (Art. 145) with the authority to make the final decision on legislation and the budget. Even though the Treaty is silent on its composition, the Council soon began to meet in configurations that vary by policy area. The General Affairs Council, composed of the ministers of foreign affairs or European affairs, coordinates preparations for European Council meetings. The chair in the EEC rotates on a six-monthly basis (Art. 146). With rare exceptions, the decision rule is consensus for the first twelve to fifteen years (Art. 8; several Treaty articles).[38] This was to be replaced by qualified majority with weighted voting (or in rare cases, simple majority) after a transition period (Arts. 148 and 149). However, the practice of consensus was extended by the Luxembourg compromise of 1966, which is more accurately characterized as an agreement to disagree (Nugent 1991: 119–20):[δ]

> I. Where, in the case of decisions which may be taken by majority vote on a proposal of the Commission, very important interests of one or more partners are at stake, the Members of the Council will endeavour, within a reasonable time, to reach solutions which can be adopted by all the Members of the Council.
>
> II. With regard to the preceding paragraph, the French delegation considers that where very important interests are at stake the discussion must be continued until unanimous agreement is reached.
>
> III. The six delegations note that there is a divergence of views on what should be done in the event of a failure to reach complete agreement.
>
> IV. The six delegations nevertheless consider that this divergence does not prevent the Community's work being resumed in accordance with the normal procedure.

The agreement, recorded in a final communiqué of an extraordinary session of the Council, ushered in two decades of consensus decision making (*Bulletin of the European Communities* 1966; Hix and Høyland 2011: 52). Under the shadow of the compromise, majority voting became the exception rather than the rule and we continue to code consensus as the decision rule in the Council until the Single European Act.[39]

[38] The Treaty uses the term "unanimity." However, Article 148.3 states that abstentions by members present or absent shall not prevent decisions, which means that the decision rule is best characterized as consensus—not unanimity (see also Hix 1999: 63, for a brief discussion).[δ]

[39] It is interesting to note that, even though majority voting was rarely applied, when a new state joined, voting weights for new members were defined and thresholds re-adjusted in accession treaties (1973, 1979, 1985). Also, Nugent remarks that from the early 1980s "the practice of majority voting began to develop where it was so permitted by the treaties" (Nugent 1991: 122–3).

The Single European Act (SEA), which came into force in 1987, laid down that the Council could decide by qualified majority on the common market, which encompasses the common external tariff, services and capital, sea and airport policy, the internal market, and economic and social cohesion. The SEA opened the door to qualified majority voting under weighted voting in the Council. Since the Treaty of Rome, the voting weights have been set out in the Treaty and adjusted with each enlargement. They broadly reflect the size of the population but with a pronounced correction in favor of member states with smaller populations.

With respect to the Council, the 1993 Maastricht Treaty specified that it is composed of member state representatives "at ministerial level," and rearranged the rotation of its chairman over a twelve-year cycle (Art. 146). It also identified the Committee of Permanent Representatives (COREPER) as the Council's main coordinating body and set up a General Secretariat (Art. 151).

The 2003 Nice Treaty reformed the weighted voting system in anticipation of Eastern enlargement. The Lisbon Treaty, coming into force in 2009, again reformed Council voting. Prior to 2014, a qualified majority required a majority (or two-thirds) of member states encompassing 62 percent of the EU's population and having 255 of a possible 345 votes (Protocol 36 on transitional provisions, Title II). From November 2014, a qualified majority requires 55 percent of the members of the Council (i.e. fifteen member states) with 65 percent of the EU's population (Art. 16.4). The Council was renamed the Council of the European Union.

A2: EUROPEAN COUNCIL (1975–2010)

The European Council—the meeting of Heads of State and Government, not to be confused with the Council (of Ministers)—was set up at the 1974 Paris Summit as a thrice-yearly forum for government leaders and foreign affairs ministers. The European Council sets strategic priorities and operates as fixer-in-chief, recognizing, in the Summit communiqué, "the need for an overall approach to the internal problems involved in achieving European unity and the external problems facing Europe" (Paris communiqué 1974). It was not until the Single European Act (1987: Art. 2) that the European Council was specified in treaty, when it was given the authority to issue general guidelines on European political cooperation and express a common position on external relations (Art. 30). The Maastricht Treaty states that the European Council "shall provide the Union with the necessary impetus for its development and shall define the general political guidelines thereof" (Art. D). However, the organization remained outside the formal institutional set-up until the Lisbon Treaty recognized the European Council as a full-fledged EU institution (Art. 13). While its manner of working was codified in 2002 (Seville European Council), its rules of procedure were adopted only in December 2009 (de Schoutheete 2012: 44–64).

The composition of the European Council has changed over time. Initially, it consisted of heads of state/government of the member states and their foreign affairs ministers, chaired in conjunction with rotation in the Council of Ministers. Therefore, its composition is entirely member state. Since the Single European Act (Art. 2), the president of the European Commission is *de jure* a member of the European Council and has some agenda setting power (de Schoutheete 2002: 22).[40] Yet, the president does not chair the meetings and cannot vote. Thus, we continue to code the composition as fully member state even after the SEA.$^{\beta}$ Since the Lisbon Treaty (Art. 15.2), ministers of foreign affairs are no longer *de jure* members of the European Council. The president of the European Commission and the High Representative of Foreign Affairs, who chairs the Foreign Affairs Council and is vice-president of the European Commission, are non-voting members (Art. 15). The European Council is now chaired by the president of the European Council, a permanent position. Appointments, as well as the removal of incumbents, require a qualified majority in the European Council (Art. 15.5) and are for two-and-a-half years, renewable once. In case of "an impediment or serious misconduct," the European Council can remove the president from office in the same way (Art. 15.5). The president chairs the European Council, facilitates its work and internal decision making, and ensures the external representation of the Union, which he coordinates with the High Representative of the Union for Foreign Affairs (Art. 15.6). So he has considerable agenda setting power, but, like the president of the European Commission or the High Representative, the president of the European Council has no vote.

The Lisbon Treaty bars the European Council from legislation and fixes its general decision rule to be consensus (Arts. 15.1 and 15.4). However, it votes by simple majority on its rules of procedure and on whether to examine amendments to the Treaty, and by qualified majority (using the 55 percent member, 65 percent population threshold) on the appointment of the Council president, the High Representative for Foreign Affairs, the Board of the Central Bank, and the nomination of the Commission president.

A3: EUROPEAN PARLIAMENT (1977–2010)

The Assembly, later the European Parliament, began life as a consultative body, albeit one with the authority to dismiss the European Commission. Its powers grew with the Budgetary Treaties of 1970 and 1975, which allow the European Parliament to reject the budget, modify compulsory

[40] In addition, a second member of the Commission, the secretary general of the Council of Ministers, and the secretary general's deputy can attend. When the topic concerns economic and monetary union, finance ministers may attend, either alongside or instead of ministers of foreign affairs (de Schoutheete 2002).

(i.e. treaty-mandated) expenditure, and approve or disapprove non-compulsory spending (Shackleton 2012). We code the Parliament as a decision making body from 1977, when the 1975 Budgetary Treaty enters into force.

The Single European Act transformed the Assembly into the European Parliament and gave it agenda setting power in the community's legislative process. The SEA introduced the cooperation procedure, which gave the Parliament the right to amend draft legislation on the single market plus some flanking policies. Only by unanimity could the Council overrule parliamentary amendments endorsed by the European Commission (SEA, Art. 149). In addition, enlargement and international association agreements required the assent of the European Parliament (SEA, Art. 238).

The Maastricht Treaty declared the Parliament a body of "representatives of the peoples of the States brought together in the Community" and, for the first time, recognized the role of political parties in "forming a European awareness and to expressing the political will of the citizens" (Arts. 137 and 138a). Under the co-decision procedure, the Parliament became a co-legislator alongside the Council with the authority to veto legislation. In addition, it could approve (or veto) the appointment of the Commission as a body and could request the Commission to prepare legislative proposals (Arts. 158 and 138b).

The Amsterdam Treaty gave the Parliament the authority to approve the president of the Commission nominated by the European Council (Art. 158.2). In the Lisbon Treaty, the language is broadened to say that the Commission president shall be elected by the European Parliament by a majority of its members upon a proposal by the European Council, "taking into account the elections to the European Parliament and after having held the appropriate consultations" (Art. 17.7).

From 1952 to 1978, the Assembly was composed of indirectly elected representatives of national parliaments. From 1979, the members were directly elected for a term of five years. The Parliament was composed of 751 representatives in 2016, making it the world's second largest democratic assembly.[41]

E1: FROM HIGH AUTHORITY (1952–66) TO COMMISSION OF THE EEC (1958–66) TO COMMISSION (1967–2008) TO EUROPEAN COMMISSION (2009–10)

The principal executive of the EU is the European Commission, which is responsible for coordinating executive and management functions in "the general interest of the Union" (Lisbon Treaty, Art. 17.1). Until 1958 we

[41] See <http://www.europarl.europa.eu/meps/en/search.html> (accessed February 11, 2017). The Parliament to India has 790 seats.

code the High Authority of the European Coal and Steel Community as the principal—in this case, sole—executive (Haas 1958).[42]

The appropriately named High Authority is a supranational body with the authority, inter alia, to carry out investment programs in the coal and steel sector, impose fines on individual businesses that violate Treaty provisions, establish production quotas, develop proposals for the distribution of coal and steel resources in the Community, set prices, and ensure fair competition. All of this takes place with limited oversight by the member states.

The High Authority has nine members, appointed for six years, with the possibility of reappointment (ECSC Treaty, Art. 9). Eight are designated by the member states in "agreement amongst themselves" and the ninth is chosen by the original eight members using simple majority (Art. 10). Three members of the High Authority are replaced every two years, and every six years, the original appointment process takes place, with eight members selected by the member states and the ninth elected by the other members of the High Authority. Hence, we code both member states and the High Authority in proposing and appointing the executive. The Treaty does not detail how these nine posts are allocated across member states except to say that no member state can have more than two members (Art. 9). Because there is no contractual guarantee that each member state will be represented we code partial, rather than full, member state representation.$^{\gamma}$ Non-state selection of the ninth member of the High Authority renders state representation less than 100 percent.

Members of the High Authority are instructed to be completely independent from member states, which we code as indirect state representation (Art. 9). The Authority takes decisions by simple majority and issues binding decisions and recommendations as well as non-binding opinions (Arts. 14 and 86).

The president and vice-president of the Authority are chosen by the member states under consensus after consultation with the High Authority, and serve for two years (Art. 11). Here we code the High Authority as agenda setter and the member states as decision maker.

Upon petition by the High Authority or the Special Council, the Court of Justice may remove a member of the High Authority who "no longer fulfill[s] the conditions necessary to the exercise of their functions" (Art. 12). The Assembly can dismiss the entire High Authority by a motion of censure adopted by a two-thirds majority (Art. 24).

The Rome Treaty established the Commission as the central executive of the EEC and Euratom (European Atomic Energy Agency). The Commission has a somewhat weaker mandate than the High Authority, but still has considerable

[42] We conceive the ECSC as the forerunner of the EU, although it was formally absorbed in the Commission only with the Merger Treaty, hence we notate this as $^{\beta}$.

supranational powers. These comprise a monopoly in initiating legislation (Art. 155), a key decisional role in competition policy (Rome Treaty, Chapter 1), legal guardianship of the treaties and all secondary legislation, including the responsibility to make sure that EU law is uniformly applied (Art. 101), the right to take member states to the Court of Justice (Art. 169), external representation, and a lead role in negotiating trade agreements and accession (Art. 111) (Hooghe and Rauh 2017).

Until the Merger Treaty, the EEC Commission had nine members and the Euratom Commission five. The rules governing their composition are the same so we combine them here. The term of office for the Commission is renewable on a four-year basis, and, in contrast to the High Authority, terms of appointment are not staggered. All members are appointed by member governments "acting in common agreement" (Art. 158). Member states choose, by consensus and after consulting the sitting Commission, the president and two vice-presidents from among the members of the Commission for two-year renewable terms (Art. 161). Rules for removal are those for the High Authority, the Commission and its members are similarly instructed to "perform their duties in the general interest of the Community with complete independence" (Art. 157.2).

The Merger Treaty combined the two Commissions (EEC, EURATOM) and the High Authority (ECSC) into one (Commission of the European Communities), adding the condition that "[t]he Commission must include at least one national of each of the Member States." So from 1967 we code all member states as represented. The size of the Commission can be changed under consensus by the Council (Art. 157.1) and ranges from fourteen (1967–70) to nine (1970–73), thirteen (1973–81), fourteen (1981–4), seventeen (1986–94), twenty (1995–2004), twenty-seven (2005–13), and twenty-eight following the accession of Croatia in 2013.

From 1975, the European Council became the formal European arena for appointments made by member state governments by common accord. In 1977, Roy Jenkins succeeded François-Xavier Ortoli as the first Commission president appointed by the European Council.

The Maastricht Treaty empowered the European Parliament as a decisive actor alongside member states and the European Council (Art. 158.3). Member states nominate the president of the Commission after consultation of the European Parliament and then nominate commissioners in consultation with the nominee for president. Finally, the Parliament votes up or down on the entire Commission and the European Council affirms a positive vote by consensus (Art. 158). Thus, we code the European Council and the Parliament as initiators, and the European Council and the European Parliament as final decision makers for the Commission, whereas for the Commission president, the European Council and the Parliament are initiators, and the European

Council makes the final decision. Beginning in 1995 tenure in office is changed to five years in line with the timing of parliamentary elections (Art. 158.1).

The Amsterdam Treaty gave the European Parliament a veto on the president of the Commission, and contains slightly stronger language on the president-designate's right to pick his own Commissioners.

The Nice Treaty sets the composition of the Commission to one commissioner per member state (rather than at least one commissioner per member state) (Art. 231.1) and introduces qualified majority in the European Council for the appointment of Commission president (Art. 214). The sequel of steps in the appointment process remains the same, but with a division of labor between the European Council and the Council. The European Council nominates a presidential candidate for endorsement by the Parliament as before, but now it is the Council, under qualified majority, that nominates the members of the Commission. The Council does so in accord with the presidential nominee and "with the proposals made by each Member State." After approval of the Commission by the Parliament, the European Council appoints the president and Commission, again by qualified majority (Art. 214.2). Hence we code the European Council and the European Parliament as nominators of the president, and the European Council and Parliament as final decision makers; we code the Council, member states, and the president as nominators of the Commission, and the European Council and the Parliament as final decision makers.

The Lisbon Treaty mandated that the Parliament elect the Commission president by majority following nomination by the European Council under qualified majority (Art. 17.7). The rest of the procedure remains in place, with two changes. First, the Council meets in its regular ministerial composition rather than as heads of state or government; second, member states (not the Council) nominate a list of candidates for the Commission, which is then adopted by the Council in accord with the president-elect. So we reintroduce member states for the initiation stage.[43]

E2: FROM THE COUNCIL OF MINISTERS (1987–2008) TO THE COUNCIL OF THE EUROPEAN UNION (2009–10)

While the Council's primary role is legislative, it also sits atop an elaborate executive machinery of sectoral councils and working groups coordinated by the Committee of Permanent Representatives (COREPER) (Hayes-Renshaw and Wallace 1997). The Council's competences in implementation are introduced

[43] From 2014, the number of Commissioners was slated to correspond with just two-thirds of EU member states "on the basis of a system of strictly equal rotation between the Member States," unless the European Council decided to change this (Art. 17.5). In May 2013, the European Council decided to retain one Commissioner per member state.

with the SEA, which says that the Council confers on the Commission "powers for the implementation of the rules which the Council lays down" but also that it retains "the right, in specific cases, to exercise directly implementing powers itself" (Art. 145).

The Lisbon Treaty emphasizes the legislative role of the Council and there is debate among legal scholars whether it is still appropriate to call it an executive. We wish to err on the side of inclusiveness, so we code the body in its (secondary) executive role.[γ]

Members of the Council are state representatives, and every member state is represented. The chair rotates among member states. Since 2009, two Council institutions, the Foreign Affairs Council and the Eurozone Council, have a permanent chair. The Foreign Affairs Council is headed by the High Representative of the Union for Foreign Affairs and Security Policy, who doubles as vice-president in the Commission. The High Representative is appointed by the European Council under qualified majority with the agreement of the Commission president (Art. 18.1). The European Parliament is the third co-decider because it has a veto on the entire Commission. The High Representative can be dismissed by the same procedure, and is appointed for five years.

The second council institution with a permanent chair is the Eurozone Council, or Euro Group. Given the substantive importance of Eurozone governance we consider the Eurozone Council as a distinct body.

E3: EURO GROUP (1998–2010)

The Euro Group, composed of the finance ministers of the Eurozone, the Commission, and the European Central Bank, was formed by the European Council in December 1997 to "facilitate a behind-closed-doors dialogue between euro area finance ministers and the ECB president, with the Commissioner for Economic and Monetary Affairs also in attendance" (Hodson 2012: 215). According to the European Council's declaration, the Commission and the European Central Bank are invited "when appropriate," but apparently the ECB and Commission are always present and discussions have often been "somewhat one-sided with the ECB president taking to lecturing the ministers on fiscal discipline" (Puetter 2006: 86).

The Euro Group began life as an informal gathering under the wings of the Economic and Financial Affairs Council (ECOFIN). Until 2009, decision authority lay with the Council for Economic and Financial Affairs, which had ultimate responsibility for the coordination of national economic policies. The 1997 European Council statement that gave the green light to the Euro Group takes pains to clarify that "decisions will in all cases be taken by the ECOFIN Council in accordance with the procedures laid down in the Treaty" (European Council, Art. 44). However, from the mid-2000s and especially since the Eurocrisis, the Euro Group has become the central node for

mutual surveillance on national economic and fiscal policy in the Eurozone. The Lisbon Treaty formalizes this by recognizing the Euro Group as a separate body (Art. 136) and specifying its powers in Protocol 14. This grants the Euro Group the authority to take decisions that bind the Eurozone countries, and it ordinarily does so by qualified majority voting.

Decision making on composition has changed over time. Initially the chair rotated among Eurozone states, but from 2005 to 2008 the Euro Group elected a permanent president for a renewable term of two years.[44] The voting rule was unspecified.$^{\alpha}$ This construction was recognized by the Lisbon Treaty which detailed that the president of the Euro Group was to be elected for two-and-a-half years by simple majority in the Euro Group council (Art. 136; Protocol, Art. 2). The Protocol explicitly states that the Commission and the European Central Bank take part in the meetings (in contrast to other EU councils) (Protocol 14, Art. 1), but only members of the Eurozone have the right to vote (Lisbon Treaty, Art. 136.2). Member states outside the Eurozone are excluded.

Given its formal recognition by the European Council, we code the Euro Group from its inception in 1998, even though the details of its operation were not given contractual form until the Lisbon Treaty.$^{\gamma}$ It was composed wholly of member state representatives until 2005; while the Commission and the ECB sit on the body, they neither chair nor vote. From 2005 we code the Euro Group as less than completely member state because it elects its own chair. Given the strong agenda setting powers of the president, we code representation as partially indirect from 2005.$^{\gamma}$ Until 2008, the authority to take decisions remains with ECOFIN, so we do not record decision making in the Euro Group separate from that in ECOFIN. That changes in 2009, at which point weighted voting applies.

GS1: FROM THE HIGH AUTHORITY (1952–66) TO THE COMMISSION (1958–2010)

Under the ECSC, the High Authority served as both the executive and general secretariat. From 1958, the Commission has performed the same dual role with the General Secretariat of the Commission as the managerial body of the EU and the College of Commissioners having political responsibility for management. By mid-2015, there were 23,500 full-time officials for more than half a billion EU citizens in twenty-eight member states (Hooghe and Rauh 2017: 189).

[44] According to Uwe Puetter (2006: 82), the decision was made "unilaterally" by the group and, as far as we know, no decision rule was specified (Parker 2004).

GS2: GENERAL SECRETARIAT OF THE COUNCIL (1952–2010)

The ECSC Treaty declares that the Council is to be serviced by a permanent secretariat with an independent budget (Art. 78.2). The Luxembourger Christian Calmes was the first secretary general, but we have no further information on the secretariat's functioning.[α] The body is not mentioned in the Treaties of Rome. However, we know that the ECSC Secretariat was expanded in 1958 to serve the Councils of the EEC, the ECSC, and Euratom and it is mentioned in the Council's 1958 Rules of Procedure (Art. 17) (Hayes-Renshaw and Wallace 1997: 101–4). From the 1980s the General Secretariat (GS) becomes more involved in the substantive preparation of Council meetings, committees, and working groups, but its primary task remains organizational. By the mid-1990s its administrative staff (excluding linguists and clerical staff) had grown to 250 (Hayes-Renshaw and Wallace 1997: 105).

The General Secretariat is headed by a secretary general who is appointed by consensus (1958 Council Rules, Art. 17; 1980 Council Decision on the appointment of Niels Ersbøll). The Maastricht Treaty is the first to recognize the Council Secretariat alongside COREPER. It confirms that nominations are submitted by member states and that the candidate is appointed by the Council under consensus (Art. 151.2). The Nice Treaty changes the decision rule to qualified majority (Art. 207.2).

The procedure for removal on grounds of incompetence follows the staff rules. If the reason is incompetence or misconduct, the decision is taken by the Council.

Between 1999 (Amsterdam Treaty) and 2009 (Lisbon Treaty), the secretary general doubled as the High Representative for the Common Foreign and Security Policy (Art. J.8.3)—a post created to give the EU a single face in external affairs. The Lisbon Treaty takes that power away by merging the post of High Representative with that of the External Relations Commissioner. We code the General Secretariat of the Council starting in 1952.

CB1: THE COMMON ASSEMBLY (1952–76)

The ECSC established a Common Assembly with seventy-eight national parliamentarians as a supervisory body. Its inaugural session took place in September 1952. Countries were allotted delegates (eighteen from Italy, France, and Germany, ten from Belgium and the Netherlands, and four from Luxembourg) to be elected by national parliaments for one year (Art. 21). The Assembly discussed the High Authority's annual report, required responses to its questions from members of the Council, and could dismiss the High Authority by two-thirds majority (Arts. 23 and 24). From the start, the Assembly interpreted its competences expansively, establishing a system of standing committees that could make its preferences known to the High Authority prior to legislation (Guerrieri 2008: 185).

The Rome Treaty maintained the Assembly as an advisory and control body with new consultative powers on the budget (Art. 203) alongside the right to dismiss the Commission by two-thirds majority (Art. 144). Beyond this, Assembly decisions are adopted by simple majority (Art. 141). While its members continue to be appointed by the national parliaments, the Treaty directs the Assembly to draw up proposals for popular election (Art. 138.3). True to form, two days into its very first session, in March 1958, the Assembly renamed itself, without the blessing of the member states, into the European Parliament (European Navigator: 3–4). The name was sanctioned in the preamble of the Single European Act, "CONVINCED that the European idea, the results achieved in the field of economic integration and political co-operation, and the need for new developments correspond to the wishes of the democratic peoples of Europe, for whom the European Parliament, elected by universal suffrage, is an indispensable means of expression" (also Art. 1). With the financial Treaties of 1970 and 1975, the European Parliament gained powers on the budget, at which point it shifts from a consultative body to an assembly. The first direct election of the Parliament took place in 1979.

CB2: FROM THE ECSC CONSULTATIVE COMMITTEE (1953–2002) TO THE EUROPEAN ECONOMIC AND SOCIAL COMMITTEE (ECOSOC) (1958–2010)

The ECSC established a Consultative Committee, appointed by the Council every two years with thirty to fifty members, composed equally of producers, workers, consumers, and dealers in the coal and steel sectors (Art. 18; see also Merry 1955: 168). The Authority is required to consult the Committee in setting general guidelines, production quotas, prices, export restrictions, financial compensation, and wages (Arts. 46, 48, 53, 60, 62, 68).[45] The Committee makes decisions by simple majority. It held its inaugural session in January 1953. The Consultative Committee was separate until 2002, when the ECSC Treaty expired and the Economic and Social Committee took over its duties.

The Rome Treaty creates a consultative Economic and Social Committee composed of 101 representatives of organized business and trade unions. Each country gets a fixed allotment of seats, roughly according to population size, and the Council appoints members for four years by unanimity (Arts. 193 and 194). Members serve in personal capacity (Art. 194). As of April 2016, the Committee has 350 members.

[45] The Treaty does not specify the decision rule for the High Authority to consult beyond the policies listed in the Treaty. Haas notes it is simple majority (Haas 1958: 43).[α]

CB3: COMMITTEE OF THE REGIONS (1994–2010)

The Committee of the Regions (CoR) was set up in 1994 as an advisory organ under the Maastricht Treaty. It originally brought together 189 representatives of regional and local governments in rough proportion to member state population. The Council appoints members (and alternate members) for four years by unanimity based on a list drawn up by each member state (Art. 198a). Members are not bound by any instructions and serve in personal capacity (Art. 198a).

The Committee of the Regions must be consulted on a list of issues affecting regional and local governments. It decides by majority vote (CoR Rules of Procedure). The Nice Treaty clarifies that members need to be directly elected or politically accountable to an elected assembly (Art. 263). The Lisbon Treaty extends the term of office to five years (Art. 263.3) and expands the issues for which consultation is obligatory. As of April 2016, the Committee has 350 members (for a recent analysis, see Piattoni and Schönlau 2015).

Decision Making

MEMBERSHIP ACCESSION

The ECSC Treaty states that "[a]ny European state may request to accede" (Art. 98). The Council fixes the terms of accession and makes the final decision by consensus after obtaining the opinion of the High Authority. Ratification is not required. We code the High Authority and the Council as initiators and the Council as taking the final decision.

The Rome Treaty introduces ratification by all member states (Art. 237). As before, the Council acts by unanimity on the opinion of the Commission. The SEA makes the Parliament a decision maker alongside the Council under the assent procedure in which the Parliament votes up or down under absolute majority (SEA, Art. 237).

In the run-up to the Greek accession in 1980, the European Council became an additional player providing an initial green light for accession negotiations and taking the final decision prior to ratification. Since the European Council could not take legally binding decisions, the decisions were consensually confirmed by the Council. The year in which we begin coding the European Council as a decisional body is open for debate. We opt for 1980, when the European Council made its final decision on Greek accession.[γ]

Over the years, accession became more institutionalized. The Amsterdam Treaty pins down the geographic conditions of potential membership with a value-based component, stating that "Any European State which respects the principles set out in Article F(1) may apply to become a member of the Union" (Part I, Art. K.15). The principles are "liberty, democracy, respect for human rights and fundamental freedoms, and the rule of law," a direct reference to

the Copenhagen criteria for membership, adopted at the 1993 Copenhagen Summit (Part I, Art. 8a; Schimmelfennig 2001; Vachudova 2005).

The Nice Treaty adds that "[t]he conditions of admission and the adjustments to the Treaties on which the Union is founded, which such admission entails, shall be the subject of an agreement between the Member States and the applicant State" (Art. 49). This emphasizes the need for ratification by all members, but it also refers to the ongoing involvement of member states. The Commission proposes common negotiating positions for the EU for each chapter, which need unanimous approval in the Council. The Council conducts overall supervision over the negotiations; the European Commission monitors via regular progress reports and drafts the accession treaty. From the 2003 Nice Treaty we include member states as well as the Council, the Commission, and the European Council, in initiation. A draft accession treaty requires unanimous support from the European Council or the Council and the consent of an absolute majority in the European Parliament prior to ratification.

The European Council is explicitly registered in the Lisbon Treaty which states that "the conditions of eligibility agreed upon by the European Council shall be taken into account" (Art. 49).

MEMBERSHIP SUSPENSION

A suspension clause was first adopted in the Amsterdam Treaty when a member state in "serious and persistent breach" of EU principles was liable to suspension of its voting rights (Art. F.1.1).[46] The procedure is elaborate. One-third of member states or the Commission can initiate proceedings after consent of the Parliament (which decides by two-thirds majority) (Arts. F.1.1 and F.1.5). The Council, composed of heads of government, then establishes whether the member state is in breach of EU principles (by unanimity) and the Council of Ministers subsequently decides whether to suspend that member state (by qualified majority) (Art. F.1.1). We code the Commission, Parliament, and the Council (by simple majority)$^{\beta}$[47] as agenda setters and the European Council and the Council (by unanimity and qualified majority respectively) as taking the final decision.

[46] The ECSC Treaty contains a delinquency clause (Art. 88): "If the High Authority deems that a State is delinquent with respect to one of the obligations incumbent upon it by virtue of the present Treaty, it will, after permitting the State in question to present its views, take note of the delinquency in a decision accompanied by a justification." The High Authority initiates proceedings and, if the Council concurs by a two-thirds majority, it may suspend payment of any money owed to the member state or authorize other member states to take retaliatory measures.

[47] The nearest value in our coding scheme for the minimum threshold of "one-third of member states" is a simple majority among member states in the Council. Hence the superscript $^{\beta}$ for an observation not precisely captured by the intervals on an indicator.

The Nice Treaty introduces an additional possibility that involves the *anticipation* of a serious breach of principles (Art. 7.1: "a clear risk of a serious breach"), which can lead to a recommendation (rather than sanction) directed at the concerned member state on behalf of the Council acting by a four-fifths majority. The Parliament can now also initiate this step besides one-third of the member states or the Commission (Art. 7.1). Otherwise the procedure continues as before. The recommendation procedure does not appear to be a necessary step prior to suspension in case of an actual breach, so the coding does not change.

The Lisbon Treaty relocates the final decision on a breach of the Union's basic principles from the Council to the European Council, which, as before, acts unanimously (Art. 7.2).

CONSTITUTIONAL REFORM

Under the ECSC Treaty, any member state or the High Authority can propose a treaty amendment. The Council is the gatekeeper. By two-thirds majority it decides whether to convene an intergovernmental conference, which operates under consensus (Art. 96). We code the High Authority, member states, and the Council as setting the agenda and member states as taking the final decision. Treaty reform requires ratification by all member states (Art. 96).

The Rome Treaty amends the procedure so that the Council is required to consult the Assembly (deciding by majority) before convening an intergovernmental conference. The Treaty specifies only that the Council needs to express "an opinion in favor of" calling an intergovernmental conference. This was left open until 1985, when over British, Danish, and Greek objections the European Council of Milan established that Article 236 should be interpreted to mean that an intergovernmental conference requires only a simple majority in favor (Laffan 1992: 55; de Schoutheete 2002: 32).[48] We code "decision rule not specified" until 1985, and simple majority in the European Council thereafter. At the same time, the European Council replaces the Council as agenda setter. Amendments are adopted by "common agreement" of the European Council, and ratification is required. The European Parliament does not have co-decision right.

The 2005 Constitutional Treaty was prepared under an ad hoc Constitutional Convention composed of member state-selected national representatives

[48] The conclusions of the EU Summit in Milan read: "The President noted that the required majority as laid down in Article 236 of the Treaty had been obtained for the convening of such a Conference. The Portuguese and Spanish governments would be invited to take part in that Conference. The Belgian, German, French, Irish, Italian, Luxembourg and Netherlands delegations were in favour of holding that Conference." "European Council 28 and 29 June 1985 in Milan." *Bulletin of the European Parliament*, PE 99 511.

(fifteen), national parliaments (thirty), the European Parliament (sixteen), the European Commission (two), and government and parliamentary representatives of all thirteen accession candidate countries (forty-two) (Crum 2004). The decision rule was consensus as interpreted by the president of the Convention, Giscard d'Estaing (Tsebelis and Proksch 2007: 160). Its product, a Draft Treaty, became the input for an intergovernmental conference that produced the 2005 Constitutional Treaty. After its rejection in referendums in the Netherlands and France in May 2005, key elements of the procedure for constitutional reform used for the 2005 Treaty revision were codified in the Lisbon Treaty (Art. 48).

The Lisbon Treaty distinguishes between an ordinary and a simplified constitutional revision procedure (Art. 48.1). In the ordinary procedure Parliament can now also propose amendments in addition to any member state and the Commission. After consulting with the Parliament and the Commission, the European Council decides whether any proposed amendments merit further examination and, if so, calls a convention. Unusually, the European Council decides by simple majority. The Convention is composed of national parliament representatives, national governments, the European Parliament, and the Commission, and it adopts its recommendations by consensus. We code this three-stage process as the initiation of constitutional reform involving the Commission, Parliament, member states, the European Council, and national parliaments. The final decision is taken by the European Council by consensus. As before, every member state must ratify.

REVENUES

The EU has the authority to levy its own taxes and to have an independent stream of revenue. Under the ECSC, the High Authority was given the power to place a levy on the production of coal and steel, to borrow and to receive grants so that it may "procure the funds necessary for the accomplishment of its mission" (Art. 49).

The Rome Treaty introduced a scale for member state contributions to the general budget alongside a European Social Fund paid for by member states and administered by the Commission (Arts. 200 and 123). However, the ambition remained to finance the organization by own resources as a means to the Community's financial independence, and in 1970 the Council formally recognized this (Budgetary Treaty 1970; Nugent 1991: 314–15). Own resources consisted of agricultural duties, customs duties collected under the common external tariff, and from 1980, a portion of member states' value-added taxes (Council Decision 1970; Own Resources Mechanism 2007; Laffan and Shackleton 1996: 73ff.). A decision in 1988 extends the community's own resources to a percentage of member states' gross national income (GNI) as a means to balance the budget when other sources are insufficient. Today, this

last source accounts for about 76 percent of EU revenue. The Maastricht Treaty formally states that the "budget shall be financed wholly from own resources" (Art. 201).

BUDGETARY ALLOCATION

Under the ECSC Treaty, the administrative budget and the operational budget were decided separately. We code the latter.[49] The operational budget is drafted and decided by the High Authority within a ceiling set by treaty. The High Authority had considerable latitude in deciding spending priorities over investments, subsidies, and grants to enterprises. Some expenses, including spending on increased production and to set up additional mechanisms, required individual member state consent or a simple or qualified majority vote in the Council (Chapter III). The Council could request to examine High Authority proposals and measures (Art. 26), and we include the Council in the initiation and final decision stage. Like other legal acts in the community, budgetary decisions are binding.

The Rome Treaty centralizes the budgetary procedure. While individual institutions still draw up their own budget estimates and submit them to the Commission, the latter is responsible for drafting the overall budget, with estimates that can diverge from the initial submissions. The Council takes the final decision by qualified majority after consultation with the Assembly, which can also propose amendments on some expenditures (Art. 203). Thus, we code the Commission and the Assembly as initiators of the budget and the Council as taking the final decision.

The 1970 and 1975 budget treaties introduce fundamental changes (Laffan and Lindner 2015: 222; Nugent 1991: 136–7). From 1971 the European Parliament can propose amendments on all aspects of the budget, apart from compulsory expenditures (i.e. expenditures resulting from treaty commitments), which means most things apart from agriculture (Arts. 4 and 5). It can veto Council amendments on non-compulsory spending by absolute majority and three-fifths majority (Art 4.6). Since agriculture was still by far the largest item on the budget, we focus on the rules that cover compulsory expenditure. Hence, we do not code the Parliament as co-legislator from 1970.[γ] However, the 1975 Treaty extends the Parliament's co-decision powers over the entire budget. If the Parliament deems there are "important reasons," it can reject the budget as a whole by two-thirds majority (Art. 12).[50]

[49] Administrative expenditures were decided by the Commission of Presidents which convened the presidents of the Court, the High Authority, the Assembly, and the Council (Art. 78.3). Each body brought its own budget on salaries, allowances, pensions, and so on to the table. The Committee was presided over by the president of the Court; no decision rule is specified.

[50] In the 1970s and 1980s the budgetary process was often characterized by a chicken game between the Council and the European Parliament, which made the annual budgetary

The Maastricht, Amsterdam, and Nice Treaties maintain the same provisions, but the Lisbon Treaty gives the Parliament full parity with the Council. Both institutions need to approve the budget, and when there is disagreement, a conciliation committee with an equal number of representatives from both sides hammers out a deal. The decision rule in the Council is qualified majority as before, while in the Parliament it switches to simple majority (Art. 314). The Lisbon Treaty also abolishes the distinction between compulsory and non-compulsory expenditure.

FINANCIAL COMPLIANCE

The ECSC was funded by own contributions, so there was no need for a non-compliance procedure. The EEC moved to member state contributions, but did not adopt a non-compliance procedure. It merely provided for the auditing of accounts by a committee of control "to ascertain that all revenues and expenditures are lawful and proper." No procedure was put in place in case of financial non-compliance (Rome Treaty, Art. 206).[51] From 1971, the community has own resources, which marks the end to regular member state contributions. So we code "rules not applicable" for 1952–7, "no written rules" for 1958–70, and "rules not applicable" from 1971.

POLICY MAKING

The European Union is the most prolific producer of rules that legally bind states. Over six decades the scope of EU rule-making has expanded from a narrow focus on coal and steel production to economic governance, social and cultural policy, research, the environment, foreign policy, immigration and asylum, fiscal coordination, and monetary policy. Notwithstanding their diversity, the decision making process for the production of such rules can be summarized in five streams. The first concerns the regulation of the coal

negotiations wrenching. Since 1988, periodic negotiations among the Commission, Parliament, and Council set out the details of inter-institutional cooperation in multi-annual financial frameworks (MMFs) of five to seven years which classify the scope of compulsory and non-compulsory spending and tie categories of spending to annual ceilings. Each MFF is laid down in a Council regulation on a proposal by the European Commission and adopted by the Council by unanimity after the consent of the European Parliament. The upshot is that the heat of the budgetary struggle has shifted from the annual to the multi-annual budget cycle (Laffan and Lindner 2015: 229–30). Over time, MMFs have become more specific. The inter-institutional agreement of May 1999 was the first to allocate the budget by individual spending headings and subheadings.

[51] Interestingly, the Lisbon Treaty opens the door to explicit sanctioning of fraud, including fraud in member states (Art. 325, ch. 6, para. 4): "The European Parliament and the Council, acting in accordance with the ordinary legislative procedure, after consulting the Court of Auditors, shall adopt the necessary measures in the fields of the prevention of and fight against fraud affecting the financial interests of the Union with a view to affording effective and equivalent protection in the Member States and in all the Union's institutions, bodies, offices and agencies."

and steel sectors; the second is the common market and its flanking policies; the third is foreign and defense policy; the fourth is justice and home affairs (including immigration); and the fifth is economic and monetary coordination. The first stream is coupled with the ECSC and the second with the EEC. The third and fourth streams enter with the Maastricht Treaty, and the fifth with the Lisbon Treaty.

The main legal instruments in the ECSC Treaty are decisions, recommendations, and opinions—all of which were used by the High Authority to create a common market for coal and steel (Art. 14). We code decisions of "general applicability," that is decisions involving classes of enterprises rather than individual enterprises (e.g. relating to production levies, pricing principles, and equalization funds) (Merry 1955: 170–1).[γ52] These decisions are generally taken by the High Authority after consultation with the Consultative Committee (e.g. Art. 60 on prices). We code both the High Authority and the Consultative Committee (from 1953) in agenda setting and the High Authority as taking the final decision. On some decisions, including a decision to impose a levy greater than 1 percent on enterprises, the Council must also approve by a two-thirds majority. Only the High Authority can initiate decisions, so we code the High Authority as holding an exclusive right to initiative. Decisions are binding and do not require ratification.

The Rome Treaty broadens substantive policy making from coal and steel production to the creation and maintenance of a common market. It has three instruments: regulations, which are binding in every aspect and directly applicable; directives, which lay down binding objectives but leave the means of implementation to member states' discretion; and decisions, which are binding only for particular agents (Art. 189). We consider the first two because they have general applicability. None requires ratification.

Regulations and directives related to the common market follow a similar procedure. The Commission has an exclusive right to initiative,[53] and decides by simple majority. The Council takes the final decision, generally after consultation with the Assembly or the Economic and Social Council. From 1958

[52] During the first two years, the Authority issued fifty-four decisions affecting individual enterprises, of which forty-eight related to prices, compensation schemes, subsidies, or special charges, and six concerned cartels. These enterprise-specific decisions were generally taken by the High Authority after consultation of the Consultative Committee (e.g. Art. 60 on prices). The role of the Council was generally nearly absent in day-to-day policy making (Haas 1958: 52–6).

[53] The monopoly of initiative is implied by statements dispersed in the treaties signaling that the Commission acts as the gatekeeper for legislative proposals, for example: "the Council, acting up to the end of the second stage by means of a unanimous vote and subsequently by means of a qualified majority vote on a proposal of the Commission, shall fix . . . " (Treaty of Rome, Art. 20; see also Art. 21.2, Art. 33.8, Art. 38); "the provisions . . . may be amended by the Council acting by means of unanimous vote on a proposal of the Commission" (Art. 14.7); "the Commission shall make recommendations for this purpose to the States concerned" (Art. 35).

to 1986, the threshold in the Council is consensus. This is the rule during the transition period, and, from 1966, it is because decisions are taken with the Luxembourg proviso that a member state can veto a decision deemed in its vital national interest (Arts. 14.7, 33.8, 43.2, 63, and 69). Thus, we code the Commission and several consultative bodies as agenda setters and the Council as final decision maker until the SEA.

The objective of the SEA was to reduce or eliminate non-tariff barriers to produce a single market by 1992 (Art. 8a). To this end, the Treaty introduced qualified majority in the Council and a strong agenda setting role for the European Parliament. As before, the Commission has sole initiative in drafting a proposal which then goes to ECOSOC and the Parliament. The Parliament can introduce amendments by absolute majority, which the Commission can accept or reject. If accepted by the Commission, an amendment can be accepted by the Council under qualified majority, but may be overridden only if the Council is unanimous. This makes the Parliament for the first time in its history a powerful conditional agenda setter (Marks, Hooghe, and Blank 1996; Tsebelis 1994). The Council remains the final decision maker,[γ] but it is hedged in by the requirement that it must be unanimous to block an amendment supported by the other two bodies (Tsebelis and Garrett 1997; see Hix and Høyland 2011: 68–74).

The Maastricht Treaty introduces three policy pillars, each with its own decision rules. The first, Community, pillar governs the single market and its flanking policies along with a new chapter on economic and monetary policy. The second pillar encompasses common foreign and security policy, and the third encompasses justice and home affairs. We code these as distinct policy streams from 1993 and discuss them sequentially below.

Decision making in the Community pillar is based, as before, on the Commission's monopoly of initiative and qualified or unanimity voting in the Council, but with a stronger role for the European Parliament. Alongside the cooperation procedure, the Maastricht Treaty introduces a new set-up in which the Parliament can reject a legislative proposal by absolute majority (Art. 189b). The cooperation procedure applies to transport policy (Art. 75), the implementation of economic and monetary union (EMU) (Arts. 103–5), and the adoption of new measures in health (Art. 118a), cohesion (Art. 130e), and environmental policy (Art. 130s). The new set-up, which later became known as "co-decision," applies across the board to market policies—free movement of workers (Art. 49), freedom of establishment (Arts. 54 and 56), mutual recognition of qualifications (Art. 57), and harmonization (Art 100)—alongside normal legislation in education, health, consumer policy, trans-European networks, environment, culture, and research. In these core areas of the single market, the Commission proposes, the Council decides by qualified majority, and the Parliament can pass a proposal by simple majority in its

first reading, or veto or amend a proposal by absolute majority in its second reading. If the Parliament and Council are at odds, the proposal goes to a Conciliation Committee composed of an equal number of parliamentary and council representatives. A proposal by a Conciliation Committee can be approved by qualified majority in the Council and by simple majority in the Parliament. If this fails, the proposal is null. Under this set-up the European Parliament has an effective veto, and from 1993, we code the Parliament as a final decision maker alongside the Council in the Community pillar.

The Amsterdam Treaty streamlines the legislative procedure for co-decision and applies it to all fields previously governed by the cooperation procedure, except the implementation of EMU (Amsterdam Treaty, revised Art. 189b). The Nice Treaty extends it further to judicial cooperation (2006 Consolidated Treaties, Art. 65), certain international economic agreements (Arts. 133 and 181a), and institutional rules within the Parliament (Arts. 190 and 191) and the ECJ (Art. 223) (Hix and Høyland 2011: 68–9). The Lisbon Treaty renames the co-decision procedure as "the ordinary legislative procedure" (Art. 294) and extends it to nearly all policy areas (except for revenues and taxation, and foreign policy) (Shackleton 2012: 136). Besides the Economic and Social Committee, we also code the Committee of the Regions as a consultative body from 1994 onwards. Starting with the Lisbon Treaty (2009), national parliaments can compel the European institutions to reconsider a draft proposal if one-third (or one-quarter for some policy areas) estimate that a policy proposal may impinge on subsidiarity.

The second pillar—foreign and defense policy (originally Common Foreign and Security Policy or CFSP)—produces joint actions addressing specific situations for EU operations and common positions setting out general guidelines to which member states must adhere. The procedure in the Maastricht Treaty for both is predominantly intergovernmental. Proposals can be submitted by a member state or the Commission (Arts. J.8 and J.9). Thus, the Commission does not have an exclusive right to initiative. The European Parliament is consulted on "the main aspects and basic choices" and can make recommendations, but has no power to raise the decisional hurdle in the Council or co-decide (Art. J.7). We code the Parliament in the agenda setting stage. The Council takes final decisions by unanimity (Art. J.3). Joint actions "commit the Member States" and they "shall ensure that their national policies conform to the common positions" (Arts. J.3 and J.2). We code both as binding on member states. Ratification is not required.

The Treaty of Amsterdam introduces greater flexibility in CFSP. Common positions and joint actions could be taken on the basis of "constructive abstention" in the Council, so that abstention by up to three member states would not prevent a common decision on the part of the remaining member

states. This comes down to the declaration by a member state that it is not obliged to apply the decision but accepts that the decision commits the Union (Art. J.13). In our coding scheme this is equivalent to supermajority, and since up to three member states can opt out, we code a decision under this rule as conditionally binding.[γ]

The Lisbon Treaty does not fundamentally alter this mode of decision making. The Treaty explicitly excludes binding legislation for "actions" and "positions" (2008 Treaty on the Functioning of the European Union, Arts. 24, 25b, and 31). The Commission's role is somewhat strengthened by virtue of the fact that the High Representative has the authority to initiate action (Art. 30.1). While the Treaty allows for qualified majority voting in the Council, a member state retains a veto when "vital or stated reasons of national policy" are affected (Art. 31.2). Thus, we continue to code unanimity in the Council.

The third pillar in the Maastricht Treaty regulates Justice and Home Affairs (JHA). Its main instruments are joint positions, joint actions, and conventions (den Boer 1996). Conventions, the most important instrument, are adopted unanimously by the Council upon a recommendation by any member state or, on most issues, by the Commission (Art. K.3). Neither the European Parliament nor the European Court of Justice play a role (den Boer 1996). The Council recommends a convention for adoption by member states "in accordance with their respective constitutional requirements" (Art. K.3). This requires ratification by all member states and is binding once adopted.

The Amsterdam Treaty extends the right of initiative for the Commission (Art. K.6). The European Parliament now needs to be consulted and can make recommendations (Art. K.11), and we code the Parliament as a body involved in setting the agenda. Some decisions become subject to ECJ jurisprudence. Furthermore, the Treaty of Amsterdam lowers the threshold for conventions, which can enter into force for member states that ratify them once 50 percent have done so (Art. K6.2(d)). The content of the third pillar also changes considerably. On one side, several areas, including visa, asylum, immigration policy, and crossborder judicial cooperation in civil matters move to the Community pillar as of 2004; on the other, JHA now incorporates the Schengen Agreement on shared border control (Lavenex and Wallace 2005: 464–5).

The Nice Treaty focuses on decisions—in this case, legal acts that implement a joint action or common position—and we code the procedure for decisions in JHA from 2003. The European Parliament, the Commission, and member states are involved in agenda setting. Because a member state can veto a final decision taken in the Council by qualified majority for reasons of national policy, the effective rule in the Council is unanimity (Art 23.2). However,

member states can opt out of a decision that is binding on the rest, so we code this as conditionally binding (Arts. 23.1 and 24.6; Lavenex and Wallace 2005: 465). In contrast to conventions, no ratification is required for decisions. We cease to code JHA as a separate policy stream in 2009 when the Treaty of Lisbon abolishes the three-pillar structure and absorbs nearly all JHA issues under the ordinary legislative procedure.

The Lisbon Treaty sets out the institutional framework for a fifth policy stream, economic and fiscal coordination (Arts. 120–44). The rules apply to all members of the Union, but from 2009, the Eurozone may also take decisions that apply only to the group (Protocol on the Euro Group). We code the rules as they apply to all member states but also flag the Euro Group as a major player (Arts. 136–8). Euro Group governance and EU-wide ECOFIN governance diverge from 2012, when the Euro countries adopt more stringent rules in response to the Eurocrisis (Hodson 2015).

ECOFIN monitors two major policy instruments: broad economic policy guidelines (BEPG), which are non-binding (Art. 121), and the excessive deficit procedure, which can trigger binding sanctions on member states that breach the annual 3 percent deficit limit (Art. 126). The tasks of the Euro Group are to "(a) strengthen the coordination and surveillance of [member state] budgetary discipline, (b) set out economic policy guidelines, while ensuring that they are compatible with those adopted for the whole of the Union and are kept under surveillance" (Art. 136). Non-Euro members can opt out of coercive measures and Euro-related measures (Art. 139.2).

The European Commission drafts BEPGs and produces reports on member states it deems to be inconsistent with guidelines. The Commission also initiates the excessive deficit procedure (Art. 126.3). Hence it seems reasonable to code the Commission as having a monopoly of initiative, even though observers disagree on whether its role has been curtailed (Hodson 2015: 184) or strengthened (Bauer and Becker 2014). Both ECOFIN and the Euro Group adopt recommendations or impose fines by qualified majority, excluding the violating member state. The European Parliament's role is less than in other policy streams: it is kept informed on BEPGs (Art. 121.2) and the excessive deficit procedure (Art. 126.11), and it needs to be consulted on any revision of the rules (Arts. 121.6, 126.14). The ECB participates in the Economic and Finance Committee and in the Euro Group without voting rights. So we code the Commission, the Euro Group, the European Parliament, the Council, and Euro Group (by virtue of the Economic and Financial Committee), and the ECB in agenda setting, and the Council and the Euro Group as final decision maker. We code decisions as conditionally binding because, until a tightening of the rules in 2012 for Eurozone members, the Council uses primarily soft law, that is, peer review, benchmarking, and opprobrium to

nudge member states to adopt specific policies. The excessive deficit procedure can lead to binding decisions, but non-Euro member states can opt out of coercive measures (Art. 139). No ratification is required.

DISPUTE SETTLEMENT

From its inception, the European Union's legal dispute settlement has been a trailblazer for supranational adjudication. The role of the European Court of Justice (ECJ) is enshrined in the Treaties and is obligatory for all member states.

The Court was set up in 1952 as a standing tribunal charged with settling legal disputes between EU member states, EU institutions, businesses, and individuals. It ensures the rule of law in the interpretation, application, and implementation of EU treaties and regulations. Under the ECSC Treaty, the Court's main function is to control the High Authority through annulment actions brought by a member state, the Council, or private actors (Arts. 33 and 35). It could also decide to annul acts of the Assembly or the Council (Art. 38). The Court consists of seven judges—"persons of recognized independence and competence"—appointed consensually by the member states for six years with the possibility of reappointment (Art. 32). The Court renders binding judgments and implies direct effect. Article 44 states that the Court "shall be executory on the territory of the Member States." The Treaty also contains a preliminary rulings clause: "When the validity of acts . . . is contested in litigation before a national tribunal, such issue shall be certified to the Court, which shall have exclusive jurisdiction to rule thereon" (Art. 41). Thus, national courts dealing with a matter under the Court's jurisdiction are required to refer it to the latter.

The Rome Treaty retains a strong Court of Justice, initially with a similar composition of seven judges (Art. 165), but scraps the language referring to direct effect. The Treaty introduces a new preliminary ruling procedure, under Article 177, which now makes a distinction between lower and higher courts. This has since been copied among regional courts around the world. Any national court that has to address matters concerning EEC law can ask the Court for a preliminary ruling. Where the national court is a court of last instance, it is required to do so.

The European Court of Justice asserted direct effect in the 1962 *Van Gend en Loos* case, when the ECJ declared that "the Community constitutes a new legal order of international law for the benefit of which the states have limited their sovereign rights," and following scholarship we date direct effect to this landmark ruling (Alter 2005; Burley and Mattli 1993; Weiler 1991). Until today the EU Treaty does not explicitly refer to the doctrine, yet direct effect is most expansive in the EU (Nollkaemper 2014).

ECSC Institutional Structure (1952–66)

		A1			E1										GS1		GS2		CB1	CB2
Years		Non-state selection	Indirect representation	Weighted voting	Head—agenda	Head—decision	Members—agenda	Members—decision	Non-state selection	Partial representation	Indirect representation	Reserved seats	Weighted voting	Partial veto	Select	Remove	Select	Remove	Non-state selection	Non-state selection
1952	Not body-specific	0	0	1					1	1	2	0	0	0			N	N	3	
	Member states					0	✓	✓							0					
	A1: Special Council																			
	E1: High Authority				3		3	3												
	GS1: High Authority				3		3	3												
	GS2: Council Secretariat																			
	CB1: Common Assembly															2				
	DS: European Court of Justice															✓				
1953–1966	Not body-specific	0	0	1					1	0	2	0	0	0					3	1
	Member states					0	✓	✓							0					
	A1: Special Council																			
	E1: High Authority				3		3	3												
	GS1: High Authority																			
	GS2: Council Secretariat																			
	CB1: Common Assembly															2				
	CB2: Consultative Committee																			
	DS: European Court of Justice															✓				

Note: A = automatic/technocratic procedure; N = no written rule; R = rotation; ✓ = body co-decides, but no voting rule; ← = change in status. Shaded areas refer to institutions or policy areas that are non-existent for those years.

ECSC Decision Making (1952–66)

		Accession			Sus-pension		Constitution				Budget			Com-pliance		Policy 1 (decisions)					Dispute settlement (coal & steel disputes)						
Years		Agenda	Decision	Ratification	Agenda	Decision	Agenda	Decision	Ratification	Revenue source	Agenda	Decision	Binding	Agenda	Decision	Agenda	Decision	GS role	Binding	Ratification	Coverage	Third party	Binding	Tribunal	Non-state access	Remedy	Preliminary ruling
1952	Not body-specific			2	N	N			0	2			2					2	2	3							
	Member states						✓	0																			
	A1: Special Council	0	0				2				3					2	2										
	E1: High Authority	3					3				3	3				3	3										
	GS1: High Authority	3					3				3	3				3	3										
	GS2: Council Secretariat																										
	CB1: Common Assembly																										
	DS: European Court of Justice (ECJ)																				2	2	2	2	2	2	2
1953–1966	Not body-specific			2	N	N			0	2			2					2	2	3							
	Member states						✓	0																			
	A1: Special Council	0	0				2				3					2	2										
	E1: High Authority	3					3				3	3				3	3										
	GS1: High Authority	3					3				3	3				3	3										
	GS2: Council Secretariat																										
	CB1: Common Assembly																										
	CB2: Consultative Committee															3											
	DS: European Court of Justice (ECJ)																				2	2	2	2	2	2	2

Note: A = automatic/technocratic procedure; N = no written rule; R = rotation; ✓ = body co-decides, but no voting rule; ← = change in status. Shaded areas refer to institutions or policy areas that are non-existent for those years.

EEC/EC/EU Institutional Structure (1958–2010)

		A1			A2			A3			E1						
Years		Non-state selection	Indirect representation	Weighted voting	Non-state selection	Indirect representation	Weighted voting	Non-state selection	Indirect representation	Weighted voting	Head—agenda	Head—decision	Members—agenda	Members—decision	Non-state selection	Partial representation	Indirect representation
1958–1966	Not body-specific	0	0	1											0	1	2
	Member states										✓	0	✓	✓			
	A1: Council of the EEC																
	E1: Commission of the EEC										3						
	GS1: Commission of the EEC										3						
	GS2: Council Secretariat																
	CB1: **Eur. Parliamentary Assembly**																
	CB2: **Ecosoc**																
	DS: European Court of Justice																
1967–1974	Not body-specific	0	0	1											0	0	2
	Member states										✓	0	✓	✓			
	A1: **Council of Ministers**																
	E1: **Commission**										3						
	GS1: **Commission**										3						
	GS2: Council Secretariat																
	CB1: **European Parliament** (from 1962)																
	CB2: Ecosoc																
	DS: European Court of Justice																
1975–1976	Not body-specific	0	0	1	0	0	0								0	0	2
	Member states										✓	✓	✓	✓			
	A1: Council of Ministers																
	A2: European Council																
	E1: Commission										3						
	GS1: Commission										3						
	GS2: Council Secretariat																
	CB1: European Parliament																
	CB2: Ecosoc																
	DS: European Court of Justice																
1977–1978	Not body-specific	0	0	1	0	0	0	2	2	0					0	0	2
	Member states										✓		✓				
	A1: Council of Ministers																
	A2: European Council											0		0			
	A3←CB1: European Parliament																
	E1: Commission										3						
	GS1: Commission										3						
	GS2: Council Secretariat																
	CB2: Ecosoc																
	DS: European Court of Justice																
1979–1986	Not body-specific	0	0	1	0	0	0	3	2	0					0	0	2
	Member states										✓		✓				
	A1: Council of Ministers																
	A2: European Council											0		0			

		E2											E3										GS1		GS2		CB1	CB2	CB3
Weighted voting	Partial veto	Head—agenda	Head—decision	Members—agenda	Members—decision	Non-state selection	Partial representation	Indirect representation	Reserved seats	Weighted voting	Partial veto	Head—agenda	Head—decision	Members—agenda	Members—decision	Non-state selection	Partial representation	Indirect representation	Reserved seats	Weighted voting	Partial veto	Select	Remove	Select	Remove	Non-state selection	Non-state selection	Non-state selection
0	0																									3	1	
																						0						
																								0	0			
																							2					
																							✓					
0	0																									3	1	
																						0						
																								0	0			
																							2					
																							✓					
0	0																									3	1	
																								0	0			
																						0						
																							2					
																							✓					
0	0																										1	
																								0	0			
																						0						
																							2					
																							✓					
0	0																										1	
																								0	0			
																						0						

(*continued*)

EEC/EC/EU Institutional Structure (1958–2010) (Continued)

		A1			A2			A3			E1							
Years		Non-state selection	Indirect representation	Weighted voting	Non-state selection	Indirect representation	Weighted voting	Non-state selection	Indirect representation	Weighted voting	Head—agenda	Head—decision	Members—agenda	Members—decision	Non-state selection	Partial representation	Indirect representation	Reserved seats
	A3: European Parliament																	
	E1: Commission										3							
	GS1: Commission										3							
	GS2: Council Secretariat																	
	CB2: Ecosoc																	
	DS: European Court of Justice																	
1987–1992	Not body-specific	0	0	1	0	0	0	3	2	0					0	0	2	0
	Member states										✓		✓					
	A1: Council of Ministers																	
	A2: European Council											0		0				
	A3: European Parliament																	
	E1: Commission										3							
	E2←A1: Council of Ministers																	
	GS: Commission										3							
	CB2: Ecosoc																	
	DS: European Court of Justice																	
1993	Not body-specific	0	0	1	0	0	0	3	2	0					0	0	2	0
	Member states										✓		✓					
	A1: Council of Ministers																	
	A2: European Council											0		0				
	A3: European Parliament																	
	E1: Commission										3							
	E2: Council of Ministers																	
	GS1: Commission										3							
	GS2: Council Secretariat																	
	CB2: Ecosoc																	
	DS: European Court of Justice																	
1994	Not body-specific	0	0	1	0	0	0	3	2	0					0	0	2	0
	Member states										✓		✓					
	A1: Council of Ministers																	
	A2: European Council											0		0				
	A3: European Parliament																	
	E1: Commission										3							
	E2: Council of Ministers																	
	GS1: Commission										3							
	GS2: Council Secretariat																	
	CB2: Ecosoc																	
	CB3: Committee of the Regions																	
	DS: European Court of Justice																	
1995–1997	Not body-specific	0	0	1	0	0	0	3	2	0					2	0	2	0
	Member states												✓					
	A1: Council of Ministers																	
	A2: European Council										0	0		0				
	A3: European Parliament										3			3				

		E2										E3										GS1		GS2		CB1	CB2	CB3
Weighted voting	Partial veto	Head—agenda	Head—decision	Members—agenda	Members—decision	Non-state selection	Partial representation	Indirect representation	Reserved seats	Weighted voting	Partial veto	Head—agenda	Head—decision	Members—agenda	Members—decision	Non-state selection	Partial representation	Indirect representation	Reserved seats	Weighted voting	Partial veto	Select	Remove	Select	Remove	Non-state selection	Non-state selection	Non-state selection
																							2					
																							✓					
0	0	R	R			0	0	0	0	1	0																1	
				✓	✓																							
																								0	0			
																						0						
																							2					
																								0	0			
																							✓					
0	0	R	R			0	0	0	0	1	0																1	
				✓	✓																							
																								0	0			
																						0						
																							2					
																								0	0			
																							✓					
0	0	R	R			0	0	0	0	1	0																1	3
				✓	✓																							
																								0	0			
																						0						
																							2					
																								0	0			
																							✓					
0	0	R	R			0	0	0	0	1	0																1	3
				✓	✓																							
																								0	0			
																						0						
																							2					

(*continued*)

EEC/EC/EU Institutional Structure (1958–2010) (Continued)

		A1			A2			A3			E1							
Years		Non-state selection	Indirect representation	Weighted voting	Non-state selection	Indirect representation	Weighted voting	Non-state selection	Indirect representation	Weighted voting	Head—agenda	Head—decision	Members—agenda	Members—decision	Non-state selection	Partial representation	Indirect representation	Reserved seats
	E1: Commission																	
	E1 Head: Commission president												✓					
	E2: Council of Ministers																	
	GS1: Commission																	
	GS2: GS of the Council																	
	CB2: Ecosoc																	
	CB3: Committee of the Regions																	
	DS: European Court of Justice																	
1998–2002	Not body-specific	0	0	1	0	0	0	3	2	0					2	0	2	0
	Member states												✓					
	A1: Council of Ministers																	
	A2: European Council										0	0		0				
	A3: European Parliament										3	3		3				
	E1: Commission																	
	E1 Head: Commission president												✓					
	E2: Council of Ministers																	
	E3: Euro Group																	
	GS1: Commission																	
	GS2: GS of the Council																	
	CB2: Ecosoc																	
	CB3: Committee of the Regions																	
	DS: European Court of Justice																	
2003–2004	Not body-specific	0	0	1	0	0	0	3	2	0					2	0	2	0
	Member states																	
	A1: Council of Ministers												2					
	A2: European Council										2	2		2				
	A3: European Parliament										3	3		3				
	E1: Commission																	
	E1 Head: Commission president												✓					
	E2: Council of Ministers												2					
	E3: Euro Group																	
	GS1: Commission																	
	GS2: GS of the Council																	
	CB2: Ecosoc																	
	CB3: Committee of the Regions																	
	DS: European Court of Justice																	
2005–2008	Not body-specific	0	0	1	0	0	0	3	2	0					2	0	2	0
	Member states																	
	A1: Council of Ministers												2					
	A2: European Council										2	2		2				
	A3: European Parliament										3	3		3				
	E1: Commission																	
	E1 Head: Commission president												✓					
	E2: Council of Ministers												2					

E2												E3										GS1		GS2		CB1	CB2	CB3
Weighted voting	Partial veto	Head—agenda	Head—decision	Members—agenda	Members—decision	Non-state selection	Partial representation	Indirect representation	Reserved seats	Weighted voting	Partial veto	Head—agenda	Head—decision	Members—agenda	Members—decision	Non-state selection	Partial representation	Indirect representation	Reserved seats	Weighted voting	Partial veto	Select	Remove	Select	Remove	Non-state selection	Non-state selection	Non-state selection
																								0	0			
																							✓					
0	0	R	R			0	0	0	0	1	0	R	R			0	1	0	0								1	3
				✓	✓									✓	✓													
																								0	0			
																						0						
																						3	2					
																								0	0			
																							✓					
0	0	R	R			0	0	0	0	1	0	R	R			0	1	0	0								1	3
				✓	✓									✓	✓													
																								2	2			
																						2						
																						3	2					
																								2	2			
																							✓					
0	0	R	R			0	0	0	0	1	0					1	1	1	0								1	3
				✓	✓									✓	✓													
																								2	2			
																						2						
																						3	2					
																								2	2			

(*continued*)

EEC/EC/EU Institutional Structure (1958–2010) (Continued)

		A1			A2			A3			E1						
Years		Non-state selection	Indirect representation	Weighted voting	Non-state selection	Indirect representation	Weighted voting	Non-state selection	Indirect representation	Weighted voting	Head—agenda	Head—decision	Members—agenda	Members—decision	Non-state selection	Partial representation	Indirect representation
	E3: Euro Group																
	GS1: Commission																
	GS2: GS of the Council																
	CB2: Ecosoc																
	CB3: Committee of the Regions																
	DS: European Court of Justice																
2009–2010	Not body-specific	0	0	1	0	0	0	3	2	0					2	0	2
	Member states												✓				
	A1: **Council of the European Union**												2				
	A2: European Council										2			2			
	A3: European Parliament											3		3			
	E1: **European Commission**																
	E1 Head: Commission president												✓				
	E2: **Council of the European Union**												2				
	E3: Euro Group																
	GS1: **European Commission**																
	GS2: GS of the Council																
	Other A: National parliaments																
	Other E: European Central Bank																
	CB2: Ecosoc																
	CB3: Committee of the Regions																
	DS: European Court of Justice																

Note: A = automatic/technocratic procedure; N = no written rule; R = rotation; ✓ = body co-decides, but no voting rule; ← = change in status. Shaded areas refer to institutions or policy areas that are non-existent for those years.

With the 1962 ruling, the ECJ achieves the highest possible score in our coding scheme on the seven components of dispute settlement, and this continues until the present day. In the intervening years, the scope of its jurisdiction has broadened considerably, from disputes on coal and steel in the ECSC, to trade, flanking policies, and economic integration under the Maastricht Treaty, and since 2009, to jurisprudence related to the Bill of Rights incorporated in the Lisbon Treaty.

The ECJ has also expanded institutionally. The Single European Act set up a Court of First Instance, which began work in 1989, to arbitrate cases brought by natural or legal persons, but not member states or community

			E2											E3											GS1		GS2		CB1	CB2	CB3
Reserved seats	Weighted voting	Partial veto	Head—agenda	Head—decision	Members—agenda	Members—decision	Non-state selection	Partial representation	Indirect representation	Reserved seats	Weighted voting	Partial veto	Head—agenda	Head—decision	Members—agenda	Members—decision	Non-state selection	Partial representation	Indirect representation	Reserved seats	Weighted voting	Partial veto	Select	Remove	Select	Remove	Non-state selection	Non-state selection	Non-state selection
													N	N																
																								✓					
0	0	0	R	R			0	0	0	0	1	0					1	1	1	0	1	0						1	3
					✓	✓									✓	✓													
																									2	2			
																							3	2					
																									2	2			
													3	3															
																								✓					

organs (Art. 168a). The Maastricht Treaty increases the number of judges to thirteen and convenes the Court in plenary session when a member state or community institution is involved; otherwise, it convenes in chambers of three to five judges (Art. 165). Since Maastricht the Court can impose fines on non-compliant member states (Art. 171.2) and the jurisdiction of the preliminary rulings procedure is extended (Art. 177). Similar smaller changes have taken place through subsequent treaties, such as adjusting the number of judges in response to enlargements. Since Lisbon, the Court is composed of one judge per member state, appointed by joint agreement between the governments after consultation of a panel comprised of seven persons chosen among former members of the Court of Justice and the General Court, members of national supreme courts, and lawyers of recognized competence, one of whom is proposed by the European Parliament (Art. 255).

EEC/EC/EU Decision Making (1958–2010)

		Accession			Sus-pension		Constitution				Budget			Com-pliance	
Years		Agenda	Decision	Ratification	Agenda	Decision	Agenda	Decision	Ratification	Revenue source	Agenda	Decision	Binding	Agenda	Decision
1958–1962	Not body-specific			0	N	N			0	1			2	N	N
	Member states						✓	0							
	A1: Council of the EEC	0	0				N					2			
	E1: Commission of the EEC	3					3				3				
	GS1: Commission of the EEC	3					3				3				
	GS2: Council Secretariat														
	CB1: **Eur. Parliamentary Assembly**						3				3				
	CB2: **Ecosoc**														
	DS: European Court of Justice														
1963–1970	Not body-specific			0	N	N			0	1			2	N	N
	Member states						✓	0							
	A1: Council	0	0				N					2			
	E1: Commission	3					3				3				
	GS1: Commission	3					3				3				
	GS2: Council Secretariat														
	CB1: **European Parliament**						3				3				
	CB2: Ecosoc														
	DS: European Court of Justice														
1971–1974	Not body-specific			0	N	N			0	2			2		
	Member states						✓	0							
	A1: Council of Ministers	0	0				N					2			
	E1: Commission	3					3				3				
	GS1: Commission	3					3				3				
	GS2: Council Secretariat														
	CB1: European Parliament						3				3				
	CB2: Ecosoc														
	DS: European Court of Justice														
1975–1976	Not body-specific			0	N	N			0	2			2		
	Member states						✓	0							
	A1: Council of Ministers	0	0				N					2			
	A2: European Council						N								
	E1: Commission	3					3				3				
	GS1: Commission	3					3				3				
	GS2: Council Secretariat														
	CB1: European Parliament						3				3				
	CB2: Ecosoc														
	DS: European Court of Justice														
1977–1978	Not body-specific			0	N	N			0	2			2		
	Member states						✓	0							
	A1: Council of Ministers	0	0				N					2			
	A2: European Council						N								

Policy 2 (directives, regulations)					Policy 3 (joint actions, common positions foreign policy)					Policy 4 (conventions/ decisions Justice & Home Affairs)					Policy 5 (monitoring fiscal & econ coordination)					Dispute settlement (common market/ general purpose)						
Agenda	Decision	GS role	Binding	Ratification	Agenda	Decision	GS role	Binding	Ratification	Agenda	Decision	GS role	Binding	Ratification	Agenda	Decision	GS role	Binding	Ratification	Coverage	Third party	Binding	Tribunal	Non-state access	Remedy	Preliminary ruling
		2	2	3																						
	0																									
3																										
3																										
3																										
3																										
																				2	2	2	2	2	0	2
		2	2	3																						
	0																									
3																										
3																										
3																										
3																										
																				2	2	2	2	2	2	2
		2	2	3																						
	0																									
3																										
3																										
3																										
3																										
																				2	2	2	2	2	2	2
		2	2	3																						
	0																									
3																										
3																										
3																										
3																										
																				2	2	2	2	2	2	2
		2	2	3																						
	0																									

(*continued*)

EEC/EC/EU Decision Making (1958–2010) (Continued)

		Accession			Sus-pension		Constitution				Budget			Com-pliance	
Years		Agenda	Decision	Ratification	Agenda	Decision	Agenda	Decision	Ratification	Revenue source	Agenda	Decision	Binding	Agenda	Decision
	A3←CB1: European Parliament						3				3	2			
	E1: Commission	3					3				3				
	GS1: Commission	3					3				3				
	GS2: Council Secretariat														
	CB2: Ecosoc														
	DS: European Court of Justice														
1980–1984	Not body-specific			0	N	N			0	2			2		
	Member states						✓	0							
	A1: Council of Ministers	0	0									2			
	A2: European Council	0	0				N								
	A3: European Parliament						3				3	2			
	E1: Commission	3					3				3				
	GS1: Commission	3					3				3				
	GS2: Council Secretariat														
	CB2: Ecosoc														
	DS: European Court of Justice														
1985–1986	Not body-specific			0	N	N			0	2			2		
	Member states						✓								
	A1: Council of Ministers	0	0									2			
	A2: European Council	0	0				3	0							
	A3: European Parliament						3				3	2			
	E1: Commission	3					3				3				
	GS1: Commission	3					3				3				
	GS2: Council Secretariat														
	CB2: Ecosoc														
	DS: European Court of Justice														
1987–1992	Not body-specific			0	N	N			0	2			2		
	Member states						✓								
	A1: Council of Ministers	0	0									2			
	A2: European Council	0	0				3	0							
	A3: European Parliament		3				3				3	2			
	E1: Commission	3					3				3				
	E2←A1: Council of Ministers	0	0									2			
	GS1: Commission	3					3				3				
	GS2: Council Secretariat														
	CB2: Ecosoc														
	DS: European Court of Justice														
1993	Not body-specific			0	N	N			0	2			2		
	Member states						✓								
	A1: Council of Ministers	0	0									2			
	A2: European Council	0	0				3	0							

Policy 2 (directives, regulations)					Policy 3 (joint actions, common positions foreign policy)					Policy 4 (conventions/ decisions Justice & Home Affairs)					Policy 5 (monitoring fiscal & econ coordination)					Dispute settlement (common market/ general purpose)						
Agenda	Decision	GS role	Binding	Ratification	Agenda	Decision	GS role	Binding	Ratification	Agenda	Decision	GS role	Binding	Ratification	Agenda	Decision	GS role	Binding	Ratification	Coverage	Third party	Binding	Tribunal	Non-state access	Remedy	Preliminary ruling
3																										
3																										
3																										
3																										
																				2	2	2	2	2	2	2
		2	2	3																						
	0																									
3																										
3																										
3																										
3																										
																				2	2	2	2	2	2	2
		2	2	3																						
	0																									
3																										
3																										
3																										
3																										
																				2	2	2	2	2	2	2
		2	2	3																						
	2																									
3																										
3																										
	2																									
3																										
3																										
																				2	2	2	2	2	2	2
		2	2	3			1	2	3			1	2	0												
					√					√																
	2					0					0															

(*continued*)

EEC/EC/EU Decision Making (1958–2010) (Continued)

		Accession			Sus-pension		Constitution				Budget			Com-pliance	
Years		Agenda	Decision	Ratification	Agenda	Decision	Agenda	Decision	Ratification	Revenue source	Agenda	Decision	Binding	Agenda	Decision
	A3: European Parliament		3				3				3	2			
	E1: Commission	3					3				3				
	E2: Council of Ministers	0	0									2			
	GS1: Commission	3					3				3				
	GS2: Council Secretariat														
	CB2: Ecosoc														
	DS: European Court of Justice														
1994–1997	Not body-specific			0	N	N			0	2			2		
	Member states						✓								
	A1: Council of Ministers	0	0									2			
	A2: European Council	0	0				3	0							
	A3: European Parliament		3				3				3	2			
	E1: Commission	3					3				3				
	E2: Council of Ministers	0	0									2			
	GS1: Commission	3					3				3				
	GS2: Council Secretariat														
	CB2: Ecosoc														
	CB3: Committee of the Regions														
	DS: European Court of Justice														
1998	Not body-specific			0	N	N			0	2			2		
	Member states						✓								
	A1: Council of Ministers	0	0									2			
	A2: European Council	0	0				3	0							
	A3: European Parliament		3				3				3	2			
	E1: Commission	3					3				3				
	E2: Council of Ministers	0	0									2			
	E3: Euro Group														
	GS1: Commission	3					3				3				
	GS2: Council Secretariat														
	CB2: Ecosoc														
	CB3: Committee of the Regions														
	DS: European Court of Justice														
1999–2002	Not body-specific			0					0	2			2		
	Member states						✓								
	A1: Council of Ministers	0	0		3	2						2			
	A2: European Council	0	0			0	3	0							
	A3: European Parliament		3		2		3				3	2			
	E1: Commission	3			3		3				3				
	E2: Council of Ministers	0	0		3	2						2			
	E3: Euro Group														
	GS1: Commission	3			3		3				3				

Policy 2 (directives, regulations)					Policy 3 (joint actions, common positions foreign policy)					Policy 4 (conventions/ decisions Justice & Home Affairs)					Policy 5 (monitoring fiscal & econ coordination)					Dispute settlement (common market/ general purpose)						
Agenda	Decision	GS role	Binding	Ratification	Agenda	Decision	GS role	Binding	Ratification	Agenda	Decision	GS role	Binding	Ratification	Agenda	Decision	GS role	Binding	Ratification	Coverage	Third party	Binding	Tribunal	Non-state access	Remedy	Preliminary ruling
3	3				3																					
3					3					3																
	2					0					0															
3					3					3																
3																										
																				2	2	2	2	2	2	2
		2	2	3			1	2	3			1	2	0												
					✓					✓																
	2					0					0															
3	3				3																					
3					3					3																
	2					0					0															
3					3					3																
3																										
3																										
																				2	2	2	2	2	2	2
		2	2	3			1	2	3			1	2	1												
					✓					✓																
	2					0					0															
3	3				3																					
3					3					3																
	2					0					0															
3					3					3																
3																										
3																										
																				2	2	2	2	2	2	2
		2	2	3			1	1	3			1	2	0												
					✓					✓																
	2					2					0															
3	3				3					3																
3					3					3																
	2					2					0															
3					3					3																

(*continued*)

EEC/EC/EU Decision Making (1958–2010) (Continued)

		Accession			Sus-pension		Constitution				Budget			Com-pliance	
Years		Agenda	Decision	Ratification	Agenda	Decision	Agenda	Decision	Ratification	Revenue source	Agenda	Decision	Binding	Agenda	Decision
	GS2: Council Secretariat														
	CB2: Ecosoc														
	CB3: Committee of the Regions														
	DS: European Court of Justice														
2003–2008	Not body-specific			0					0	2			2		
	Member states	✓					✓								
	A1: Council of Ministers	0	0			2						2			
	A2: European Council	0	0			0	3	0							
	A3: European Parliament		3		2		3				3	2			
	E1: Commission	3			3		3				3				
	E2: Council of Ministers	0	0		3	2						2			
	E3: Euro Group														
	GS1: Commission	3			3		3				3				
	GS2: Council Secretariat														
	CB2: Ecosoc														
	CB3: Committee of the Regions														
	DS: European Court of Justice														
2009–2010	Not body-specific			0					0	2			2		
	Member states	✓					✓								
	A1: **Council of the European Union**	0	0			2						2			
	A2: European Council	0	0			0	3	0							
	A3: European Parliament		3		2		0				3	3			
	E1: **European Commission**	3			3		0				3				
	E2: Council of the European Union	0	0		3	2						2			
	E3: Euro Group														
	GS1: **European Commission**	3			3		0				3				
	GS2: Council Secretariat														
	Other A: National parliaments						✓								
	Other E: European Central Bank														
	CB2: Ecosoc														
	CB3: Committee of the Regions														
	DS: European Court of Justice														

Note: A = automatic/technocratic procedure; N = no written rule; R = rotation; ✓ = body co-decides, but no voting rule; ← = change in status. Shaded areas refer to institutions or policy areas that are non-existent for those years.

Policy 2 (directives, regulations)					Policy 3 (joint actions, common positions foreign policy)					Policy 4 (conventions/ decisions Justice & Home Affairs)					Policy 5 (monitoring fiscal & econ coordination)					Dispute settlement (common market, general purpose)						
Agenda	Decision	GS role	Binding	Ratification	Agenda	Decision	GS role	Binding	Ratification	Agenda	Decision	GS role	Binding	Ratification	Agenda	Decision	GS role	Binding	Ratification	Coverage	Third party	Binding	Tribunal	Non-state access	Remedy	Preliminary ruling
3																										
3																										
																				2	2	2	2	2	2	2
		2	2	3			1	1	3			1	1	3												
					✓					✓																
	2					2					0															
3	3				3					3																
3					3					3																
	2					2					0															
3					3					3																
3																										
3																										
																				2	2	2	2	2	2	2
		2	2	3			1	1	3								2	1	3							
					✓																					
	2					2									2											
3	3				3										3											
3					3										3											
	2					2									2	2										
															2	2										
3					3										3											
✓																										
															3											
3																										
3																										
																				2	2	2	2	2	2	2

Nordic Council (NORDIC)

The Nordic Council and the Nordic Council of Ministers are the two pillars of an interparliamentary and intergovernmental forum for cooperation between Denmark, Iceland, Norway, Sweden, Finland, the Faroe Islands, Åland, and Greenland. Their aim is to "promote and strengthen the close ties existing between the Nordic peoples in matters of culture, and of legal and social philosophy, and to extend the scale of cooperation between the Nordic countries" through regular consultation and cooperation in a range of issue areas (Preamble, Helsinki Treaty). The Nordic Council is at the heart of a web of cooperation that "is comprehensive and that, by its manifoldness, is rather unique" (Andrén 1984: 261). The headquarters of the Nordic Council and the Nordic Council of Ministers are in Copenhagen, Denmark.

Attempts to Scandinavian unification go back to the fourteenth century (Deutsch 1957; Dolan 1959), but the modern roots of the Nordic Council date from the mid-nineteenth century when a "Scandinavian movement" sought to advance non-coercive political union and cultural integration. In the 1870s, Denmark, Sweden, and Norway (then still part of Sweden) formed a Scandinavian Monetary Union, which lasted until World War I. From 1907 the Scandinavian parliaments have met regularly within the Nordic Inter-Parliamentary Union (Finland and Iceland joined after World War I), which held regular conferences until 1957, when it was officially dissolved (Berg 1988: 37–40; Anderson 1967: 16). After World War I, new contacts were established. The Norden Association was created by private persons to promote cultural ties among the Nordic peoples. Informal meetings by government representatives were regularized from the early 1930s onwards (Solem 1977: 24–5). However, more structured efforts at governmental cooperation began to take shape only in the post-World War II era.

In the late 1940s, plans for a defense alliance among Denmark, Norway, Sweden, and Finland failed. Denmark, Norway, and Iceland joined the North Atlantic Treaty Organization (NATO) in 1949, while Sweden and Finland chose neutrality (Aalders 1990). However, the participation of parliamentarians from Scandinavian countries in governmental negotiations set a precedent that "had an important impact on intra-Scandinavian relations" (Solem 1977: 40; Berg 1988: 41–2). At the twenty-eighth session of the Nordic Inter-Parliamentary Union in 1951, Danish Prime Minister Hans Hedtoft proposed to create a more permanent parliamentary structure. In December of that year, the Inter-Parliamentary Union adopted the Statute of the Nordic Council and submitted the proposal to the Nordic legislatures for ratification. The parliaments in Denmark, Iceland, Norway, and Sweden approved the Statute in 1952, but Finland rejected it under Soviet pressure (Dolan 1959: 511–12). Finland joined in 1955 after the death of Stalin. The Faroe Islands, a self-governing

territory under the sovereignty of Denmark, and Åland, a Swedish-speaking, autonomous region of Finland, acceded in 1970, and Greenland in 1984.

The Nordic Council held its first session in February 1953 in Copenhagen, and got off to a strong start. Early efforts resulted in a common labor market agreement, adopted in 1954, which facilitated the movement of labor between member states, and in a convention on social security in 1955. But soon the parliamentarians became disillusioned with the lack of serious engagement by the governments. Governments, which held a formal right of initiative, submitted few recommendations to the Council, and they "have not joined seriously in debate" (Anderson 1967: 106).

By the early 1960s several member states began to ponder joining the European Economic Community. In an effort to "prevent a breakup of the Nordic community of interests and a weakening of ongoing cooperation" (Solem 1977: 60; also Berg 1988: 85–6), the member states formalized Nordic cooperation in legal, cultural, social, and economic affairs in the intergovernmental Helsinki Treaty. The Treaty was passed in 1962.

The first Treaty revision in 1971 overhauled the institutional architecture. Most importantly, an intergovernmental pillar was created alongside the parliamentary pillar of the Nordic Council (Sundelius and Wiklund 1979: 66). While governments had held regular informal meetings among themselves ever since the early 1940s, the Nordic Council of Ministers was to function as a regular intergovernmental forum alongside the Nordic Council. The Nordic Council's founding statute was incorporated in the Helsinki Treaty (Berg 1988: 89–90). A permanent secretariat was created, and provisions were made for integrating the self-governing territories of Faroe Islands and Åland into the organization (for an overview, see Solem 1977: ch. 3). In 1974 the scope of cooperation was widened to include environmental policy. In 1983 the Treaty was revised once again to strengthen representation of the three autonomous territories following the accession of Greenland.

Sweden and Finland's accession to the EU in 1995 shifted the focus of Nordic cooperation toward culture and the environment. The Nordic Council has also invested in strengthening relations with the Baltic states (Estonia, Latvia, and Lithuania) in an effort to establish a "soft security agenda" (Stålvant 2002; Cogen 2015: 176–80). Even though the Nordic Council's recommendations to governments have advisory force only, it has been relatively successful "as a sort of pressure group" (Solem 1977: 48). Recommendations backed by a large majority in the Nordic Council carry normative force, and tend to receive significant news coverage in the media.

The key legal documents are the Statute of the Northern Council (signed 1951; in force 1952), the Treaty of Cooperation between Denmark, Finland, Iceland, Norway, and Sweden (Helsinki Treaty) (signed and in force 1962) and subsequent revisions in 1971, 1974, 1983, 1985, 1991, 1993, and 1995. Today,

the organization has two assemblies (Nordic Council Plenary Assembly and Nordic Council of Ministers), two executives (Presidium and Council of Ministers), and two secretariats (Secretariat of the Council and the Secretariat of the Council of Ministers).

Institutional Structure

A1: FROM THE NORDIC COUNCIL (1952–70) TO THE PLENARY ASSEMBLY (1971–2010)

The initial statute created the Nordic Council as the decision making body of the organization, comprised of parliamentary and ministerial delegates from each member state. The Danish, Norwegian, and Swedish parliaments were entitled to sixteen delegates, while the Icelandic Parliament could send five representatives, to be elected by each of the parliaments for the period of one year and representing "different political opinions" (Art. 2).[54] The elected representatives are described explicitly as delegates—not trustees—of their national parliaments. In addition, countries could send an undefined number of cabinet ministers, who had the right to submit proposals, but could not vote or serve on Council committees (Arts. 2 and 9). The Council had the task to discuss issues of common interest and to adopt non-binding recommendations to the governments. Decisions were taken by majority vote and only the parliamentary delegates from countries concerned by a particular recommendation were eligible to vote (Art. 10; Dolan 1959: 518). The Council was chaired by the president, elected at each session, and met at least once a year (Arts. 4 and 5). Thus, we code the Assembly's composition as "at least 50 percent selected by parliaments" whereby "50 percent or less of the members receive voting instructions from their government." Because of the strong emphasis on national delegation, we code voting as weighted.

The Council was assisted by a committee system (Art. 7). Each committee consisted of three or four members from the larger countries and one from Iceland. The Council elected the committees' members and there initially existed four such committees concerning cultural affairs, juridical and legislative matters, economic affairs and communications, and social issues (Anderson 1967: 47). The committee sessions were the primary venue for close cooperation between government representatives and parliamentarians (Dolan 1959: 516).

The revised 1971 Helsinki Treaty established the Plenary Assembly as the main decision organ for recommendations (Art. 46). It could also direct recommendations or other statements to the newly created Council of Ministers (Art. 40). Moreover, since 1971 the Faroe Islands and Åland Islands have

[54] When Finland acceded in 1955, it could send sixteen delegates to the Council as well as a member on the Presidium.

seats in the Assembly. The Council now had seventy-eight members, sixteen from Denmark, seventeen from Finland, six from Iceland, eighteen from both Norway and Sweden, two from the Faroe Island, and one from Åland (Art. 42). While the four "old" members continued to be eligible for nominating as many government representatives to the Council as they wished, the two "new" members were each designated one government representative (Art. 42). Government members did not have the right to vote (Art. 44).

After the accession of Greenland, the 1983 amendment of the Helsinki Treaty designates two delegates to each of the three self-governing territories and redistributes the number of seats for the other countries, thereby raising the total number of delegates to eighty-seven (Art. 47). There is no longer a limit on how many government officials the territories can appoint.

A2: NORDIC COUNCIL OF MINISTERS (1972–2010)

The Nordic Council of Ministers was created as a second decision making body in 1971. It was initially comprised of an unspecified number of "members of the Government of each country" and could only take decisions when all countries were present, with each country having one vote (Arts. 56 and 57). It can take decisions on Nordic cooperation, submit an annual report to the Nordic Council on cooperation, and give an account to the Plenary Assembly on the measures taken in respect of their recommendations (Arts. 58, 59, and 60). It takes decisions by consensus, with the possibility of abstention (Art. 57). These decisions are in principle binding on all member states. Matters that require parliamentary approval in one of the member states are only binding once that national parliament has had its say and, until this happens, the decision is not binding for any member state (Art. 63).

With the 1983 amendment, the governments of the Faroe Islands, Åland, and Greenland can participate in the work of the Council and appoint representatives (Art. 60). It appears that they are not quite on par with the member states. Their consent is not needed for a constitutional, budgetary, or policy decision to become binding, and this is reflected in the subtle treaty language: while governments "cooperate," provincial executives merely "participate" (Art. 60). However, provincial governments have something that amounts to an opt-out right because they are not bound by decisions they do not support (Art. 63). Notwithstanding the relatively inclusive provisions on territorial participation, we continue to code composition as fully member state.[γ]

The 1993 amendment introduces rotation in the Council's chairmanship (Art. 61). Over the years, the Council of Ministers had become more active and a variety of ministerial meetings had emerged. This is, for the first time, acknowledged in this amendment. The prime ministers are responsible for overall coordination (Art. 61).

E1: PRESIDIUM (1952–2010)

The Presidium initially served as the sole executive body of the organization. It was comprised of a president and several deputy presidents elected by the Nordic Council for one year (Founding Statute, Art. 5). The head of the Presidium was the leader of the host delegation and her deputies were the heads of the other national delegations (Solem 1977: 51).[55] Government members could not serve on the Presidium (Dolan 1959: 515). Hence, it was composed of delegates from national parliaments, all member states were represented, and representation was indirect (Anderson 1967: 37). These features remain unchanged over the years.

The Presidium's primary task was to oversee the Council's work in the period between Council meetings, to assess what governments had done in response to the Council's recommendations, to plan the next Council session, and to supervise the national secretariats (Art. 8; see also list in Anderson 1967: 40). The Presidium took decisions by unanimity, but in more routine activities "the members of the Presidium act individually, without mutual consultation" (Anderson 1967: 40; 1953 Rules of Procedure, Section 22).

The 1971 revised Helsinki Treaty enlarges the Presidium, which now consists of a president, four vice-presidents, and a deputy for each of them. All member state delegations are represented on the Presidium (Art. 47). The body is also given the power to "make some other form of request in place of a recommendation by the Plenary Assembly" in-between plenary sessions (Art. 51).

In 1985, the Presidium substantially expanded to better reflect the ideological composition of the Plenary Assembly (Berg 1988: 175). Each member state has two members representing different political orientations (1985 Amendment, Art. 52). The 1991 amendment limits the Presidium to "a president and at most ten other members" (Art. 52). It also gives it the right to make proposals to the Plenary Assembly (Art. 55).

E2: NORDIC COUNCIL OF MINISTERS (1971–2010)

The Nordic Council of Ministers, created in 1971, also serves as an executive body for recommendations adopted by the Plenary Assembly. In fact, for the purpose of ministerial cooperation between member states, not the Presidium but the Council of Ministers takes up executive functions. The Treaty stipulates that it "shall submit statements on measures taken in respect of the Council's recommendations and other representations" prior to a Plenary Assembly session (Art. 65). As noted earlier, the Council is composed of

[55] The latter rule takes precedence over election to a one-year term, that is, when national delegations change the chair during the term of an elected member, the new chair joins the Presidium and the former chair steps down (Anderson 1967: 37–8). So there is an argument to be made that the national delegations are the ones that select the members of the Presidium. Still, the Nordic Council votes on the candidates, which is why we continue to code this body as the primary initiator and decider.[β]

member state representatives, all member states are represented, and representation is direct. The chair rotates between member states on an annual basis, and is held by the minister of the country in which the next session of the Nordic Council will take place (1985 Rules of Procedure of the Nordic Council of Ministers, Art. 4; Solem 1977: 33).

GS1: SECRETARIAT (1971–2010)

Initially, the organization did not have a common general secretariat for "fear of the possible creation of a Nordic bureaucracy" (Anderson 1967: 46). Each member state maintained a permanent secretariat of its own, and these, jointly, coordinated the work of the Council. Thus, "there are five juridically equal secretariats, each established by its parent national delegation" (Anderson 1967: 41). The secretariat of the host country acted as the general secretariat for a session.

The 1971 Revised Treaty creates a single secretariat that exists alongside the national sections.[56] Its chief task is to assist the Nordic Council in its activities (Art. 49). It consists of a secretary, appointed by the Presidium, and five additional secretaries, one for each national delegation (Art. 49). All staff members at the Nordic Council Secretariat are on five-year employment contracts with the possibility of a three-year extension. This also applies to the secretary general (formerly called director), who is appointed by the Presidium (voting rule unspecified).$^{\alpha}$ The Secretariat is located in Stockholm, Sweden.

GS2: SECRETARIAT OF THE NORDIC COUNCIL OF MINISTERS (1973–2010)

One year after the creation of the Council of Ministers in 1971, member states created a Secretariat for the body, which came into existence in 1973 (1973 Secretariat Agreement; see also 1974 Helsinki Treaty, Art. 61). It was initially divided into two units, both with their own secretary general or director: one located in Copenhagen to deal with culture, research, and education, and the other one in Oslo to deal with all other areas of cooperation (Arts. 1 and 2). In 1986, the two sections were merged in Copenhagen (Berg 1988: 288). We assume that the secretary generals were, from the beginning, appointed by the Nordic Council of Ministers by the general decision rule, that is, unanimity.$^{\alpha}$ There are no rules on the length of tenure or removal, but all contracts are of limited duration. Bylaws consulted on the Norden website suggest that the typical contract is four years.[57]

[56] For a list of secretary generals since then, see also <http://www.worldstatesmen.org/International_Organizations2.html#Nordic> (accessed February 12, 2017).

[57] See <http://foreningen-norden.dk/om-foreningen-norden/det-officielle-nordiske-samarbejde/> (accessed February 12, 2017).

CONSULTATIVE BODIES

There are no standing consultative bodies composed of non-state representatives. A variety of non-state actors cooperate across national boundaries—the Nordic Council of Trade Unions created in 1972 is one example (Skulason and Jääskelainen 2000). However, according to our information, none enjoys explicit consultative status with the Nordic Council or the Nordic Council of Ministers.[58]

Decision Making

MEMBERSHIP ACCESSION

The Nordic Council is open to all the Nordic countries, and no additional membership criteria have been specified. Lawyers label it a "closed organization" (Berg 1988: 128, our translation).

MEMBERSHIP SUSPENSION

No written rules.

CONSTITUTIONAL REFORM

Initially, the organization did not have written rules on constitutional reform, which was partly due to the fact that the organization was based on a statute rather than an intergovernmental treaty (Berg 1988: 58–64). The 1971 amendment to the Helsinki Treaty introduced minimal rules for regulating constitutional reform. It simply states: "Before the countries agree on any amendment to this Agreement, the Nordic Council shall be afforded an opportunity to state its views" (Art. 63). Thus, we code member states having the right to propose amendments, the Nordic Council is consulted (and takes decisions by majority vote), and the Nordic Council of Ministers accepts amendments by unanimity. Ratification by all member states (not including the territories) is required before amendments enter into force (Art. 63III).

REVENUES

The founding statute merely mentions that each "country shall defray the expenses of its own representation and national Secretariat and also the extraordinary expenses involved by sessions held in its territory. Common expenses shall be defrayed in accordance with a decision of the Council" (Art. 13). Thus, we initially code ad hoc member state contributions (see also

[58] The secretary general is reported to "maintain close formal as well as informal contacts with the various Nordic official institutions involved in policy-making," at least in the earlier decades (Sundelius and Wiklund 1979: 70).[Y]

Anderson 1967: 101–3), though we could also code "not applicable" because the bulk of expenses were borne by national governments.[γ]

With the 1971 Helsinki Treaty, members introduce a distribution key for "common expenses" based on gross national product (Art. 53). From 1971 we code regular member state contributions. While the apportionment of costs was initially decided by the Plenary Assembly, since 1991 this decision is taken by the Presidium (1991 Amendment, Art. 58). The 2010 budget amounts to approximately 7 billion Euros.[59]

BUDGETARY ALLOCATION

There was no need for a budgetary procedure in the first decades because there was no common budget. Common expenses such as printing costs of the annual reports, were distributed among member states in an ad hoc fashion, usually after a decision by the Nordic Council (Berg 1988: 253–5). These common costs were tiny in comparison to the costs that each member state carried individually. Even after member states introduced an apportionment rule based on gross national product in 1971, there appeared to be no codification of this rule.[60] In practice, the way in which common expenses were distributed among member states frequently changed during this period, and so we code "no written rule" (Berg 1988: 257–8).[α]

The 1985 amendment introduces a skeletal budgetary procedure. The Council of Ministers submits alongside its annual work plan, which it presents at the Plenary Assembly, a "budget proposal for Nordic co-operation. Before the Council of Ministers arranges for the preparation of the budget proposal, the bodies concerned within the Nordic Council shall be given an opportunity to state their views" (Art. 64) (for a more detailed description, see Berg 1988: 301).[61] Hence we code both the Council of Ministers and the Plenary Assembly, acting by majority vote, as setting the agenda, and the Council of Ministers as taking the final decision. The Council of Ministers decides by unanimity and its decisions are binding on member states (with opt-out opportunity for the self-governing territories).

The 1993 amendment fills out the procedure more fully, but leaves the general lines essentially unchanged. It now clearly states that the Council of Ministers submits the draft budget to the Nordic Council for comment. The Nordic Council may "propose different priorities within the financial framework specified by the Council of Ministers," which the latter generally follows "[u]nless there are

[59] See <http://www.norden.org/en/about-nordic-co-operation/financing/> (accessed February 12, 2017).

[60] Berg (1988: 257) cites a report by the Presidium as the source of this "rule." Most other secondary sources do not mention it at all.

[61] This budget encompasses activities and institutions that form part of the wider Nordic cooperation process (Berg 1988: 300–1).

particular circumstances" (Art. 64).[62] This gives the Nordic Council a very strong agenda setting role, but it is the Council of Ministers that proposes the general financial framework and that continues to take the final decision.

FINANCIAL COMPLIANCE

No written rules.

POLICY MAKING

The chief policy instrument of the Nordic Council is the recommendation, which is issued to the national governments (Etzioni 2001: 191; Anderson 1967: ch. 4). Recommendations can be proposed by any government or by individual representatives, and they are transmitted to the Presidium through the respective national secretariats before each session, accompanied by "such explanatory reports as the Presidium may deem necessary" (Founding Statute, Art. 9; 1953 Rules of Procedure, Section 2). Hence we code member states and the Nordic Council as agenda setters, the latter by majority. There is no Nordic secretariat in the early decades, and the secretariat created in 1971 does not have agenda setting powers. Initially, the Nordic Council adopted proposed recommendations by simple majority (1953 Rules of Procedure, Section 15). Since an amendment in 1962, an absolute majority is required (1962 Rules of Procedure, Section 15; Anderson 1967: 88–9).[63] Our coding does not pick up the slight change in the decision rule. Recommendations are non-binding and do not require ratification.

The 1971 amendment to the Helsinki Treaty introduces a new decision body—the Nordic Council of Ministers. This leads to several changes. First, the Council of Ministers can now also submit proposals to the Nordic Council which may become the basis of Nordic Council recommendations (Art. 50). Individual Council members can submit proposals as well (Art. 50). Before being considered by the Council, these pass through the respective Council committees (Art. 50). Hence, we add the Council of Ministers as agenda setter. Since 1993 the Presidium of the Nordic Council can also initiate recommendations (Helsinki Act, amendment of 1991, Art. 55). The Presidium takes decisions by simple majority (1985 Rules of Procedure, Art. 19; see also Berg 1988: 182).

The Council of Ministers also has its own policy stream of decisions, which are adopted by consensus (Arts. 55 and 57). The Nordic Council has agenda setting power: "the Council may adopt recommendations, make other representations or make statements to one or more of the Nordic countries' Governments or to the Council of Ministers" (Art. 40). The Treaty states clearly

[62] A 1995 amendment changed the adjective "particular" to "extreme."

[63] In practice, however, unanimity was the dominant mode of decision making (see Etzioni 2001: 191–2; Anderson 1967: 92).

NORDIC Institutional Structure

		A1			A2			E1										E2										GS1		GS2	
Years		Non-state selection	Indirect representation	Weighted voting	Non-state selection	Indirect representation	Weighted voting	Head—agenda	Head—decision	Members—agenda	Members—decision	Non-state selection	Partial representation	Indirect representation	Reserved seats	Weighted voting	Partial veto	Head—agenda	Head—decision	Members—agenda	Members—decision	Non-state selection	Partial representation	Indirect representation	Reserved seats	Weighted voting	Partial veto	Select	Remove	Select	Remove
1952–1970	Not body-specific	2	2	1								2	0	2	0	0	0														
	Member states																														
	A1: Nordic Council							3	3	3	3																				
	E1: Presidium																														
1971–1972	Not body-specific	2	2	1	0	0	0					2	0	2	0	0	0	R	R			0	0	0	0	0	0		N		
	Member states																			✓	✓										
	A1: **Plenary Assembly**							3	3	3	3																				
	A2: Nordic Council of Ministers																														
	E1: Presidium																											N			
	E2: Nordic Council of Ministers																														
	GS1: General Secretariat																														
1973–1982	Not body-specific	2	2	1	0	0	0					2	0	2	0	0	0	R	R			0	0	0	0	0	0		N		N
	Member states																			✓	✓										
	A1: Plenary Assembly							3	3	3	3																				
	A2: Nordic Council of Ministers																													0	
	E1: Presidium																											N			
	E2: Nordic Council of Ministers																													0	
	GS1: General Secretariat																														
	GS2: GS of the Council of Min.																														
1983–2010	Not body-specific	2	2	1	0	0	0					2	0	2	0	0	0	R	R			0	0	0	0	0	0		N		N
	Member states																			✓	✓										
	A1: Plenary Assembly							3	3	3	3																				
	A2: Nordic Council of Ministers																													0	
	E1: Presidium																											N			
	E2: Nordic Council of Ministers																													0	
	GS1: General Secretariat																														
	GS2: GS of the Council of Min.																														
	Non-state: subnational govts	✓																		✓	✓										

Note: A = automatic/technocratic procedure; N = no written rule; R = rotation; ✓ = body co-decides, but no voting rule; ← = change in status. Shaded areas refer to institutions or policy areas that are non-existent for those years.

NORDIC Decision Making

		Accession			Sus-pension		Constitution				Budget		
Years		Agenda	Decision	Ratification	Agenda	Decision	Agenda	Decision	Ratification	Revenue source	Agenda	Decision	Binding
1952–1970	Not body-specific	N	N	N	N	N	N	N	N	0	✓	✓	✓
	Member states												
	A1: Nordic Council												
	E1: Presidium												
1971–1972	Not body-specific	N	N	N	N	N			0	1	N	N	N
	Member states						✓						
	A1: **Plenary Assembly**						3						
	A2: Nordic Council of Ministers							0					
	E1: Presidium												
	E2: Nordic Council of Ministers							0					
	GS1: General Secretariat												
1973–1982	Not body-specific	N	N	N	N	N			0	1	N	N	N
	Member states						✓						
	A1: Plenary Assembly						3						
	A2: Nordic Council of Ministers							0					
	E1: Presidium												
	E2: Nordic Council of Ministers							0					
	GS1: General Secretariat												
	GS2: GS of the Council of Min.												
1983–1985	Not body-specific	N	N	N	N	N			0	1	N	N	N
	Member states						✓						
	A1: Plenary Assembly						3						
	A2: Nordic Council of Ministers							0					
	E1: Presidium												
	E2: Nordic Council of Ministers							0					
	GS1: General Secretariat												
	GS2: GS of the Council of Min.												
	Non-state: subnational govts												
1986–1992	Not body-specific	N	N	N	N	N			0	1			2
	Member states						✓						
	A1: Plenary Assembly						3				3		
	A2: Nordic Council of Ministers							0			0	0	
	E1: Presidium												
	E2: Nordic Council of Ministers							0			0	0	
	GS1: General Secretariat												
	GS2: GS of the Council of Min.												
	Non-state: subnational govts												
1993–2010	Not body-specific	N	N	N	N	N			0	1			2
	Member states						✓						
	A1: Plenary Assembly						3				3		
	A2: Nordic Council of Ministers							0			0	0	
	E1: Presidium												
	E2: Nordic Council of Ministers							0			0	0	
	GS1: General Secretariat												
	GS2: GS of the Council of Min.												
	Non-state: subnational govts												

Note: A = automatic/technocratic procedure; N = no written rule; R = rotation; ✓ = body co-decides, but no voting rule; ← = change in status. Shaded areas refer to institutions or policy areas that are non-existent for those years.

Com-pliance		Policy 1 (recommendations)					Policy 2 (decisions)					Dispute settlement						
Agenda	Decision	Agenda	Decision	GS role	Binding	Ratification	Agenda	Decision	GS role	Binding	Ratification	Coverage	Third party	Binding	Tribunal	Non-state access	Remedy	Preliminary ruling
					0	3												
		✓																
		3	3															
N	N			0	0	3			0	2	3							
		✓					✓											
		3	3				3											
		0					0	0										
		0					0	0										
N	N			0	0	3			0	2	3							
		✓					✓											
		3	3				3											
		0					0	0										
		0					0	0										
N	N			0	0	3			0	1	3							
		✓					✓											
		3	3				3											
		0					0	0										
		0					0	0										
							✓											
N	N			0	0	3			0	1	3							
		✓					✓											
		3	3				3											
		0					0	0										
		0					0	0										
							✓											
N	N			0	0	3			0	1	3							
		✓					✓											
		3	3				3											
		0					0	0										
		3																
		0					0	0										
							✓											

that the Council of Ministers is "responsible for cooperation in other matters between the Governments of the Nordic countries and between the Governments and the Nordic Council" (Art. 55) and presents to the annual Plenary Assembly a report on past cooperation and plans for future cooperation (Art. 59). We infer from this that individual member states as well as the Council of Ministers itself have agenda setting power. Decisions by the Council of Ministers are binding, though if parliamentary ratification is constitutionally required it may delay bindingness (see Art. 58). Immediate bindingness and no ratification is the norm, which is what we code. Traditionally, the majority of proposals (between 70 and 90 percent) have been initiated by or through the Nordic Council (Qvortrup and Hazell 1998: 10).

The 1983 amendment opens up agenda setting to the autonomous regions of Greenland, the Faroe Islands, and Åland (Art. 55). Also, the territorial governments obtain an opt-out from Council decisions: Council decisions are only binding "in so far as they accept the decision in accordance with the system of self-government" (Art. 63). We reflect both changes in our coding: by expanding agenda setting power to these subnational governments, and by noting that Council decisions become conditionally binding for some members.

The 1974 amendment to the Helsinki Treaty sets out the conditions for special agreements as an additional legal tool of Nordic cooperation. These require ratification (Art. 38). Since their substantive relevance is minor compared to the recommendations (e.g. Berg 1988: 212), we do not open up a third policy stream.

DISPUTE SETTLEMENT

There is no legal dispute settlement mechanism.

Middle East

Code	Name	Years in MIA
470	Arab Maghreb Union (AMU)	1989–2010
1990	Gulf Cooperation Council (GCC)	1981–2010
3450	League of Arab States (LOAS)	1982–2010
3800	Organization of Arab Petroleum Exporting Countries (OAPEC)	1968–2010

Arab Maghreb Union (AMU)

The Arab Maghreb Union encompasses the five Arab states in the magrib or "west": Morocco, Algeria, Tunisia, Libya, and Mauritania. The AMU is a trade regime with the stated ambition to establish deeper economic and political integration. However, despite some moves to reduce trade barriers, deeper economic cooperation has been slow, and political integration has been stymied by enduring conflicts among the member states.

The AMU was established by the Treaty of Marrakech in February 1989, which proposed joint economic ventures with the goal of "working gradually towards achieving the free movement of persons and transfer of services, goods and capital among them" (Treaty instituting the Arab Maghreb Union 1989, Arts. 1–4).

Aspirations for cooperation among the Maghreb peoples go back at least to the struggle against French colonialism from the 1940s (Lamrani 2013). In 1958 in Tangier, Morocco, Algeria, and Tunisia agreed in principle to a federal union, a commitment that was rescinded when Algerian nationalists complained that Moroccan and Tunisian denunciations of President De Gaulle's Algerian policy were not harsh enough (Barakat 1985; Sebioui 2015).

Over the next decades, ideological competition among the authoritarian regimes of the region took institutional cooperation off the agenda. Mehdi Ben Barka, a leading Moroccan socialist who led the effort to organize the

Tangier Conference, was kidnapped and assassinated in France in 1965 (Brittain 2001; Smith 1995). Moroccan territorial claims in Mauritania, Tindouf, and Bechar generated tensions with Algeria and Tunisia which led to the Sand War between Morocco and Algeria in 1963 (Farsoun and Paul 1976). A ceasefire was arranged in February 1964, but national rivalries flared up again after Morocco annexed the Western Sahara in November 1975 and Algeria decided to support the POLISARIO front in its guerrilla war. Today, the Western Sahara conflict remains a major stumbling block to integration in the Maghreb region.

Relations among the Maghreb states improved in the 1980s. Negotiations led to a ceasefire in the Western Sahara conflict and this raised ambitions to emulate the EU single market (Willis 2014: 282–4). The first Maghreb Summit took place in 1988 followed by the establishment of the Arab Maghreb Union when the five member states signed the Treaty in February 1989. A free trade area was planned for 1992, a customs union for 1995, and a common market for 2000 (Gathii 2011: 203–11). The organization also intended to set up an investment bank, university, court, and parliament, each located in a different member state. The bank was established in Tunis, and a (largely national) university in Tripoli. A court was founded in 2001, but as of 2010 was not operational (Alter 2014). An incipient parliament with consultative powers was also launched, but it has met irregularly.

During the 1990s, the Union struggled to achieve the objectives that had been outlined in the Treaty of Marrakech. In 1991, Algeria entered the most tumultuous period in its modern history when a civil war broke out between the Algerian government and various Islamist groups. This civil war cost the lives of more than 200,000 Algerians and further strained relations between Algeria and Morocco (Ajami 2010). In 1994, Morocco accused the Armed Islamic Group of Algeria (GIA) and the Algerian Department of Intelligence and Security (DRS) of orchestrating the Marrakech bombing of 1994. This led to the closure of borders between Algeria and Morocco, continuing to this day.

The AMU has struggled to meet its trade objectives, and continues to fall well short of its original ambition. Annual trade among Maghreb countries has averaged $200 million (Hadili, Raab, and Wenzelburger 2016; Abdullah, Abdullah, and Othman Abuhriba 2014). This is the lowest rate of intra-regional trade of any region in the world (Brenton, Baroncelli, and Malouche 2006; Darrat and Pennathur 2002; Lamrani 2013). Maghreb countries have pursued preferential bilateral rather than multilateral agreements with the EU.

Politically, the dispute between Morocco and Algeria over Western Sahara remains a stumbling block. The AMU has played an insignificant role in resolving recent political crises in the region which include the

Tunisian revolution, the collapse of the Gaddafi regime in Libya and the ensuing civil war (Gathii 2011; Braveboy-Wagner 2009; Rouis, Kounetsron, and Iqbal 2010).

The key legal document is the Treaty of Marrakech (signed and in force 1989). The AMU has one assembly (Conseil de Présidence), two executives (Conseil des Ministres and Comité de Suivi), and a secretariat. Between 1989 and 1994 the organization adopted twenty-eight conventions, protocols, and agreements that detail sectoral cooperation.[1]

Institutional Structure

A1: CONSEIL DE PRÉSIDENCE (1989–2010)

The founding Treaty sets up the Presidential Council as the supreme body. It meets twice annually (Treaty, Art. 5) (from 1992: once annually, see Braveboy-Wagner 2009: 177). It takes decisions by unanimity (Art. 6). It consists of the heads of state, and the presidency rotates annually among the members (Art. 4). Thus, its composition is 100 percent member state.

The Presidential Council is explicitly assigned as the "only body entitled to take decisions" (Art. 6). It is left open whether these decisions are binding or need ratification.

The Treaty also foresees for the prime ministers to convene when they perceive it necessary, though there is no standing body and they cannot take decisions (Art. 7).

The Presidential Council last met in 1994, and even then two of the five heads of state were not present. However, the body has not formally been disbanded. Deep and enduring conflict between Morocco and Algeria about the status of the Western Sahara has essentially stalled high-level cooperation.

E1: CONSEIL DES MINISTRES DES AFFAIRES ETRANGÈRES (1991–2010)

The premier executive is the Council of Ministers of Foreign Affairs, mentioned in the Treaty, and institutionalized in 1991. Its main role is to prepare the program for the meeting of the Presidential Council and to examine questions sent up to it by the Follow-up Committee (Comité de Suivi) and the specialized ministerial committees (Art. 8).

The Council is composed of ministers appointed by the individual member states. The Treaty does not explicitly detail the decision process for choosing the head of the executive, but since the Presidential Council does this by rotation, it is likely that the Council employs rotation as well. The composition is entirely intergovernmental; all member states are represented; there

[1] See <http://www.maghrebarabe.org/fr/conventions.cfm> (accessed February 13, 2017).

are no reserved seats and no special veto rights. This Council has met regularly; the thirty-third meeting took place in December 2015.

E2: COMITÉ DE SUIVI (1991–2010)

The Conseil des Ministres is assisted by a Comité de Suivi, which is composed of ministers for integration designated by the individual member states (Art. 9). This committee coordinates activities in the Union and submits "the results of its work" to the Council of Ministers of Foreign Affairs. Once again, the selection of the chair is not described, but presumably here too rotation is the rule. The composition is entirely member state; all member states are represented; there are no reserved seats and no special veto rights.

In addition, committees and occasional ministerial conferences on sectoral topics have been held. The organigram of the organization highlights in particular interior affairs, economic and financial affairs, and infrastructure.

GS1: SECRÉTARIAT GÉNÉRAL (1992–2010)

Since 1992 a small permanent Secretariat is operational in Rabat. The general secretary is appointed by the Presidential Council (Art. 11) and no fixed term limit is specified. The current general secretary—the third Tunisian in the organization's history—has held this position since 2006. The Treaty does not contain a provision for impartiality of the Secretariat, but the agreement with the Moroccan government concerning the status of the Secretariat in Rabat is detailed about the diplomatic rights of the Secretariat's employees.

CB1: CONSEIL CONSULTATIF (1992–2010)

The Treaty foresaw an incipient parliament consisting of national representatives "elected by the legislative bodies of the member states or conforming to the domestic norms of each state" (Art. 12). Initially there were ten members per country, but since 1994 there have been thirty. Its seat is in Tripoli, Algeria.

The Council is intended to advise on "every draft decision submitted to it by the Presidential Council" and "may submit to the Council all recommendations that may reinforce the activities of the Union and its objectives" (Art. 12). According to one source it has met only once (in 1992) (Braveboy-Wagner 2009: 177–8), but we have a firm track record that suggests four to six subsequent meetings.[2] There is also a reliable track record of regular meetings

[2] In 2003, an internal report of the Secretariat of the Conseil Consultatif discusses the organization of the forthcoming sixth session of the body (Secretariat of CS 2003), and a 2009 press release refers to the forthcoming seventh session to be held in 2010 (see <http://www.maghrebarabe.org/fr/press.cfm?type=1&id=174> (accessed February 13, 2017)).

of the Bureau of the Conseil, most recently in June 2015.[3] While certainly not a very active body, the track record seems sufficiently strong to score the institution throughout the period.

Decision Making

MEMBERSHIP ACCESSION

The Treaty stipulates that other Arab nations or "the African community" can accede if existing members agree (Art. 17). The procedure is not detailed, but presumably the Conseil de Présidence takes decisions by unanimity and ratification by all is required. It is not specified who is involved in the agenda setting stage.

MEMBERSHIP SUSPENSION

No written rules.

CONSTITUTIONAL REFORM

Constitutional amendments can be suggested by any member state (Art. 18), are accepted by the Conseil de Présidence, presumably by unanimity, and require ratification by all members before entering into force (Art. 18). We also score an agenda setting role for the Conseil Consultatif for the years that it is operational (1992–2010), but we have no information on the voting rule used in the Conseil Consultatif.

REVENUES

The Treaty is silent on the source of revenues for the Arab Maghreb Union. The only expenditure seems to be the maintenance of the small Secretariat. There is no mention of regular member state contributions. Provisions in the headquarters agreement with the Moroccan government suggest that the running costs are largely borne by the host country. At least in recent years, the modernization of the Secretariat has been financed by outside grants, most recently two grants from the African Development Bank (May 2013 and August 2015).[4] We score "ad hoc financing."

BUDGETARY ALLOCATION

There is no information available on decision making on the annual budget.

[3] The 2009 press release referred to the twenty-second session of the Bureau of the Conseil. In June 2015, the secretary general of the Conseil condemned a terrorist attack in Algeria (X 2015).

[4] See <http://www.maghrebarabe.org/fr/communiques.cfm?id=134> (accessed February 13, 2017).

FINANCIAL COMPLIANCE
No written rules.

POLICY MAKING
Between 1991 and 1994 the Arab Maghreb Union passed several conventions, protocols, and agreements. These were presumably prepared by the Comité de Suivi, assessed by the Council of Ministers of Foreign Affairs, and passed by unanimity by the Presidential Council. The last convention dates from 1994. Most of these were passed before the Secretariat became operational so we do not score it. Conventions are binding in their entirety once ratified by all members. From its inception we also score the Conseil Consultatif as having a right to initiate on the basis of Article 12 of the founding Treaty.

Since 1994, subsidiary bodies (Council of Ministers of Foreign Affairs, Comité de Suivi) have from time to time met to coordinate sectoral policies, but their decisions are non-binding. The role of the Secretariat is unclear. According to the Treaty, the Conseil de Présidence decides the location (Rabat) and the functions, but the Secretariat's tasks are not specified either in the Treaty or elsewhere. It seems clear that at least in recent years it has been proactive in setting up meetings. The secretary general has a track record in issuing political declarations on behalf of the Arab Maghreb Union. And the secretary general can engage in contracts with outside organizations, such as the Food and Agricultural Organization and the African Development Bank. Hence we code the Secretariat as having a policy initiating role.$^{\alpha}$ From its inception we score also the Conseil Consultatif because it has the right to submit recommendations to the Council of Ministers (Art. 12); again, we lack information on its precise role.$^{\alpha}$

DISPUTE SETTLEMENT
The Arab Maghreb Union has a court, the Arab Maghreb Union Instance Judiciaire (Art. 13), established by the Treaty of Marrakech, and so it is an integral part to the Treaty and obligatory to all members. Its seat is in the capital of Mauritania, Nouakchott. It is a standing tribunal consisting of two members per country appointed for six years. It became operational in 2001.[5]

According to the Treaty, the Court offers explicit right to third-party review because cases can be brought by either the Presidential Council or "by a state that is party to the dispute" (Art. 13). It is charged with adjudicating

[5] See <http://www.aict-ctia.org/courts_subreg/amu/amu_home.html> (accessed February 13, 2017).

AMU Institutional Structure

		A1			E1										E2										GS1		CB1
Years		Non-state selection	Indirect representation	Weighted voting	Head—agenda	Head—decision	Members—agenda	Members—decision	Non-state selection	Partial representation	Indirect representation	Reserved seats	Weighted voting	Partial veto	Head—agenda	Head—decision	Members—agenda	Members—decision	Non-state selection	Partial representation	Indirect representation	Reserved seats	Weighted voting	Partial veto	Select	Remove	Non-state selection
1989–1990	Not body-specific	0	0	0																						
	Member states																									
	A1: Conseil de Présidence																									
1991	Not body-specific	0	0	0	R	R			0	0	0	0	0	0	R	R			0	0	0	0	0	0			
	Member states						✓	✓									✓	✓									
	A1: Conseil de Présidence																										
	E1: Conseil des Ministres																										
	E2: Comité de Suivi																										
1992–2000	Not body-specific	0	0	0	R	R			0	0	0	0	0	0	R	R			0	0	0	0	0	0		N	3
	Member states						✓	✓									✓	✓									
	A1: Conseil de Présidence																								0		
	E1: Conseil des Ministres																										
	E2: Comité de Suivi																										
	GS1: Secrétariat Général																										
	CB1: Conseil Consultatif																										
2001–2010	Not body-specific	0	0	0	R	R			0	0	0	0	0	0	R	R			0	0	0	0	0	0		N	3
	Member states						✓	✓									✓	✓									
	A1: Conseil de Présidence																								0		
	E1: Conseil des Ministres																										
	E2: Comité de Suivi																										
	GS1: Secrétariat Général																										
	CB1: Conseil Consultatif																										
	DS: Instance Judiciaire																										

Note: A = automatic/technocratic procedure; N = no written rule; R = rotation; ✓ = body co-decides, but no voting rule; ← = change in status. Shaded areas refer to institutions or policy areas that are non-existent for those years.

AMU Decision Making

		Accession			Sus-pension		Constitution				Budget			Com-pliance		Policy 1 (conventions)					Policy 2 (recommendations)					Dispute settlement (general purpose)						
Years		Agenda	Decision	Ratification	Agenda	Decision	Agenda	Decision	Ratification	Revenue source	Agenda	Decision	Binding	Agenda	Decision	Agenda	Decision	GS role	Binding	Ratification	Agenda	Decision	GS role	Binding	Ratification	Coverage	Third party	Binding	Tribunal	Non-state access	Remedy	Preliminary ruling
1989–1990	Not body-specific	N		0	N	N			0	0	N	N	0																		
	Member states						✓																								
	A1: Conseil de Présidence		0					0																							
1991	Not body-specific	N		0	N	N			0	0	N	N	0						2	0											
	Member states						✓																								
	A1: Conseil de Présidence		0					0									0														
	E1: Conseil des Ministres															0															
	E2: Comité de Suivi															0															
1992–1994	Not body-specific	N		0	N	N			0	0	N	N	0					0	2	0											
	Member states						✓																								
	A1: Conseil de Présidence		0					0									0														
	E1: Conseil des Ministres															0															
	E2: Comité de Suivi															0															
	GS1: Secrétariat Général															✓															
	CB1: Conseil Consultatif						N									N															
1995–2000	Not body-specific	N		0	N	N			0	0	N	N	0										0	0	3						
	Member states						✓																								
	A1: Conseil de Présidence		0					0																							
	E1: Conseil des Ministres																				0	0									
	E2: Comité de Suivi																				0										
	GS1: Secrétariat Général																				✓										
	CB1: Conseil Consultatif						N														N										
2001–2010	Not body-specific	N		0	N	N			0	0	N	N	0										0	0	3						
	Member states						✓																								
	A1: Conseil de Présidence		0					0																							
	E1: Conseil des Ministres																				0	0									
	E2: Comité de Suivi																				0										
	GS1: Secrétariat Général																				✓										
	CB1: Conseil Consultatif						N														N										
	DS: Instance Judiciaire																									2	2	0	2	0	0	0

Note: A = automatic/technocratic procedure; N = no written rule; R = rotation; ✓ = body co-decides, but no voting rule; ← = change in status. Shaded areas refer to institutions or policy areas that are non-existent for those years.

disputes related to the interpretation and application of the Treaty and agreements related to the Union. Its judgments are presumed to be binding and final (Art. 13). Hence, the Court's judgments are in principle enforceable without the need for transposing the decision domestically. Private parties are not authorized to litigate. And there is no preliminary ruling system.

Some observers note that the Court is not yet operational (Alter 2014: 99), though it is possible that it has assumed only the less authoritative part of its role.

The Court has been used as an advisory council and as a research institute, and it has been collaborating with the Secretariat to establish an arbitration system. We take this into account when coding the Court: it is standing, offers in principle automatic right of access to member states, but has no binding judgments, does not allow private access, and has no remedy in case of non-compliance.

Gulf Cooperation Council (GCC)

The Cooperation Council for the Arab States of the Gulf, generally referred to as the Gulf Cooperation Council, is a general purpose international organization (IO) formed by Bahrain, Kuwait, Oman, Qatar, Saudi Arabia, and the United Arab Emirates. These countries have been depicted as having a "remarkable degree of cultural, political and experiential homogeneity" (Braibanti 1987: 207).[6] The Charter (Art. 4) describes the goal of "coordination, integration and inter-connection between member states in all fields" which include "economic and financial affairs; commerce, customs and communications; education and culture . . . scientific and technological progress in the fields of industry, mining, agriculture, water and animal resources." The headquarters are located in Riyadh, Saudi Arabia.

The GCC has its origins in a Kuwaiti initiative for the creation of an organization of Arab Gulf states to counter Iran following its 1979 revolution (Priess 1996; Ramazani 1988). A charter for the foundation of the GCC was signed by six heads of state in May 1981 calling for "a community fashioned in the mold of the European Economic Community" (Ispahani 1984: 155–6; Christie 1987; Lawson 2012).[7] While omitted from the Charter, security concerns were key (Abdulla 1999: 119). From the start, the GCC was

[6] On the diverse perceptions and expectations of the six states for creating the GCC, see Abdulla (1999: 155–8).

[7] The original documents on the GCC's founding are reprinted in Ramazani (1988: 12–15).

active on three fronts: external security, including military cooperation; internal security; and economic cooperation.

Security threats emanated from Iran and, increasingly, Iraq. As Cordesman (1984: 41) notes, "the smaller conservative Gulf states lack the territory and population to act alone [in regional security affairs] . . . Their only hope of finding strength that approaches their wealth lies in collective action and in cooperation with Saudi Arabia." This spurred joint military exercises, regular meetings of defense ministers, and the creation of the Peninsula Shield Force in 1984, a joint military force of initially 10,000 soldiers under a unified command (Bearce 2003: 361). But the states have failed to forge a durable collective security arrangement, even after Iraq's occupation of Kuwait and the First Gulf War, largely because they rely chiefly on bilateral defense arrangements with the United States and Britain (Kostiner 1992). In recent years, military cooperation has picked up in the face of the threat from the Islamic State of Iraq and the Levant (ISIL). The Peninsula Shield Force consists of 40,000 troops, and in September 2014, four GCC countries undertook air strikes against ISIL.

Following the Iran–Iraq War and the elimination of Saddam Hussein's regime in 2003, the spotlight moved to internal security. Domestic security threats had been present from the early years. The takeover of the Mecca mosque by radicals (1979), the failed coup in Bahrain (1981), and multiple bombings in Kuwait (1983) drew the Gulf states to cooperate on policing and intelligence. Between 1979 and 1982, Saudi Arabia signed bilateral security agreements with Bahrain, the UAE, Qatar, and Oman. This became the basis for a GCC Internal Security Agreement (1982) which facilitated extradition of political opponents (Kechichian 2014). Deeper cooperation was designed to help ruling elites resist demands for popular participation which were intensified by rising youth unemployment and a growing foreign population.[8] Cooperation on anti-terrorism came on the agenda in the 2000s with the adoption of the Security Strategy for Combating Terrorism and Radicalism in 2002 and a counterterrorism agreement in 2004 strengthening security coordination (Al-Zaabi 2004).

Economic integration has also been a core objective (Lawson 2012). A Unified Economic Agreement signed a month after the creation of the GCC sought to coordinate economic, financial, and monetary policies and standardize commercial, industrial, and customs regulations. A free trade area came into effect in 1983, but a customs union was delayed. A series of small

[8] The Internal Security Agreement has been amended several times, most recently in 2012 by all GCC countries except Kuwait. The agreement expedites GCC military intervention in member states to restore order (Art. 10) and makes it easier to prosecute political opponents in another GCC state (Art. 3). In 2014 GCC members Saudi Arabia and the UAE sent ground troops to support the local regime during the Bahraini uprising.

economic steps paved the way for the Revised Economic Agreement of 2001 which laid the legal foundation for a customs union. In addition, all non-tariff barriers to intra-GCC trade were to be eliminated and goods produced in any GCC member state accorded the same treatment as national products (Lawson 2012). However, several member states concluded bilateral trade agreements with the United States and there was no consensus on how to collect and distribute customs revenues. In 2008, the GCC launched a common market based on the principle that a citizen of one member state has full citizenship rights in all other GCC countries, including full work, welfare, and residence rights.[9] Monetary integration has been on the agenda since the beginning, and the 2001 agreement adopted an incremental approach to a single currency by 2010. The plan was put on hold in 2006 when Oman unexpectedly withdrew and negotiations are ongoing (Buiter 2008; Lawson 2012).

The GCC has always had relatively weak supranational and strong state-centric features. This led Abdulla (1999: 120) to claim that "the GCC hardly qualifies as an integration venture." However, others document an activist Secretariat General, particularly in its first two decades (Lawson 2012). State-centrism has not prevented the GCC from expanding and deepening cooperation in a range of policy areas, and over time it has become a more coherent player in the region as well as in its dealings with other international and regional organizations, including the European Union. While "state-centric visions of inter-state cooperation . . . still motivate GCC policy makers to project their interests globally . . . this engagement is taking place within a rapidly globalising environment in which complex interdependencies . . . bind the Gulf states to global structures and provide the parameters for their engagement within the international community" (Coates Ulrichsen 2011: 65).

An important part of GCC policy making takes place in autonomous institutes and agencies. These include the Arab Gulf Organization for Industrial Consultancy (1981), which promotes regional industrial ventures; the Gulf Investment Corporation (1983); the Gulf Patent Office (1992); and the GCC Standardization Organization (2001). In the 2000s, authority over regional infrastructure—a regional pipeline network to distribute gas, a common electrical power grid, an integrated railway system—was transferred to specialized transnational agencies under the wing of the GCC (Lawson 2012).

The key documents are the GCC Charter (1981), the Unified Economic Agreement (signed 1981; in force 1982), the Economic Agreement (2001),

[9] Non-citizens are excluded from these rights. Non-citizen expatriates constitute between 60 and 90 percent of the workforce and between 25 and 83 percent of the population in each state (Coates Ulrichsen 2011: 66).

and the GCC Internal Security Agreement (signed and in force 1982; revised several times). The Supreme Council acts as the assembly of the organization; a Ministerial Council serves as the executive; a Secretariat General of some 400 staff runs daily affairs.

Institutional Structure

A1: SUPREME COUNCIL (1981–2010)

The Supreme Council, which is composed of the heads of government of the member states, is "the highest authority of the Cooperation Council" and the main decision making body (GCC Charter, Art. 7). Its role is to "endeavor to realize the objectives of the Cooperation Council" by determining "the higher policy for the Cooperation Council and the basic lines it should follow." It also reviews "the recommendations, reports, studies and joint ventures submitted by the Ministerial Council for approval" (Art. 8).

Voting is by unanimity, except for procedural issues, which can be decided by majority (Art. 9). The Supreme Council's decisions are broadly binding on member states, but members may opt out. The Rules of Procedure for the Supreme Council read: "Any member abstaining shall document his being *not bound* by the resolution" (Supreme Council Rules of Procedure 1981, Art. 5.2, our emphasis).[10] We therefore code decisions as conditionally binding.$^{\beta}$ Hence the modal decision process in the GCC is that a subset of countries may forge ahead over the objections of one member.

Decision rules were initially not uniform. Unanimity with opt-outs appears to have always been the norm in the security field. However, in the economic field opt-outs were not allowed or not common.$^{\alpha}$ According to Lawson, the decision process on economic policy converged to that on security in the mid-1990s, when it became practice for "[o]ne or another member state from time to time [to withhold] consent to some proposed GCC program without blocking or derailing the overall project of greater economic integration" (2012: 11).

The presidency rotates on an annual basis and the body meets once a year in regular session (Art. 7). In 1998, during the nineteenth summit held in Abu Dhabi, the body decided to hold an additional meeting every year.

The Supreme Council's work is supported by a range of ad hoc committees, consisting of delegates from member states and additional experts, which study specific matters and make recommendations to the Council: "At the outset of each ordinary session, the council shall form the committees

[10] The Bylaws of the GCC mention more explicitly: "The member who abstains from voting must record that he will not abide by the decision" (Art. 5.2). Some authors interpret this as general non-bindingness (Abdulla 1999: 157).$^{\gamma}$

it deems necessary and in such a way that the opportunity is given for making a detailed study of the issues on the agenda. Representatives from the member states shall participate in the work of these committees" (Bylaws of the GCC, Art. 10.1). One of these is the Dispute Settlement Commission, which is constituted by the Supreme Council to advise on a dispute related to the interpretation of the Charter (see dispute settlement).

E1: MINISTERIAL COUNCIL (1981–2010)

The premier composition of the Ministerial Council consists of the member states' foreign ministers, but it can also convene, and regularly does convene, in other formations—much like the European Union's Council of Ministers (Lawson 2012).

Each member state appoints its representative, usually the minister responsible for a certain policy, and the Council is chaired by rotation (Charter, Art. 11). The Council is, in one shape or form, scheduled to meet at least once every three months, but meetings may occur more frequently if two members request. The pattern of meetings has been intense from the start. Abdulla (1999: 127) notes that between 1981 and 1996 the council of foreign ministers met fifty-nine times—nearly four meetings per year. Other constellations also met frequently, including ministers of finance (forty times), commerce and economics (twenty-two times), ministers of petroleum (twenty-one times), transport (twenty times), information (seventeen times), ministers of the interior (fifteen times), defense (fourteen times), and education (twelve times).

The main role of the Council is to "propose policies, prepare recommendations, studies and projects aimed at developing cooperation and coordination between member states in various fields and adopt the resolutions or recommendations required in this regard," "submit recommendations to the ministers concerned to formulate policies," "encourage means of cooperation and coordination between the various private sector activities," and refer any matters for study to specialized committees (GCC Charter, Art. 12). It can also recommend to amend the Charter and review any matters referred to it by the Supreme Council. So the Council provides recommendations on a whole range of issues, but does not take final decisions, which is reserved for the Supreme Council. The voting rule in the Council is the same as in the Supreme Council: unanimity (Art. 13).

The Council has a sub-structure of ministerial committees, which can adopt resolutions and submit them to the Ministerial Council, which in turn refers the relevant matters, along with recommendations, to the Supreme Council for approval. These ministerial committees may also mandate subcommittees to conduct studies, draft proposals, and coordinate national policies at a technical level.

GS1: SECRETARIAT GENERAL (1981–2010)

At its creation the GCC set up a comparatively powerful Secretariat General with limited executive powers. In its first decade, the GS was described as playing "a significant and influential role in the GCC scheme of things" (Christie 1987: 12). However, the executive influence of the Secretariat General has declined over the years (Lawson 2012: 7), and this is why we do not code it as a second executive.$^{\gamma}$

The Secretariat General prepares studies, follows up on member state implementation, prepares the budget, and provides administrative support. The secretary general also represents the GCC externally (GCC Charter, Art. 14). In 2001, the Secretariat was assigned the additional task of facilitating dispute settlement with respect to the new Economic Agreement, but the Secretariat can only nudge the parties to settle and has no adjudicatory powers (2001 Economic Agreement, Art. 27).

The Supreme Council appoints the secretary general by unanimity for three years, renewable once (Art. 14), and the post rotates among the member states. It should be noted, however, that some of the secretary generals since 1981 have been in office for more than six years: the first secretary general, the Kuwaiti Abdullah Bishara, was in office for twelve years (until 1993) and the Qatari Abdul Rahman bin Hamad al-Attiyah held office for nine years, between 2002 and 2011. Since April 2011, the Bahrani Abdul Latif bin Rashid Al-Zayani is the secretary general.[11]

In 2005, the Secretariat had a staff of approximately 400 people (Sturm and Siegfried 2005: 25). It is composed of six directorates (Political Affairs, Economic Affairs, Military Affairs, Environmental and Human Resources, Legal Affairs, and Financial and Administrative Affairs) and an information center.

CB1: CONSULTATIVE COMMISSION (1998–2010)

The GCC has one consultative body composed of non-state representatives, which is adjoined to the Supreme Council. It consists of thirty citizens, five from each member state, chosen according to their experience and qualification for three years. The Commission is charged with studying matters referred to it by the Supreme Council.[12] The decision to set up the Commission was adopted during the Supreme Council meeting in Kuwait in 1997 and the Commission held its first session in November 1998. It presumably decides by consensus.$^{\alpha}$

[11] See <http://www.gcc-sg.org/en-us/GeneralSecretariat/Generalsecretary/Pages/Current.aspx> (accessed March 2, 2017).

[12] See <http://www.gcc-sg.org/en-us/AboutGCC/Pages/OrganizationalStructure.aspx> (accessed March 2, 2017).

Decision Making

MEMBERSHIP ACCESSION

There are no written rules on accession, and this is almost certainly intentional. The Gulf states have been at pains to confirm that GCC membership is not at odds with Arab political union, even while they have resisted other Arab states joining the GCC (Barnett and Gause 1998: 166–8).[13] Article 5 of the GCC Charter states that the "Cooperation Council shall be formed of the six states that participated in the Foreign Ministers' meeting held in Riyadh on 4 February 1981." Gulf state representatives tend to refer to a shared identity as the reason for why some countries belong in the organization and others do not. The factors that they emphasize tend to be similar monarchical, conservative, autocratic regimes at the elite level, tribal and family ties at the societal level which often extend beyond national borders, and a common history and geography (Barnett and Gause 1998).

Yemen, which is not a member, has been actively pursuing accession since 2000. While the Supreme Council expressed support in principle, accession is unlikely to happen soon because "[a]s a populous, poor, heavily armed society with only partial central government control, Yemen is viewed as too problematic ever to become a full member" (Hill and Nonneman 2011: 13, referring to a public opinion poll by AlArabiya.net of December 2010). However, Yemen is a member of several low-politics GCC councils and GCC agencies, with full rights. In 2011, Jordan and Morocco also requested admission.[14]

MEMBERSHIP SUSPENSION

There are no written rules on suspension for full members. The associate membership of Iraq in several GCC institutions was discontinued after it invaded Kuwait in 1991.

CONSTITUTIONAL REFORM

According to the GCC Charter, any member state can request constitutional amendments (Art. 20). These are transmitted via the secretary general to the Ministerial Council, which reviews the proposals and submits appropriate recommendations to the Supreme Council by unanimity (Art. 12). The

[13] In announcing their decision to create the GCC, the foreign ministers declared that "This step comes in conformity with the Arab nation's national objectives and within the framework of the Arab League Charter" (Foreign Ministers Communiqué of February 4, 1981, reprinted in Ramazani (1988: 12–13).

[14] See <http://news.xinhuanet.com/english2010/world/2011-05/11/c_13868474.htm> (accessed February 13, 2017).

final decision rests with the Supreme Council, which decides by unanimity (Arts. 8 and 20). Ratification appears not required.[α] The Charter has never been amended.

REVENUES

The GCC is financed through regular member state contributions, and the "Secretariat General shall have a budget to which the member states shall contribute in equal amounts" (Art. 18). No information is publicly available, however, on the actual size and structure of this budget.

BUDGETARY ALLOCATION

The Secretariat General drafts the budget of the GCC (Art. 15), which contains the expenses of the Secretariat General itself as well as of the Commission for the Settlement of Disputes (Rules of Procedure of the Commission, Art. 11). The Council of Ministers may submit recommendations to the Supreme Council, which approves the budget. Presumably both bodies decide by unanimity since budgetary matters are non-procedural (GCC Charter, Art. 8).[α] The same option of opt-out applies to budgetary allocation (Supreme Council Rules of Procedure, Art. 5.2), so we code conditionally binding.

FINANCIAL COMPLIANCE

No written rules.

POLICY MAKING

The GCC is a general purpose organization with a policy portfolio encompassing economic and financial affairs, commerce, communications, education and culture, mutual defense, and internal security. The organization's key legal instruments are agreements and regulations.

Agreements set out framework programs for economic or security cooperation. All are binding but the decision process varies. Some become automatically binding after a specified time period once approved by the Supreme Council (e.g. 1981 Economic Agreement); others require ratification (e.g. 2001 Economic Agreement, the 1982 Internal Security Agreement); some are applicable to all member states (e.g. the 1981 and 2001 Economic Agreements), while others apply to a subset of member states (e.g. the 1982 Internal Security Agreement or the 2009 Monetary Council Agreement). Agreements appear to be supreme over national law. For example, the 1981 Economic Agreement states that "in case of conflict with local laws and regulations of Member States, execution of the provisions of this Agreement shall prevail" (1982 Economic Agreement, Art. 27); the 2001 Agreement contains a similar provision

(Art. 32.1). The most prominent examples of agreements are the 1982 and 2001 Economic Agreements, the 1982, 1994, and 2012 Internal Security Agreements, and the 2009 Monetary Council Agreement. Although these agreements are relatively infrequent, they are foundational. They can be initiated by member states (Charter, Art. 8) or by the Ministerial Council, which can "propose policies, prepare recommendations, studies and projects aimed at developing cooperation and coordination between member states in various fields and adopt the resolutions or recommendations required in this regard" (Art. 12). The Secretariat General is an agenda setter because it has explicit authority "to prepare studies related to cooperation and coordination, and to integrated plans and programs for member states' action" (Charter, Art. 15). The decision is taken by the Supreme Council by unanimity. We code ratification by a subset of member states to come into force only for those states that ratify because this appears to be the modal category.$^{\beta}$ We code conditionally binding because members can opt out.

The most important day-to-day policy making instruments are regulations, which we code as a second stream. Contrary to agreements, regulations are explicitly mentioned in the Charter (Art. 4). They are used mostly to coordinate economic and social policy.[15] The primary initiator of regulations is the Ministerial Council, which takes decisions by unanimity. According to Article 12 of the Charter, it will "endeavor to encourage, develop, and coordinate activities existing between member states in all fields," and it will submit its "recommendations to the Supreme Council for appropriate action." The Secretariat General has also an important agenda setting role to "prepare the draft of administrative and financial regulations commensurate with the growth of the Cooperation Council and its expanding responsibilities" (Art. 15). This interpretation is further strengthened by the fact that the Supreme Council's Rules of Procedure note that, prior to its annual meetings, the secretary general convenes a preparatory meeting "to be attended by delegates of the member states for consultation on matters related to the session's agenda" (Art. 4.1d). They also mention that the draft agenda for the Supreme Council's meetings should contain "Reports and matters received from the Ministerial Council and the Secretariat-General" (Art. 8.2b).[16] Hence the SG's role is strongly embedded in the foundational documents. It is likely that individual member states can also initiate proposals in the Council or

[15] Decisions, on the other hand, provide guidance for national implementation.

[16] Similarly, the secretary general can also put such items on the Council's agenda "which the secretary-general believes should be reviewed by the Council" (Art. 7.4, Rules of Procedure of the Ministerial Council; see also the account by El-Kuwaiz (1987: 87), associate secretary general at the time).

through one of its subordinate committees.[α] The Supreme Council takes final decisions by unanimity (Arts. 8 and 9, GCC Charter).

Regulations are generally binding. Since the mid-1990s, member states can declare not to be bound by a decision on economic integration by the Ministerial Council or Supreme Council, which is equivalent to an opt-out. This provision was always written in the Supreme Council's Rules of Procedure (1981, Art. 5.2), but we follow Lawson who notes that this provision was applied only from the 1990s in economic policy making (Lawson 2012: 11). This affects our evaluation of the bindingness of policy making, which we code as binding until 1994 and conditionally binding from 1995.[γ] No ratification is required.

Since 1998, the Consultative Commission may also provide input on GCC decision making, and it has done so on a regular basis on issues as diverse as education, terrorism, energy and environment, and economic nationalization. Its right of consultation is constrained: it may only examine matters referred by the Supreme Council.[17]

DISPUTE SETTLEMENT

The GCC Charter establishes a Commission for the Settlement of Disputes, which can be convened when dispute resolution in the Ministerial Council and the Supreme Council fails (GCC Charter, Art. 10). This system is obligatory for all member states.

The Commission is "attached to the Supreme Council," and the "Supreme Council *may* refer such dispute to the Commission" by unanimous vote (Art. 10, our emphasis). We code this as conditional access to third-party review controlled by a political body. The Commission has jurisdiction over disputes between member states as well as over "differences of opinion as to the interpretation or execution of the Cooperation Council Charter" (Rules of Procedure of the Commission, Art. 3). It is composed of three or more "citizens of member states *not* involved in the dispute" (Rules of Procedure of the Commission, Art. 4, our emphasis), who are selected by the Supreme Council on an ad hoc basis "in accordance with the nature of the dispute" (Art. 10, GCC Charter). There are no written rules as to the required qualifications and expertise of the Commission members as well as their formal independence from member states. But since they come from member states not party to the dispute and can seek advice from independent experts (Rules of Procedure of the Commission, Art. 4), this appears to indicate a sufficient degree of independence to speak of third-party dispute settlement.[γ]

[17] See <http://www.gcc-sg.org/en-us/AboutGCC/Pages/OrganizationalStructure.aspx> (accessed March 2, 2017).

GCC Institutional Structure

		A1			E1										GS1		CB1
Years		Non-state selection	Indirect representation	Weighted voting	Head—agenda	Head—decision	Members—agenda	Members—decision	Non-state selection	Partial representation	Indirect representation	Reserved seats	Weighted voting	Partial veto	Select	Remove	Non-state selection
1981–1997	Not body-specific	0	0	0	R	R			0	0	0	0	0	0		N	
	Member states						✓	✓									
	A1: Supreme Council														0		
	E1: Ministerial Council																
	GS1: General Secretariat																
	DS: Commission for Dispute Settlement																
1998–2010	Not body-specific	0	0	0	R	R			0	0	0	0	0	0		N	1
	Member states						✓	✓									
	A1: Supreme Council														0		
	E1: Ministerial Council																
	GS1: General Secretariat																
	CB1: Consultative Commission																
	DS: Commission for Dispute Settlement																

Note: A = automatic/technocratic procedure; N = no written rule; R = rotation; ✓ = body co-decides, but no voting rule; ← = change in status. Shaded areas refer to institutions or policy areas that are non-existent for those years.

GCC Decision Making

		Accession			Sus-pension		Constitution				Budget			Com-pliance		Policy 1 (agreements)					Policy 2 (regulations)					Dispute settlement (general purpose)						
Years		Agenda	Decision	Ratification	Agenda	Decision	Agenda	Decision	Ratification	Revenue source	Agenda	Decision	Binding	Agenda	Decision	Agenda	Decision	GS role	Binding	Ratification	Agenda	Decision	GS role	Binding	Ratification	Coverage	Third party	Binding	Tribunal	Non-state access	Remedy	Preliminary ruling
1981–1994	Not body-specific	N	N	N	N	N			3	1			1	N	N			1	1	1			1	2	3							
	Member states						✓									✓					✓											
	A1: Supreme Council							0				0					0					0										
	E1: Ministerial Council						0				0					0					0										
	GS1: General Secretariat										✓					✓					✓										
	DS: Commission for Dispute Settlement																									2	1	0	1	0	0	0
1995–1997	Not body-specific	N	N	N	N	N			3	1			1	N	N			1	1	1			1	1	3							
	Member states						✓									✓					✓											
	A1: Supreme Council							0				0					0					0										
	E1: Ministerial Council						0				0					0					0										
	GS1: General Secretariat										✓					✓					✓										
	DS: Commission for Dispute Settlement																									2	1	0	1	0	0	0
1998–2010	Not body-specific	N	N	N	N	N			3	1			1	N	N			1	1	1			1	1	3							
	Member states						✓									✓					✓											
	A1: Supreme Council							0				0					0					0										
	E1: Ministerial Council						0				0					0					0										
	GS1: General Secretariat										✓					✓					✓										
	CB1: Consultative Commission															0					0										
	DS: Commission for Dispute Settlement																									2	1	0	1	0	0	0

Note: A = automatic/technocratic procedure; N = no written rule; R = rotation; ✓ = body co-decides, but no voting rule; ← = change in status. Shaded areas refer to institutions or policy areas that are non-existent for those years.

The Commission takes decisions by majority (Rules of Procedure of the Commission, Art. 7). Its recommendations or opinions to the Supreme Council are non-binding; the Supreme Council decides upon "such action as the Supreme Council deems appropriate" (GCC Charter, Art. 10). There is no mention of retaliatory sanctions or other remedies in case of non-compliance. Moreover, non-state actors do not have standing, and the Commission cannot issue preliminary rulings. The Commission's first intervention was in 2005 (Sturm and Siegfried 2005: 24, fn. 20).

In 1993, member states created a Commercial Arbitration Centre, which has been operational since 1995. The Centre has "the power to examine commercial disputes between GCC nationals . . . and commercial disputes arising from implementing the provisions of the GCC Unified Economic Agreement and the resolutions issued for implementation thereof" if both parties agree to subject themselves to the Centre's arbitration (Charter of the Commercial Arbitration Centre, Art. 2). It has a Board of Directors, staffed with a representative from each of the member states' Chambers of Commerce and Industry, a secretary general, appointed by the Board, and an Arbitral Tribunal that consists of a roster of ad hoc arbitrators prepared by the Chambers of Commerce and Industry. Since this Centre only handles private disputes, it falls outside our remit.

The 2001 Economic Agreement envisages the creation of a specialized judicial commission "to adjudicate disputes arising from the implementation of this Agreement or resolutions for its implementation" (Art. 27.3). To date, this commission has not been put into operation.

League of Arab States (LOAS)

The League of Arab States (LOAS), or the Arab League, is the chief political forum of Arab states in North Africa and the Middle East. Today, it has twenty-two members including Palestine. The stated goal of the League is to "draw closer the relations between member States and co-ordinate collaboration between them, to safeguard their independence and sovereignty, and to consider in a general way the affairs and interests of the Arab countries" through cooperation between member states in economic and financial matters, culture, and social welfare (1945 Charter, Art. 1). The headquarters are in Cairo, Egypt.

The Arab League is rooted in pan-Arabism which was initially promoted during World War I in a quest to shake off Ottoman rule. During World War II these initiatives became more concrete. Central to this was a British pledge in 1941 to back Arab unity as a means to rally support against

the Axis powers. In January 1943, the Prime Minister of Iraq, Nuri al-Said, proposed the creation of a unified Arab state of Iraq, Syria, Lebanon, Palestine, and Jordan, but the plan was rejected (Pinfari 2009). In September 1944, representatives from Iraq, Transjordan, Lebanon, Syria, and Egypt convened in Alexandria to discuss unification. The resulting Alexandria Protocol, adopted in October 1944, committed Egypt, Syria, Transjordan, Iraq, and Lebanon to establish the League as a means to defend Arab interests, in particular to "protect their independence and sovereignty against every aggression" (Art. 1). That was formalized with the Charter of the League of Arab States, a modified version of the Alexandria Protocol, adopted in March 1945 in Cairo by representatives of these five countries plus Saudi Arabia. Yemen joined six weeks later (Khadduri 1946; Ireland 1945). Since then, the League has steadily grown in membership with the accession of Libya (1953), Sudan (1956), Morocco and Tunisia (1958), Kuwait (1961), Algeria (1962), Southern Yemen (1967), Bahrain (1971), Oman, Qatar, and the United Arab Emirates (1971), Mauritania (1973), Somalia (1974), Palestine (1976), Djibouti (1977), and Comoros (1993). Eritrea became an observer in 2003. Chad and South Sudan applied in 2014. Libya and Syria's membership was suspended in 2011, but Libya regained it after a few months and in 2013 the Syrian seat was given to the Syrian opposition.

The Charter conceived of the League as a loose confederation of independent and sovereign Arab states. This was reflected in the Charter's emphasis on unanimity (Art. 7), non-binding decision making (Art. 7), and non-intervention in other members' domestic affairs (Art. 6).

The Arab League is a general purpose regional organization with three policy streams. Its core objective is political and military cooperation and intra-Arab conflict management (Solingen 2008). Its first major military action was the joint attack on Israel in 1948, known as the "Nakbah" or "Catastrophe" because Israel gained control over 60 percent of the area that the 1948 United Nations Partition Plan had set aside for an Arab Palestine (Cragg 1997; Morris 2004).[18] During the 1960s, the League tried but failed to negotiate a settlement of the North Yemen Civil War fought by the Yemeni monarchy, Saudi Arabia, and Jordan against the Yemeni republican government and Egypt. This war solidified the intra-Arab competition between the royalist faction led by Saudi Arabia and the secular republican faction led by Gamal Abdel-Nasser.

[18] Relations with Israel have divided as well as united Arab League members. In 1979, Egypt was suspended from the League after President Sadat signed the 1978 Camp David Peace Accords. The League's headquarters were moved to Tunis.

From the mid-1950s, the League has also sought economic integration. In 1957, it adopted the Economic Unity Agreement to establish a common market and customs union, but progress was minimal. In 1980, the member states concluded a trade agreement, once again with little progress (Sayigh 1999). In 1997, the League adopted the Greater Arab Free Trade Area (GAFTA) designed to implement the earlier trade agreement. GAFTA entered into force in 1998, and between 1998 and 2005 seventeen member states phased out customs duties on manufactured goods (agriculture is on a special time schedule). Member states have since begun negotiations on liberalizing trade in services and investment.

Finally, LOAS has shown some activity in human rights. In 1968, the Permanent Arab Commission for Human Rights (PACHR) was created to draft an Arab Charter on Human Rights, but the PACHR's main focus evolved to monitoring human rights observance by Israel in the Palestinian territories (Van Hüllen 2015: 128). In 2004 the League approved an Arab Charter on Human Rights that entered into force in 2008. The Charter's scope and its monitoring mechanisms are considerably more modest than similar Charters in the Americas or Europe (Van Hüllen 2015: 127).

As Barnett and Solingen observe (2007: 180, 184), "obstacles toward meaningful institutionalization and cooperation of any depth have never been surmounted" and as a result "the Arab League [. . .] produced very little policy convergence." This has contributed to the development of subregional organizations, most prominently the Gulf Cooperation Council (GCC).

The key legal documents are the Charter of the League of Arab States (signed and in force 1945) and the Joint Defense and Economic Cooperation Treaty (signed 1950; in force 1952). Today, the League has one assembly, three executives (Council(s), the General Secretariat, and the Arab Peace and Security Council), and one secretariat. The Arab League has also multiple specialized agencies built on the model of the United Nations.

Institutional Structure

A1: ARAB LEAGUE COUNCIL (1950–2010)

The founding Charter established the Council as the supreme body of the organization. It is composed of member state representatives and a representative of Palestine. Each member has one vote (Charter, Art. 3). It has the function of "realizing the purpose of the League and of supervising the execution of the agreements concluded between the members" (Art. 3). It also decides on collaboration with other international organizations (Art. 3). The Council's decision rule is majority if unanimity fails, and decisions taken by majority are only

binding on states that consent. Unanimous decisions are binding (Art. 7).[19] Hence we score majority but conditionally binding.$^{\beta}$ The Council's chair rotates among member states and the body meets at least twice a year (Arts. 11 and 15).

All members are selected by member states and all speak on behalf of their member state. For a brief period (1976–88), the Palestinian Liberation Organization (PLO), a non-state actor, had full membership rights on behalf of the people of Palestine. Normally, this would mean that we conceive of the composition as less than fully member state and note that not all members receive voting instructions from national governments. In the case of the PLO, we keep the coding as 100 percent member state to reflect the fact that the League considered the PLO to be the legitimate government of a putative Palestinian state rather than a non-state actor.$^{\gamma}$ In 1988 Palestine declared independence, and the new entity was immediately recognized as a sovereign state by the Arab League. The government of the State of Palestine assumed the PLO seat.

The Council is a multi-tiered institution which can meet in a variety of forms: as heads of state, as ministers of foreign affairs, and as permanent delegates. Permanent delegates are senior diplomats who have presented their credentials, as approved by their country's head of state or minister of foreign affairs, to the secretary general of the League of Arab States.

In its most senior composition, the Council's meetings are called "summits." During summits, the Council considers strategic security issues, discusses the reports and recommendations presented by the various ministerial councils (Council Rules, Art. 7), appoints the secretary general, and passes constitutional amendments (Council Rules, Art. 3). The agenda for each meeting is prepared by the secretary general, but member states can propose additional items for the Council's agenda up to three weeks before the Council's meeting.

From the early 1950s, the General Council, which is composed of member states' foreign ministers or of Arab diplomatic representatives in Cairo,

[19] The 1951 and 1973 Council Internal Regulations simply set out the general rule of majority, but the latest version, adopted in 2008, considerably tightens the conditions under which the League can resort to majority voting. Unanimity is the preferred rule. If unanimity cannot be reached, voting is deferred to the subsequent Council meeting. If an issue requires an urgent decision, an extraordinary summit can be called within one month. If unanimity can still not be reached, the Council may resort to a two-thirds or simple majority depending on the issue. "Objective issues," which comprise political and security issues and institutional and structural issues such as constitutional amendments, the creation of new organizations, or membership accession or suspension, require a two-thirds majority. Other issues require a simple majority (2008 Council Internal Regulations, Art. 12). Decisions taken by majority vote are only binding on those that agree.

performs most functions that are reserved for the Arab League Council (Macdonald 1965: 63).

In its work, the Council is assisted by a range of committees, five of which are listed in the Council Internal Regulations: political affairs, economic affairs, social and cultural affairs, legal affairs, and administrative and financial affairs (1973 Council Regulations, Art. 11). The committees prepare draft agreements and their sessions can be attended by Arab states that are not members of the organization (Charter, Art. 4). These committees may also be composed of representatives from a subset of member states (1973 Council Regulations, Art. 10.2). Each member state has one vote and decisions are taken by simple majority (1973 Council Regulations, Art. 11.4). The Charter and Regulations emphasize the preparatory nature of the decisions. Initially, the committees seemed to have a relatively broad remit—the 1951 rules note that they can "submit to the Council any recommendations or suggestions that may arise in the course of their discussions" (1951 Committee Internal Regulations, Art. 12), but this was tightened in 1973 to say that "no committee shall consider items not referred to it by the Council" (1973 Council Regulations, Art. 11.7). Their work is coordinated by the General Committee (1973 Council Regulations, Art. 10).

E1: COUNCILS OF MINISTERS (1950–2010)

The panoply of Councils (and committees) can be conceived as the organization's first line of executive power. The premier Council is composed of foreign ministers. It prepares reports, assesses the implementation of summit resolutions, and acts as the ongoing liaison between summits.

In 1950 the Joint Defense and Economic Cooperation Treaty created a Joint Defense Council, composed of the ministers of foreign affairs and defense from each member state (JDC Treaty, Art. 6) and a permanent military commission composed of the General Staff of the armies (Tavares 2010: 106ff.). It takes decisions by supermajority. The Council rarely met, and its last meeting dates back to 1984.[20]

The 1950 Joint Defense and Economic Cooperation Treaty also established an Economic Council, consisting of the ministers of economic affairs (JDC Treaty, Art. 8), renamed as the Economic and Social Council (ECOSOC) in 1980. It is the premier body for non-security matters. It supervises specialized agencies and coordinates the other functional councils (2005 ECOSOC Rules of Procedure, Art. 2). The first meeting was held in 1953 (Europa Directory of International Organizations 2003: 421). It usually includes the ministers of economic affairs. ECOSOC meets twice each year in February and September

[20] Source: LOAS website.

(Art. 4). Decisions are made by a simple majority vote and are only binding on states that have accepted them (Art. 8).

The Treaty also introduced the possibility of setting up functionally specific councils. By 2016, there were thirteen specialized ministerial councils. They function under the guidance of the Economic and Social Council. All functional councils are subordinate to the premier Arab League Council.

The composition of these councils is similar: all member states are represented, and representation is direct. The chair rotates among the member states in alphabetical order. There is no weighted voting, and no country has a veto.

E2: GENERAL SECRETARIAT (1950–2010)

The founding Charter left the Secretariat's functions open (Art. 12). It merely specified that the secretary general draws up the budget and convenes the League Council (Charter, Art. 13). After several years of struggle between the first activist secretary general, Abd al-Rahman Azzam Pasha, and member states over the Secretariat's role, the Secretariat Regulations, adopted in 1953, codified its functions more precisely. The secretary general shall, "in the name of the League, implement the resolutions of the Council and shall take the financial measures within the limits of the budget approved by the Council. He shall also, in his capacity as Secretary General of the League, attend the meetings of the Council and of the Committees and shall perform such other duties as may be entrusted to him by these bodies" (1953 Regulations of the Secretariat General, Art. 1). So the secretary general's implementing authority is broadly conceived, and may range from preparing a study on a particular issue to "executing broad programs with only general supervision by the League Council" (Macdonald 1965: 153). In addition to his administrative and executive role, the secretary general may also act as a mediator (Macdonald 1965: 156–9). In fact, this power has been described as his "principal power" (Hassouna 1975: 370). It is made explicit in the Council's internal regulations, which authorize him to "draw the attention of the Council or the Member States to any question which may prejudice the existing relations between the Arab States or between them and other States" (1973 Council Internal Regulations, Art. 12.2). The provisions seem to be substantial enough to code the GS, and particularly the person of the secretary general,[21] as the second

[21] The autonomy of the Secretariat in executing Council resolutions varies with the personality of the secretary general. While early assessments often stress his independence and importance (Macdonald 1965; Seabury 1949), contemporary analyses posit that he has "little autonomy of discretion" (Barnett and Solingen 2007: 193).

executive alongside the Council from 1953 (when the responsibilities are clarified).[γ]

The Secretariat is composed of a secretary general, and an unspecified number of assistants and additional staff (Charter, Art. 12). The secretary general is appointed by the Arab League Council by two-thirds majority for a five-year term, renewable (Charter, Art. 12; Regulations of the GS, Art. 2). There are no explicit rules on agenda setting. Each member state can nominate a national for the post of assistant secretary, and the candidates are appointed by the secretary general with the approval of the Council acting by simple majority (1953 Secretariat Regulations, Art. 3; Macdonald 1965: 57). Thus, we code both the secretary general and the Council as final decision makers on the members. There are far fewer assistant secretaries than there are nationalities, and it is not uncommon for two assistant secretaries to hold the same nationality (Macdonald 1965: 126, fn. 3), so member state representation is partial. Interestingly, there is no clause in the Charter or Secretariat Regulations that prescribes secretaries to be impartial or independent from member state interests. Still, we code representation as indirect because there is no evidence for it to be otherwise.[α]

E3: ARAB PEACE AND SECURITY COUNCIL (2008–10)

In 2006, member states signed the Statutes of an Arab Peace and Security Council (APSC), which is designed to prevent or settle conflicts between member states (Art. 3). It is also tasked to prepare strategies for preserving peace and security among member states, propose collective measures in case of aggression, engage in preventing conflicts through good offices, conciliation and mediation efforts, submit proposals for an Arab peacekeeping force to the Council, and to cooperate with other regional or international organizations to reinforce peace and security (Arts. 3b, 6, and 8a). Furthermore, it supervises the General Secretariat's implementation of Council recommendations on security (APSC Statutes, Art. 10a).

Like all Councils, it is conceived to work under the supervision of the Arab League Council (APSC Statutes, Art. 2), but its composition is different: it consists of five foreign ministers (or their senior delegates) comprising the current chair of the League's Council (chair), the two previous chairs, and the two subsequent chairs (Art. 4). We conceive of this as a special form of rotation. The secretary general participates (Art. 4). The APSC meets at least twice a year (Art. 5). The voting rule is obliquely defined as "according to the voting mechanism defined in the Charter" (Art. 7), which presumably is unanimity or, failing that, supermajority (since the topic is security). It is assumed that the secretary general has no vote, though the statute is not explicit.[α] So composition is less than fully member state and only a subset of member

states is represented. Representation is presumed to be direct, though the Statutes emphasize the members' role to act on behalf of the League.

The Charter enters into effect as soon as seven members have ratified the Statute, and only for those members that have ratified (Statutes, Art. XV). The Council convened its first meeting in May 2008 to discuss the border dispute between Eritrea and Djibouti (Tavares 2010: 114).

GS1: GENERAL SECRETARIAT (1950–2010)

The founding Charter created a permanent General Secretariat for the day-to-day administration of the organization (Arts. 12 and 13). It consists of a secretary general, assistant secretaries, and additional officials. The secretary general is appointed by the Council by two-thirds majority, initially for an unspecified period of time, with the rank of ambassador.[22] No rules are stipulated on the removal of the secretary general.

The Secretariat Regulations, adopted in 1953, specify that the secretary general be appointed for five years, with the possibility of renewal (Art. 2).

CB1: ARAB PARLIAMENT (2007–10)

The Arab Parliament has roots in the Arab Inter-Parliamentary Union, established in 1977, which regularly convened to coordinate between Arab Parliaments but had no institutionalized link with the League. The 2001 Summit in Amman instructed the secretary general to prepare the creation of an Arab Parliament. The 2005 Summit amended the Charter to include the Parliament as an official institution. A majority of member states ratified key amendments in 2007, yet the Council still needs to take a final decision. In March 2012 the Arab League Summit adopted the Statute of the Arab Parliament.[23] Since the required number of ratifications was achieved in 2007 and since the Parliament is operational (its inaugural meeting took place in December 2005), we code it from 2007.[γ]

The Statute details composition and functioning. Each member state can send four parliamentarians. Article 2 clarifies that members of the Parliament are either elected through a direct ballot, or elected or appointed from among the members of their national parliament. Members are instructed not to represent their respective states but the Arab nation (Art. 7).[24]

The president is elected for a two-year term, renewable once, by an absolute majority of the members of Parliament and by secret ballot (Statute, Art. 17).

[22] An Annex to the founding Pact notes that the first secretary general was appointed for two years.

[23] See <http://unipd-centrodirittiumani.it/en/spilli/Projects-of-modernization-of-the-Arab-League-institutional-framework-the-Arab-Parliament-and-the-Arab-Peace-and-Security-Council/151> (accessed February 13, 2017).

[24] The Statute and Rules of Procedures are only available in Arabic.

The president can be suspended by a motion supported by a third of all members, and removed by a simple majority vote (Art. 21). The president may attend all meetings at every level of the League of Arab States and can voice the concerns of members of the Parliament (Art. 19).

The Parliament may give opinions and recommendations that can strengthen Arab joint action "especially in the areas of economy, human resources and economic integration," address inquiries to the secretary general, discuss issues referred by the League Council or ministerial Councils or by the secretary general, hold hearings, discuss the annual budget of the League, and organize cooperation with national and international parliaments (Arab Parliament Rules of Procedure, Chapter 3). Decisions require an absolute majority (Art. 66).

The Parliament has a parliamentary bureau and a secretariat (Statute, Art. 17). It meets twice annually in its temporary seat in Cairo. Until 2012, the permanent seat was under construction in Damascus, but member states have apparently decided to move it to Baghdad. Turkey has been an observer since 2010.[25]

CB2: ARAB HUMAN RIGHTS COMMITTEE (2008–10)

The founding Charter did not include language on human rights. After several false starts, the Arab Charter on Human Rights was passed in 2004. It entered into force in March 2008 after ratification by seven member states, and it is binding on the members that have ratified (Art. 49.3). States can make a reservation to any article in the Charter (Art. 53.1). They also have an obligation to submit periodic reports (Charter, Art. 45). We code the body from 2008.

The Committee consists of seven independent experts, elected by secret ballot by the member states for four years (Arab Charter on Human Rights, Art. 45). Members serve "in their personal capacity with full impartiality and integrity" (Art. 45.2). The Committee elects its chairman among its members for a two-year term (renewable) (Art. 45.7). The Committee may also include observers of national human rights organizations and non-governmental organizations.

The Committee's mandate is to serve as the "guardian" of the human rights Charter. It reviews periodic reports on the human rights situation that states submit, and it can formulate recommendations. An annual report is submitted to the Council of the Arab League (Art. 48) (Rishmawi 2010; Van Hüllen 2015).

Decision Making

MEMBERSHIP ACCESSION

The founding Charter stipulated that "every independent Arab State" had the right to accede to the organization (Charter, Art. 1). A state presents its

[25] See <http://www.hurriyetdailynews.com/default.aspx?pageid=438&n=turkey-joins-arab-parliament-as-observer-2010-08-09> (accessed February 13, 2017).

application to the General Secretariat, and the Council decides (Charter, Art. 1). The secretary general reviews the application and furnishes an opinion. He may also mediate accession negotiations if membership is contested, as, for example, happened when Kuwait applied in 1961 (Macdonald 1965: 234–7). Hence we code the GS as agenda setter. The decision rule in the Council was initially left unspecified, and it became hotly debated during the 1961 Kuwait crisis (Macdonald 1965: 57). In the end, the League Council voted for Kuwait membership over the strong objections of the Iraqi delegation, which left the room before the vote. The Council recorded that Kuwait had been unanimously admitted to the League, in view of the fact that the Iraqi delegate was not present when the vote was taken. The Iraqi foreign minister declared the decision "null and void" and "a blatant violation" of the League's rules, but the decision withstood the test of time (Hassouna 1975: 101–2). We opt to code unanimity since it is consistent with Article 7 of the Charter, does not contradict the League's own understanding of its most contentious accession instance, and is consistent with the widespread view among observers that the organization continues to be dominated by the "principle of unanimity" (Romano and Brown 2008: 158).$^{\beta}$

Since 2008, the revised Council Regulations are more precise. Accession and suspension are categorized as "objective issues," which can eventually be decided by two-thirds majority if consensus cannot be reached (2008 Council Regulations, Art. 12). The clarification in the rules appears to constitute a rule shift, though the rules have yet to be tested. We shift to qualified majority from 2008.$^{\alpha}$ Ratification is not required.

MEMBERSHIP SUSPENSION

The founding Charter contains an expulsion clause, which determines that the Council can exclude a member state by unanimity (not counting the targeted state) if that country is "not fulfilling the obligations resulting from this Charter" (Art. 18.2). In 1950 the Council passed two resolutions laying down conditions that can set in motion an expulsion process, namely if a member negotiates or concludes a unilateral peace or other agreement with Israel, or if a member occupies or partitions Palestine. The resolutions charge the Political Committee of the Council to investigate (Magliveras 1999: 95–6). Hence we code the Council in its incarnation as an executive as an agenda setter and the Arab League Council as a decision maker, both by unanimity. The expulsion clause has been invoked three times but has never been enforced (Magliveras 1999: 95).

The League does not have a suspension procedure, but on three occasions it has invoked Article 18(2) to suspend (not expel) a member: Egypt from 1979 to 1988 following its signing of a peace treaty with Israel; Libya in the wake of Muammar Gaddafi's crackdown on demonstrators in 2011; and Syria since

2011 for its failure to end brutal government crackdowns on protests. In 2008, the revised Council Regulations that make supermajority possible came into effect. News reports on the Syrian decision indicate that the decision was indeed taken by qualified majority: eighteen countries supported the decision, three countries (Lebanon, Yemen, and Syria) voted against, and Iraq abstained (Batty and Shenker 2011).[26]

CONSTITUTIONAL REFORM

Under the founding Charter, constitutional amendments are adopted by a two-thirds majority of the Council (Art. 19). The Charter does not contain explicit rules for proposing treaty amendments, so we code "no written rules." The Parliament does not have a right to initiate reform.

Member states that do not approve amendments "may withdraw from the League when the amendment becomes effective" (Charter, Art. 19). This is consistent with the notion that constitutional reform requires ratification, as did the Charter itself (see Art. 20). In line with Article 20, we infer that amendments enter into force for the subset of states that have ratified.$^{\alpha}$

REVENUES

The Council determines each member state's financial contribution (Council Rules of Procedure, Art. 13). Countries under financial stress may be exempted by the Council, which votes by a simple majority (2008 Council Rules of Procedure). Annual contributions vary according to each country's wealth. We code this as predictable member state contributions. In 2009, the total budget of the League amounted to 49 million dollars.

In 1968, member states established the Arab Fund for Economic and Social Development, based in Kuwait, in order to finance economic and social development projects in the member states and other Arab countries (AFESD Agreement, Art. 2). In 2010, the Fund had reached a shareholder's equity of around 2,700 million Kuwaiti dollars, or approximately US$ 820 million in 2016 prices.[27] Similarly, LAS' thirteen specialized organizations govern their own budgets. The core organizational budget of LOAS is dwarfed by that allocated through the affiliated organizations.

BUDGETARY ALLOCATION

The founding Charter stipulates that the budget is prepared by the secretary general (Charter, Art. 13), vetted by the ECOSOC Council (through its

[26] This seems to have irked some member states. In 2015, the LOAS Reform and Development Committee, an intergovernmental committee charged with drafting amendments for a revised Charter, proposed unanimity as the decision rule for accession, suspension, or expulsion (March 2015, see <http://www.cihrs.org/?p=14811&lang=en> (accessed February 13, 2017)).

[27] See <http://www.arabfund.org/Default.aspx?pageId=199> (accessed February 13, 2017).

committee for administrative and financial affairs) (Council Regulations, Art. 11.1), and approved by the Council by simple majority (Charter, Art. 16). It is not entirely clear whether the budget, once approved, is unconditionally binding. The existence of regular contributions and a non-compliance procedure suggests as much. However, bindingness stands in tension with the modal decision rule of conditional bindingness (Art. 7), and with the fact that inter-Arab financial redistribution runs predominantly through the affiliated organizations, where membership and contributions are optional. We code conditional bindingness.[δ]

Since 2007, the Arab Parliament "considers" the budgetary allocation (Rules of Procedure of the Parliament, Art. 5.6), but it cannot amend or veto it. We flag it as a (weak) additional agenda setter.[β]

FINANCIAL COMPLIANCE

The Charter does not contain an explicit non-compliance procedure, nor do the initial Council and Committee regulations. The revised Council regulations of 1973 introduced the rule that "a member state which is in arrears in the payment of its financial contributions to the League shall not participate in the voting if the total amount of its arrears in the League's budget exceeds the amount of the contributions due from it for the current fiscal year and the preceding two years" (Council Regulations, Art. 15.2). However, the Council may, by two-thirds majority, override the suspension. Starting in 1973 we code agenda setting as technocratic because the process is triggered by objective criteria, but the final decision is taken by the Council.

POLICY MAKING

Policy making is diverse in content, encompassing culture, education, research, health, regional development, agriculture, trade, security, but shallow in impact. The founding Charter mentions only one type of policy instrument: agreements or treaties (Art. 4). These require ratification and are binding only on those that ratify (Art. 9). The Joint Defense and Economic Cooperation Treaty adds to this "recommendations" (Art. 8) or "resolutions" (Council Regulations, Art. 11), which can be passed by majority, or for security, by a majority of two-thirds. They do not require ratification, but decisions are binding only on those members that accept them. The League has adopted more than 4,000 resolutions, but only a few have been implemented (Tavares 2010: 109). We code treaties/agreements and recommendations/resolutions as distinct policy streams.

Treaties set the framework for policy making through recommendations and programs. The 1947 Arab League Cultural Treaty was reputedly the first sectoral League Treaty, and it guides activities in the social and cultural

fields (Macdonald 1965: 173). The Economic Unity Agreement of 1957 sought to achieve something similar in economic development. After several false starts, it was replaced by the GAFTA agreement (1998), which focuses on trade liberalization instead of creating a common market. The decision process for treaties begins in the intergovernmental functional committees that report to the ECOSOC Council. The Charter charges them with "laying down the principles and extent of cooperation" in the form of "draft agreements" (Art. 4). Even though the Committees' internal regulations were adopted in 1951 (Committee Regulations, Art. 9), the secondary literature gives us enough confidence to code them from 1950 (Hassouna 1975: 10).[α] Arab states that are not members may participate if the Council permits (Art. 4); however, we do not include them as agenda setters because they have no entitlement to be present or heard.

The founding Charter is vague on the Secretariat's role, but there is a track record on the secretary general's role in initiating policy from the early days of the organization (Macdonald 1965). With the adoption of the Internal Regulations of the Council and the Committees in 1951 and the Regulations of the Secretariat in 1953, the role of the General Secretariat is codified. The Internal Regulations of the Committees note that the "Secretariat General shall assist the Committees in the performance of their work, in order to enable them to acquaint themselves with the subjects under discussion" (Art. 4) and those of the Council authorize the secretary general to "draw the attention of the Council or the Member States to any question which may be prejudicial to the existing relations between Member States or between Member States and other States" (Art. 20). We pick this up from 1953 as a non-exclusive right to initiative. The Arab Parliament has the right to discuss draft multilateral agreements between Arab countries (Charter of the Arab Parliament).

The ECOSOC Council or the Arab League Council takes final decisions on cooperation. Decisions are taken by majority or supermajority and are binding only on those that accept them (Art. 7). Agreements or treaties require ratification and come into effect for those that ratify (Art. 4). Hence we code the Committees and the Secretariat as agenda setters, and since 2007 also the Parliament. The Arab League Council (or the ECOSOC Council for some treaties) is the final decision maker.

The decision process for recommendations is similar except that there is no ratification. The preparatory work takes place, as for agreements, in the Committees. The Secretariat has agenda setting power on the same legal basis as for agreements. Moreover, the Secretariat is central in collecting data and writing reports, which it does under scrutiny of member state bodies or at their request (Secretariat Regulations, Art. 5). So the Secretariat seems to have some leeway in initiating policies and, at least in the first decades, "assumed an important role

LOAS Institutional Structure

		A1			E1									
Years		Non-state selection	Indirect representation	Weighted voting	Head—agenda	Head—decision	Members—agenda	Members—decision	Non-state selection	Partial representation	Indirect representation	Reserved seats	Weighted voting	Partial veto
1950–1952	Not body-specific	0	0	0	R	R			0	0	0	0	0	0
	Member states						✓	✓						
	A1: Arab League Council													
	E1: Council(s)													
	GS1: General Secretariat													
1953–1972	Not body-specific	0	0	0	R	R			0	0	0	0	0	0
	Member states						✓	✓						
	A1: Arab League Council													
	E1: Council(s)													
	E2←GS1: General Secretariat													
	GS1: General Secretariat													
	Head E2													
1973–1975	Not body-specific	0	0	0	R	R			0	0	0	0	0	0
	Member states						✓	✓						
	A1: Arab League Council													
	E1: Council(s)													
	E2: General Secretariat													
	GS1: General Secretariat													
	Head E2													
	Non-state: Specialized organ.													
1976–1987	Not body-specific	0	0	0	R	R			0	0	0	0	0	0
	Member states						✓	✓						
	A1: Arab League Council													
	E1: Council(s)													
	E2: General Secretariat													
	GS1: General Secretariat													
	Head E2													
	Non-state: Specialized organ.													
	Non-state: PLO						✓	✓						
1988–2002	Not body-specific	0	0	0	R	R			0	0	0	0	0	0
	Member states						✓	✓						
	A1: Arab League Council													
	E1: Council(s)													
	E2: General Secretariat													
	GS1: General Secretariat													
	Head E2													
	Non-state: Specialized organ.													
2003–2006	Not body-specific	0	0	0	R	R			0	0	0	0	0	0
	Member states						✓	✓						
	A1: Arab League Council													
	E1: Council(s)													

E2										E3										GS1		CB1	CB2
Head—agenda	Head—decision	Members—agenda	Members—decision	Non-state selection	Partial representation	Indirect representation	Reserved seats	Weighted voting	Partial veto	Head—agenda	Head—decision	Members—agenda	Members—decision	Non-state selection	Partial representation	Indirect representation	Reserved seats	Weighted voting	Partial veto	Select	Remove	Non-state selection	Non-state selection
																					N		
																				2			
																				2			
N				0	1	2	0	0	0												N		
		✓																					
	2																			2			
			3																	2			
			✓																				
N				0	1	2	0	0	0												N		
		✓																					
	2																			2			
			3																	2			
			✓																				
N				0	1	2	0	0	0												N		
		✓																					
	2																			2			
			3																	2			
			✓																				
N				0	1	2	0	0	0												N		
		✓																					
	2																			2			
			3																	2			
			✓																				
N				0	1	2	0	0	0												N		
		✓																					
	2																			2			
			3																	2			

(*continued*)

LOAS Institutional Structure (Continued)

		A1			E1									
Years		Non-state selection	Indirect representation	Weighted voting	Head—agenda	Head—decision	Members—agenda	Members—decision	Non-state selection	Partial representation	Indirect representation	Reserved seats	Weighted voting	Partial veto
	E2: General Secretariat													
	GS1: General Secretariat													
	Head E2													
	Non-state: Specialized organ.													
	DS: Arab Investment Court													
2007	Not body-specific	0	0	0	R	R			0	0	0	0	0	0
	Member states						✓	✓						
	A1: Arab League Council													
	E1: Council(s)													
	E2: General Secretariat													
	GS1: General Secretariat													
	CB1: Arab Parliament													
	Head E2													
	Non-state: Specialized organ.													
	DS: Arab Investment Court													
2008–2010	Not body-specific	0	0	0	R	R			0	0	0	0	0	0
	Member states						✓	✓						
	A1: Arab League Council													
	E1: Council(s)													
	E2: General Secretariat													
	E3: Peace and Security Council													
	GS1: General Secretariat													
	CB1: Arab Parliament													
	CB2: Human Rights Commission													
	Head E2													
	Non-state: Specialized organ.													
	DS: Arab Investment Court													

Note: A = automatic/technocratic procedure; N = no written rule; R = rotation; ✓ = body co-decides, but no voting rule; ← = change in status. Shaded areas refer to institutions or policy areas that are non-existent for those years.

in the decision-making process of the organization" (Macdonald 1965: 62).[28] Since 2007, the Arab Parliament "has the right to issue recommendations to be taken into consideration when the concerned councils issue relevant resolutions" (Rules of Procedure of the Parliament, Art. 3). From 1973, specialized organizations could participate in the meetings of the Council and its committees (1973 Council Internal Regulations of 1973,

[28] An early assessment of the League noted that the Secretariat "has come to play an influential and frequently autonomous role in the formation of League policy" (Seabury 1949: 637).

E2										E3										GS1		CB1	CB2
Head—agenda	Head—decision	Members—agenda	Members—decision	Non-state selection	Partial representation	Indirect representation	Reserved seats	Weighted voting	Partial veto	Head—agenda	Head—decision	Members—agenda	Members—decision	Non-state selection	Partial representation	Indirect representation	Reserved seats	Weighted voting	Partial veto	Select	Remove	Non-state selection	Non-state selection
			✓																				
N				0	1	2	0	0	0												N	3	
		✓																					
	2																			2			
			3																	2			
			✓																				
N				0	1	2	0	0	0	R	R	R	R	0	1	0	0	0	0		N	3	1
		✓																					
	2																			2			
			3																	2			
			✓																				

Art. IV.1).[α] The ECOSOC Council and Arab League Council take the final decision by majority.[γ] Decisions commit only those countries that support the recommendation.[29]

[29] Unanimity is the preferred decision rule. Macdonald observed that "Under the best conditions, the decisions of the Arab League Council are in the form of resolutions which 'recommend,' 'request' and 'urge' member states to take joint action. This is a logical outcome of the fact that the League is by design an agency of coordination which lacks the coercive powers of government. . . . The controversial unanimity rule is useful because it requires all members to confront issues before the Council" (Macdonald 1965: 70). So an alternative estimate might be to code unanimity combined with optional bindingness. We opt for "majority" because the terms of the contract leave the door ajar for a majority vote on "non-objective issues."

LOAS Decision Making

		Accession			Sus-pension		Constitution				Budget			Com-pliance		Policy 1 (agreements, treaties)					Policy 2 (recommenda-tions)					Dispute settlement (investment)						
Years		Agenda	Decision	Ratification	Agenda	Decision	Agenda	Decision	Ratification	Revenue source	Agenda	Decision	Binding	Agenda	Decision	Agenda	Decision	GS role	Binding	Ratification	Agenda	Decision	GS role	Binding	Ratification	Coverage	Third party	Binding	Tribunal	Non-state access	Remedy	Preliminary ruling
1950–1952	Not body-specific			2			N		1	1			1	N	N			0	1	1			0	1	3							
	Member states																															
	A1: Arab League Council		0			0		2				3					3					3										
	E1: Council(s)		0		0	0		2			3	3				3	3				3	3										
	GS1: General Secretariat	✓									✓					✓					✓											
1953–1972	Not body-specific			2			N		1	1			1	N	N			1	1	1			1	1	3							
	Member states																															
	A1: Arab League Council		0			0		2				3					3					3										
	E1: Council(s)		0		0	0		2			3	3				3	3				3	3										
	E2←GS1: General Secretariat	✓									✓					✓					✓											
	GS1: General Secretariat	✓									✓					✓					✓											
1973–1975	Not body-specific			2			N		1	1			1	A				1	1	1			1	1	3							
	Member states																															
	A1: Arab League Council		0			0		2				3			2		3					3										
	E1: Council(s)		0		0	0		2			3	3			2	3	3				3	3										
	E2: General Secretariat	✓									✓					✓					✓											
	GS1: General Secretariat	✓									✓					✓					✓											
	Non-state: Specialized organ.																				✓											
1976–1987	Not body-specific			2			N		1	1			1	A				1	1	1			1	1	3							
	Member states																															
	A1: Arab League Council		0			0		2				3			2		3					3										
	E1: Council(s)		0		0	0		2			3	3			2	3	3				3	3										
	E2: General Secretariat	✓									✓					✓					✓											
	GS1: General Secretariat	✓									✓					✓					✓											
	Non-state: Specialized organ.																				✓											
	Non-state: PLO																															
1988–2002	Not body-specific			2			N		1	1			1	A				1	1	1			1	1	3							

	Member states																															
	A1: Arab League Council		0			0		2				3			2		3					3										
	E1: Council(s)		0		0	0		2			3	3			2	3	3				3	3										
	E2: General Secretariat	✓									✓					✓					✓											
	GS1: General Secretariat	✓									✓					✓					✓											
	Non-state: Specialized organ.																				✓											
2003–2006	Not body-specific			2			N		1	1			1	A				1	1	1			1	1	3							
	Member states																															
	A1: Arab League Council		0			0		2				3			2		3					3										
	E1: Council(s)		0		0	0		2			3	3			2	3	3				3	3										
	E2: General Secretariat	✓									✓					✓					✓											
	GS1: General Secretariat	✓									✓					✓					✓											
	Non-state: Specialized organ.																				✓											
	DS: Arab Investment Court																									1	2	2	2	2	2	0
2007	Not body-specific			2			N		1	1			1	A				1	1	1			1	1	3							
	Member states																															
	A1: Arab League Council		0			0		2				3			2		3					3										
	E1: Council(s)		0		0	0		2			3	3			2	3	3				3	3										
	E2: General Secretariat	✓									✓					✓					✓											
	GS1: General Secretariat	✓									✓					✓					✓											
	CB1: Arab Parliament										3					3					3											
	Non-state: Specialized organ.																				✓											
	DS: Arab Investment Court																									1	2	2	2	2	2	0
2008–2010	Not body-specific			2			N		1	1			1	A				1	1	1			1	1	3							
	Member states																															
	A1: Arab League Council		2			2		2				3			2		3					3										
	E1: Council(s)		2		2	2		2			3	3			2	3	3				3	3										
	E2: General Secretariat	✓									✓					✓					✓											
	E3: Peace and Security Council																															
	GS1: General Secretariat	✓									✓					✓					✓											
	CB1: Arab Parliament										3					3					3											
	CB2: Human Rights Commission																															
	Non-state: Specialized organ.																				✓											
	DS: Arab Investment Court																									1	2	2	2	2	2	0

Note: A = automatic/technocratic procedure; N = no written rule; R = rotation; ✓ = body co-decides, but no voting rule; ← = change in status. Shaded areas refer to institutions or policy areas that are non-existent for those years.

Many programs are implemented by the specialized organizations. Examples are the Arab League Educational, Cultural and Scientific Organization (ALECSO), the Arab States Broadcasting Union (ASBU), the Arab Center for the Studies of Arid Zones and Dry Lands (ACSAD), the Arab Labor Organization (ALO), the Arab Atomic Energy Agency (AAEA), or the Arab Monetary Fund. These have their own governance structures and budgets. For example, ALECSO's main decision body is the General Conference, which is composed of representatives of the member states, chaired, in turn, by the heads of delegations, in accordance with the regulations in force in the Council of the League of Arab States. The General Conference guides the organization's work, and makes decisions concerning the programs presented to it by the secretary general in agreement with the Executive Board. It also advises the Council of the League of Arab States on educational, cultural, and scientific matters of concern to the Council; examines the reports regularly submitted by the member states; and prepares the draft budget and the program presented by the secretary general in agreement with the Executive Board.

DISPUTE SETTLEMENT

The founding Charter states that disputes between member states were to be settled peacefully and could involve the Council if the two disputing parties so wished. If a dispute was referred to the Council, the Council could mediate or seek to arbitrate. Its decision was taken by majority vote (excluding the disputing parties) and was to be binding (Art. 5). Yet, given that the procedure does not involve third-party judicial review, it is not included in our coding, and as Pinfari (2009: 18) notes, the provisions were never implemented.

Since 1981, LOAS has had an Arab Investment Court, which we code from 2003 when it became operational. It was set up with the Unified Agreement for the Investment of Arab Capital in Arab States (signed 1980; in force 1981, Art. 25). The agreement, and thus the Court, is optional because only Arab states that ratify the agreement are bound by its adjudication.

The agreement defines the legal provisions that govern government procurement. It states that conciliation and arbitration are the first means for dispute settlement. However, each party can submit an appeal to the Investment Court when an arbitration agreement is not implemented (Art. 27). So, third-party access is automatic, and judgments are binding for the parties involved in the dispute (Art. 34). The Council selects at least five judges from a list of Arab legal experts nominated by member states (Art. 28). The Court is appointed for up to three years, but may be renewed. There is full non-state access (Arts. 27 and 29), and firms have been the primary instigators of litigation (Alter 2014: 373–4 and online appendix). The court does not appear to provide remedy, and there is no preliminary ruling provision. However, the language of the Treaty strongly

suggests direct effect: "A judgment delivered by the Court shall be enforceable in the States Parties, where they shall be immediately enforceable in the same manner as a final enforceable judgement delivered by their own competent courts" (Art. 34.3). The Arab Investment Court issued its first ruling in 2004.

Organization of Arab Petroleum Exporting Countries (OAPEC)

The Organization of Arab Petroleum Exporting Countries was established in January 1968 by Kuwait, Libya, and Saudi Arabia following the first Arab oil embargo in response to Israel's victory in the Six-Day War. The impetus for the organization was an effort by Kuwait, Libya, and Saudi Arabia to shield themselves from radical members of the Arab League, led by Iraq, that pressed for a continued embargo. Until membership was broadened in 1971, only those Arab countries that were dependent on oil exports could join. This excluded non-producers which were the most vociferous in demanding that oil be used as a weapon. "In return for support in ending the selective embargo [of Britain and the US] Kuwait, Libya, and Saudi Arabia agreed to fund postwar reconstruction in Egypt and Jordan" (Tétreault 1981: 45). At the same time, OAPEC could present an Arab front in OPEC, whose non-Arab members had benefited from the embargo by increasing their own production.

Following the Gaddafi coup in Libya in 1970, cooperation with Kuwait and Saudi Arabia ended. Saudi Arabia and Kuwait acquiesced to pressures to expand OAPEC membership so that it no longer constituted a moderate rump within the Arab League. The ambition to create a supranational organization was lost as conflict within OAPEC came to mirror that within the Arab League. By 1982 the membership of the organization had risen to its present eleven Arab oil exporting countries: Algeria (1970), Bahrain (1970), Egypt (1973), Iraq (1972), Kuwait (1968), Libya (1968), Qatar (1970), Saudi Arabia (1968), Syria (1972), Tunisia (1982), and the United Arab Emirates (1970). In October 1973 following the Yom Kippur War, OAPEC implemented an oil embargo for five months in an effort to force Israel to evacuate the occupied territories. Following the Camp David Accords (1979), Egypt was expelled from the organization, but was readmitted in 1989. In 1986, Tunisia withdrew from active participation in OAPEC as its production hardly justified the costs of membership.

The founding statute of OAPEC is oriented to oil industry cooperation and joint economic development. Article 2 sets out its goals as follows "(a) Take adequate measures for the coordination of the petroleum economic policies of its members. (b) Take adequate measures for the harmonization of the legal systems in force in the member countries to the extent necessary to enable the Organization to carry out its activity. (c) Assist members to exchange information and expertise and provide training and employment opportunities for

citizens of member countries in members' countries where such possibilities exist. (d) Promote cooperation among members in working out solutions to problems facing them in the petroleum industry. (e) Utilize the member resources and common potentialities in establishing joint projects in various phases of petroleum industry such as may be undertaken by all the members or those of them that may be interested in such projects."

OAPEC is based in Kuwait with a budget of $7.28 million in 2011 (UIA Yearbook). The only reform that affects our coding is the 1978 decision of the OAPEC Council of Ministers to approve the statute for the establishment of the OAPEC Tribunal. This statute was incorporated in the original treaty and implemented ten years later.

OAPEC's key documents are the Charter (signed and in force 1968) amended only once, in 1971, to allow any Arab country for which petroleum was "an important source of national income" to join (Tétreault 1981: 49–50), and the Protocol Establishing the Judicial Board (signed 1978; in force 1981). The Council of Ministers serves as the assembly of OAPEC, the Executive Bureau serves as an executive, and the General Secretariat doubles as an executive and secretariat. OAPEC also has a Tribunal.

Institutional Structure

A1: COUNCIL OF MINISTERS (1968–2010)

The Council of Ministers is the supreme and legislative organ of OAPEC (Charter, Art. 10), "responsible for drawing up its general policy, directing its activity, and laying down the rules governing it."[30] It meets at least twice a year. The Council is composed of petroleum ministers or comparable officials from each of the member countries (Art. 9), and representation is direct. Voting on substantive issues is by three-quarters majority; procedural issues require a simple majority (Arts. 11c and d). OAPEC stands out in our sample of predominantly Arab organizations as it uses a form of majority rule for binding decisions (see also Tétreault 1981: 59). Voting is not weighted (Art. 11a).

A peculiar feature of OAPEC is that the organization and its members are legally bound by OPEC decisions (Art. 3). This provision was apparently inserted to preempt concerns that OAPEC might undermine OPEC operations (Tétreault 1981).

E1: EXECUTIVE BUREAU (1968–2010)

The Executive Bureau is the chief executive organ. It monitors the implementation of the agreement and OAPEC's performance, submits recommendations

[30] See <http://www.oapecorg.org/Home/About-Us/History> (accessed March 2, 2017).

or proposals on further development to the Council, and reviews the annual budget (Charter, Art. 15).

Each member has one representative selected by the national government on the Board (Art. 14). So, representation is direct. The chair rotates annually by alphabetical order (Art. 14). The normal voting rule for the body is two-thirds majority (Art. 16 (d)).

GS1: GENERAL SECRETARIAT (1968–2010)

The Charter created an opening for a relatively authoritative General Secretariat, but subsequent developments squashed that ambition. The Charter instructs the Secretariat to "assume the planning, administrative, and executive aspects of the organization's activity in accordance with the statutes and directives of the Council" (Art. 17a). An early observer notes that it "is not merely an administrative organ. It holds an important position in the structure of OAPEC on account of the powers of initiative assigned to the Secretary General, which have expanded in practice" (Elwan 1983: 283). Furthermore, Tétreault writes that OAPEC "has a corporate identity closer in nature to that of the European Common Market than to that of OPEC," and sees itself as "in fact, an Arab Market . . . with all the commitments and rules it involves" (Tétreault 1981: 63). However, the legal basis for an authoritative general secretariat was always thin: aside from noting that the general secretary drafts the budget (Art. 26), the Treaty is silent on agenda setting powers in other decision areas. When the political will for a centralized organization waned in the 1970s, the General Secretariat's power faded. This is also reflected in a decline in its organizational resources. While in 1982 the secretariat had a staff "of over hundred employees, divided into six departments" (Elwan 1983: 283), an update from 2001, the latest year for which we have staff numbers, puts the Secretariat at twenty-one professional staff and thirty-one general personnel who man four departments (Europa Directory of International Organizations 2003: 468). Hence the Secretariat does not meet the minimum criteria for being considered an executive.[β]

The secretary general and up to three assistant secretary generals are selected by the Council by supermajority (Art. 18(c and d)). The length of tenure is three years and can be extended (Art. 18c). The current secretary general, a Kuwaiti, has been in this position since 2008. There are no written rules on the possible removal of the secretary general.

The secretary general and his staff are instructed to "carry out their duties in full independence and in the common interest of the Organization's member countries, and they are not permitted in the performance of their duties to seek or accept instructions from any governmental or non-governmental body" (Art. 20a).

CONSULTATIVE BODIES

There is no information on consultative bodies.[α]

Decision Making

MEMBERSHIP ACCESSION

The Assembly is the only body with an explicit role in accession. It decides by three-quarters majority, but the three founding members (Kuwait, Saudi Arabia, and Libya) have a veto (Art. 7 (b)(3)). Ratification is not required.

The original Treaty specifies that applicants a) need to be Arab, b) have petroleum as their principal source of national income, and c) adhere to the provisions of the Agreement and its amendments (Art. 7). The second criterion was inserted to exclude some Arab countries for which oil was not the primary export product but which had championed, among other things, using oil as a weapon in the Arab–Israeli conflict. That provision came under pressure when in the Fall of 1969 Muammar Gaddafi overthrew Libya's conservative monarchy. Now one of the three founding members was sympathetic to a radical economic and political agenda.

In 1970 Algeria applied for membership. The new regime in Libya lobbied strongly for the inclusion of Algeria even though it did not meet the "oil as primary resource criterion," and it was accepted alongside four oil-exporting Gulf states. Later that year Iraq also applied with the support of both Libya and Algeria, which brought OAPEC "on the verge of schism" (Tétreault 1981: 49). In an effort to save the organization, Saudi Arabia sponsored in 1971 an amendment to Article 7 which softened the requirement on oil production to read that "petroleum should constitute a significant source of its national income." Iraq, Egypt, and Syria joined the organization in 1972 (1391/92 AH).

MEMBERSHIP SUSPENSION

There are no written rules on suspension or expulsion. In 1979, Egypt was expelled from OAPEC for signing the Camp David Accords, and readmitted a decade later.

CONSTITUTIONAL REFORM

The Charter determines that it may be reviewed every ten years or upon request by half of its members. The final decision is taken by the Council of Ministers by three-quarters majority (Art. 36).

Neither the Board nor the Secretariat have a role in the amendment process, so we code member states and the Council as initiators, and the Council as final decision maker. Article 37 makes clear that ratification by all member states is necessary.

REVENUES

Member states pay regular contributions in equal shares (Art. 27). According to the 2009 annual report, the budget covers salaries as well as funding for studies and publications. For 2011 an OAPEC budget of US$ 7.28 million was approved at the eighty-fifth Council of Ministers meeting in December 2010. Incidentally, this budget does not cover OAPEC-sponsored joint ventures, which are financed on a voluntary basis by member states. The budgets of these ventures tend to be much larger than the General Secretariat's (see 2009 Annual Report, pp. 248ff.; tables 5–2 and 5–3; and the section on OAPEC-sponsored ventures starting on p. 250).

BUDGETARY ALLOCATION

The budget of the organization is drafted by the Secretariat, vetted by the Executive Bureau, and approved by the Council of Ministers (Art. 26). We code the Secretariat and Bureau as initiators, and the Council as making the final decision. The usual decision rules apply. Decision making has been coded as binding, but note that the budget does not include joint ventures which are funded on a voluntary basis.$^{\alpha}$

FINANCIAL COMPLIANCE

No written rules.

POLICY MAKING

OAPEC has several legal instruments: statutes or protocols, which are generally applicable and binding; resolutions, which are binding on those whom these concern; and recommendations, which are non-binding (Art. 12). Statutes and resolutions are subject to ratification. However, the chief policy activity is funding programs/projects and joint ventures among member states, and this is what we code. OAPEC has also sponsored companies and a training institute, including the Arab Maritime Petroleum Transport Company (AMPTC), the Arab Shipbuilding and Repair Yard Company (ASRY), the Arab Petroleum Investments Corporation (APICORP), and the Arab Petroleum Services Company (APSCO). These operate independently.

The Secretariat (Art. 17) and the Bureau (Art. 15 (b)) can propose initiatives, and the Council of Ministers makes final decisions on funding projects/joint ventures (Art. 15b and Art. 10d). The standard decision rule of supermajority applies in the Council and the Board. Since funding is voluntary, decision making is coded as non-binding. There is no indication that additional ratification by member states is necessary.$^{\alpha}$

DISPUTE SETTLEMENT

The Judicial Board, informally called the OAPEC Tribunal, is the organization's legal organ (Arts. 22 and 23 of the Statute, and special Protocol). It is an integral part of the contract. The Council of Ministers approved the Statute of the OAPEC Board in 1978, and it commenced its work in May 1981 (Blokker and Schermers 2011: 459).

The Tribunal is authorized to adjudicate interstate disputes concerning petroleum operations (provided they do not infringe on national sovereignty) and interstate disputes on the interpretation and application of the Agreement (Art. 22). In most cases, there is automatic right to review.

Whether its decisions are binding is open to interpretation. The Protocol states that "the judgments of the Board shall be considered final, binding and *res judicata* on the parties to the dispute and shall be enforceable per se in the territories of the members" (Art. 24). This is in tension, however, with the sentence in Article 22 stating that disputes can be brought to the court "so long as they do not infringe on the sovereignty of any of the countries concerned." At the very least member states reserve the right to opt out. The same provision makes direct effect null and void. Alter characterizes the Tribunal's compulsory jurisdiction as "so qualified as to be meaningless" (Alter 2006: 26–7, 2014: 376), and this leads us to code non-binding and no remedy.[δ]

There is a standing body: "the Tribunal shall consist of an uneven number of judges of Arab citizenship, who shall not be less than seven and not more than eleven."[31] The Project on International Courts and Tribunals (PICT) notes that "some characteristics of [the OAPEC Tribunal] are also influenced by the ECJ, such as access by private parties in cases where the Tribunal has facultative jurisdiction."[32] Non-state access is granted only if member states give consent, and we therefore assign a score of zero (see also Alter 2006: 26). There is no preliminary ruling system.

The Tribunal has heard just two cases since its establishment in 1981, and four positions on the arbitration bench have been vacant for some time (Romano 2014: 118). Alter (2014: 376) categorizes the Tribunal as "defunct but formally operational." Yet the Tribunal continues to have a budget, which is adopted by the Council of Ministers on an annual basis. We therefore code it as extant, but toothless.[γ]

[31] See <http://www.oapecorg.org/Home/About-Us/Organizational-Structure/Council-of-Ministers/Judicial-Tribunal> (accessed March 2, 2017).

[32] See <http://www.pict-pcti.org/matrix/IntroNotes/IntroNote-OAPEC.htm>.

OAPEC Institutional Structure

		A1			E1										GS1		CB1
Years		Non-state selection	Indirect representation	Weighted voting	Head—agenda	Head—decision	Members—agenda	Members—decision	Non-state selection	Partial representation	Indirect representation	Reserved seats	Weighted voting	Partial veto	Select	Remove	Non-state selection
1968–1980	Not body-specific	0	0	0	R	R			0	0	0	0	0	0		N	
	Member states						✓	✓									
	A1: Council of Ministers														2		
	E1: Executive Board																
	GS1: Secretariat																
1981–2010	Not body-specific	0	0	0	R	R			0	0	0	0	0	0		N	
	Member states						✓	✓									
	A1: Council of Ministers														2		
	E1: Executive Board																
	GS1: Secretariat																
	DS: Judicial Board																

Note: A = automatic/technocratic procedure; N = no written rule; R = rotation; ✓ = body co-decides, but no voting rule; ← = change in status. Shaded areas refer to institutions or policy areas that are non-existent for those years.

OAPEC Decision Making

		Accession			Sus-pension		Constitution				Budget			Com-pliance		Policy (joint ventures)					Dispute settlement (oil trade disputes)						
Years		Agenda	Decision	Ratification	Agenda	Decision	Agenda	Decision	Ratification	Revenue source	Agenda	Decision	Binding	Agenda	Decision	Agenda	Decision	GS role	Binding	Ratification	Coverage	Third party	Binding	Tribunal	Non-state access	Remedy	Preliminary ruling
1968–1980	Not body-specific			2	N	N			0	1			2	N	N			1	0	3							
	Member states						✓																				
	A1: Council of Ministers	1	1				2	2				2					2										
	E1: Executive Board										2					2											
	GS1: Secretariat										✓					✓											
1981–2010	Not body-specific			2	N	N			0	1			2	N	N			1	0	3							
	Member states						✓																				
	A1: Council of Ministers	1	1				2	2				2					2										
	E1: Executive Board										2					2											
	GS1: Secretariat										✓					✓											
	DS: Judicial Board																				2	2	0	2	0	0	0

Note: A = automatic/technocratic procedure; N = no written rule; R = rotation; ✓ = body co-decides, but no voting rule; ← = change in status. Shaded areas refer to institutions or policy areas that are non-existent for those years.

Multi-Regional

Code	Name	Years in MIA
650	Asia-Pacific Economic Cooperation (APEC)	1991–2010
1240	Commonwealth of Nations (ComSec)	1965–2010
2500	International Civil Aviation Organization (ICAO)	1950–2010
2830	International Labor Organization (ILO)	1950–2010
2700	International Criminal Police Organization (Interpol)	1950–2010
3700	North Atlantic Treaty Organization (NATO)	1950–2010
270	Francophonie (OIF/ACCT)	1970–2010
3750	Organisation for Economic Co-operation and Development (OECD)	1950–2010
3850	Organization of Islamic Cooperation (OIC)	1970–2010
4400	United Nations (UN)	1950–2010
4410	UN Educational, Scientific and Cultural Organization (UNESCO)	1950–2010

Asia-Pacific Economic Cooperation (APEC)

Asia-Pacific Economic Cooperation is a forum for economic cooperation among twenty-one countries in the Asia-Pacific area, including the three economic heavyweights, the United States, Japan, and China. With around 50 percent of the world's GDP, and 40 percent of the world's population and world trade, the primary goal of the organization is to promote trade and investment in the Asia-Pacific region by accelerating regional economic integration, encouraging economic and technical cooperation, and facilitating a favorable business environment. These goals were first set out in the Seoul APEC Declaration by the third Ministerial Meeting in 1991 (1991 Seoul APEC Declaration, Art. 1). APEC headquarters are in Singapore.

APEC has its roots in economic and geopolitical changes that were becoming apparent in the 1980s (Ravenhill 2002: 6). With "'leveling' changes in economic and political power relations among Pacific nations" after the end

of the Cold War (Crone 1993: 502) and "increased economic interaction within East Asia and (especially) across the Pacific to North America" (Beeson and Jayasuriya 1998: 323), structural conditions appeared ripe for some institutional structure to manage changing relationships in the region. Former Prime Minister of Australia Bob Hawke advanced the idea of APEC during a speech in Seoul in January 1989 (Beeson 2009: 40). Later that year, twelve Asia-Pacific countries (Australia, Brunei Darussalam, Canada, Indonesia, Japan, Korea, Malaysia, New Zealand, the Philippines, Singapore, Thailand, and the United States) met in Canberra to establish APEC as an informal discussion forum. APEC was conceived as a set of recurrent meetings at senior official and ministerial level. Several "work projects" were initiated in 1990, and in 1991 the Seoul APEC Declaration set out how the forum was to be organized and how decisions were to be taken (Beeson 1995). This is the year in which we begin coding the organization. China, Hong Kong, and Taiwan joined APEC in 1991. Mexico and Papua New Guinea followed in 1993. Chile acceded in 1994. And in 1998, Peru, Russia, and Vietnam became members.

A noteworthy feature of APEC is that it claims to be "resolutely non-legal" (Kahler 2000: 558; Emmerson 2009; 5ff.; Beeson 2009: 42ff.). This recognizes the very limited degree of formalization and the voluntary nature of commitments, even after initial institutionalization in 1991 (Ravenhill 1995). Consultation and dialogue are characteristic of APEC. The Japanese government describes APEC as a "framework for relaxed inter-government cooperation, which promotes the self-motivated initiatives of each economy."[1]

The key documents of APEC are not easily identified. APEC does not have a consolidated constitution. Leaders' Declarations come closest to being the equivalent, but not every Leaders' Declaration has constitutional status. APEC's main bodies are the Leaders' Meeting, which acts as its assembly, the Ministerial Meeting and Senior Officials' Meeting, which serve as executives, the APEC General Secretariat, and the APEC Business Council, which advises on economic integration.

Institutional Structure

A1: THE MINISTERIAL MEETING (1991–93)

Initially, the highest decision making organ of APEC was the Ministerial Meeting, consisting of the finance and/or foreign affairs ministers. It convened annually "to determine the direction and nature of APEC activities . . . and decide on arrangements for implementation" (1991 Seoul APEC Declaration, Art. 10). The host country provided the chair of meetings. There was no set

[1] See <http://www.mofa.go.jp/policy/economy/apec/2010/about_apec/apec.html> (accessed February 15, 2017).

rotation plan. Instead the Seoul Declaration stated that "[p]articipants who wish to host ministerial meetings will have the opportunity to do so" (1991 Seoul APEC Declaration, Art. 10). APEC's mode of operation has been, since the beginning, very consensus-oriented: "Cooperation will be based on a commitment to open dialogue and consensus-building, with equal respect for the views of all members" (1991 Seoul APEC Declaration, Arts. 4b and 5). Thus, decisions are coded as being taken by consensus.

With the inception of the Leaders' Meeting in 1993, the Ministerial Meeting became the organization's premier executive (see section "E2: MINISTERIAL MEETING (1993–2010)").

A2: THE LEADERS' MEETING (1994–2010)

The Leaders' Meeting convened for the first time in 1993 upon an initiative by US President Bill Clinton. The Leaders' Meeting began to operate in earnest as APEC's legislative decision making body from 1994.

It is comprised of the heads of state of all member states, and it convenes annually. The host country is selected by a rotation mechanism and also provides the chair for the meetings.[2] Decisions are made by consensus.

E1: SENIOR OFFICIALS' MEETING (1991–2010)

From the start, the chief executive of APEC has been the Senior Officials' Meeting. It is composed of senior officials from all member states who directly represent their member state. The head of the executive is determined by the same rotation mechanism that is used to choose the host country for the ministerial meetings.[3] Since all decisions in the organization are made by consensus, it seems likely that this also applies to the selection of the chair of the Senior Officials' Meeting.[α]

The structure of the Senior Officials' Meeting, as well as its work areas, has diversified over the years. The meetings have also become more transparent. Early records of ministerial meetings speak of the Senior Officials as a whole, whereas today, four core committees undertake this work: the Committee on Trade and Investment, the Steering Committee on Economic and Technical Cooperation, the Economic Committee, and the Budget and Management Committee. Subcommittees, expert groups, working groups, and task forces carry out the activities led by these four core committees. There were twelve standing groups in 2010, including standing groups on health, energy, emergencies, fisheries, agricultural and technical cooperation, marine resource management, and telecommunications.

[2] See <http://www.apec.org/About-Us/How-APEC-Operates.aspx> (accessed February 15, 2017).
[3] Guidebook on APEC Procedures and Practices (p. 2).

E2: MINISTERIAL MEETING (1993–2010)

After the creation of the Leaders' Summit, the Ministerial Meeting has become APEC's senior executive body. All major decisions are now taken at the Summit, while the Ministerial Meeting prepares the annual summit (it meets a few days before the Meeting) and supervises implementation of the leaders' decisions. The chair rotates on the principle that applies to the Leaders' Summit, and the members are typically the finance or foreign ministers.

APEC has also Sectoral Ministerial Meetings bringing together ministers with similar sectoral portfolios. In 2010, Sectoral Ministerial Meetings were held on six topics. Because this organ seems to be a sub-group of the Ministerial Meeting, we do not code it separately. Representation is direct and decisions are made by consensus.[4]

GS1: APEC SECRETARIAT (1993–2010)

APEC's assembly and executives are assisted by the APEC Secretariat, which was established in 1992 by the Ministerial Meeting in Bangkok and began to operate in 1993. It acts as "a support mechanism to facilitate and coordinate APEC activities, provide logistical and technical services as well as administer APEC financial affairs under the direction of the APEC Senior Officials' Meeting" (Bangkok Declaration—Institutional Arrangements, Art. 1.1). It has no competences in initiating recommendations or shaping the APEC agenda.

Until 2010, the executive director of the Secretariat was selected by annual rotation in the same way that the host country was selected for annual meetings. In 2010, this procedure was superseded by a fixed-term appointment. The post of secretary general is competitively advertised and professional applicants from all member states can apply. The three-year appointment is confirmed by the Leaders' Meeting.[5] There is no information available on the possible removal of the secretary general.

The APEC Secretariat has a small staff of program directors seconded from APEC member states and complemented by a team of specialist and support staff. The APEC Secretariat currently employs some fifty people.

CB1: APEC BUSINESS ADVISORY COUNCIL (ABAC) (1996–2010)

APEC has one permanent consultative body composed of non-state representatives, the APEC Business Advisory Council (ABAC), which forms an integral part of the organization's institutional structure with a representative attending

[4] See <http://www.apec.org/About-Us/How-APEC-Operates.aspx> (accessed February 15, 2017).
[5] See <http://www.apec.org/About-Us/APEC-Secretariat/Executive-Director.aspx> (accessed February 15, 2017).

APEC ministerial meetings.[6] The Council was set up by the APEC Economic Leaders in November 1995 to provide advice on the implementation of the Osaka Action Agenda and it published its first report in 1997. ABAC meets four times a year and produces an annual report on how to improve the business environment of the region. Three business representatives appointed by each member state serve on the Council, which is intended to reflect the diversity of economic sectors including small and large enterprises. The chair of ABAC comes from the country that hosts the APEC Summit and therefore changes annually. We code ABAC from 1996.

In addition, several organizations have observer status, including the Association of Southeast Asian Nations (ASEAN), the Pacific Economic Cooperation Council (PECC), and the Pacific Islands Forum (PIF).

Decision Making

MEMBERSHIP ACCESSION

The first written rules on accession in APEC were formulated by the Ministerial Meeting in 1991 in view of China, Hong Kong, and Taiwan's entry. The Joint Statement stipulates that "participation in APEC will be open, in principle, to those economies in the Asia-Pacific region which: (a) have strong economic linkages in the Asia-Pacific region; and (b) accept the objectives and principles of APEC" (Seoul APEC Declaration, Art. 7).[7] It goes on to note that "decisions regarding future participation in APEC will be made on the basis of consensus of all existing participants" (Art. 8). The application procedure is not detailed, but in connection with the accession of the aforementioned countries to APEC, the statement notes that "Ministers approved the recommendation of Senior Officials that the three be invited to participate in the third Ministerial Meeting" (Art. 4). Thus, for the initial period, we code the Senior Officials as setting the agenda and the Ministerial Meeting as taking the final decision by consensus. Additional ratification by member states is not required.

The second enlargement round in 1998 was decided by the Leaders' Meeting by consensus.[8] Thus, we code the Leaders' Meeting as taking the final decision on accession from then onwards. Leaders also agreed a moratorium

[6] The following information was retrieved from the APEC and ABAC websites: <http://www.apec.org/Groups/Other-Groups/APEC-Business-Advisory-Council.aspx> and <https://www.abaconline.org/v4/index.php> (both accessed February 15, 2017).

[7] These participation criteria were modified in a 1997 APEC Ministerial Statement on Membership to additionally include inter alia the need to "pursue externally oriented, market-driven economic policies."

[8] Private email with APEC Secretariat.

on new members until 2010. The expansion of APEC membership remains under review (see, for example, Ninth APEC Ministerial Meeting).

MEMBERSHIP SUSPENSION

No written rules. This is consistent with the voluntary nature and "extreme of imprecision" (Abbott 1992: 531) of APEC commitments.

CONSTITUTIONAL REFORM

APEC does not have a written constitution. Constitutive decisions tend to take the form of ad hoc declarations pronounced at Leaders' Summits. We code rules for constitutional reform as missing.

REVENUES

In the early period, there was no mention of regular revenue of the organization. We infer that early projects and studies were financed by ad hoc member state contributions.[α]

The organization moved closer toward achieving predictable revenues with the 1992 Bangkok Declaration, which envisaged regular contributions from the member states: "To cover APEC administrative and operational costs, APEC Members will make contributions to the APEC Fund on a proportional basis in accordance with a scale determined by Ministers. Additional contributions from the public or private sectors of any APEC Member(s) and other sources may also be made directly to APEC activities on a voluntary basis" (Art. 6). For a long time, however, voluntary contributions made up a large bulk of the APEC budget, from which the APEC Secretariat and economic projects were financed. According to the APEC Project Database, many projects are indeed self-funded.[9] For example, since 1997, Japan has provided voluntary project funds of between US$ 1.6 and 4.2 million annually compared to an overall APEC budget of just a few million US dollars.[10] So we continue to code "no regular contributions."

Recognizing this dependency on ad hoc contributions, member states decided in 2009 to increase regular contributions by 30 percent to strengthen APEC's institutional base.[11] This is a qualitative change in the organization's resource base, and we code regular member state contributions from 2009 onwards.

BUDGETARY ALLOCATION

The budget is drafted by the Senior Officials' Meeting: "The APEC SOM will oversee financial administration, monitor contributions and expenditures,

[9] See <http://aimp.apec.org/PDB/default.aspx> (accessed February 15, 2017).
[10] See <http://www.apec.org/Projects/Funding-Sources.aspx> (accessed February 15, 2017).
[11] See <http://www.apec.org/About-Us/How-APEC-Operates.aspx> (accessed February 15, 2017).

APEC Institutional Structure

		A1			A2			E1										E2										GS1		CB1
Years		Non-state selection	Indirect representation	Weighted voting	Non-state selection	Indirect representation	Weighted voting	Head—agenda	Head—decision	Members—agenda	Members—decision	Non-state selection	Partial representation	Indirect representation	Reserved seats	Weighted voting	Partial veto	Head—agenda	Head—decision	Members—agenda	Members—decision	Non-state selection	Partial representation	Indirect representation	Reserved seats	Weighted voting	Partial veto	Select	Remove	Non-state selection
1991–1992	Not body-specific	0	0	0				R	R			0	0	0	0	0	0													
	Member states									✓	✓																			
	A1: Ministerial Meeting																													
	E1: Senior Officials' Meeting																													
1993	Not body-specific	0	0	0				R	R			0	0	0	0	0	0											R	N	
	Member states									✓	✓																			
	A1: Ministerial Meeting																													
	E1: Senior Officials' Meeting																													
	GS: APEC Secretariat																													
1994–1995	Not body-specific				0	0	0	R	R			0	0	0	0	0	0	R	R			0	0	0	0	0	0	R	N	
	Member states									✓	✓									✓	✓									
	A2: Leaders' Meeting																													
	E1: Senior Officials' Meeting																													
	E2←A1: Ministerial Meeting																													
	GS: APEC Secretariat																													
1996–2009	Not body-specific				0	0	0	R	R			0	0	0	0	0	0	R	R			0	0	0	0	0	0	R	N	1
	Member states									✓	✓									✓	✓									
	A2: Leaders' Meeting																													
	E1: Senior Officials' Meeting																													
	E2: Ministerial Meeting																													
	GS: APEC Secretariat																													
	CB1: Business Council																													
2010	Not body-specific				0	0	0	R	R			0	0	0	0	0	0	R	R			0	0	0	0	0	0		N	1
	Member states									✓	✓									✓	✓									
	A2: Leaders' Meeting																											0		
	E1: Senior Officials' Meeting																													
	E2: Ministerial Meeting																													
	GS: APEC Secretariat																													
	CB1: Business Council																													

Note: A = automatic/technocratic procedure; N = no written rule; R = rotation; ✓ = body co-decides, but no voting rule; ← = change in status. Shaded areas refer to institutions or policy areas that are non-existent for those years.

APEC Decision Making

		Accession			Suspension		Constitution				Budget			Compliance		Policy (recommendations)					Dispute settlement						
Years		Agenda	Decision	Ratification	Agenda	Decision	Agenda	Decision	Ratification	Revenue source	Agenda	Decision	Binding	Agenda	Decision	Agenda	Decision	GS role	Binding	Ratification	Coverage	Third party	Binding	Tribunal	Non-state access	Remedy	Preliminary ruling
1991–1992	Not body-specific			2	N	N	N	N	N	0									0	3							
	Member states																										
	A1: Ministerial Meeting		0													0	0										
	E1: Senior Officials' Meeting	0														0											
1993	Not body-specific			2	N	N	N	N	N	0			0					0	0	3							
	Member states																										
	A1: Ministerial Meeting		0									0				0	0										
	E1: Senior Officials' Meeting	0									0					0											
	GS: APEC Secretariat																										
1994–1995	Not body-specific			2	N	N	N	N	N	0			0					0	0	3							
	Member states																										
	A2: Leaders' Meeting																0										
	E1: Senior Officials' Meeting	0									0					0											
	E2←A1: Ministerial Meeting		0									0				0											
	GS: APEC Secretariat																										
1996–1997	Not body-specific			2	N	N	N	N	N	0			0					0	0	3							
	Member states																										
	A1: Leaders' Meeting																0										
	E1: Senior Officials' Meeting	0									0					0											
	E2: Ministerial Meeting		0									0				0											
	GS: APEC Secretariat																										
	CB1: Business Council															N											

1998–2008	Not body-specific			2	N	N	N	N	N	0			0					0	0	3								
	Member states																												
	A1: Leaders' Meeting		0														0											
	E1: Senior Officials' Meeting	0									0					0												
	E2: Ministerial Meeting											0				0												
	GS: APEC Secretariat																											
	CB1: Business Council															N												
2009–2010	Not body-specific			2	N	N	N	N	N	1			0					0	0	3								
	Member states																												
	A1: Leaders' Meeting		0														0											
	E1: Senior Officials' Meeting	0									0					0												
	E2: Ministerial Meeting											0				0												
	GS: APEC Secretariat																											
	CB1: Business Council															N												

Note: A = automatic/technocratic procedure; N = no written rule; R = rotation; ✓ = body co-decides, but no voting rule; ← = change in status. Shaded areas refer to institutions or policy areas that are non-existent for those years

and make recommendations on financial operations" (1992 Bangkok Declaration, Art. 7a), or more precisely, the powerful Budget and Management Committee, which also reviews projects eligible for funding. As in all other APEC bodies, decision making is by consensus. The final decision is taken by the Ministerial Meeting (1992 Bangkok Declaration, Art. 5b). The APEC Secretariat does not appear to be involved beyond providing secretarial assistance. We code the budget as non-binding because of APEC's strong commitment to non-binding decision making.[γ]

FINANCIAL COMPLIANCE

No written rules.

POLICY MAKING

APEC is a forum for economic cooperation. Its policy making activities revolve around cooperation projects based on structured action plans for individual countries and (non-binding) recommendations regarding trade facilitation and liberalization. During the initial period until 1992, APEC was primarily involved in coordinating several "work projects" on trade promotion, technology transfer, and energy cooperation. These projects were initiated by the Senior Officials' Meeting or by the Ministerial Meeting and approved by the latter (see Statement by the Second APEC Ministerial Meeting, esp. Arts. 20 and 21).

Since the establishment of the Economic Leaders' Meeting in 1993 and the gradual move toward trade and investment liberalization with the Bogor Declaration in 1994 and the Osaka Action Plan in 1995, the Leaders' Meeting has become the highest decision making body. As the website indicates, "Asia-Pacific Economic Cooperation (APEC) policy direction is provided by the 21 APEC Economic Leaders. Strategic recommendations provided by APEC Ministers and the APEC Business Advisory Council are considered by APEC Economic Leaders as part of this process."[12] The APEC Ministerial Meeting and Senior Officials' Meeting, which are held prior to the annual Leaders' Meeting, as well as the APEC Business Advisory Council, which directly advises the Leaders' Meeting, provide recommendations. The Leaders' Meeting then takes the final decisions. Decisions are taken by consensus. APEC does not make binding decisions, and no additional ratification of decisions is necessary.

DISPUTE SETTLEMENT

There is no dispute settlement mechanism.

[12] See <http://www.apec.org/About-Us/How-APEC-Operates/Policy-Level.aspx> (accessed February 15, 2017).

Commonwealth of Nations (ComSec)

The Commonwealth of Nations, formerly known as the British Commonwealth or simply the Commonwealth, brings together fifty-two countries from Africa (eighteen), Asia (seven), the Caribbean and the Americas (thirteen), Europe (three), and the South Pacific (eleven). Virtually all countries are former British colonies; Mozambique entered the Commonwealth in 2009 as "the first country to join with no historical or administrative association with another Commonwealth country."[13] The organization is primarily concerned with development, the promotion of democracy and good governance, and is part of a diverse Commonwealth network of governmental and non-governmental organizations. Queen Elizabeth II is the ceremonial Head of the Commonwealth.[14]

Our coding focuses on the Commonwealth Secretariat (ComSec) which is the intergovernmental core of the sprawling Commonwealth network (Doxey 1979; ComSec Eminent Persons' Group Report 2011: 121). ComSec, which was founded in 1965, currently employs around 275 staff. Its offices are located in Guyana, India, the Solomon Islands, the United States, and Zambia.

The Commonwealth Secretariat is one of two existing intergovernmental organizations in the Commonwealth family. The other is the Commonwealth Foundation. While the Secretariat is an intergovernmental organization set up to facilitate collaboration among governments, the Foundation supports networks of professional associations and civil society. Its chief raison d'être today is to disburse funding for technical projects. Created under UK sponsorship in 1965 as an alternative to the more centralized Secretariat, the Foundation was initially a charitable trust, but it became an international organization in 1982 (though it is not listed in the Correlates of War). The Secretariat and the Foundation co-occupy Marlborough House in London. They refer to the same declarations as their constitutional foundation (1971 Singapore Principles, 1991 Harare Declaration, 2009 Trinidad and Tobago Affirmation). The relationship between the two—one centralized and public, the other decentralized and more privately oriented—used to be testy, but in recent decades the two organizations have become close collaborators (Shaw 2005, 2008). For example, the ComSec secretary general serves on the Board of Governors of the Commonwealth Foundation.[15]

In addition to these two governmental organizations, the Commonwealth community encompasses a variety of professional, sectoral, and cultural

[13] See <http://www.sci-tech-soc.org/The-Commonwealth.html> (accessed February 15, 2017).

[14] When the Queen dies or if she abdicates, her heir will not automatically assume her post. It will be up to the Commonwealth heads of government to choose a new head.

[15] *Memorandum of Understanding on the Commonwealth Foundation*, adopted by Commonwealth governments in 1982, Art. 13.

associations—mostly run by non-state actors—with loose connections to and ad hoc input into the ComSec and the Foundation (Shaw 2005).

The modern Commonwealth is, however, rooted in the nineteenth century when Canada was the first British colony to gain independence in 1867. The British Empire was first described as a "Commonwealth of Nations" in 1884. Hence, the Commonwealth emerged from the British Empire, holding together Britain and its former colonies. In 1926, the Balfour Report defined the Dominions as "autonomous communities within the British Empire, equal in status, in no way subordinate to one another in any aspect of their domestic or external affairs, though united by common allegiance to the Crown, and freely associated as members of the British Commonwealth of Nations" (for a history of the Commonwealth, see McIntyre 1978).

World War II transformed the Empire. India gained its independence in 1947 but wanted to hold on to its membership in the Commonwealth. The membership criteria set out by the Balfour Report were revised so that independent countries not owing allegiance to the Crown could become members of the Commonwealth. In 1965, the Commonwealth Secretariat was established in London as an independent civil service of the association in response to consistent pressure from the colonies (McIntyre 1998: 760–2). It took over the role of the Commonwealth Relations Office in the British Foreign Office (Chan 1984; Doxey 1979; McIntyre 1998).[16]

The Singapore Declaration of Commonwealth Principles gave the organization an explicit code of aims and ethics and created the Commonwealth Fund for Technical Cooperation.[17] In 2002, the Commonwealth set-up was comprehensively reorganized. Several functionally specific bodies were combined, the Secretariat was strengthened, and the organization's focus on human rights and good governance reinforced.

The Commonwealth is exceptional in its studied informality and emphasis on sovereignty and voluntary cooperation (McKinnon 2005).[18] The London Declaration (1949) is the founding document of the modern Commonwealth.[19] This is, however, not a constitutional document in the conventional sense, but rather a brief statement of intent. The Declaration of Commonwealth Principles (Singapore, 1971) and the Harare Commonwealth Declaration (1991) refine the values underpinning the organization, but for most

[16] For a colorful personal account of life inside Marlborough House, read Maud (1999).

[17] See <http://secretariat.thecommonwealth.org/subhomepage/158192/cftc/> (accessed February 15, 2017).

[18] At the 2011 Commonwealth Heads of Government Meeting (CHOGM) in Perth the leaders accepted a Report by the Eminent Persons Group which, if implemented, would overhaul the organization. It propagates a Charter, institutionalization of key IO bodies, and an enhanced role for the Commonwealth Secretariat. By the time of writing (March 2017), nothing had come from the proposals.

[19] See <http://thecommonwealth.org/our-history> (accessed February 15, 2017).

institutional issues we reference secondary sources, the Commonwealth's in-house periodical (*The Round Table*), and the Commonwealth's website.

The Commonwealth Secretariat is flanked by one assembly, the Commonwealth Heads of Government Meeting (CHOGM). There are several executives, of which the two most important are the Board of Governors and the Commonwealth Ministerial Action Group, with the Executive Committee of the Board as third. The Commonwealth Secretariat is the administrative core of the organization.

Institutional Structure

A1: FROM THE MEETING OF COMMONWEALTH PRIME MINISTERS (1965–70) TO THE COMMONWEALTH HEADS OF GOVERNMENT MEETING (CHOGM) (1971–2010)

Regular biennial meetings between prime ministers go back to the 1930s. In 1971, the meeting was renamed the Commonwealth Heads of Government Meeting. "Every two years Commonwealth leaders meet to discuss global and Commonwealth issues, and agree collective policies and initiatives. CHOGM is the principal policy and decision making forum to guide the strategic direction of the association. It is organized by the host nation in collaboration with the Commonwealth Secretariat."[20]

This implies that CHOGM members are selected by member states, all members are represented, and members directly represent their countries. The general decision rule is consensus.[21]

There are also, from time to time, meetings of sectoral ministers for health, education, rural development, food production, youth, and finance which usually take place in the wings of other international meetings. For example, finance ministers may meet prior to International Monetary Fund or World Bank meetings, health ministers before the sessions of the World Health Organization.

In 1999, the CHOGM in South Africa created the Chair-in-Office, who plays a representational role during the period between Heads of Government Meetings. In 2002, the role was expanded to include good offices with the secretary general and to contribute to strategic advocacy of Commonwealth positions in high-level international forums. The leader of the country that hosts the CHOGM becomes Chair-in-Office for a two-year period, so the position is not full-time. A Troika combines the outgoing, serving, and incoming chair-in-office.

[20] See <http://secretariat.thecommonwealth.org/Internal/180385/> (accessed February 15, 2017).
[21] See <http://secretariat.thecommonwealth.org/Internal/180385/> (accessed February 15, 2017).

E1: STEERING COMMITTEE OF SENIOR OFFICIALS (1965–2001)

Until 2002, executive oversight was fragmented across several bodies.[22] The most significant one was the Steering Committee of Senior Officials. It was charged with general supervision of the Secretariat's work and met in alternate years to the meeting of government heads (Doxey 1979: 68). There was also a Finance Committee composed of Commonwealth High Commissioners in London or their representatives whose chief task was to oversee the annual budget of the Secretariat (1965 MOU of the Secretariat, Art. 42).[23] These bodies were abolished in 2002, and replaced by the Board of Governors. The Steering Committee was merged with the Commonwealth Fund for Technical Cooperation subcommittee of the Executive Committee of the Board.

The composition of these bodies was fully member state. Every member state was represented in the three senior bodies, and representation was direct. The decision rule was consensus. The meetings were chaired by the senior Commonwealth High Commissioner in London or a representative of the British government, so one member state had a reserved seat (1965 MOU, Art. 42).

E2: BOARD OF REPRESENTATIVES OF THE COMMONWEALTH FUND FOR TECHNICAL COOPERATION (1971–2001)

Created at the 1971 Singapore CHOGM, the Commonwealth Fund for Technical Cooperation finances development projects and technical assistance. ComSec assists member governments, at their request, in advancing and obtaining support for projects (Goundrey 1972: 95). The Fund relies on voluntary contributions.

To monitor ComSec, a Board of Representatives of the Fund was set up that includes representatives from all member states. The Board elected its own chair (Tasker 1978: 95). It was assisted by a smaller management committee with representatives from major member state donors and Commonwealth regions, and was chaired by the secretary general (Tasker 1978: 94).

The decision rule is consensus but if no consensus can be reached, it can use supermajority with weighted voting reflecting financial contributions (Goundrey 1972: 97). Whether member state representation is direct or indirect is not entirely clear. On the one hand, the instruction to Board members that "In the exercise of this responsibility Governors will have regard to the interests of the Commonwealth as a whole" (1982 MOU, Art. 11) suggests indirect representation. On the other hand, weighted voting is consistent with

[22] From 2002 Executive 4 (Board of Governors) is coded under Executive 1 and Executive 5 (Executive Committee) becomes Executive 2 in the dataset.

[23] This body was aided by a subcommittee on finance. "Implementation of the Recommendations of the Commonwealth High Level Review Group," Executive Committee of the Board of Governors, EC1(03/04)10 (p. 16); Art. 45.2.

direct representation. We code direct representation, but acknowledge inconsistent signals on the part of the IO.[δ]

In 2002, the Board of Representatives was folded into the Board of Governors which supervises the Fund for Technical Cooperation as well as the Steering Committee of Senior Officials.

E3: COMMONWEALTH MINISTERIAL ACTION GROUP (1995–2010)

The Commonwealth Ministerial Action Group was established by the Heads of Government in November 1995 to deal with violations of the 1991 Harare Declaration, which lists the Commonwealth's fundamental political values (Millbrook Commonwealth Action Program on the Harare Declaration). The Group is convened by the secretary general and composed of foreign ministers from eight (since 2002: nine) countries, who can invite if need be one or two members from the region concerned (Millbrook Action Program, Art. 4). Their task is to assess the nature of the infringement and recommend measures for collective Commonwealth action aimed at the speedy restoration of democracy and constitutional rule. The Ministerial Action Group has the authority to suspend a member or recommend to heads of government that a member country be expelled. It is solely responsible for suspension, while expulsion and possible reinstatement after suspension are decided by the CHOGM on its recommendation.

The members of the executive, initially eight ministers of foreign affairs, are chosen by the CHOGM for maximally two terms of two years. Heads of government ensure regional balance, continuity, and institutional memory by staggering the rotation of members of the Ministerial Action Group. The Ministerial Action Group elects its own chair.[24] The foreign minister of the country of the chairperson-in-office became an ex officio member following the Coolum CHOGM in 2002. Since then, the Ministerial Action Group has comprised the foreign ministers of nine member states. Members can now exceptionally serve up to three terms. Only a subset of member states are represented, and representation is presumed to be direct, though the body is presumed to serve as "custodian of the Commonwealth's fundamental political values" (ComSec 2012: 28).[25] The secretary general convenes the meetings and plays a prominent role, so composition is less than 100 percent member state. His prominence also means that we code that "50 percent or more, but not all, members receive voting instructions from their government."[β]

The Ministerial Action Group meets twice a year and can also be convened in special session. At the CHOGM in 2009 in Trinidad and Tobago, leaders

[24] First meeting of the Commonwealth Ministerial Action Group, Marlborough House, London, December 19–20, 1995 (see <http://secretariat.thecommonwealth.org/press/31555/34582/141671/first_meeting_of_the_commonwealth_ministerial_acti.htm> (accessed February 15, 2017)).

[25] The political values are set out in ComSec (2012: Annex 4).

adopted a more detailed list of principles called the "Affirmation of Commonwealth Values and Principles" as the new template for which the Action Group is now the guardian. The CHOGM also ordered the body to look for ways to expand its role (and that of the secretary general) to address violation of the Harare Principles.

E4: BOARD OF GOVERNORS (2002–10)

Since 2002, executive supervision through the Steering Committee of Senior Officials, the Finance Committee, and the Board of Representatives has been centralized in a single Board of Governors on which all member governments are represented. The Board meets annually to approve the Secretariat's strategic plans and work programs, and future budgets of the Secretariat, Fund for Technical Cooperation, and the Youth Program (Report of the Commonwealth Secretary General 2005, p. 46). Representatives are usually senior bureaucrats. All members are selected by the member states, direct representation, and there is no weighted voting. The Board receives annual reports from the secretary general on the operations of each of the individual funds, and on Commonwealth coordination. It provides strategic direction on major policy issues, and reviews implementation of CHOGM mandates (revised 2005 MOU, Annex B, Arts. 6 and 7; Report of the Commonwealth Secretary General 2005, p. 46). As in the CHOGM, decisions are taken by consensus.[26]

The Board of Governors is chaired by a senior official of a member country elected by the Board for a two-year term. A representative of the CHOGM chairperson-in-office is vice-president.

E5: EXECUTIVE COMMITTEE (2002–10)

The Board of Governors established the Executive Committee in June 2002. It has sixteen members and meets three times a year. The Executive Committee "makes policy recommendations to the Board and oversees budgets and audit functions. The Committee includes the eight largest contributors to the Secretariat's total resources: Australia, Brunei Darussalam, Canada, India, New Zealand, Singapore, South Africa, and the United Kingdom. Other member states are elected to the Executive Committee on a regional basis to serve two-year terms."[27]

The chair of the Board of Governors is a member, and the secretary general has an ex officio seat (2005 MOU, Annex B, Art. 15). The Executive Committee elects a chair and vice-chair from among its members (2005 MOU, Annex B,

[26] See <http://secretariat.thecommonwealth.org/Internal/180380/> (accessed February 15, 2017); Report of the Commonwealth Secretary General (2005: 8).

[27] See <http://secretariat.thecommonwealth.org/Internal/191086/20728/36551/governance/> (accessed February 15, 2017).

Art. 17). In personal communication, the Secretariat specified that "The Chair of the Executive Committee is proposed by any of the member states on the Executive Committee; the proposal is then seconded and agreed by consensus. The members would take into account regional rotation when proposing the chair, although there is no formal rotation arrangement."[28] Accordingly, member states and rotation are coded for proposing the head; the Executive Committee makes the final decision by consensus.

Members of the executive are selected for a two-year term using a mix of criteria: the eight largest contributors; eight regional representatives (two from each region, staggered elections); and two ex officio members (the chair of the Board of Governors, and the CHOGM Chair-in-Office).[29] Therefore, we code the Board of Governors as proposing and selecting members. We also code rotation and member states in the proposal stage.

The composition of the executive is fully member state with direct representation of a subset of member states; there are reserved seats for the largest contributors. The decision rule varies by the type of expenditure. Decisions relating to the Fund for Technical Cooperation can be taken by majority, provided they have the support of representatives of governments contributing three-quarters of its resources in that financial year. Other decisions are taken by consensus and votes are unweighted (2005 MOU, Annex B, Art. 22). Our coding scheme picks up the decision rules that apply to the Fund for Technical Cooperation because it is the core responsibility of the Executive Committee.

GS1: COMMONWEALTH SECRETARIAT (1965–2010)

Until 1965, the Commonwealth was administered from the Commonwealth Relations Office in the British government. In 1964, the recently independent African and Asian members, with Canadian support, pushed for a separate Commonwealth Secretariat, which was established by common agreement among the heads of government in 1965. It was dubbed by Milton Obote as the Commonwealth's "declaration of independence" from Whitehall (2007 Report on Membership of the Commonwealth, HGM(07)5: 5). Its brief was "facilitating an exchange of views and analyses . . . on political affairs in general" (McIntyre 1998: 765), but "it should not arrogate to itself executive functions" (1965 Memorandum of Agreement, Art. 6). The Memorandum emphasizes the informal nature of the Commonwealth and the Secretariat's obligation to sustain this: "The Commonwealth is not a formal organization. It does not encroach on the sovereignty of individual members. Nor does it

[28] Email correspondence, November 15, 2010.
[29] See <http://secretariat.thecommonwealth.org/Internal/191086/20728/36551/governance/> (accessed February 15, 2017).

require its members to seek to reach collective decisions or to take united action. Experience has proven that there are advantages to such informality" (1965 MOU, Art. 4). The MOU was revised in 2005 and has retained its original spirit and language.

The procedure for selecting the secretary general has not changed: "Candidates for the post of Secretary General are nominated by governments in the months leading up to a CHOGM where the post becomes vacant. A restricted session is held during the CHOGM, open only to heads of government and other heads of delegation with ministerial status. The chair leads in determining which candidate has the greatest support amongst the fifty-three leaders, and may conduct one or more secret 'straw poll' ballots to assist that process. Once a clearly supported candidate becomes apparent, the governments whose candidates are unsuccessful withdraw from the contest in order to achieve unanimous support by heads for one candidate."[30] Hence, the decision rule is consensus.[31]

The secretary general is appointed for four years, renewable for a second term.[32] Until 1993, the term was five years.[33] Together with the staff of the secretariat, he/she "implements programs which respond to the requests of leaders and ministers."[34] There is no provision for removing the secretary general from office.

Two deputies and ten directors are appointed by the secretary general from a shortlist provided by heads of governments. The secretary general may appoint junior staff at her discretion. Applicants must be citizens of a Commonwealth member country. The Agreed Memorandum on the Commonwealth Secretariat (1965) emphasizes efficiency, competence, and integrity while stressing the importance of recruiting on as wide a geographical basis as possible within the Commonwealth. "Thus the objective of recruitment by the Secretariat is to identify the best possible candidate from the widest possible range of member country citizens."[35] Secondment is mentioned on the website (e.g. related to the arbitral tribunal) but according to the Secretariat most staff are not seconded.[36]

[30] See <http://secretariat.thecommonwealth.org/Internal/180382/> (accessed February 15, 2017).

[31] Though votes have occasionally been taken. When in 2003 the incumbent secretary general Don McKinnon stood for re-election, he faced a challenger from Sri Lanka. The challenger was defeated, by forty votes to eleven (CHOGM 2003).

[32] See <http://secretariat.thecommonwealth.org/Internal/180382/> (accessed February 15, 2017).

[33] The 1993 CHOGM held in Cyprus agreed to shorten the term to a four-year term renewable once (see <http://secretariat.thecommonwealth.org/Internal/180382/> (accessed February 15, 2017)).

[34] See <http://secretariat.thecommonwealth.org/Internal/190945/191153/policy_development/> (accessed February 15, 2017).

[35] See <http://secretariat.thecommonwealth.org/Internal/180416/> (accessed February 15, 2017).

[36] Email correspondence, November 15, 2010.

The chief role of the secretary general is to provide "good offices" to member states in order to solve interstate and intra-state disputes. Since 1995, much of this work is in coordination with the Ministerial Action Group, of which the secretary general is an ex officio member (for an overview, see Duxbury 2006). The respective roles of the secretary general and the Action Group were strengthened in 2011 when the Perth CHOGM broadened the terms of their intervention.[37]

CONSULTATIVE BODIES

The Commonwealth has accredited around ninety professional and advocacy organizations that bear the Commonwealth's name as part of a "family of nations." Accreditation is a member state-controlled process, that is, member governments manage the accreditation process, supported administratively by the Secretariat through its Civil Society Liaison Unit.

Perhaps the most venerable is the Commonwealth Parliamentary Association, which is some forty years older than the intergovernmental Commonwealth itself. Neither the Parliamentary Association nor any other accredited organization have a clearly defined, routine or decisional, role in ComSec. No consultative bodies are coded.

Decision Making

MEMBERSHIP ACCESSION

Initial conditions for membership were laid down in the Statute of Westminster (1931). The sole membership criterion of the embryonic Commonwealth was that a state be a Dominion, that is to say, an independent monarchy. When newly independent India desired to join the Commonwealth as a republic, the London Declaration (1949) loosened the language to allow republics as well as monarchies to become members—as long as the country accepted the following provision: "The Government of India have . . . declared and affirmed India's desire to continue her full membership of the Commonwealth of Nations and her acceptance of the King as the symbol of the free association of its independent member nations and as such the Head of the Commonwealth."

When in the late 1950s and early 1960s one colony after another gained independence and demanded membership, the status quo unraveled. Absent a constitution, convention, or charter, accession criteria were adjusted to events. Four criteria emerged: independence, acceptance of the Queen as a symbol of free association, an obligation to cooperate, and the absence of

[37] See ComSec (2012) for details.

racial discrimination in official policies (coinciding with the withdrawal of South Africa in 1961) (McIntyre 1998: 759). An unspoken criterion was also that the country had a constitutional or administrative link with the UK. By 1965, the decision process had taken on a distinctly intergovernmental form: decisions were taken by the Meeting of Commonwealth Prime Ministers, usually after having received the advice of an ad hoc study committee composed of representatives of all or some members and after having polled individual members. Hence we code member states as initiator and the Meeting of Prime Ministers as final decision maker. There is no ratification. Nor was there any mention of an expulsion procedure in those days.

The 1971 Singapore and 1991 Harare Declarations further specified conditions for good membership, including world peace, liberty, human rights, equality, and free trade. But it was not until the inception of the 1995 Millbrook Program that these principles shaped the decision process. The 2007 Report of the Committee on Commonwealth Membership (Membership of the Commonwealth: 28ff.) outlines the process of applications for Commonwealth membership, and makes clear that the process can be traced back to at least 1995. A country informally expresses its interest in membership followed by an "Informal assessment by the Secretary-General"; if the secretary general is satisfied, existing member states may raise objections. If there are no objections a formal request for membership may be made where the applicant country must provide "evidence of democratic processes and popular support." The final step is that "Heads of Government would consider the application of a prospective member at the next CHOGM, and, if they reach consensus about accepting the application, that country would then join the Commonwealth and be invited to subsequent meetings."

Based on this information, the secretary general is coded as a participant in decision making. We code member states as involved because any member state may raise objections. The final decision power is given to the CHOGM deciding by consensus. This decision is the final step; ratification by existing members is not mentioned.

Since the 1990s the criteria for membership have become more explicit. Criteria agreed in 1997 at Edinburgh allowed states with a prior constitutional link to a member to apply to join. In 2007, the Kampala criteria relax this slightly by stating that an applicant country should, as a general rule, have had a historic constitutional association with an existing Commonwealth member, though in exceptional circumstances applications would be considered on a case-by-case basis. Furthermore, an applicant country should accept and comply with Commonwealth fundamental values set out in the 1971 Singapore Declaration and subsequent Declarations, demonstrate commitment to democracy, accept Commonwealth norms and conventions such

as the use of English and acknowledge Queen Elizabeth II as the Head of the Commonwealth, and new members should be encouraged to join the Commonwealth Foundation (Membership of the Commonwealth: 26).

MEMBERSHIP SUSPENSION

The Commonwealth had no explicit suspension procedure until 1995. Implementing the 1991 Harare Principles, the 1995 Millbrook Agreement set up a Commonwealth Ministerial Action Group to deal with "serious or persistent violations of the Harare Declaration," which details the Commonwealth's fundamental political values. The Group is convened by the Commonwealth secretary general and made up of foreign ministers from nine countries. "Their task is to assess the nature of the infringement and recommend measures for collective Commonwealth action aimed at the speedy restoration of democracy and constitutional rule" (Millbrook: C4). The Ministerial Action Group "has the authority to suspend or even recommend to Heads of Government that a member country be expelled."[38]

The Ministerial Action Group is coded as both agenda setter and, alongside the CHOGM, as decision maker. Both bodies decide by consensus.

The secretary general is also involved in the procedure. She convenes the Ministerial Action Group, assesses the situation, and provides good offices. According to observers, the secretary general "seems to have had complete autonomy in selecting the membership—'a case of taps on the shoulder from the Secretary General—you're in, you're out' " (Colvile 2004: 346). We include the Secretariat in the agenda setting phase.

CONSTITUTIONAL REFORM

The Commonwealth does not have a written constitution, but Commonwealth Declarations have constitutional status (Chan 1989). These are issued by the heads of state at the CHOGM by consensus. Because the heads of state and government are the members of the CHOGM it is plausible to code member states as having an independent right to initiate amendments. The Secretariat's role appears to be administrative only: "The functions of the Secretariat are envisaged as being inter alia the dissemination of factual information to member countries on matters of common concern" (1965 and 2005 MOU on the Secretariat, Art. 12). No ratification is required.

[38] See <http://www.commonwealthofnations.org/commonwealth/cmag/> (accessed February 15, 2017). For example, the Fiji Islands have been suspended since 2009. <http://news.bbc.co.uk/2/hi/8231717.stm> (accessed February 15, 2017). With respect to reinstatement, the Ministerial Action Group may make a recommendation to the CHOGM.

REVENUES

The Secretariat and its work are financed by three budgets or funds. All member states contribute to the Secretariat on an agreed scale, which is based on each country's capacity to pay. The UN scale is used as a broad guide. The budget for the Secretariat in 2009/10 is £15 million. The Commonwealth Youth Program budget (£2.8 million in 2009/10) is based on assessment using an agreed but voluntary scale.[39]

The Commonwealth Fund for Technical Cooperation (CFTC) has a budget in 2009/10 of £29 million, which makes it the largest in the Commonwealth. "All contributions to the CFTC are voluntary. Over the past six years, the largest contributors have been Australia, Botswana, Brunei Darussalam, Canada, India, New Zealand, Nigeria and the UK. Some member countries' overseas territories and associated states also contribute. For various special CFTC projects, contributions have been received from non-Commonwealth governments and voluntary organisations."[40] Its voluntary contributions come mainly from member state governments. Except for third-party contributions, which are often project-specific, contributions are unconditional. Project proposals are assessed by CFTC experts and mandated by the Board of Governors and the Secretariat. However, member state contributions are voluntary and could, in principle, be withdrawn without penalty. Hence we code the lowest category.

BUDGETARY ALLOCATION

Until their merger in 2002, separate bodies monitored the central budget of the Secretariat and of the Fund for Technical Cooperation and Commonwealth Youth Fund. The Finance Committee was strictly intergovernmental and worked by consensus. It reported to the Steering Committee of Senior Officials. From 1971, the Board of Representatives for the Fund for Technical Cooperation could vote by supermajority (Goundrey 1972: 98). Budgets were drafted by the Secretariat. Budgets for the General Secretariat were based on a scale of member state contributions and were binding.

Since 2002, the Secretariat drafts the budget, which is then vetted by the Executive Committee, which votes by unanimity on the secretarial budget and through weighted voting on the funds' budgets. Both budgets are approved by the Board of Governors applying consensus and are binding.

[39] See <http://secretariat.thecommonwealth.org/Internal/180412/> (accessed February 15, 2017).

[40] See <http://www.commonwealthofnations.org/commonwealth/commonwealth-secretariat/> (accessed February 15, 2017).

FINANCIAL COMPLIANCE

There was no non-compliance procedure until 2004. Guidelines governing arrears of contributions to the Secretariat's funds were agreed by heads of governments at the CHOGM in Abuja, Nigeria, in December 2003.[41] According to the Abuja guidelines, sanctions apply automatically when conditions are met.

Sanctions for non-paying members are laid out quite explicitly in the Abuja guidelines: "Those countries which failed to meet their obligations and were more than a year in arrears (excluding the current year) to the Commonwealth Secretariat's assessed budget and had not agreed specific arrangements to pay such arrears should not expect to be considered for future technical assistance from any of the Secretariat's budgets. In addition, such countries will be deemed to have opted to become special members. This would preclude attendance at the Heads of Government Meetings." In order to re-enter as an ordinary member and be eligible for technical assistance, a member state must negotiate with the secretary general and meet specified contribution targets.

POLICY MAKING

The Commonwealth has no laws, regulations, or directives. The chief policy instruments consist of declarations, statements, recommendations, strategic plans, and work programs. The CHOGMs develop broad policy initiatives and "act as the principal policy and decision making forum to guide the strategic direction of the association."[42] While the Meeting of Prime Ministers and, later, CHOGM set the general direction, actual decision making is in the hands of the Steering Committee of Senior Officials or Board of Representatives, and since 2002, the Board of Governors. From 1965 to 2001, the Steering Committee was responsible for reviewing the implementation of guidelines and supervising the Secretariat (Doxey 1979), and from 1971 to 2001, the Board of Representatives did the same for fund-related policy. From 2002, this task has been taken over by the Board of Governors (2005 MOU, Annex B, Arts. 6(iii), (iv), and (v)).

Declarations and programs/projects are the two most important policy streams for the work of the Commonwealth, and the bulk of the coding focuses on these two instruments. Since 1995 we code a third policy stream: good offices on conflict resolution, good governance, and democracy promotion.

Until the creation of the Fund for Technical Cooperation, the Commonwealth's policy making was limited to accumulating knowledge "on the aid potential of the Commonwealth" (1965 MOU, Art. 21). This was meant to

[41] See <http://secretariat.thecommonwealth.org/Internal/190945/34492/funding/> (accessed February 15, 2017).

[42] See <http://secretariat.thecommonwealth.org/Internal/180385/> (accessed February 15, 2017).

feed into declarations by the Meeting of Prime Ministers. Policy initiatives were member state driven and voluntary. The role of the secretary general was narrowly circumscribed in the 1965 MOU: "The functions of the Secretariat in connection with the Commonwealth Development Projects are therefore expert and advisory and will not detract from the right of member countries to determine their own aid and development programmes" (1965 MOU, Art. 19). Over time, however, the secretary general established the precedent that she may initiate policy as long as it is not challenged by member states (Doxey 1979: 71). The role of collective bodies, such as the Steering Committee of Senior Officials, appears limited, since the bulk of the secretary general's work is to facilitate bilateral and voluntary multilateral cooperation. Hence we code member states and the secretary general as initiators, and member states, Meeting of Prime Ministers, and Steering Committee of Senior Officials as final decision makers. Policy making is voluntary, and no ratification is required.

Beginning in 1971 the Fund for Technical Cooperation provided ComSec with an operational arm, which generated a second policy stream: programs and projects. In 1973, a small Commonwealth Youth Fund was added to this. The MOU for the Fund for Technical Cooperation charges the Commonwealth Secretariat with the task to coordinate "demand-led programs" asking mainly for technical expertise in planning, training, etc. (Goundrey 1972). Hence the Fund worked in an extremely decentralized fashion and mostly responded to requests without much strategic planning. We code member states as initiators, along with the secretary general. Since the secretary general submits a bi- or triennial report to the Board of Representatives, we code the Board of Representatives as well as member states as final decision makers. The Board of Representatives can take, if necessary, decisions by supermajority. While we were unable to get hold of the 1971 MOU for the Fund for Technical Cooperation, the initiating role of the secretary general is explicitly defined in the 2005 MOU (Art. 17) and it seems reasonable to assume that this was also the case earlier.[α] This is also consistent with a personal account by the Fund's managing director in the 1970s who characterizes the secretary general's role as being "responsible for the operation of the Fund in accordance with the guidelines set by the Board and the Committee" (Tasker 1978: 95).

During this period, we also code the Steering Committee of Senior Officials and the CHOGM for the first policy stream for non-technical cooperation policy as final decision makers. Policy making is voluntary and no ratification is required.

Since the 2002 revision, the final decision on the Commonwealth Secretariat strategic plan for the Fund for Technical Cooperation is taken by the Board of Governors (2005 MOU, Annex B, Arts. 6(iii), (iv), (v), and also MOU for the

CFTC, Art. 14). Initiation power lies with the Secretariat and the member states. To the extent that initiatives generate declarations, the ultimate decision maker remains the CHOGM.

For programming related to the Fund for Technical Cooperation, the Executive Committee of the Board of Governors plays an important discretionary role in "determining, subject to the directions of the Board of Governors, the acceptability of financial or other arrangements proposed for the different parts of the programme to be financed from the Fund and the general terms and conditions under which technical assistance will be provided," and it has "freedom to modify the plans in the light of changing circumstances as the Board may agree." Its main role is to advise the Board on Commonwealth strategic aid tactical policy. Hence from 2002 we code the secretary general, the Executive Committee, and member states as initiators, and the Board of Governors and the Executive Committee as decision makers for programming. The Board decides by consensus while the Executive Committee may decide by supermajority, that is to say "Any decision taken by majority decision must have the support of representatives of governments contributing three-quarters of the resources of the CFTC in that financial year" (MOU of the CFTC, Art. 21).

Both declarations and programs are optional. For example, on education, one of the more advanced collaboration areas, the secretary general describes its "ABC role" as one of being Advocate, Broker, and Catalyst. Money is used as a carrot to persuade member states to engage in cooperation, but no member state can be compelled. We code policy making as non-binding. Neither the documents nor the website mentions ratification of declarations or programs and, hence, we code both as non-binding.

Finally, a third policy stream constitutes monitoring of democracy, human rights, and good governance. The impetus for this policy stream was given by the 1991 Harare Declaration which formulated the fundamental principles that govern Commonwealth membership. These were translated in a specific policy process with the 1995 Millbrook Program, which is when we start coding.

Central here are the good offices by the secretary general in brokering peace deals among states or dealing with challenges to democracy or the rule of law within member states (Duxbury 2006). The secretary general's role is firmly enshrined in the Millbrook Program as working in coordination with the CHOGM Chair-in-Office and reporting directly to the CHOGM or, in cases of potential violation of Commonwealth principles, to the Ministerial Action Group. Ultimately, the Ministerial Action Group and CHOGM can take binding decisions on suspension or expulsion, which we picked up earlier. Here we focus on the soft instruments of fact gathering, persuasive diplomacy, and coalition building that constitute the core of good offices.

ComSec Institutional Structure (1965–2001)

		A1			E1										E2										E3									GS1	
Years		Non-state selection	Indirect representation	Weighted voting	Head—agenda	Head—decision	Members—agenda	Members—decision	Non-state selection	Partial representation	Indirect representation	Reserved seats	Weighted voting	Partial veto	Head—agenda	Head—decision	Members—agenda	Members—decision	Non-state selection	Partial representation	Indirect representation	Reserved seats	Weighted voting	Partial veto	Head—agenda	Head—decision	Members—agenda	Members—decision	Non-state selection	Partial representation	Indirect representation	Reserved seats	Weighted voting	Partial veto	Select	Remove
1965–1970	Not body-specific	0	0	0					0	0	0	1	0	0																				N
	Member states				✓	✓	✓	✓																											
	A1: Commonwealth Prime Ministers																																	0	
	E1: Steering Committee																																		
	GS1: Commonwealth Secretariat																																		
1971–1994	Not body-specific	0	0	0					0	0	0	1	0	0					0	0	0	1	1	0											N
	Member states				✓	✓	✓	✓									✓	✓																	
	A1: **Heads of Government Meeting**																																	0	
	E1: Steering Committee																																		
	E2: Board of Representatives														2	2																			
	GS1: Commonwealth Secretariat																																		
1995–2001	Not body-specific	0	0	0					0	0	0	1	0	0					0	0	0	1	1	0			R		1	1	1	0	0	0		N
	Member states				✓	✓	✓	✓									✓	✓									✓								
	A1: Heads of Government Meeting																											0						0	
	E1: Steering Committee																																		
	E2: Board of Representatives														2	2																			
	E3: Ministerial Action Group																								0	0									
	GS1: Commonwealth Secretariat																																		

Note: A = automatic/technocratic procedure; N = no written rule; R = rotation; ✓ = body co-decides, but no voting rule; ← = change in status. Shaded areas refer to institutions or policy areas that are non-existent for those years.

ComSec Institutional Structure (2002–2010)

		A1			E3										E4										E5								GS1	
Years		Non-state selection	Indirect representation	Weighted voting	Head—agenda	Head—decision	Members—agenda	Members—decision	Non-state selection	Partial representation	Indirect representation	Reserved seats	Weighted voting	Partial veto	Head—agenda	Head—decision	Members—agenda	Members—decision	Non-state selection	Partial representation	Indirect representation	Reserved seats	Weighted voting	Partial veto	Head—agenda	Head—decision	Members—agenda	Members—decision	Non-state selection	Partial representation	Indirect representation	Reserved seats	Weighted voting	Partial veto	Select	Remove
2002–2010	Not body-specific	0	0	0			R		1	1	1	1	0	0					0	0	0	0	0	0	R		R		0	1	0	1	1	0		N
	Member states						✓										✓	✓									✓									
	A1: Heads of Government Meeting							0																											0	
	E3: Ministerial Action Group				0	0																														
	E4: Board of Governors														0	0									0	0	0	0								
	E5: Board Executive Committee																																			
	GS1: Commonwealth Secretariat																																			

Note: A = automatic/technocratic procedure; N = no written rule; R = rotation; ✓ = body co-decides, but no voting rule; ← = change in status. Shaded areas refer to institutions or policy areas that are non-existent for those years.

ComSec Decision Making (1965–2001)

		Accession			Sus-pension		Constitution				Budget			Com-pliance		Policy 1 (declarations)					Policy 2 (programs and projects)					Policy 3 (governance monitoring)					Dispute settlement							
Years		Agenda	Decision	Ratification	Agenda	Decision	Agenda	Decision	Ratification	Revenue source	Agenda	Decision	Binding	Agenda	Decision	Agenda	Decision	GS role	Binding	Ratification	Agenda	Decision	GS role	Binding	Ratification	Agenda	Decision	GS role	Binding	Ratification	Coverage	Third party	Binding	Tribunal	Non-state access	Remedy	Preliminary ruling
1965–1970	Not body-specific			2	N	N			3	0			2	N	N			0	0	3																
	Member states	✓					✓									✓	✓																			
	A1: Commonwealth Prime Ministers		0				0	0									0																			
	E1: Steering Committee										0	0					0																			
	GS1: Commonwealth Secretariat										✓					✓																				
1971–1994	Not body-specific			2	N	N			3	0			2	N	N			0	0	3			1	0	3											
	Member states	✓					✓									✓					✓	✓														
	A1: Heads of Government Meeting		0				0	0									0																			
	E1: Steering Committee										0	0					0																			
	E2: Board of Representatives											2										2														
	GS1: Commonwealth Secretariat										✓					✓					✓															
1995–2001	Not body-specific			2					3	0			2	N	N			0	0	3			1	0	3			1	0	3							
	Member states	✓					✓									✓					✓	✓														
	A1: Heads of Government Meeting		0			0	0	0									0										0									
	E1: Steering Committee										0	0					0																			
	E2: Board of Representatives											2										2														
	E3: Ministerial Action Group				0	0																				0	0									
	GS1: Commonwealth Secretariat	✓			✓						✓					✓					✓					✓										

Note: A = automatic/technocratic procedure; N = no written rule; R = rotation; ✓ = body co-decides, but no voting rule; ← = change in status. Shaded areas refer to institutions or policy areas that are non-existent for those years.

ComSec Decision Making (2002–2010)

		Accession			Sus-pension		Constitution				Budget			Com-pliance		Policy 1 (declarations)					Policy 2 (programs and projects)					Policy 3 (governance monitoring)					Dispute settlement							
Years		Agenda	Decision	Ratification	Agenda	Decision	Agenda	Decision	Ratification	Revenue source	Agenda	Decision	Binding	Agenda	Decision	Agenda	Decision	GS role	Binding	Ratification	Agenda	Decision	GS role	Binding	Ratification	Agenda	Decision	GS role	Binding	Ratification	Coverage	Third party	Binding	Tribunal	Non-state access	Remedy	Preliminary ruling
2002–2003	Not body-specific			2					3	0			2	N	N			1	0	3			1	0	3			1	0	3							
	Member states	✓					✓									✓					✓															
	A1: Heads of Government Meeting		0			0	0	0									0										0									
	E3: Ministerial Action Group				0	0																				0	0									
	E4: Board of Governors											0					0					0														
	E5: Board Executive Committee										2										2	2														
	GS1: Commonwealth Secretariat	✓			✓						✓					✓					✓					✓										
2004–2010	Not body-specific			2					3	0			2	A	A			1	0	3			1	0	3			1	0	3							
	Member states	✓					✓									✓					✓															
	A1: Heads of Government Meeting		0			0	0	0									0										0									
	E3: Ministerial Action Group				0	0																				0	0									
	E4: Board of Governors											0					0					0														
	E5: Board Executive Committee										2										2	2														
	GS1: Commonwealth Secretariat	✓			✓						✓			✓	✓	✓					✓					✓										

Note: A = automatic/technocratic procedure; N = no written rule; R = rotation; ✓ = body co-decides, but no voting rule; ← = change in status. Shaded areas refer to institutions or policy areas that are non-existent for those years.

We code the secretary general and the Ministerial Action Group as initiators, and Ministerial Action Group and the CHOGM as decision makers. Policy is non-binding. No ratification is required.

DISPUTE SETTLEMENT

The Commonwealth has no legalized dispute settlement. When disputes arise, Commonwealth members tend to rely on political mechanisms, in particular the institutionally recognized authority of the secretary general and the CHOGM Chair-in-Office to provide good offices to particular states and to the community as a whole.

International Civil Aviation Organization (ICAO)

The International Civil Aviation Organization is a specialized agency in the UN system that produces standards and recommended practices for the technical and operational aspects of international civil aviation including safety, personnel licensing, operation of aircraft, aerodromes, air traffic services, and accident investigation. It has 191 member states with headquarters located in a twenty-seven-story building in Montreal and seven regional offices.

International cooperation in setting standards for air travel began with a conference held in Paris in 1910 followed by the International Commission for Air Navigation established by the victorious powers after World War I. Germany was excluded until 1923 and neither the United States nor the Soviet Union were members. A wholly new organization was provisionally established in July 1945 shortly before the end of World War II by fifty-four allied states led by the United States and Britain. A permanent organization followed in 1947 and in the following years it became an inclusive global body. The war demonstrated the immense strategic importance of aviation, and the prospect of peace brought home the need for coordination in the transition to commercial air travel. The United States was intent on freedom of the air—free competition based on liberal entry rights to markets and airspace—whereas Britain wanted to protect its imperial share of the pie (Van Vleck 2013: 184ff.). The conflict broke into the open in 1944 at the founding conference of the ICAO in Chicago. Little progress was made on the contentious issues of landing rights, transit, and competition, but the specialized committees concerned with standards forged ahead and this became the focus of the organization.

The Chicago Convention establishing the ICAO specifies that the organization's central objectives are to develop principles and techniques of international air navigation and to foster planning and development of international air transport so as to: ensure safe and orderly growth of

international civil aviation worldwide; encourage aircraft design and operation for peaceful purposes; encourage development of airways, airports, and air navigation facilities for international civil aviation; meet the need for safe, regular, efficient, and economical air transport; prevent economic waste caused by unreasonable competition; ensure that the rights of contracting states are fully respected and that every contracting state has a fair opportunity to operate international airlines (Convention, Art. 44). Most decisions are taken in the form of Standards and Recommended Practices (SARPs). Standards are deemed necessary for civil aviation; recommended practices are considered desirable (MacKenzie 2010: 53).

The key legal document of ICAO remains the 1944 Chicago Convention (abbreviated as C 1944). It has been amended several times. However, few amendments were ratified by two-thirds of the membership necessary for implementation. One of these failed amendments includes a vote by forty to one to expel South Africa from ICAO in 1965 which failed to gain ratification. ICAO is currently party to fifty-eight multilateral air law treaties.[43] The organization stresses that its decisions are taken consensually. Its working norms are based on the "four 'C's of aviation: cooperation, consensus, compliance, and commitment."[44] These norms describe most of its technical decisions. When consensus cannot be reached, the written rules for majoritarian decision making come into play.

ICAO has four principal decision making bodies: the Assembly, the Council, the Air Navigation Commission, which act as the organization's executives, and the Secretariat. In addition to these bodies, the ICAO has diverse standing committees with circumscribed tasks, including the Air Transport Committee, the Finance Committee, and the Committee on Joint Support of Air Navigation Services.

Institutional Structure

A1: ICAO ASSEMBLY (1950–2010)

The Assembly is the supreme institution of the organization. All member states are entitled to have a seat on this body and each has one vote (C 1944, Art. 48b). Member states are represented directly by delegates. Delegates may be assisted by technical advisors who can participate in the meetings but have no vote. The Assembly selects the member states that sit on the Council for three-year terms (C 1944, Art. 49).

[43] These are listed on the ICAO website: <http://www.icao.int/secretariat/legal/lists/current%20lists%20of%20parties/allitems.aspx> (accessed February 15, 2017).

[44] See <http://www.icao.int/safety/airnavigation/Pages/standard.aspx> (accessed February 15, 2017).

The Chicago Convention of 1944 specifies that "the Assembly shall meet annually" (C 1944, Art. 48a). An amendment came into force in 1956 stating that "The Assembly shall meet not less than once in three years and shall be convened by the Council at a suitable time and place. An extraordinary meeting of the Assembly may be held at any time upon the call of the Council or at the request of not less than one-fifth of the total number of contracting States addressed to the Secretary General."

In sum, the Assembly is an intergovernmental body composed of member state representatives.

E1: ICAO COUNCIL (1950–2010)

The Council is the principal executive body of the ICAO. It is composed of thirty-six state delegates responsible for overseeing ICAO's mission and it reports to the Assembly which has final authority. Over the years, the Council has evolved into a continuous body with permanent representatives who determine the timing of its sessions. The Council approves or amends SARPs, procedures for air navigation services (PANS), and regional standards (SUPPs) by two-thirds majority (C 1944, Art. 90). It also conducts investigations on any topic relating to international aviation, is the first stop for disputes among member states, and has the authority to suspend a member state's vote, or in the case of an airline, it can ask member states to rescind permission to use their airspace. However, the Council has "no power to force any member to do anything it doesn't want to do" (MacKenzie 2010: 55).

The Council elects a non-voting president by simple majority for a renewable term of three years (C 1944, Art. 51). It also elects from among its members one or more vice-presidents who retain the right to vote when they serve as acting president. The president need not be selected from among the representatives of the members of the Council but, if a representative is elected, the seat is filled by the state which that person represents (C 1944, Art. 51). In both cases, the decision rule is simple majority (C 1944, Art. 52).

The Chicago Convention envisioned a Council of twenty-one members. This number has steadily increased over time through amendments to make the Council thirty-six members strong. Its composition is guided by three nested criteria (C 1944, Art. 50b): 1) the inclusion of states of "chief importance" in air transport; 2) the largest providers of facilities for international civil air navigation; 3) geographical distribution to include representatives from "major areas" of the world.[45] We code the Council as having seats reserved for stakeholders, with a final proviso for geographical balance. Member state votes

[45] The second and third criteria are prefaced by the condition that they apply only if "the States not otherwise included" do not fulfill the prior criterion.

are unweighted (C 1944, Art. 52). Member state representation on the Council is direct. Every contracting state has the right to be present at Council or committee meetings on issues that affect its interests (C 1944, Art. 53).

E2: AIR NAVIGATION COMMISSION (1950–2010)

The Council is assisted by the Air Navigation Commission. It is concerned with technical matters including recommending to the Council new annexes to the Convention which contain detailed technical specifications. Although the Council is responsible for the adoption of SARPs and of PANS, the principal body concerned with their development is the Air Navigation Commission.

The Air Navigation Commission is comprised of professionals "qualified and experienced in the science and practice of aeronautics" (C 1944, Art. 56). These persons are mandated to "act in their personal expert capacity."[46] Initially with twelve members, the Commission expanded to fifteen from 1974 and nineteen from 2005. Experts are nominated by contracting states and, alongside the president of the Commission, are appointed by Council majority (C 1944, Art. 56). These members do not represent member states. So member states select the experts on the Air Navigation Commission, but indirectly through the interstate Council, which is composed of only a subset of member states. Hence we code 100 percent selected by member states, deciding collectively in an interstate body; partial member state representation; and indirect representation. The Commission seeks consensus, but failing this can make decisions by majority.[47] There is no weighted voting or reserved seating.

GS1: ICAO SECRETARIAT (1950–2010)

The Assembly and Council are assisted by a Secretariat. The secretary general is elected by the Council (C 1944, Art. 54h) under simple majority (C 1944, Art. 52) for a three-year term. ICAO rules do not limit the number of times the secretary general can be reappointed, but there is an informal norm "to limit the secretary general to a two-term maximum" (MacKenzie 2010: 289). Still, this norm did not preclude Yves Lambert serving four consecutive terms from 1976 to 1988. There are no written rules on the potential removal of the secretary general.

[46] According to the description on the organization's website. See also <http://www.icao.int/safety/airnavigation/Pages/standard.aspx> (accessed February 15, 2017).

[47] See for example the Air Navigation Commission's majority vote on dangerous goods reported in Dangerous Goods Panel (DGP): Meeting of the working group of the whole DGP, Abu Dhabi, United Arab Emirates, November 7–11, 2010, 1.4.1.1. See <http://www.icao.int/safety/DangerousGoods/Working%20Group%20of%20the%20Whole%2010/DGPWG.10.WP.35.1.en.pdf> (accessed February 15, 2017).

CONSULTATIVE BODIES

ICAO does not have designated consultative bodies, but it works in close cooperation with other members of the United Nations family and non-governmental organizations, including the International Air Transport Association, the Airports Council International, the International Federation of Air Line Pilots' Associations, and the International Council of Aircraft Owner and Pilot Associations. These organizations sometimes have non-voting representatives on ICAO subcommittees (Stanton, Chango, and Owens 2004).

Decision Making

MEMBERSHIP ACCESSION

The Chicago Convention restricts membership to members of the United Nations and states associated with them, as well as to "States which remained neutral during the present world conflict" (C 1944, Art. 92; ICAO 1959, Art. 92). Aspiring members need to send a notification to the United States. We code this as automatic. States that do not fall into these categories "may" be admitted if four-fifths of the Assembly agree and according to the conditions laid down by the Assembly (C 1944, Art. 93). No ratification is required. Membership, first of Germany, and later of Cuba, the Soviet Union, China, Libya, and Palestine, has been one of the most controversial issues in the organization.

MEMBERSHIP SUSPENSION

There are two provisions on non-financial suspension (Milde 2008: 31, 187). Article 88 empowers the Assembly to suspend the vote of a member state found in default of the obligations of the Convention as determined by the Council subject to appeal to an ad hoc tribunal (C 1944, Art. 88). Any member state can refer another party, including a member state, to the Council if it "deems that action . . . is causing injustice to it." If the Council's findings are not observed, with the proviso of appeal to a tribunal, the Council can recommend to the Assembly that the rights and privileges of the defaulting state be suspended (Magliveras 1999: 134).

A second provision, adopted by the Assembly in 1947 and coming into force in 1961, debars a state that has been expelled from the United Nations (C 1961, Art. 93 bis), which we code as automatic. This has been viewed as a problem for an organization that seeks to generalize apolitical standards throughout the world (MacKenzie 2010: 89). In 1947 the United States was instrumental in pressuring Spain to leave ICAO after it was suspended from the United Nations on account of its Francoist regime. ICAO would not have been able to qualify as affiliated with the United Nations unless Spain was

ejected. Despite some near misses, no country has been expelled from ICAO on political grounds using either Article 88 or 93 bis.

We code Article 88 for 1950 to 2010 and 93 bis from 1961. A majority of the Council (Art. 52) can make recommendation on suspension to the Assembly, which acts with majority (Art. 48c).

CONSTITUTIONAL REFORM

The Convention states that a proposed amendment to the Convention must be approved by a two-thirds vote of the Assembly. It then comes into force when two-thirds of the member states ratify the amendment (C 1944, Art. 94a). An amendment is binding only for states that ratify. However, the Assembly may, "in its resolution recommending adoption provide that any State which has not ratified within a specified period after the amendment has come into force shall thereupon cease to be a member of the Organization and a party to the Convention" (C 1944, Art. 94b).

In 1950, the Assembly adopted a resolution which restricts the right of the Council to initiate amendments to the Convention except "when it is proved necessary by experience and/or when it is demonstrably desirable or useful" (A4-3, Art. 1). This written provision is, according to one knowledgeable source, regarded as a "sacred 'mantra'" (Milde 2008: 29).

We code the Council (under majority voting) and the member states as initiating actors (Assembly Rule 10d) and the Assembly by supermajority as the final decision maker.[48]

REVENUES

There are regular member state contributions according to a key set by the Assembly, or by the Council if the Assembly is not in session. The Council submits to the Assembly annual budgets, annual statements of accounts, and estimates of all receipts and expenditures. The Assembly then votes a final budget with any modifications it wishes to impose. The Assembly also divides the expenses of the organization among the member states (C 1944, Art. 61).

BUDGETARY ALLOCATION

The budget is proposed by the Council which decides by majority. The Assembly revises and adopts the budget, also by majority. Budgets are tri-annual. Though not explicitly set out in the Chicago Convention, the Secretariat is involved in preparing the budget. The Secretariat drafts the budget on

[48] In 2007, a group of countries proposed to suspend this resolution and allow the Council greater leeway in proposing amendments. It also recommended changing the ratification requirement away from the quasi-unanimity rule currently in place (A36-WP/284 EX/91 21/9/07 Revision No. 1 24/9/07).

the basis of guidelines formulated by the Council and its own program priorities. A narrative in the document detailing the budget for 2011–13 explains the process:[49]

> This Budget proposal was based on the Charter Letter sent by the President of the Council on behalf of the Council to the Secretary General on March 27, 2009; the draft Business Plan for 2011–2012–2013 prepared by the Secretariat; and, the recognition that aviation safety is the Organization's first priority. The draft Budget was first presented to the 188th Session of the Council in September 2009 and covers the resources of the whole Organization, thus includes the assessed amounts for the Regular Programme Budget, indicative planning figures for the Technical Co-operation Programme (and the Administrative and Operational Services Cost Fund), and the financial forecast of the Ancillary Revenue Generating Fund.
>
> On January 19, 2010 the secretary general submitted to Council the Funding Options for the Draft Budget of the Organization for 2011–2012–2013. These options suggested a possible range between: zero nominal growth of CAD245.5 million; and, a level which accounted for all Charter Letter elements and uplifted the current triennium spend in real terms of CAD293.9 million. The Council reviewed these options through its Finance Committee in the 189th Session, taking time to understand the basis for the secretary general's proposals and requested a revised budget that took into consideration its priorities for action, recommendations, and principles.
>
> For the 190th Session, the secretary general submitted three new budget proposals which were characterized as: a) Net Reduction Budget proposal of CAD256.2 million; b) No Growth Budget proposal of CAD273.1 million; and c) Modest Growth Budget proposal of CAD295.9 million. Council, again through the Finance Committee, conducted an in-depth review of these proposals.

Decision making is binding given that there are sanctions in the case of non-compliance.

FINANCIAL COMPLIANCE

Article 62 of the Convention allows the Assembly to suspend the vote of a member state (in both the Assembly and Council) that does not pay its dues within a reasonable period. In 1952, Bolivia, Czechoslovakia, El Salvador, Guatemala, Jordan, and Poland were suspended on this ground (MacKenzie 2010: 165). Questions of suspension under Article 62 arise fairly frequently and are usually handled by giving the delinquent state additional time. The

[49] Document 9955, approved by the thirty-seventh Assembly, November 2010.

Council is responsible for monitoring compliance and reports to the Assembly which makes the final decision (Arts. 54j and k; Alexander and Sochor 1990). Decisions appear to be taken by majority.[α]

POLICY MAKING

The principal instrument for policy making in ICAO are SARPs. These consist of regulations, standards, and recommended practices and procedures on communications systems and air navigation aids, including ground marking; characteristics of airports and landing areas; air traffic control practices; licensing of operating and mechanical personnel; airworthiness of aircraft; registration and identification of aircraft; collection and exchange of meteorological information; log books; aeronautical maps and charts; customs and immigration procedures; aircraft in distress and investigation of accidents (C 1944, Art. 37).

SARPs can be proposed by the Council, member states, or international organizations (Pelton and Jakhu 2010: 226). Proposals can be amended by the Air Navigation Commission (C 1944, Art. 54m) prior to the Council's final decision by two-thirds majority (C 1944, Arts. 54l and 90a; Dempsey 1987: 533). An approved SARP is attached in an annex to the ICAO Convention. The Assembly, which meets tri-annually, is mandated to set the general direction of policy making, but plays no role in producing or approving SARPs (C 1944, Art. 49; ICAO Annual Report 2007: 3). No ratification is required, and decisions are binding unless a state opts out (C 1944, Art. 38).

DISPUTE SETTLEMENT

Member states have an automatic right to review. Any member state can take an issue "relating to the interpretation or application" of the Convention to the Council. The Council's decision can be appealed, again by any member state, with an ad hoc arbitral tribunal agreed upon with the other parties to the appeal or it can be placed before the Permanent Court of International Justice (ICJ) (C 1944, Art. 84) (Bae 2013). If one of the parties is not a member of the ICJ, then an arbitration panel is appointed by the president of the ICAO Council. The panel decides the case by majority (C 1944, Art. 85). The decisions of the arbitration panel and the decisions by the ICJ are considered final and binding (C 1944, Art. 86). These rules apply to all members.

Since, as stated in Article 93 of the UN Charter, all 192 UN members are automatically parties to the Court's statute (and non-UN members may also become parties to the Court's statute under Article 93(2)), we code the ICJ route. In our schema this is automatic right to review, binding (note C 1944, Art. 86), standing body, only member states have legal standing, and no remedy for non-compliance. There is no preliminary ruling system of national court referrals.

ICAO Institutional Structure

		A1			E1										E2									GS1	
Years		Non-state selection	Indirect representation	Weighted voting	Head—agenda	Head—decision	Members—agenda	Members—decision	Non-state selection	Partial representation	Indirect representation	Reserved seats	Weighted voting	Partial veto	Head—agenda	Head—decision	Members—agenda	Members—decision	Non-state selection	Partial representation	Indirect representation	Reserved seats	Weighted voting	Select	Remove
1950–2010	Not body-specific	0	0	0					0	1	0	1	0	0					0	1	2	0	0		N
	Member states														✓		✓								
	A1: Assembly						3	3																	
	E1: Council				3	3										3		3						3	
	E2: Air Navigation Commission																								
	GS: Secretariat																								
	DS: International Court of Justice																								

Note: A = automatic/technocratic procedure; N = no written rule; R = rotation; ✓ = body co-decides, but no voting rule; ← = change in status. Shaded areas refer to institutions or policy areas that are non-existent for those years.

ICAO Decision Making

		Accession			Sus-pension		Constitution				Budget			Com-pliance		Policy (SARP regulations)					Dispute settlement (air navigation)						
Years		Agenda	Decision	Ratification	Agenda	Decision	Agenda	Decision	Ratification	Revenue source	Agenda	Decision	Binding	Agenda	Decision	Agenda	Decision	GS role	Binding	Ratification	Coverage	Third party	Binding	Tribunal	Non-state access	Remedy	Preliminary ruling
1950–1960	Not body-specific	A	A	2					1	1			2					0	1	3							
	Member states						✓									✓											
	A1: Assembly	2	2			3		2				3			3												
	E1: Council				3		3				3			3			2										
	E2: Air Navigation Commission															3											
	GS: Secretariat										✓																
	DS: International Court of Justice																				2	2	2	2	0	0	0
1961–2010	Not body-specific	A	A	2	A	A			1	1			2					0	1	3							
	Member states						✓									✓											
	A1: Assembly	2	2			3		2				3			3												
	E1: Council				3		3				3			3			2										
	E2: Air Navigation Commission															3											
	GS: Secretariat										✓																
	DS: International Court of Justice																				2	2	2	2	0	0	0

Note: A = automatic/technocratic procedure; N = no written rule; R = rotation; ✓ = body co-decides, but no voting rule; ← = change in status. Shaded areas refer to institutions or policy areas that are non-existent for those years.

International Labor Organization (ILO)

The International Labor Organization seeks to promote labor rights and human rights in general. Its membership is global and currently includes 185 countries. The organization's headquarters are located in Geneva, Switzerland, but there also are regional offices in Addis Ababa (Ethiopia), Lima (Peru), Beirut (Lebanon), Bangkok (Thailand), Geneva (Switzerland), and many field offices around the world.

The ILO was established in 1919 as part of the Treaty of Versailles just two months after the conclusion of World War I. This was a time of "revolutionary temper" as Edward Phelan (1949: 608), one of the drafters of the ILO's Constitution, recalled. The Bolshevik Revolution had been followed by a series of revolts in Allied as well as in Axis countries, including Britain (Beaven 2006). Prime Minister Clemenceau mobilized thousands of troops in Paris during the Peace Conference itself to forestall working-class riots (Shotwell 1959: 631). "In other circumstances," as Phelan observed (1949: 609), "it is indeed highly probable that some of the more daring innovations in the latter, such as the provision that non-Government delegates should enjoy equal voting power and equal status with Government delegates in the International Labour Conference, would have been considered unacceptable."

A prior organization, the International Association for Labour Legislation, set up in 1900 by liberal groups with support from union and employers' associations, had managed to get twenty-five states or colonies to ratify limits on women's working hours and forty-one to ban phosphorous matches (Rodgers et al. 2009: 4). However, the war had greatly strengthened support for socialism and, more generally, for collectivist action by the state (Marks 1989: ch. 3). Leading socialists in Britain, with the support of those on the continent, began to argue for a "super parliament," an international labor legislature "with the power to pass laws . . . with some power to enforce them" (Ruotsila 2002: 32). This was resisted by Samuel Gompers, president of the American Federation of Labor (AFL) and first president of the ILO, who "exemplified the distrust of the state among [American] unionists" (Lipset and Marks 2000: 99). Gompers was a fierce defender of labor's right to bargain effectively with employers, but believed that state participation could hamper as well as aid those efforts.

Yet both sides could agree that labor should "not be regarded merely as a commodity," that "the right of association for all lawful purposes" was absolutely vital to improve working conditions, and that "the failure of any nation to adopt humane conditions of labour is an obstacle in the way of other nations which desire to improve the conditions in their own countries."[50]

[50] The first and second General Principles as stated in the 1919 ILO Constitution, and the prologue to the Constitution, respectively (Murphy 2001; Langille 2003; Helfer 2006).

Whereas collectivists saw the organization as a means to pressure governments to legislate improvements in wages and working conditions, Gompers succeeded in leaving the means of improvement unspecified. The 1919 Constitution lists a series of General Principles—adequate wages, the eight-hour day, weekly rest, abolition of child labor, equal remuneration of men and women for work of equal value—without specifying whether governments should legislate these or unions bargain them. The final draft of the Constitution had no mention of social insurance or unemployment benefits, and reference to "industrial evils" and "injustices" disappeared. The distinctive balance in representation between non-state and state bodies—the ILO is unique among IOs in this regard—was a voluntarist idea, with roots in syndicalism, that employee and employers' associations should have votes as well as governments.[51]

While collectivists did not get the organization they wanted, they had an instrument for socialist demands: "the ILO, in fact represented *the* alternative to the existing commercial system, *the* replacement for protectionism and its attendant capitalist power relations" (Ruotsila 2002: 43). However, the United States pulled out when it failed to join the League of Nations, and few of the conventions passed in the next few years were ratified. The US eventually joined in 1934 after Franklin D. Roosevelt became president. Roosevelt was not only committed to raising labor standards, but, as he later reminded ILO delegates, he was personally involved in organizing the ILO's first conference in 1919 (Rodgers et al. 2009: 1).

The organization relocated to Montreal during World War II, and sprang back to life in 1944 with its Declaration of Philadelphia which reasserted its core principles of social justice, its (now stronger) rejection of labor as a commodity, freedom of association and collective bargaining, human equality, and the demand for international action to alleviate poverty.

Following World War II, the ILO became a specialized agency of the United Nations. In 1969, on its fiftieth anniversary, the ILO received the Nobel Peace Prize. During the Cold War, however, the impossibility of gaining consent among Communist and non-Communist countries led the organization to focus on providing technical assistance in Africa, Asia, and Latin America. It also increased its emphasis on human rights. After the end of the Cold War, the ILO faced a political climate of deregulation, and its efforts to engage more fully with Bretton Woods institutions were met with "arms length indifference" (Hughes and Haworth 2011: 17; Murphy 2001). As a

[51] Commenting on syndicalists who were making gains in several European countries prior to World War I, Gompers observed that "nine-tenths of their work [is] just the same as that of the AFL" (quoted in Lipset and Marks 2000: 99).

result, non-binding policy initiatives have become more prominent (Abbott and Snidal 2000; Alston 2004).

The key legal document of the ILO is the Constitution (signed and entry into force in 1919). The founding treaty was amended several times. The most important amendment is the Declaration of Philadelphia (signed in 1944; entry into force in 1948). Since then, the Constitution has undergone only minor revisions. The most recent amendment came into force in 1974. An amendment from 1997 met the ratification threshold in October 2015, which is beyond our coding horizon. The amendments that have entered into force so far have served to increase the number of seats on the executive, but these changes do not affect our coding.

The ILO is unique in its institutional structure in which workers, employers, and governments are represented separately. This so-called tripartite system was created in order to reflect the entire social structure (Beguin 1959; Haworth and Hughes 2003). The ILO has three main decision making bodies: the International Labor Conference (assembly), the Governing Body (executive), and the International Labor Office (secretariat).

Institutional Structure

A1: GENERAL CONFERENCE (1950–2010)

The International Labor Conference is the highest decision making organ in the ILO. Its composition and decision making procedures have not changed over time. It has a tripartite structure in which member states, employees, and employers are represented. The Conference is made up of four representatives from each member state: two representing the member state directly, one workers' representative, and one employers' representative (Constitution, Art. 3). Thus, non-state actors select 50 percent of the delegates. Since half of the members are non-state representatives, we code member state representation as indirect (2).

E1: GOVERNING BODY (1950–2010)

The Governing Body provides much of the monitoring of existing labor conventions (Hurd 2011: 164). It also sets the agenda of the International Labor Conference, adopts the draft program and budget before these are submitted to the Conference, and elects the director general.

The Governing Body elects its own chairman. The voting rule is consensus (Compendium of rules applicable to the Governing Body of the International Labor Office, Rule 24). Since 1968, the Governing Body takes geographical

rotation into account (Introduction to the Governing Body: 3). We code this as rotation for both agenda setting and decision making.

Half of the seats are reserved for government representatives. Representatives of workers and employers take up the other half and therefore 50 percent of the executive is composed of non-member states. Over time, the number of seats on the executive has increased from thirty-two to fifty-six. Only a subset of member states are represented in the Governing Body. Currently, the executive is composed of twenty-eight government representatives and fourteen employer and fourteen worker delegates (Constitution, Art. 7.1). Ten government delegates are determined by the ten states having larger economies (Brazil, China, France, Germany, India, Italy, Japan, Russia, the United Kingdom, and the United States) while the remaining eighteen governmental seats are given to member countries selected by the remaining government representatives in the assembly (Constitution, Art. 7.2).[52] We therefore code both member states and the assembly in the proposal and final decision stage. The assembly makes decisions by simple majority (Standing Orders of the International Labor Conference, Art. 52.4). The earliest version of the Standing Orders we have been able to consult stems from 1955; we extrapolate the voting back to 1950.$^{\alpha}$ The worker and employer delegates in the assembly elect their representatives for the Governing Body respectively (Constitution, Art. 7.4).

Each member state representative has a substitute, which suggests that government representatives are delegates—not trustees. But since half of the members are non-state representatives, we code member state representation in the body as partially indirect. Each member has one vote and the general decision rule in the executive is consensus (Compendium of rules applicable to the Governing Body of the International Labor Office, Rules 24 and 25). Since the Compendium is "a consolidation in a single document of the existing rules by which it is governed" we assume consensus is the decision rule for the entire time period in which we consider ILO. There is no mention of weighted voting.

GS1: INTERNATIONAL LABOR OFFICE (1950–2010)

The International Labor Office is headed by the director general elected by the Governing Body (Art. 8.1). The decision rule used to be consensus and

[52] A constitutional amendment of 1986 sought to eliminate reserved seats for the member states of "chief industrial importance," but as of December 2016 the amendment had yet to obtain the required number of ratifications (ILO website).

became simple majority in 1988 (Compendium of rules applicable to the Governing Body of the International Labor Office, Rules 24 and 54, Annex III). The length of tenure has always been five years. There are no written rules for the removal of the director general. The ILO currently employs about 2,700 people.

CONSULTATIVE BODIES

The ILO offers access to NGOs in its decisional bodies (Tallberg et al. 2013: 5). Accredited NGOs can make statements and distribute documents but there is no standing body that institutionalizes participation. NGOs play a more active role in implementing specific projects (Thomann 2007: 89).

Decision Making

MEMBERSHIP ACCESSION

The ILO has always aimed for the broadest possible membership (Helfer 2006: 682). Any member of the United Nations may through "formal acceptance of the obligations of the constitution" become a member of the ILO (Constitution, Art. 1.3). Also, the Conference may admit members by a two-thirds majority of attending members, including two-thirds of the government delegates (Constitution, Art. 1.4). This normally happens after reviewing a report of a specially appointed Selection Committee (Anon. 1962). Hence, we code both technocratic admission and the Conference (by supermajority) in agenda setting and final decision. Ratification is not required.

MEMBERSHIP SUSPENSION

There are no written rules for suspension or expulsion. Members expelled by the United Nations automatically lose membership of the ILO (personal communication). In 1964, South Africa withdrew after repeated calls by the ILO to do so (personal communication). We code "automatic loss of membership after loss of UN membership."

CONSTITUTIONAL REFORM

The Constitution is silent on who can initiate constitutional amendments, but the Rules for the Conference of the International Labor Conference (Art. 47) clearly indicate that the International Labor Office drafts amendments and submits them to the Conference. The earliest version of the Standing Orders that we were able to access stems from 1955, but we are reasonably confident that this codified earlier routinized practice.$^{\alpha}$

The Conference itself does not make a final decision immediately but engages in a multi-stage deliberation process. Once it has adopted a draft amendment, it refers it to the Conference Drafting Committee, which drafts

the final instrument of amendment. This text is then again discussed by the Conference and may be amended before the final vote takes place. Hence, we code the International Labor Office as well as the International Labor Conference as involved in the initiation of amendments. The decision rule for the Conference at this stage is not transparent, but we assume that it is the same as for the final decision, that is, supermajority.[α] Decisions over amendments are made by the Conference under two-thirds majority (Constitution, Art. 36). Amendments must be "ratified or accepted by two-thirds of the Members of the Organization including five of the ten Members which are represented on the Governing Body as Members of chief industrial importance" (Constitution, Art. 36).

REVENUES

The organization is chiefly funded by regular member state contributions (Constitution, Art. 13.4), with some additional voluntary funding. The Biennium 2010–11 budget (p. ix) lists member state contributions of nearly US$727 million which finance the regular budget. The ILO received also US$53 million in voluntary member state contributions (the Regular Budget Supplementary Account), and voluntary donations amounting to US$530 million for extra-budgetary projects in technical cooperation. We code routinized, non-discretionary member state contributions.

BUDGETARY ALLOCATION

The director general drafts the budget for consideration by the Governing Body (by consensus, see Rule 24, Compendium of rules applicable to the Governing Body of the International Labor Office). Early reports indicate the Governing Body has always been involved in the proposal stage (Anon. 1951) and that the director general has been responsible for drafting the budget for a long time (Anon. 1959). The Conference takes the final decision by two-thirds majority (Constitution, Art. 13.2c). Its decision is prepared by a Finance Committee "consisting of one Government delegate from each Member of the Organization" (Rules for the Conference, Art. 7 bis). Decision making is binding.

FINANCIAL COMPLIANCE

Each year the director general informs the Governing Body about members in arrears (Compendium of rules applicable to the Governing Body of the International Labor Office, Rule 6.1.4). If a member state has arrears that amount to its contributions due for the preceding two years, it automatically loses the right to vote or stand for election in the bodies of the ILO (Constitution, Art. 13.4). There is a political escape clause: "the Conference may by a two-thirds majority of the votes cast by the delegates present permit such a

Member to vote if it is satisfied that the failure to pay is due to conditions beyond the control of the Member" (Art. 13.4). Article 1.5 of the Constitution also states that a member state may not leave the organization unless it has fulfilled its financial obligations.

POLICY MAKING

Conventions and recommendations on international labor standards are the chief legal instruments of the International Labor Organization. Conventions are legally binding and have to be ratified, while recommendations are non-binding and do not require ratification. Often, conventions and recommendations are related to each other: the convention will set out the legal requirements for member states, and the corresponding recommendation provides policy guidance on how these objectives can be achieved. However, recommendations can also be adopted as stand-alone documents. So far, the ILO has adopted 189 binding conventions and 202 non-binding recommendations. The International Labor Conference also adopts declarations, which are statements that "reaffirm the importance which the constituents attach to certain principles and values."[53] In recent years, ILO has increasingly resorted to non-binding instruments (Abbott and Snidal 2000; Alston 2004). Like recommendations, declarations are non-binding and do not require ratification.

The same actors are involved in decision making. According to Article 14 of the ILO Constitution, the Governing Body prepares the agenda of the International Labor Conference, also considering any suggestions made by member states and making sure that members are consulted prior to the adoption of conventions, recommendations, or declarations by the Conference.[54] According to Article 10.1, "The functions of the International Labor Office shall include the collection and distribution of information on all subjects relating to the international adjustment of conditions of industrial life and Labor, and *particularly the examination of subjects which it is proposed to bring before the Conference with a view to the conclusion of international Conventions*, and the conduct of such special investigations as may be ordered by the Conference or by the Governing Body." This language is strongly suggestive of a right of initiative for the International Labor Office. Hence, we code member states, the Governing Body, and the General Secretariat as having the power of initiative. The Governing Body uses its general decision rule of

[53] See <http://www.ilo.org/public/english/bureau/leg/declarations.htm> (accessed February 15, 2017).

[54] A convention "shall only be binding upon the Members which ratify it" (Constitution, Art. 20). Conventions are not binding for members informing the director general of their non-ratification (Constitution, Arts. 19.5 and 20). For a convention to come into effect a minimum number of ratifications (sometimes as low as two) must be deposited.

ILO Institutional Structure

		A1			E1									GS1	
Years		Non-state selection	Indirect representation	Weighted voting	Head—agenda	Head—decision	Members—agenda	Members—decision	Non-state selection	Partial representation	Indirect representation	Reserved seats	Weighted voting	Partial veto	Select	Remove
1950–1967	Not body-specific	2	2	0					2	1	2	1	0	0		N
	Member states						✓	✓								
	A1: General Conference						3	3								
	E1: Governing Body				0	0									0	
	GS1: International Labor Office															
	DS: International Court of Justice															
1968–1987	Not body-specific	2	2	0	R	R			2	1	2	1	0	0		N
	Member states						✓	✓								
	A1: General Conference						3	3								
	E1: Governing Body														0	
	GS1: International Labor Office															
	DS: International Court of Justice															
1988–2010	Not body-specific	2	2	0	R	R			2	1	2	1	0	0		N
	Member states						✓	✓								
	A1: General Conference						3	3								
	E1: Governing Body														3	
	GS1: International Labor Office															
	DS: International Court of Justice															

Note: A = automatic/technocratic procedure; N = no written rule; R = rotation; ✓ = body co-decides, but no voting rule; ← = change in status. Shaded areas refer to institutions or policy areas that are non-existent for those years.

consensus (Compendium of rules applicable to the Governing Body of the International Labor Office, Rule 24). The Conference makes the final decision by supermajority (Constitution, Art. 19). Incidentally, while conventions ultimately bind only countries that ratify, ILO rules require governments to initiate a ratification process for any convention accepted by the Conference (Constitution, Art. 19.5). So we code bindingness even while countries can opt out by not ratifying.[β]

DISPUTE SETTLEMENT

There is a two-step system for resolving disputes about member state violation of obligations under an ILO convention. The procedure is in the Constitution and obligatory for member states (Art. 26). As with other IOs having a multi-step dispute settlement system we code the final stage.

In the first step, a member state or a delegate can file a complaint with the Governing Body if it believes that a signatory is not observing a convention that both have ratified (Art. 26.1). Any member or delegate, including those

ILO Decision Making

		Accession			Sus-pension		Constitution				Budget			Com-pliance		Policy 1 (conventions)					Policy 2 (recommendations, declarations)					Dispute settlement (labor rights disputes)						
Years		Agenda	Decision	Ratification	Agenda	Decision	Agenda	Decision	Ratification	Revenue source	Agenda	Decision	Binding	Agenda	Decision	Agenda	Decision	GS role	Binding	Ratification	Agenda	Decision	GS role	Binding	Ratification	Coverage	Third party	Binding	Tribunal	Non-state access	Remedy	Preliminary ruling
1950–2010	Not body-specific	A	A	2	A	A			2	1			2	A				1	2	1			1	0	3							
	Member states															✓					✓											
	A1: General Conference	2	2				2	2				2			2		2					2										
	E1: Governing Body										0					0					0											
	GS1: International Labor Office						✓				✓					✓					✓											
	DS: International Court of Justice																									2	2	1	2	0	0	0

Note: A = automatic/technocratic procedure; N = no written rule; R = rotation; ✓ = body co-decides, but no voting rule; ← = change in status. Shaded areas refer to institutions or policy areas that are non-existent for those years.

representing labor or employers, may initiate the procedure. Hence, certain non-state actors have legal standing (Art. 26.4). The Governing Body decides whether to forward the matter to a Committee of Inquiry or it may seek to resolve the dispute itself (Constitution, Art. 26.2-4). So a political body controls access to third-party review. An ad hoc Commission of Inquiry is appointed for each dispute. The Commission of Inquiry deals only with disputes that have arisen as a result of the official reporting requirements. Indeed, every member state is required to report how it applies conventions to the International Labor Office (Constitution, Art. 22). The director general summarizes the reports for the Conference (Art. 23). "In the event of any representation being made to the International Labor Office by an industrial association of employers or of workers that any of the Members has failed to secure in any respect the effective observance within its jurisdiction of any Convention to which it is a party, the Governing Body may communicate this representation to the government against which it is made, and may invite that government to make such statement on the subject as it may think fit" (Constitution, Art. 24). If the Governing Body is not satisfied with the response, it may publish this (Constitution, Art. 25). Any member of the ILO, any delegate of the Conference, or the Governing Body may then file a complaint with the ILO (Constitution, Art. 26). The Commission of Inquiry makes non-binding recommendations (Art. 29.2).

If a government does not accept a recommendation, it may initiate the second tier of dispute settlement, which is to bring the matter to the International Court of Justice (Constitution, Art. 26.2). Access to this procedure is automatic, and decisions by the International Court of Justice are final (Art. 31). An ICJ ruling is binding unless member states have opted out. And contrary to the first stage, only member states can initiate proceedings. In case of non-compliance with recommendations from the Commission of Inquiry or the ICJ, the Governing Body "may recommend to the Conference such action as it may deem wise and expedient to secure compliance therewith" (Constitution, Art. 33). There is no legal remedy in case of non-compliance: retaliatory sanctions are politically determined in the Governing Body and the Conference. There is no preliminary ruling system.

International Criminal Police Organization (Interpol)

Interpol's basic goal is "To ensure and promote the widest possible mutual assistance between all criminal police authorities within the limits of the laws existing in the different countries and in the spirit of the 'Universal Declaration of Human Rights'" and "To establish and develop all institutions likely to contribute effectively to the prevention and suppression of ordinary law

crimes" (Art. 2). Its membership currently encompasses 190 countries. Its headquarters are in Lyon, France.

Interpol was created in 1946 as a successor to the International Criminal Police Commission (ICPC). The ICPC was founded in Vienna in 1923 and from 1934 was headquartered in the Vienna Police Directorate. The ICPC was largely self-governed as an international network of national police institutions, as is Interpol to this day. The United States became an official member in 1938, and by 1940 the Commission encompassed more than forty countries, both in Europe and beyond (Deflem 2000, 2002: 23–4). Following the 1938 Anschluss with Austria, the president of the ICPC, Michael Skubl, was told that Himmler demanded his resignation. Skubl was imprisoned until the end of the war. From 1940, Reinhard Heydrich led the organization which was based in Berlin. The United States, which had joined the organization after Germany had annexed Austria, gradually pulled back its communication with the ICPC, and cut all ties in December 1941, three days prior to the Japanese bombing of Pearl Harbor (Deflem 2002: 32f.). By 1942, the ICPC had lost most of its membership (Barnett and Coleman 2005: 605; Fooner 1989: 48–50).

In 1946, the organization was resurrected along the lines of the original ICPC but its headquarters were now situated in Paris. The ICPC's telegraphic address was Interpol, and this became the organization's moniker. A new Constitution was adopted in 1956, changing the organization's name to International Criminal Policy Organization. Its headquarters moved from Paris to Lyon in 1989. It has seven regional offices in Africa, Latin America, and Asia.

The key legal documents are the Constitution of the International Criminal Police Commission (signed and in force 1946) and the Constitution of the International Criminal Police Organization—INTERPOL (signed and in force 1956). Interpol's General Regulations were also adopted in 1956. The Constitution and General Regulations have been amended multiple times, with the most recent amendments coming into force in 2008.

Neither the 1946 Constitution nor the 1956 Constitution were international agreements among states, but grew out of unofficial meetings of national police representatives. The Constitution "was written by a random group of police officers who did not submit the draft to their governments for approval or authorization" (Fooner 1989: 45). However, "Interpol's position as an international intergovernmental organization has been established over time" (Anderson 1989: 57). Its legal status remained ambiguous until the 1980s. In 1948, it was accepted by the United Nations as a non-intergovernmental organization. In 1958, the Council of Europe rejected its non-governmental status. In 1971, the United Nations recognized Interpol as an intergovernmental organization. Some member states dragged their feet, but the issue was finally settled, when in 1982 the United States government

designated Interpol as a public international organization entitled to full international immunities and privileges (Fooner 1989: 50–3, and 184).

Interpol has always had three main decision making bodies. From 1946 to 1956 these were the Assemblée (assembly), Comité Exécutif (executive), and Bureau Central International (secretariat). Since 1956 these are the General Assembly, the Executive Committee, and the General Secretariat. Anchored in the Constitution as an integral part of Interpol are the specialized bodies, National Central Bureaus (NCB), which facilitate communication among the police forces of participating countries.

Institutional Structure

A1: FROM ASSEMBLÉE (1950–55) TO GENERAL ASSEMBLY (1956–2010)
The Assembly (Assemblée) was the legislature from 1946 until 1955. All members of the organization were represented: "Only the members have the right to participate in the assemblies of the Commission" (Art. 3.5, our translation). The Constitution reads: "The International Commission of the Criminal Police is composed of: a) ordinary members, or members accredited by their government to the Commission—those members are not subject to election; b) extraordinary members who are elected by a two-thirds majority in the plenary assembly. These members always need to have the approval of their government" (Art. 3.1, our translation). The first part of this article indicates that all member states are represented in the Assembly, and that there is direct representation. The second part indicates that there also is a second category of members, and the Constitution explicates that this category is reserved for individuals who have rendered special services to the organization or who are scientific experts (Art. 3.1). Even though the expert members need consent from their government to take up their seat, they are not bound to take orders from their governments, and thus we code selection and representation as less than 100 percent member state. After 1956, the organization still mentions the scientific experts in the Constitution, but they no longer are members of the Assembly so we code the Assembly as full member state composition and direct representation.

The Assembly mostly took its decisions by simple majority (Art. 8). There is no mention of weighted voting. Each member state had one vote (Art. 3.3), not including the votes of extraordinary members (Barnett and Coleman 2005: 604). The Assembly was chaired by the president who was elected for five years by two-thirds majority. There were also seven elected vice-presidents (Art. 4), and together with the president they formed a largely honorary Governing Board (Bresler 1992: 84–9).

The 1956 Constitution renamed the body the General Assembly and describes its composition and functions in greater detail. The General

Assembly is "the body of supreme authority" (Art. 6). All members are state representatives (Art. 6), and thus the distinction between effective and extraordinary members disappears. However, the Constitution asserts a preference for "(a) High officials of departments dealing with police affairs, (b) Officials whose normal duties are connected with the activities of the Organization, (c) Specialists in the subjects on the agenda" (Constitution, Art. 7). Some observers have interpreted this to mean that, "strictly speaking," police bodies—not countries—were members of Interpol (Fooner 1989: 68). Others contend that for all practical purposes sovereign countries are the members (Anderson 1989: 59).[γ] The ambiguity of the Constitution is not an accident; it is consistent with a longstanding desire by Interpol to minimize direct governmental and political control (Anderson 1989: 58–9 and 61; see also Barnett and Coleman 2005).[55]

Member states may appoint several delegates to the organization, but each member state has one vote (Art. 13) and there are no weighted voting provisions or reserved seats.

The main functions of the General Assembly are "to examine and approve the general program of activities prepared by the secretary general for the coming year" and "to adopt resolutions and make recommendations to Members on matters with which the Organization is competent to deal" (Constitution, Art. 8).

The General Assembly takes decisions by simple majority, unless otherwise specified in the Constitution (Art. 14). It is chaired by the president, who is elected by the General Assembly by a two-thirds majority for four years (Art. 16). There are also two vice-presidents. Neither the president nor the vice-presidents can be directly re-elected. Even though the Assembly's decisions are not binding on member states, Article 9 stipulates that they should do all in their power to carry out decisions.

Interpol's Constitution also provides for the creation of committees by the General Assembly (2008 General Regulations, Art. 35).

E1: FROM THE COMITÉ EXÉCUTIF (1950–56) TO THE EXECUTIVE COMMITTEE (1957–2010)

The Executive Committee (Comité Exécutif) functions as Interpol's executive from 1946 until 1956. It consists of the president, three general rapporteurs (*rapporteurs généraux*), and the secretary general (Art. 5.1). The secretary general is a member of the executive, but does not chair or vote, so we code the composition of the executive as entirely member state. A subset of member

[55] The controversial accession of China in 1984, and simultaneous vacation of Taiwan's seat, is often seen as a watershed. Thereafter, Interpol was seen increasingly as a normal intergovernmental organization (Fooner 1989: 68).

states sit on the executive. The Executive Committee's tasks are to execute the Assembly's decisions, to exercise control over the International Central Bureau and over the organization's other institutions, and to prepare Assembly meetings (Art. 5.1). The president of the Executive Committee is also the president of the Assembly. She is elected for five years by the Assembly by two-thirds of the vote (Art. 4), and can be re-elected (Art. 5.4).

The members of the executive are proposed by the president and elected by the Assembly (Art. 5.4) by simple majority (Art. 8). The length of tenure for rapporteurs is two years (Art. 5.6) and for the president five years (Art. 5.4). Only a subset of member states is represented. There is no indication whether member state representation is direct, so we code "no written rules."$^{\alpha}$ The Executive Committee does not have reserved seats for particular member states. However, "The members of the Executive Committee must, if possible, come from different member states, but the secretary general comes preferably from the country where the seat of the Commission resides" (Art. 5.5; see also Art. 5.7, our translation). The Executive Committee, like all other bodies in the organization, makes its decisions by simple majority (Art. 8). There is no weighted voting.

Under the 1956 Constitution, the Executive Committee is enlarged and the secretary general loses membership. It consists of the president, three vice-presidents, and nine delegates (Constitution, Art. 19). The Executive Committee was further increased from nine to thirteen members in 1964. The secretary general is no longer mentioned as a member though he can participate in the discussions of the Executive Committee (as well as of the Assembly) (Art. 29).

The Executive Committee executes the decisions taken by the General Assembly and proposes the organization's work program to the General Assembly (Constitution, Art. 22). It meets at least once a year (Art. 20) and currently holds meetings three times a year.[56]

Contrary to the 1946 Constitution, the 1956 Constitution and General Regulations do not explicitly state the voting rule. The Rules of Procedure of the Executive Committee, first adopted in 1994, indicate that the general decision rule is simple majority (Art. 7.2). We have reason to extrapolate this back to 1956: it is consistent with voting in the General Assembly (General Regulations, Art. 19), and simple majority was the rule prior to 1956. There is no weighted voting, and no preferential seats.

The Executive Committee is chaired by the president of the organization (Art. 18). The president is elected by the General Assembly, which decides by two-thirds majority (Art. 16). The term of office is four years, non-renewable.

[56] See <http://www.Interpol.int/About-INTERPOL/Structure-and-governance/Executive-Committee> (accessed February 15, 2017).

The other members of the executive are the vice-presidents and the delegates. Both are elected by the General Assembly by simple majority (Arts. 16 and 19). According to the Constitution, the delegates "shall belong to different countries, due weight having been given to geographical distribution" (Art. 15). Since 1964, a gentleman's agreement allocates three positions to Africa, three to Asia, three to the Americas, and four to Europe (Fooner 1989: 83). The president and vice-presidents also have to be from different countries (Art. 16), and after an amendment in 1964, from different continents. Different from the 1946 Constitution, member state representation is now explicitly indirect: "In the exercise of their duties, all members of the Executive Committee shall conduct themselves as representatives of the Organization and not as representatives of their respective countries" (Art. 21).

GS1: FROM BUREAU CENTRAL INTERNATIONAL (1950–55) TO GENERAL SECRETARIAT (1956–2010)

The International Central Bureau (Bureau Central International) is described as the "executive body" of the ICPC (Art. 1.2). It is responsible for the collection and distribution of information concerning counterfeiting and international criminals (Art. 1.2). The International Central Bureau is headed by the secretary general (Art. 2.1), who is appointed by the Assembly upon the proposal of the president (Art. 5.4). The Assembly makes its decisions by simple majority (Art. 8). The length of tenure for the secretary general is five years (Art. 5.4), renewable. A French national is preferred as secretary general (Art. 5.5). There are no written rules on the removal of the secretary general.

The 1956 Constitution renames the Bureau as the General Secretariat, which is responsible for the day-to-day work of the organization. The Constitution identifies several tasks: "(a) Put into application the decisions of the General Assembly and the Executive Committee; (b) Serve as an international center in the fight against ordinary crime; (c) Serve as a technical and information center; (d) Ensure the efficient administration of the Organization; (e) Maintain contact with national and international authorities, whereas questions relative to the search for criminals shall be dealt with through the National Central Bureaus" (Art. 26).

The secretary general is appointed by the General Assembly by majority vote on the proposal of the Executive Committee (Art. 28). Candidates should be "persons highly competent in police matters" (Art. 28), that is, former police officers. The same bodies can also decide on the removal of the secretary general in "exceptional circumstances" (Art. 28). The length of tenure is five years (Art. 28), renewable.

The 1956 Constitution retained the provision that preference should be accorded to a national of the host country (i.e. France) (Art. 43), and indeed, until 1985 this was the case, providing the French Ministry of the Interior with

the right to set the agenda (Anderson 1989: 95–6). Since then, the post has been filled mainly by non-French nationals, except for Mireille Ballestrazzi (2012–16) who was also the first woman to serve.

At the end of 2011, 673 people worked at the General Secretariat and Regional Bureaus, representing ninety-eight different nationalities (2011 Annual Report, p. 7). Interpol relies heavily on seconded officials.[57]

CB1: ADVISORS (1956–2010)

Since 1956 an advisory college composed of scientific experts "with a world-wide reputation in some field of interest to the Organization" assists the organization (see Constitution, Arts. 34–37; General Regulations, Arts. 46–50). The advisors are constituted in a college, which selects one among them to be the Senior Advisor (General Rules, Art. 46). They are appointed for three years by the Executive Committee. The provision that the Executive Committee must consult the College of Advisors was removed in 1962. An advisor may be removed by the General Assembly.

Advisors may be called on by the Assembly, the Executive Committee, the president or the secretary general, and they may be consulted individually or collectively. They can also meet on their own volition (General Regulations, Art. 50), and can make suggestions to the General Secretariat or the Executive Committee (1962 General Regulations, Art. 46) though it is not clear whether either Secretariat or Executive Committee is bound to consider their advice.

CB2: FROM SUPERVISORY BOARD FOR THE CONTROL OF INTERPOL'S FILES (1986–2007) TO THE COMMISSION FOR THE CONTROL OF INTERPOL'S FILES (CCF) (2008–10)

In 1986 an independent body was set up to verify that Interpol's criminal records and policy files are compiled and maintained free of misuse or abuse. Under current rules, this body performs a triple role, mainly as a check on the General Secretariat. It processes individual requests for access to individual files; it advises the organization on policy relating to personal information; and it monitors data protection rules.[58] The Commission may carry out spot checks (Rules, Chapter 1, Art. 4), and may summon the General Secretariat to present or defend its position on an issue (Rules, Art. 5(f.5)). If the General Secretariat is unable to follow a Commission's recommendation, it is required

[57] See <http://www.Interpol.int/About-INTERPOL/Structure-and-governance/General-Secretariat> (accessed February 15, 2017).

[58] Rules on the Control of Information and Access to Interpol's Files, Chapter 1, Art. 1 [215/2010-02-15].

to submit a report explaining its decision (Rules, Art. 6b). The Commission may bring a disagreement with the General Secretariat before the Executive Committee (Rules, Art. 6d).

The five members of the Board (since 2008: Commission) are on three-year terms; their term is renewable once or exceptionally twice. The members were initially chosen by a complex arrangement that involved the Executive Committee and the French government. Of the first three members, one is selected by the Executive Committee from a list submitted by member states, and one by the government of France, who then together select a chair. All three persons are required to be impartial and have strong judicial credentials. An electronic data processing expert is appointed by the chairman of the Board from a list of five candidates proposed by the Executive Committee, and the fifth member is a member of the Executive Committee (Fooner 1989: 171–2; Arts. 16–18; 1982 Rules on International Police Cooperation, in Fooner 1989: 223–4). In 2008, the General Assembly voted to amend the Constitution so as to integrate the Commission into its internal legal structure (2008 Constitution, Arts. 36–7). All members are now selected by the Executive Committee from among candidates put forward by member states, and they are appointed by the General Assembly. The chairperson is appointed by the other four members. This move has brought the body closer to an executive role, though, for now, we code it as primarily a non-state consultative body.[β]

The Board/Commission members are instructed to be independent (Vademecum, Art. 2; 2008 Constitution, Art. 36). They shall neither solicit nor accept instructions from any persons or bodies (Rules on International Police Cooperation, Art. 19). They must have the nationality of one of the member states, but there are otherwise no restrictions on nationality.

Decision Making

MEMBERSHIP ACCESSION

There were no written rules on accession under the 1946 Constitution. Membership was in practice demand-driven. New members filed notice to the secretary general of their intention to join, paid dues, and were automatically enrolled (Fooner 1989: 48). Prior to 1956 an application to join had to come from the appropriate ministerial authority—usually home affairs or justice; from 1956 applications are normally conveyed through diplomatic channels (Anderson 1989: 93). We code "no written rules."

Rules on accession were first laid out in the 1956 Constitution, stating that "Any country may delegate as a Member to the Organization any official police body whose functions come within the framework of activities of the Organization" (Art. 4). Requests for accession are addressed to the secretary

general. So member states initiate accession, and there are otherwise no written rules on the initiation process. The final decision is taken by the General Assembly, which decides by two-thirds majority (Art. 4). Ratification is not required.

MEMBERSHIP SUSPENSION

Article 2 of the Constitution states that international police cooperation is to be conducted within the "spirit of the Universal Declaration of Human Rights," but there is no monitoring or enforcement mechanism.

CONSTITUTIONAL REFORM

The 1946 Constitution did not contain written rules on constitutional reform. Rule changes were agreed at the annual assembly meetings (Fooner 1989; Anderson 1989). This was also the route taken for the 1956 Constitution. The revision was submitted and adopted to all members at the General Assembly in Vienna. It used the lightest form of ratification: the Constitution listed all countries which at that time were members, and according to Article 45, assumed them to adopt the new Constitution "unless they declare through the appropriate governmental authority that they cannot accept this constitution" within six months.

The 1956 Constitution does contain a procedure. The Constitution can be amended by the General Assembly on the proposal of the Executive Committee or of member states. The final decision is taken by a two-thirds majority (Art. 42). Ratification is not required.

REVENUES

Since 1928, member states were expected to pay annual dues in Swiss francs (based on a population key), but Interpol had difficulty raising the money (Bresler 1992: 122). The deficit was filled by the host country—Austria before the war and France thereafter (Fooner 1989: 48, 50; Barnett and Coleman 2005: 603). According to a US House of Representatives Judiciary Committee Report of April 1959, some 75 percent of Interpol's funding came from the French government (Anderson 1989: 43). We code this as equivalent to voluntary contributions.[β]

The 1956 Constitution created a tiered system of annual contributions, which came into effect with the Financial Regulations of 1958 (Art. 38). Dues are assessed on a sliding scale with eleven categories based on four criteria: ability to pay, use made of membership, financial position of the state, and population size. Member states choose their level of subscription, in consultation with the secretary general, and every three years the amount to be paid is determined on the basis of actual budget figures (Anderson 1989: 101). Interpol can also accept gifts and grants conditional on the accord of the

General Assembly (Art. 39). Some 95 percent of its current income has been derived from member state contributions (Fooner 1989: 165). Hence from 1958, we code member state contributions.

BUDGETARY ALLOCATION

Before 1956 there are no written rules on budgetary decision making. According to the 1956 Constitution: "The draft budget of the Organization shall be prepared by the secretary general and submitted for approval to the Executive Committee" (Art. 40). The final decision is made by the General Assembly (Art. 40), deciding by simple majority (Art. 14). Decision making is coded as binding since there are sanctions in case of non-compliance.

FINANCIAL COMPLIANCE

"Failure of members to pay their subscriptions in time is a long-standing problem" (Anderson 1989: 101). Until 1956, there were no rules on financial non-compliance. The General Regulations of 1956 read: "If a Member constantly fails to fulfill its financial obligations toward the Organization, the Executive Committee may suspend its right to vote at General Assembly meetings and refuse it any other benefits it may claim, until all obligations have been settled. The Member may appeal against such a decision to the General Assembly" (Art. 53). We therefore code the executive at the proposal stage and both the Executive and Assembly at the final decision stage.

In 1983, the rules became more specific: members that fail to pay for three years are excluded from participation in the organization, but the decision can be appealed with the General Assembly (Art. 53). Hence sanctioning is automatic, but the Assembly can overturn it.

The rules were tightened again in 1996. Members that have not contributed for the current and previous financial year lose their right to vote and their right to participate in meetings apart from the General Assembly. The member can also no longer host meetings or propose candidates for employment at the Secretariat. The secretary general initiates and applies the sanctions unless the Executive Committee decides otherwise. We therefore code automatic procedure and the secretary general at the proposal stage and the Executive Committee for the final decision (Art. 52). Members can also appeal to the General Assembly, which can overturn the earlier decision. For this reason, the General Assembly is included at the decision stage as well (Art. 52).

POLICY MAKING

Interpol's work has always focused on international police cooperation. Initially, it paid most attention to the identification of crime and criminals. This

is still an important part of its work, but nowadays counterterrorism has become a priority (Deflem 2006). In each member country there is a designated National Central Bureau that serves as a contact point for Interpol, and National Central Bureaus are recognized in the Constitution as an integral part of Interpol (Art. 5). Through these National Central Bureaus, Interpol facilitates communication and cooperation among national police. Interpol also supports police forces in emergencies, such the identification of disaster victims. Another goal is capacity building of national police forces through training. In short, "Interpol is not a supranational police agency with investigative powers or an organization sanctioned by an international governing body such as the United Nations. Rather, it is a cooperative network formed independently among police agencies to foster collaboration and provide assistance in police work across nations" (Deflem 2006: 245). Thus, the main policy instrument is the General Assembly resolution, and since the 1970s, the main policy activity consists of programs coordinated by the General Secretariat involving the National Central Bureaus (Anderson 1989; Fooner 1989; Deflem 2006).

From 1946 until 1956, the Constitution indicates that individual member states and the Executive Committee are involved at the proposal stage. Members propose issues for discussion and these are studied by the rapporteurs before being put to a vote in the Assembly (Art. 6.1). The final decision, in the form of a resolution, is taken by the Assembly (Art. 6.2). Resolutions are non-binding. There is no mention of ratification.

After 1956, the Constitution lists as one of the tasks of the General Secretariat to: "Draw up a draft program of work for the coming year for the consideration and approval of the General Assembly and the Executive Committee" (Art. 26h). We code the Secretariat (Art. 26) and the Executive Committee at the proposal stage (Art. 22) and the General Assembly for the final decision (Art. 8). Since data collection and processing is a major aspect of Interpol policy activity, we also code the Commission for the Control of Interpol's Files (CCF) from 1986 because its proposals have to be addressed by the secretary general, and the body can also formulate proposals to the other bodies.

Interpol resolutions have moral, not legal, force. Article 9 of the Constitution simply states that "Members shall do all within their power, insofar as is compatible with their own obligations, to carry out the decisions of the General Assembly." Decision making is therefore coded as non-binding. Ratification is not required.

DISPUTE SETTLEMENT

No written rules.

Interpol Institutional Structure

		A1			E1										GS1		CB1	CB2
Years		Non-state selection	Indirect representation	Weighted voting	Head—agenda	Head—decision	Members—agenda	Members—decision	Non-state selection	Partial representation	Indirect representation	Reserved seats	Weighted voting	Partial veto	Select	Remove	Non-state selection	Non-state selection
1950–1955	Not body-specific	1	1	0					0	1	N	0	0	0		N		
	Member states																	
	A1: Assemblée				2	2		3							3			
	E1: Comité Exécutif						✓											
	Head E1						✓								✓			
	GS1: Bureau Central International																	
1956–1985	Not body-specific	0	0	0					0	1	2	0	0	0			1	
	Member states																	
	A1: **General Assembly**				2	2	3	3							3	3		
	E1: **Executive Committee**														3	3		
	GS1: **General Secretariat**																	
	CB1: Advisors																	
1986–2007	Not body-specific	0	0	0					0	1	2	0	0	0			1	1
	Member states																	
	A1: General Assembly				2	2	3	3							3	3		
	E1: Executive Committee														3	3		
	GS1: General Secretariat																	
	CB1: Advisors																	
	CB2: Supervisory Board for Files																	
2008–2010	Not body-specific	0	0	0					0	1	2	0	0	0			1	1
	Member states																	
	A1: General Assembly				2	2	3	3							3	3		
	E1: Executive Committee														3	3		
	GS1: General Secretariat																	
	CB1: Advisors																	
	CB2: **Commission for Files**																	

Note: A = automatic/technocratic procedure; N = no written rule; R = rotation; ✓ = body co-decides, but no voting rule; ← = change in status. Shaded areas refer to institutions or policy areas that are non-existent for those years

Interpol Decision Making

		Accession			Suspension		Constitution				Budget			Compliance		Policy (recommendations)					Dispute settlement						
Years		Agenda	Decision	Ratification	Agenda	Decision	Agenda	Decision	Ratification	Revenue source	Agenda	Decision	Binding	Agenda	Decision	Agenda	Decision	GS role	Binding	Ratification	Coverage	Third party	Binding	Tribunal	Non-state access	Remedy	Preliminary ruling
1946–1955	Not body-specific	N	N	N	N	N	N	N	N	0	N	N	N	N	N			0	0	3							
	Member states															✓											
	A1: Assemblée																3										
	E1: Comité Exécutif															N											
	GS1: Bureau Central International																										
1956–1957	Not body-specific	N		2	N	N			3	0			2					1	0	3							
	Member states						✓																				
	A1: **General Assembly**		2					2				3			3		3										
	E1: **Executive Committee**						3				3			3	3	3											
	GS1: **General Secretariat**										✓					✓											
	CB1: Advisors																										
1958–1985	Not body-specific	N		2	N	N			3	1			2					1	0	3							
	Member states						✓																				
	A1: General Assembly		2					2				3			3		3										
	E1: Executive Committee						3				3			3	3	3											
	GS1: General Secretariat										✓					✓											
	CB1: Advisors																										
1986–1995	Not body-specific	N		2	N	N			3	1			2	A				1	0	3							
	Member states						✓																				
	A1: General Assembly		2					2				3			3		3										
	E1: Executive Committee						3				3				3	3											
	GS1: General Secretariat										✓					✓											
	CB1: Advisors																										
	CB2: Supervisory Board for Files															✓											

(*continued*)

Interpol Decision Making (Continued)

		Accession			Suspension		Constitution				Budget			Compliance		Policy (recommendations)					Dispute settlement						
Years		Agenda	Decision	Ratification	Agenda	Decision	Agenda	Decision	Ratification	Revenue source	Agenda	Decision	Binding	Agenda	Decision	Agenda	Decision	GS role	Binding	Ratification	Coverage	Third party	Binding	Tribunal	Non-state access	Remedy	Preliminary ruling
1996–2007	Not body-specific	N		2	N	N			3	1			2	A				1	0	3							
	Member states						✓																				
	A1: General Assembly		2					2				3			3		3										
	E1: Executive Committee						3				3				3	3											
	GS1: General Secretariat										✓			✓		✓											
	CB1: Advisors																										
	CB2: Supervisory Board for Files															✓											
2008–2010	Not body-specific	N		2	N	N			3	1			2	A				1	0	3							
	Member states						✓																				
	A1: General Assembly		2					2				3			3		3										
	E1: Executive Committee						3				3				3	3											
	GS1: General Secretariat										✓			✓		✓											
	CB1: Advisors																										
	CB2: **Commission for Files**															✓											

Note: A = automatic/technocratic procedure; N = no written rule; R = rotation; ✓ = body co-decides, but no voting rule; ← = change in status. Shaded areas refer to institutions or policy areas that are non-existent for those years.

North Atlantic Treaty Organization (NATO)

The North Atlantic Treaty Organization is a security organization encompassing twenty-eight countries in the North Atlantic area. Created in the years following World War II, it committed twelve states in Northwest Europe and North America to consider "an armed attack against one or more of them . . . an attack against them all" (North Atlantic Treaty, Art. 5).[59] The Treaty also states that "The Parties will contribute toward the further development of peaceful and friendly international relations by strengthening their free institutions" (Art. 2), that is by promoting "common values of democracy, human rights and the rule of law" (NATO Handbook: 30). NATO's headquarters are located in Brussels, Belgium.

NATO is rooted in the Cold War confrontation between the capitalist West led by the United States and the Communist East led by the Soviet Union following World War II. The organization met several distinct concerns relating to Germany as well as to the Soviet Union.[60] As the Soviet threat materialized in the postwar years, the necessity of German rearmament became obvious. United States leadership of a European security protectorate assuaged British and French fears of potential German dominance. Moreover, American involvement released resources in war-torn Europe at a time when Britain and France were struggling to stabilize their colonies (Ikenberry 2001: 193).

Britain launched the idea for a transatlantic security alliance among the Western states in an attempt "to tie the security of the United States to the security of Western Europe" (Wiebes and Zeeman 1983: 354). However, the United States was unwilling to enter a treaty commitment.[61] After the four Allied powers failed to agree on a joint policy for Germany at a Foreign Ministers Meeting in December 1947, Foreign Secretary Ernest Bevin approached George Marshall, US Secretary of State, to seek support for some "Western democratic system" which, while not a formal alliance, would be "a spiritual federation" backed "by power, money and resolute action" (quoted in Baylis 1984: 620; Hemmer and Katzenstein 2002: 558). The Communist coup in Prague in February 1948 concentrated minds on the need for a formal alliance. Marshall considered the coup "a watershed in east–west relations," and "called for 'urgent and resolute action' if the United States

[59] These states are: Belgium, Canada, Denmark, France, Iceland, Italy, Luxembourg, the Netherlands, Norway, Portugal, the United Kingdom, and the United States.

[60] Even after the Prague coup, Bevin hoped that accommodation with the Soviet Union was possible and warned the British ambassador in France that Britain could not "afford to ignore the German danger" (quoted in Baylis 1982: 245).

[61] There are few better examples of the importance that key actors place on their formal commitments than the negotiations over the North Atlantic Treaty.

were to defend the west" (Lukes 2011: 443–4). The sense of urgency was reinforced by the Soviet Berlin blockade from June of the same year (Wiebes and Zeeman 1983: 353). However, internal resistance to a formal commitment in the US State Department and the difficulty of bringing Congress along delayed the signing of a NATO treaty until April 1949 (Wiebes and Zeeman 1983: 361).

Parallel to these developments were efforts among European countries. Bevin had been advancing cooperation with the Benelux countries and France, and this resulted in the Treaty of Brussels in March 1948. The military elements of the alliance were operationalized through the Western European Defense Organization, established in September 1948, and which provided a model for NATO's military command structure (Isby and Kamps 1985: 13).

During the Cold War, NATO was successful in that the Soviet Union never attempted an invasion of Western Europe while, at the same time, Western countries gradually built a security community in which stable expectations of peaceful change developed among its members (Deutsch 1957; Risse-Kappen 1996). Greece and Turkey joined the organization in 1952, West Germany followed in 1955, and Spain in 1982.

This process of reconciliation was not without friction. After a period of relative cohesion in the first half of the 1950s, the Suez crisis in 1956 was "the first serious crack in the alliance" (Kober 1983: 339). Subsequent French dissatisfaction with US leadership led to its formal withdrawal from NATO's integrated military structures in March 1966 (see Stein and Carreau 1968). France subsequently moved to develop an independent political role for the European Economic Community, leading to European Political Cooperation in 1970. NATO cooperated closely with the Conference on Security and Cooperation in Europe during the early 1970s and underpinned a period of détente between the US and USSR (Romano 2009), but NATO's deployment of missile systems in response to Soviet intervention in Afghanistan in the early 1980s led to political tensions within and among NATO members (Kober 1983).

The implosion of the Soviet Union marked a watershed for NATO (Gheciu 2005). From the early 1990s onwards, it cooperated with its former adversaries and entered a phase of soul-searching for a novel purpose (McCalla 1996; Williams and Neumann 2000; Peterson and Steffenson 2009). It extended its membership in Central and Eastern Europe, enlarging from sixteen to twenty-eight states. Notable operations in the post-Cold War era include the first NATO crisis intervention in Bosnia, its humanitarian intervention in Kosovo, the security mission in Afghanistan following the September 11, 2001 attacks and the first invocation of Article 5 of the North Atlantic Treaty; and the counter-piracy Operation Ocean Shield off the Horn of Africa (Lindley-French 2015). NATO revised its strategic mission in 1999 and in 2010 to

emphasize crisis response, peacekeeping, the prevention of international crime, terrorism, and nuclear proliferation.

The North Atlantic Treaty (signed and in force 1949) is the key legal document, and despite the major changes in NATO's mission and operation, it has never been amended. The NATO Handbook provides much information not encompassed in the elegant Treaty. NATO has a dual structure: a civilian structure led by the North Atlantic Council (NAC), and a military structure guided by the military committee, the International Military Staff (IMS), and the Allied Command Operations (ACO). We code the civilian component. The North Atlantic Council is the governing body of the organization; it has several emanations—heads of state, ministers of foreign affairs and defense, and permanent representatives with the rank of ambassador. The ministerial level serves as the assembly and permanent representatives operate as the organization's executive. The International Staff is the administrative organ of NATO and the secretary general is the head of the Council and of all committees. While there have been a number of changes in NATO's military structure, its civilian structure has been stable.

Institutional Structure

A1: NORTH ATLANTIC COUNCIL (MINISTERIAL COUNCIL) (1950–2010)

The main decision making body is the North Atlantic Council (NAC). It meets at different levels: "It can meet at the level of 'permanent representatives' (or 'ambassadors'), at the level of foreign and defense ministers, and at the level of heads of state and government. All decisions have the same status and validity. The NAC is chaired by the Secretary General. [. . .] The NAC meets at least every week and often more frequently, at the level of permanent representatives; it meets twice a year at the level of ministers of foreign affairs, three times a year at the level of ministers of defense, and occasionally at the summit level with the participation of prime ministers and heads of state and government."[62] We consider the Ministerial Council as assembly and the Council of Permanent Representatives as executive body.

The assembly is composed of member state representatives, who are direct representatives of their country. All decisions are made by consensus: "When decisions have to be made, action is agreed upon on the basis of unanimity and common accord. There is no voting or decision by majority" (NATO Handbook: 149).

The Council's alter ego on the military side was the Defense Planning Committee (DPC), created in 1949. It is the ultimate authority on the integrated

[62] See <http://www.nato.int/cps/en/natolive/topics_49763.htm> (accessed February 15, 2017).

military structure, provides guidance to NATO's military authorities, and oversees the force planning process. This process identifies NATO's military requirements, sets planning targets for individual countries to contribute to those requirements, and assesses the extent to which members meet those targets. From 1966 to April 2009, France did not participate in the work of this committee due to its withdrawal from the integrated military structure. Like the Council it can meet at different levels of seniority. The body was dissolved in NATO's restructuring in 2010 and its tasks absorbed by the Council. So the traditional dual political–military structure has been simplified at the top.

E1: NORTH ATLANTIC COUNCIL (PERMANENT COUNCIL) (1950–2010)

The Council also functions as the executive of the organization, and the most relevant level is that of the Permanent Representatives. The Permanent Representatives, who meet on a weekly basis, have the possibility to oversee the implementation of the decisions taken by the Council.

The Permanent Council is chaired by the secretary general. Member states propose candidates for this office in a process of informal consultation; the Permanent Council takes the final decision by consensus (NATO Handbook: 150). Traditionally, a European candidate is elected to the post. So the executive is less than fully member state due to the presiding role of the secretary general.

Each member state appoints a representative: "The North Atlantic Council (NAC) has effective political authority and powers of decision, and consists of Permanent Representatives of all member countries meeting together at least once a week" (NATO Handbook: 149). Article 9 talks about the structure of the Council: "The Parties hereby establish a Council, on which each of them shall be represented, to consider matters concerning the implementation of this Treaty. The Council shall be so organized as to be able to meet promptly at any time. The Council shall set up such subsidiary bodies as may be necessary; in particular, it shall establish immediately a defense committee which shall recommend measures for the implementation of Articles 3 and 5."

All member states are represented: "Each government is represented on the Council by a Permanent Representative with ambassadorial rank. Each Permanent Representative is supported by a political and military staff or delegation to NATO, varying in size" (NATO Handbook: 149). All but one member (the secretary general) receives voting instructions from their government: "Permanent representatives act on instruction from their capitals, informing and explaining the views and the policy decisions of their governments to their colleagues around the table. Conversely they report back to their national authorities on the views expressed and positions taken by other governments, informing them of new developments and keeping them

abreast of movement toward consensus on important issues or areas where national positions diverge" (NATO Handbook: 35). Hence we code the intermediate category on direct or indirect representation.

The work of the Permanent Council is aided by a set of committees and procedures for coordinating budgets, purchases, and spending on infrastructure (Wallander 2000: 714). The key committee supporting the work of the Council and preparing its agenda is the Senior Political Committee (SPC), "consisting of deputy permanent representatives, sometimes reinforced by appropriate national experts" (NATO Handbook: 35).

On the military side, the DPC (since 1949) and the Nuclear Planning Group (NPG) (since 1966) also possess executive capacities. With the exception of France, all member countries are represented in both the DPC and the NPG (NATO Handbook: 36–7).[63]

GS1: INTERNATIONAL STAFF (1950–2010)

As described more fully in the previous section, the secretary general is proposed by member states and selected by the Ministerial Council by unanimity. He/she leads the "political side of the alliance" (Wallander 2000: 713) and is the chair of the North Atlantic Council, the Defense Planning Committee, and the Nuclear Planning Group as well as the chair of the Euro–Atlantic Partnership Council, the NATO–Russia Council, the NATO–Ukraine Commission, and the Mediterranean Cooperation Group (NATO Handbook: 219–20). The length of tenure of the secretary general is four years, which may be extended by one year by a unanimous decision of the NAC. There are no written rules on possible removal.

Around 1,200 civilians work within NATO's International Staff (IS) at NATO headquarters in Brussels, Belgium (and around 4,000 if worldwide staff is included). The staff works under the authority of the secretary general. It supports the delegations of NATO members at different committee levels and helps implement their decisions. It "is made up of personnel from the member countries of the Alliance recruited directly by NATO or seconded by their governments" (NATO Handbook: 220). NATO's staff website is explicit that there are no national quotas, but that personnel policy seeks to ensure that the workforce reflects the diverse national cultures and backgrounds. Secondment is an important recruitment tool (NATO Handbook: 75, 220), but at the same

[63] In response to the rising importance of nuclear armament, the member states created two new bodies in 1966: the Nuclear Defense Affairs Committee (NDAC), which included all NATO members, and the NPG, which was restricted to seven members—four permanent (Italy, the United States, the United Kingdom, West Germany) and three in rotation for one year. The NDAC met once per year at ministerial level. Its last meeting took place in 1973, and its work was taken over by the NPG, which thus became the only NATO body in charge of nuclear affairs. The NPG's rotational membership ended in 1979, and now all members that participate in the military structure have a seat.

time, the organization emphasizes that staff members "owe their allegiance to the organization throughout the period of their appointment."[64]

CB1: NATO PARLIAMENTARY ASSEMBLY (1968–2010)

Several bodies have some link with NATO, including the NATO Parliamentary Assembly, the Atlantic Treaty Organization, the Interallied Confederation of Reserve Officers (CIOR), and the Interallied Confederation of Medical Reserve Officers (CIOMR) (NATO Handbook: 375, 378, 384, 385). Only one meets our non-state criterion: the NATO Parliamentary Assembly. Tallberg et al. (2013: 68) categorize NATO as one of the least open international organizations in their dataset, "not offering any formal access until the most recent decade."

Created in 1955 as an independent institution, the NATO Parliamentary Assembly held its first meeting in Paris as the "Conference of Members of Parliament from the NATO countries." The Conference set up a Continuing Committee composed of the four presidents and one representative from each national delegation. This body exists today as the Standing Committee. The body renamed itself the North Atlantic Assembly (NAA) in 1966, and the NATO Parliamentary Assembly from 1999. The Parliamentary Assembly has parliamentary representatives from all member states, the European Parliament, and several partner member states. The number of representatives is roughly proportional to the size of the country's population (the European Parliament has ten members—equivalent to Romania's delegation). The Assembly has a permanent secretariat in Brussels. It meets twice yearly in plenary session, and functions otherwise through six committees.

We code the Assembly from 1968, the year after the North Atlantic Council instructed the secretary general to formalize a consultative relationship. The Assembly's chief access point is the secretary general, who addresses the Assembly multiple times a year, provides written responses to the policy recommendations passed by the Assembly, and hosts an annual meeting of the Parliamentary leadership with the Permanent Council. The Standing Committee of the Assembly may also address the NATO Summit. The Assembly can pass recommendations, which are "addressed to the NAC asking it to take certain action in pursuit of the aims of the Assembly and in the expectation of a reply from the Council," resolutions, which give "formal expression to the view of the Assembly but does not call for action by the North Atlantic Council," and opinions, which "express the view of the Assembly in answer to a formal request from the NAC or from an international organization" (Assembly Rules of Procedure, Arts. 24.3–5). These are forwarded to national governments, national parliaments, and other relevant organizations.

[64] See <http://www.nato.int/cps/ru/natolive/topics_58110.htm?selectedLocale=tr> (accessed February 15, 2017).

The Assembly votes by simple majority, but the Standing Committee uses weighted voting when decisions involve additional expenditure. The weighting takes account of the size of national contributions (Assembly Rules, Art. 15.2).

Alongside its consultative role to the NATO institutions, the Assembly influences the respective national delegations in helping implementation of NATO decisions.

Decision Making

MEMBERSHIP ACCESSION

There is no accession procedure in the bare-bones Treaty, but the process is well trodden and explicitly described on NATO's website. Accession requires an invitation by the Council to start consultation. A country needs to prove it meets all requirements to become a member. To that purpose, it meets with NATO representatives and experts at headquarters to discuss, in a first meeting, political and defense issues. This serves to establish that the preconditions for membership have been met. In a second, more technical meeting, the parties discuss resources, security, and legal issues as well as the contribution of a new member country to NATO's common budget. Invitees are also required to implement measures to ensure the protection of NATO classified information, and prepare their security and intelligence services to work with the NATO Office of Security. The result of these discussions is a timetable, which an invitee submits for the completion of necessary reforms. In the next step, the invitee sends a letter of intent to the secretary general. NATO then prepares the accession protocol for signature at the North Atlantic Council. There is a significant substantive role for NATO staff and we code the IS (secretariat) as involved alongside the Permanent Council (and its subsidiary committees).

The final decision is made by the Ministerial Council by unanimity (NATO Handbook: 150). All members need to ratify the protocol that amends the Treaty: "NATO then prepares Accession Protocols to the Washington Treaty for each invitee. These protocols are in effect amendments or additions to the Treaty, which once signed and ratified by Allies, become an integral part of the Treaty itself and permit the invited countries to become parties to the Treaty. The governments of NATO member states ratify the protocols, according to their national requirements and procedures."[65]

MEMBERSHIP SUSPENSION

There are no written rules on suspension or expulsion. The United States and Canada were keen to have a provision in the original Treaty on suspension,

[65] See <http://www.nato.int/cps/en/natolive/topics_49212.htm> (accessed February 15, 2017).

and eventually expulsion, but felt constrained in drafting a provision since it might reflect badly on the political stability of certain of the members. The United States settled for language in Article 8 in which the parties to the Treaty undertake "not to enter into any international engagement in conflict with this treaty" as an alternative to an expulsion clause. Secretary of State Dean Acheson's explanation of why the United States wanted this provision was: "That we had in mind the possibility that one of these countries might go Communist and some ground should be provided for disassociating them from the pact" (quoted in McHugh 2005: 9). The issue of suspension and/or expulsion has become more salient since the enlargement of NATO.

CONSTITUTIONAL REFORM

Article 12 of the Treaty includes an automatic review procedure after the first ten years, and the following procedure afterwards: "After the Treaty has been in force for ten years, or at any time thereafter, the Parties shall, if any of them so requests, consult together for the purpose of reviewing the Treaty, having regard for the factors then affecting peace and security in the North Atlantic area, including the development of universal as well as regional arrangements under the Charter of the United Nations for the maintenance of international peace and security." So member states can initiate, and member states—through the Ministerial Council—decide. Though not explicitly mentioned, ratification by all appears necessary.[α] This is consistent with Article 11, which states that the Treaty shall be ratified, and with the provisions governing Accession Protocols (NATO Handbook: 150). The Treaty has never been amended outside the occasion of accession.

REVENUES

Mandatory member state contributions finance the general budget. The size of the contribution is determined by a formula based on gross national income and the largest contributors are the United States, Germany, the United Kingdom, and France. In 2012 the NATO civil budget was $380 million. The military budget was $1.8 billion (Ek 2012). Most NATO programs are covered through indirect contributions in the form of member state investments in their national security infrastructure.

BUDGETARY ALLOCATION

The civil budget is drafted by the International Staff (IS) and reviewed by the Budget Committee. Technically, the Budget Committee falls under the responsibility of the IS, but it is composed of member state representatives, and hence we interpret this as an emanation of the Permanent Council. The Budget Committee is one of four bodies that reports directly to the Ministerial Council, which takes the final decision by unanimity (NATO Handbook: 150).

Hence, we code both the Secretariat and the Permanent Council as drafting the budget and the Ministerial Council as final decision maker.

The civil budget is dwarfed by the military budget for operations in the field, which is paid for by participating member states involved. So while the civil budget is binding, member states can opt out of the military budget by opting out of participation in these operations. We code budgetary decision making as binding with the opportunity to opt out.

FINANCIAL COMPLIANCE

No written rules.

POLICY MAKING

NATO bodies can issue communiqués, declarations, statements, and reports. The NAC is the chief decision body, and policy proposals can be formulated by one of its subsidiary bodies, individual member states, or the secretary general: "Items discussed and decisions taken at meetings of the Council cover all aspects of the Organization's activities and are frequently based on reports and recommendations prepared by subordinate committees at the Council's request. Equally, subjects may be raised by any one of the national representatives or by the Secretary General" (NATO Handbook: 150). We code the

NATO Institutional Structure

		A1			E1											GS1		CB1
Years		Non-state selection	Indirect representation	Weighted voting	Head—agenda	Head—decision	Members—agenda	Members—decision	Non-state selection	Partial representation	Indirect representation	Reserved seats	Weighted voting	Partial veto		Select	Remove	Non-state selection
1950–1967	Not body-specific	0	0	0					1	0	1	0	0	0			N	
	Member states				✓		✓	✓								✓		
	A1: NAC: Ministerial Council					0										0		
	E1: NAC: Permanent Council																	
	GS1: International Staff																	
1968–2010	Not body-specific	0	0	0					1	0	1	0	0	0			N	3
	Member states				✓		✓	✓								✓		
	A1: NAC: Ministerial Council					0										0		
	E1: NAC: Permanent Council																	
	GS1: International Staff																	
	CB1: NATO Parliamentary Assembly																	

Note: A = automatic/technocratic procedure; N = no written rule; R = rotation; ✓ = body co-decides, but no voting rule; ← = change in status. Shaded areas refer to institutions or policy areas that are non-existent for those years.

NATO Decision Making

		Accession			Sus-pension		Constitution				Budget			Com-pliance		Policy 1 (declarations)					Dispute settlement						
Years		Agenda	Decision	Ratification	Agenda	Decision	Agenda	Decision	Ratification	Revenue source	Agenda	Decision	Binding	Agenda	Decision	Agenda	Decision	GS role	Binding	Ratification	Coverage	Third party	Binding	Tribunal	Non-state access	Remedy	Preliminary ruling
1950–1967	Not body-specific			0	N	N			0	1			1	N	N			1	0	3							
	Member states						✓																				
	A1: NAC: Ministerial Council		0					0				0					0										
	E1: NAC: Permanent Council	0									0					0	0										
	GS1: International Staff	✓									✓					✓											
1968–2010	Not body-specific			0	N	N			0	1			1	N	N			1	0	3							
	Member states						✓																				
	A1: NAC: Ministerial Council		0					0				0					0										
	E1: NAC: Permanent Council	0									0					0	0										
	GS1: International Staff	✓									✓					✓											
	CB1: NATO Parliamentary Assembly															3											

Note: A = automatic/technocratic procedure; N = no written rule; R = rotation; ✓ = body co-decides, but no voting rule; ← = change in status. Shaded areas refer to institutions or policy areas that are non-existent for those years.

General Secretariat, member states, and the NAC as initiating policies. We also include the Parliamentary Assembly from 1968 because it has the right to receive responses from the NAC on its recommendations (Assembly Rules, Art. 24.3).

The NAC takes the final decision by unanimity, either in its permanent representatives or ministerial incarnation (NATO Handbook: 150). NATO decisions have strong moral force, but are not legally binding. For example, on military planning, "In determining the size and nature of their contribution to collective defense, member countries of NATO retain full sovereignty and independence of action" (NATO Handbook: 157). Ratification is not necessary.

DISPUTE SETTLEMENT

NATO has a mediation procedure to settle disputes, but no legal procedure involving independent third-party adjudication, which we focus on in our coding. The secretary general acts as the first mediator in interstate disputes: "The Secretary General is responsible for promoting and directing the process of consultation and decision making throughout the Alliance. He may propose items for discussion and decision and has the authority to use his good offices in cases of dispute between member countries" (NATO Handbook: 220; see also 1956 resolution). If these efforts fail, NATO encourages member states to make use of external tribunals or courts.

Francophonie (OIF/ACCT)

The Organisation Internationale de la Francophonie (Francophonie, OIF), headquartered in Paris, brings together fifty-two French-speaking countries from Africa (twenty-six), Europe (fourteen), the Asia-Pacific (four), the Americas (four), and the Middle East (four). A further twenty-six countries are observers. Initially born out of efforts to maintain close cultural and economic links between France and its former colonies in Africa, the membership of OIF has since diversified. Many newer members, such as Romania or Armenia, have historic connections to France and/or French-speaking communities (Batho 2001). Full membership is also open to linguistic communities and federated entities, including the French-speaking community in Belgium, and the Canadian provinces of Quebec and New Brunswick (Paquin 2006). The organization has four permanent representations in Addis Ababa (at the African Union and at the United Nations Economic Commission for Africa), Brussels (at the European Union), New York, and Geneva (at the UN), and five regional offices in Lomé (Togo), Libreville (Gabon), Hanoi (Vietnam), Bucharest (Romania), and Port-au-Prince (Haiti).

The term "Francophonie" was coined in 1880 by French geographer Onésime Reclus to refer to French-speaking communities (Paquin 2006: 31). International cooperation among French-speaking countries began in 1970 with the signing of the Convention of Niamey by twenty-one countries. It created the Agency for Cultural and Technical Co-operation (L'Agence de coopération culturelle et technique, ACCT). The organization was the product of a movement, led by the leaders of four former colonies—Cambodia, Niger, Senegal, and Tunisia—to "redefine their relationship with France on the basis of shared linguistic and cultural ties" (Rabbat 2010: 2).

The objectives of the organization were to promote French civilization and language and to foster economic and social development. Over time, human rights as well as peace and security gained attention, as reflected in the revised *Charte de la Francophonie* of 2005, which lists democratic consolidation, the rule of law, human rights, conflict management, cultural dialogue, economic development, and education and training as its goals (Art. 1).

The increase in diversity among member states and the broadening of the organization's policy portfolio has drawn criticism from those who feel the mission of the organization should be the promotion of the French language (Massard-Piérard 1999; Wiltzer 2008). At the same time, the organization has been criticized for not living up to its ambition of being a player in international politics (Kolboom 2001; Massard-Piérard 2007).

The OIF's institutions have been reformed several times. In 1997, the organization became the Intergovernmental Agency of la Francophonie (L'Agence intergouvernementale de la Francophonie, AIF), and a political superstructure was set up under the label La Francophonie. For some years (1997–2004), the organization had a virtually dual structure with parallel assemblies, executives, and secretariats serving the interests of la Francophonie and those of the Agency respectively. In 2005, the *Charte de la Francophonie* reformed and simplified the institutional make-up and gave the organization its current name.

The key legal document of the ACCT is the Convention on the Agency for Cultural and Technical Co-operation (with annexed Charter for the Agency for Cultural and Technical Co-operation) (signed and entry into force 1970). The key legal document of the OIF is the *Charte de la Francophonie* (signed and entry into force 1997). The Charter was revised at the XXIst Conférence ministérielle de la Francophonie à Antananarivo, Madagascar, in 2005. Other key documents are the *Déclaration de Bamako* (2000), which sets out principles of democracy, rights and liberties, and modes of action in case of illegal disruption of democracy or grave violation of human rights; the *Déclaration de St Boniface* (2006) on conflict prevention; and *Statuts et modalités d'adhésion* (2002), adopted by the IXth Summit in Beirut (2002) and amended by the XIth Summit in Bucharest (2006).

The contemporary OIF has four core decision bodies: the Summit, the Ministerial Conference, the Permanent Council, and the Secretariat. There is also a consultative Assemblée parlementaire de la Francophonie. Four direct operators are responsible for implementation: l'Agence universitaire de la Francophonie (AUF), TV5, l'Association internationale des maires francophones (AIMF), and l'Université Senghor.

Institutional Structure

A1: CONFÉRENCE GÉNÉRALE (1970–96) TO CONFÉRENCE GÉNÉRALE D'AGENCE (1997–2005)

The Conférence Générale (General Conference) was the highest decision making organ in the ACCT until it was superseded by the institutionalization of the Summit in 1985. The General Conference was made up of delegations from all member states. The delegation had to be "at the ministerial level," but the member states were encouraged to include individuals from agencies that were in direct contact with the ACCT (ACCT Charter, Art. 8). The General Conference "direct[s] the activities of the Agency," "approve[s] the work program," and "monitor[s] financial policy and consider[s] and approve[s] the budget" (ACCT Charter, Art. 7). Decisions were taken by nine-tenths majority (ACCT Charter, Art. 9.2). There was no weighted voting.

After 1997, the General Conference was renamed the General Conference of the Agency, which existed as a special incarnation of the Ministerial Conference (ACCT Charter, Art. 5). The administrative secretary, who was the head of the Agence administration, participated with consultative vote (ACCT Charter, Art. 16). Hence we code the composition as less than fully member state from 1997 to 2004.$^{\beta}$ The General Conference was absorbed in the organization's Conférence ministérielle de la Francophonie in 2005.

A2: LE SOMMET (1986–2010)

After 1985, the Summit of the Heads of Government (Le Sommet) became the supreme decision body. It met every other year (1997 and 2005 Charte de la Francophonie, Art. 3) and is chaired by the host country. Its first meeting took place in 1986, though the Summit's position was not institutionalized until the *Charte de la Francophonie* was adopted in 1997.[66] Its chief role is to "define the orientations of la Francophonie so as to ensure its influence in the world and meet its objectives" (1997 Charte, Art. 3).

[66] See <http://www.francophonie.org/Le-Sommet.html> (accessed February 15, 2017).

Under the 1997 Hanoi Charter, the secretary general participated with "full rights" in the Summit (1997 Charte de la Francophonie, Art. 3 and Annexe 3).[67] That provision was dropped in the 2005 revision. Hence we code the composition of the Summit as completely member state from 1986 to 1996, less than completely member state from 1997 to 2004, and completely member state thereafter. For the years that the secretary general had full rights, we also code representation as less than completely member state. All member states are represented. There is no weighted voting.

There is no explicit mention of the voting rule in the Charter, but the declarations of Bamako (2002) and Beirut (2002) were adopted by consensus.$^{\alpha}$ This fits with the character of the organization. Based on this information we assume the Summit takes its decisions by unanimity or consensus.

A3: CONFÉRENCE MINISTÉRIELLE DE LA FRANCOPHONIE (CMF) (1997–2010)

The Ministerial Conference (la Conférence ministérielle de la Francophonie, CMF) was created in 1997 when the ACCT was transformed into the OIF. The Charter outlines its functions: to decide multilateral activities, prepare the Summit, execute Summit decisions, and adopt the organization's budget (2005 Charter, Art. 4). It also decides on member state contributions and it advises the Summit on accession.

The participants are foreign affairs ministers of the member states that have a permanent seat at the Summit (2005 Charter, Art. 4). The secretary general is allowed to participate in the Conference but has no voting rights (1997 and 2005 Charter, Art. 4). The chair rotates with the country that hosts the Summit (Art. 4).

The Annex to the Charter states that, like in the General Conference, the Ministerial Conference takes decisions by nine-tenths majority: "The decisions taken by the Ministerial Conference are taken, where possible, by consensus. In case of a vote, each member has one vote and decisions are taken by a nine-tenths majority of the members present and voting. Abstention is not considered as a vote" (Annex 4, 1997 Charter). There is no weighted voting.

E1: CONSEIL D'ADMINISTRATION (1970–2005)

The Administrative Council (Conseil d'Administration) is the ACCT's executive body. Its main function is to monitor the implementation of decisions taken by the General Conference and of activities related to these decisions (ACCT Charter, Appendix, Art. 11.1). There are no written rules on who elects

[67] See the preamble, which describes that the secretary general "will be the keystone of the francophone institutional system, and should also provide this institutional framework with the judicial support that the Summit lacks."

the chair of the executive. Each country is represented "by a person who is qualified in the fields of activity of the Agency" (ACCT Charter, Appendix, Art. 10). While expertise was a highly valued resource in its deliberations, we estimate that these members are direct representatives of their respective states.[β]

Unusually, former secretary generals have the right to participate "with full legal rights" but "without the right to vote" in the Administrative Council (ACCT Charter, Appendix, Art. 10). While this does not give former secretaries the same rights as member state representatives, we judge their role sufficient to code the composition of the executive as less than fully member state in that representation is partially indirect.[β]

There is no weighted voting. The Council takes its decisions by two-thirds majority (ACCT Charter, Art. 13). After 1997, the body continued to exist but many of its tasks were taken over by the Permanent Council. It was abolished in 2005.

E2: CONSEIL PERMANENT DE LA FRANCOPHONIE (CPF) (1997–2010)

The Permanent Council (Conseil permanent de la Francophonie, CPF) is the organization's executive body from 1997. The Permanent Council prepares the Summit and follows up its decisions (1997 and 2006 Charter, Art. 5). It is also responsible for the execution of decisions taken by the Ministerial Conference. It examines the agenda for meetings of the Ministerial Conference, and considers and approves projects (1997 and 2006 Charter, Art. 5). The Permanent Council is composed of member state representatives "duly accredited by the heads of state or the government members of the Summit" (1997 and 2006 Charter, Art. 5).

The OIF secretary general, elected by the Summit by consensus, presides over the executive (1997 and 2006 Charter, Art. 6). Each member state can delegate a representative to the executive (1997 and 2006 Charter, Art. 5). Because the secretary general chairs the Permanent Council (though he does not vote), we code the body as having less than full member state representation. The secretary general's role is such that not all members receive voting instructions from their government, and hence we code the intermediate category on direct representation.

The Annex to the Charter states that there is no weighted voting. Decisions are taken by supermajority: "The Permanent Council takes its decisions by consensus, if possible. In case of a vote, each member has one vote and decisions are taken by a nine-tenths majority of members present and voting. Abstention is not considered as a vote" (Annex 5, 1997 Charter). The rules of procedure set out the same voting rules (*Règlement intérieur du Conseil Permanent de la Francophonie*, 2008, Art. 16.2).

E3: SECRÉTAIRE-GÉNÉRAL AND SECRÉTARIAT GÉNÉRAL DE LA FRANCOPHONIE (1997–2010)

The Hanoi 1997 Charter strengthened the executive functions through the creation of a new Secrétariat Général (SG de la Francophonie) to serve the Ministerial Conference and the Permanent Council of the Francophonie. Until 2005, this OIF SG coexisted alongside the Agence SG. The two Secretariat Generals were merged in 2005.

The new secretary general and his/her service were intended to be "the keystone of the institutional system of the Francophonie" (Preamble, 1997 Charter). The secretary general was given direct authority over the new Secretariat General and served as the highest authority in the Agency (Art. 6). He/she attends the Ministerial Conference, is the executive president of the Permanent Council, signs international agreements, and has a range of additional political functions as the official representative and spokesperson of the Francophonie including those relating to the prevention of conflicts, electoral monitoring, and investigations (Art. 7). The secretary general also has final responsibility for multilateral collaboration, including those involving the Agency and the multilateral fund.

The secretary general is elected by the Summit (1997 and 2006 Charter, Art. 6). There is no explicit voting rule and the Summit decides by consensus.[β68] The secretary general is elected for a term of four years, which may be renewed (1997 and 2006 Charter, Art. 6). There is no written procedure for proposing candidates, but routinized practice indicates that member states put forward candidates to the Summit, which is what we code. The first secretary general was Boutros Boutros-Ghali (1997–2002), former UN secretary general. Between 2003 and 2014, the secretary general was Abdou Diouf, the former president of Senegal, and since January 2015, it is Michaëlle Jean, former Governor General of Canada.

The secretary general has a small group of handpicked staff selected independently by the SG who constitute the Secrétariat Général de la Francophonie (1997 Charter, Art. 7). Staff may be recruited from the Agency, seconded from member states, or recruited externally. Hence composition is non-state, and there is no provision that all member states are represented. The secretary general and her staff have the status of an international civil service and "neither ask nor receive instructions or suggestions from any government or external authority" (1997 Charter, Arts. 6 and 16).

[68] Media reports on the election of Michaëlle Jean to the post of secretary general suggest that, in extremis, the Summit could resort to supermajority. Jean's candidacy was one of five candidatures, and for some time, consensus seemed elusive. In the end, the Canadian delegation, which had put forward her candidacy with the support of New Brunswick, Quebec, and Haiti, persuaded the Summit to not "risk the fractious process of holding a vote, according to a source familiar with the campaign" (Macrael 2014).

From 2005, the staff of the Secretariat General of the Agency and the Secretariat of the Francophonie were merged. Staff selection is controlled by the secretary general. Both before and after 2005, staff are bound by the international civil service statute and are sworn to be impartial.

GS1: GENERAL SECRETARIAT (1970–2010)

The Convention establishing the ACCT provided for the creation of a Secretariat, which consists of a secretary general, under-secretary generals, and "the administrative and technical personnel needed for the proper functioning of the Agency" (ACCT Convention, Art. 17.1).

The secretary general and the under-secretary generals were appointed by the General Conference for four years, renewable (ACCT Charter, Art. 17.2). The General Conference decided by supermajority (ACCT Charter, Art. 9.2). The first ACCT secretary general was elected in 1970. There were no written rules on removing the secretary general.

The secretary general was the central node of ACCT: he was "automatically secretary of the General Conference, of the Administrative Council, of the Consultative Council and of all subsidiary bodies." He was also responsible for preparing the work program of the Agency, for its execution, and for drafting the budget (ACCT Convention, Arts. 17.4–17.6). Impartiality is strongly emphasized: the secretary general and his staff "shall not request or receive instructions from any government or from any authority external to the Agency. They shall refrain from any action which might compromise their status as international civil servants" (Art. 17.8).

With the creation of a Secrétariat Général de la Francophonie in 1997, the Agence bureaucracy, now called the Agence de la Francophonie, came under the political authority of the newly created secretary general, but the Agence retained its own administrative structure and considerable operational autonomy. It was headed by a general administrator (*administrateur général*), appointed by the General Conference upon proposal of the secretary general for four years renewable (1997 Charter, Art. 16). The general administrator participates in the meetings of the General Conference and the Administrative Council.

In 2005, the Agence was renamed the Organisation Internationale de la Francophonie (OIF), which now combined the former small Secretariat General and the Agency. The OIF is under the authority of the secretary general, who appoints its personnel. He/she is responsible for the administration and budget of the OIF, but can delegate management (2005 Charter, Art. 6). The operational side of the OIF pertaining to the Fund and multilateral cooperation is delegated to the General Administrator, who is now appointed by the secretary general after consulting the Conseil permanent de la Francophonie (CPF) (2005 Charter, Art. 8). To facilitate internal coordination

and programming, a new committee was created, the Conseil de coopération, chaired by the secretary general, which brings together the *administrateur* of the OIF, representatives of the Assemblée parlementaire de la Francophonie (APF), and representatives of the special bodies (AUF, TV5, AIMF, Université Senghor). From 2005, we code the secretary general as the head of the administration. The OIF currently has around 300 staff.

GS2: SECRÉTARIAT GÉNÉRAL DE LA FRANCOPHONIE (1997–2004)
The 1997 Hanoi Charter created a small General Secretariat to assist the Ministerial Conference in its political functions. Staff were selected and appointed by the secretary general. The head, the SG, was appointed by the Summit. In 2005, it was merged under the newly labeled Organisation Internationale de la Francophonie.

CB1: CONSEIL CONSULTATIF (1970–96)
The ACCT Convention (Art. 16) set up a Consultative Council composed of two classes of members: a) representatives of any international organization or non-governmental international association upon which the General Conference confers the title of consultant, and b) persons known for their competence and achievements in a field of activity of the Agency and invited by the General Conference. The body's chief function is to ensure effective cooperation between the Agency, international organizations, and non-governmental international associations, as well as to give advice to the General Conference and the Secretariat on the Agency's work program and its implementation. So its composition is a mixture of public and private representatives. The Consultative Council is no longer mentioned after 1997, and we infer that it was abolished.$^{\alpha}$ In its place emerged a conference for non-governmental organizations with much weaker advisory powers.

CB2: ASSEMBLÉE PARLEMENTAIRE DE LA FRANCOPHONIE (APF) (1997–2010)
The Assemblée parlementaire de la Francophonie (APF) is mentioned in the Charter (beginning in 1997) and has a place in the OIF's official organigram.[69] The APF was created in 1963 under the name of L'Association internationale des parlementaires de langue française (AIPLF). It was renamed in 1989 as the Assemblée internationale des parlementaires de langue française, and in 1998 became the Assemblée parlementaire de la Francophonie.

The APF brings together representatives of seventy-eight parliaments or parliamentary organizations from francophone countries. It is particularly

[69] See <http://www.francophonie.org/L-Assemblee-parlementaire-de-la.html> (accessed February 15, 2017).

active on democracy promotion and human rights. Its resolutions can be transmitted to the bodies of the Francophonie, it can send election monitoring missions, and it works closely with the Secretariat General on a variety of programs for the promotion of democratic practice.[70]

The AIPLF first received recognition in 1993 at the Summit of Maurice which declared it to "constitut[e] the democratic link between governments and peoples." Its consultative role was recognized in the 1997 Hanoi Charter (Art. 2) which designated the AIPLF as the consultative assembly of the Francophonie. Annex 2 of the Charter lays out its rights: reciprocal exchange of information, decisions, and reports with all bodies; the participation of its representatives at the Summit on select topics; creation of joint commissions with the CPF and CMF meeting once or twice annually.

CB3: CONFÉRENCE DES ORGANISATIONS INTERNATIONALES NONGOUVERNEMENTALES (OING) (1997–2010)

The 1997 Hanoi Charter (Art. 18) replaced the Conseil Consultatif with a Conference for Non-governmental Organizations, which meets every two years to be informed of Summit policy, identify new organizations that could help implement policy, and be consulted on programming. The Conference can formulate proposals that are forwarded to the Summit for consideration. A monitoring committee composed of up to five representatives liaises with the secretary general, and the general administrator assists.

The 2005 Charter no longer mentions the monitoring committee. There is a detailed process of accreditation, and international non-governmental organizations (INGOs) are involved on an ad hoc basis with projects and programs. The Conference is a borderline case for inclusion given its relatively weak consultative powers.[β]

Decision Making

MEMBERSHIP ACCESSION

The ACCT Convention describes two tracks for membership. The first refers to language: "Any State which has French as its official language or one of its official languages, or any State which makes habitual and regular use of the French language, may become a party to this Convention" (Convention, Art. 5.1). This track was automatically available during the three years following the ACCT Convention. The default accession track requires political consent. "Any State which has not become a party to the Convention under the conditions laid down in article 5, paragraph 1, of the Convention may become a member of the Agency if it is admitted as a member by the General Conference"

[70] See <http://www.francophonie.org/L-Assemblee-parlementaire-de-la.html> (accessed February 15, 2017).

(ACCT Charter, Art. 3.2). The General Conference initiates accession and makes the final decision by nine-tenths majority (ACCT Charter, Art. 9). Ratification by member states is not required.

From 1997, the power of initiative moved to the Ministerial Conference (CMP) with the Summit deciding. "The Ministerial Conference recommends the admission of new members, associate members and observers, and the nature of their rights and obligations, to the Summit" (1997 and 2005 Charter, Art. 4). Articles 11 and 14 specify further that the General Conference must consent to membership of the Agency. We code the Ministerial Conference as initiator by supermajority (Annex 4 of the 1997 Charter). The final decision is taken by the Summit by consensus and the General Conference on behalf of the Agency by supermajority (Art. 11).

The procedure and criteria for accession are detailed in the *Statuts et modalités d'adhésion*, adopted by the Summit in 2002 and amended in 2006. Prospective member states submit their application to the president of the Summit. The secretary general passes the request on to the Permanent Council which appoints an ad hoc committee composed of all members. The ad hoc committee may request the secretary general to appoint a special inquiry committee to examine the candidate's fitness on site. The Permanent Council then submits a report to the Ministerial Conference which furnishes its opinion to the Summit. The final decision requires unanimity in the Summit. From 2002 onwards, then, we also include the secretary general and the Permanent Council in the proposal stage, the latter deciding by nine-tenths majority (1997 Charter, Annex 5).

MEMBERSHIP SUSPENSION

Neither the 1970 Convention nor the 1997 and 2005 Charters contain written rules on suspension. These emerged with the 2000 Declaration of Bamako, which sets out a procedure for imposing sanctions in case of a democracy crisis or violation of human rights. The secretary general plays a central role in triggering the process. She informs the organs of the Francophonie and can propose a number of steps, including, in agreement with the Permanent Council, sending a fact-finding mission or sending judicial observers. If the secretary general concludes that democracy or human rights are violated, she informs the president of the Ministerial Conference and she may also convene the Permanent Council as a matter of urgency. If the Permanent Council confirms the prognosis, it issues a public condemnation, sends the secretary general on a fact-finding mission and solicits reactions from the member states. It may decide to take measures that lead to partial or full suspension of members. Suspension is automatic in case of a coup d'état in a regime that had democratic elections (Declaration of Bamako, 2000: 8–9).

We code the secretary general and the member states (because they are consulted by the Ministerial Council) as having initiating power and the Permanent Council as final decision maker.[71] We code the default decision rule of supermajority (*Règlement intérieur*, Art. 16.2). We also code an automatic track in case of a coup d'état in a democratically elected regime. Suspension for not adhering to democratic principles has been invoked on several occasions. In 2012, the Central African Republic was suspended, and in 2014, Thailand, an observer state, was also suspended. In 2014, the suspension of Guinea-Bissau was revoked after the country had elected a new president through a fair and open election.[72]

CONSTITUTIONAL REFORM

The ACCT Convention could be amended by unanimous agreement among the contracting states (ACCT Convention, Art. 10). Amending the Charter is one of the "principal functions" of the General Conference (Art. 7), and so we code the General Conference as initiating and making the final decision. Ratification by all is required under a tacit procedure: "Amendments shall enter into force thirty days after the deposit of the last notification of acceptance of such amendments. Any State which has not entered an objection within a time-limit of one year shall be considered to have accepted the amendment" (ACCT Convention, Art. 10).

With the 1997 Charter, the General Conference had the power to adopt amendments to the Charter (Art. 21), and the revised Charter was then adopted by the Summit.[73] This final step appears to replace the former step of ratification.[74] Since 2005, the power to amend lies with the Ministerial Conference (Art. 15), and a revised Charter is presumably adopted by the Summit by consensus. The decision rule for the General Conference is not specifically mentioned, though it is likely to be supermajority since it is exactly the same as for the Ministerial Conference (Annex 6); the CMF makes decisions by nine-tenths majority (1997 Charter, Annex 4).

[71] The Declaration of Bamako states that in case of full suspension the Permanent Council "proposes suspension of the country," but it does not specify who takes the final decision. This is likely to be the Ministerial Conference convened in an extraordinary session.

[72] See <http://www.francophonie.org/IMG/pdf/communique_12_cpf_27-06-2014.pdf> (accessed February 15, 2017).

[73] Not written in the Charter, but documented on the website <http://www.francophonie.org/-Textes-de-reference-.html> (accessed February 15, 2017).

[74] A note on the first page of the Hanoi Charter suggests that the original Charte de la Francophonie was approved by the Summit by consensus: "Texte incluant les amendements découlant du consensus des chefs d'État et de gouvernement réunis à l'occasion du septième Summit, à Hanoi (Vietnam), le 15 novembre 1997." Subsequent amendments do not appear to require Summit approval, as is evident from the final article in the 2005 Charter: "La présente Charte prend effet à partir de son adoption par la Conférence ministérielle de la Francophonie."[6]

The Convention, the 1997 Charter, or the 2005 Charter contain no specific language about who can initiate amendments. We interpret this to be the privilege of the General Conference and the Ministerial Conference respectively. However, the preamble of each Charter refers also to the most recent Summit as instigator of institutional change (1995 Summit of Cotonou and 2004 Summit of Ouagadougou). The legal basis could be Article 3 (1997 and 2005 Charter), which states that the Summit "defines the direction of the Francophonie so as to ensure its influence in the world." Hence we also include the Summit as initiator from 1997.[δ]

REVENUES

The ACCT was financed by member state contributions according to a key that takes into account GDP:[75] "The expenses of the Agency shall be apportioned among the members according to a scale to be established by the General Conference" (ACCT, Art. 19.3). The secretary general could also accept gifts, legacies, and grants offered to the Agency by governments, public or private institutions, or individuals. Authorization by the Administrative Council was required. The 1997 and 2005 OIF Charter confirms that the Ministerial Conference fixes member state contributions (Art. 4), and that the Agency may receive voluntary contributions (Arts. 10 and 11 respectively). Hence the ACCT/OIF core funding comes from member state contributions,[76] though a good portion of programming funding comes from voluntary contributions. The ACCT/OIF consolidates its funding in the Fonds multilatéral unique (FMU).

BUDGETARY ALLOCATION

The ACCT Secretariat drafts financial reports and the budget of the Agency for the Administrative Council, which passes them on with its recommendation to the General Conference for a final decision (ACCT Charter, Art. 19.1). The Administrative Council and the General Conference decide by supermajority (AACT Charter, Art. 9, Art. 13). The budgets are bi-annual.

From 1997 onwards, the budget is prepared jointly by the secretary general and by the general administrator. The secretary general proposes the allocation of the FMU funding across the different agencies (Art. 8), while the general administrator prepares the detailed allocation: "He prepares the budgetary reports and the financial reports of the Agency, which he submits for approval" (1997 Charter, Art. 14). The Permanent Council (on the FMU) and the Administrative Council (on the Agency budget) examine the budget

[75] See <http://www.francophonie.org/Le-budget.html?var_recherche=FMU> (accessed February 15, 2017).

[76] See <http://www.francophonie.org/Le-budget.html?var_recherche=FMU> (accessed February 15, 2017).

(1997 Charter, Arts. 5 and 15 respectively), while the final decisions are made by the Ministerial Conference (for FMU allocation) (Art. 4) and the General Conference (for the detailed Agency budget) (Art. 14). The decision rule is supermajority.

Since 2005, the budget runs on a four-year cycle. It is drafted by the secretary general (2005 Charter, Art. 6) and examined by the Permanent Council (Art. 5), which decides by supermajority (1997 Charter, Annex 5). The final decision is made by the Ministerial Conference (Art. 4.4) by supermajority (1997 Charter, Annex 4).

According to the Financial Rules of the OIF, member states "are bound to transfer a contribution . . . according to the rates fixed by the Ministerial Conference" (Arts. 5.4b and c). We infer from this that the budget is binding.

In 2010, the annual budget was 81 million Euros, of which two-thirds was spent on programs and projects. The average annual contribution over the 2010–2013 cycle is 85 million Euros.

FINANCIAL COMPLIANCE

There are no sanctions for budgetary non-compliance. The financial rules stipulate that the secretary general reports on compliance to the Permanent Council and to the Ministerial Conference (ACCT Charter, Art. 5.4 (d)). Reporting by the secretary general and the general administrator to the Permanent Council and the Ministerial Conference indicate that the administration is actively involved with member states in arrears.

POLICY MAKING

The organization's policy making has become more diverse over time. For the ACCT, programs and projects predominated. Since 1997, it is possible to distinguish two policy streams, programs/projects and declarations, with distinct procedures.

In the ACCT, the Secretariat and the Administrative Council have policy initiation authority. The Secretariat prepares the work program (ACCT Charter, Art. 17.5) and the Administrative Council advises the General Conference (Art. 11.2). The Administrative Council, deciding by supermajority, may make proposals to the General Conference (Art. 11.5). Final decisions are made by the General Conference (Art. 7.2) by supermajority (Art. 9). Decisions on programs appear to be binding, but projects financed by voluntary contributions are not, so we code the intermediate category. No ratification is required.

The 1997 OIF Charter creates a dual policy structure, one for Agency-led technical cooperation and one for general political cooperation. The chief output of the former continues to be programs and projects; the chief policy output of the latter consists of political declarations. The actors involved are quite different until 2005, at which point the two structures merge.

OIF/ACCT Institutional Structure

		A1			A2			A3			E1									
Years		Non-state selection	Indirect representation	Weighted voting	Non-state selection	Indirect representation	Weighted voting	Non-state selection	Indirect representation	Weighted voting	Non-state selection	Head—decision	Members—agenda	Members—decision	Non-state selection	Partial representation	Indirect representation	Reserved seats	Weighted voting	Partial veto
1970–1985	Not body-specific	0	0	0							N	N			1	0	0	0	0	0
	Member states												✓	✓						
	A1: General Conference																			
	E1: Administrative Council																			
	GS1: ACCT Secretariat																			
	CB1: Consultative Council																			
1986–1996	Not body-specific	0	0	0	0	0	0				N	N			1	0	0	0	0	0
	Member states												✓	✓						
	A1: General Conference																			
	A2: Summit																			
	E1: Administrative Council																			
	GS1: ACCT Secretariat																			
	CB1: Consultative Council																			
1997–2004	Not body-specific	1	0	0	1	1	0	0	0	0	N	N			1	0	0	0	0	0
	Member states												✓	✓						
	A1: General Conference																			
	A2: Summit																			
	A3: Ministerial Conference (CMF)																			
	E1: Administrative Council																			
	E2: Permanent Council (CPF)																			
	E3: OIF Secretary General																			
	GS1: ACCT Secretariat																			
	GS2: OIF Secretariat																			
	CB2: Assemblée Parlementaire																			
	CB3: INGO Conference																			
2005–2010	Not body-specific				0	0	0	0	0	0										
	Member states																			
	A2: Summit																			
	A3: Ministerial Conference (CMF)																			
	E2: Permanent Council (CPF)																			
	E3: OIF Secretary General																			
	GS2: OIF Secretariat																			
	CB2: Assemblée Parlementaire																			
	CB3: INGO Conference																			

Note: A = automatic/technocratic procedure; N = no written rule; R = rotation; ✓ = body co-decides, but no voting rule; ← = change in status. Shaded areas refer to institutions or policy areas that are non-existent for those years.

E2											E3										GS1		GS2		CB1	CB2	CB3
Head—agenda	Head—decision	Members—agenda	Members—decision	Non-state selection	Partial representation	Indirect representation	Reserved seats	Weighted voting	Partial veto	Head—agenda	Head—decision	Members—agenda	Members—decision	Non-state selection	Partial representation	Indirect representation	Reserved seats	Weighted voting	Partial veto	Select	Remove	Select	Remove	Non-state selection	Non-state selection	Non-state selection
																					N			2		
																				2						
																					N			2		
																				2						
				1	0	1	0	0	0					2	1	2	0	0	0		N		N		3	1
		✓	✓							✓																
																				2						
0	0										0											0				
												✓	✓							✓						
				1	0	1	0	0	0					2	1	2	0	0	0				N		3	1
		✓	✓							✓																
0	0										0											0				
												✓	✓									✓				

OIF/ACCT Decision Making

		Accession			Sus-pension		Constitution				Budget			Com-pliance		Policy 1 (programs, projects)					Policy 2 (declarations)					Dispute settlement						
Years		Agenda	Decision	Ratification	Agenda	Decision	Agenda	Decision	Ratification	Revenue source	Agenda	Decision	Binding	Agenda	Decision	Agenda	Decision	GS role	Binding	Ratification	Agenda	Decision	GS role	Binding	Ratification	Coverage	Third party	Binding	Tribunal	Non-state access	Remedy	Preliminary ruling
1970–1985	Not body-specific			2	N	N			0	1			2	N	N			1	1	3											
	Member states																														
	A1: General Conference	2	2				0	0				2					2														
	E1: Administrative Council										2					2															
	GS1: ACCT Secretariat										✓					✓															
	CB1: Consultative Council															0															
1986–1996	Not body-specific			2	N	N			0	1			2	N	N			1	1	3											
	Member states																														
	A1: General Conference	2	2				0	0				2					2														
	A2: Summit																														
	E1: Administrative Council										2					2															
	GS1: ACCT Secretariat										✓					✓															
	CB1: Consultative Council															0															
1997–1999	Not body-specific			2	N	N			3	1			2	N	N			1	1	3			0	0	3						
	Member states																														
	A1: General Conference		2				2	2				2					2														
	A2: Summit		0				0	0														0									
	A3: Ministerial Conference (CMF)	2										2																			
	E1: Administrative Council										2					2					2										
	E2: Permanent Council (CPF)										2																				
	E3: OIF Secretary General										✓																				
	GS1: ACCT Secretariat										✓					✓					✓										
	GS2: OIF Secretariat										✓																				
	CB1: Assemblée Parlementaire															3					3										
	CB2: INGO Conference																														

2000–2001	Not body-specific			2	A	A			3	1			2	N	N			1	1	3			0	0	3									
	Member states				✓																													
	A1: General Conference		2				2	2				2					2																	
	A2: Summit		0				0	0														0											
	A3: Ministerial Conference (CMF)	2										2																						
	E1: Administrative Council										2					2					2													
	E2: Permanent Council (CPF)				2	2					2																							
	E3: OIF Secretary General				✓						✓																							
	GS1: ACCT Secretariat										✓					✓					✓													
	GS2: OIF Secretariat				✓						✓																							
	CB1: Assemblée Parlementaire															3					3													
	CB2: INGO Conference																																	
2002–2004	Not body-specific			2	A	A			3	1			2	N	N			1	1	3			0	0	3									
	Member states				✓																													
	A1: General Conference		2				2	2				2					2																	
	A2: Summit		0				0	0														0											
	A3: Ministerial Conference (CMF)	2										2																						
	E1: Administrative Council										2					2					2													
	E2: Permanent Council (CPF)	2				2					2																							
	E3: OIF Secretary General	✓			✓						✓																							
	GS1: ACCT Secretariat										✓					✓					✓													
	GS2: OIF Secretariat	✓			✓						✓																							
	CB1: Assemblée Parlementaire															3					3													
	CB2: INGO Conference																																	
2005–2010	Not body-specific			2	A	A			3	1			2	N	N			1	1	3			0	0	3									
	Member states				✓																													
	A2: Summit		0				0	0														0											
	A3: Ministerial Conference (CMF)	2					2	2				2					2				2													
	E2: Permanent Council (CPF)	2				2					2					2	2																	
	E3: OIF Secretary General	✓			✓						✓					✓					✓													
	GS2: OIF Secretariat	✓			✓						✓					✓					✓													
	CB1: Assemblée Parlementaire															3					3													
	CB2: INGO Conference																																	

Note: A = automatic/technocratic procedure; N = no written rule; R = rotation; ✓ = body co-decides, but no voting rule; ← = change in status. Shaded areas refer to institutions or policy areas that are non-existent for those years.

The decision structure for technical programming strengthens the role of the central agencies. The chief policy initiator is the general administrator, the head of the Agency, who "proposes to the Administrative Council the programs of the Agency. He is responsible for their execution" (Art. 16). The secretary general's role is confined to helping to identify proposed programming priorities in concert with the general administrator and the directors of the operating agencies, and we do not code him as agenda setter until the Agency's abolition in 2005. The Administrative Council, through its committee for programming, monitors implementation by the Agency, and reports back to the General Conference on the Agency's functioning, program development, and mission results (Art. 15). The General Conference approves the Agency's work program (Art. 14).

The chief initiator for the second policy stream of declarations and resolutions is the Ministerial Conference. The Charter is explicit on its role in preparing Summit declarations and resolutions (1997, 2005 Charters, Art. 4), and there is a track record on the organization's website to corroborate this. Decisions are by supermajority (1997 Charter, Annex 4). The role of the secretary general is indirect, and chiefly stems from her initiating powers in political crises (Art. 7).[γ] The final decision is taken by the Summit (1997, 2005 Charters, Art. 3). The Summit makes decisions by consensus. Since declarations consider the broad direction in which the organization should move, they often do not contain provisions that require implementation by member states. At most, they instruct the Ministerial Conference to follow up. Hence we code decision making on declarations and resolutions as non-binding in principle. Ratification is not required.

From 2005, the secretary general of the OIF becomes the central initiator in the first policy stream. The Permanent Council replaces the Administrative Council in examining programs. The Permanent Council is also charged to be the animator, coordinator, and arbitrator through its several committees (Art. 5). Final decisions on general programming are taken by the Ministerial Conference and on specific projects by the Permanent Council (2005 Charter, Art. 5). Both bodies use supermajority. There is no change in the decision process for resolutions and declarations.

Programming takes place within a ten-year strategic plan. Activities are currently programmed on a four-year budgetary cycle; the latest cycle lists 175 pages of initiatives under the following categories: French language, cultural and linguistic diversity (arts), human rights and democracy promotion, education, sustainable development, international negotiations, gender and youth, partnership with civil society.[77]

[77] See <http://www.francophonie.org/Programmation-2010-2013.html> (accessed February 15, 2017).

Until 1996 the Conseil consultatif had an integral advisory role on programming and projects, and so we include it in the initiation stage (ACCT Charter, Art. 16). This role was significantly diluted for its successor, the Conférence des organisations internationales non-gouvernementales et des organisations de la société civile and its comité de suivi (1997 Charter, Art. 18) and from 2005 it disappeared (2005 Charter, Art. 12). From 1997 (1997 Charter, Annexe 2), the Assemblée internationale des parlementaires has had initiating powers on both policy streams by virtue of its role in committees with the Ministerial Conference and the Permanent Council. The Assemblée can also make presentations to the Summit, the Ministerial Conference, and the Permanent Council. From 2000 (Bamako Summit), the parliamentary Assembly has been extensively involved in peacekeeping and monitoring democracy. It co-constitutes election monitoring committees, together with the secretary general.

DISPUTE SETTLEMENT

There is no legal dispute settlement. Article 14 of the 2005 Charter simply states that "Every decision with respect to the interpretation of the present Charter is taken by the Ministerial Conference of the Francophonie." Similar provisions are made in the earlier treaties.

Organisation for Economic Co-operation and Development (OECD)

The Organisation for Economic Co-operation and Development seeks "to contribute to sound economic expansion in member as well as non-member countries in the process of economic development" (OECD Convention, Art. 1b). To achieve this, member states commit to "keep each other informed and furnish the Organisation with information," "consult together on a continuing basis and carry out studies," and "cooperate closely and where appropriate take coordinated action" (Art. 3). Initially an exclusively Western European club, the OECD became transatlantic from 1961 with the accession of the United States, Canada, and Turkey followed by Japan a few years later and Australia and New Zealand in the 1970s. Since the mid-1990s it has gone selectively global (Davis 2016) with forays into Eastern Europe (e.g. Poland, Hungary, Estonia) and beyond (including Chile, Israel, Korea, and Mexico). As of December 2016, the OECD had thirty-five members. Accession negotiations are ongoing with Colombia, Costa Rica, and Lithuania, while negotiations with Russia were suspended in 2014. Beginning in 1961, the European Commission of the European Union has participated in all OECD bodies without the right to vote. The OECD's headquarters are in Paris.

The OECD's direct predecessor is the Organisation for European Economic Cooperation (OEEC), which was established in April 1948 to coordinate a US-financed European economic recovery program, to promote trade liberalization in Europe, and to govern a European Payments Union (Aubrey 1967; Griffiths 1997).[78] The United States hoped to coax Europeans to create an efficient market and, in time, a single polity, but Europeans "jibbed at the American proposal of a European federal state implicit in the OEEC" (Killick 2008: 80). Critics of a supranational organization prevailed and the OEEC's Convention was intergovernmental in character and decisions were reached by agreement (Franks 1978: 18).

Multilateral allocation of Marshall aid never quite came off the ground (most aid was distributed bilaterally), and in any case, the Marshall Plan ended in December 1951.[79] The OEEC was more effective in achieving its second and third goals. By 1958, 90 percent of all quantitative trade restrictions among participating countries had been lifted, and a European Payment Union, created in 1950, had stabilized the European exchange rates so that convertibility could be restored by December 1958 (Wolfe 2008: 26). After these successes, the OEEC ran out of steam as divisions on trade deepened.

Lurking behind the divide on trade was a basic disagreement on whether cooperation should be supranational or intergovernmental. Jean Monnet, who had been involved in the OEEC negotiations, had been deeply critical of the intergovernmental outcome from the outside. In a letter to the French foreign minister in 1948, he wrote that "Efforts by the various countries, in the present national frameworks, will not in my view be enough. Furthermore, the idea that sixteen sovereign nations will cooperate effectively is an illusion. I believe that only the establishment of a federation of the West, including Britain, will enable us to solve our problems quickly enough, and finally prevent war" (quoted in Geremek 2008: 48). In 1952 six continental countries went ahead with the European Coal and Steel Community, an unabashedly supranational organization, and began negotiations for a customs union which led to the European Economic Community in 1958. Two years later, seven European

[78] The Marshall Plan was the best-known part of the program, but the program was broader and more long-term than the four-year financial commitment attached to the Marshall Plan. For a detailed history of these early years, see Barbezat (1997).

[79] The Marshall Plan was replaced by United States funding to help European economies boost their productivity. The OEEC created an independent agency, the European Productivity Agency (EPA), to manage multilateral projects, but it faced opposition from Britain and others who "feared for excessive intrusion . . . in domestic matters and, more generally, they were wary lest any supranational tendency in productivity activities spill over in other sectors" (Boel 1997: 114). The EPA was folded in 1961.

countries created the European Free Trade Association. Western Europe was dividing in two competing blocs. This, combined with the fact that the desperate urgency of food shortage and economic disarray had been alleviated, signed the OEEC's death warrant.[80]

In subsequent months, efforts were made to reorient the OEEC and broaden its membership (Griffiths 1997: 243–50). The United States was heavily involved, intent on papering over European divisions in the midst of the Cold War. The OECD was established in December 1960. The OECD's competence on trade was heavily diluted (OECD Convention, Art. 1c) while coordination of development aid was added (Art. 2e), but the new organization's primary remit was to serve as a venue for economic policy coordination (Karns, Mingst, and Stiles 2015: 404). The organization's membership became North Atlantic, akin to NATO, with the accession of Canada, the United States, and Turkey alongside sixteen OEEC countries (for a discussion of the influence of NATO developments on the OEEC/OECD transition, see Griffiths 1997). Over the years, the OECD has deepened its reputation in being "largely epistemic, in that it is a source of policy ideas" and "an international think-tank that speaks truth to power" (Carroll and Kellow 2011: 4). An alternative view is given by Salzman, who claims that "the OECD has developed into an amalgam of a rich man's club, a management consulting firm for governments" (Salzman 2000: 776). It conducts studies, organizes peer reviews, and coaxes member states to share good practices in a range of policy fields—from taxation to environmental policy to education to multilevel governance.

The key legal document of the OECD is the Convention on the Organisation for Economic Cooperation and Development (signed 1960; in force 1961). The key legal document for the OEEC is the Convention for European Economic Co-operation (signed and in force 1948).

Before 1961, the key bodies of the organization were the Council (assembly), Executive Committee (executive), and the Secretariat. Since 1961, the Council is the central legislative-executive body of the organization. It meets either as the Council of Ministers, which we code as an assembly, or as the Council of Permanent Representatives, which we code as an executive organ. The Secretariat is the administrative body of the organization, but it also has considerable executive powers. The Business and Industry Advisory Committee and the Trade Union Advisory Committee of the OECD are the two non-state consultative bodies.

[80] The last OEEC Council meeting in December 1958 ended in disarray after a British–French bust-up (Griffiths 1997: 240).

Institutional Structure

A1: FROM THE COUNCIL (1950–60) TO THE COUNCIL OF MINISTERS (1961–2010)

Under the OEEC Convention, the Council is the central organ of the organization, described as "the body from which all decisions shall derive" (Art. 15a). It is composed of member state representatives (Art. 15a) and state representation is direct. The Convention leaves the actual composition unspecified, and it appears that the Council mostly met at the level of high officials, though it occasionally met at the ministerial level. The Council convened weekly (Barbezat 1997: 35) and met on 506 occasions between 1948 and 1961 (Griffiths 1997: 18). Decisions were taken unanimously but a member state could withdraw from a decision and not take part in implementation (Barbezat 1997: 35). As the Convention outlines: "Unless the Organisation agrees for special cases, decisions shall be taken by mutual agreement of all the Members" (Art. 14). There was no weighted voting.

The OECD Convention renames it the Council of Ministers and defines it as the "body from which all acts of the Organisation derive" (Art. 7). There have been no changes in the composition or decision procedures over time, except for budgetary allocation. At the ministerial level, the Council meets once a year. The Council selects its own chair annually, renewable once (Art. 8). The Council is comprised of one representative per member country, plus a representative from the European Commission with full participation rights but without the right to vote (Supplementary Protocol 1.2) and paying no membership dues (Wolfe 2008: 31–2).[81] Hence we code full and direct member state representation. The secretary general of the European Free Trade Association enjoys the same privileges (Rules of Procedure, Rule 7 (b), according to the Ministerial Resolution of July 23, 1960). Each member has one vote (Convention, Art. 6.2).

E1: FROM THE EXECUTIVE COMMITTEE (1948–60) TO THE COUNCIL OF PERMANENT REPRESENTATIVES (1961–2010)

The Executive Committee made executive policy between 1948 and 1961. It was composed of seven representatives from the member states elected annually by the Council (Art. 16a; see also Barbezat 1997: 35). The decision was taken by unanimity. Members that did not have a seat on the executive "may take part in all the discussions and decisions of that Committee on any item specifically affecting the interests of that Member" (Art. 15c). We assume

[81] In the late 1980s the European Commission tried to join the OECD as a full member, but was rebuffed (Wolfe 2008).

direct member state representation.[α] The Executive Committee made recommendations by unanimity (Art. 14).

The chair of the executive was proposed and selected by the assembly: "The Council shall designate annually from among the Members of the Executive Committee a Chairman and a Vice-Chairman" (Art. 16c). The assembly decided by unanimity (Art. 14).

Under the OECD Convention, the Council of Permanent Representatives becomes the executive. All member states and a representative of the European Commission (see Supplementary Protocol No. 1 to the Convention of 1960) are now represented on the Council.

The Council is chaired by the secretary general: "The Secretary-General shall serve as Chairman of the Council meeting at sessions of Permanent Representatives" (Convention, Art. 10.2). Guidelines for the selection of the secretary general were written down in 2005 (Council 2005: Document No. 1).[α] Since the creation of the OECD, there have been just five secretary generals who have all served for long periods. We follow the procedure that has been used to appoint the current secretary general, which is that candidates are proposed by member states, vetted by the Council of Permanent Representatives, and with a final vote (by consensus) in the Council, presumably in its incarnation of Council of Ministers.[82]

Because of the important role played by the secretary general in the work of the Council—he has extensive power of initiative (Art. 10.2)—we code representation as less than 100 percent member state. All member states are represented. All but one member of the Council (the secretary general) receive voting instructions from their government (Art. 7), so we code the intermediate category on direct or indirect representation. Except for budgetary decisions after 2004, there is no weighted voting (Art. 6.2).

The Council of Permanent Representatives is assisted by three types of subsidiary bodies: standing committees (Executive Committee, External Relations Committee, and Budget Committee), substantive committees, and other subsidiary bodies established by the Council (2013 Rules of Procedure, Rule 1b). While these expert groups, working groups, and committees have an executive character, they are accountable to the Council (2013 Rules of Procedure, Section VII). Therefore, we code them as subordinate to the executive body.

The Council normally takes decisions by "mutual agreement," which is OECD language for "absence of objection by any Member to a draft proposal." But in 2004, and in view of enlargement, the OECD adopted the rule

[82] The first secretary general, the former Danish Finance Minister Thorkil Kristensen, was appointed by the Ministerial Conference of the proposed OECD, in August 1960. He was also the last secretary general of the OEEC. The third secretary general was also confirmed by the annual Council of Ministers (Carroll and Kellow 2011: 109).

that, under restrictive conditions, qualified majority (QMV) may be used, both at the level of the Council and in the standing committees. The formula agreed in 2004 means that decisions can be taken by 60 percent of member states, unless opposed by three or more members who represent at least 25 percent of the Part I scale of contributions. So, in effect, weighted voting was introduced (C(2006)78/Final and revised in 2011). The QMV rule applies primarily to budgetary decisions, including setting the annual contributions.

E2: SECRETARIAT (1961–2010)

The OECD Convention appreciably strengthened the role of the Secretariat, and in particular of the secretary general. This was apparently under strong pressure from the United States government, "partly because they were impressed with what [Paul-Henry] Spaak had achieved for NATO and partly from a philosophy of hiring a good man and letting him get on with the job" (Griffiths 1997: 247).

The secretary general chairs meetings of the Council of Permanent Representatives and may submit proposals to the body (Convention, Art. 10.2). The rules of procedure of the Council characterize the secretary general as having "policy, executive, and management responsibilities. He/she also represents the Organisation vis-à-vis the rest of the world and acts as its legal representative. He/she may submit proposals, including the Program of Work and Budget, to the Council and to any other body of the Organisation. He/she is in charge of executing the Council decisions and implementing the PWB. He/she ensures that the Organisation's activities are managed within the Budget in a cost effective manner" (Rules of Procedure, 2013, p. 24, Art. 14). The secretary general may meet informally with committees and working groups subsidiary to the Council, and "it belongs to the sphere of authority of the Secretary-General, as the Chair of the Council, to decide how he/she intends to exercise his mandate and how he/she wants to organise consultations" (Rules of Procedure, 2009, p. 23, Art. 15). These are fairly extensive powers, which we acknowledge by conceiving the Secretariat as a secondary executive alongside the Council.

The procedure for the selection of the current secretary general is detailed on the OECD website.[83] First, OECD member countries propose suitable candidates, and all member states consider applications in the first round. The three candidates that are most likely to win consensus proceed to the next round, where this process is repeated. In the third and final round, the Council

[83] See <http://www.oecd.org/poland/sixcandidatesputforwardforthepostofoecdsecretary-general.htm> (accessed February 15, 2017).

chooses the new secretary general by consensus (Convention, Arts. 6, 10). Hence member states and members of the Council of Permanent Representatives can propose, while the decision is taken by either the Council of Permanent Representatives or the Council of Ministers. The secretary general is appointed for a period of five years, renewable (Convention, Art. 10.1). In the past, secretary generals have stayed on for as long as fifteen years. There are no written rules on the possible removal of the secretary general.

The secretary general is assisted by one or more deputy secretary generals (currently three) and several assistant secretary generals or directors. They are appointed by the Council of Permanent Representatives, by unanimity, upon proposal of the secretary general (Convention, Art. 10). All other staff are recruited within the staff rules agreed by the Council. All staff are instructed to be impartial and autonomous: "The secretary-general, the deputy, or assistant secretary generals and the staff shall neither seek nor receive instructions from any of the members or from any government or authority external to the Organisation" (OECD Convention, Art. 11).

GS1: SECRETARIAT (1950–2010)

In the OEEC, the secretary general was appointed by the assembly (Art. 17c), which voted by unanimity (Art. 14). The length of tenure was indeterminate and there were no written rules on the removal of the secretary general.

The OECD Convention strengthens the role of the secretary general and his/her services, and endows him with executive as well as secretarial functions (see section "E2: SECRETARIAT (1950–2010)"). The OECD employs some 2,500 staff who are mainly based in the organization's headquarters in Paris. The staff consists mostly of economists, lawyers, scientists, and other professionals. Many are career staff members of the OECD (Salzman and Terracino 2006).

CB1: BUSINESS AND INDUSTRY ADVISORY COMMITTEE (BIAC) (1962–2010) AND CB2: TRADE UNION ADVISORY COMMITTEE (TUAC) (1962–2010)

The OECD cooperates with a variety of stakeholders. Its willingness to work with civil society actors has earned it the status of "top performer" among IOs in terms of civil society engagement (Blagescu and Lloyd 2006: 37; see also Mahon and McBride 2008). Tallberg et al. (2013: 12) identify the OECD as one of five leaders in non-state access. Only the BIAC and TUAC, representing business and labor respectively, meet our criteria for consultative bodies. Both were created in 1962.

Decision Making

MEMBERSHIP ACCESSION

During the OEEC period, accession was open to "any non-signatory European country" (OEEC Convention, Art. 25) that signed the Treaty, and it required "assent of the Council" (Art. 25). We therefore code the Council at the final decision stage, deciding by unanimity (Art. 14), and automatic procedure at the agenda setting stage.

A procedure is described in general terms in the OECD Convention: "The Council may decide to invite any Government prepared to assume the obligations of membership to accede to this Convention. Such decisions shall be unanimous . . . Accession shall take effect upon the deposit of an instrument of accession with the depositary Government" (Convention, Art. 16). A more detailed procedure for accession of new member states is listed on the OECD website.[84] There are four steps that must be taken before a country can join the OECD:

1) The Council, at the Ministerial level, adopts a resolution for membership discussions with potential member states. The secretary general carries out these discussions.
2) An "Accession Roadmap" details the requirements that need to be met by prospective member states. This also identifies the Committees and Working Groups (under the direction of the Council of Permanent Representatives) that will be involved in reviewing the progress of states in terms of the requirements.
3) The Committees review the application and report to the Council.
4) The Council makes the final decision by unanimity.

We therefore code the Council at both the Ministerial and Representative level as well as the secretary general at the proposal stage. The Council at the Ministerial level makes the final decision.

The OECD Convention or subsequent documents do not establish specific conditions for membership (Davis 2016). This gives the existing members considerable leeway. Decisions are typically made after "the proposals of one or more of the existing member states, following informal discussions with the country concerned and the Secretary-General" (Carroll and Kellow 2011: 150).

In 2004, a Ministerial Council meeting set out principles to guide the screening process, but these remain decidedly vague (Davis 2016). Carroll and Kellow (2011: 123) summarize them in four points: "like-mindedness in terms of having a market economy and democratic principles"; the applicant

[84] See <http://www.oecd.org/about/membersandpartners/enlargement.htm> (accessed February 15, 2017).

being a "significant player"; "mutual benefit" from membership; and regard for "global considerations" such as a balance between European and non-European members. Even though the specifics of the procedure might vary from country to country, we include the same bodies as involved in the accession process throughout the period. Ratification is not required.

MEMBERSHIP SUSPENSION

The OEEC Convention has an explicit provision in case of "non-fulfilment of obligations" (Art. 26): "If any Member of the Organisation ceases to fulfil its obligations under the present Convention, it shall be invited to conform to the provisions of the Convention. If the said Member should not so conform within the period indicated in the invitation the other Members may decide, by mutual agreement, to continue their co-operation within the Organisation without that Member." It is not clear who could propose the measure. We code the assembly for the final decision, deciding by unanimity (Art. 26). The OECD Convention has no written rules on suspension.

CONSTITUTIONAL REFORM

No written rules.

REVENUES

The OEEC was funded by member state contributions: "The expenses of the Organisation shall be borne by Members and shall be apportioned in accordance with the provisions of the above mentioned Supplementary Protocol" (OEEC Convention, Art. 4). The Council determines the scale of the contributions (Art. 4).

The OECD is also funded by regular member state contributions: "General expenses of the Organisation, as agreed by the Council, shall be apportioned in accordance with a scale to be decided upon by the Council. Other expenditure shall be financed on such basis as the Council may decide" (Convention, Art. 20.2). General expenditures (Part I programs) constitute more than half of the budget, and are determined by a formula that combines equal shares with proportionality to the size of the economy. Programs of interest to a limited number of members or relating to sectors not covered by Part I may have custom-tailored revenue apportionment. But mandatory contributions predominate, so this is what we code.

BUDGETARY ALLOCATION

In the OEEC, the budget was drafted by the secretary general and approved by the Council: "The Secretary-General shall present to the Council for approval an annual budget" (Art. 23a). The Council decides by unanimity (Art. 14). We code budgetary decisions to be binding, though we do this on a thin factual basis.$^{\alpha}$

In the OECD, the secretary general drafts the annual budget for the approval of the Council of Ministers (Convention, Art. 20). Following the information listed here, the general part of the budget (Part I) is binding, but the optional part (Part II) is not. We code therefore that countries can opt out of certain programs. Since 2004, the annual budget can be adopted by qualified majority.

FINANCIAL COMPLIANCE
No written rules.

POLICY MAKING
The primary policy stream for the OEEC involved implementing economic recovery programs and projects aiding "the achievement of a sound European economy through the economic co-operation of its Members. An immediate task of the Organisation will be to ensure the success of the European recovery program" (Art. 11). In the Convention, the Council is described as "the body from which all decisions derive" (Art. 15a). We therefore code the assembly as making the final decision on policy making, deciding by unanimity (Art. 14). Since the Executive Committee is reported to "assist" (Art. 15c) and "report to" the Council, we code it at the proposal stage. The secretary general has the "right to participate in discussion" at the Council meetings, and we include the secretariat in the proposal stage.[β] Decision making is coded as binding, but member states could opt out (Art. 14). Ratification is not required.

This policy stream ceased when the OEEC became the OECD. The core activity of the OECD now is to provide a framework for peer review and comparison of "best practices" in an array of areas from economic policy or environmental protection to education, health, corruption, and decentralization (Porter and Webb 2008; Woodward 2004, 2008).

The OECD's extensive committee and research work is geared toward preparing Acts, which come in two main forms: decisions, which are legally binding, and recommendations, which are not. The OECD has also instruments that lack legal standing (declarations), apply only to some member states (arrangements and understandings), or are outside normal policy making (international agreements). Between January 2005 and June 2011, fifty-three Acts were agreed of which forty-four were recommendations, three were decisions, and six were declarations. We focus on recommendations as the most relevant policy instrument.

This legal framework forms the backdrop for the OECD's signature policy activity, the peer review process, which "can be described as the systematic examination and assessment of the performance of a state by other states, with the ultimate goal of helping the reviewed state improve its policy making, adopt best practices and comply with established standards and principles" (Pagani

OEEC/OECD Institutional Structure

		A1			E1										E2										GS1		CB1	CB2
Years		Non-state selection	Indirect representation	Weighted voting	Head—agenda	Head—decision	Members—agenda	Members—decision	Non-state selection	Partial representation	Indirect representation	Reserved seats	Weighted voting	Partial veto	Head—agenda	Head—decision	Members—agenda	Members—decision	Non-state selection	Partial representation	Indirect representation	Reserved seats	Weighted voting	Partial veto	Select	Remove	Non-state selection	Non-state selection
1950–1960	Not body-specific	0	0	0					0	1	0	0	0	0												N		
	Member states																											
	A1: Council				0	0	0	0																	0			
	E1: Executive Committee																											
	GS1: Secretariat																											
1961	Not body-specific	0	0	0					1	0	0	0	0	0					0	1	2	0	0	0		N		
	Member states				✓		✓	✓							✓										✓			
	A1: Council of Ministers					0										0									0			
	E1: **Council of Permanent Reps**				0										0			0										
	E2←GS1: Secretariat																											
	Head of E2: Secretary General																✓											
	GS1: Secretariat																											
1962–2010	Not body-specific	0	0	0					1	0	0	0	0	0					0	1	2	0	0	0		N	1	1
	Member states				✓		✓	✓																	✓			
	A1: Council of Ministers					0										0									0			
	E1: Council of Permanent Reps				0										0			0										
	E2: Secretariat																											
	Head of E2: Secretary General																✓											
	GS1: Secretariat																											
	CB1: BIAC																											
	CB2: TUAC																											

Note: A = automatic/technocratic procedure; N = no written rule; R = rotation; ✓ = body co-decides, but no voting rule; ← = change in status. Shaded areas refer to institutions or policy areas that are non-existent for those years.

OEEC/OECD Decision Making

		Accession			Sus-pension		Constitution				Budget			Com-pliance		Policy 1 (recovery projects)					Policy 2 (recommendations)					Dispute settlement						
Years		Agenda	Decision	Ratification	Agenda	Decision	Agenda	Decision	Ratification	Revenue source	Agenda	Decision	Binding	Agenda	Decision	Agenda	Decision	GS role	Binding	Ratification	Agenda	Decision	GS role	Binding	Ratification	Coverage	Third party	Binding	Tribunal	Non-state access	Remedy	Preliminary ruling
1950–1960	Not body-specific	A		2	N		N	N	N	1			2	N	N			1	1	3											
	Member states																														
	A1: Council		0			0						0					0														
	E1: Executive Committee															0															
	GS1: Secretariat										✓					✓															
1961	Not body-specific			2	N	N	N	N	N	1			1	N	N								1	0	3							
	Member states																														
	A1: Council of Ministers	0	0									0										0									
	E1: **Council of Permanent Reps**	0																			0	0									
	E2←GS1: Secretariat	✓									✓										✓										
	GS1: Secretariat	✓									✓										✓										
1962–2003	Not body-specific			2	N	N	N	N	N	1			1	N	N								1	0	3							
	Member states																														
	A1: Council of Ministers	0	0									0										0									
	E1: Council of Permanent Reps	0																			0	0									
	E2: Secretariat	✓									✓										✓										
	GS1: Secretariat	✓									✓										✓										
	CB1: BIAC																														
	CB2: TUAC																														

2004–2010	Not body-specific			2	N	N	N	N	N	1			1	N	N								1	0	3							
	Member states																															
	A1: Council of Ministers	0	0									2										0										
	E1: Council of Permanent Reps	0																			0	0										
	E2: Secretariat	✓									✓										✓											
	GS1: Secretariat	✓									✓										✓											
	CB1: BIAC																															
	CB2: TUAC																															

Note: A = automatic/technocratic procedure; N = no written rule; R = rotation; ✓ = body co-decides, but no voting rule; ← = change in status. Shaded areas refer to institutions or policy areas that are non-existent for those years.

2002: 15). Peer reviews are conducted after data collection and analysis by the OECD staff. The output is geared toward two audiences, national policy makers and national publics, with the aim of inducing national policies favored by the OECD (Porter and Webb 2008: 51; Armingeon 2004).

The Council, either in its ministerial or ambassadorial incarnation, adopts OECD Acts by unanimity (Art. 6.1 and 7). These Acts are usually the result of substantive work carried out in the organization's committees drawing from in-depth analysis and reporting undertaken by the Secretariat. Hence we code both the Secretariat (OECD Convention, Art. 10.2) and the Executive Committee structure as involved in agenda setting.

Recommendations "are not legally binding, but practice accords them great moral force as representing the political will of Member countries and there is an expectation that Member countries will do their utmost to fully implement a Recommendation. Thus, Member countries which do not intend to implement a Recommendation usually abstain when it is adopted."[85] We code this as non-binding notwithstanding the strong emphasis on peer pressure. Recommendations do not require ratification.

DISPUTE SETTLEMENT

Neither the OEEC nor the OECD have provisions on legal dispute settlement.

Organization of Islamic Cooperation (OIC)

The Organization of Islamic Cooperation does not have a geographically defined membership but a religious one.[86] It seeks to strengthen Muslim solidarity and serve as the collective voice of the Muslim world (*ummah*—in Arabic: أمة). The first efforts to form an international Islamic organization followed the break-up of the Ottoman Empire in the 1920s and the rising popularity of pan-Islamism. A series of Islamic congresses were held before World War II without leaving a durable organizational presence. The precipitating event that led the foreign ministers of the Arab League to call for an Islamic summit, held in September 1969 in Rabat, Morocco, was an arson attack by a deranged evangelical tourist on the Al-Aqsa Mosque in Jerusalem (Ahmad 2008). Underpinning the establishment of the OIC was the determination of traditionalist Muslim states, led by Saudi Arabia, to contain secularism (Tadjdini 2012: 38) and the unexpected defeat of Muslim states in the Six-Day War of 1967 which reinforced what Mohammed Ayoob (2004: 11)

[85] See <http://www.oecd.org/legal/legal-instruments.htm> (accessed February 15, 2017).

[86] In 2011 the organization changed its name from Organization of the Islamic Conference to the Organization of Islamic Cooperation. For a general introduction to the OIC, see Khan (2001).

describes as a "collective memory of collective subjugation" (see also Akbarzadeh and Connor 2005: 81). A second conference of foreign ministers took place in Jeddah, Saudi Arabia, in 1970 establishing the OIC, followed by the adoption of a charter in February 1972 (Baba 1993). Jeddah, Saudi Arabia, houses the headquarters of the OIC.

According to its Charter, the OIC is a general purpose organization oriented around Islamic values with the goal of promoting solidarity and cooperation among its member states. Since its establishment in 1969, membership has grown from twenty-five to fifty-seven states. All but four—Albania, Guyana, Suriname, and Turkey—are located in Asia or Africa. Not all have Muslim majorities: Uganda, which joined under Idi Amin, who was Muslim, has a population that is 12.1 percent Muslim. "In its first decades, the organization focused on the Palestinian cause, the protection of Islamic holy sites, and strengthening economic cooperation among member states" (Kayaoğlu 2015: 1).

The organization expresses longstanding aspirations for Muslim unity that transcend deep cultural, linguistic, and religious differences including that between Sunni and Shia. The OIC's most important statement of its principles is the Cairo Declaration of Human Rights in Islam of 1993 (CDHRI), which is an Islamic response to the UN's Universal Declaration of Human Rights (1948) (for a brief history, see Blitt 2016). The Declaration states that "Every man shall have the right, within the framework of the Shari'ah, to free movement," and "Everyone shall have the right to express his opinion freely in such manner as would not be contrary to the principles of the Shari'ah." It concludes by reaffirming that "All the rights and freedoms stipulated in this Declaration are subject to the Islamic Shari'ah" and "The Islamic Shari'ah is the only source of reference for the explanation or clarification of any of the articles of this Declaration."[87] At the same time, it sets itself apart in important respects from the Universal Declaration of Human Rights. For example, under the CDHRI religion may be a legitimate basis for restricting the right to marriage, and some rights, such as freedom of movement, are protected for men only (Blitt 2016: 6). The Declaration is not binding on the member states.

Beyond pan-Islamism, the OIC is committed to the sovereignty of its member states (Kayaoğlu 2013: 7). The Preamble to its Charter states that the organization is "determined . . . to respect, safeguard and defend the national sovereignty, independence and territorial integrity of all Member States." Subsequent resolutions of the OIC stress its "recognition and full respect of the principles of inviolability of the sovereignty and independence of states, and of non-interference in their internal affairs."[88]

[87] Articles 12, 22, 24, and 25.

[88] OIC Resolution No. 56/25-P, "On the Contribution of the Organization of the Islamic Conference on the Occasion of the Fiftieth Anniversary of the Universal Declaration of Human

In the economic realm, the main agreements of the OIC are the 1977 General Agreement for Economic, Technical and Commercial Cooperation, the 1981 Agreement for Promotion, Protection and Guarantee of Investments, the 1990 Framework Agreement on Trade Preferential System, the 2005 Protocol on the Preferential Tariff Scheme, the 2007 Rules of Origin, as well as the statutes setting up three regulatory bodies: the Islamic Civil Aviation Council (1982), the Islamic States Communication Union (1984), and the Standards and Metrology Institute for the Islamic Countries (1998). Politically, the OIC is committed to combat terrorism, and this was codified in its 1999 Convention on Combating International Terrorism—a topic that has occupied the organization from its beginning (Samuel 2013). Finally, the OIC has "expressed the resolve of all Islamic States to coordinate their efforts, based on the Sharia, to effectively combat blasphemy against Islam and abuse of Islamic personalities."[89]

In 2005 the organization adopted a "Ten-Year Program of Act to meet the challenges facing the Muslim Ummah" which began a process of extensive re-organization and re-orientation. This led, among others, to a revised Charter in 2008, stronger attention to regulating human rights, and a relabeling in 2011 from the Organization of the Islamic Conference to the Organization of Islamic Cooperation (for a discussion, see Ahmad 2008; Blitt 2016).

Key documents are the Jeddah Declaration of the First Islamic Conference of Foreign Ministers, March 1970, the initial Charter of the Organization of the Islamic Conference (signed 1972; in force 1973), and the revised Charter of the Organization of Islamic Cooperation (signed and in force 2008). The organization has two assemblies (Islamic Summit and Council of Ministers), and two executives, of which one is also the General Secretariat. The OIC also has eight subsidiary organs, four specialized institutions, seven affiliated institutions, and seven committees.

Institutional Structure

A1: ISLAMIC SUMMIT (1970–2010)

The 1970 Declaration mentioned that the Conference of Council of Ministers was responsible for "deciding the date and venue of the Islamic Summits," which established the Summit as a body of the organization. Earlier meetings of the Summit suggest that it was comprised of the heads of state

Rights," March 1998; see <http://ww1.oic-oci.org/english/conf/fm/25/Resolutions25-ORG.htm> (accessed March 2017).

[89] Final Communiqué of the Eighteenth Islamic Conference of Foreign Ministers, UN Doc. A/44/235 (Annex) (March 13–16, 1989), para. 46.

and government of the participating states. Given its emphasis on common consultation and equality between member states from the beginning (see Rabat Declaration 1969), we code the Summit decision rule as consensus.

The 1972 OIC Charter designates the Summit (the Conference of Kings and Heads of State and Government) as the "supreme authority in the Organization" (Art. 4). It meets every three years, and no decision rule is mentioned.

The revised Charter reaffirms the Islamic Summit as the supreme authority of the Organization (Art. 6). Among its competences are to provide guidance on how to attain the objectives in the Charter and deliberate on any other issues of concern to the member states and Ummah (Art. 7). The decision rule is now made explicit: consensus, but if consensus cannot be obtained, decisions can be taken by two-thirds majority (Art. 33).

Between 1969 and 1987, a non-state actor, the Palestinian Liberation Organization (PLO) had full membership rights. We code the assembly as fully member state because the member states of the OIC consider the PLO as the legitimate government of a putative Palestinian state.[γ] The PLO's seat was assumed following its declaration of independence in 1988.

A2: FROM THE CONFERENCE OF FOREIGN MINISTERS (1970–2007) TO THE COUNCIL OF FOREIGN MINISTERS (2008–10)

The 1970 Declaration installed the Conference of Foreign Ministers as the central decision making organ of the OIC. It met annually to review progress on implementation of its decisions, discuss matters of common interest, make recommendations for common action, and decide the date and venue of Islamic Summits. The Declaration does not make explicit how it votes or how its chair is appointed.

The 1972 Charter designates the Conference of Foreign Ministers to be the second legislative body of the organization. Its competences are extended slightly. They now include implementing the general policy of the organization, adopting resolutions, reviewing progress in the implementation of resolutions, adopting the budget, and appointing the secretary general and his assistants (Art. 5.2). The Conference can adopt decisions by two-thirds majority and appoints a chairman for each session, presumably by the same decision rule (Art. 5.3).[α] The Conference meets at least once a year (Art. 5.1).

The revised Charter renames the Conference as the Council of Foreign Ministers (Art. 10). The Council continues to take decisions by consensus, but if consensus cannot be obtained, decisions can be taken by a two-thirds majority (Art. 33). The Council can now also recommend to convene other sectoral Councils of Ministers (Art. 10.3).

E1: FROM THE CONFERENCE OF FOREIGN MINISTERS (1970–2007) TO THE COUNCIL OF FOREIGN MINISTERS (2008–10)

The Conference played an important role in executive implementation from its inception. The 1970 Declaration stated that the Conference was to review progress in the implementation of its decisions, and this role was strengthened with the 1972 Charter, which made the Conference responsible for "consider[ing] the means of implementing general policy of the Conference" (Art. 2a; see also Art. 5.4 in the revised Charter). All members are represented in the Conference, and representation is direct. The members are appointed by the member states, and the Conference appoints its own chair for each session (Art. 5.5). This is also the case for any of the subsidiary organs (Art. 5.5).

Several interstate committees support the Conference and monitor the work by the Secretariat. The Standing Financial Committee, the first to be created and the only one mentioned in the original Charter, oversees the drafting of the budget by the General Secretariat (Art. 7). Additional standing committees were later established to provide input to the Secretariat and draft resolutions for the Conference. In 1973, a Permanent Committee of Economic Experts was created to advise the Secretariat's economic department (Council of Foreign Ministers Resolution No. 15/4). In 1975, the Conference established a Political Committee to deal with Jerusalem and the Israeli–Palestinian conflict alongside a Committee for Economic, Social and Religious Affairs, and an Administrative and Finance Committee (Final Declaration, Sixth Conference of Foreign Ministers).

Four standing committees headed by a royal or head of government were also established. These included the Al-Quds (Jerusalem) committee which was chaired by King Hassan II of Morocco (now by his son, King Mohammed VI). It reports back annually to the Conference and can meet at short notice at the request of its chair, the secretary general, or the majority of its members (Resolution No. 1/6-P, Decision 1). In 1981, the Islamic Summit created three more high-level committees, which are concerned with science, economics and trade, and information and culture respectively. Each is composed of representatives at ministerial level from ten member states (Resolution No. 13/3-P (IS)).

Each of these bodies is interstate, and representation is direct. However, their composition and structure vary. Some are high-profile political bodies chaired by political heavyweights, while others are more technical and may be chaired by someone in the Secretariat. Some were created by the Summit, and others by the Conference. Some have representatives from all member states, while others have representatives only of a subset of member states (though there has been a marked trend to more inclusive participation). For example, membership of the Al-Quds committee grew from nine to sixteen, and

membership of the Standing Committee for Economic and Commercial Cooperation (COMCEC) became open to all members in 1987 (IS Resolution No. 1/5-E).

We code these bodies as instruments of the Conference rather than separate executives because their authority "stems from the Islamic Conference of Foreign Ministers" or directly from the Summit. If consensus cannot be reached, decisions can be taken by two-thirds majority, as in the Conference.

The revised Charter of 2008 describes the institutional complexity that has emerged. The four committees headed by Heads of State or Kings become Standing Committees: the Al-Quds committee, the committee for information and cultural affairs, the committee for economic and commercial cooperation, and the committee for scientific and technological cooperation.

The Charter extends the competences of the Executive Committee that was established by the third extraordinary Summit in 2006 and held its first meeting in March 2006 (Final Communiqué of the OIC Troikas; OIC 2006). The Executive Committee follows up resolutions and handles matters that require attention in-between meetings. Its members are the chairs of the current, preceding, and succeeding Islamic Summits and Councils of Foreign Ministers, a representative of Saudi Arabia (the host country of the Secretariat), and the secretary general as an ex officio member (Art. 12). And finally, the revised Charter provides an explicit basis for the Committee of Representatives (Art. 13).[90]

E2: GENERAL SECRETARIAT (1970–2010)

The 1970 Declaration created a General Secretariat to act as liaison between the participating states, follow up on implementation, and organize the Conference's sessions (Baba 1993: 43). Given its responsibilities in implementation, we code the Secretariat as both a second executive and as a secretariat. It was headed by a secretary general, to be chosen by Malaysia and appointed by the Conference for two years. The resolution stipulated no rules on the appointment of the staff.

The 1972 Charter sets out the General Secretariat's competences in some detail. The Secretariat's mandate includes promoting communication among member states, facilitating consultation and exchange of views, disseminating relevant information, following up implementation of the Conference's resolutions and recommendations, and supplying member states with working papers and memoranda (Arts. 6.4 and 6.6). The secretary general continues to be appointed by the Conference of Foreign Ministers (Art. 5.2e), presumably by the general decision rule of two-thirds majority, for a period of four instead

[90] For an early critical assessment of these bodies and their relationship with the General Secretariat, see Samuel (2013: 71–4).

of two years, renewable once (Art. 6.1).[91] The Conference also appoints four assistant secretary generals upon recommendation by the secretary general, and their nomination should be based on "competence, integrity . . . as well as the principle of equitable geographical distribution" (Art. 5.2e). One assistant secretary general post is set aside to deal with Jerusalem and Palestine. The rest of the staff is appointed by the secretary general (Art. 6.2). In the performance of their duties, the secretary general and his staff are independent from member state influence (Art. 6.3); thus, we code indirect member state representation. Given the number of assistants to the secretary general, not all member states can be represented in the Secretariat.

The new Charter extends the term of office of the secretary general to five years, renewable once (Art. 16). The most important change is that the Office of the Secretary General is given responsibility for policy initiation, implementation, coordination, and mediation among member states (Art. 17; see also Ahmad 2008). He/she continues to be appointed by the Council of Foreign Ministers by two-thirds majority, but now a measure of rotation among member states comes into play: "elected from among nationals of the Member States in accordance with the principles of equitable geographical distribution, rotation, and equal opportunity for all Member States" (Art. 16). At the same time, Palestine is given the right to appoint one assistant secretary general responsible for Jerusalem and Palestine (Art. 18.1).

GS1: GENERAL SECRETARIAT (1970–2010)

The 1970 Declaration also designated the General Secretariat as the administrative body, responsible for preparing and organizing the Conference's sessions—a designation that continues with the 1972 Charter and the renewed Charter in 2008.

CONSULTATIVE BODIES

Initially, official documents did not refer to non-state consultative bodies. Over the years, however, several functionally specific advisory committees have been created to advise the Secretariat. However, these do not appear to meet the criteria for non-state consultative body.

In June 1999, national parliaments created the Parliamentary Union of OIC Member States (PUIC) with headquarters in Tehran.[92] Today, the body has fifty-two member parliaments. The body has no institutional links to the decision making bodies of the OIC, and hence does not meet the minimal criteria for a consultative body.[γ]

[91] The Third Islamic Conference in 1981 made his/her term in office non-renewable.

[92] See <http://www.puic.org/english/index.php?option=com_content&task=view&id=28&Itemid=88> (accessed February 15, 2017).

Over the years, the organization has established a host of subsidiary, specialized, and affiliated institutions which are usually task-specific and decentralized from the central OIC machinery. The revised Charter distinguishes three types, and regulates their establishment, financial operation, and relationship to the OIC (Arts. 23–5).[93] However these are either state controlled or they have no recognized right to be heard by an OIC body.[β]

The revised Charter creates an Independent Permanent Commission on Human Rights (Revised Charter, Arts. 5 and 15) composed of eighteen human rights experts nominated by member state governments in consultation with the secretary general and elected by the Council of Ministers for three years, renewable once (IPHRC Statute, Arts. 3 and 4). The body was created to "promote civil, political, social and economic rights enshrined in the organization's covenants and declarations and in universally agreed human rights instruments, in conformity with Islamic values" (Art. 15). It held its first session in February 2012 in Jakarta, Indonesia. The Human Rights Commission can submit recommendations to the Council, support the OIC's position on human rights internationally, provide expertise to member states, conduct research, and help member states that request it to develop human rights instruments (Arts. 12–17). It can take decisions by two-thirds majority if consensus is impossible, and meets twice a year (Arts. 18 and 20). However, the body is a gray case for inclusion because the nomination of individual members appears controlled by their country of origin (Blitt 2016: 16). Article 5 of the Statute specifies that if a member is incapable of completing his/her term, his/her state will appoint an alternate.[α]

Decision Making

MEMBERSHIP ACCESSION

The 1970 Declaration did not contain rules on accession. The 1972 Charter states that "Every Muslim State is eligible to join the Islamic Conference on

[93] Subsidiary organs form part of the organization, all member states are members, and their budgets are approved by the Council. Examples are the Statistical, Economic, Social Research and Training Center for Islamic Countries; the Research Center for Islamic History, Art and Culture; the Islamic University of Technology as well as the Islamic Universities of Niger and Uganda; the Islamic Center for the Development of Trade; the International Islamic Fiqh Academy; and the Islamic Solidarity Fund. Specialized institutions are also integral to the organization, but membership is optional, and their budgets are independent. Examples are the Islamic Development Bank; the Islamic Educational, Scientific and Cultural Organization; the Islamic Broadcasting Union; and the International Islamic News Agency. Affiliated institutions are independent entities whose objectives are similar to those of the OIC, membership is voluntary, and their budgets are independent. They may be granted observer status if the Council so decides. Examples are the Islamic Chamber of Commerce and Industry; the Organization of Islamic Capitals and Cities; the Islamic Solidarity Sports Federation; the Islamic Committee of the International Crescent; the Islamic Ship-owner Association; the World Federation of International Arab-Islamic Schools; the International Association of Islamic Banks; and the Islamic Conference Youth Forum for Dialogue and Cooperation.

submitting an application expressing its desire and preparedness to adopt this Charter" (Art. 8), so there is an automatic aspect to the decision process. The acceding state submits an application to the General Secretariat, which presents it to the next meeting of the Conference of Foreign Ministers. The Secretariat's role appears to be administrative rather than substantive.[β] The final decision is taken by the Conference which can admit with a two-thirds majority (Art. 8). No ratification is required.

In 1998, the Conference of Foreign Ministers makes the criteria for full membership more explicit. It now specifies that the secretary general is to submit a report to the Conference for its final decision (CFM Resolution No. 1/25-ORG), and we now code the Secretariat in agenda setting.

With the new Charter, an eligible member state is specified as any that is "member of the United Nations, having Muslim majority and abiding by the Charter" (Art. 3.2). A subsequent Resolution by the Council of Ministers (CFM Resolution No. 2/36-ORG) clarifies the conditions and the procedure. The General Secretariat appears to be reduced to a predominantly administrative role, and the decision rule in the Council is changed from two-thirds majority to consensus (Art. 3.2).

MEMBERSHIP SUSPENSION

No written rules exist on suspension or expulsion. The OIC has suspended members three times: Afghanistan (1980–9) following its Marxist revolution (CFM Resolution No. 1/EOS), Egypt (1979–84) after its peace agreement with Israel (CFM Resolution No. 3/11-P), and Syria (2012–) in the context of its civil war (IS Resolution 2/4-EX(IS), para. 6).

CONSTITUTIONAL REFORM

The 1970 Declaration did not contain rules on constitutional reform. The 1972 Charter stipulates that an "Amendment to this Charter shall be made, if approved and ratified by a two-thirds majority of the Member States" (Art. 11). We interpret this to mean that the Conference approves by two-thirds majority, and that two-thirds of member states must sign or ratify for it to come into force for all.[94] The Charter does not specify who can initiate amendments. We know that the initial impetus for the Charter came from the 1969 Rabat Islamic Summit and was then taken up by the Conference of Foreign Ministers

[94] According to former OIC secretary general Ihsanoğlu, the 1972 OIC Charter never received more than twenty-three signatures over its forty-year existence. The revised Charter received thirty-nine signatures and fourteen ratifications within the first two years (Blitt 2016: fn. 22). Despite the low number of ratifications, the 2008 Charter has entered into force. It appears then that the ratification condition is interpreted liberally.

at their meeting in Jeddah in 1972, but this seems a thin factual basis for coding these bodies in the initiation phase, and we code "no written rules."[δ]

The new Charter is more explicit. It states that any member state may propose amendments to the Council of Foreign Ministers, which can approve them by two-thirds majority. Constitutional changes enter info force when ratified by a two-thirds majority of member states (Art. 36).

REVENUES

The 1970 Declaration stipulated that the "expenses incurred for the administration and activities of the Secretariat will be borne by the member states." However, in the absence of information about member state contributions, we code member state contributions as ad hoc. The 1972 Charter specifies that expenses are to be borne by member states "proportionate to their national incomes" (Art. 7). In 1973, the Conference of Foreign Ministers adopts, for the first time, a "scale of financial assessment" on member state contributions, which forms the basis for our coding of regular member state contributions (CFM Resolution No. 17/4).[95]

Compulsory member state contributions are complemented by a significant voluntary component. The OIC has several funds which are paid for primarily by voluntary member state contributions. For example, the Jihad Fund was set up in 1972 to support the Palestinian resistance movement as well as the construction of schools and hospitals in the territories (CFM Resolution 2/3) (Samuel 2013: 405). The Islamic Solidarity Fund, created in 1974, pays for emergency aid in Islamic countries in case of natural or man-made disasters, assistance to Muslim minorities, and subsidies for Islamic universities and scholarships (IS Resolution No. 6/2-1s). Continued problems with member state arrears led the Conference to authorize the secretary general in 1998 "to accept extra-budgetary resources such as donations and voluntary contributions from other Islamic institutions and associations" (Art. 4, CFM Resolution No. 2/25-AF).

The new Charter reaffirms that the budget of the General Secretariat and the subsidiary organs is borne by member states "proportionate to their national incomes" (Art. 29.1). In 2006–7, the last year for which we could obtain figures, 26 percent of the mandatory contributions were provided by three countries: Saudi Arabia, Kuwait, and the United Arab Emirates.

BUDGETARY ALLOCATION

The 1970 Declaration did not contain written rules on budgetary allocation. The 1972 Charter introduces a procedure whereby the secretary general

[95] Arrears in contributions have constituted a serious problem from the early years, and are mentioned nearly every year when the budget is adopted (for example, CFM Resolution No. 13/4).

drafts the budget in cooperation with the newly created Standing Financial Committee (Art. 7). We assume that the Committee abides by the same decision rule as the Conference, that is, two-thirds majority.[α96] The Conference of Foreign Ministers adopts the budget by two-thirds majority (Art. 5.2d). Even though there is no explicit mention whether the budget is binding, we infer that it is binding from an article on withdrawal which requires withdrawing states to "settle any other financial dues to the Conference" (Art. 10).[α]

According to the new Charter, the General Secretariat continues to prepare the budget (Art. 17e). The proposed budget is submitted to a Permanent Finance Committee acting under the authority of the Council of Foreign Ministers, which finalizes the budget and submits it to the Council for approval by two-thirds majority (Art. 31). Thus, we code the Permanent Finance Committee as a second agenda setter, as before, and designate it as a sub-body to the Council, deciding under the Council's decision rule.

FINANCIAL COMPLIANCE

Arrears have constituted a problem from the early days of OIC, but it took several decades before the organization developed rules to tackle it. In 2003, member states adopted a "stick and carrot policy" that combined incentives for repayment in the form of reductions with threats of discontinued OIC spending (CFM Resolution No. 3/30-AF). The secretary general initiates by contacting member states in arrears "with a view to securing prompt payments of their contributions and arrears," and proposes a waiver scheme. We code the secretary general as agenda setter. The final decision appears to be automatic: "Member States that fail to take into account the aforementioned scheme shall be subject to measures adopted in this connection in Resolution 3/21-AF . . . and shall be denied the privileges of borrowing or receiving assistance from OIC subsidiary and specialized organs until such arrears have been settled." In 2005, member states agreed on a specific catalogue of sanctions to apply to member states that failed to settle their arrears before July 2007 (CFM Resolution No. 6/32-AF).

The new Charter tightens the procedure. Members in arrears amounting to two years' contribution automatically lose the right to vote in the Council of Foreign Ministers. The Council can override this if it is satisfied that the failure to pay is due to conditions beyond the control of the state (Art. 34). So the final decision on budgetary non-compliance is political, while the first stage is automatic.

[96] Art. 5.5 mentions that subsidiary organs of the Conference follow "the basic procedures" that the Conference follows.

POLICY MAKING

The OIC is a general purpose organization which engages in a range of cultural, social, economic, and political activities. Its raison d'être is the defense and promotion of the Islamic faith, and central to this is its determination to make Jerusalem its "unified and eternal capital." Much of its day-to-day policy runs through its subsidiary bodies, specialized institutions, and affiliated agencies.

The 1970 Declaration is vague on policy making and fails to outline a clear procedure. It merely notes that the Conference of Foreign Ministers reviews "the progress achieved in the implementation of *its decisions*" (our emphasis). Hence we code decisions adopted by the Conference as the main policy instrument. The Secretariat does not appear to be involved in initiation. Its role is to "follow up the implementation of decisions taken by the Conference" (1970 Resolution). There is no indication that these decisions are binding, though the record indicates that member states generally informed each other at the beginning of a conference about the actions they had taken. Ratification is not mentioned.

The 1972 Charter is more explicit. The Conference of Foreign Ministers "adopt[s] resolutions on matters of common interest in accordance with the aims and objectives of the Conference set forth in this Charter" (Art. 5.2c). The decision rule is two-thirds majority (Art. 5.3). The Secretariat has a constitutionally entrenched initiating role on the basis of its role to "directly supply the Member States with working papers and memoranda through appropriate channels" (Art. 6.6). This also suggests that member states themselves can propose measures, and in fact, some declarations and Conference resolutions explain that the decision is based on studies or proposals by member state delegations (for example, CFM Resolution No. 10/4). Hence, the Secretariat does not have an exclusive right to initiate. The Charter does not indicate that Conference resolutions are binding. Moreover, non-bindingness appears consistent with the emphasis on national sovereignty in the organization.[97] No ratification is needed.

In 1975, the Conference of Foreign Ministers set up three Standing Committees which can make recommendations to the Conference. The final declaration of the Sixth Conference notes that these committees "submit the draft resolutions, which they proposed to the Conference, which began examining them one by one." These are sub-bodies to the Conference, and so we now also acknowledge the Conference as being able to initiate by two-thirds majority.

[97] Samuel (2013: 109) notes that "any institutional efforts to encourage and improve the implementation of, as well as compliance with, OIC decisions or OIC law appear to be largely dependent upon . . . diplomatic efforts of persuasion towards compliance."

The ten-year Program of Action, adopted in 2006, and the revised Charter of 2008 broadly confirm the existing procedure. The Council of Ministers continues to take the final decision on the "means for the implementation of the general policy of the organization" by two-thirds majority (Art. 10.4). The Charter strengthens the agenda setting power of the Secretariat by explicating its power to "bring to the attention of the competent organs of the Organization matters which, in his opinion, may serve or impair the objectives of the Organization" (Art. 17a). Standing Committees as well as the Committee of Permanent Representatives can also propose policies.

DISPUTE SETTLEMENT

The 1970 Declaration did not contain rules on legal dispute settlement. The 1972 Charter mentions that disputes should be "settled peacefully, and in all cases through consultations, negotiations, reconciliation or arbitration" (Art. 12), which are forms of political dispute settlement. However, some member states have long sought to create a judicial alternative to the ICJ for settling inter-Islamic disputes (Lombardini 2001; Tadjdini 2012; Samuel 2013).

The Iran–Iraq war which began in 1981 prompted renewed efforts to create an Islamic Court. In 1984, the Islamic Summit put together a committee of legal experts from all member states to study the matter. The committee came up with a draft, and in 1987, the Summit adopted the Draft Statute of an Islamic Court of Justice as the "principal judicial organ" to settle disputes between Islamic states in accordance with Shari'ah law and general principles of international law (Draft Statute, Art. 1; see also Final Communiqué of the Fifth Islamic Summit Conference, Art. 41).

If it comes into being, the Court would consist of a standing tribunal of seven members elected by the Conference/Council of Foreign Ministers for four-year terms, with the possibility of renewal (Art. 3a). The tribunal would consist of individuals who are "Muslim of high moral character" and "Shari'ah jurist[s] of recognized competence and experienced in international law" (Art. 4). Disputes between member states would require the consent of both parties to be heard, unless those states declare ex ante that they recognize the jurisdiction of the Court in legal disputes (Arts. 25 and 26). Only member states could appear before the Court, which would render binding and final judgments (Arts. 21 and 38). In case of non-compliance, the matter would be referred to the Conference of Foreign Ministers for decision (Art. 39c), so there is no remedy. The Draft Statute also provides for advisory opinions at the request of any organ so authorized by the Conference (Art. 42). The Court could also provide, through a Committee of Eminent Personalities or through its senior officials, mediation, conciliation, and arbitration services to disputing states upon their common request or a decision by the Islamic Summit or the Conference of Foreign Ministers by consensus (Art. 46).

OIC Institutional Structure

		A1			A2			E1										E2										GS1	
Years		Non-state selection	Indirect representation	Weighted voting	Non-state selection	Indirect representation	Weighted voting	Head—agenda	Head—decision	Members—agenda	Members—decision	Non-state selection	Partial representation	Indirect representation	Reserved seats	Weighted voting	Partial veto	Head—agenda	Head—decision	Members—agenda	Members—decision	Non-state selection	Partial representation	Indirect representation	Reserved seats	Weighted voting	Partial veto	Select	Remove
1970–1972	Not body-specific	0	0	0	0	0	N	N	N			0	0	0	0	N	N			N	N	N	N	N	N	✓	✓		N
	Member states									✓	✓							✓											
	A1: Islamic Summit																												
	A2: Conference of Foreign Ministers																		N									N	
	E1: Conference of Foreign Ministers																		N									N	
	E2: General Secretariat																												
	GS1: General Secretariat																												
1973–2007	Not body-specific	0	0	0	0	0	0	N				0	0	0	0	0	0					0	1	2	0	0	0		N
	Member states									✓	✓							✓											
	A1: Islamic Summit																												
	A2: Conference of Foreign Ministers								2										2		2							2	
	E1: Conference of Foreign Ministers								2										2		2							2	
	E2: General Secretariat																			✓									
	GS1: General Secretariat																			✓									
2008–2010	Not body-specific	0	0	0	0	0	0	N				0	0	0	0	0	0	R		R		0	1	2	1	0	0	R	N
	Member states									✓	✓																		
	A1: Islamic Summit																												
	A2: **Council of Foreign Ministers**								2										2		2							2	
	E1: **Council of Foreign Ministers**								2									2	2		2							2	
	E2: General Secretariat																			✓									
	GS1: General Secretariat																			✓									

Note: A = automatic/technocratic procedure; N = no written rule; R = rotation; ✓ = body co-decides, but no voting rule; ← = change in status. Shaded areas refer to institutions or policy areas that are non-existent for those years.

OIC Decision Making

		Accession			Sus-pension		Constitution				Budget			Com-pliance		Policy 1 (resolutions)					Dispute settlement						
Years		Agenda	Decision	Ratification	Agenda	Decision	Agenda	Decision	Ratification	Revenue source	Agenda	Decision	Binding	Agenda	Decision	Agenda	Decision	GS role	Binding	Ratification	Coverage	Third party	Binding	Tribunal	Non-state access	Remedy	Preliminary ruling
1970–1972	Not body-specific	N	N	N	N	N	N	N	N	0	N	N	N	N	N			0	0	3							
	Member states															✓											
	A1: Islamic Summit																										
	A2: Conference of Foreign Ministers																N										
	E1: Conference of Foreign Ministers																N										
	E2: General Secretariat																										
	GS1: General Secretariat																										
1973–1974	Not body-specific	A		2	N	N	N		2	1			2	N	N			1	0	3							
	Member states															✓											
	A1: Islamic Summit																										
	A2: Conference of Foreign Ministers		2					2			2	2					2										
	E1: Conference of Foreign Ministers		2					2			2	2					2										
	E2: General Secretariat										3					3											
	GS1: General Secretariat										3					3											
1975–1997	Not body-specific	A		2	N	N	N		2	1			2	N	N			1	0	3							
	Member states															✓											
	A1: Islamic Summit																										
	A2: Conference of Foreign Ministers		2					2			2	2				2	2										
	E1: Conference of Foreign Ministers		2					2			2	2				2	2										
	E2: General Secretariat										3					3											
	GS1: General Secretariat										3					3											

1998–2002	Not body-specific	A		2	N	N	N		2	1			2	N	N			1	0	3								
	Member states															✓												
	A1: Islamic Summit																											
	A2: Conference of Foreign Ministers		2					2			2	2				2	2											
	E1: Conference of Foreign Ministers		2					2			2	2				2	2											
	E2: General Secretariat	3									3					3												
	GS1: General Secretariat	3									3					3												
2003–2007	Not body-specific	A		2	N	N	N		2	1			2		A			1	0	3								
	Member states															✓												
	A1: Islamic Summit																											
	A2: Conference of Foreign Ministers		2					2			2	2				2	2											
	E1: Conference of Foreign Ministers		2					2			2	2				2	2											
	E2: General Secretariat	3									3			3		3												
	GS1: General Secretariat	3									3			3		3												
2008–2010	Not body-specific	A		2	N	N			2	1			2	A				1	0	3								
	Member states						✓									✓												
	A1: Islamic Summit																											
	A2: **Council of Foreign Ministers**		0					2			2	2			2	2	2											
	E1: **Council of Foreign Ministers**		0					2			2	2			2	2	2											
	E2: General Secretariat										3					3												
	GS1: General Secretariat										3					3												

Note: A = automatic/technocratic procedure; N = no written rule; R = rotation; ✓ = body co-decides, but no voting rule; ← = change in status. Shaded areas refer to institutions or policy areas that are non-existent for those years.

The revised Charter reaffirms the Court as the "principal judicial organ of the Organization" (Art. 14). However, the Court is not operational. At the heart of disagreements among the member states is the contradiction between national sovereignty, "a notion that is strongly emphasised in all OIC documents," and the Islamic Ummah, "which refers to the community of Muslims as a supra-national entity . . . constitutes not only a form of identification based on religion, creating a Muslim versus non-Muslim divide, but also integrates faith and policy" (Tadjdini 2012: 42). The statute requires ratification by two-thirds of the members to come into force for all, and to date "it has been ratified by only a few member states" (Gutiérrez Castillo and Ángeles 2015: 177, fn. 9).

United Nations (UN)

The United Nations is the "central site for multilateral diplomacy" where 193 member states deliberate on global issues, promulgate new norms, and make decisions on a broad range of issues (Karns, Mingst, and Stiles 2015: 109). The United Nations is, at one and the same time, a self-standing international organization, the core of a family of independent international organizations, including the World Trade Organization (WTO), the International Monetary Fund (IMF), and the World Health Organization (WHO), which report to it, and a set of principles for international behavior embodied in its Charter.

From its establishment in 1945 the core concerns of the UN encompassed the principles and practice of interstate relations. Since the 1990s, the UN has expanded its responsibilities from security to peacekeeping as it became clear that international security is endangered by conflict within, as well as among, states. Over the past three decades the UN has added a wide array of subsidiary bodies, programs, funds, and institutes concerned with economic and social development, human rights, health, and the environment. This makes the UN the only global general purpose IO.

The United Nations was preceded by the League of Nations, set up at the end of World War I with the aim of protecting international security. In 1944 when the UN was negotiated at Dumbarton Oaks, President Roosevelt envisioned an international organization in which "Four Policemen"—the United States, the Soviet Union, Britain, and China—would guarantee world peace. "If some aggressor 'started to run amok and seeks to grab territory or invade its neighbors' the new organization would 'stop them before they got started'" (Roosevelt quoted in Meisler 2011: 3).

These four countries, plus France, became permanent members of the UN's core executive body, an eleven-member (later fifteen-member) Security Council charged with maintaining international security and, since the early 1990s, with peacekeeping. Unlike other bodies in the UN family, the

Security Council overcompensates a subset of states by giving them a veto over its actions and by making the Council's decisions binding on all UN member states.

The representatives of fifty countries that met in San Francisco in 1945 to agree on the UN Charter adopted many institutional features from the League of Nations including a General Assembly, Security Council, and Secretariat (Alger 2006: 5). The Charter was signed in June 1945, and the United Nations was established in October of the same year when the majority of the signatories including China, France, the Soviet Union, the United Kingdom, and the United States ratified the Charter. The *New York Times* had anticipated "the return to the idea of a League of Nations, to be called the United Nations" (quoted in Mazower 2009: 16; Divine 1971: 228). But the founders also hoped to draw lessons from the League's failures. Whereas the Covenant of the League made provision for the withdrawal of a member upon two years' notice (Art. 1.3), the Charter made no such provision. A noted failure of the League was its neglect of social and economic issues which the UN tackled by establishing an Economic and Social Council (ECOSOC) as a separate body. However, the UN, like the League, rests on the consensus of its most powerful members. President Roosevelt failed to gain support at Dumbarton Oaks for a proposal that a permanent member of the UN Security Council should not be able to veto a resolution concerning a dispute to which it was party (Meisler 2011: 11).

The UN Charter envisaged a decentralized organization. It gave the General Assembly the capacity to create bodies and organizations that would bring about "solutions of international economic, social, health, and related problems; and international cultural and educational cooperation" (Art. 55b); and promote "universal respect for, and observance of, human rights and fundamental freedoms" (Art. 55c). To these ends, the UN uses diverse instruments: binding decisions, treaty conventions, policy declarations, resolutions, and recommendations. It funds many programs and projects including the UN Development Programme (UNDP), the UN Children's Fund (UNICEF), the UN High Commissioner for Refugees (UNHCR), the UN Conference on Trade and Development (UNCTAD), the UN Environment Programme (UNEP), and the World Food Programme (WFP). Funds and programs are governed directly or indirectly by the General Assembly and by ECOSOC, and are funded through voluntary contributions. By contrast, specialized UN agencies, such as the IMF, the United Nations Educational, Scientific and Cultural Organization (UNESCO), and the Food and Agriculture Organization (FAO) are autonomous international organizations which report to ECOSOC (Marin-Bosch 1987).

The Charter also mandates the Security Council to utilize "regional arrangements or agencies for enforcement action under its authority" (Art. 53). In 1947–8 the ECOSOC set up regional Economic Commissions for Europe, Asia

and the Pacific, and Latin America, followed ten years later by Africa and in 1973 Western Asia (i.e. the Middle East) (Jiménez 2010; Malinowski 1962). Some thirty UN funds, programs, and specialized agencies, in addition to the Regional Commissions, operate at the regional level (UN Regional Commissions 2010: 1; Fawcett 2012; Henrikson 1996; Lombaerde, Baert, and Felicio 2012).[98]

Institutional Structure

A1: THE GENERAL ASSEMBLY (1950–2010)

The General Assembly is a plenary body composed of all UN member states (Charter, Art. 9.1). Each state is represented directly in the Assembly on an equal basis by up to five representatives (Arts. 9.2 and 18.1), five alternates, and "as many experts, technical advisors . . . as required by the delegation" (Rules of Procedure of the General Assembly, Rule 25). The UN General Assembly is the clearest expression of sovereign equality in international relations.

The General Assembly may consider and make recommendations to states or to the secretary general on "any questions or any matters within the scope of the present Charter" (Art. 10), including international cooperation in security and disarmament (Art. 11), the "progressive development of international law," international cooperation in "economic, social, cultural, educational, and health fields," and "the realization of human rights" (Art. 13). However, the right of the Assembly to make recommendations is limited in one important respect. It is curbed when the Security Council is itself considering an issue or dispute, unless the Security Council requests otherwise (Art. 12.1).

E1: THE SECURITY COUNCIL (1950–2010)

The Security Council is the key executive body with "primary responsibility for the maintenance of international peace and security" (Art. 24.1). It is empowered to identify a "threat to the peace" (Art. 39) and "may take such action by air, sea, or land forces as may be necessary to maintain or restore international peace and security" (Art. 42). Most remarkably, the decisions of the Security Council are legally binding not merely on its members, but on all UN member states which by signing the Charter "agree to accept and carry out the decisions of the Security Council" (Art. 25) and "shall join in affording mutual assistance in carrying out the measures decided upon by the Security Council" (Art. 49). Once a Council resolution passes the formidable barrier of

[98] Regional UN headquarters are located in Addis Ababa, Bangkok, Beirut, Geneva, Nairobi, Santiago de Chile, and Vienna. There are also several sub-regional offices.

consent among its permanent members, its authority is nearly boundless.[99] Of course, the practical effects of this, as with any exercise of authority, are contextual. During the Cold War the Council was marginalized by the mutual exercise of vetoes, but since the late 1980s, "the Council began more fully exploring its own potential under the ambitious terms the Charter laid out for it, greatly intensifying its work, largely free of the ideological and operational shackles of the superpower confrontation" (Malone 2007: 120; Puchala, Laatikainen, and Coate 2007: 55).

The Security Council is composed of five permanent members and ten (until 1965, six) non-permanent members elected for two years (Art. 23). Those who sit on the Council directly represent their respective states. According to Rule 13 of the Security Council's Rules of Procedure, the credentials of each member of the executive must be "issued either by the Head of the State or of the Government concerned or by its Minister of Foreign Affairs." The presidency of the Security Council rotates among its members on a monthly basis in English alphabetical order of their names (Rules Security Council, Rule 18).[100]

The non-permanent members are proposed by member states in regional caucuses. In the early years, the geographical make-up of the caucuses was fluid and contested. A system of regional groupings was established in 1963 consisting of five seats for Africa and Asia, two for Latin America, two for Western Europe and other states, and one for Eastern Europe (UNGA Resolution 1991 A (XVIII), December 17, 1963). In the same year, Africa formed a separate group claiming two seats. Asia does the same, with the fifth seat usually set aside for an Arab state (Daws 1999). Each regional grouping is free to decide how it selects its representatives (Hurd 2011: 11). The UN General Assembly makes the final decision by supermajority (Art. 18). At times, it has diverged from the slate of candidates proposed by the regional caucuses (Daws 1999: 17).

Decisions on procedural matters are taken by an affirmative vote of nine of the fifteen member states. On substantive matters the UN Charter stipulates that a simple majority must include the concurring votes of all five permanent members (Art. 27.3). The operative rule is that abstention does not constitute a veto.[101] We conceptualize decision making in the Security Council as subject

[99] Article 2.6 of the Charter sets out the principle that the "Organization shall ensure that states which are not Members of the United Nations act in accordance with the [Charter's] Principles so far as may be necessary for the maintenance of international peace and security." Hence the Charter makes the claim that it is binding both on states that have ratified it and on those that have not.

[100] See <http://www.un.org/en/sc/presidency/> (accessed February 15, 2017).

[101] In a 1971 advisory opinion, the ICJ gave its approval to this auto-interpretation by the Council of the legal consequences of a permanent member's abstention (Chesterman, Franck, and Malone 2008: 10–11).

to selective veto, which in our schema is robust across the vexed issue of whether "consensus" is less restrictive than "unanimity."

E2: ECONOMIC AND SOCIAL COUNCIL (1950–2010)

The ECOSOC is the second executive of the UN, and functions mainly as a coordinating body for the varying UN agencies and programs. Membership increased from an initial eighteen to twenty-seven in 1965 and fifty-four from 1973.

Only member states can sit on the ECOSOC. A subset of member states are represented, and members of the executive are direct member state representatives. Similar to the Security Council, ECOSOC representatives must be accredited by their state, though the language does not stipulate that accreditation has to come from the head of government or the minister of foreign affairs (ECOSOC Rules of Procedure, Rules 16 and 17).

Seats on the Council are based on geographical representation. Currently fourteen seats are allocated to African states, eleven to Asian states, six to Eastern European states, ten to Latin American and Caribbean states, and thirteen to Western European and other states (Charter, Art. 61 amended by UNGA Resolution 1999 of 1963 (in force from 1965) and UNGA Resolution 2847 (XXVI) of 1971 (in force from 1973)). As in the Security Council, regional caucuses propose slates for election by the General Assembly by supermajority (Art. 18). Members serve staggered three-year terms.

Each year a representative from a different region is chosen to head the ECOSOC Council. While the president is proposed and elected by the Council, the process is constrained by a well-established norm of rotation.[102] Since the normal decision rule of ECOSOC is simple majority (Art. 67.2) and there is no indication of it being otherwise for elections, we code simple majority.$^{\alpha}$

The Bureau consists of the ECOSOC president and its four vice-presidents who are elected by the Council at large at the beginning of each annual session (ECOSOC Rules of Procedure, Rule 18). The Bureau's main functions are to propose an agenda, draw up a program of work for the year, and organize the session with the support of the UN Secretariat.

E3: TRUSTEESHIP COUNCIL (1950–94)

The Trusteeship Council was established to oversee eleven non-self-governing territories in Africa and Oceania inherited by the international community from the League of Nations or created following World War II. The territories

[102] This is a recognized norm that exists alongside the ECOSOC Rules of Procedure which stipulate only that the president is elected by majority together with the vice-presidents (Rule 18), that all are eligible for re-election (Rule 19), and that the president cannot be of the same geographical region as any of the vice-presidents.

were governed directly by the UN as protectorates or managed by a UN member under a trusteeship agreement between the authority administering the territory and the United Nations. The legal basis for UN administration was provided in Chapters XII and XIII of the Charter. The Council oversaw the implementation of all such territories and created obligations only on those UN members controlling a territory. Hence when the last of these—Palau—became independent in 1994, the Council lost its raison d'être. Since 1995, the Council has effectively become moribund despite attempts to revive it as a vehicle to govern failed states (Wilde 2007).

The Trusteeship Council was composed of the five permanent members of the Security Council, the UN members administering trust territories, and an equal number of non-administering members to offset the number of administering members (Charter, Art. 86). The membership of the Council declined over time until, after Palau's independence, there were just the five permanent members of the Security Council. The permanent members and the administering members of the Trusteeship Council were fixed by prior negotiation among member states, and the UN General Assembly elected the non-administering members by a two-thirds majority (Rules of Procedure of the General Assembly, Rule 83). The Trusteeship Council elected its own president and vice-president for a maximum period of five years by absolute majority (Rule 85). Only member states could sit on the Council, a subset of member states could take a seat, and representation was direct.

GS1: THE SECRETARIAT (1950–2010)

The process through which the chief diplomat of the UN, the secretary general, is chosen is deliberately opaque (Newman 2007: 176–9).[α] According to tradition, a candidate emerges from a series of informal "straw polls" held by the Security Council. But the five permanent members of the Council—the United States, Britain, France, Russia, and China—have in effect a veto. Once the Security Council recommends a candidate, the General Assembly votes by secret ballot.

This procedure is etched in the Charter (Art. 97) and in the Rules of Procedure. Both the Security Council (Rule 48 of its Rules of Procedure) and the General Assembly (Rule 141 of its Rules of Procedure) convene behind closed doors. The decision rule is selective veto in the Security Council, and simple majority in the Assembly (since the election of the secretary general is not one of a handful of decisions that require supermajority (Art. 18)).

The length of tenure of the secretary general is by convention five years and can in principle be renewed indefinitely. Other norms have emerged, such as that the secretary general is not a citizen of one of the five permanent members of the Security Council, is generally appointed for two five-year terms, and that the post rotates across geographic regions (Newman 2007: 176).

CONSULTATIVE BODIES (1965–2010)

The UN is involved in many partnerships with both private and public actors, and over the years it has been active in setting up standing and ad hoc advisory boards, committees, and working groups stacked with experts or representatives of non-governmental organizations (NGO).[103] An ECOSOC Standing Committee on NGOs was set up in 1946 (Rosenthal 2007: table 7.1). The United Nations has long been among the IOs most receptive to consultative bodies (Tallberg et al. 2013: 95).

The use of expert committees as standing and independent sources of advice has greatly intensified in recent decades, particularly in the broad area of human rights. Altogether, 3,910 national and international organizations have consultative status with ECOSOC and over 24,000 organizations are registered in association with the UN by the UN's Department of Economic and Social Affairs.[104] Relations between NGOs and the UN are reviewed by an Interdepartmental Working Group, which monitors compliance to UN policies and procedures and makes recommendations to the secretary general.

UN accessibility to non-state actors has a legal basis in Article 71 of the Charter, which states that "The Economic and Social Council may make suitable arrangements for consultation with nongovernmental organizations which are concerned with matters within its competence." Applications for consultative status are channeled through the Committee on Non-Governmental Organizations (CONGO), which is a standing committee of ECOSOC and was established in 1946. The Committee reports directly to ECOSOC (Rule 82 of its Rules of Procedure). Since 1981, the Committee has nineteen state-appointed members elected on the basis of equitable geographical representation (Council Resolution 1981/50 of July 20, 1981). The original terms of reference of the CONGO clearly delimited the role of NGOs to "consultation" rather than "participation." Only states and specialized agencies can participate (ECOSOC Resolution 288 B (X) of February 27, 1950; Terms of Reference, Rule 12). The arrangements have been redefined at least three times since 1950: 1968, 1996, and 2004 (Wapner 2007: 257). The CONGO does not meet our criteria for inclusion as a consultative body because its members are government representatives, and the body is a gatekeeper for NGO access rather than a venue for substantive advice.

Standing non-state bodies with recognized advisory status to UN bodies do meet our criteria. ECOSOC lists five standing consultative bodies composed of individuals serving in a non-state capacity. These include the UN Permanent Forum on Indigenous Issues set up in 2000 to advise ECOSOC and UN specialized agencies on indigenous economic development, culture, environment,

[103] See <http://www.un.org/partnerships> (accessed February 15, 2017).
[104] See <http://esango.un.org/civilsociety/login.do> (accessed February 15, 2017).

education, health, and human rights (ECOSOC Resolution 2000/22). Sixteen experts functioning in their personal capacity sit on the forum for three-year terms. Half are nominated by states and half by indigenous organizations.

ECOSOC has been the trailblazer, but other UN bodies have also engaged non-state actors (Tallberg et al. 2013; Karns, Mingst, and Stiles 2015: ch. 4). Several consultative committees and advisory bodies report to the General Assembly. The Human Rights Committee (HRC) monitors the implementation of the International Covenant on Civil and Political Rights.[105] Composed of eighteen independent experts of recognized competence in the field of human rights, the Committee was established when the Covenant entered into force in 1976. The First Optional Protocol, which was ratified in the same year, authorizes the Human Rights Committee to consider allegations from individuals claiming to be victims of civil rights violations. The Committee is also concerned with the Second Optional Protocol which aims to abolish the death penalty.

The Committee on the Elimination of Racial Discrimination (CERD) is a body of independent experts that monitors implementation of the 1965 Convention on the elimination of all forms of racial discrimination. It is attached to the Office of the United Nations High Commissioner for Human Rights. All state parties are obligated to submit regular reports to the Committee on how the rights are implemented. The Committee on the Rights of the Child (CRC) monitors implementation of the 1989 Convention with the same name along with two optional protocols on involvement of children in armed conflict and on sale of children, child prostitution, and child pornography.

We begin coding consultative status for non-state actors from 1965, when the longest-standing permanent non-state committees were created (Rosenthal 2007: 137).[γ]

Decision Making

MEMBERSHIP ACCESSION

Decisions on accession are made by the General Assembly on the recommendation of the Security Council (Charter, Art. 4.2). Membership of the UN is "open to all other peace-loving states which accept the obligations contained in the present Charter and, in the judgment of the Organization, are able and willing to carry out these obligations" (Charter, Art. 4.1).

The Security Council votes by selective veto: accession requires "the concurring votes of the permanent members" (Charter, Art. 27). Such veto powers were used in the aftermath of World War II when the Soviet Union regularly rejected bids for new membership in retaliation for the United States' refusal

[105] Not to be confounded with the Human Rights Commission, established in 1946, or its replacement, the Human Rights Council, which are interstate bodies.

to admit the Soviet republics. The Security Council accompanies its recommendation to the General Assembly with a complete record of its discussion (Security Council Rules of Procedure, Rule 60). A positive recommendation by the Council requires a two-thirds majority in the Assembly to go forward (General Assembly Rules of Procedure, Rule 136; Charter, Art. 18.2). If the Security Council does not recommend membership, the Assembly can consider the case and, with a two-thirds majority,[α] it may send the file back to the Security Council for further consideration, but it cannot unilaterally accept the applicant (Rule 137). No ratification is required.

MEMBERSHIP SUSPENSION

A member state against which "preventive or enforcement action has been taken by the Security Council" may be suspended (Charter, Art. 5) and a member that has "persistently violated the principles" of the UN Charter may be expelled from the organization by the General Assembly on the Security Council's recommendation (Charter, Art. 6). Whether the Security Council's positive recommendation is required, as it is for membership, is open for discussion (Magliveras 1999: 45–6), though for now, no member has been expelled over the objections of the Security Council. Again, the decision rules are supermajority for the Assembly and a positive majority of nine members of the Council, including the permanent members.[106]

Articles 5 and 6 have been invoked just once. In 1974, the Security Council considered a draft resolution on the basis of Article 6 to expel South Africa on account of its apartheid policies, but the resolution was vetoed by three permanent members. The UN General Assembly proceeded by excluding the South African *government* from its work though not the *country* from the UN. The South African delegation was welcomed back in 1994 (Magliveras 1999: 209–22). In two instances, members were expelled or suspended through other legal channels. In 1971, UN General Assembly Resolution 2758 recognized the People's Republic of China instead of the Republic of China (Taiwan) as the legitimate representative of China in all UN institutions, including the Security Council, which effectively expelled Taiwan. And in 1992, the Security Council refused to recognize the Federal Republic of Yugoslavia, a confederation of Montenegro and Serbia, as the successor of the former Socialist Federal Republic of Yugoslavia. The Federal Republic was told to apply for membership, which it did in 2000.

[106] Magliveras (1999: 32–4) recounts that the insertion of an expulsion clause was contentious at the San Francisco conference. The Western powers preferred not to have an explicit procedure because they thought it preferable to keep an offending state in the organization so it would continue to be bound by its obligations, but the Soviet Union was adamant that the organization should have the power to expel violating members. In the end, the United States government told its allies to vote in favor of Article 6 to keep the Soviet Union on board.

CONSTITUTIONAL REFORM

The process for constitutional reform is exceptional in that the five permanent members of the Security Council are not able to exercise national vetoes on a proposal to initiate reform, though they each need to ratify before it comes into force.

There are two routes toward a revision of the Charter. A general conference to revise the UN Charter can be called at any time by a two-thirds majority of the General Assembly combined with the positive votes of any nine of the fifteen members of the Security Council (Charter, Art. 109.1). Until 1968, the required supermajority in the Security Council was seven of its eleven members.

The second route establishes a lower decisional hurdle, which can be invoked ten years or more following the previous Charter revision. If the procedure of Article 109.1 is not triggered within ten years of a new Charter coming into force, a simple majority of the Assembly and a simple majority of the Security Council can initiate a general conference for revising the Charter (Article 109.3). The upshot is that the Security Council and the Assembly can, combined, initiate constitutional reform by simple majority, which is what we code.[β]

An amendment to the UN Charter comes into force for all UN members when adopted by two-thirds of the members of the General Assembly and following ratification "in accordance with their respective constitutional processes" by two-thirds of the UN member states, including all permanent members of the Security Council (Art. 108). We code agenda setting and the final decision as supermajoritarian for both the Security Council and the General Assembly. Constitutional amendments come into force for all member states if ratified by a subset of member states.

REVENUES

The primary source of income for the UN comes from annual member state contributions which are assessed under a formula based on "national income, per capita income, any economic dislocation (such as from war), and members' ability to obtain foreign currencies" (Karns, Mingst, and Stiles 2015: 138–9). The formula is progressive: the top five contributors (the United States, Japan, Germany, France, and the United Kingdom) are assessed 64 percent of UN expenditure. This formula is used also for contributions to specialized UN agencies (Rahman and Andreu 2004: 129). However, some states negotiate their contributions. In doing so the United States has managed to reduce its assessed contributions. For example, in 2000, in exchange for promising to pay its arrears, the United States reduced its share of the regular budget from 25 to 22 percent (Bond 2003: 75; Williams 1999: 439; Luck 1999: 247–8).

Peacekeeping missions are financed through a separate system based on tiers of countries in which the poorest countries pay less, and economically advanced countries and the permanent members of the Security Council make relatively larger contributions (Broadbent 1996: 79–80).

The scale of assessment is reviewed every three years by the General Assembly, which decides upon the advice of the Committee on Contributions (Rules of Procedure of the General Assembly, Rule 160). This Committee also advises the General Assembly on the contributions of new members, on member appeals to change their assessment, and on budgetary non-compliance.

The collection of dues from member states is anything but straightforward. In its first fifteen years, UN compliance rates never fell below 91 percent and often rose above 95 percent. Even while the big contributors, such as the United States or the Soviet Union, objected to specific items of the envelope, they paid up. As Graham (2015: 178) concludes, "the functioning of the mandatory assessments regime produced IO governance that conforms to our definition of multilateralism." However, compliance began to drop in the 1960s. By the late 1990s just one hundred of the 185 members met their financial obligations. As a result, the UN experienced a series of financial crises beginning in the 1960s, then in the 1980s and, most seriously, in the 1990s.

The reasons for non-compliance range from inability to pay to politically motivated unwillingness. Political resentment reached a boiling point under the administrations of President Reagan and George W. Bush. The upshot was a compromise that allowed major contributors a greater say in setting spending priorities and overseeing programs through the United Nation's Committee for Programme and Coordination. This model was also adopted by other UN agencies.

In addition to mandatory funding, the United Nations has access to voluntary contributions, and in fact, since the 1960s, voluntary funds have outstripped mandatory contributions (Graham 2015: 180). In the first decades, most voluntary funding was unrestricted, but since the 1990s, it is common for donors to earmark funds, which has led to "an increasingly bilateral United Nations" (Graham 2015: 162).

Although at times the UN finds it difficult to get member states to make good on their financial obligations, revenues are predictable enough to warrant coding regular member state contributions.[β]

BUDGETARY ALLOCATION

The Charter gives responsibility for preparing the budget to the secretary general as "chief administrative officer" (Art. 97). This authority is specified further in the rules of procedure of ECOSOC (Rule 31.1-3) and the General Assembly (Rule 153). Rule 153 states also that no resolution with budgetary implications can be introduced in the Assembly without an estimate of

expenditures prepared by the secretary general. So the General Secretariat's agenda setting powers on budgetary matters are firmly entrenched.

The General Assembly approves the UN budget by supermajority (Charter, Arts. 17 and 18.2; Assembly Rules, Rule 83). Until 1973 the Assembly approved budgets annually, and since then biennially (Laurenti 2007: 691).

The General Assembly also plays a role in budgetary agenda setting. A subsidiary committee of the Assembly composed of member state representatives—the Administrative and Budgetary Committee (known as the "Fifth Committee") — vets the draft budget on the advice of the Committee for Programme and Coordination and submits its recommendations to the General Assembly.

Through the early 1980s, the Fifth Committee's normal decision rule was supermajority, which enabled developing countries to marshal enough votes to extract budget increases. In 1986 the General Assembly passed a resolution that hardened the decision rule to consensus. The resolution notes that "the Committee for Programme and Coordination should continue its existing practice of reaching decisions by consensus," and "considers it desirable that the Fifth Committee, before submitting its recommendations on the outline of the programme budget to the General Assembly . . . should continue to make all possible efforts with a view to establishing the broadest possible agreement" (UNGA Resolution 41/21, II. 6-7). We estimate the language to be strong enough to change the decision rule to consensus from 1987. This is backed up by the secretary general's own assessment as well as by secondary sources.[107] Hurd (2011: 105) observes that "the draft budget only reaches the Assembly after having passed through a committee [the Fifth Committee] that contains the major contributors and that operates by consensus."[108] Laurenti (2007: 691) points out that "the consensus-based procedures enhanced Western leverage in the budget process, and the impact is clear in the budgetary trend line." The Fifth Committee is aided by an advisory committee (ACABQ) of sixteen members elected by the General Assembly for three years.

Planning, programming, and the drafting of the budget were reformed comprehensively in the 1980s (Regulations and Rules 1987). This happened to a large extent under United States pressure after the UN was brought to the brink of insolvency because the United States stopped paying its dues. To accommodate United States concerns about "excessive spending" and "inefficiency," member states have become more involved in the early stages

[107] "The Fifth Committee functions on the premise that no effort should be spared in the search for consensus before resorting to a vote . . . Only on very rare occasions has the Fifth Committee adopted a proposal by vote" (UN SG A/58/CRP.5 (2004: 64)).

[108] Since the rule change in 1986 the United States has only once failed to be elected to the Fifth Committee.

of budget preparation and, as noted earlier in this section, decisions are now more regularly taken by consensus (Laurenti 2007). The entire process is subject to elaborate checks and balances. Budgetary decisions are binding.

FINANCIAL COMPLIANCE

A member in arrears loses the right to vote in the General Assembly if the unpaid sum equals or exceeds the contributions due from it for the preceding two full years (Charter, Art. 19). The General Assembly may permit, by supermajority, a member to vote if it is satisfied that failure to pay is due to conditions beyond the member's control (Charter, Art. 18.2). Legal experts differ on whether the ban on voting in Article 19 is automatic or whether it comes into effect only when the General Assembly decides to invoke it (Hurd 2011: 114).[γ] The General Assembly has acted both ways.

One of the earliest compliance crises erupted in the 1960s when the Soviet Union, and later France, refused to pay their contributions to finance the UN peacekeeping force in the Congo after the secretary general had sought approval in the General Assembly over Soviet and French objections in the Security Council. The ICJ supported the secretary general's contention that peacekeeping expenses could be drawn from the regular budget, but still the Soviets and the French refused to pay (Laurenti 2007; Moore and Pubantz 2006). The United States invoked Article 19 to push for suspension of the voting rights of the Soviet Union, but a pro-Soviet majority in the General Assembly refused to trigger Article 19, and so the United States accepted a compromise. Arthur Goldberg, the United States Permanent Representative at the UN, generalized the principle in a speech to the Security Council: "If any member can insist on making an exception to the principle of collective financial responsibility with respect to certain activities of the United Nations . . . the United States reserves the same option to make exceptions if, in our view, strong and compelling reasons exist to do so" (Laurenti 2007: 688). This became known as the "Goldberg Reservation," and it was invoked in the 1980s by the United States to justify unilateral cuts in its contributions. However, there are several instances in which states have been denied the right to vote in the Assembly because they are in arrears. In short, "the Assembly has not adopted a policy decision not to enforce Article 19; the fact is that it enforces Article 19 in some cases but not in others" (White 2005: 154). Ambiguity in this instance provides a clear rationale for saying that, while failure to pay dues automatically triggers a process of vote suspension, the final decision is political.[δ] The Assembly is responsible for the final decision, and the rule is supermajority.

POLICY MAKING

The UN is an immensely diverse organization with an equally diverse portfolio encompassing a range of policy areas in our coding scheme: peace and security, human rights, women's rights, humanitarian action, development, environment, youth policy, education, health, crime prevention and criminal law, codification of international law, and research and data collection. We group these into four principal policy streams, each with distinctive rules for agenda setting and final decision making: 1) security, in which the Security Council makes binding decisions for UN members; 2) multilateral agreements, conventions, and treaties, facilitated by the General Assembly and binding on those states that ratify them; 3) non-binding General Assembly recommendations, declarations, and resolutions; 4) binding administration of territories under UN trusteeship until 1994.

The first and most important policy stream from a hard power standpoint is peace and security. The Charter specifies that the following bodies can bring an issue to the attention of the Security Council: the General Assembly (Art. 10), any member state (Art. 35.1), non-member states (Art. 35.2), the secretary general (Art. 99), and the Security Council itself (Art. 34). The General Assembly, with two-thirds majority, can make a specific recommendation to the Security Council (Art. 18), though it cannot do so on a dispute that is being handled by the Security Council unless the Security Council so requests (Art. 12). Whereas a member state may bring any dispute to the attention of the Security Council or General Assembly, a non-member state may do so only if "it accepts in advance, for the purposes of the dispute, the obligations of pacific settlement provided in the present Charter" (Art. 35.2).

The Security Council takes the final decision, the nature of which is expressly open-ended (Karns, Mingst, and Stiles 2015; Malone 2003: 82–3). It may involve armed force, economic sanctions, or blockade. The voting rule is selective veto, requiring a positive vote of nine of its fifteen members with the consent of all five permanent members. The Council's decision is binding on all UN states (Arts. 24 and 25). The Council may call upon any UN state to exercise sanctions, including "complete or partial interruption of economic relations and of rail, sea, air, postal, telegraphic, radio, and other means of communication, and the severance of diplomatic relations" (Art. 41). If, in the view of the Council, such measures have proved inadequate "it may take such action by air, sea, or land forces as may be necessary to maintain or restore international peace and security. Such action may include demonstrations, blockade, and other operations by air, sea, or land forces of Members of the United Nations" (Art. 42). No ratification is required.

A second stream of policy making places the UN at the core of multilateral governance. In contrast to the Covenant of the League of Nations, the UN is empowered to be a dynamic source of international institutionalization. It has

the capacity to procreate organizations, treaties, and law, and has done so expansively. Article 13.1(a) of the Charter gives the General Assembly the right to initiate studies and make recommendations to "promote international cooperation . . . and encourage the progressive development of international law and its codification," a provision described by Carl-August Fleischhauer, former Legal Counsel to the UN Secretariat and Judge at the ICJ, as "the starting point for the vast efforts deployed by the UN in this field" (Simma et al. 2002: 299–301; quoted in Boyle and Chinkin 2007: 167).

The result is a dense web of conventions encompassing "some of the most ambitious multilateral treaties the world has ever known" (Alvarez 2007: 61). Major conventions include the Convention on the Elimination of All Forms of Discrimination against Women (1979), the UN Convention on the Law of the Sea (1982, 1995), the Convention against Torture (1984, 2002), the International Covenants on Civil and Political Rights (1996), the International Covenant on Economic, Social and Cultural Rights (1966, 2008); the Convention on the Rights of the Child (1989, 2011), the UN Framework Convention on Climate Change (1992, 1997, 2012, 2015), the Convention on Biological Diversity (1993, 2003, 2015), the Comprehensive Nuclear-Test-Ban Treaty (1996), and the Arms Trade Treaty (2013).[109]

The General Assembly is in most cases the focal point for convening plenipotentiary treaty-making conferences, though the UN Conference on Trade and Development (UNCTAD), the UN Environment Programme (UNEP) along with other UN bodies have also done so. Some conferences are oriented around a draft that has undergone extensive consultation and research, in many cases by experts in the UN's International Law Commission (ILC) or the UN Commission on International Trade Law (UNCITRAL). Others are forums for intergovernmental negotiation.

The two bodies with a firm legal basis for drafting conventions are ECOSOC (Art. 62.3) and the General Assembly (Art. 105.3). Most convention conferences are open to expertise and pressure from a very large and growing number of non-governmental organizations, usually NGOs accredited by ECOSOC, but NGO representatives can at best hope for observer status. "States have been unwilling to permit such non-state actors to take a crucial part in law-making decisions" (Boyle and Chinkin 2007: 56). Lawyers may, and often do, play a more central role. Legal experts from the UN Secretariat or from other IOs are normally involved in providing drafts and sometimes final formulations. Hence we code non-state actors (other IOs), the General Secretariat (though its role is not entrenched in written rules), ECOSOC, and the General Assembly as initiators of conventions or treaties. We code the UN

[109] The brackets contain the year of the convention followed by the year of a major supplemental protocol.

General Assembly as final decision maker. Between 1950 and 2010, the General Assembly passed 117 resolutions that adopt a convention, treaty, or an amendment.

The format of these agreements varies. Some conferences conclude by setting up a permanent organization responsible for administering a treaty that goes back to the member states for ratification. Others conclude as informal channels for information exchange that may, or may not, reconvene on a regular basis. "[T]here is no uniformity concerning the formation, form, responsibilities, or significance of 'drafting committees'" (Alvarez 2005: 293). Some agreements are binding, while others are not. Voting rules are equally diverse. Simple majority declined in salience soon after World War II to be replaced by a consensus norm or a supermajority rule (normally two-thirds). Ratification by a sufficient number of member states is usually required for an agreement to come into force and then often only for those who ratify. Sometimes the agreement uses tacit consent, which means that member states are presumed to approve unless they explicitly object (usually within a given time period). Tacit consent is widely used for annexes or amendments on environmental treaties (Boyle and Chinkin 2007: 153). As diverse as it is, this stream of policy has one general characteristic: "Whether formally binding or not, all of these various methods of rule-making have in common that no obligation may be imposed on any state without its consent" (Boyle and Chinkin 2007: 153). We code simple majority for both the General Assembly and ECOSOC at the initiation stage, but supermajority for the final decision.[δ] Most conventions are binding after ratification for those who ratify.

A third stream of UN policy making—non-binding declarations, recommendations, proclamations, and resolutions—covers a vast range of topics from peacekeeping to yoga.[110] This stream of policy does not begin with, and rarely ends in, legally binding decisions. Its basis is Article 10 of the Charter which allows the General Assembly to "discuss any questions or any matters within the scope of the present Charter or relating to the powers and functions of any organs provided for in the present Charter . . . [and] make recommendations to the Members of the United Nations or to the Security Council or to both on any such questions or matters." The one limitation is that the Assembly cannot make a recommendation on an issue that is being handled by the Security Council (Art. 12). The decision rule for recommendations on general matters other than international peace and security is simple majority (Art. 18). The General Assembly can make a declaration on its own initiative, or respond to the initiative of others. ECOSOC also has the authority

[110] Yoga Day, June 21, was recognized by the General Assembly in 2014 with 175 state co-sponsors, a record.

to "initiate studies and reports with respect to international economic, social, cultural, educational, health and related matters and may make recommendations with respect to any such matters to the General Assembly, to the members, and to the specialized agencies" (Art. 61.1). Like the General Assembly, ECOSOC can decide as well as initiate recommendations.

General UN policy authority is severely restricted by two basic principles set out in Article 2 of the Charter: the principle of sovereign equality of member states (Art. 2.1), and the principle of non-intervention in "matters which are essentially within the domestic jurisdiction of any state" (Art. 2.7). The upshot is that UN activities or decisions are legally non-binding. As Hurd comments, "the Charter implies that states have a duty to take these [General Assembly or ECOSOC] recommendations seriously, but it does not create any formal legal obligation to implement or even consider them, let alone to do anything" (Hurd 2011: 104). Many resolutions are ritualistic, that is, they are reintroduced year after year (e.g. on the Israeli–Palestinian conflict) with not much chance of passing. At the same time, "[General Assembly] resolutions may lay the basis for new international law by articulating new principles, such as one that called the seas the 'common heritage of mankind,' and new concepts such as sustainable development" (Karns, Mingst, and Stiles 2015: 103).

These principles constitute "soft" law which sometimes make it into "hard" law through treaties. In some cases, principles promulgated by the General Assembly form the basis for Security Council decisions to intervene militarily. For example, UN Security Council Resolution 1973 (2011) justified military intervention in Libya against the will of that government. It relied on the Responsibility to Protect (R2P) principle, which had been unanimously adopted by the UN General Assembly at the 2005 World Summit. This was a watershed because it "marked the first time the Council had authorized the use of force for human protection purposes against the wishes of a functioning state" (Bellamy and Williams 2011: 825).

The Security Council, the secretary general, and individual member states can place issues on the agenda of both ECOSOC and the Assembly (Rules of Procedure, Rule 9.2 and Rule 13; Ross 2008: 105). In addition, UN specialized agencies, the Trusteeship Council (until 1994), and, indirectly, NGOs (from 1965) can put items on the agenda of ECOSOC (ECOSOC Rules of Procedure, Rule 9). Hence initiation is broad: member states, non-governmental actors (both in terms of UN specialized agencies, and in terms of non-governmental organizations), the secretary general, ECOSOC, the Security Council, the Trusteeship Council, individual member states, and the General Assembly. Decisions in ECOSOC, the General Assembly, or the Trusteeship Council are taken by simple majority; the Security Council decides by selective veto. Decisions are non-binding and do not require ratification.

A fourth policy stream, in existence until 1994, concerns decisions and recommendations on trusteeship. These could be proposed by the secretary general (Art. 98) and the Trusteeship Council (Art. 88). The primary player here is the Trusteeship Council whose role was to require regular reporting by the administrative authorities, organize periodic visits, and monitor progress in achieving self-governance for the territories under trusteeship. The Trusteeship Council decided by simple majority. Upon invitation of the Trusteeship Council, ECOSOC or any of the specialized UN agencies could also be involved (Art. 91), but these bodies did not have a constitutional right to be consulted. Overall final responsibility for supervising the administration was given to the Assembly (Arts. 16 and 85) or, in the case of strategic areas (such as the Pacific Islands), to the Security Council (Art. 83), in both cases assisted by the Trusteeship Council (Arts. 83 and 85). So as final decision makers we code the General Assembly, the Security Council, and the Trusteeship Council. The General Assembly operates by supermajority (Art. 18), the Security Council by selective veto, and the Trusteeship Council by simple majority. Decisions on trusteeship are binding and require no ratification.

The secretary general's role in initiating policy is firmly entrenched in all but one policy stream; the exception concerns conventions. The secretary general has no monopoly of initiative.

DISPUTE SETTLEMENT

The International Court of Justice is the "principal judicial organ of the United Nations" (Charter, Chapter XIV, Art. 92), and all members of the UN are parties to the Statute of the ICJ (Art. 93). Article 36.3 specifies that the Security Council "should take into consideration that legal disputes should as a general rule be referred by the parties to the International Court of Justice in accordance with the provisions of the Statute of the Court." Each member of the United Nations undertakes to comply with a decision of the ICJ in any case to which it is a party (Charter, Art. 94), so coverage is obligatory. The Court's seat is in The Hague.

This has several implications for our coding. First, we code third-party review as automatic (Charter, Art. 93) and the ICJ as the default tribunal for dispute settlement at the UN. Regarding the bindingness of ICJ rulings, we code the intermediate option: judgments are binding if parties have agreed to bindingness ex ante (ICJ Statute, Art. 36.2). Some sixty-six states have accepted compulsory jurisdiction, but many with opt-outs. Third, the composition of the ICJ is a standing body of justices (ICJ Statute, Arts. 2–13). The fifteen judges serve staggered nine-year terms, and may be re-elected. All states that are party to the Statute of the Court can propose candidates; the actual candidature is not made by the government, but by the members of the Permanent Court of Arbitration designated by that state. No two members can

UN Institutional Structure

		A1			E1									
Years		Non-state selection	Indirect representation	Weighted voting	Head—agenda	Head—decision	Members—agenda	Members—decision	Non-state selection	Partial representation	Indirect representation	Reserved seats	Weighted voting	Partial veto
1950–1964	Not body-specific	0	0	0	R	R			0	1	0	1	0	1
	Member states						✓	✓						
	A1: General Assembly							2						
	E1: Security Council													
	E2: Economic and Social Council													
	E3: Trusteeship Council													
	GS1: Secretariat													
	DS: International Court of Justice													
	Non-state actors: Specialized agencies													
1965–1994	Not body-specific	0	0	0	R	R			0	1	0	1	0	1
	Member states						✓	✓						
	A1: General Assembly							2						
	E1: Security Council													
	E2: Economic and Social Council													
	E3: Trusteeship Council													
	GS1: Secretariat													
	CB1: Accredited standing bodies													
	DS: International Court of Justice													
	Non-state actors: Specialized agencies													
1995–2010	Not body-specific	0	0	0	R	R			0	1	0	1	0	1
	Member states						✓	✓						
	A1: General Assembly							2						
	E1: Security Council													
	E2: Economic and Social Council													
	GS1: Secretariat													
	CB1: Accredited standing bodies													
	DS: International Court of Justice													
	Non-state actors: Specialized agencies													

Note: A = automatic/technocratic procedure; N = no written rule; R = rotation; ✓ = body co-decides, but no voting rule; ← = change in status. Shaded areas refer to institutions or policy areas that are non-existent for those years.

E2										E3										GS1		CB1
Head—agenda	Head—decision	Members—agenda	Members—decision	Non-state selection	Partial representation	Indirect representation	Reserved seats	Weighted voting	Partial veto	Head—agenda	Head—decision	Members—agenda	Members—decision	Non-state selection	Partial representation	Indirect representation	Reserved seats	Weighted voting	Partial veto	Select	Remove	Non-state selection
R	R			0	1	0	0	0	0					0	1	0	1	0	0		N	
		✓										✓	✓									
			2										2							3		
																				1		
3	3																					
										3	3											
R	R			0	1	0	0	0	0					0	1	0	1	0	0		N	2
		✓										✓	✓									
			2										2							3		
																				1		
3	3																					
										3	3											
R	R			0	1	0	0	0	0												N	2
		✓																				
			2																	3		
																				1		
3	3																					

UN Decision Making

		Accession			Sus-pension		Constitution				Budget			Com-pliance	
Years		Agenda	Decision	Ratification	Agenda	Decision	Agenda	Decision	Ratification	Revenue source	Agenda	Decision	Binding	Agenda	Decision
1950–1964	Not body-specific			2					2	1			2	A	
	Member states														
	A1: General Assembly		2			2	3	2			2	2			2
	E1: Security Council	1			1		3								
	E2: Economic and Social Council														
	E3: Trusteeship Council														
	GS1: Secretariat										✓				
	DS: International Court of Justice														
	Non-state actors: Specialized agencies														
1965–1986	Not body-specific			2					2	1			2	A	
	Member states														
	A1: General Assembly		2			2	3	2			2	2			2
	E1: Security Council	1			1		3								
	E2: Economic and Social Council														
	E3: Trusteeship Council														
	GS1: Secretariat										✓				
	CB1: Accredited standing bodies														
	DS: International Court of Justice														
	Non-state actors: Specialized agencies														
1987–1994	Not body-specific			2					2	1			2	A	
	Member states														
	A1: General Assembly		2			2	3	2			0	2			2
	E1: Security Council	1			1		3								
	E2: Economic and Social Council														
	E3: Trusteeship Council														
	GS1: Secretariat										✓				
	CB1: Accredited standing bodies														
	DS: International Court of Justice														
	Non-state actors: Specialized agencies														
1995–2010	Not body-specific			2					2	1			2	A	
	Member states														
	A1: General Assembly		2			2	3	2			0	2			2
	E1: Security Council	1			1		3								
	E2: Economic and Social Council														
	GS1: Secretariat										✓				
	CB1: Accredited standing bodies														
	DS: International Court of Justice														
	Non-state actors: Specialized agencies														

Note: A = automatic/technocratic procedure; N = no written rule; R = rotation; ✓ = body co-decides, but no voting rule; ← = change in status. Shaded areas refer to institutions or policy areas that are non-existent for those years.

Policy 1 (security)					Policy 2 (conventions, protocols)					Policy 3 (resolutions, declarations)					Policy 4 (decisions on trusteeship)					Dispute settlement (general purpose)						
Agenda	Decision	GS role	Binding	Ratification	Agenda	Decision	GS role	Binding	Ratification	Agenda	Decision	GS role	Binding	Ratification	Agenda	Decision	GS role	Binding	Ratification	Coverage	Third party	Binding	Tribunal	Non-state access	Remedy	Preliminary ruling
		1	2	3			0	1	1			1	0	3			1	2	3							
✓										✓																
2					3	2				3	3					2										
1	1									1						1										
					3					3	3				3											
										3					3	3										
✓					✓					✓					✓											
																				2	2	1	2	0	0	0
					✓					✓					✓											
		1	2	3			0	1	1			1	0	3			1	2	3							
✓										✓																
2					3	2				3	3					2										
1	1									1						1										
					3					3	3				3											
										3					3	3										
✓					✓					✓					✓											
										✓																
																				2	2	1	2	0	0	0
					✓					✓					✓											
		1	2	3			0	1	1			1	0	3			1	2	3							
✓										✓																
2					3	2				3	3					2										
1	1									1						1										
					3					3	3				3											
										3					3	3										
✓					✓					✓					✓											
										✓																
																				2	2	1	2	0	0	0
					✓					✓					✓											
		1	2	3			0	1	1			1	0	3												
✓										✓																
2					3	2				3	3															
1	1									1																
					3					3	3															
✓					✓					✓																
										✓																
																				2	2	1	2	0	0	0
					✓					✓																

be of the same nationality, and the Court as a whole must represent the main civilizations and legal systems of the world. To be elected, a candidate must obtain an absolute majority in both the General Assembly and the Security Council (ICJ Statute, Art. 10). Fourth, non-state actors do not have legal standing; only states may be parties (ICJ Statute, Art. 34). ICJ rulings can be enforced by the UN Security Council (Charter, Art. 94.2), although this has never happened (Alter 2014: online appendix, p. 15). So remedy depends on political intervention, which we conceive as too weak to qualify. There is no preliminary ruling system of national court referrals.

United Nations Educational, Scientific and Cultural Organization (UNESCO)

The mission of the United Nations Educational, Scientific and Cultural Organization is "to contribute to peace and security by promoting collaboration among the nations through Education, Science, and Culture in order to further universal respect for justice, for the rule of law and for the human rights and fundamental freedoms" (Constitution, Art. I.1). UNESCO was established in 1945, and its membership is global with, currently, 195 members and ten associate members.[111] The organization's headquarters are in Paris, and the organization has sixty-five field offices around the world (UNESCO 2010a: 32). UNESCO also runs several institutes or centers that help member states plan education, develop curricula, and train teachers, and it has a number of emanations, including the International Oceanographic Commission, the Natural Environment Research Council, the World Heritage Fund, and the International Centre for the Study of the Preservation and Restoration of Cultural Property.[112] UNESCO's first regional training center was set up in Patzcuaro, Mexico, in 1951, in cooperation with the Organization of American States and the Mexican government (Dorn and Ghodsee 2012: 380). One of UNESCO's best-known programs is run by its World Heritage Committee, created in 1972 after the adoption by the General Assembly of the Convention Concerning the Protection of the World Cultural and Natural Heritage. More than a thousand natural and cultural sites have been listed as protected landmarks. The program is funded primarily by routinized member state contributions. Still, the bulk of the UNESCO budget is spent on educational programs, natural sciences, and the spread of communication and media technology (Dutt 2009: 90).

[111] See <http://en.unesco.org/countries/member-states> (accessed February 15, 2017).

[112] See <http://www.unesco.org/new/en/education/worldwide/unesco-institutes-and-centres/education-institutes/> (accessed February 15, 2017).

The pre-war forerunner of UNESCO was the International Institute for Intellectual Cooperation, a League of Nations affiliate located in Paris, which until it was closed in 1940, served as a clearing house for educational exchanges (Dexter 1947; Martens 2001; Sewell 1975).

The inspiration for a successor came in the final years of World War II from exiled ministers, diplomats, and cultural figures in London who were deliberating the rehabilitation of democracy in Europe. The foundation of UNESCO was led by education ministers in a brief window of "Kantian transnationalism" following the Atlantic Charter and prior to the Cold War (Finnemore 1993: 579; Sluga 2010). UNESCO's Constitution, signed in November 1945, barely two months after the end of World War II, begins with the now famous maxim that "[S]ince wars begin in the minds of men it is in the minds of men that the defences of peace must be constructed." It went on to say that "peace must therefore be founded, if it is not to fail, upon the intellectual and moral solidarity of mankind."

UNESCO was built on two premises: first, that Western democracies could create a world community in their image by projecting liberal education, media, and science onto poorer countries; second, that if global international institutions were given sufficient authority they could play a key role in this (Dexter 1947; Niebuhr 1950; Sathyamurthy 1967). A contemporary observed that UNESCO's Constitution had the "unmistakable intent" of creating "a world organization in which national governments are secondary" (quoted in Dexter 1947: 391). Supranationalism was an intrinsic part of UNESCO's governance.

Both premises were dealt blows by the Cold War and by the anti-Western backlash of non-aligned nations. The organization was initially weakened by the Soviet Union's refusal to join (until it reversed course in 1954) and by failure of the American effort to enlist UNESCO in its battle against Communism (Armstrong 1954; Buehrig 1976; Dorn and Ghodsee 2012; Graham 2006). As its membership grew, UNESCO became a sounding board for anti-imperialism (Dutt 1995a, 2009; Prendergast 1976; Preston, Herman, and Schiller 1989).[113] Western countries struck back with accusations of nepotism and mismanagement (Dutt 2009; Singh 2011: 33–45). The United States and its allies began to distance themselves from the organization, and in 1984, the United States left,

[113] According to a 1984 United States House of Representatives Staff report, "The fact of the decline of American and Western leadership in the United Nations and the loss of automatic majorities in the late 1960s and early 1970s as the Third World gained numerical majorities is well known. Rather than develop positive long-term strategies to deal with this situation, however, the United States and the West adopted, seemingly by default, a defensive, damage-limitation posture to counteract controversial policies advocated by the Eastern bloc and Third World countries. As a result, the United States and other Western states have facilitated the transformation of UNESCO into a global forum receptive to new concepts sometimes hostile to Western and U.S. interests" (US House of Representatives 1984: 12–13).

cutting UNESCO's budget by a quarter. Britain followed in a year later (Dutt 1995b). In the 1990s the organization embarked on managerial reforms and adopted a more consensual tone. Britain rejoined in 1997 and the United States did so in 2003. However, the relationship has remained contentious. In 2012 the United States suspended payments after the UNESCO assembly voted to give Palestine full membership (Erlanger 2012).

UNESCO has three major decision making bodies: the General Conference, the Executive Board, and the Secretariat. There are a host of subcommittees and advisory bodies.

The key legal document of UNESCO is the Constitution of the United Nations Educational, Scientific and Cultural Organization (signed 1945; in force 1946). This document has been amended twenty-three times, most recently in 2003 (UNESCO 2014). Other key documents include the Rules of Procedure for the General Conference, the Executive Board, Financial Regulations, and various other Rules (UNESCO 2014).

Institutional Structure

A1: GENERAL CONFERENCE (1950–2010)

The highest decision making organ in UNESCO is the General Conference, composed of member state representatives which meet every two years to "determine the policies and the main lines of work of the Organization" (1946 Constitution, Art. IV.A.1 and B.2).

Decisions in the General Conference are mostly taken by simple majority, and there is no weighted voting (Art. IV.C.8.a; Rules General Conference, Rule 85, para. 2). Supermajority is the rule for the admission of new states that are not members of the United Nations, along with admission of associate members, adoption of international conventions, admission of observers of non-governmental or semi-governmental organizations, and most constitutional amendments.

There was debate at the founding conference concerning whether the General Conference should be composed of member state representatives only or include non-governmental actors (Phillips 1962: 33). Some participants, led by France, proposed a tripartite organization with representation of governments; National Committees drawn from educators, scientists, and artists in the member societies; and transnational civil society (NGOs). This would have created something akin to the International Labor Organization, where non-state actors vote on an equal basis in the central decision bodies. It would also have been closer in spirit and structure to its predecessor, the International Institute for Intellectual Cooperation, which was run by intellectuals and had attracted luminaries such as Albert Einstein and Sigmund Freud. However, critics pointed out that the International Institute was ineffective because

there was insufficient administrative follow-up, and they felt that governments would not want to commit serious resources to a non-governmental organization (Martens 2001: note 56; Sewell 1975; Singh 2011: 12–14). Those in favor of integrating UNESCO into the intergovernmental family of UN bodies won.

One leftover was that the Constitution recommended that member states set up "national commissions or cooperating bodies" to "act in an advisory capacity to their respective delegations" (1946 Constitution, Art. VII.1-3). Initially, the composition and role of such bodies was left entirely to the discretion of individual member states (Dexter 1947: 393). In 1978, the General Assembly passed a Charter of National Commissions which prescribes in some detail how these national commissions should function in relation to member states, and what they can expect from UNESCO. National commissions are not compulsory, but nowadays every member state has one.

The General Conference is assisted by several intergovernmental committees and commissions. The most important are the General Committee and the Nominations Committee. The General Committee is composed of the president, vice-presidents, and chairpersons of the General Conference's committees and commissions, and it provides general direction when the conference is not in session. The Nominations Committee consists of the heads of all delegations entitled to vote, and considers nominations for the officers of the General Conference, its committees and commissions, and of members of the Executive Board.

E1: EXECUTIVE BOARD (1950–2010)

The Executive Board is responsible for the execution of policy programs adopted by the General Conference (1946 Constitution, Art. V.6b) and runs the organization in-between the General Conference sessions (Art. V.13). It prepares the agenda for the General Conference, scrutinizes the budget, and oversees the work program of the director general (Art. V.6a). It also advises on the admission of new members (Art. V.7). There is no weighted voting (Rules Executive Board, Rule 48).

The composition of the Board has changed over time (UNESCO 2010b). Initially the Board was designed to be independent (Dexter 1947). The members had to be experts rather than diplomats: "persons competent in the arts, the humanities, the sciences, education and the diffusion of ideas" (1946 Constitution, Art. V.A.2). They were authorized to serve the general interest: "The members of the Executive Board shall exercise the powers delegated to them by the General Conference on behalf of the Conference as a whole and not as representatives of their respective Governments" (1946 Constitution, Art. V.B.11). Furthermore, they were elected by the General Conference from among trustees appointed by the member states (1946 Constitution, Art. V.A.1). Hence in this period (1950–3) member states selected members, they had

indirect representation, and a subset of member states had a representative on the Board.

In 1954 the rules were rejigged in an intergovernmental direction.[114] Members had now a dual responsibility to their country and to the organization: "Although the members of the Executive Board are representative of their respective governments they shall exercise the powers delegated to them by the General Conference on behalf of the Conference as a whole" (1954 Constitution, Art. V.B.11).[115] Over the years member states continued to claw back control, and a comprehensive constitutional revision in 1991 extended these intergovernmental gains. Member states—not delegates appointed by the member states—were now nominated as the members of the executive (1991 Constitution, Art V.A.1a and b); the reference to scholarly expertise was replaced by the provision to "endeavour to appoint a person qualified in one or more of the fields of competences of UNESCO" (1991 Constitution, Art. V.A.2b); and the reference to individual independence was dropped in favor of the collective responsibility of the Board to "exercise the powers delegated to it by the General Conference on behalf of the conference as a whole" (1991 Constitution, Art. V.B.14). Secondary sources tend to come down on 1954 as the decisive shift from independence to state control even though the process was completed only with a further reform in 1991 (Finnemore 1993; but see UNESCO 2010b).[116] We reflect what seems to be the scholarly consensus by changing our coding of representation in the Executive Board from indirect to direct in 1954.$^{\beta}$

Other features of the Board also changed over time. The number of seats increased from eighteen to fifty-eight in 1995. Terms of office were amended several times: from renewable to non-renewable (1968–90) and back to renewable (since 1991); from three to four years (1952), from four to six years (1968), and back to four years (since 1972). Since 1968 the General Conference has sought to avoid imbalanced representation by assigning member states to one of five groups "in accordance with criteria that are

[114] Sewell (1975: 169) notes that, almost as soon as the organization got going, member states pushed back against the independent Executive Board. He recounts a situation whereby one senior official of the United States government brought the American board member back to Washington to "brief the hell out of [him] to try to get [him] to see things the State Department way" (see also Finnemore 1993).

[115] The amendment was a joint proposal by the United States, Australia, Brazil, and the United Kingdom, and strongly opposed by France. Opponents argued that it would undermine the spirit of UNESCO as a professional, apolitical, and intellectual body, while supporters contended that it would increase the confidence of governments and their sense of responsibility for it. The proposal was adopted forty-nine to nine (Phillips 1962: 41).

[116] UNESCO's official history takes issue with this: "It should however be noted that this [1954] amendment in no way altered the specific character of the Executive Board, whose members were not states but persons designated by name" (UNESCO 2010: 10.7). The document identifies 1991 as the definitive end of non-state representation.

not solely geographical" (UNESCO 2010b: 10.8.1; see 15/C Records of the General Conference 1968: 11). However, there are no reserved seats.

In 1948 the General Conference set out a procedure in which two member state delegations or the Nominations Committee could propose members for election to the Executive Board (Rule 95.2). Since the Nominations Committee consisted of "the heads of all delegations entitled to vote in the Conference" (Rule 27), we code member states as having the right to propose. The General Conference made the final decision (Art. VIa) by simple majority (IV.8a) and by secret ballot. In 1993 the provision that member states required endorsement of their candidate by a second delegation was scrapped (28/C Records of General Conference 1993: 20.4). Nowadays most members of the Executive Board are ministers or ambassadors, though some countries are represented by writers or professors.

Initially, the organization had no written rules on the election of the chair of the executive, but in 1952, the Board adopted its first Rules of Procedure which says that the chairperson is chosen from amongst its members (Rule 12; now: Rule 10). The election requires a secret ballot, and the general decision rule of simple majority applies (Rule 47; now: Rules 50, 51, and 55). The rules are not explicit on who can propose a candidate for the chair, but we believe that we are on firm ground in assuming that the Executive Board or a subset of representatives can put forward a candidate.[α] There is also a strong norm of geographical rotation. The rules for electing the chairperson have not changed since 1952.

Three permanent intergovernmental committees report to the Executive Board. The Special Committee evaluates UNESCO activities. The Committee on Conventions and Recommendations considers member states' periodic reports on the implementation of UNESCO recommendations and conventions. The Committee on NGOs provides input on UNESCO's activities. These committees are composed of subsets of member states on the Executive Board. There are also two permanent commissions which are open to all members of the Executive Board: one monitoring financial planning, and one concerned with programming and external relations. Chairpersons are elected by the Board (Rules Executive Board, Rule 16.2).

GS1: THE SECRETARIAT (1950–2010)

The UNESCO Secretariat consists of the director general and her staff (Art. VI.1). She is described as the "chief administrative officer of the Organization" (Art. VI.2), and has been perceived to muster considerable discretionary power in programming, initiating emanations, or reaching out to civil society. Dexter (1947: 392) observes that "the Director-General is perhaps more explicitly endowed with power than is her prototype, the Secretary-General [of the United Nations]: she is succinctly instructed to 'formulate proposals for

appropriate action by the Conference and the Board' (Article VI, Section 3)" (for examples, see Dorn and Ghodsee 2012; Dutt 2009; Finnemore 1993; Martens 2001; Singh 2011).[117]

The Constitution instructs that the Executive Board nominates the director general, and the General Conference makes the final decision (Art. VI.2). The decision rule is simple majority (Art. IV.C.8). Initially the length of tenure was fixed at six years with the possibility of renewal (Art. VI.2). In 2001 an amendment shortened this to four years, renewable once (Constitution 2001, Art. VI.2; 31/C Records of the General Conference 1968: 63).[118] There are no written rules on the possible removal of the director general from office.

The Secretariat is divided into program sectors (education, natural science, social and human sciences, culture, communication and information) with common support services. UNESCO's institutes fall mostly under the educational sector, while the UNESCO regional field offices fall directly under the director general's office. In 2009, UNESCO had more than 2,000 staff, of whom some 870 work in regional field offices and institutes worldwide.[119]

CONSULTATIVE BODIES

The role of non-governmental organizations was a major topic at the London founding conference. The upshot was that the 1946 Constitution authorized UNESCO to "make suitable arrangements for consultation and cooperation with non-governmental international organizations with matters within its competence, and may invite them to undertake specific tasks" and to potentially arrange for "appropriate participation by representatives of such organizations on advisory committees set up by the General Conference" (Art. XI.4; Martens 2001: 396). This remit has allowed the UNESCO Secretariat to sustain a dense web of relations with non-state actors. UNESCO has also been instrumental in setting up several dozen NGOs including the International Council of Museums (ICOM) and the World Wildlife Fund (Martens 2001: 393–4; Singh 2011; Sluga 2010: 396). However, because there are no non-state bodies with a routinized role in UNESCO decision making, we code UNESCO as having no consultative bodies that meet the minimal criteria in our coding scheme.

[117] A revision in 1952 added that the director general participates in all meetings of the General Conference, the Executive Board, and other committees without right to vote, and that he/she prepares a draft program of work with a budget. A 1954 revision instructed him to prepare periodical reports.

[118] To date UNESCO has had ten director generals. While the first five director generals served relatively short terms (two to five years), the subsequent four served for two terms. Most have been influential intellectuals with a clear agenda (Singh 2011: 36–9; Dutt 2009; Sluga 2010). The most recent director general, Irina Bukova, the first woman in the position, was elected in 2009 and re-elected in 2013.

[119] UNESCO 2009: 32; available from <http://unesdoc.unesco.org/images/0018/001887/188700e.pdf> (accessed February 15, 2017).

Over the decades, UNESCO's relations with non-state actors have become more regulated. In 1966 the Executive Board set up a Committee on International Non-governmental Organizations to draw up a categorization scheme for NGOs that could guide the Executive Board in its decisions on granting consultative status. In 1995 an extensively revised schema was approved by the General Conference. It has been updated several times (most recently in 2011), but the basic distinction evolves around two types of NGOs: those with formal consultative status, and those with associative or operational status. NGOs of the former category may be invited to advise on the front-end or implementation end of programs. This means, for example, that the director general may invite NGOs to send observers to the General Assembly conferences and commissions, to make statements on matters within their competence, submit written statements to the director general on program matters, and they are entitled to receive documentation. Since their participation is at the discretion of the director general and not a right, this channel falls short of meeting our minimum criterion for inclusion.[γ] The entitlements of NGOs with operational status are even more limited: they may be invited to hearings or to conventions for NGOs, they can apply for financial support, and they may bid for contracts with UNESCO (Martens 2001; 36 C/Resolution 108). UNESCO claims that some 350 NGOs maintain official relations with UNESCO and hundreds more work with the organization on specific projects (UNESCO 2009: 25).

Decision Making

MEMBERSHIP ACCESSION

All member states of the UN have the automatic right to become members of UNESCO provided they ratify the Constitution (1946 Constitution, Art. II). For states that are not members of the UN, the Executive Board can make a recommendation by simple majority (Arts. II and V.7; Rules Executive Board, Rule 50). The General Conference takes a final decision by two-thirds majority (Art. II.2). Ratification is not required. There have been no changes in the accession procedure over time.

Three UNESCO member states are not UN member states: Cook Islands (1989), Niue (1993), and Palestine (2011), the latter a highly contentious decision (Blanchfield and Browne 2013; Johnson 2012). The PLO had been accorded observer status in 1974, and the first application for Palestine membership was submitted to the Executive Board in 1989. Membership was an item on most subsequent Board agendas. At the Board's 187th session in September 2011, twenty-four of fifty-eight members requested that the application be considered. The resolution was put to a vote, and passed with forty states in favor. At the subsequent General Conference, the resolution was

adopted with the required two-thirds majority (abstentions are not counted; Rules General Conference, Rule 85) (UNESCOPRESS 2011).

The UNESCO Constitution also allows for associate membership (Art. II.3). Associate members have the right to participate in the meetings at all levels, receive all documents, submit proposals, but cannot vote or stand for election. They pay a contribution (Resolution 41.2). As of September 2016, UNESCO has ten associate members.

MEMBERSHIP SUSPENSION

Suspension by the United Nations leads to automatic suspension by UNESCO, and the same applies for expulsion (Constitution, Art. II.4, 5). The rule has been applied once. When Yugoslavia broke up in the early 1990s, its participation in the governing bodies and conferences of UNESCO was suspended following Resolution 47/1 adopted by the General Assembly of the United Nations on September 22, 1992, which stated that the Federal Republic of Yugoslavia (Serbia and Montenegro) could not automatically succeed the former Socialist Federal Republic of Yugoslavia. In 2000, the Federal Republic of Yugoslavia (later renamed Serbia and Montenegro) became a member of the UN and also of UNESCO. After the partition of Serbia and Montenegro in 2006, the UN recognized the Republic of Serbia as the legal successor of Serbia and Montenegro on the basis of Article 60 of the Constitutional Charter of Serbia and Montenegro, which meant that Serbia simply continued as a member of UNESCO. Montenegro joined in 2007.

CONSTITUTIONAL REFORM

The Constitution and Rules of Procedure are vague on who can propose constitutional amendments.[δ] Since there have been twenty-three occasions in which the Constitution has been revised, we can examine the track record. The texts of individual amendments show that member states and the General Conference have the right to propose amendments. For example, the 1954 amendment that changed the character of representation on the Executive Board from indirect to direct was introduced by four member states at the General Conference: the United States, Australia, Brazil, and the United Kingdom (Phillips 1962: 41). We find no evidence that the Executive Board or the General Secretariat can initiate constitutional reform.

We code the decision rule as simple majority for agenda setting by the General Conference and two-thirds majority for the final decision (Art. XIII.1).

The Constitution makes a distinction between procedural and substantive amendments. Procedural amendments do not require ratification. Amendments that "involve fundamental alterations in the aims of the Organization or new obligations for the Member States" require ratification by two-thirds of the member states (Constitution, Art. XIII.1). Ratifications are binding to all.

REVENUES

UNESCO has two sources of financing. The organization has a regular budget funded by member state contributions according to a scale set by the General Conference (Constitution, Art. IX.2). UNESCO also funds large parts of its program (the *Complementary Additional Programme* (CAP) of extra-budgetary activities) through voluntary contributions. The Constitution explicitly authorizes the director general, with the approval of the Executive Board, to "receive gifts, bequests, and subventions directly from governments, public and private institutions, associations and private persons" (Constitution, Art. IX.3). A change to the Financial Regulations in 1989 specified the conditions under which she can accept gifts. For example, gifts must be "consistent with the policies, aims and activities of the Organization" (Art. 7.3), contributions from non-member states must be used to fund participation in UNESCO program activities (Art. 7.4), and unconditional gifts must be added to a general account.

Core funding comes from routinized member state contributions, as reflected in the coding. However, in the last decade or so voluntary contributions have increased as a share of the total.[120] The biennial regular budget for 2010 and 2011 was US$653 million (35 C/5 Approved: viii). The extra-budgetary activities of the CAP, funded by voluntary contributions and donations, was more than US$800 million (35 C/5 CAP p. 3).

BUDGETARY ALLOCATION

Before 1952, the rules on who proposes the budget were vague. The Constitution states merely that the "budget shall be administered by the Organization" (1946 Constitution, Art. IX.1). The Rules of Procedure of the General Conference, first formulated in 1950, mention that the chair of the Executive Board may ask the Conference to postpone voting on proposals that may have substantial budgetary implications (Rules General Conference, Rule 78). The constitutional provision implies a drafting role for the General Secretariat, and Rule 78 implies a vetting role for the Executive Board.[α] Since we know that these are the rules from 1952, it seems appropriate to interpolate.[121] The Constitution makes clear that the final decision is taken by the General Conference by simple majority (1946 Constitution, Art. IX.2).

[120] The growing dependence on voluntary contributions reflects a trend among international organizations, many of which have experienced below-inflation budgetary growth (and in some cases, a nominal decline) since 1971. Data is available at <https://www.globalpolicy.org/un-finance/general-articles.html> (accessed February 15, 2017).

[121] This is corroborated in a report by the Budget Committee of the General Conference at its sixth session in 1951: "The Committee shall examine the Budget Estimates presented by the Director-General . . . It shall consider the report and the recommendations of the Executive Board" (UNESCO Budget Committee 1951: 47).

The 1952 constitutional revision and the newly drafted Financial Regulations of UNESCO make the agenda setting stage explicit. The General Secretariat drafts the budget (1952 Constitution, Art. VI.3.a; Financial Regulations, Art. III, 3.3), and the budget is examined by the Executive Board (Art. V.5.a; Financial Regulations, Art. III, 3.4), which decides by simple majority. The final decision is taken by simple majority by the General Conference.

In 1958, the voting rule changes for the General Conference from simple majority to two-thirds majority (Const. IV.C.8, and Rules General Conference, Rule 84.2 (i)). Decision making on the budget is coded as binding because there are sanctions in case of non-compliance.

FINANCIAL COMPLIANCE

Rules on budgetary non-compliance were first introduced in 1949. There have been amendments since but these do not affect our coding. In case of non-compliance, member states automatically lose their voting rights (Constitution, Art. IV.8.b). This is an administrative decision. It can be overturned by the General Conference "if it is satisfied that failure to pay is due to conditions beyond the control of the Member State" (Constitution, Art. IV.8.c). We therefore code the General Conference as final decision maker. In this case, the Conference decides by the general decision rule, which is simple majority (Constitution, Art. IV.8.a).

Under current rules a member state that is in arrears for an amount that is at least twice its annual contribution loses its voting rights (Rules General Conference, Rule 82.2). This rule hit the United States and Israel in 2013 after they had suspended annual contributions in the wake of the General Conference's decision to admit Palestine as a member.

POLICY MAKING

UNESCO's policy making consists of two components: funding projects through the multi-annual program and budget, and adopting conventions, recommendations, and declarations (about sixty in total since 1948).[122]

Programming is often perceived to be the most important form of policy making (Blanchfield and Browne 2013; Dutt 2009: 85; Niebuhr 1950). It constitutes the first policy stream. The director general and the Executive Board can initiate programs. The director general and his/her staff formulate proposals and draft the program of work (Constitution, Art. VI.3a). The Executive Board prepares the agenda for the General Conference, examines

[122] Examples include the World Heritage Convention (1978), the Universal Declaration on the Human Genome and Human Rights (1997), or the Convention on the Protection of the Diversity of Cultural Contents and Artistic Expressions (2005) (on the latter, see Moghadam and Elveren 2008).

the program of work, and submits it to the General Conference with its recommendations applying the general decision rule of simple majority (Constitution, Art. V.6a; Rules Executive Board, Rule 50). There have been no major changes in the decision making procedure over time.

Article I.2 of the Constitution sets out the basic goals of the organization, which are reflected in the major sectoral program streams: education, which is historically the largest sector; natural sciences, in particular natural resources and sustainable development; social and human sciences, traditionally the smallest sector; culture, including the World Heritage Fund and the preservation of cultural diversity; and communication and information, which ranges from media freedom to promoting e-technology (Singh 2011). UNESCO's regional offices and institutes operate as decentralized outposts for program delivery.

One important concession to intergovernmentalism was the decision to allow member states to opt in (or out) of particular programs, though they cannot opt out of paying annual contributions used to finance programs. That is to say, the decisions on programming by the General Conference are binding on the organization, but not on its members unless they choose to be bound. In the 1970s Buehrig (1976) described UNESCO policy making as depending on voluntaristic networks (see also Graham 2006). Contrasting it with the World Bank, he notes that "UNESCO's technical assistance is a form of the discretionary benefit and, like a World Bank loan, affords leverage on the recipient but with less disciplinary effect, for . . . judicial and regulatory strategies are foreign to UNESCO's purposes" (Buehrig 1976: 679). Ratification is not required for programs.

We code conventions as a second policy stream. The rules governing the UNESCO conventions are specified in a dedicated Rules of Procedure document adopted in 1955 and subsequently amended.[123] Conventions (like recommendations and declarations) emanate from studies conducted by the General Secretariat, which are considered by the Executive Board, and finally adopted by the General Conference. But no convention (or recommendation or declaration) can be drafted unless explicitly authorized by the General Conference, so the General Conference has agenda setting power as well (Rules of Procedure for Recommendations and Conventions, Art. 3). The process is as following: a new proposal, accompanied by a preliminary study

[123] *Rules of Procedure concerning Recommendations to Member States and International Conventions covered by the Terms of Article IV, Par. 4, of the Constitution*, first adopted in 1955. Since 2005 a slightly different procedure is laid down in the General Conference Resolution *Multi-Stage Procedure for the Elaboration, Examination, Adoption and Follow-up of Declarations, Charters and Similar Standard-Setting Instruments Adopted by the General Conference and not Covered by the Rules of Procedure concerning Recommendations to Member States and International Conventions covered by the Terms of Article IV, Par. 4, of the Constitution*. Both form part of UNESCO's key texts (UNESCO 2014).

or report and by the recommendation of the Executive Board, is submitted to the General Conference for initial screening (Rules of Procedure for Recommendations and Conventions, Arts. 3.1 and 3.2). Next, the General Conference decides (by simple majority) on need and form of an instrument (Arts. 6–8), and then instructs the Secretariat to draft the instrument (Art. 10). Member states can comment on the draft(s) (Art. 10). The General Conference may also decide to get other bodies or actors involved in preparing the instrument. The final decision is taken by the General Conference by a two-thirds majority. Member states are obligated to submit it for ratification (Constitution, Art. IV.B.4 and Rules, Art. 12), but the convention becomes binding only on countries that ratify.[124] Rules on agenda setting, including the voting rule in the Executive Board and the role of the General Conference, were adopted in 1955 only. However, the Constitution provides sufficient information to code, between 1950 and 1955, the director general (Constitution, Art. VI.3) and the Executive Board (Constitution, Art. V.5) in agenda setting, and the General Conference in the final decision (Art. IV.B.4). From 1955 we also code the General Conference itself and the member states in agenda setting.

Recommendations require a simple majority and are non-binding; they can be described as invitations for member states to take particular courses of action. Declarations are moral suasions or imperatives; they too can pass by simple majority, and are intrinsically non-binding (Singh 2011: 20–2). The 2005 Universal Declaration on Bioethics and Human Rights is an example. By 2010, the last year of our coding, UNESCO had passed twenty-eight conventions, thirty-one recommendations, and thirteen declarations.

DISPUTE SETTLEMENT

Dispute settlement follows primarily political channels. The use of judicial channels is extremely rare (von Schorlemer 2007), though there is a judicial channel available.

The Constitution stipulates that "Any question or dispute concerning the interpretation of this Constitution shall be referred for determination to the International Court of Justice or to an arbitral tribunal, as the General Conference may determine under its Rules of Procedure" (Constitution, Art. XIV.2). That is to say, a political body controls access to third-party

[124] The Rules of Procedure and the Constitution do not state explicitly that the conventions are binding only on member states that ratify, but this was intended, as confirmed by a legal background document prepared for the twelfth session of the General Conference of 1962. The document quotes from the ILO Memorandum that regulates ratification, and which makes a sharp distinction between submission (which is binding) and ratification (which is not). "The former constitutes an obligation of a general character established by the constitution of the ILO. It does not, however, imply the obligation to propose that a convention be ratified or a recommendation accepted" (12 C/12 General Conference session, p. 7, quoting from the 1959 ILO Memorandum, II. b)

review. Both types of dispute settlement are an integral part of the contract, hence they are obligatory for all members.

The procedure runs through the Legal Committee of the General Conference or, outside sessions, via the Executive Board. If the Legal Committee is involved, it may decide by a simple majority to recommend to the General Conference that "any question concerning the interpretation of the Constitution be referred to the International Court of Justice for an advisory opinion. If UNESCO is party to a dispute, it may decide to recommend to refer the dispute to an Arbitral Tribunal for a final decision." Between General Conference sessions the Executive Board takes up the role of the Legal Committee and the Conference.

In cases where the IO itself is involved, arbitration seems to be the instrument of choice for a final and binding decision while the ICJ is the instrument of choice for advice (Rules General Conference, Rule 38). We code the arbitration path. This means that judgments are binding pending ex ante agreement among disputing parties; a panel of ad hoc arbitrators makes decisions.

UNESCO Institutional Structure

		A1			E1										GS1	
Years		Non-state selection	Indirect representation	Weighted voting	Head—agenda	Head—decision	Members—agenda	Members—decision	Non-state selection	Partial representation	Indirect representation	Reserved seats	Weighted voting	Partial veto	Select	Remove
1950–1951	Not body-specific	0	0	0	N	N			0	1	2	0	0	0		N
	Member states						✓									
	A1: General Conference							3							3	
	E1: Executive Board															
	GS1: Secretariat															
	DS: Arbitral panels															
1952–1953	Not body-specific	0	0	0					0	1	2	0	0	0		N
	Member states						✓									
	A1: General Conference							3							3	
	E1: Executive Board				3	3										
	GS1: Secretariat															
	DS1: Arbitral panels															
1954–2010	Not body-specific	0	0	0					0	1	0	0	0	0		N
	Member states						✓									
	A1: General Conference							3							3	
	E1: Executive Board				3	3										
	GS1: Secretariat															
	DS: Arbitral panels															

Note: A = automatic/technocratic procedure; N = no written rule; R = rotation; ✓ = body co-decides, but no voting rule; ← = change in status. Shaded areas refer to institutions or policy areas that are non-existent for those years.

UNESCO Decision Making

		Accession			Sus-pension		Constitution				Budget			Com-pliance		Policy 1 (programs)					Policy 2 (conventions)					Dispute settlement (science, culture, education)						
Years		Agenda	Decision	Ratification	Agenda	Decision	Agenda	Decision	Ratification	Revenue source	Agenda	Decision	Binding	Agenda	Decision	Agenda	Decision	GS role	Binding	Ratification	Agenda	Decision	GS role	Binding	Ratification	Coverage	Third party	Binding	Tribunal	Non-state access	Remedy	Preliminary ruling
1950–1951	Not body-specific	A	A	2	A	A			2	1			2	A				1	1	3			1	1	1							
	Member states						✓																									
	A1: General Conference		2				3	2				3			3		3					2										
	E1: Executive Board	N									3					N					N										
	GS1: Secretariat										✓					✓					✓										
	DS1: Arbitral panels																									2	1	1	1	0	0	0
1952–1954	Not body-specific	A	A	2	A	A			2	1			2	A				1	1	3			1	1	1							
	Member states						✓																									
	A1: General Conference		2				3	2				3			3		3					2										
	E1: Executive Board	3									3					3					3										
	GS1: Secretariat										✓					✓					✓										
	DS1: Arbitral panels																									2	1	1	1	0	0	0
1955–1957	Not body-specific	A	A	2	A	A			2	1			2	A				1	1	3			1	1	1							
	Member states						✓														✓											
	A1: General Conference		2				3	2				3			3		3				3	2										
	E1: Executive Board	3									3					3					3										
	GS1: Secretariat										✓					✓					✓										
	DS1: Arbitral panels																									2	1	1	1	0	0	0
1958–2010	Not body-specific	A	A	2	A	A			2	1			2	A				1	1	3			1	1	1							
	Member states						✓														✓											
	A1: General Conference		2				3	2				2			3		3				3	2										
	E1: Executive Board	3									3					3					3										
	GS1: Secretariat										✓					✓					✓										
	DS1: Arbitral panels																									2	1	1	1	0	0	0

Note: A = automatic/technocratic procedure; N = no written rule; R = rotation; ✓ = body co-decides, but no voting rule; ← = change in status. Shaded areas refer to institutions or policy areas that are non-existent for those years.

Non-state actors have no legal standing, and there is no remedy for non-compliance specified ex ante.

A small minority of UNESCO conventions have their own mechanisms, and these are about evenly divided between an ICJ-based procedure and arbitration. Several conventions contain references to using the good offices of the director general. We detect just one convention (the Convention on the Protection of Underwater Cultural Heritage) that has binding dispute settlement (Bernier 2012: 601; von Schorlemer 2007). "Apparently the members of UNESCO are not at ease with this type of provision and prefer to resolve their disputes in a consensual way" (Bernier 2012: 600).

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