Regional Organizations in International Society

Decolonization, Regionalization and Enlargement in Europe and Southeast Asia

Dissertation
zur Erlangung des Doktorgrades
der Wirtschafts- und Sozialwissenschaftlichen Fakultät
der Eberhard Karls Universität Tübingen

Kilian Spandler

Tübingen 2016

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vorgelegt von
Kilian Spandler M.A.
aus Neumarkt i.d.Opf.

Tübingen 2016

Tag der mündlichen Prüfung: 30.06.2016

Dekan: Professor Dr. rer. soc. Josef Schmid

1. Gutachter: Professor Dr. Thomas Diez

2. Gutachter: Tonny Brems Knudsen PhD

ABSTRACT

Ever since the end of the Cold War, regionalism is on the rise. However, the regional organizations formed in various parts of the world look markedly different. Existing Comparative Regionalism literature largely neglects the way in which regional norms contribute to the reproduction of these differences. Against this background, my thesis aims to identify the social conditions and the political mechanisms that cause regional organizations to develop along divergent pathways. Using concepts and arguments from the English School, social constructivism and institutionalism, I develop an approach to the analysis of change in regional organizations that takes into account their connection to a regionally specific normative context. I argue that actors talk about regional governance on two levels: that of abstract norms ('primary institutions') and that of concrete rules and procedures ('secondary institutions'). A historical comparison of decolonization, regionalization and enlargement processes in the EU and ASEAN as well as their respective predecessors demonstrates that pathways in the development of regional organizations depend on how actors connect these primary and secondary institutional levels in the discourse about regional governance. The analysis illustrates that the normative context of regional organization-building is often malleable and ambiguous, and that decision-makers use different strategies to translate this dynamic framework into concrete rules and procedures.

CONTENTS

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ABBREVIATIONS

ACP countries	African, Caribbean and Pacific Group of States
AFTA	ASEAN Free Trade Area
AMM	ASEAN Ministerial Meeting
ARF	ASEAN Regional Forum
ARO	Asian Relations Organization
ASA	Association of Southeast Asia
ASEAN	Association of Southeast Asian Nations
ASEAN-ISIS	ASEAN Institute of Strategic and International Studies
CEEC	Central and Eastern European Countries
CFSP	Common Foreign and Security Policy
CLMV	Cambodia, Laos, Myanmar and Vietnam
EC	European Communities
ECJ	Court of Justice of the European Union
ECSC	European Coal and Steel Community
EDC	European Defence Community
EEC	European Economic Community
ENP	European Neighbourhood Policy
EP	European Parliament
EPC	European Political Cooperation
EPG	Eminent Persons Group
EU	European Union
Euratom	European Atomic Energy Community
G8	Group of Eight
G20	Group of Twenty
IR	International Relations
ISEAS	Institute of Southeast Asian Studies
Maphilindo	Malaysia, the Philippines and Indonesia (Greater Malayan Federation)
MEP	Member of European Parliament
Mercosur	Mercado Común del Sur
NAFTA	North American Free Trade Agreement
NATO	North Atlantic Treaty Organization
NIS	Newly Independent States
OAS	Organization of American States
OEEC	Organisation for European Economic Co-Operation
OSCE	Organization for Security and Co-operation in Europe
PHARE	Poland and Hungary: Aid for Restructuring of the Economies
PMC	Post-Ministerial Conferences
R2P	Responsibility to Protect
SEAFET	Southeast Asian Friendship and Economic Treaty
SEATO	Southeast Asian Treaty Organization
SLORC	State Law and Order Restoration Council
TAC	Treaty of Amity and Cooperation in Southeast Asia
WTO	World Trade Organization
ZOPFAN	Zone of Peace, Freedom and Neutrality

ACKNOWLEDGEMENTS

Tübingen, March 2016

1   Introduction: organizations in regional international societies

We live in a world of regions (Katzenstein 2005). Since at least the end of the Second World War, regionalism has spread across the globe in several waves (Mansfield et al. 1999; Söderbaum 2016; Väyrynen 2003). Wars, power shifts, economic globalization and the spread of new ideas about political order have led to the emergence and growth of trans- and supranational spaces as well as a demand for new forms of governance beyond the nation-state (Buzan and Wæver 2010; Lake and Morgan 1997; Telò 2014a; Wunderlich 2007: 45–47). One of the most far-reaching effects of these developments was the proliferation of regional organizations. As existing organizations have grown in membership and new ones have been created, there is now hardly a state in the world that is not a member of at least one regional organization. Besides this increase in sheer numbers and geographic coverage, however, regional organizations have also taken on new tasks and assumed more authority in relation to its member states (Acharya 2014: 84–93; Börzel and Risse 2016).

1.1   The research question: differences between regional organizations

Two parts of the world have been particularly successful in widening and deepening the institutionalization of their relations, notwithstanding various and sundry crises: post-Cold War Europe saw the successful transformation of the European Communities (EC) into the European Union (EU), the expansion of EU membership to the East and South, and the reform of its institutions by means of the Treaty of Lisbon. The Association of Southeast Asian Nations (ASEAN) gradually incorporated Vietnam, Laos, Burma and Cambodia and strengthened its institutional foundations with the ASEAN Charter of 2007. These general developments in the institutional set-up of the two regional organizations are supplemented by the progressive establishment and refinement of governance mechanisms in various policy fields. Both the EU and ASEAN have made progress in economic and financial integration, and both have strengthened their respective human rights regimes – the EU by signing a Charter of Fundamental Rights, ASEAN by calling into being the ASEAN Intergovernmental Commission on Human Rights and adopting the ASEAN Human Rights Declaration.

Despite such common dynamics, important differences between regional organizations persist and no single institutional template, EU-style or otherwise, is emerging. Instead, one finds that while different regions have undergone similar macro-

processes, such as decolonization, regionalization and enlargement, they have developed unique institutional rules and procedures which prove resistant to assimilation (Higgott 2014). For instance, while the ASEAN member states have been influenced by the EU when reforming their own regional organization (Jetschke 2009), they continue to be highly sceptical about institutional arrangements that centralize decision-making and compromise state sovereignty (Pettman 2010; Yeo 2010). Against the background of this 'double finding' (Börzel and van Hüllen 2015c: 10) of limited convergence and persistent difference in the institutional features and policies of regional organizations, the research question of this study reads as follows: *how can we understand the development of divergent rules and procedures in regional organizations?*

1.2   Core arguments, goals and case selection

Questions like the above are a main concern of Comparative Regionalism, a relatively new sub-field of the International Relations (IR) discipline. Authors working within the paradigm have produced some important arguments to explain the persistent differences between regional organizations. They point to power-political factors such as the hegemonial influence of major states, domestic factors such as the preference structures of ruling coalitions, functional demands such as economic interdependence, historical factors such as institutional inertia, as well as the localized adaption of diffusing organizational models and the emergence of distinct regional identities (see Section 2.2).

All of these approaches have their merits. However, Comparative Regionalism in its current form has major weaknesses when it comes to accounting for fundamental regional norms and how they put regional organizations on specific institutional pathways. While some Comparative Regionalism authors have pointed out that regional organizations are embedded in a deeper layer of social structure (Acharya and Johnston 2007a: 17–19; Katzenstein 2005; Wunderlich 2007), they remain unclear about how exactly this translates into specific institutional features of regional organizations and what happens in instances of change.

In order to fill this gap, this thesis develops the argument that *regional organizations display persistent differences because their rules and procedures – what the English School of IR calls 'secondary institutions' – are developed in regionally*

specific contexts of fundamental norms about international conduct, or 'primary institutions'. These contexts are malleable and subject to change, but they set certain limits to the shape regional secondary institutions can take. The argument is based on the assumption that actors talk about regional governance on two levels of abstraction. Thus, when engaging in arguments about the creation or reform of regional organizations, they simultaneously reshape the normative context of institution-building. By means of a historical comparison of decolonization, regionalization and enlargement processes in the regional organizations of Europe and Southeast Asia, I demonstrate that the trajectories of the secondary institutions of regional organizations depend on how actors connect them to regional primary institutions in the discourse about regional governance.

The study pursues two main goals. The first is to develop an analytical framework to examine the historical pathways of the secondary institutions of regional organizations in the deeper social context of regional primary institutions. I do so by drawing on concepts and arguments from the English School of IR and social constructivism. I argue that the English School offers an alternative and innovative approach towards regional organizations because its theoretical framework focuses on the social deep structure of international relations and takes historical dynamics into account. On such a basis, it promises a deeper understanding of

- the mechanisms through which regional organizations are reproduced and the path dependencies that result from these processes;

- how particular normative contexts shape the rules and procedures of different regional organizations;

- how normative change can result in change in the organizations of a region;

- and how this normative context is in turn influenced by changes in regional organizations.

The second research goal is to apply this theoretical apparatus in a comparative research design, which examines processes of change in the secondary institutions of the main regional organizations of Europe and Southeast Asia, including the European Communities and the EU on the one side, and ASEAN as well as its predecessors on the

other side. I specifically focus on three episodes of change that are characteristic of the historical development of contemporary regionalism: decolonization, regionalization and enlargement. Such cross-regional comparison can illuminate that, rather than following a general logic, the pathways of the secondary institutions of regional organizations unfold in historically contingent ways, depending on the primary institutional context and how regional actors translate it into concrete organizational forms.

There are two main reasons for focusing the inquiry on Europe and Southeast Asia. First, while the relation between the EU and ASEAN is sometimes described as an exemplary instance of inter-regional diffusion (Börzel and Risse 2009; Jetschke 2010), meaning that ASEAN copies institutional features and policies from the EU, it has also repeatedly been noted that ASEAN decision-makers do not adopt EU-style institutions wholeheartedly (Jetschke and Rüland 2009; Wong 2012). To the contrary, many observers argue that ASEAN's organizational development follows a unique model, the 'ASEAN Way', which consists of more informal and consensual forms of cooperation than in the EU case (Acharya 1997: 320; Haacke 2009; Higgott 2014; Narine 2002: 31–33). In light of these empirical findings, explaining the persistent divergence between European and Southeast Asian models of regional organization becomes particularly salient (Acharya and Johnston 2007a: 11–12).

Second, to legitimize their respective mode of regional cooperation, actors in both regions have repeatedly invoked the existence of regional identities, values and norms (Murray 2010: 311, 2015: 22–23). The notion of a European identity, based on a common cultural heritage and a particular commitment to individual rights, has been used to justify the launching, widening and deepening of the integration process in Europe (Wæver 2005). For example, Schimmelfennig (2005a) argues that the admission or rejection of membership candidates in the EU enlargement process was influenced by the common, liberal-democratic values of EU member states. In the same vein, the ASEAN Way is a term coined to refer to a mode of interstate cooperation informed by distinct regional norms (Acharya 1997: 320; Katzenstein 2005: 78–81). This suggests that choices in rules and procedures are linked to a context of regionally specific social 'deep structure', and that the relation between the two levels needs to be analyzed if we want to better understand the origins of the institutional architectures.

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1.3   Structure of the study

The thesis consists of three main parts, which are each subdivided into several chapters. Part I relates to the first research goal stated above, as it fleshes out the theoretical and methodological framework for the comparison of regional organizations. Chapter 2 reviews the Comparative Regionalism literature with a particular focus on how it explains differences between regional organizations. I argue that existing scholarship has provided valuable insights but fails to acknowledge that regional organizations have developed over time in a broader, regionally specific context of understandings about the rightful conduct of international relations. Considering this shortcoming, I suggest that the English School of IR can provide a more historically and sociologically informed picture of regional institutional configurations.

Chapter 3 builds on this idea by developing a theoretical model of how change and stability in regional organizations are embedded in a dynamic normative context. The framework is based on the English School's distinction between primary institutions – the general principles and norms of an international society – and secondary institutions – the rules and procedures of international organizations, regimes and networks. Engaging this conceptual apparatus with constructivist and institutionalist ideas, I argue that primary and secondary institutions are the result of distinct institutionalization practices of international actors. As these practices are in turn constituted by primary and secondary institutions, the resulting model is two-layered and incorporates structurationist ideas about the mutual constitution of agency and structure: primary institutions, such as understandings about sovereignty and territoriality, form a constitutive context for the institutionalization of secondary institutions, such as regional organizations, and *vice versa*. These linkages render the institutional configuration of a regional international society relatively stable against discursive challenges. However, change is always possible if oppositional actors manage to mobilize pressure on established institutions and disturb the reproductive mechanisms of institutionalization and constitution.

The methodology chapter (4) then discusses how this model can be applied to study continuity and change in regional governance structures. I develop a research design in which the trajectory of institutional configurations is explained by examining the constitutive mechanisms and discursive processes surrounding their reproduction.

The main method employed is discourse tracing, which is a variant of discourse analysis that emphasizes the chronological ordering of discursive processes (LeGreco and Tracy 2009).

Part II of the thesis then puts the theoretical and methodological considerations into practice in pursuit of the second research goal, the empirical application of the framework to the EU, ASEAN and their respective predecessors. In three chapters, it compares episodes of change in the secondary institutions of regional organizations in Europe and Southeast Asia, taking into account how the accompanying discourses were shaped by, and in turn shaped, changes in the regional primary institutions. Chapter 5 asks how the building of regional organizations was connected to the demise of colonial primary institutions after the Second World War. In Chapter 6, I use the example of legal integration to show how actors (re-)constructed existing regional institutions to promote regionalization. Chapter 7 on enlargement illuminates that the redefinition of the two regions' boundaries was accompanied by the parallel construction of specific 'standards of membership', i.e. ideas about the eligibility of accession candidates.

Finally, Part III summarizes the findings of the empirical comparison (Chapter 8), reviews the theoretical contribution and discusses practical implications (Chapter 9). The comparative framework shows that, while certain general dynamics can be found in different regional organizations, how they play out is subject to the specific regional normative context, as well as the agency of regional actors. The development of regional organizations is largely driven by path-dependent dynamics, which provide a counterbalance to homogenizing forces such as diffusion. The study thus provides insights that go beyond existing Comparative Regionalism, especially by inquiring into the normative conditions for institutional stability and change, and emphasizing the role of normative ambiguity.

PART I: CHANGING NORMS AND REGIONAL ORGANIZATIONS – A FRAMEWORK FOR ANALYSIS

2   The state of research

This chapter provides an overview of the literature on Comparative Regionalism and how it accounts for differences in regional organizations. I briefly summarize how a comparative research agenda emerged out of the rich tradition of Regionalism in the academic discipline of IR before reviewing different perspectives on variance in the shape of regional organizations in the recent scholarly debates. Based on this overview, I carve out two main shortcomings of existing accounts: first, their neglect of historical factors, and second, the unclear status of norms. The chapter concludes by presenting the analytical lens of the English School as a viable perspective for overcoming these weaknesses.

2.1   The genesis of Comparative Regionalism

Regional organizations have early on been a subject of interest in IR, and a distinct sub-field of Regionalism began to form even before the Second World War. Subsequently, the development of Regionalist scholarship unfolded in waves that roughly coincided with the waxing and waning of regionalism as an empirical phenomenon. Accordingly, researchers today distinguish between Early, Old and New Regionalism (Söderbaum 2016; Telò 2014b). Despite this longstanding tradition, differences between regional organizations received little attention for a long time. Old Regionalism emerged in response to the founding of the European Communities in the 1950s. Although often formulated in general terms that were supposed to be applicable to cases beyond Europe (Nye 1970; Schmitter 1970), the theoretical concepts and assumptions of Old Regionalism – especially in its neo-functionalist variant – were usually drawn from the case of European integration and based on the belief that Europe represented a general logic of integration that could be replicated more or less straightforwardly in other regions (Haas 1958, 1961).

Contrary to these expectations, however, non-European regionalist projects mostly failed to gain traction. This, in conjunction with a stalled integration process in Europe itself, led to an intellectual crisis (Haas 1975) and the eventual demise of Old Regionalism (Breslin et al. 2002: 3; De Lombaerde et al. 2010: 733; Diez and Whitman 2002b: 1). Genuinely regionalist approaches retreated, giving way to systemic theories (Waltz 1979) and a new focus on global interdependences (Keohane 1984; Keohane and Nye 1977).

In the late 1980s, regionalism regained momentum in Europe and elsewhere, sparking renewed scholarly interest. Drawing on innovations in IR theory such as neo-liberal institutionalism and constructivism, this New Regionalism was characterized by a greater theoretical heterogeneity than its predecessor, which had been marked by the dichotomous divide between neo-functionalists and intergovernmentalists. Researchers also adopted new analytical perspectives, supplementing the 'old' focus on endogenous drivers of regionalism with an interest in exogenous factors, such as the influence of developments on the global level of international order (Söderbaum 2003: 1, 12). In this view, regionalism was interpreted as an attempt to either regulate and mitigate the effects of globalization on the nation-states (Falk 2003; Hettne 2003) or facilitate their integration into global markets (Bowles 2002; Higgott 2014). While this research was generally more attentive to the particularities of regionalism in non-Western settings and acknowledged that there is not a singular model of region-building (Hettne 2003: 24), truly comparative studies which would analyze and explain differences between regional organizations were the exception (Grieco 1997; Mattli 1999) and idiographic surveys of singular cases the rule (Hettne and Söderbaum 2002: 37).

This lacuna drew increasing criticism and calls for a new research agenda of Comparative Regionalism became more and more pronounced (Acharya 2012; Börzel 2011; Sbragia 2008; Sbragia and Söderbaum 2010: 567–658). In response to this challenge, scholars have turned towards more systematic comparison between regions (Söderbaum 2016). This does not mean that single case studies have come completely out of fashion but they are usually presented in the context of other regions within edited volumes or special issues, sometimes by using a joint broad analytical framework (Acharya and Johnston 2007b; Börzel et al. 2012).

Within this emerging sub-field, four main points of interest can be discerned. First, researchers are inquiring into the causes or drivers of regionalism in different parts of the world (Brennan and Murray 2015a; Telò 2014b). Second, they try to explain similarities and differences in the shape of regionalism, and regional organizations in particular (Acharya and Johnston 2007b; Lenz and Marks 2016). Third, they examine how regional organizations affect the politics and institutions of member states (Börzel and van Hüllen 2015a; Pevehouse 2005). And fourth, they analyze how different regions assume 'actorness' and increasingly shape the institutional forms and outcomes of global governance (Hulse 2014; Murau and Spandler 2015; Wunderlich 2012). As

the research focusing on institutional differences between regional organizations is the most relevant for the purpose of my thesis, I will focus my review of different comparative approaches on this second strand of research. However, if regionalism is conceptualized as a gradual process, the relative strength of the driving factors examined by the first strand can also be used to explain differences between high and low institutionalization of regional organizations. Such approaches are also taken into account here.

2.2 Explanatory approaches to differences between regional organizations

Generally, the theoretical pluralism of the New Regionalism has infused the emerging subfield of Comparative Regionalism. Scholars approach the subject from different angles and often combine insights from a number of different approaches. This makes it hard to systematize the scholarship into different camps. For this reason, I will highlight the main explanatory patterns found in the literature on differences between regional organizations rather than distinguish separate strands or schools. The overview focuses on empirical applications to Europe and Asia but also takes into account relevant studies of other regions.

Power-political factors

The importance of power-political factors in shaping the form of regional organizations is widely acknowledged (see already Grieco 1997). A major concern of these approaches, which are rooted in (neo-)realist thinking, is the role of major powers in shaping regionalism. Comparative studies of Europe and Asia emphasize the role of the U.S. as an external hegemonic power and its different policies in the two regions. Whereas the U.S. actively supported integration in Europe, they were more reluctant to do so in Asia and favoured the establishment of a 'hub-and-spokes' system of bilateral alliances with states like Japan, the Philippines and South Korea. This has contributed to what many see as a weakly institutionalized regionalism in Asia as opposed to the strong regional organizations in Europe (Beeson 2005; Eliassen and Árnadóttir 2014: 236; Hemmer and Katzenstein 2002; Katzenstein 2005).

The argument about U.S. hegemony also points to the global power-political context as an explanatory factor. Higgot (2014: 108) argues that if "the Cold War in Europe was centripetal, in East Asia it was centrifugal", implying that the logic of

superpower competition impacted differently on regional security politics as it spurred integration in (Western) Europe while dividing East Asia along ideological lines (see also Jetschke and Katada 2016: 231). On the other hand, regionalism may also form in resistance to hegemony, as Acharya (2012, 2014: 81–84) notes.

Others focus on the role of the intra-regional power configuration. They point out that regionalism often relies on active and willing leadership by one or several regional powers (Fawcett 2015: 46–47; Pedersen 2002). Whereas the Franco-German tandem assumed this role for the European integration process after the Second World War, Indonesia – a potential regional leader in Southeast Asia – was more reluctant to spearhead integration so as not to elicit fears of domination in its neighbours (Anwar 2006; Guérot 2006). On the other hand, if power disparities are too big, subordinate states may be unwilling to agree to far-reaching integration out of fear that inequalities would be exacerbated. Accordingly, Webber (2006) contends that an intermediate distribution of power is most conducive to regional integration, and that this condition was much more clearly fulfilled in Europe than in East Asia.

Domestic factors

Opening the black-box of the member states of regions and regional organizations was one of the main achievements of the New Regionalism (Mattli 1999; Moravcsik 1998), and one that also left a mark on some recent comparative studies. According to these approaches, domestic institutions, politics or policy preferences can explain differences in the degree of formal regional cooperation, and specific forms of regionalism may be an attempt by member states to reconcile the demands of competing interest groups, e.g. those promoting the internationalization of national economies and those demanding protectionism (Jetschke and Katada 2016). Solingen (2008) analyzes the preferences of dominant interest groups in order to account for the emergence, design and effects of regional organizations in East Asia and the Middle East, arguing that informal arrangements are valued for their flexibility and desired especially when the long-term effects of cooperation are unclear. According to her, the low degree of formalization found in ASEAN and the ARF is a consequence of two coinciding factors: first, the export-led growth strategies of ruling coalitions in Southeast Asian states and the ensuing desire to reduce instability and uncertainty through regional cooperation; and second, the stark variance in development and domestic economic and

political institutional arrangements among the states of the region. This contrasts with a greater homogeneity in Europe (Eliassen and Árnadóttir 2014: 236–237; Katzenstein 2005: 220). Nesadurai and Khong (2007) argue that the ASEAN Way increases the external and internal regime security of Southeast Asian states because it allows national governments to pursue national security interests through regional cooperation while at the same time retaining authority over the allocation of social and political rights and economic resources.

The domestic level can also be a factor when national institutional characteristics of the member states are translated to the regional level. Duina (2006) demonstrates this with respect to legal traditions. He argues that countries with a civil law tradition are more likely to form free trade agreements with strong dispute settlement mechanisms than those hosting common law institutions. In a similar fashion, Acharya (2014: 95–96) and Katzenstein (2005: 220–223) both contrast the economic and political consolidation of the European nation-states and their strong Weberian legal traditions of the 'rule of law' with a political and legal culture informed by the notion of 'rule by law' and high degree of regime diversity of Asian states, which need to be accommodated in specific regional organizational forms.

Functional demands

Building on liberal institutionalist ideas (Keohane 1984), scholars of Comparative Regionalism have pointed out that regional organizations are built to respond to specific cooperation problems. Consequently, how they look is informed by the functional demands that emanate from the specific problem at hand (Goltermann et al. 2012: 6). Some scholars claim that regional solutions are especially sought after if global organizations fail to provide the collective goods they were meant to deliver. For example, the relatively robust provisions for collective security in African regional organizations can be seen as a response to the deficiencies of the UN system (Herz 2014). Crises are important in this view because they make apparent the deficiencies of both regional and global institutions and spur organizational reform. The Asian financial crisis made apparent the potentially exacerbating effects of slow or counterproductive responses by global financial institutions such as the IMF, while Europe has more recently experienced its own financial crisis and pressure towards deepening integration in the economic realm (Gillespie 2015).

Monitoring and compliance mechanisms will be created when the risk of defection by members of the regional organization is high (Acharya and Johnston 2007a: 16–17). Kanthak (2012) argues that the differences between ASEAN's flexible set-up and the legalistic 'institutional design' of the North American Free Trade Agreement (NAFTA) emanate from the different 'vulnerabilities' of the member states: whereas ASEAN members have faced uncertainty about external factors, NAFTA states have been more concerned with internal uncertainty. However, Korte (2012) takes a different view, arguing that functionalist accounts may well apply to NAFTA but cannot explain why ASEAN set up dispute settlement mechanisms.

This ties in with a frequently observed puzzle functionalist arguments face: while high levels of economic interdependence are supposed to create a strong demand for corresponding regional arrangements, there are also cases of arguably strong regional organizations despite low intra-regional economic activity (Lenz and Marks 2016: 518–519) and arguably weak regional organizations despite a high degree of interdependence, as in Asia (Jetschke and Katada 2016). In sum, researchers have convincingly argued that regional organizations are supposed to fulfil certain functions, yet it seems that some functionalist arguments work well in some cases but less so in others.

Institutional history

While the functional argument declares that regionalism is supposed to provide effective and efficient solutions to specific problems, a number of authors have stressed that regional organizations cannot simply be created and adapted perfectly at all times. Taking inspiration from historical institutionalism and its critique of European integration theory (Pierson 1998), they point out that regional organizations may develop a 'life of their own' (Moxon-Browne 2015: 69). Institutional intertia and increasing returns for regional actors benefitting from a certain institutional set-up may constrain the opportunities for change (Acharya and Johnston 2007a: 21). It is for this reason, Nesadurai and Khong (2007) argue, that institutional idiosyncrasies like the ASEAN Way may persist despite perceived deficiencies and widespread calls for reform.

However, not all researchers concerned with institutional history emphasize stasis. Some argue that initial organization-building may in fact spur further integration.

While this has already been noted by classical integration theory and its notion of spillover from one area of cooperation to another (see more recently Langenhove 2011: 97–126), recent scholarship has focused on the agency of organizational bodies with a certain degree of independence, such as the Committees of Permanent Representatives of the EU and ASEAN. While such organizational agents may act as promoters of integration, the extent to which they will be successful depends on regionally specific background conditions, such as functional demands and regional leadership. This may explain differences between the EU and ASEAN (Moxon-Browne 2015).

Diffusion

Apart from such endogenous institutional dynamics, regional organizations can also be influenced by other organizations. The idea of inter-organizational interdependence lies at the heart of the diffusion literature, which traces how norms, organizational characteristics and policies travel across regional spaces (Jetschke and Lenz 2013). Diffusion can happen through various mechanisms such as coercion, the alteration of preference structures, socialization, persuasion, emulation and mimicry (Börzel and Risse 2012). In many of these studies, the EU is seen as the source of such diffusion, which seeks to export its model of regional integration through active promotion or is seen as a model or reference point for other regions, including ASEAN (Alter 2012; Börzel and Risse 2009; De Lombaerde and Schulz 2009b; Jetschke and Murray 2011).

Diffusion does not only occur through such interregional channels but can also be the result of developments on the global level of international governance. According to the contributors to Börzel and Van Hüllen's (2015a) edited volume on 'Governance Transfer by Regional Organizations', regional actors increasingly write and apply a 'global script', which prescribes certain common standards and instruments of good governance (see also Jupille et al. 2013). Alter (2012) argues that differences between regional dispute settlement mechanisms exist because some regions emulate the Court of Justice of the European Union (ECJ) while others adopt rules and procedures modelled on the World Trade Organization (WTO).

While such diffusion processes tend to spread certain ideas about best practices and institutional models, it is obvious that they do not result in isomorphism between

regional organizations (Acharya 2014: 99–100). To explain the persistent differences, researchers have argued that regional actors selectively draw on those features from global scripts that fit their regional circumstances (Börzel and van Hüllen 2015b) and 'localize' them according to regional predispositions (Acharya 2009; Alter 2012; Risse 2016) – although a detailed account of how such local conditions come into being in the first place is usually missing. Diffusion is also imperfect because the EU's effectiveness in promoting itself as a model is limited (De Lombaerde and Schulz 2009a: 288; Lenz 2013) or because regional actors copy organizational forms but do not adopt the corresponding practices. For example, Jetschke (2009; see also Jones and Smith 2007) argues that ASEAN actors have mimicked some of the EU's organizational features in order to gain international legitimacy but in fact remain dedicated to a more network-style form of regionalism.

Ideational factors

A lot of studies which put their focus on one or several of the above factors also use ideational factors to supplement and specify their arguments. For example, the policies of hegemonic powers and their leaders may be influenced by feelings of kinship or foreignness, which explains the different attitude of the U.S. to European and Asian regionalism (Hemmer and Katzenstein 2002). Adopting a different perspective, Higgott (2014) argues that the Asian Financial Crisis has increased the role of the U.S. as an Other in Asian regionalism and thus buttressed opposition to its hegemonial status, fostering the emergence of a collective East Asian identity. Authors also acknowledge that the willingness or ability of a regional power to exert leadership in a regional organization may be constrained by a lack of interstate trust (Anwar 2006; Murray 2015). Diffusion may be driven by the concern of regional organizations to appear as legitimate actors on the international stage (Jetschke 2009; Korte 2012). Finally, many studies have pointed out that divergence in the domestic normative frames or cultural systems of regional states may be an obstacle to building strong regional organizations, which is supposed to account for the difference between Europe's legalistic integration and Asia's more informal regionalism (Acharya 2014: 94–95; Acharya and Johnston 2007a: 17–19; Brennan and Murray 2015b; Eliassen and Árnadóttir 2014; Solingen 2008).

That being said, work that systematically examines and compares the impact of ideational factors on different regional organizations is still rare. Those studies that do so often focus on collective identity, asking either how regional identities and ideas support regional organizations or, reversing the causal logic, how regional organizations contribute to the building of supra-national identities (Checkel 2016). Other studies treat historical narratives as drivers or impediments to regional cooperation. Fawcett (2015; see also Mayer 2015), for example, contrasts the common historical narrative in Europe with the lack of 'agreed history' in Asia to account for the different degrees of institutionalization in the two regions.

By contrast, hardly any work is concerned with the basic understandings and norms about regional conduct which are shared among the main regional actors, and how they may impact on the shape of regional organizations. Two exceptions can be highlighted: first, the edited volume by Börzel and van Hüllen (2015a) on governance transfer contextualizes the increasing adoption and promotion of good governance standards by regional organizations in the global trend towards an endorsement of norms regarding human rights, democracy and anti-corruption. Second, Domínguez (2007) explains stability and change in the regional organizations of Latin America with longstanding 'international rules', such as the honouring of inherited colonial boundaries, non-intervention and active dispute mediation. He argues that the coincidence of economic depression, the collapse of authoritarian regimes and the end of the Cold War constituted a critical juncture, which resulted in the replacement of the notion of non-intervention with a shared obligation to defend constitutional democracy. Subsequently, norms and rules for the defence of democratic regimes were incorporated in Latin American regional organizations. Although he does not explicitly make this claim, Domínguez clearly implies that the development of regionally specific norms can explain particularities of and differences between regional organizations across the globe. In this line of thinking, regional organizations look different because they are embedded in distinct normative contexts influencing aspects such as their intrusiveness.

2.3   Shortcomings of existing approaches

Generally speaking, the literature discussed above has advanced the study of regionalism. Through its theoretical pluralism, it offers a number of explanations for differences between regional organizations – although various non-mainstream

approaches remain weakly represented – and its comparative perspective has made the study of regional cooperation and integration less Euro-centric. This study builds upon central insights and arguments of Comparative Regionalism: specifically, it takes into account that regional organizations are created by state representatives who can draw on differential power resources in order to gear them towards forms that are consistent with their preferences, as rationalist approaches contend. I also acknowledge the observation by the institutionalist and diffusion literature that, despite the fact that institutions are supposed to fulfil certain functions, they often seem to be less than optimal solutions to given problems and develop a 'life of their own'. This being said, existing approaches suffer from some major deficits, two of which are addressed in this section: the unclear conceptualization of path dependence and the dilatory treatment of regional norms.

2.3.1 Unclear conceptualization of history

First, Comparative Regionalism is largely unconscious of history as an autonomous factor, and is therefore badly equipped to account for organizational pathways. Regional organizations and their shapes are mostly conceived to be a function of *present* environmental conditions, such as a specific distribution of power, preferences, domestic coalitions and the like. If these conditions change, so will – virtually unmediated – the organizational architecture of a region. *Vice versa*, if institutions persist, it is because the exogenous variables remain constant.

The tendency to rely on such 'synchronic' explanatory approaches has been criticized in the discipline of IR as a whole (Buzan and Little 2000: 19–20; Lawson 2006), but also with regard to Regionalism as a sub-discipline (Hurrell 2007b: 134). Some of the 'puzzles' of the rationalist literature on regional organizations, such as the absence or weakness of regional organizations in areas of high economic or security interdependence like East Asia (Börzel 2016: 50; Kahler 2000), can be attributed at least in part to the overemphasis on synchronic explanation. Power-political, domestic, and functional factors may very well have an impact on the development of regional organizations but the latter do not, as posited, adapt directly to change in the former.

As noted above, some Comparative Regionalists do adopt a historical perspective when accounting for differences between regional organizations. However, in doing so, they mostly content themselves with tracking their development over time (Beeson 2005). By contrast, perspectives that see regional organizations as being

subject to temporal dynamics, in the sense that institutional choices inform options for continuity and change in the future, are less wide-spread. As a consequence, their efforts to specify the historical conditions for differences between regional organizations remain unsatisfactory.

While some Regionalist scholars adopt the concept of 'path dependence' to factor in the role of history, they use it in a very loose and generic way which contrasts with the original theoretical sophistication found in historical institutionalism, where the term was originally coined (Pierson 2004; see also Chapter 3 in this thesis). First, unlike implied in some Comparative Regionalist appropriations, path dependence does not cause institutional stasis but in fact leads to partial stability *as well as conditional change*. Missing this point, some authors adopting historical institutionalist ideas overemphasize similarities between old and new institutions – e.g. ASEAN and the ARF (Acharya 1997, 2001: 165–193; Nesadurai and Khong 2007) – while neglecting evidence of change.

Second, historical institutionalist writers do not treat path dependence as a causal force *eo ipso*, as some Comparative Regionalists seem to do, but as a heuristic concept which helps to identify the social mechanisms causing institutional stability and change. Only an examination of the processes through which regional organizations are reproduced and the events leading to the adoption of certain institutional pathways at critical junctures provide the concept of path dependence with true explanatory power. By contrast, Comparative Regionalism has not been very attentive to the social mechanisms leading to the reproduction of ideational phenomena (Checkel 2016: 574). Consequentially, it interprets path dependence as if it were an inherent cause of stability. This does not amount to much more than the claim that institutions, once set up, are hard to change (Nesadurai and Khong 2007).

Such conceptualizations are particularly unsatisfactory in their accounts of institutional change at critical junctures: if path dependence leads to stability almost all of the time, why does change suddenly become possible at certain moments in time, as in the 1980s in Latin America (Domínguez 2007)? If path dependence means that, usually, the possibilities for institutional change are relatively restricted, it is only plausible to pay particular attention to the contestation between different institutional models in such moments where the restraints on institutional adaption are temporarily

lifted. However, to date, moments of change and instances of contestation do not receive adequate attention in historically informed approaches to differences in regional organizations. Accordingly, the way in which actors set regional organizations onto specific pathways in these moments and, by consequence, reproduce differences between regional organizations is treated negligently.

2.3.2   Unclear status of norms

The second point of critique concerns the treatment of norms. As pointed out, many studies take into account the convergence or divergence of member states' *domestic* norms as an explanation for differences between regional organizations. By contrast, only a few studies connect the shape of regional organizations to regionally specific understandings about international conduct. These approaches rightly point to the social embeddedness of regional organizations in a 'deeper' layer of social structure, and indicate that regionally specific normative frameworks can help explain differences. In this, they go beyond those approaches which ignore norms or treat them as mere epiphenomena "overlaid on extant realities" (Solingen 2008: 271). Yet, they have so far offered unconvincing accounts of how exactly these two layers of social structure are connected. For example, Nesadurai and Khong (2007; see also Acharya and Johnston 2007a: 18) emphasize the persistent commitment to non-interference in connection with the longevity of the ASEAN Way, but it remains unclear in their account whether norms are part of ASEAN's institutional features or variable explaining these features.

Most accounts seem to assume that regional organizations are somehow 'embedded' in a normative context. Embeddedness essentially implies that regional organizations share a certain structural logic with the fundamental norms prevalent in international society. For example, if the main actors of a region accept human rights norms, which grant the individual a certain legal status, then so will the concrete legal mechanisms of the regional organizations. This is problematic from a methodological point of view: unless the researcher can specify the causal processes through which norms and organizations are connected, the argument remains quite generic and borders on the tautological: if organizational features are an epiphenomenon or an expression of the underlying normative structure, then the latter cannot be used to *explain* the former. Again, I agree with Checkel (2016: 574) that there is an urgent need to study the causal mechanisms that connect the different layers of regional social reality.

Apart from this methodological issue, the embeddedness argument only works well if the normative context is treated as given. It is inept to account for cases where the social deep structure of a region is ambiguous in the sense that norms are contested. A look at Börzel and Van Hüllen's treatment of norms illustrates this point. The researchers' arguments about governance transfer presuppose a basic global consensus on human rights, democracy and anti-corruption, which then leads to the adoption of certain institutional models in regional organizations (Börzel and van Hüllen 2015c). However, they do not make much of an effort to provide evidence that such a consensus actually exists. What is more, although the authors concede that the eventual organizational instruments will be localized to fit regional contexts, they do not inquire what role regionally specific norms or interpretations which deviate from the purported global consensus play in such processes of localization. Thus, they neglect a potentially important factor in the explanation of persisting differences between the organizational forms of governance transfer across regions. What are the consequences for the creation and maintenance of regional governance transfer mechanisms if, for example, actors from non-Western regions reject liberal notions of democracy? Of course, norms may also be contested within regions, for example when some actors aspire to promote human rights as an international norm while others remain critical towards it. However, normative contestation has not been a major concern of comparative regionalist studies so far (see also Domínguez 2007).

Ambiguity may also come in the form of tensions between certain norms prevalent in a region. Thus, even if there was a global consensus over the meaning of the three norms of human rights, democracy and anti-corruption, the regional governance transfer mechanisms may turn out to be more or less intrusive because they may conflict with other regionally specific norms, such as specific ideas about non-interference and sovereignty. In Southeast Asia, for example, the recent years have seen an increasing recognition of human rights principles, which implies the acknowledgement of individual rights *vis-à-vis* the states of the region. At the same time, however, government representatives insist on undivided state sovereignty and non-interference in internal affairs, which has lead to the adoption of a relatively weak human rights mechanism (Aguirre and Pietropaoli 2012).

The more contestation and normative tensions are present, the more the embeddedness argument – that regional organizations reflect the structural logic of the

underlying normative framework – runs into difficulties because it cannot explain which aspects of the competing normative expectations are translated into organizational features and which are not. To do so, it is necessary to take a close look at the processes through which such ambiguities are negotiated between the involved regional actors.

An additional problem emanating from the unspecific treatment of norms is that it is largely uni-directional: it acknowledges that norms influence the shape of regional organizations but does not take into account that regional organizations may in turn also have an effect on the normative framework of the region. For example, the EC was created in the context of a changed understanding of sovereignty. At the same time, however, the EC provided an organizational framework through which further change in the deep structure could be promoted – leading, for example, to the transformation of the norms of conventional international law. Such two-way dynamics have a profound influence on institutional pathways and can therefore exacerbate differences between regional organizations. Without an account of the mechanisms connecting the two layers of social reality, our understanding of processes of stability and change in regional organizations remains incomplete.

2.4   English School theory as an alternative perspective on regions

The problems mentioned in the above section by no means derive logically from the Regionalist perspective as such. Neither do I argue that existing approaches are wrong. I agree with De Lombaerde et al. (2010: 741) when they assess that "most of the theories [of Comparative Regionalism] are not 'competing' in the sense that they try to 'explain' identical phenomena in different ways, but rather they tend to focus on different (related) aspects of the phenomena we are interested in." My intention is merely to emphasize that, due to either oversight or a lack of theoretical precision, current scholarship misses out on specific historical and normative aspects of regionalism that could provide additional explanations for differences between regional organizations. An approach which pays more systematic attention to these factors may also help to explain some of the open questions of the Comparative Regionalism literature, such as why functionalist explanations seem to work well in some cases but less so in others, or why and according to which prior circumstances regional actors chose to 'localize' diffusing norms.

In this sense, the presentation of the English School approach following in this section should not be seen as a rejection of existing Comparative Regionalism literature, but rather as an opening-up of a theoretical pathway which supplements the work that has been done so far in Regionalism studies, and which can answer questions other researchers have left unanswered. To clarify this argument, the following section outlines the main assumptions of the English School as a strand of IR theory. Based on this, I will highlight the potential of the approach to enrich Comparative Regionalism by sharpening its historical focus and paying attention to the role of international norms.

2.4.1   Location within International Relations theory

In the broadest sense, the English School deals with the social construction of international relations and the role of international institutions in this process. It developed in the course of the 1960s out of a double scepticism with regard to the dominant scholarship at the time.[1] First, English School authors rejected the positivist orthodoxy of mainstream IR. This aspect will be discussed in more detail in Section 4.1. Second, they questioned realist – and, later, neo-realist – accounts of international relations as a more or less mechanical world where rational states as the primary actors behave in ways that are determined either by their nature or by the anarchical structure of the system. English School representatives made an effort to show that even if the (neo-)realist 'system' logic partly applies and international politics are anarchical – i.e. not subject to a supreme authority –, they are nevertheless shaped to a great extent by social elements such as norms and rules which are shared by states and individuals (Bull 1966b, 1977; Manning 1962; Wight 1977a). In this, English School authors did not outright reject realist accounts of international relations but held that the realists' view of international politics was one-sided and that social elements had to be taken into account (Little 2000).

By consequence, the concept of international society forms a central part of many English School writings (Bull 1977; Bull and Watson 1984b; Butterfield and Wight 1966; Dunne 1998; Manning 1962). It points to the fact that states or their representatives consciously interpret their environment and give meaning to their actions, and that this is done in an intersubjective process (Navari 2009c: 39–41; Wight

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[1]   Comprehensive accounts of the intellectual history of the English School as a theoretical strand in IR have been given by Dunne (1998), and Suganami and Linklater (2006).

1977a: 96–97). From an international society perspective, patterns of behaviour in international relations such as the balance of power are not just the unintended result of material forces, as neo-realism would have it, but of ideas shared by the political elite about rightful conduct between states (Bull 1977; Little 2000).

A core way in which this international society materializes is through international institutions. One of the seminal works and still the main point of reference in this respect is Bull's 'The Anarchical Society' (1977), in which the author developed a catalogue of five institutions that he believed to be representative of modern Western international society and critical in maintaining its order: balance of power, international law, diplomacy, great powers and war. These institutions are different from international organizations and regimes in that they represent fundamental norms, practices and understandings located in the deep structure of international society. As such, they are not necessarily the conscious creation of rational actors. Accordingly, and in contrast to liberal institutionalist approaches, English School authors' writings on international institutions concentrates on their normative dimension and historical genesis. Questions of history, identity, legitimacy and shared values play a role that is at least as important in institutional cooperation as self-interest (Hurrell 1993). Institutions develop over time and are in fact constitutive of actors and their relations (Buzan 2004: 161–162), which means that institutional theories that ascribe logical primary to rational actors and their interests are reductionist.

It should be noted that the English School was never a homogenous movement. Some authors, including Bull, Watson and Wight were more concerned with historical and structural aspects of order in international relations, while the work of others, such as Vincent (1986), engaged more in normative theorizing, especially regarding the role of human rights as an international institution. While both strands have made invaluable contributions to the development of the discipline of IR, I mainly take inspiration from the former.

After a certain decline in importance in the 1980s and 1990s, the original English School framework has been successfully revived around the turn of the Millennium by authors such as Buzan (1999; 2004), Linklater and Suganami (2006), Little (2000), Dunne (1998) and Wheeler (2000; see also Dunne and Wheeler 1999). This resurgence was in part driven by the debate between constructivist and rationalist

approaches in IR theory, because a lot of the claims made by the English School are compatible with constructivist ontology and epistemology (Bellamy 2005; Dunne 1995, 2005a: 73–74; but see Adler 2005; Reus-Smit 2009; Wæver 1998, 1999 for a more nuanced view). Buzan's influential 'From International to World Society' (2004), for example, engages intensively with the work of Wendt (1999) in order to refine English School concepts. Meanwhile, the division within the School between more normative (Dunne and Wheeler 1999; Jackson 2000; Linklater 1998; Mayall 2000; Wheeler 2000) and more analytical (Buzan 2004; Buzan and Gonzalez-Pelaez 2009; Reus-Smit 1997, 1999; Schouenborg 2013) works persists (Buzan 2014), although some have questioned this dichotomous depiction (Williams 2011) and suggested other systematizations (Linklater and Suganami 2006: 43; Navari 2009a: 2).[2]

2.4.2 Regionalism in English School writings

It is an intuitive assertion that international society has an important regional dimension. Against this background, it is consequential that regional international societies have become a centre of attention in the more recent English School writings. However, despite the originally more globalist orientation of its classical representatives, regions have in fact figured in the writings of the School from the beginning (Stivachtis 2014). Three main figurations of regionalist ideas can be detected.

First, on a basic level, scholars have noted that, historically, international societies were often regional phenomena. An underlying argument of early works was that international society presupposed a certain level of cultural affinity, which was more readily found among states in geographical proximity (Dore 1984). Wight's 'Systems of States' (1977b), for example, devotes a whole chapter to the geographical dimension in the evolution of the modern states-system, and he analyses a number of historical cases of regional international societies. Watson (1992) also examined geographically circumscribed societies. Buzan (1993: 344) later offered a different, more functionalist interpretation of the emergence of regional social spaces, arguing that "the logic of anarchy works more powerfully over shorter distances than longer ones", leading to a stronger need for adjacent states to develop rules of interaction.

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[2] A short critique of these various taxonomies follows in Section 3.1.

Second, English School scholars have analysed shifting boundaries. Bull and Watson's edited volume on 'The Expansion of International Society' (1984b) tells the story of a regional international society whose frontier was constantly being pushed from the narrow confines of the European continent to eventually encompass the whole globe. Scholars working from this perspective have examined the characteristics of and the reasons for the ascendance of the Western international society to global ranks (Howard 1984; Louis 1984; Watson 1984) but also critically reflected on the role of coercion in this process (Bull 1984b; Gong 1984a; Vincent 1984). The expansion narrative is also at the core of the work by Stivachtis and others (Riemer and Stivachtis 2002; Stivachtis 2002; Stivachtis and Webber 2011) on the enlargement of the contemporary European international society.

Third, the regional dimension of international society has been put in relation to the global level. Seen from this point of view, the regional does not merely exist as a phase in the evolution towards a global international society, or as its source or nucleus. Instead, it is the *parallel* existence of distinct global and sub-global structures that becomes the centre of attention. The culturalistic argument sometimes reappears in this context. Wight (1977b: 117–118; see also Watson 1992: 256–260, 271), for example, interpreted international society as consisting of two concentric circles, a European core bound by the cultural unity of Christianity and a universal society constituted by the moral unity of humankind.

The analysis of the differentiation of international society into levels and regions is a particularly common feature of more recent English School scholarship. This new research agenda is producing an ever-growing body of studies of regional international societies and their specific characteristics (Buzan and Gonzalez-Pelaez 2009; Buzan and Zhang 2014; Kacowicz 2005; Karmazin et al. 2014; Narine 2006; Pourchot and Stivachtis 2014; Schouenborg 2013). Some authors have taken up Wight's idea of regional cores with a 'thicker' set of shared institutions (Buzan 2004; Hurrell 2007b; Stivachtis 2014). For example, Diez and others (Diez et al. 2011; Diez and Whitman 2002a; Riemer and Stivachtis 2002: 21–22) argue that the European international society fundamentally transcends the classical Bullian international society surrounding it, albeit without subscribing to Wight's culturalistic assumptions.

2.4.3   Potential contribution to Comparative Regionalism

So far, English School studies of regional phenomena are almost entirely idiographic single-case studies, but researchers have recently started to engage in cross-regional comparison (Costa Buranelli 2015a; Danner and Terradas 2014). This suggests that the English School could assume a place of its own at the pluralistic family table of Comparative Regionalism approaches. This would be a welcome development, as it might help to fill in the blind spots of the existing Regionalist literature identified above.

First, it can help *sharpen the historical focus* of Comparative Regionalism, as most English School studies have a historiographic orientation (Bain 2009; Bull 1966a; Buzan and Little 2000: 30). The main motivating factor for this approach, the idea that the past is instructive for understanding the present, is also underlying the call for more historically informed perspectives in Comparative Regionalism (Fawcett 2015). The English School reconstructs how ideas about international conduct and international institutions developed over time (Navari 2009a). The objective is not primarily to show that international relations unfold according to general laws but to carve out its contingent, idiosyncratic nature (Bain 2009: 160–161). This conforms well with the purpose of this study, which is to enrich Comparative Regionalism by examining the historical ideational context within which different regional organizations develop. One of the ways in which Comparative Regionalism can benefit in this respect is methodological: historiographic methods of analysis, such as the study of historical documents and archival research, are well-developed tools in the English School (Little 2009; Navari 2009a: 12), whereas they are weakly trained in conventional Comparative Regionalism.

Second, the English School *acknowledges the co-existence of international organizations and a deep structure of international norms*. In 'From International to World Society', Buzan (2004: 166–167; 181–182; see also 2014: 16–17) offers a basic analytical framework to account for this two-level institutional structure by distinguishing between primary and secondary institutions. The former are the fundamental layers of international society, including general principles such as sovereignty and conventions such as multilateralism or great power management. These are basically Bull's classical institutions of international society. The latter include

international organizations and regimes. Analytically, the distinction hinges on the type of genesis, or institutionalization: while primary institutions can evolve independently of any purposive effort of international actors, secondary institutions are consciously created.

Applied to a regional context, these ideas hold the potential to clarify the role of international norms in the reproduction of different rules and procedures of regional organizations: regional secondary institutions are thus consciously created by regional actors in a regionally specific social context made up by primary institutions, which can emanate from more generic and less purposeful forms of interaction. This conceptualization, which I develop more fully in Chapter 3, goes beyond the simplistic assumption of 'embeddedness' prevalent in Comparative Regionalism in that it allows the researcher to specify the social mechanisms that connect the development of regional organizations to regionally specific norms. It enables him or her to examine processes of contestation as well as the consequences of normative tensions and to overcome the uni-directional focus of most Comparative Regionalism studies.

A third advantage is that, in its study of primary institutions, the English School *emphasizes that the normative deep structure of international societies must not necessarily be consistent. Instead, institutional ambiguity can be present in the form of tensions or contestation.* Tensions in international society are a recurring theme in many of its core works – be it between general principles, such as 'pluralism' and 'solidarism' (Bull 1966c), 'international' and 'world society' (Linklater 1998) or order and justice (Bull 1977), or between the contents of specific primary institutions, such as sovereignty and human rights or humanitarian intervention (Vincent 1986; Wheeler 2000).[3]

Such tensions can be sources of friction and conflict but also drivers of change (Buzan 2004: 250–251). For example, Mayall (1990) analyzes how the emergence of nationalism as a primary institution created tensions with established ideas of international society, with the effect that institutions such as war, territoriality and

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[3] The pluralist-solidarist distinction is a well-known analytical heuristic in English School writing (for a comprehensive discussion, see Buzan 2014: 81–167). It contrasts institutions based on mere coexistence with those implying a more far-reaching consensus on common goals. The terms of international and world society are used to distinguish between norms and institutions shared among sovereign states, on the one hand, and ideas relating to the role of non-state actors, on the other (Buzan 2014: 12–13).

sovereignty underwent transformations and new institutions, such as multilateralism, emerged. In the same vein, Knudsen (2015a) recounts the emergence of solidarist institutions such as humanitarian intervention and the way in which they affected and qualified the primary institutions of sovereignty, international law and great power management. This contrasts with Comparative Regionalism and its simplistic view of how the normative context shapes regional organizations, which does not account for inconsistencies between particular aspects of this context.

Taken together, the historical orientation, the concept of primary and secondary institutions and the acknowledgement of institutional ambiguity can help produce accounts of how regional organizations develop along divergent pathways within a specific, potentially ambiguous normative context – something that existing approaches in Comparative Regionalism have failed to produce so far. However, in order to draw on the full potential of the English School for the analysis of regionalism and regional organizations, an open question in its theoretical framework has to be addressed: despite Buzan's terminological innovation, the status of secondary institutions and their relation to the primary institutions of international society is still quite unclear in English School theorizing (Buzan 2014: 16; Knudsen 2015b). Traditionally, the English School has mainly concerned itself with 'big picture' accounts of primary institutions, seeing organizations and regimes as mere epiphenomena or as the object of regime theory. By consequence, the study of regions through an English School lens has often neglected the role of regional organizations. Buzan (2009: 43) rightly deplores that

> the division of labour [between students of primary and secondary institutions] has gone too far, with neither English School writers nor liberal institutionalists and regime theorists bothering to think about how the level of institutions that they study relates to the other.

Some regional applications of English School theory do acknowledge the role of regional organizations, e.g. the special edition of the 'Journal of European Integration' (Stivachtis and Webber 2011; see also Murden 2009). In this collection of articles, Webber (2011) notes that the exclusion of Russia by NATO has pushed the country to the margins of the European international society and discusses – albeit with strong realistic undertones – its merits in upholding the institution of great power management. Diez, Manners and Whitman (2011, see also Diez and Whitman 2002a) investigate the role of EU institutions in transforming the primary institutions of Bull's classical

Westphalian international society. Other contributions in the same special edition stress the role of organizations in socializing actors into the practices or norms and values of the European international society. In another example, Foot (2014) argues that the persistence of the primary institutions of sovereignty and nationalism in East Asia put a brake to regional cooperation, and that different interpretations of the primary institution of great power management in East Asia contributes to the coexistence of regional organizations with different security logics.[4]

However, even in these accounts, the exact role of secondary institutions remains unclear: at some points, organizations and regimes are depicted as "expressions" (Pourchot 2011) or "reflections" (Foot 2014) of the regional international society, or as "representing" it (Stivachtis and Habegger 2011). In this perspective, the primary institutions of the region are usually conceived as given and unmalleable. However, authors also indicate that secondary institutions can strengthen international society as a "socializing agency" (Pourchot 2011) or "as an institutional basis" and an "instrument for diffusion of European values" (Stivachtis and Habegger 2011). In yet another interpretation, the Organization for Security and Co-operation in Europe (OSCE) is described as constituting a "version" of the European international society (Stivachtis and Habegger 2011).

The authors thus leave open to interpretation whether such organizations should be thought of as indicators of international society, as independent variables explaining the existence or specific form of such a society, or as a causal force influencing its shape. This is problematic for three reasons: first, while all these perspectives are legitimate in principle, confounding them within a single analysis bears the danger of tautological reasoning. Regional organizations cannot at the same time be explained by and used as an empirical marker of primary institutions.

Second, clarifying the relationship is necessary in order to understand how change in primary institutions may affect secondary institutions and *vice versa*. Historically, primary institutions have not been static but subject to change and one can

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[4] Foot focuses on the relation between the primary institutions of sovereignty, nationalism, great power management and economic development, and how they are reflected in the structure of the Asia-Pacific Economic Cooperation forum (APEC), the ARF, the ASEAN Plus Three framework and the East Asia Summit in the post-Cold War era. Her study thus has a broader regional and less historical focus than this thesis.

expect that this influenced the shape of regional organizations. However, there is no linear logic leading from a primary institution to one specific secondary institution 'reflecting' it on an organizational level: while different regional organizations have endorsed the notion of human rights in principle, they have created a large variety of organizational instruments for their protection and promotion. This suggests that there is usually more than one way in which a new norm can be translated into secondary institutions.

Finally, and related to the second point, clarifying the relation is also necessary in order to analyze how ambiguities in the primary institutional context impact on the shaping and reshaping of regional organizations. I already pointed out that the English School has a well-developed sensorium for tensions between primary institutions, and Friedner Parrat (2015) claims that such tensions have been a driver of reform in a major international organization, the United Nations (UN). Her central argument is that tensions between the primary institutions of great power management and sovereign equality have driven the debate about Security Council reform and lead to the emergence of a primary institution of regional representation, while tensions between sovereign equality and a minimal standard for equality of people lie at the heart of the discussion about the Commission of Human Rights. While insightful, her account does not clearly separate the dynamics of the reform debate from the normative tensions that she claims to be a driver of these debates, neither in the analytical framework nor in the empirical analysis. As a consequence, the reform debates can be read both as evidence and a result of the tensions.

This lack of clarity makes apparent a need to theorize how exactly ambiguities in regional primary institutions may affect the shape of regional organizations and what role regional actors play in this process in order to shed light on how the organizations develop along divergent pathways. Specifically, the English School is so far missing an account of how the regional actors and their discourses influence institutional developments. Only recently have scholars begun to address more systematically the question of how secondary institutions fit into the English School ontology, in particular through the working group on 'International Organization in the Anarchical Society' by the English School Section of the International Studies Association (Friedner Parrat 2015; Knudsen 2015b; Navari 2016). In order to analyze pathways of regional organizations, a comprehensive theoretical framework of how primary and secondary

institutions relate and what social mechanisms connect them is necessary. In the following chapter, I develop such a framework.

3 Institutions in regional international societies[5]

This chapter clarifies the relation between regional norms and regional organizations using the English School concepts of primary and secondary institutions. The resulting analytical framework allows me to analyze and explain how the secondary institutions of regional organizations – their rules and procedures – are reproduced and changed in a dynamic context of regionally specific primary institutions. The chapter starts by discussing the ontological status of the English School's central concept, international society, and differentiating between individualist and intersubjectivist understandings. I adopt an intersubjectivist perspective because it draws attention to the mechanisms linking practice and institutional structures, and thus allows a more profound account of the institutional politics of regional international societies, i.e. how secondary institutions are shaped by the attempts of different actors to realize interests by asserting and maintaining definitional power over the region's basic principles and norms. I then briefly reflect on the implications of studying international society from a regional perspective before discussing the relation between primary and secondary institutions. Adopting social constructivist ideas about the mutual constitution of institutions and practice, and incorporating the concept of path dependence as developed by historical institutionalism, I then develop an analytical model for the analysis of institutional pathways of secondary institutions in regional organizations.

3.1 Individualist and intersubjectivist approaches to international society

Scholars have used various differentiations to account for the heterogeneous nature of the English School. Buzan (2004: 1–3) and Dunne (2005b: 158) distinguish normative from historical-analytical approaches, Navari (2009a: 2) historical-comparative from structural-functional and interpretive ones, and Linklater and Suganami (2006: 43) find structural, functional and historical orientations. Still others have proposed distinctions based on the methods used by different scholars (Costa Buranelli 2015b; Little 2000). In my view, these distinctions do not go to the heart of the matter since they are at least partly based on different interests of study or research-practical preferences, not on fundamental scientific positions. Many English School authors have in fact oscillated between historical, normative and structural questions without leaving an ontologically, epistemologically and methodologically coherent

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[5] This chapter draws heavily on Spandler (2015).

paradigm. In contrast to these attempts at differentiation, I will propose a taxonomy that is based on different ontologies of the social, which are in turn linked to different methodological positions. To illustrate this point, let us look at the most fundamental terminology of the School.

The notion of **international society** has for the most part been accepted as a conceptual cornerstone of the English School. It implies the existence of shared identities, interests and contractual agreements among international actors and as such expresses opposition to a materialist ontology of international relations. The term of international society has often been juxtaposed to those of international system and world society. While the former evokes notions of a Hobbesian – or Macchiavellian – power-political world, the latter refers to transnational relations including interaction between individuals or social groups (Wight 1991). However, Buzan (2004) has convincingly proposed to use international society as a superordinate term for all kinds of international interaction, including both state and non-state actors.

Despite this baseline consensus about the central role of international society, the concept has been interpreted in quite different ways. Buzan (2004: 12–15; 2014: 18–20) differentiates between perspectives that it as either representing ideas in the minds of political actors as in the work of Manning (1962; see also Jackson 2000), ideas of political theory and philosophy as in Wight's (1991) writing, or as a scientific concept designed to analyze the structure of international relations as in the work of Bull (1966b; see also Little 2000) and also Buzan himself.

However, it is questionable whether these notions can actually be separated as neatly as Buzan suggests. When statespersons make sense of the world, they base their interpretations on ideas of political philosophy and theory (Jackson 2000: 75). On the other hand, most of political philosophy is in some way based on accounts of how politicians and diplomats conceive the world. In his lectures on the Three Traditions, for example, Wight (1991) supplements his history of ideas with accounts of how the philosophical schools of thought are reflected in the political positions of statespersons. In his contribution to 'Diplomatic Investigations', Wight cites both philosophers and statesmen (sic!) as sources for International Theory (Wight 1966; see similarly Der Derian 2009: 299–301). Bull (1966b: 39), for his part, admitted both theories of international law and the analysis of state action as sources for theorizing about

international society. Finally, if one accepts the English School premise that the world of international relations is an essentially social rather than material phenomenon, it is implausible to expect that the concepts analysts use to describe this world should not influence, and be influenced by, the discourse that constitutes it as a social sphere. I therefore agree with Hurrell (2007a: 12), who understands conceptions of international society to be "obviously in one sense analytical constructs" but ones "that also have a long history and a complex and shifting relationship to practice and to the understandings of actors engaged in practice."

I suggest that it is more plausible to differentiate two fundamental ontological approaches towards international society within the English School: an **individualist** and an **intersubjectivist** one. The first one sees international society as consisting of units, their subjective interpretations of their environment and their collective patterns behaviour (Adler 2005: 176). This agent-based conception of international society can be traced back to the works of classical English School authors such as Bull and Watson (1984a: 1, emphasis added), who define international society as

> a *group of states* (or, more generally, a group of independent political communities) which not merely form a system, in the sense that the behaviour of each is a necessary factor in the calculations of the others, but also have established by dialogue and consent common rules and institutions for the conduct of their relations, and recognize their common interest in maintaining these arrangements.

Most contemporary English School authors share this assumption, including the 'neo-classical' writers, who see themselves in the epistemological and methodological tradition of the early writings, such as Navari (2009a), and representatives of the 'structural' or 'structuralist'[6] strand, such as Buzan (2004) and Schouenborg (2013). Buzan (2001: 487), for example, writes that

> [international] society is constructed by the units, and particularly by the dominant units, in the system, and consequently reflects their domestic character. […] [English School thinking] also accepts as true for international, and perhaps world, society the neorealist injunction that international systems are largely defined by the dominant units within them.

Insofar as ideas and values play a role in this conception, these are located in the subjective, individual interpretations of the world by the units. When talking about

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[6] I employ the two terms interchangeably.

shared ideas, what Buzan (2004: 141) has in mind is a "unity of interests and sympathies […] amongst a set of actors". Although these units can be collective actors, the underlying ontology corresponds to a methodological individualism – which also implies that agents are logically prior to social structure (Copeland 2003; Ruggie 1998: 869–870).[7]

There is, however, a second reading of international society which I propose to call 'intersubjectivist'. The scholars working within this strand reject the ontological conception of society as made up of aggregated individual qualities. Adopting a holist ontology, they see international society as being constituted by intersubjectively held meanings, such as collective identities, norms and rules, which emerge from interaction but are autonomous from agents (Adler 2005; Dunne 2001: 75–80, 2005b; Reus-Smit 1997, 1999). Social structure is not reducible to individual properties or patterns of practice in this conception, because intersubjective meanings are constitutive of actors and their interactions in the first place (Knudsen 2015b): they define what *can* (but do not determine what *does*) count as an actor and as legitimate practice.[8] The term practice describes the interaction of international actors insofar as it is guided by expectations about the behaviour of the Other and ideas about the appropriateness of one's own actions. It thus differs from the more positivist notion of behaviour in its normative dimension (Navari 2011). This is an ontological position that follows constructivist ontology[9] more consequently than Buzan's individualist conception (Adler 2005).

Positioning oneself in this dyad is important because it has major implications for what methods are used for the study of international society. 'Individualists' will rely more on observing the processes of interaction among the units and the structural patterns that these interactions form, or they will infer its substance by means of interpretative reconstruction of the ideas and values held by individuals (Navari 2009a,

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7 In Wendt's (1999: 138–139) terms, such a theory is ultimately not structuralist as posited by Buzan but individualist, since "a key feature of constructivism is holism or structuralism, the view that social structures have effects that cannot be reduced to agents and their interactions. Among these effects is the shaping of identities and interests, which are conditioned by discursive formations – by the distribution of ideas in the system – as well as by material forces, and as such are not formed in a vacuum."

8 Again, Buzan's characterization of his perspective as structuralist might be misleading because *both* approaches are concerned with social structure – they simply disagree over what constitutes this structure.

9 For authoritative examples and overviews, see Adler (1997), Guzzini (2000) and Wendt (1999).

2011, 2014). For example, Buzan (2004: 134) proposes to analyse the relative importance of interstate and world society elements by identifying different sets of *actors* or "types of unit". In this interpretation, interstate society refers to patterns of practice where the primary actors are states, while world society describes patterns where the dominant units are individuals or transnational collective actors.

From an intersubjectivist position, this view is problematic because referring to the types of actors says nothing about the logic of the identities and norms they base their relations with others on. It matters, for example, whether the EU perceives itself as a champion of a post-Westphalian world order or rather as a territorially based superstate (Borg and Diez 2016). Actors can have multiple identities and therefore see themselves as subjects or representatives of a nation, a state, a region and humanity as a whole at the same time (cf. Risse 2004: 166; Wendt 1994: 385 and, ironically, Buzan 1993: 339).

Instead of reconstructing interaction patterns and individual intentions, therefore, 'intersubjectivists' try to reconstruct collectively held meanings. The methodological focus shifts from behaviour and subjective interpretations to discourse and the mechanisms through which shared meanings are constructed (Adler 2005: 176–177; see also Chapter 4). This is promising for the purpose of this study because the theorization, identification and empirical analysis of the mechanisms linking regional organizations to the normative deep structure are weak spots of the existing Comparative Regionalism literature. As I show in Section 3.4, overcoming this shortcoming allows a more profound account of the politics of regional international societies, i.e. how secondary institutions are shaped by the attempts of different actors to realize interests by asserting and maintaining definitional power over the institutionalization of basic regional principles and norms – something which the individualist approach cannot do in equal measure.

3.2   Regional international societies

What are the implications of studying international society on a regional scale? Again, the answer depends on whether one adopts an individualist or an intersubjectivist ontology. An individualist reading of the English School focusing on actors and interaction would define a regional international society as a physical space where patterns of interaction are particularly dense and where individuals' values and norms

converge. By contrast, an intersubjectivist perspective will contend that shared meanings form the essence of regional international societies. From this view, *an international regional society is a geographically coherent entity that is characterized by distinctive patterns of intersubjective meanings that differentiate it from the rest of the world.* Such an approach to regional international societies can add to Comparative Regionalism by drawing attention to the mechanisms by which these meanings are institutionalized or changed over time, and therefore to the political and social dynamics underlying the stability and change of regions.

Note that this does not necessarily mean that such regional international societies are more solidarist than the global level, as the simplistic thick-thin distinction suggests (Stivachtis and Webber 2011: 110). The half-hearted incorporation of human rights norms and the idea of a Responsibility to Protect (R2P) in fact suggest that Southeast Asia is a more pluralist regional international society than the global one, where these human rights and the R2P have, one could argue, acquired the status of primary institutions. Instead, the regional-global nexus should be thought of as one of mutual constitution: regional international societies share certain primary institutions with the global level but they might reject certain others. Global primary institutions can influence developments on the regional level by determining a certain framework for the range of forms that regional societies can take, while at the same time, such global dynamics are likely to be driven by changes on the regional level.

The example of the EU as a global actor can illustrate this mutual constitution. In its aspiration to assert its position as a global power, the EU has struggled to be accepted as a unitary actor in global fora such as the G8, the G20 or the Bretton Woods organizations (Jørgensen 2009). However, the structures of these fora and organizations were created based on the primary institution of national sovereignty. As they accommodate the hybrid 'beast' that is the EU, conventional notions of sovereignty are undermined, which is in line with the EU's ambition to transcend the Westphalian, pluralist international society (Ahrens and Diez 2015). However, at the same time, the EU pursues efforts to increase its actorness in global governance (Murau and Spandler 2015), which can result in it adopting more state-like features. This, in turn, impinges on its internal project of creating a post-Westphalian international society (Borg and Diez 2016). The relation between the regional and the global level of international society is thus complex and interdependent.

If the main features of regional international societies are substantial difference in shared meanings from the global level and a spatially circumscribed extension, as argued above, an intersubjectivist English School perspective on regionalism must focus on how different regions construct this difference by reproducing specific primary and secondary institutions. By consequence, this study will pay particular attention on two aspects in the study of regional primary and secondary institutions. The first is the question of how specific regional institutions contribute to the drawing of boundaries. It has been widely acknowledged in constructivist literature that social structures depend to a certain extent on the exclusionary and inclusionary effects of shared meanings. For example, the EU has developed an identity as a community of democracies. If we take liberal democracy to be a primary institution of the European international society, this institution draws a boundary – though not necessarily material – between EU member states and illiberal states.

The second analytical focal point is: in what way does the building of regional primary and secondary institutions imply changing ideas about political authority in the region? Hettne and Söderbaum (2002: 461) have argued that the 'regionness' of an international social space depends on the degree to which "a geographical area is transformed from a passive object to an active subject capable of articulating the transnational interests of the emerging region." This ties in with basic tenets of the English School theorizing of regions: since one of the defining features of the global international society is its largely anarchical structure, where states are by and large the only legitimate actors, constructing a regionally distinct level of international society can take the form of shifting authority to a central locus, thus shaping "a new collective set of priorities, norms and interests at regional level" (Warleigh-Lack 2006: 758). Using Watson's (1992) terms, higher levels of regionness imply a move from independent constituent units to a more hierarchical international society.[10] While an individualist ontological position would allow an English School researcher to acknowledge this, an intersubjective ontology also allows him or her to ask about the politics of this process: who promoted such changing ideas on basis of which authority, and using which kinds of legitimizing arguments? Who opposed regionalization and why was their resistance overcome?

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[10] Increasing regionness therefore goes beyond a mere 'solidarization' in that it implies a relocation of legitimate actorness at the aggregate regional level, whereas in a solidarist international society states remain the primary actors.

3.3   Primary and secondary institutions

Having clarified the implications of regional analysis for English School theorizing, I now turn to the concept of international institutions, which has for a long time been a key element of the English School. This is not surprising, considering the fact that institutions embody the School's core claims that international relations are socially constituted and that order is possible even in a context of anarchy (Bull 1977). From the outset, however, clear definitions or profound theorization of the exact nature of those institutions have been largely absent from the writings of the English School. Catalogues of supposedly existing institutions have been far more abundant[11] than inquiries into the conditions and mechanisms of their emergence, persistence, and change.

3.3.1   Different concepts of institutional hierarchy

In particular, as I have mentioned above, while the idea that there is some sort of hierarchy between different kinds of institutions is a recurring theme in English School theorizing, scholars have not clarified the relation between different levels of international society (Knudsen 2015b). Bull (1977: xiv) was keen to demarcate his understanding of international institutions from formal organizations. The balance of power, international law, diplomacy, war, and great power management are deep structural components of international society because they are the very conditions for international order: they arise out of a functional demand, which is to render effective the rules that allow international society to follow its fundamental goals (Linklater and Suganami 2006: 58; Neumann 2003: 9).

Other English School scholars, especially of the younger generation, replace this functional idea with the notion that the fundamental institutions Bull was talking about are constitutive of international society, its actors and their goals in the first place (Knudsen 2015b). Instead of using the degree of formality as a criterion, like Bull, they contrast these constitutive from regulative institutions, such as international organizations. While the first define the basic rules of the game and the actors involved, the latter constrain the range of possible forms of interaction. In this vein, Reus-Smit (1997) differentiates fundamental institutions and issue-specific regimes, Holsti (2004)

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[11] For an overview, see Buzan (2004: 167–176).

distinguishes between foundational and procedural institutions and Dunne (2001: 78) separates constitutive norms from more specific rules.[12]

However, applying a constitutive logic to the level of general principles and norms while leaving the level of the more specific rules and procedures within the realm of regulative, and therefore rationalist, causality leads to an often overlooked problem: the constitutive-regulative distinction is, in essence, not merely about ontology (Dunne 2001: 78; Keohane 1988; Searle 1995: 27–29) but also about epistemology – while regulative rules have causal effects, constitutive rules affect structure by defining situations and are therefore subject to constitutive explanation. Thus, the explanatory logic differs depending on what kinds of rules are in question (Dessler 1989; Ruggie 1998; Wendt 1998). As a consequence, the concept curtails any attempts to coherently theorize the connection between the two types of institutions, especially in a dynamic context.

The task is thus to find a conception of institutional levels *within* a singular ontology. Buzan's (2004) distinction between primary/evolved and secondary/designed institutions is promising because it focuses on how the respective types of institutions come into being, rather than looking for profoundly ontological differences. However, his reflections on the relation between the two institutional levels and the question of institutional change remain underdeveloped and inconsistent. At one point, he depicts secondary institutions as derivative of actors' self-interest and, consequently, as the object of regime theory (Buzan 2004: 163–167). When he does take on the matter, he sometimes falls back into the habit of ascribing them to different ontologies, namely when he suggests that secondary institutions can serve as a kind of empirical indicator, reflecting as a positive materialization or manifestation the existence of specific primary institutions or specific types of international society (Buzan 2009: 44, 180, 2014: 30). This is an idea derived from the individualist understanding of international society, where patterns of interaction can provide evidence for the existence of an international society. In this logic, secondary institutions are situated in a more 'material' ontology, which is epiphenomenal to the dynamics on the 'ideational' level of primary

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[12] In fact, while Bull does not classify his *institutions* into different types, his distinction of three kinds of *rules* contains a similar argument: These rules, which embody the institutions and render them effective, come in the form of fundamental or constitutional rules, rules of coexistence and rules concerned to regulate cooperation (Bull 1977: 67–71). With the rules of coexistence as a kind of intermediate layer, this tripartite taxonomy mirrors the constitutive-regulative distinction of the newer English School writings.

institutions. This view is shared by other authors who are sympathetic to an individualist understanding of international society (Murden 2009; Pourchot and Stivachtis 2014; Schouenborg 2013: 32).[13]

In yet another interpretation, Buzan (Buzan 1993: 250; see also 2014: 30) indicates that regimes are somehow nested in the larger structure of international society, which makes the latter "a regime of regimes". He thus seems to see the more fundamental institutions of international society, such as international law, as being constitutive of secondary institutions: they form "the political foundation that is necessary before regimes can come into play" (Buzan 1993: 350). This resonates not only with Manning's (1962: 160) description of the League of Nations and the UN as 'games within the game' of international law, but also with the embeddedness argument of Comparative Regionalism, according to which the shape of regional organizations reflects the underlying regional norms.

Buzan does not elaborate, however, on how this constitution works, and what role secondary institutions play in this framework: do they merely adapt to changes on the level of primary institutions or do they have genuine effects that are irreducible to the primary structures? While the terminology seems to suggest a hierarchy between the two layers of international society, I think it should not be theoretically prejudiced towards a uni-directional logic of institutional change in which secondary institutions always adapt to developments on the primary level. In this, I agree with Knudsen (2015b: 3), who argues that "international organizations are important as means and drivers of fundamental institutional change." Therefore, the direction of causal influence between the layers should be seen as an empirical question.

3.3.2 Engaging the primary-secondary distinction with constructivism

Despite Buzan's advances, thus, the relation between primary and secondary institutions remains an open question in English School theorizing. I contend that a more thorough engagement with constructivist and institutionalist ideas offers the key to remedying this shortcoming. Several constructivist authors have called to acknowledge the constitutive effects of more specific rules, which are often only seen as regulative or functional (Kratochwil and Ruggie 1986; Onuf 1989). In a contribution to a volume on

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[13] The methodological implications of this understanding are criticized by Navari (2009c: 45–46).

regime theory, Hurrell (1993: 59) writes: "The functional benefits of specific rules are, therefore, only one part of the picture. An essential element is the legitimacy of rules which derives from the common sense of being part of a legal community [...]." The constitutive character of specific rules – or secondary institutions – is rooted in the acknowledgement by the actors that their identity as a member of the international community is dependent on their acceptance of the rules, and visible in their efforts to justify their actions. Similarly, Adler (1997: 345) notices that "international organizations can be a site of interest and identity formation", granting or denying recognition as a member of the global 'community of nations', as in the case of the United Nations (UN), or of a region, as in the case of regional organizations such as the EU.

In a response to two critical reactions to 'From International to World Society', Buzan (2005: 190–191) is quite accommodating towards such arguments about the constitutive effects of secondary institutions and admits: "one of the unresolved questions left hanging in the book is where, if anywhere, the constitutive power of institutions of any sort stops." However, his individualist approach and his conception of institutions seem to distract him from a potential solution. Locating structure in unit properties, he defines institutions as "durable and recognized patterns of shared *practices* rooted in values held commonly by the members of interstate societies, [and] embodying a mix of norms, rules and principles" (Buzan 2004: 181, emphasis added).[14]

This definition, which conflates norms, rules and practice, ties in with Bull's (1977: 74) definition of institutions in 'The Anarchical Society' as "a set of habits and practices shaped towards the realization of common goals". Both conceptions are rooted in a behaviouralist understanding of institutions, represented among others by March and Olsen (March and Olsen 1998: 948; Raymond 1997), who see institutions as "a relatively stable collection of practices and rules defining appropriate behaviour for specific groups of actors in specific situations". The most striking characteristic of this definition is the identification of behaviour or practice as an element of institutions. As Duffield (2007: 4) notes, "the primary emphasis is on the actions and activities of the

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[14] To be exact, this definition refers to primary institutions, but there is nothing to indicate that the centrality of practice should not pertain to his definition of secondary institutions as well. More on the primary-secondary distinction below.

actors concerned rather than other institutional features." If interactions are permanent and rule-bound, then they are institutional.

The habit of conflating practice and norms has been criticized by a range of authors. The reasons for this critique include that practice must not necessarily be informed by underlying norms or rules, that norms and rules can exist despite their disregard in practice (Onuf 1989: 71, 78; Raymond 1997: 217), different practices can uphold the same norms (Knudsen 2015b: 17) and that, from a methodological standpoint, the conceptual integration of norms and behaviour precludes the use of the former to explain the latter (Duffield 2007: 4; Finnemore and Sikkink 1998: 892). From the point of view of this thesis, the main disadvantage of merging institutions and practice is that it obscures the ways by which the former emerge out of the latter and the latter are constitutive of the former (Wendt 1999: 26–27). The approach is also inept to account for cases when different institutions formulate contradictory expectations – a likely scenario, as I have pointed out above. Without an account of these mechanisms, it is hard to clarify the relation between regional organizations and regional normative deep structures.

By contrast, if one adopts an intersubjective ontology, institutions are seen as *sets of intersubjectively held meanings*, which are analytically separated from the practice of international actors. Behaviour which is inconsistent with prevailing norms does not invalidate those norms, as long as it is perceived as a transgression of the boundaries of acceptable behaviour by the perpetrator or by others. It thus opposes approaches which ascribe an inherent normative quality to practices as such (Bull 1977; Navari 2011) and sees practice instead as guided by norms – an idea that is also prominent in sociological institutionalism (Finnemore and Sikkink 1998). While institutions are analytically separate from practice, they are intricately linked to it in a structurationist process: they emerge from interaction and at the same time inform interaction by defining who can count as a legitimate actor and what is perceived as legitimate practice (Giddens 1984; Kratochwil and Ruggie 1986; Onuf 1989; Reus-Smit 1999).[15] In the English School, such a structurationist interpretation of international institutions is also suggested by Knudsen (2015b). The intersubjectivist approach draws

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[15] The social-theoretical concept of structuration was famously introduced into IR theory by Wendt (1987; see also 1999: 139–190; Wendt and Duvall 1989). Other appropriations include Kratochwil and Ruggie (1986), and Onuf (1989).

attention to two kinds of mechanisms that link institutions and practice: on the one hand, the processes of **institutionalization** by which collectively held meanings emerge, and on the other, the processes of **constitution** by which these meanings are informative of practice. In this sense, I take international institutions to be *sets of discursively formulated expectations about legitimate actorness and rightful conduct in international relations*.

To sum these thoughts up, Buzan's distinction between primary and secondary institutions promises to clarify the relation between different institutional levels, but so far this promise remains unfulfilled. I propose that adopting an intersubjectivist conception of international society offers a way of answering open questions because it draws attention to the mechanisms by which different kinds of institutions emerge from the practice of regional actors and in turn shape this very practice. Applying this idea not only, as Knudsen (2015b) does, to primary but also to secondary institutions opens up ways of including the latter more firmly as elements of English School theory and analysis in their own right, because it allows us to distinguish between primary and secondary institutions *within* a single ontology. In the following section, I expand on this point by developing a model of change and continuity in primary and secondary institutions.

3.4   Institutional stability and change – towards a structurationist model

If, as asserted above, both primary and secondary institutions have some kind of constitutive effect on actors and their practice, a central criterion for distinguishing between the institutional levels collapses (Onuf 1994: 9). However, to renounce *any* differentiation between types of institutions is not helpful either. To assume that an international organization is effectively the same as a normative principle such as sovereignty is not only counterintuitive, it would also mean to forego possibilities for explaining the dynamics of the relations between them.

So how can we meaningfully distinguish between the two layers of international society within a single ontology? Having made the case for an intersubjectivist reading of the English School and an analytical separation of institutions and practice, I propose that the best way to recover the primary-secondary distinction is by adopting a structurationist perspective that revolves around an understanding of primary and secondary institutions as being entangled in *specific processes of constitution and*

institutionalization. I argue that primary institutions and secondary institutions both are informative of international practice, but they are so in different ways, as there are different mechanisms of constitution and institutionalization at play (Wendt and Duvall 1989: 63–66). In the remainder of this chapter, I will present a model of primary and secondary institutions in international society (Figure 1). This model can be used as a heuristic in the analysis of pathways of the development of regional organizations. I will first elucidate the constitutive and institutionalizing mechanisms that shape the relation between the institutions and international practice, then the effects and processes that explain institutional stability and change. The argument is thus based on various established arguments of institutionalist literature and connects them to the idea of primary and secondary institutions in order to arrive at an original and ontologically coherent model of institutional dynamics.

Figure 1:   Structurationist model of primary and secondary institutions
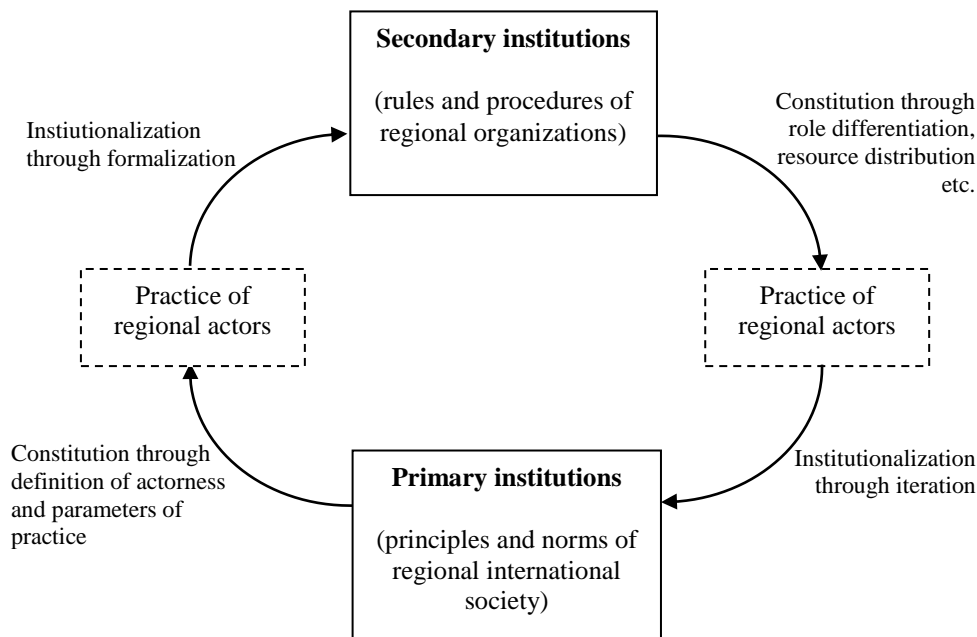
3.4.1   Constitutive processes

Both primary and secondary institutions organize meaning in a systematic way and, as a consequence, have structuring effects on the reality of international relations. In this, they can be perceived as stabilized parts of discourses (Wæver 2002: 29). However, the structuring effects differ on the primary and secondary layer. Primary

institutions are constitutive by defining who can count as an actor, how such actorness is acquired, and the basic nature of the relations between those actors. Besides states, primary institutions can also endow non-state actors and secondary institutions with actor quality (Duffield 2007: 12; Knudsen 2015b: 20). For example, it has been argued that in the European regional international society, institutions such as 'pooled sovereignty', empower the bodies of the EU while challenging the role of member states (Diez et al. 2011).

Apart from shaping its basic composition, primary institutions can also constitute the scope of an international society as such, and change in primary institutions can lead to expansion or contraction of established societies, or the emergence of new ones. Again, the example of colonial rule is insightful: as long as the primary institution of colonialism was upheld, the European centre and the colonized peripheries were so intricately linked that it is hard to speak of these regional sub-entities as international societies in their own right. Only with the period of decolonization did autonomous regional international societies emerge in places such as Southeast Asia and Sub-Sahara Africa. Primary institutions also influence the basic interests of actors (cf. Wendt 1999: 122–125) and, more fundamentally, the kind of rationality actors pursue (Kratochwil 1993: 75–76). The institutional framework can encourage maximizing as well as 'satisficing' behaviour, and it is quite likely that elements of both will be present in an international society.

At the same time, however, secondary institutions are constitutive as well, namely by ascribing differentiated roles to actors and by empowering them to engage in specific forms of interaction that would not be possible without the existence of those institutions (Guzzini 2000: 172; Onuf 1989: 145, 2002: 224; Wendt and Duvall 1989: 61). As an obvious example, membership in international organizations has a profound impact on who is perceived as a member of international society (Risse 2004: 169). Membership can signal the political relevance of an actor, as in the case of the EU's eagerness to take part in fora such as the G20 and the East Asia Summit, the rehabilitation of former pariahs, as in the accession of Myanmar in ASEAN, and even the status as an actor as such, as in the case of Palestine's struggle for formal representation in the UN framework. Apart from multilateral formats, it seems to be conclusive to also include bilateral treaties and agreements in this category. These different kinds of institutions can affect members' relations by constituting hierarchies,

rights and duties. They are also constitutive by distributing material resources, defining preference structures and sanctioning behaviour with a wide range of instruments, including 'shaming', conditionality and formal jurisdiction (Stivachtis and Habegger 2011). In this, they privilege certain actors while disempowering others. For example, aspiring EU members face the condition to accept the Copenhagen Criteria set by existing members in a 'take-it-or-leave-it' situation, which in effect gives the existing members a powerful tool in defining the conditions of membership in the international society. This is not to say that accession to secondary institutions is a necessary condition for membership in an international society (Diez et al. 2011: 125). Still, secondary institutions define to a considerable extent and in more detail than primary ones the identities, interests and capabilities of the actors, and thus open up possibilities for meaningful interaction (Adler 1997: 336).

It follows from these considerations that primary institutions contribute to shaping the social context in which secondary institutions are institutionalized but the logic also applies *vice versa* – primary institutions are reproduced in the context constituted by secondary institutions of an international society. International actors are thus embedded in a double-layered constitutive framework of primary and secondary institutions, and it can hardly be said that their actorness and behaviour is influenced any less by secondary institutions than by primary institutions, or that the primary level dominates, let alone determines, developments on the secondary one, as the 'embeddedness' argument of classical regime theory (Ruggie and Kratochwil 1998: 770) and Comparative Regionalist approaches suggests. When there are tensions between primary and secondary institutions, these contradictions are not simply resolved in favour of the primary level. This might be a plausible interpretation of some instances, such as the negotiation for a post-war international order after 1945, where new secondary institutions had to be created to conform to the changed understandings of sovereignty and the legitimate use of force, but in other cases, the original momentum for change is more plausibly looked for in the evolution of secondary institutions – think of the neo-functional theories of European integration. In any case, an inquiry into the conditions under which any of these logics prevails needs to take into account the role of agency.

3.4.2 Processes of institutionalization

For the constitution of practice by intersubjective meanings is only one part of the story. As Dunne (2005c) has pointed out, the English School must not overemphasize structure to the detriment of agency in its analysis of international society. In a process parallel to constitution, therefore, practice feeds back into primary and secondary institutions in distinctive ways of institutionalization. By institutionalization, I mean the emergence of permanent patterns of intersubjective meanings through social, particularly discursive practice.

Primary institutions are institutionalized primarily via the iteration of practice, especially the repeated articulation of complementary speech acts, which gives these practices normative character and leads to convergent expectations about behaviour (Adler and Pouliot 2011: 12). It is only when meanings are assumed by actors as something that does not need to be agreed upon in every single social encounter that they become effective as institutions (Berger and Luckmann 1966: 50–63; March and Olsen 1998: 948; Onuf 1989: 83–85). Primary institutionalization can be more or less inclusive and shaped by a variety of actors including political leaders, influential media and civil-society representatives, who found their participation upon different bases of authority and legitimacy (Der Derian 2009: 301–302; Hansen 2006: 65–68). These discursive processes are not limited to a specific time and place but are rather permanently carried out in a diffuse, semi-public realm, although they sometimes crystallize in specific formats such as conferences or commissions. For example, the International Commission on State Intervention and Sovereignty, which formulated the R2P as a new international norm, operated as a focal point of a broader discourse about the relation of sovereignty and human rights. The more actors with credible authority claims are included in such discourses and the less hierarchical they are organized, the more likely it is that meanings are contested and that discursive struggles impede institutionalization. On the other hand, however, inclusiveness also promises to strengthen the legitimacy of an institution once consensus is found.

For secondary institutions, institutionalization takes place primarily by means of formal institution-building, i.e. the conscious creation, reform or dissolving of international organizations, regimes, treaties, networks and the like. While institution-building is also a discursive practice, it takes place in more discrete situations and

among a smaller group of authorized actors. Potential components of this mechanism are the differentiation of specific roles and the establishment of rules and standard procedures, e.g. by means of declarative speech acts or legal codification (Berger and Luckmann 1966: 67–74; Onuf 1989: 136–137). Institution-building must not be driven by an instrumental logic of action. The consideration of legitimacy, coercion and argumentative rationality play equally important roles in the creation of institutions, as Kratochwil and Ruggie (1986: 773), Adler (1997: 341), and Risse (2000) have respectively pointed out.

A question I have deliberately left unanswered so far was how exactly primary and secondary institutions should be defined so as to allow for a clear empirical identification. The identification of the different mechanisms of institutionalization now offers a good foundation for such a definition. Three essential points should be emphasized:

- First, primary and secondary institutions can be distinguished based on the kind of institutionalization practices that produce them. Thus, *secondary institutions are rules and procedures formally enshrined in official documents, while primary institutions do not rely on formalization: they are principles and norms that can be found in the broader discourse on international conduct*. This definition picks up on, and further clarifies, Buzan's distinction between 'evolved' primary and 'designed' secondary institutions.[16]

- Second, *regional organizations consist of sets of secondary institutions* (Friedner Parrat 2015). For example, the EC was a complex of secondary institutions pertaining to different policy fields. One of these secondary institutions was the European Political Cooperation (EPC), a set of informal rules and procedures with respect to foreign and security policy. The EPC specified obligations and regular courses of action for a specific set of actors, mainly the member states as represented by the foreign ministers and, eventually, the Commission, in a specific policy field.

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[16] The degree of formality is also one of the criteria proposed by Puchala and Hopkins (1983: 57) to distinguish types of regimes.

- I will call the constellation of primary and secondary institutions in a regional international society its *institutional configuration*.

3.4.3   Path dependence in international institutions

The above arguments imply that primary and secondary institutions change in response to altered practices of institutionalization.[17] However, the way in which this happens is not straightforward. What makes the system of constitution and institutionalization so powerful with respect to international society is that, taken together, the mechanisms of constitution and institutionalization tend to have a reproductive consequences (Wendt 1999: 186–187). They give rise to what historical institutionalism calls **positive feedback effects** that lead to path dependence in institutional development. The notion of path dependence helps us explain the relative stability of institutional set-ups, while at the same time allowing us to account for institutional change. One of the basic ideas of path dependence is that self-reinforcing processes lead to institutional stability so that change will usually happen incrementally, while fundamental transformations are only possible in response to external shocks. As a consequence of this emphasis on path dependence, the analytical focus in the study of the historical development of international societies is redirected to the social context and the mechanisms that lead to the emergence, the persistence and the change of international institutions.

This is an approach towards the study of international institutions that suggests the use of 'historical causal analysis', an approach that comprises two explanatory components: first, a reconstruction of the processes that initiated particular institutional paths at critical moments, and second, an account of the mechanisms that lead to its reproduction "*even though the original generating event or process does not recur*" (Pierson 2004: 45–46, emphasis in original; see also Krasner 1989: 83–84). Causal analysis understood in conventional, static terms can hardly paint the whole picture (Ikenberry 1994: 20; Thelen 1999). In the context of international society, this means answering not only questions about the constitutive role of institutions and their emergence through initial institutionalization, but also about their path-dependent interaction which leads to institutional stability and change.

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[17] For primary institutions, this argument is also made by Knudsen (2015b).

Positive feedback

Positive feedback, as I employ the term, is an effect of the mechanisms of institutionalization and constitution. This means that feedback effects are not themselves mechanisms connecting institutions to practice, like formalization or role differentiation, but rather processes of stabilization that result from these mechanisms and reinforce them. Feedback can materialize in different dimensions:

First, positive feedback results from **power effects**. Processes of institutionalization are heavily informed by permanent processes of political assertion and contestation (Schmidt 2010: 15; Wiener 2008). At the same time, the constitutive effects of institutions tend to increase the power of those with the most ability to influence their form – a point that has been stressed by both rationalist and constructivist authors (Kratochwil 1993: 72; Pierson 2004: 36–40; Thelen 1999; Wendt 1999: 331). Even post-structuralist authors like Laclau and Mouffe, who emphasize that meanings are in permanent struggle and deny the possibility of a final fixation, have acknowledged the existence of such temporal stabilizations in discursive practice. "Any discourse", they write, "is constituted as an attempt to dominate the field of discursivity, to arrest the flow of differences, to construct a centre" (Laclau and Mouffe 2001: 111–112; see also 136, 142; and Foucault 1980b). Despite this connection to certain arguments in post-structuralist literature, the concept of power effects as employed here is more narrow than Foucauldian interpretations, which see the discursive practice and the way in which it creates identities and social realities as such as a form of power (Foucault 1980a; Price 1995: 87–88). It merely denotes that institutions can be stabilized because they tend to increase the dominant discursive position of those actors who initially set them up.

The ability to influence institutional developments depends to a great extent on the endowment with power resources and political authority of those who postulate them. In international relations, the very ability to claim discursive authority is highly unequally distributed among different actors. Government officials can claim the symbolic authority of being elected as representatives of their state, as well as the physical authority of being backed by a security apparatus. By contrast, attempts to establish an influential transnational public sphere are seriously complicated by language barriers and parochial political loyalties – even in a culturally relatively

homogenous space such as Europe. However, even where such a public sphere, however rudimentary, can be discerned, only those who possess the necessary resources and infrastructure to influence its discourse will have a voice in the process of institutionalization. Once established, therefore, primary institutions reflect the interests of privileged groups and reproduce the power relations that produced them in the first place (Adler 1997: 336–340; Guzzini 2000: 172).

Second, through effects of **reification**, institutions assume a taken-for-granted status for those whose lives are shaped so fundamentally by them. Institutions are unlikely to change "ultimately because they structure the very choices about reform that the individual is likely to make" (Hall and Taylor 1996: 940; see also Berger and Luckmann 1966: 82–85; Wendt 1999: 326–336). While contingency becomes obvious with the benefit of hindsight, those living in a historical international society have always tended to construct the principles of that society either as expressions of a natural or even divine order – think of the self-understanding of China as the Middle Kingdom in its imperial era and that of the Roman Church in pre-Westphalian times – or as a stage in a teleological process – an argument that served to justify Soviet imperialism during the Cold War.

This is not to suggest that any institutional configuration has ever been accepted completely as given by everyone living in it. What can be asserted, however, is that it is difficult for those challenging an institutional configuration to draw on existent meanings in order to claim legitimacy, or even invoke a common identity on the basis of which to act against established institutions. For example, indigenous anti-colonial movements had a hard time establishing claims for self-determination because the institution of nationalism was originally constructed as pertaining only to Western states. The dominant construction of the relation between the colonial rulers and the colonized population as one between the civilized and the non-civilized world naturalized the racial difference, and made it hard for the latter to be heard (Anghie 1991).

Third, **vested interests** shift preference structures towards rule-consistent behaviour and inhibits institutional change. Actors feel that it is expedient to promote existing norms and play by established rules because they benefit from compliant behaviour. 'Benefit' in this context has to be understood in broad terms: it can mean to

obtain material profit because coordination effects, adaptive expectations and high start-up costs make it inefficient to choose other institutional frameworks (Krasner 1989: 87–88; Pierson 2004: 33). However, benefits can also flow from an increase in legitimacy and status (Wendt 1999: 325), as is evidenced by the striving by newly independent polities for recognition as sovereign states. Such ambitions do not only reinforce the primary institution of sovereignty but also the role of international organizations as embodiments of the international community and as providers of legitimacy and status by means of accession.

Mutually reinforcing relations between primary and secondary institutions of this sort lead to a fourth source of institutional feedback, namely **institutional linkages**. This is connected to the argument that complex international societies normally consist of a web of mutually compatible institutions and consequentially, a single institution cannot be changed without additional change in or of a number of other institutions if excessive tensions in the overall institutional set-up are to be avoided. Pierson (2004: 27) has this in mind when he says that "[p]ath-dependent processes will often be evident not only at the level of individual organizations or institutions but at a more macro level that involves configurations of complementary organizations and institutions."

In an English School context, this means that institutional configurations, i.e. sets of compatible and complementary institutions, are quite persistent once they have been established. This is not to say that there are no tensions between individual institutions at all, and we will see that they can be a powerful motor of institutional change. Yet, the very fact that international society has been so reluctant to accommodate new institutions, such as the notion of humanitarian intervention or environmental stewardship, into the established set of institutions is evidence that some norms and rules do not fit easily into the horizontally linked web of Westphalian-style institutions, which combine sovereignty, nationalism, non-intervention and other institutions that can be seen as logically connected and intricately linked.

Krasner (1989: 78) has introduced the term of 'horizontal linkages' for this phenomenon. Having established the idea of primary and secondary institutions as distinct constitutive layers of international society, it seems appropriate to supplement Krasner's concept with the idea of 'vertical linkages'. In this sense, primary and secondary institutions form constitutive contexts for each other. Up to a certain extent,

secondary institutions must reflect the meanings inherent in prevalent primary institutions because they are institutionalized on the basis of actors' identities and expectations which are constituted by the primary level (Knudsen 2015b: 20; Reus-Smit 1999: 34).

This effect limits the prospects for change in secondary institutions: in contrast to what functional and rational-choice accounts of institutions suggest, secondary institutions hardly ever adapt optimally to functional demands or coordination problems (Koslowski and Kratochwil 1995: 138) because the positive feedback effects that link them to the primary fabric of international society limit the range of included actors and what counts as a legitimate attempt at institutional reform. Moreover, it restricts the transferability of organizational forms from one regional setting to another. The supranational set-up of the EU works well in the context of Europe's move towards post-Westphalian norms and principles after the Second World War, but it lends itself only partially as a model for organizations such as ASEAN or the Mercado Común del Sur (Mercosur), which are situated in primary institutional contexts that put a lot more emphasis on national sovereignty. *Vice versa*, primary institutions are unlikely to change drastically as long as the secondary constitutive context does not change because secondary institutions help to make primary ones more durable. As the literature on norm socialization has pointed out, secondary institution-building can be an attempt to 'lock in' certain norms and principles because challenges to those primary institutions can be delegitimized as a violation of formal arrangements and codified law (Friedner Parrat 2014a).

Explaining change: endogenous dynamics and shocks

Taking path dependence seriously means that an institutional configuration will be relatively stable once the social mechanisms of reproduction have been put into operation. Change thus depends on the ability of discursive actors to engage in new institutionalization practices despite the feedback effects. Two sources can help them in such efforts. First, dynamics that are **endogenous** to the institutional configuration can subvert established meanings. Institutionalist and constructivist literature is rich in suggestions for sources of such dynamics – unintended effects, the re-interpretation and subversion of established meanings, contact with foreign institutions or societies and

gradual power transformations (Laclau and Mouffe 2001; Martin and Simmons 1998; Streeck and Thelen 2005; Wendt 1999: 188; Young 1983: 107–108).

Another important endogenous source for contestation are tensions between institutions, i.e. situations where different institutions prescribe mutually exclusive ways of behaviour (Buzan 2004: 250–251; Friedner Parrat 2014b, 2015). Contradictions and tensions can occur between institutions on the same level, for example between sovereignty and human rights (Bull 1977; Knudsen 1999; Vincent 1986; Wheeler 2000), or between sovereignty and the notion of environmental stewardship. In that case, they can lead to a gradual reinterpretation of an institution. For example, sovereignty continues to be the main primary institution in global international society but, over the last two decades, it has come to be seen as depending on the ability of a government to protect the basic human rights of its own population.

Inconsistencies disrupt institutional linkages, which opens up possibilities for discursive contestation. Up to a certain point, inconsistencies can be tolerated or suppressed in institutional arrangements, and it might well be that they are an intrinsic characteristic of any international society, as Buzan implies when he speaks of the "perennial and permanently necessary discussion of how order and justice relate to each other in an ever changing global system" (Buzan 2014: 169; see also 2004: 250–251). Therefore, the resulting institutional inconsistencies will not per se and automatically prompt adaption. However, they constitute a potential point of attack since discursive actors can point to contradictions in order to question the legitimacy of certain institutions. If such strategies succeed, the reform or transformation of existent institutions or, in extreme cases, their dissolution and the creation of new ones become likely. As enabling conditions, inconsistencies between institutions can thus provide additional momentum for change after initial shifts in the institutional set-up have occurred.

Second, change can also be induced by **shocks.** These are events that create discursive contexts in which contradictions become plainly apparent and can be openly addressed, private beliefs and grievances can be mobilized and actionable, and innovative ideas obtain sufficient space for their realization. For example, Bull argues that the dynamics of contestation of the European colonial order were already conceivable in the interwar period but only came to fully play out and lead to a

transformation of international society as a result of the radical power shifts in the course of the Second World War (Bull 1984b: 224).

The Historical Institutionalism literature has been criticized for failing to explain the exact processes through which shocks or critical junctures induce institutional change (Schmidt 2010: 14), but a focus on the mechanisms of constitution and institutionalization allows us to overcome this shortcoming. To count as a shock, an event has to have a disturbing effect on the feedback processes of constitution and institutionalization so that their reproductive impact on the institutional configuration is disrupted (Thelen 1999). Having identified the mechanisms of positive feedback in international society as outlined above, it follows that shocks are events that (a) disturb reification by fundamentally altering established patterns of meaning production and lead to what Adler (1991) has called 'cognitive evolution', (b) change the distribution of power among actors (Hopf 1998: 180), or (c) alter the preference structures in a way that is not consistent with the logic of the existing institutional configuration.

It seems appropriate that to count as a shock, an event should affect more than just one of the feedback effects because otherwise, the reproductive processes that remain intact can compensate the disturbance of a single mechanism. Major wars, crises and fundamental power shifts are likely candidates for such shocks. For regional international societies, external processes such as changes on the global level of international society need to be taken into account as well.

Shocks lead to 'critical junctures', at which practices promoting alternative meanings and institutional forms have better chances to succeed in the struggles surrounding the processes of institutionalization than during 'normal' times, until the feedback effects begin stabilizing the institutions again and they largely follow the adopted path (Krasner 1984: 240–243, 1989; Mabee 2011; Mahoney 2000; Pierson 2004: 14). For a moment of contingency, possibilities for the adaption or dissolution of old institutions or for the emergence of new ones open up. However, such instances of openness are not simply a result of institutions releasing their constraints imposed upon actors so that the latter obtain a broader set of options for action, as has been argued (Capoccia and Kelemen 2007). An approach that stresses the constitutive nature of institutions has to look instead at the way in which, at critical junctures, meanings gain

in relevance that provide legitimacy to new kinds of actors and forms of practice that were previously not considered as justifiable, or not considered possible at all.

The idea of critical junctures emphasizes that timing and context are decisive for institutional development: when and in what institutional context critical shocks appear and how they are interpreted will greatly affect the forms secondary institutions will take. This notion of timing can not only refer to a simple point in a universal chronology, such as 'in 1986', but also to a particular stage in historical development that may occur at different chronological points in different regions, such as processes of state-building or industrialization. For example, while the initiatives for region-building in Europe and Southeast Asia occurred roughly at the same time, in Europe the experience of the Second World War led the long-established nation-states to adopt a regional project aimed at transcending state sovereignty and precluding war as a means of regional politics, while in Southeast Asia the processes of decolonization and nation-building made it imperative for the fledging states to build institutions that strengthened sovereignty and territoriality (Acharya 2009; Diez et al. 2011).

Some words of caution should be added. First, it should be noted that neither shocks nor endogenous dynamics should be equated with institutional changes. The former are merely a necessary condition for the latter, and the mere instance of a shock does not preclude the institutional configuration of an international society from continuing to move along the established path (Capoccia and Kelemen 2007: 352). Second, the notion of shocks seems to introduce some sort of materialism in the form of wars, power shifts etc. back into an essentially ideational perspective. This is not my intention. While I acknowledge that historical events rely to some extent on material foundations such as spaces and objects, these become socially relevant only in the interpretation by actors in the context of existing intersubjectively shared and institutionalized meanings. Shocks and endogenous dynamics, therefore, do not result in a simple adaption to a changed external context but are subject to political processes, as they become effective only in their discursive representations. Consequently, agency is a crucial element because the possibility of change and the direction it will take depend on the relative ability of actors to claim new sources of authority and effectively

mobilize discourses that challenge or defend the existing institutions (Schmidt 2010).[18] The disturbing impact of shocks and endogenous dynamics on the feedback effects lie in the fact that references to them make possible powerful objections to particular hegemonic discourses – for example by claiming that the events contradict prevailing lines of thought. If the dominant discourse cannot accommodate these tensions and fails to justify its own validity, paths for the institutionalization of alternative meanings open up (cf. Capoccia and Kelemen 2007; Guzzini 2012b; Thelen 1999).

As a concluding note, it should be pointed out that external shocks and endogenous dynamics can reinforce each other. For example, shocks can create contexts in which tensions and contradictions arise, or existing ones become apparent and can be openly addressed. Bull (1984b: 224) argues that the dynamics of contestation of the European colonial order were already conceivable in the interwar period but only came to fully play out and lead to a transformation of international society when the "Second World War left the European imperial powers too weak to maintain old kinds of dominance".

3.4.4 Analyzing pathways in the development of regional organizations

What are the lessons of these theoretical considerations for the analysis of how regional secondary institutions develop over time? Four points can be highlighted:

- First, the mechanisms surrounding the reproduction of regional institutions have stabilizing effects. To overcome these effects, actors can use endogenous and exogenous processes as sources to question the legitimacy of existing institutions.

- Second, primary and secondary institutions mutually form constitutive contexts for their reproduction. The institutionalization of secondary institutions takes place in the context constituted by a region's primary institutions, and *vice*

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[18] These interpretations are, of course, influenced by the existing institutional-ideational framework. Based on a similar argument, Guzzini (2012a: 4) argues that trigger events induce change in intersubjective meanings only through the lens of "pre-existing interpretive dispositions," therefore "a kind of classical outside-in process tracing, where the same international event might trigger different responses depending on the domestic [or, in my case, regional] process variables, is not possible. Rather, the very meaning of the event is part of the analysis and needs to be assessed on a case-by-case basis."

versa, so that each institutional level informs the shape of the respective other. This leads to a logical connection between primary and secondary institutions.

- Third, as primary and secondary institutions are coupled, change on one institutional level can catalyze change on the other (Wendt and Duvall 1989: 65).

- Fourth, the above notwithstanding, the two institutional levels do not necessarily have to be coherent (Krasner 1983: 5). To the contrary, in times of institutional dynamic, it is quite likely that principles and norms come into tension with rules and decision-making procedures, leading to contradictions between primary and secondary institutional levels and potentially pressure for institutional change. The way in which such vertical tensions are resolved (or not) depends on how the struggles between the actors involved in the discourses surrounding regional institutions play out.

In contrast to conventional Comparative Regionalism, this framework emphasizes the way in which actors engage in normative arguing in order to promote certain ideas about the rules and procedures of regional organizations. It goes beyond existing explanations of difference between regional organizations with a normative focus in several ways:

First, it confirms the connection between regionally specific norms and differences between regional organizations but offers a more complex picture than the embeddedness argument which implicitly underlies existing accounts. It does so by specifying the social mechanisms that link primary and secondary institutions. Organizations do not directly reflect norms; instead, the way in which the primary institutional context translates to secondary institutions is mediated by discursive processes. These processes are informed by struggles between actors who hold differential power resources, interests and beliefs. Therefore, primary institutions do not determine the form of secondary institutions but merely constitute a context for their creation, reform or dissolution. Whether, when and how change in primary institutions will be followed by corresponding change in secondary institutions is therefore an open question to be answered by empirical analysis of the developments on both institutional levels.

Second, by introducing the mediating mechanisms of constitution and institutionalization, the framework also enables researchers to account for ambiguities in the primary institutional context of regional organizations. Established perspectives implicitly assume that regional norms are consistent. They are thus ill-equipped to explain cases in which regional organizations exist in a normative context characterized by tensions between different normative claims. The framework developed here acknowledges that the institutionalization of secondary institutions may have to take into account competing legitimacy standards because the constitutive effects of primary institutions do not need to be consistent.

Third, it incorporates the idea of path dependence in a way that is true to the original concept as developed by historical institutionalists. It does not equal path dependence with institutional stasis, as some adoptions by Comparative Regionalist writings do, but as a heuristic that enables the researcher to identify the mechanisms leading to partial stability and conditional change in regional organizations. As such, it can also be used to analyze moments when regional primary and secondary institutions undergo transformation – something of a blind spot of the historically informed Comparative Regionalism approaches. At the same time, the framework goes beyond historical institutionalist concepts, which usually focus *either* on organizations *or* on the kind of broader institutional frameworks which the English School would call primary institutions. The links between primary and secondary institutions can provide additional sources for stability as well as change. This idea provides the basis for the argument that differences between regional organizations can be explained as the result of divergent institutional pathways, in which rules and procedures are connected to a dynamic normative context.

Finally, it acknowledges that, in the course of arguing about the shape of regional organizations, actors may – willingly or unwillingly – either reproduce or transform the very normative points of reference they employ to justify their demands. Thus, regional organizations may help reproducing primary institutions but also act as drivers of change in international society (Ahrens and Diez 2015, Knudsen 2015a, 2015b). As norms have constitutive effects, such transformations can affect the chances of different actors to succeed in their legitimization efforts by changing their identities and their discursive authority. My analytical framework thus paints a more complex and dynamic picture of the relation between regional organizations and the social deep

structure of regions than those approaches that see regional organizations as mere expressions or epiphenomena of underlying norms, and thereby allows me to analyze the pathways of the institutional design of regional organizations in full depth.

4 A methodology for analyzing change in primary and secondary institutions

The preceding chapter established that pathways of regional organizations – conceived of as the development of secondary institutions over time – are deeply intertwined with dynamics in the primary institutions of their regional international society. Accordingly, changes in the two institutional levels need to be studied in parallel. This chapter elaborates a methodological approach to this task and outlines the structure of the empirical chapters. The first two sections (4.1 and 4.2) deal with basic questions of methodology and epistemology. Like most English School authors, I endorse a perspective that is interpretivist and rejects the positivist notion of nomothetic explanations. My approach does not, however, shy away from explanatory and causal logic altogether, as it aims to account for change and continuity in the secondary institutions of specific regional international society by disclosing the mechanisms of constitution and institutionalization that made them possible.

To reach this objective, Section 4.3 presents the basic research design, which juxtaposes the regional international societies of Europe and Southeast Asia in three specific episodes of institutional change. The final part (4.4) develops a set of methods to put these ideas into practice. This 'toolbox' connects a two-level analysis of discursive practices with elements of constitutive analysis. This allows me to analyze the effects of endogenous dynamics and exogenous events on the feedback effects surrounding the regional international societies' institutional structure, and thus account for the interrelated dynamics of primary and secondary institutions.

4.1 English School methodology

The term methodology, as it is employed here, denotes any coherent form of thinking about the nature of scientific inquiry. It comprises two aspects: first, beliefs about the relation between empirical reality and scientific knowledge in general (philosophy of science), and second, positions on how to best proceed in the production of such knowledge (methods). Generally, the choice of methods should be guided by and be compatible with the philosophical assumptions a researcher makes about his or her relation to the subject of research (Jackson 2011). In this section, I will begin by shortly outlining some core methodological assumptions undergirding most English School work. The picture that emerges from this discussion is that of a field of research

that is characterized by certain shared tenets regarding the philosophy of science and a pluralistic and sometimes eclectic use of different methods. My own approach to the study of international institutions, which I will develop in the remainder of this chapter, makes no exception here, as it takes inspiration from different examples of interpretivist scholarship.

Contrary to most of the theoretical schools of IR, the English School does not have an explicit, uniform methodology. One of the main reasons for this is that the ontological core assumptions about international society are in fact quite open to divergent interpretations, as we have seen in the theory chapter of this thesis. Another reason for the School's equivocality is that it has, for quite a long time, not been very self-conscious with regard to methodology, as numerous authors have asserted (Copeland 2003; Finnemore 2001; Linklater and Suganami 2006: 6; Little 2000: 409; Navari 2009a; Spegele 2005; Wilson 2012). This has certainly impeded the development of a coherent methodological framework for the English School.

Nevertheless, one can identify a set of foundational scientific assumptions that are shared by most English School authors. The central feature of the English School's philosophy of science is a pronounced scepticism towards positivist epistemological conceptions that see the researcher as distinct and separated from his or her object of study (Navari 2014). In fact, delimiting their understanding of social research from the then ascending 'scientific' position on philosophy of science and its notion of a mind-independent world was an important identity-forming exercise in early works of some of the scholars that are nowadays linked to the English School (Bull 1966a; Butterfield and Wight 1966). Instead, these authors' 'classical approach' asserted that knowledge about international society can only be produced from within a historical context and by means of subjective interpretation by the researcher. Ultimately, international society is "not itself a matter of fact", but "a mental construct. And what takes place within it does so not in fact but in idea" (Manning 1962: 5). It can therefore not be subject to the vigorous standards of empirical falsification required by the positivist approach. The social researcher conducts his or her inquiry in a social context, which is at the same time an object of study and a prerequisite for his or her identity as a researcher. As a consequence, English School scholars see the kind of objective knowledge pursued by positivists as an illusion.

A second and related feature is the rejection of causal claims in a narrow, Humean sense. Based as it is on the social and historical contingency of all knowledge, the English School is necessarily cautious towards the notion of law-like generalizations about the social world (Navari 2009c). As I will show in the next section, this does not mean that English School scholarship has to abstain from making causal claims altogether, but it makes the testing of nomothetic hypotheses a rather uncommon business among its proponents. To be sure, some English School authors identify recurring patterns, as in Watson's (1992) argument that international societies oscillate between anarchy and order, or linear tendencies, such as Buzan's (2004) claim that world society assumes an ever-increasing significance in the structure of international society. However, generalizations of this kind are usually not formulated in law-like terms but put in the context of historical contingency, which frustrates any attempts of finding general hypotheses.

Upon this baseline methodological consensus, different contemporary English School authors emphasize different approaches towards the study of international society.[19] A number of authors that could be called **'neo-classicals'** locate their work quite firmly in the tradition of the classical approach represented by Bull (1966a), Wight (1966) and Manning (1962). Important reference points for this perspective are Navari's (2009b) edited volume on English School methodology and Jackson's (2000) 'The Global Covenant' (see also Spegele 2005). These authors point to the importance of interpretivist methods in studying international society. The English School scholar's task is historical interpretation, i.e. retracing the meanings of shared understandings about international relations prevalent in specific historical and social contexts, and evident in statespersons' practice. Although some authors define practice in a general sense – implying any kind of activity of international actors – as their empirical referent object, they generally focus on communication and language as the paramount manifestation of international society (Navari 2009c, 2011, 2014: 213; Wilson 2012). As Jackson (2000: 37) argues,

> a very significant part of international human relations, and arguably the most significant part, is discourse and dialogue concerning what policies or activities […] are desirable or advisable or appropriate or acceptable […]. Written or verbal discourse is the main vehicle of political activity.

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[19] For a more fine-grained classification, see Costa Buranelli (2015b), who distinguishes classical, practice-based, historical, hermeneutic and soft-positivist versions of English School scholarship.

Therefore, the neo-classicals study the discourse of those who are engaged either in the actual workings or in the theoretical contemplation of international relations. Most of these works rather aim to reconstruct the individual agent's intentions, or 'cognitive-symbolic structures' (Navari 2011: 616; see also 2009c), which guide interaction than to look for intersubjective, discursive structures that exist autonomously from agents: "In the English School, language is expressive of meaning, and its analysis is directed towards recovering intent, not detecting its structural constraints" (Navari 2011: 620; see also Jackson 2000: 72, 93).

By contrast, advocates of the **structuralist approach** have a somewhat more diffuse methodological viewpoint (Buzan 2004; Schouenborg 2013). In some respect, they try to transcend the interpretivist focus on agents of the classical authors by using empiricist methods that aim to produce historical and taxonomical accounts of the structures of individual or state behaviour, which implies a focus on patterns of interaction or action arenas (Little 2009; Navari 2014: 207). Then again, values and their subjective interpretations by individuals play an equally important part in their conception of international society.[20] The researcher must therefore identify actors, observe their interactions and their subjectively held values, and from this draw conclusions about the structure of international society (Buzan 2004).[21] The decisive move, therefore, is to infer structures from agential attributes via aggregation and to develop concepts that are able to describe the structures that emerge from this analysis.

Sometimes, this angle has been approximated to a positivist methodology because of its epistemological phenomenalism, i.e. the assumption that international society is something 'out there' existing independently of the researcher (Buzan 2014: 20; Costa Buranelli 2015b: 2–4; Dunne 2005b; Navari 2009c: 45–46). From the empirical work, however, it is less clear that the structuralist English School authors actually proceed in a manner that is fundamentally different from the classical authors. Far from directly observing actors' behaviour or conducting interviews, they ultimately rely almost as heavily on interpretive readings of primary and secondary texts as their fellow English School scholars. Possibly, they are more sympathetic towards an

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[20] See for example Buzan's (2004) account of the pluralist-solidarist debate in 'From International to World Society'.

[21] This is a methodological standpoint close to that of early regime theorists stressing the subjective nature of regimes, such as Puchala and Hopkins (1983: 64), and Young (1983: 95). For a critique of this approach, see Copeland (2003: 432) and, with a more general outlook, Kratochwil and Ruggie (1986).

understanding of this interpretative work as a straightforward analysis of international *interaction* or *behaviour*, rather than a more abstract advance into international *communication* or *thought*. With regard to the methods employed to gather this knowledge, however, the identification of a 'structuralist' English School as a distinct line of work may be overstating the point. Both neo-classicals and structuralists eventually rely on an agent-based methodology and interpretive methods (Navari 2014: 212). If the latter are to be called positivist, that label can imply hardly more than a vigorous separation of normative and empirical-analytical work (Adler 2005: 180–181).

Other researchers have gone beyond the reconstruction of subjective interpretations and look instead at institutions as an intersubjective structure. These authors emphasize the constitutive nature of international institutions, which is why the label **sociological-institutionalist** may be appropriate. Recovering statespersons' intentions is not of interest to these authors; instead, they want to uncover the normative foundations of international conduct – of which individual actors might not always be aware. They therefore examine the types of practice that is enabled by institutions, how basic ideas about authority in specific societies shape them, and how such ideas change over time (Holsti 2004; Reus-Smit 1997, 1999). To this end, they employ techniques such as discourse analysis and historiographic research. Like some classical authors, they also interpret classical texts of political theory. However, the primary aim of this exercise for sociological-institutionalist English School authors is to disclose the constitutive ideas about rationality and legitimacy underlying historical international societies, as Reus-Smit (1997) does with his reading of Aristotle.

A fourth group of authors who, while not entirely representative of the English School, can be loosely associated with some of its ideas, argue for the use of a range of alternative methods, including critical discourse analysis, genealogical analysis and ethnography, which focus on uncovering the social contingency of intersubjective meanings. On these foundations, they problematize processes and effects of knowledge production, identity formation and representation in international society (Neumann 2002, 2012a; Neumann and Welsh 1991). They also reflect on the nature of scientific inquiry as a social practice (Der Derian 2009). These 'post-classical' (Neumann 2003: 16) authors began their studies in IR under classical English School authors but have subsequently come in touch with critical and post-modern perspectives and pushed the

theoretical and methodological boundaries of the School.[22] They do not believe that texts or practice directly convey the intentions of actors, as neo-classical authors assume. Practice can be an expression of meaning, but it also produces meanings and therefore is a source for their stability or change (Navari 2011). From this perspective, 'classical' interpretive methods can only do part of the job. Instead, the **'post-classicals'** have complemented their analyses of internationally shared meanings by a focus on the social practices – including discursive struggles – and power relations undergirding the construction of these meanings, mainly in the institution of diplomacy (Constantinou and Der Derian 2010; Der Derian 1987; Neumann 2002, 2003, 2012a; Wæver 1998). Nevertheless, these more critically oriented scholars of international society share with the English School authors an occupation with international institutions, their treatment of international practices as shaped by common understandings of reality, and their acknowledgement of the importance of studying texts for uncovering these understandings.

As becomes clear against the background of this short discussion, there are no clear-cut sub-schools using starkly opposing methods but rather several clusters of authors emphasizing different aspects of their work. Apart from these varying emphases, most English School authors share a set of basic scientific assumptions, and their actual empirical analyses are often characterized by a fairly eclectic use of a variety of interpretivist, non-positivistic methods, such as historical and discourse analysis. There are some exceptions to this rule, such as an article by Little (2000), which pictures the three concepts of international system, international society and world society as distinct ontologies and associates them with positivist, interpretivist and critical methods, respectively (see also Linklater 1990). I will not discuss this position at length here but merely indicate that it depends on a conception of international society as ontologically distinct from an international system – a perspective that has convincingly been challenged by Buzan (2004) and James (1993). I would also put into question whether it is helpful to blur the lines between the English

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[22] Bull was a tutor and doctoral supervisor of Der Derian during his studies at Oxford University (Der Derian 2009). Also studying in Oxford, Neumann was heavily influenced by the English School teachings of Vincent (Neumann 2012b).

School and conventional positivistic approaches by basically incorporating neo-realism as one dimension of English School scholarship.[23]

My study, therefore, largely follows the eclecticist stance. It is informed by a classical approach in that it relies heavily on an interpretivist reading of historical sources in order to reconstruct the intersubjectively held meanings by which people have made sense of international relations. In contrast to structuralist approaches, it rejects the assumption that such meanings can be inferred from observing behaviour – although the extent to which structuralists actually employ such observation can be questioned, as has been pointed out above. Instead, like the authors inspired by historical institutionalism, I use discourse analytical methods broadly conceived (see Section 4.4) to identify patterns of shared meanings that preserve certain constructions related to the nature of international relations and ask how they constitute the region as a political sphere.

At the same time, the study also incorporates some of the critical impulse. Although certainly not post-structuralist in orientation, it does inquire into the practices of contested institutionalization by which meanings are constructed, as well as the power relations that shape these processes. In this sense, it is compatible with Neumann's call for 'Returning Practice to the Linguistic Turn': "The analysis of discourse understood as the study of the preconditions for social action must include the analysis of practice understood as the study of social action itself" (Neumann 2002: 627–628). However, the variant of discourse analysis I employ is not strictly Foucauldian or critical (Fairclough 2003): it focuses on the contents of texts as well as the struggles between various actors to assert the dominance of their own particular interpretation, and it also takes into account the differential power positions of those actors. However, it does not concern itself with the role of such discursive practices in reproducing identities or with discourse as a form of power but rather in institutionalizing intersubjective meaning structures, which then have constitutive effects independent of individual discursive practices. Thus, the form of discourse analysis I employ aims to develop convincing narratives that make sense of the social

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[23] It should be noted that Little (2009) has somewhat weakened his claim about the triadic ontological-methodological division of English School thinking in more recent publications.

mechanisms involved in the reproduction of institutions, rather than to disclose the violent or contradictory effects of discourses as such.[24]

With this goal in mind, the study is aware of the 'post-classical' monition that such narratives are never just simple and perfect representations of the world but themselves always constitutive of reality and that this constitutive quality of research has to be reflected to avoid – or at least minimize – the pitfalls of reification. Analytical concepts must not be confused with objectively present processes operating 'out there in the real world'. They are representations developed by the researcher to make sense of what he or she observes (Der Derian 2009: 301; Dunne 2005b: 164; Manning 1962). The present work is therefore not Critical, with a capital C, in the sense of devising and prescribing normatively superior forms of international society. While it acknowledges endeavours to open up discursive spaces for potential transformations of international society, it is not prescriptive in its ambitions. It is, however, critical in two respects: firstly, in pointing to the historical contingency of given international societies and disclosing the social mechanisms underlying their persistence and change, and secondly, in being aware of the contingent, representational and constitutive character of the research process itself.

4.2   Causality and explanation

A word should be said about the role of causality and explanation in this methodological framework. As has been indicated above, a positivist social science aspires to generate objective knowledge by testing theoretically deduced hypotheses. Explanation is equalled with causal inference, while causality is understood as the deterministic effect of an independent on a dependent variable, observable in a regular correlation between the two (King et al. 1994; Kurki 2008; Patomäki 2002).

The English School has hardly ever engaged in such nomothetic-causal explanation, and neither do I, as such explanations run counter to an ontology which sees ideational factors and practice as constitutive of each other and therefore inextricably linked. Wendt (1998: 105) has pointed out that a causal explanation in the conventional sense includes three conditions: "in saying that 'X causes Y', we assume

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[24] For regional applications of the latter variant, see Borg and Diez (2016), and Diez (1999). I refrain from using the term 'textual analysis' for my approach, as it invokes the idea of more immanent, linguistic interpretation, which does not take into account the social dimension of meaning production (Fairclough 2003: 2–6).

three things: 1) that X and Y exist independent of each other, 2) that X precedes Y in time, and 3) that but for X, Y would not have occurred." The third condition is clearly given in many English School arguments. For example, if it was not for the institution of the diplomacy, communication among state representatives and, by consequence, the pursuit of common interests, would be much more difficult. However, the first and the second conditions are usually not fulfilled, because to assume that two social phenomena (such as primary institutions and actors' identities) are co-constitutive is exactly opposing the assumption of independence and anteriority of one or the other (cf. Hansen 2006: 25–28). In so far as it accepts constitutive effects of institutions, therefore, the English School cannot provide causal explanations in the narrow, positivist sense.

However, despite this scepticism, the School never rejected causal theorizing entirely (Navari 2009c; Schouenborg 2013: 39). In fact, only adherents to a strict separation of 'understanding' and 'explaining' approaches would suggest that rejecting the positivist, nomothetic understanding of causality means abstaining from making explanatory or even causal claims altogether (Hollis and Smith 1990). Wendt has stressed that accounts of the empirical reality can also take the form of **constitutive explanations**, where a phenomenon is disclosed by reference to the discursive structures – and, I should add, mechanisms – "by virtue of which it exists" (Wendt 1998: 105, see also Patomäki 1999: 83–88; 2002). Kurki (2008; see also Wæver 2002) takes this claim even further, seeing interpretive and discursive accounts as not merely explanatory, but also as causal in the sense that they uncover the enabling and constraining conditions underlying social action. Based on this interpretation of causality, there is nothing suspicious about claiming that certain mechanisms or effects *caused* stability or change in the institutions of an international society.

In this sense, my methodological approach has the explanatory goal of identifying constitutive mechanisms, which are understood as "heuristic devices about the social processes that lead to the constitution of Y by X" (Pouliot 2007: 374). In line with the analytical model of institutionalization and constitution, it has to fulfil a twofold task: first, to produce an analysis of the practices that lead to the discursive construction of certain institutions; and second, to give an account of how these institutionalization practices were informed by the meaning structures constituted by those institutions. Since these processes are historically contingent, the goal of this

analysis is not to generate a-historical, nomothetic generalizations but to develop historical narratives that help understand current political phenomena (Linklater and Suganami 2006: 86–108).

Apart from adopting this general perspective on explanation, I have silently subscribed to a particular view on causation by including arguments about path dependence and the inertia of discourses in the theoretical framework. The implications of such a conceptualization are emphasized by Pierson:

> Path-dependent arguments rest on what Arthur Stinchcombe has termed a conception of 'historical causes' […] – some initial event or process generates a particular outcome, which is then reproduced through time *even though the original generating event or process does not recur*. (Pierson 2004: 45, emphasis in the original)

Adopting this perspective means rejecting the 'synchronic' logic favoured by most Regionalist approaches to explaining the institutional development of regional organizations, which confine themselves to identifying present factors and ignore that the initial processes that lead to the emergence of certain organizational features in the first place may no longer be in effect. However, it neither implies focusing only on the deterministic nature of established ideational structures, which hardly leave any room for change, as some constructivist analyses do (Wæver 2002: 22). By contrast, a 'diachronic' historical analysis takes into account both aspects. It acknowledges the structuring effects of institutions but at the same time leaves room for the possibility of transcending these effects:

> In such a process [of institutional reproduction] the crucial objects of study become the factors that set development along a particular path – and which lie in the past – and the mechanisms of reproduction of the current path, which at first glance might seem commonplace, perhaps almost invisible or at least analytically uninteresting. (Pierson 2004: 45–46, see also 1999)

Stability and change are therefore seen as dialectical phenomena, which are induced and mediated by specific mechanisms, and it is the task of the researcher to uncover these mechanisms.

4.3 Basic design of the case studies

The empirical part of this study consists of a comparison of changes in the secondary institutions of regional organizations in Europe and Southeast Asia, which

illustrates how the model presented in the theoretical chapter can help understand historical institutional developments in international societies. More to the point, it looks at three specific dimensions, or 'episodes', of change in regional organizations and asks how these played out in the respective regions. These episodes, to each of which a chapter is dedicated, are **decolonization, regionalization** and **enlargement**. Decolonization is taken here to comprise the dissolution of the old colonial institutions linking peripheral communities to a European core and the emergence of distinct regional organizations in Europe and Southeast Asia. I use regionalization, for want of a better term, in a narrow sense to describe the successive relocation of authority in the regional international societies in more hierarchical ways *once the regional organizations are set up*. Finally, enlargement means the expansion of the boundaries of the regional international societies.

These should not be seen as distinct stages of regionalism. Regionalization can occur before, after or in parallel to enlargement. Accordingly, the temporal expansion of the episodes within the regions partially overlap. They do, however, mark key processes related to the development of regional organizations that almost all regional international societies hosting such organizations have undergone. Since the processes of decolonization, regionalization and enlargement did not occur in exact temporal conjunction in Europe and Southeast Asia, the timeframes of analysis in the two regions are not entirely congruent (Breslin et al. 2002: 10). For example, the examination of legal integration in Chapter 6 focuses on the period from 1961 to 1992 in the EC case, and from 1976 to 2007 for ASEAN.

In each episode, the analysis focuses on certain key aspects of the developments: the decolonization chapter deals primarily with how ideas about extra-regional relations were connected to the emergence of regional organizations, the regionalization chapter with legal integration, and the enlargement chapter with specific enlargement 'rounds'. The primary goal is to track the nature and the drivers of change in regional organizations in thematically circumscribed areas, rather than to develop an all-encompassing historical account of the institutional development of the respective regional international societies. Therefore, each chapter focuses on those institutions that are most relevant for the particular dimension of change in question.

As the model does not propose any nomothetic causal hypotheses but offers a template for understanding institutional dynamics, the purpose of the case studies is not theory-testing. Rather, its aim is to show the heuristic and analytical value of the model in understanding distinct institutional dynamics in regional international societies. The model is valid if it creates a plausible narrative that offers explanations that other theories or models cannot provide. As a consequence, the empirical findings cannot falsify the theory but they can serve to fine-tune the analytical framework and to identify mechanisms that have been overlooked in its theoretical construction.[25]

Accordingly, the case studies are not designed in an overly rigid comparative frame, which would be more useful if the goal was to isolate possible law-like causal mechanisms and effects. While I am interested in common traits, an equally important aim of the study is to show the historical contingency of individual cases, and empirical generalizations are only in a very limited sense useful to this end. Therefore, I do not systematically juxtapose the two regions on a number of variables and test for possible alternative explanations, but merely identify and emphasize parallels and differences in the institutional development of the two regional international societies where they appear to be salient.

For example, in the chapter on regionalization, I find that actors in both regions pushed for legal integration by pointing to assumed functional necessities, in the sense that economic integration must be undergirded by an according legal order, but European pro-legalization actors could additionally refer to the primary institutions of democracy and Community constitutionalism in order to legitimize their claims. However, in contrast to a rigid 'most similar cases design' study, I do not conclude from this observation that the existence of these primary institutions provides a necessary or sufficient cause for the relatively high degree of legal integration in Europe but merely that it provided an important enabling context for the institutionalization of respective

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[25] For example, the analytical conception initially contained an ideal-type framework discerning four types of change according to two dimensions: the speed of change (sudden vs. gradual) and the direction of change (primary to secondary vs. secondary to primary). However, empirical findings suggested that even change sparked by apparently revolutionary events usually develops in longer time periods, and that processes of institutional change were more complex than the linear assumption of a dominant direction could account for, as the momentum of change often oscillated between the two levels. In reaction to this, I dropped the ideal-type framework and conceptualized institutional change instead as a process that unfolds in sequences, where institutionalization practices on the primary institutional level may create constitutive contexts conducive to further change on the secondary, and *vice versa*. I thank Nicolás Terradas for pointing out the possible long-term effects of singular shocks to me.

secondary institutions. Such a flexible application of the comparative method can help to identify commonalities and differences across cases and uncover the historical contingency of the development of regional international societies.

For purposes such as those outlined above, George and Bennett have proposed the method of structured, focused comparison, a procedure of semi-standardized data collection concentrating on certain empirical aspects of the cases in question. This method, in their words,

> is 'structured' in that the researcher writes general questions that reflect the research objective and that these questions are asked of each case under study to guide and standardize data collection, thereby making systematic comparison and cumulation of the findings of the cases possible. The method is 'focused' in that it deals only with certain aspects of the historical cases examined. (George and Bennett 2005: 67)

In the present study, the interrelated goals of structuring and focusing the inquiry are achieved by means of two features: first, applying the theoretical model of constitution and institutionalization presented in the theoretical chapter serves as a means to structure the inquiry, as well as the narratives that emerge out of this inquiry. Its concepts are used to develop questions that guide the analysis of the empirical material in both regions. For example, the concept of shocks translates into the question of what historical events have been constructed as serious challenges to the institutional set-up in each region – these questions will be developed in more detail below. At the same time, the questions also limit the scope of the inquiry by turning the attention towards the mechanisms surrounding the reproduction of institutional configurations, and away from other potential factors influencing the development of regional organizations. Second, the analysis will be centred on the three historically central episodes of institutional development mentioned above. These focal points lend a meta-structure to the analysis of the cases and further limit the empirical aspects under which they are examined.

4.4   Analytical approach

The theoretical framework adopted in this thesis conceives of organizations as being informed by discourses that represent sets of intersubjective expectations on two

levels of abstraction, namely primary and secondary institutions.[26] As I have already pointed out in the theoretical groundwork of this thesis, behaviouralist analysis in the sense of the observation of interaction and the subjective internalization of norms is not a conclusive method to study the relation between intersubjective meanings and agency. Instead, the analysis needs to disclose discursive practices and their constitutive effects,[27] which is why the main method employed in this study is discourse analysis. International society manifests itself in discursive struggles over expectations about actorness and legitimate practice in the international realm, and it is these struggles and the temporary fixation of meaning in institutions that have to be analyzed.

Such discourses revolve around specific aspects of international relations, such as the use of violence, communication or the hierarchy between actors.[28] It is likely that, in any international society, competing expectations are formulated with respect to these issues. The various discursive strands dealing with one specific aspect of international conduct form a discursive field. *Within a discursive field, those sets of expectations that are dominant in the sense that they are more widely accepted than others form international institutions*. A discursive field can give rise to more than one institution, and these institutions can formulate more or less specific expectations.

Analyzing international institutions thus means looking for those parts of the wider discourse on international relations that revolve around expectations about actorness and normativity/legitimacy, and examining the discursive practices of institutionalization by which some notions acquire dominance. For example, in the discursive field about the use of violence, there may be competing discursive strands formulating expectations, ranging from pacifist to aggressively expansionist and from nationalist to secessionist, which give specific answers to the question of who may, under which circumstances, rely on what means of force in international relations. The analysis then needs to trace which of these strands become dominant so that the expectations they formulate form institutions such as the primary institution of defensive warfare or the secondary institutions constituting the UN Security Council. The goal is to create a 'dialogical narrative' of how certain discourses become dominant

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[26] This should be re-emphasized: Secondary institutions are not equivalent with regional organizations and regimes, but the former are a constitutive part of the latter (Friedner Parrat 2015).

[27] A focus on practices is also advocated by Navari (2011). Note, however, that Navari's interest in practice is to recover subjective frames of thought, not intersubjective meanings. On the potential of practice-based approaches for identifying primary institutions, see also Buzan (2014: 176–177).

[28] More on this 'functional' aspect of institutions in Section 4.4.4.

and others dominated, and what power relations inform these discursive struggles (Foucault 1981; Pouliot 2007: 373; see also Dunn 2008).

4.4.1   Mapping pathways of regional organizations

I develop this dialogical narrative through a number of analytical steps. The first task is to identify and study the texts relating to the specific dimension of change in the regional organizations in question, with a view to tracking the development of the discursive field over time. In a basic sense, this means studying texts for references to primary and secondary institutions, in each case identifying their authors and the arguments they make. This allows me to trace the institutionalization practices employed by the involved actors. But what counts as change in this analysis? And when do expectations in a discursive field become so dominant as to be counted as institutionalized?

Since my research interest is explaining pathways in the development of regional organizations, a focus on alterations in their formal foundations, such as treaties and charters, is warranted. Formalization is a defining consolidating moment of change in regional organizations, as the formal statement of rules and procedures stabilizes the identities of its members, clarifies their mutual expectations and increases their obligations. As such, changes in formal foundational texts constitute the analytical starting point of my analysis. For example, in the case of regionalization in Southeast Asia, the formal enshrinement of dispute settlement mechanisms in the ASEAN Charter is the change in the organizational pathway that I want to account for. Chronologically speaking, however, such treaty or charter changes are only the – preliminary – endpoints of longer institutionalization processes by which certain intersubjective understandings become dominant in a regional organization, which also include discursive interventions of a lower formalization degree. For example, the inclusion of European citizenship rights in the Maastricht Treaty was preceded by interventions by different actors dating back to the 1960s, such as politicians' speeches, parliamentary resolutions, declarations by heads of state and government, and the like, which cumulatively contributed to making intersubjective understandings about rights and obligations of individuals in the European Community dominant (Wiener 1998).

Hansen has pointed out that mapping key events is a way of structuring a historical analysis focusing on stability and change of discourse (Hansen 2006: 32).

Taking up this idea, I start each of the analytical parts by identifying a key event marking a decisive formalization of new secondary institutions in a specific dimension of regional international society (Table 1), based on the operationalization of the concept of secondary institutions outlined below (see Section 4.4.3). Each of these focal points represents the culmination of a process of change in the secondary institutions of the regional organization.

Table 1: Key events in episodes of institutional change

Episode of change	Key events Europe	Key events Southeast Asia
Decolonization	Establishment of the Association framework in the EEC (1957)	Enshrinement of foreign policy rules in the Bangkok Declaration (1967)
Regionalization	Establishment of citizenship rules in the Maastricht Treaty (1992)	Formalization of dispute settlement mechanisms in the ASEAN Charter (2007)
Enlargement	Eastern Enlargement and launch of European Neighbourhood Policy (2004–2007)	Creation of ASEAN Regional Forum and accession by 'CLMV' states[29] (1994–1999)

In Europe, the creation of the Association framework transformed the relations between European states and their 'overseas territories' by communitarizing policies that had hitherto been the prerogative of national empires. It thereby constituted a hallmark in the decolonization of the region. In Southeast Asia, decolonization was of course firstly expressed by the acquisition of national independence of former dependent territories but it also comprised a regional dimension. This regional aspect found its formal expression in the creation of a code of conduct regarding member states' relations with external powers – including the former colonial powers – in the Bangkok Declaration of 1967, ASEAN's founding document.

While regionalization can take place in different policy fields, my empirical analysis focuses on the legal realm, looking at the processes through which the nation-states cease to be the sole location of judicial authority. Here, I argue that Europe's core institutionalization moments was the establishment of citizenship rules in the Treaty of Maastricht. While the establishment of an independent judiciary in the form of the ECJ

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[29] The acronym represents the four states of Cambodia, Myanmar, Laos and Vietnam, which joined ASEAN in the late 1990s.

was also a defining moment, it can be seen as a mere step in the undermining of classical international law, which culminated in the acknowledgement of individual rights in the citizenship framework. In Southeast Asia, legal integration has seen a milestone in the signing of the ASEAN Charter, which formalized and enhanced dispute settlement mechanisms in the region.

The last episode of change contains two distinct but closely related formalization events in both regions: the EU's Eastern Enlargement marks the greatest expansion in terms of membership of the EU. Since the European Neighbourhood Policy was launched in close sequence and effectively institutionalized forms of inclusion beyond actual EU membership, I analyze it in conjunction to the Eastern Enlargement. In Southeast Asia, the formation of the ASEAN Regional Forum (ARF) in 1994 can also be seen as an expansion beyond actual ASEAN membership, whereas the successive accession of Vietnam, Laos, Myanmar and Cambodia substantially pushed the boundaries of ASEAN as such.

The analysis aims to trace the discourse producing the institutional pathways leading up to these culmination points (see Section 4.4.2). This raises the difficult question of when an institutional pathway begins. Bennett and Checkel (2015a: 26–27) are right when they write that there is no guarantee that starting the analysis at any given point in the past actually traces the process in its entirety. On the other hand, the analysis has to start somewhere. My solution to this conundrum is to use secondary literature and intertextual references to find the texts that contain the first explicit references to the secondary institutions in question and then use these as the chronological starting point of the analytical process. For example, on the issue of legal integration in Europe, regional actors introduced the concept of a European citizenship in the early 1960s, which is why I use that point in time as the chronological starting point of the analysis. I cannot exclude the possibility that discursive roots in the form of related concepts actually date further back in time but would argue that this move is justifiable both on pragmatic grounds and given that my analysis tries to show how marginal ideas about institutions became more dominant, not provide a linguistic genealogy of the related concepts.

I have argued in the theoretical chapter that secondary institutions are institutionalized through processes of formalization and primary institutions through

non-formal reiteration. This means that by classifying each relevant textual source in terms of its author and its formality (see Section 4.4.2), I can trace how secondary institutions emerge from the context of primary institutions. A low degree of formalization indicates that the discursive practices of institutionalizing a new secondary institution are not very advanced. In this, the analysis rejects approaches that focus on instances of formal treaty changes only. Wincott (1995; see similarly Øhrgaard 1997) has criticized liberal intergovernmental accounts of legalization in the EC for focusing on formal treaty negotiations while neglecting the everyday practices of supranational bodies. I agree with Wincott that, beyond the big intergovernmental conferences, continuous practices have shaped the EC, but I reject his insinuation that the two are fundamentally different and cannot be analyzed within a single analytical framework. Rather, treaty negotiations appear as an endpoint of a process of gradual institutionalization which includes a variety of actors and discursive interventions of varying formality (cf. Finnemore and Toope 2001).

4.4.2 Identifying and structuring sources

Although discourses do not necessarily consist of verbal representations, they mainly manifest themselves in texts. To be considered relevant to the analysis, texts have to articulate general implicit or explicit statements about who is or should be an actor in international relations, and/or about what norms and rules guide or should guide the interaction among those actors (Reus-Smit 1999: 30). Leaving revolutionary moments of mass mobilization aside, discourses of international society are usually not shaped by and targeted at the broad public but have a limited, specialized audience. This reference group mostly consists of academics and practitioners of IR such as politicians, diplomats and spokespersons of large civil society groups.[30] Therefore, sources revealing international society discourses can be expected to be found in 'primary sources' – that is, historical documents – authored by leading political figures from the international society in question.

To paint a comprehensive picture and to be able to contextualize individual texts, there are a number of different textual genres and authors to be considered. The analysis focuses official discourse, i.e. texts produced by actors with legal authority in international relations such as heads of state and government, foreign ministers and

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[30] Wæver (2002: 42) makes a similar argument for discourses about foreign policy.

senior officials in international organizations. However, in order to capture the dynamics of discursive contestation and stabilization in the context of the hegemonic official discourse, it also includes texts by other actors who engage with this discourse and are therefore part of the wider debate about regional international relations. These can be opposition leaders and, in certain cases, spokespersons of civil society movements and organizations (Hansen 2006: 61).

In principle, therefore, relevant textual sources can be the following, as far as they are accessible either through the internet, libraries or archives, and as far as they are written in English, French or German.[31] The list puts them in the order of their formality, proceeding from high to low:

1. **Legal agreements** between actors of international relations, including the founding documents and statutes of international organizations or regimes. The most relevant organizations are the EU and its predecessors in the case of Europe, and ASEAN and its predecessors in the case of Southeast Asia. Other regional organizations and regimes, such as the European Convention on Human Rights and the Court of Human Rights, the Southeast Asian Nuclear Weapon Free Zone and the ARF for ASEAN are accounted for insofar as they influenced the development in these regional organizations.

2. **Legislation and jurisdiction**. This primarily concerns the directives and regulations of the EC/EU, as well as rulings by the ECJ, as they are the only bodies of regional organization under study with the respective competences. However, in certain cases, national legislation and jurisdiction may be of importance, as with the reactions of the High Courts of EC member states to the assertive interpretation of EC law by the ECJ.

3. **Resolutions and declarations** issued by international actors. These often represent formal commitments but lack legal character, which impedes their enforcement. The founding document of ASEAN, the Bangkok Declaration, is an example. However, unlike laws and jurisdiction, they can also be published

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[31] Due to the international audience which is addressed by most of these texts, they can be expected to be mostly written in English. This is also the case for Southeast Asian sources – for example, the working language of ASEAN is English. For important sources written in other languages, I will rely on translations as far as they are available.

by actors without ultimate decision-making power, and irrespective of formal competences in the field.

4. **Other kinds of official communication** emerging from the administrative machinery of regional organizations, such as reports and meeting minutes. Possible authors include the representatives of organizational bodies, such as the ASEAN Secretary-General or the Presidents of the various EC/EU bodies, but also ad-hoc designated rapporteurs, committees, 'eminent persons groups'. These documents are of a less formal character than resolutions and declarations but they may shed light on different discursive strands, as they do not always represent a consensus view. Since, at least in the case of the EC/EU, the various organizational mouthpieces have been publishing an ever-increasing plethora of regular and ad-hoc statements, reports, press-releases and statistics, documentary research in this area has to be focused by narrowing it down to specific search terms and timeframes.

5. **Speeches, interviews, statements and articles** by important national and international political actors. These can be heads of state and government or other high-ranking officials, especially foreign ministers, of nation-states. Of particular interest are statements issued at international conferences and at meetings in the framework of international organizations. If available, leaked minutes of meetings and 'non-papers' can allow insights into the non-official diplomatic discourse. To account for oppositional discourses, leaders of oppositional parties and important social movements are included.

In light of this variety of potential sources, the search has to eschew both the risk of generating too little and too much sources. On the one hand, there is no way to be sure that all relevant documents are included in the analysis. This is especially the case for events lying further in the past, and for those texts representing not the dominant discourses but the more 'subaltern' views, which are by definition unlikely to be supported by institutional authority (Neumann 2008: 66–67). As a consequence, it is possible that these alternative positions cannot be traced in the form of a discursive strand which is consistent over time and space, but rather as punctual emergences of oppositional views challenging the dominance of the existing institutions. This problem cannot be addressed other than by paying special attention to those discursive positions

wherever they are breaking to the surface and to analyze in particular how they differ from the dominant institutionalized meanings, what authority they claim for their arguments and why they did or did not manage to significantly influence the established institutions of international society.

On the other hand, especially in the case of more recent events, the risk is that of having to handle an overwhelming amount of data, the individual significance of which for the actual institutional development is hard to establish. The task is then to find a way of limiting the analysis to a manageable sample of this data while eschewing the risk of selection bias. However, the relative openness of the interpretive approach employed here precludes the use of hard selection criteria. I therefore use a more generic way of selecting texts and limiting the analysis, which has features of 'theoretical sampling'. In a broad sense, theoretical sampling means that the collation of sources does not follow a set of selection rules defined in advance in order to generate a random sample but is developed step-by-step in the process of conducting the analysis itself (Glaser and Strauss 2012: 45–77). Relevant texts are thus identified while analyzing other texts.

My approach draws on this idea but complements it with other methods of finding relevant texts. Hansen (2006: 82–87) mentions intertextual references, a clear reference to the issue in question and a certain backing by institutional authority as criteria for establishing the relevance of a text. Taking this into consideration, I start the analysis in each case by using the texts of the key events outlined above as a reference point. I then use secondary literature that indicates important preceding documents informing their genesis, which usually have a less formal character (Hansen 2006: 83). As the literature on the genesis of institutional rules and procedures may not pay adequate attention to texts that represent dynamics in the primary institutional context, I also make use of literature with a broader focus on the regional international society of the period in question. This includes works on regional international relations with a historiographic focus and genealogical studies tracing the development of key concepts (Neumann 2008: 67).

Apart from this, the textual corpus may be broadened by paying attention to intertextual references, in the sense that already identified documents may in turn refer to other important material of an earlier date. For example, motions for resolutions of

the European Parliament (EP) can point to earlier reports or communiqués from other EC/EU bodies. This conforms to the idea of a gradual development of the textual corpus outlined above. Finally, research based on key words in the databases of regional organizations, such as EUR-Lex[32] and asean.org can provide additional sources. In this way, I collate material until I see repeating argumentative patterns – either a single discursive strand or a number of opposing views – emerge from the interpretation of these sources to a point where the consideration of additional texts do not promise additional information and 'theoretical saturation' (Glaser and Strauss 2012: 61–62; see also Bennett and Checkel 2015a: 27–28) is achieved. In line with the notion of discourse tracing, I then put these sources in a chronological order for each of the cases in order to allow for a historically exact reconstruction of the discursive dynamics surrounding institutional stability and change.

The analysis of institutional pathways calls for an emphasis on chronology, so that the processes of discursive contestation and the institutionalization of new meanings can be examined in their temporal sequence. This approach conforms to what LeGreco and Tracy (2009) have called 'discourse tracing'. Combining elements of process-tracing and its focus on social mechanism (Bennett and Checkel 2015b) with genealogical methods which aim at reconstructing the emergence of normative claims out of discursive struggles (Price 1995), this is a variant of discourse analysis that puts particular emphasis on the temporal dimension in order to analyze the dynamic relation of dominant and competing discourses.[33] "Chronology", the two authors write, "is important because it helps researchers to detect the emergence of social processes across time and context" (LeGreco and Tracy 2009: 1526). However, a chronological reading as the only structuring element of the analysis would not be enough to create a meaningful narrative, especially in a comparative research setting. The quantity of potentially relevant data needs to be limited by some sort of complexity-reducing mechanism. LeGreco and Tracy seem to have this in mind when they point out that discourse tracing can be facilitated by means of a "structured, focused comparison of somewhat parallel situations, policies, or cases" (LeGreco and Tracy 2009: 1531). This

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[32] See http://eur-lex.europa.eu.
[33] For similar approaches, see Guzzini's (2012b) notion of 'interpretive process tracing', as well as Pouliot (2007). The call to use process tracing to explain dynamics in regional international societies is echoed by Costa Buranelli (2015b).

is in line with the basic research design of my case studies, which provides a number of structuring and focusing concepts in order to make sense of the chronological data.

4.4.3 Distinguishing primary and secondary institutions

Analyzing these sources allows me to put the institutionalization of secondary institutions through formalization in the context of the relevant regional primary institutions. I have already established in the theoretical chapter (Section 3.4.2) that the main distinguishing criterion between primary and secondary institutions is that the former are institutionalized by iterated speech acts and the latter by means of formalization. For this reason, I classify those elements of the discourses that formulate expectations about actorness and conduct without aiming to establish them as formal – in the sense of being unspecific and non-binding – parts of primary institutions and map their development separately from the secondary institutions.

For example, an analysis of the discourse leading up to the institutionalization of the Common Foreign and Security Policy (CFSP) of the EU would find texts from the 1970s and 1980s arguing for the formalization of procedures in the foreign and security relations of the EC. These would form part of the institutionalization process of the CFSP framework as a secondary institution. However, the same texts would also contain references to certain guidelines of interaction which are neither formal nor aiming for formalization. These would be evidence of a specific interpretation of the primary institution of diplomacy based on the notion of a 'coordination reflex', which implies that foreign policy officials of member states should automatically seek consultations with each other, although such a policy was not officially articulated until later. A special case in this respect are the preambles of treaties, declarations and resolutions: although these sources as such may be highly formalized, I take the preambles to be prefixed – in the literal meaning of the Latin word *praeambulare* – as a legitimizing preface to the actual provisions of the text, and therefore not as secondary but primary institutions.

Despite this relatively straightforward criterion, ambiguities will be unavoidable. The notions of supremacy and direct effect, for example, emerged from the concrete legally binding decisions of the ECJ, which means that they have aspects of a secondary institution. However, insofar as these concepts gained relevance as principles of the European doctrine of international law independent of the specific formal case law, they

changed conceptions of legal and legitimate authority in regional international society more broadly speaking. I thus classify them as elements of a primary institution of Community constitutionalism, which constituted an emergent legal order beyond that of national and inter-state law and defined individuals as legal subjects beyond national context.

Obviously, my analysis cannot entirely sidestep the problem that the application leaves a notable degree of subjectivity. Insofar, it must face up to the same sort of criticism that has been launched at classical regime theory, which has been censured for the "wooliness" (Strange 1983; see also Buzan 2004: 163–164) of its concepts and the problem of adequately defining and delineating these elements. However, hardly any analytical category is safe from this accusation. Ultimately, the distinction is a heuristic tool, and as with all such tools, its application remains subject to the judgement of the analyst, just as its usefulness depends on the plausibility and theoretical expediency of the analyses it generates. Critical reflection upon the analytical expedience of using the two criteria therefore forms an integral part of the empirical work.

4.4.4   Mapping primary institutions

How do I establish which textual references are materializations of which primary institution? Finnemore (2001: 509; see also Copeland 2003; Spegele 2005: 97; Wilson 2012) has pointed to the English School's continual problem of finding empirical evidence for its ontological concepts: "how do you know an international society (or international system or world society) when you see one?" For the purpose of my study, I have already established that we know an international society from the discursive struggles over legitimate actorness and behaviour. However, this leaves open the question of how to infer the presence of primary institutions from the plethora of utterances that can be found in these discourses.

Any discourse analysis is confronted with the question of how to generate valid claims from its data. Some authors hold that pure induction is the silver bullet (Hopf 2002). In this understanding, letting the relevant concepts emerge from the texts in the course of analysis will minimize any analytical bias that might be introduced by the preconceptions of the researcher. While for secondary institutions, this task might be considered manageable, for primary institutions pure induction poses a problem of practicality – without any points of reference, virtually anything could, in principle, hint

at the existence of an institution.[34] This is also why I do not take up Wilson's (2012) suggestion to use grounded theory in its original sense to analyze international institutions. The idea is certainly instructive insofar as it introduces methodological rigidity and empirically grounds theorizing about international institutions. However, in a field as complex and open as international society, the call to reject any pre-empirical theoretical concept-building while at the same time considering a large amount of sources such as texts, interviews, participant observation and the like is confronted by the problem of inferring a discrete set of institutions from a virtually unlimited set of data without any analytical guidelines.

It might therefore appear expedient to rely on deductive methods when it comes to identifying primary institutions. This would mean either using a catalogue of institutions from existing academic literature or applying sheer logic of reason to derive at one's own catalogue, and then look for evidence of them in the texts. However, relying on such work in this thesis runs counter to the assumption of the spatio-temporal variability of international society and is certain to introduce an analytical bias. The problem is exacerbated because authors hardly ever make explicit the rules of evidence by which they have arrived at a particular catalogue of institutions,[35] and they may be biased according to specific research interests. For example, works on European integration often pay more attention to internal institutions while neglecting the development of principles, norms, rules and procedures in relation to external actors (Diez et al. 2011). Such imbalances may be legitimate analytical choices but they show that a rigid deduction from established accounts is of limited value considering the specific purposes of my study.

In light of this apparent dilemma, I take a middle ground position that makes use of two sources to guide the analysis: first, if available, I draw on existing literature to get an idea about the institutional context other authors have identified for the period in question. In order to judge the validity of their findings, I analyze some of the key sources they cite. If I can reconstruct the findings they claim, I also apply them to the sources of relevance to the episode at hand, which I have identified in the previous step.

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[34] To be sure, some authors have chosen this approach with remarkable results (Schouenborg 2014: 81–84), and I am not saying that it cannot be done. However, it is far from clear to what degree these authors have actually arrived at their lists without any deductive or heuristic elements. The limits of this method are further demonstrated by the fact that the authors' different 'inventories' show a remarkable variability with respect to which institutions are identified.

[35] See the synopses and critiques by Buzan (2004: 167–176) and Wilson (2012).

If the discourses show references to the principles and norms that are defined as elements of a certain primary institution in the existing literature, I take this institution to be a part of the primary institutional context for the change on the secondary level under study.

Second, I will triangulate these findings with an original discursive analysis guided by functional heuristics. Such an approach has already been used by some English School scholars. It starts from the assumption that in any international society, a set of general aspects or problems of international relations has to be addressed, and that the answers that are given to these questions are likely – albeit not certain – to be institutionalized in primary institutions. This functional notion is a recurring idea in English School theory (Buzan 2014: 174–175; Schouenborg 2014: 80), and several authors provide lists of functions that can provide a basis for the empirical analysis in this study (Table 2).[36]

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[36] Reus-Smit (1999) also provides a functional argument, according to which international societies develop specific constitutional structures that serve to legitimize the identity of states in three respects: They provide a moral purpose for the state, an organizing principle of sovereignty and a systemic norm of procedural justice. I do not include his functional categories here because they are limited to societies of sovereign states, which is itself already a specific form of international society.

Table 2: Functions of international institutions

Author	Bull (1977: 16–20)	Buzan (2004: 186–190)	Donnelly (2006: 11–12)	Schouenborg (2014: 32)
Functions or goals of an international society	Preservation of the system Maintaining independence or external sovereignty of states Maintenance of peace Limitation of violence Keeping of promises Stabilization of possession by rules of property	Membership Authoritative communication Limits to the use of force Allocation of property rights Sanctity of agreements	Making rules Regulating conflicts Regulating the use of force Regulating ownership and exchange Communicating and interacting Aggregating interests and power	Legitimacy and membership Authoritative communication Trade International organization Regulating conflicts

Source: adaption from Schouenborg (2011: 32). In contrast to Schouenborg, however, I refer not to Bull's general functions to be fulfilled by any society but to those he lists specifically with respect to *international* societies.

Of these, Buzan's catalogue is the most convincing, most importantly because it incorporates the question of membership – in contrast to Bull, who presupposes sovereign states as the basic units of international society, and Donnelly, who conspicuously omits the question of actorness from his list. This category is also of particular importance when interrogating *regional* international societies, as for these geographic boundary-drawing, i.e. the delineation of a regional social space from the global level, is a constitutive process. Schouenborg's proposal to include international organization seems unfit because it is a matter of secondary institutions. Bull's, Donnelly's and Schouenborg's other suggestions can be subsumed in one way or the other under Buzan's functions. One aspect that is missing from all these lists is the function of enabling and regulating interactions with the environment, supposedly because none of the authors had specifically regional international societies in mind. I therefore use Buzan's catalogue as an inspiration from which to draw a set of functions that serve as analytical focal points of my empirical chapters, complementing it with the

issue of external relations. For the three episodes of change, the following functional categories are important:

a) Decolonization

- Membership: who counts as an actor, how does one acquire actorness and what is the basic nature of the relation between the actors (hierarchical or equal)?

- Limits to the use of force: who can legitimately be subjects and objects of violence, and under what circumstances?

- External relations: how should actors from inside the region conduct themselves *vis-à-vis* actors from the outside?

b) Regionalization

- Membership: see above

- Sanctity of agreements: how do the actors ensure that rules and mutual arrangements are observed?

- Legal personality: what kinds of actors are perceived as legal subjects, and what kinds of rights and obligations do they assume?

c) Enlargement

- Membership: in contrast to the above episodes, there is a slight shift in emphasis in this category – the main questions are: What are the geographical boundaries of the region? Is membership a dichotomous concept or are there gradated forms of membership? What are elementary qualities a candidate must fulfil in order to become a member of an international society? The latter question highlights that, in principle, primary institutions pertaining to all the other functions can become relevant here. For example, as I will show in Section 7.2, questions of authoritative communication and limits to the use of force (Who may decide on matters of conflict resolution? What are the guidelines of conflict resolution? How does communication about such

issues take place?) played an important part in the enlargement of ASEAN.

Every international society can give its particular answer to these problems and can indeed develop several primary and secondary institutions around one specific problem. For example, the question of the limits to the use of force can be addressed by the principles and norms of peaceful dispute settlement, coupled with the idea of non-intervention and specific conflict prevention mechanisms. On the other hand, one institution can deal with several problems. For example, the institution of international law contains rules about communication, the allocation of property rights and the sanctity of agreements.

Like Schouenborg (2014: 84), I do not seek to *explain* the emergence of institutions by reference to these functions: I merely use them as heuristic categories or an analytical template to direct my discourse analysis (see also Buzan 2014: 175). The explanatory logic is constitutive in the Wendtian sense, rather than causal: using the functions as heuristics or 'sensitizing concepts', I ask what kind of international society is constituted by the international institutions.[37] I am aware that the *a priori* assumption of functional requirements for international societies is difficult to sustain in an essentially post-foundationalist framework (cf. Linklater and Suganami 2006: 58; Wilson 2012). These functions are postulated rather than empirically inferred. However, the analytical bias which may be introduced is more limited than if one were to use a fixed catalogue of institutions as a starting point.

Still, the risk that the importance of a particular primary institution for a case of secondary institutional change will be overlooked cannot entirely be dismissed. It is important, therefore, that the functional categories remain open to refinement in light of empirical findings. If a discourse reveals frequent references to norms and principles that have initially not been considered as a relevant primary institution, I reconsider their relevance and examine the discourse with additional attention to them. This was the case, for example, with respect to enlargement in Southeast Asia, where I found that questions of conflict resolution and diplomacy were more present in the discourse than I had initially expected.

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[37] This approach is similar to Wæver's (2002) framework for analyzing national identity discourses in the Nordic states, which draws on a number of key concepts – the nation, the state etc. – and ideal types as heuristic anchors to guide their empirical work.

The *explicit* formulation of expectations is not always necessary for a segment of discourse to count as materialization of a primary institution. Instead, concepts may be used that are understood as representing a broader set of expectations by readers who are familiar with the discourse. For example, in the European regionalization process, the notion of 'legitimacy deficit' may be read as implying the argument that regional actors should be subject to principles of democratic representation and norms of accountability, transparency and participation. In my analysis, I will identify such concepts and count references to them as a materialization of the respective institution, in this case: democracy.

As for secondary institutions, discourse tracing is also important when analyzing the primary level because primary institutions are not static. It is possible that certain sets of principles and norms come to replace others as dominant. The question of what counts as change thus reappears for primary institutions, but I answer it in a different way than in the case of secondary institutions: rather than looking at increasing formalization, I assume that change in primary institutions is evident in the frequency of the evocation of certain expectations by authoritative actors in the texts, and the intensity of explicit opposition to those expectations. If certain principles and norms cease to be reiterated while others appear more often, then I assume that a primary institution has changed.

4.4.5 Analyzing path-dependent change

So far, the methods outlined provide a basis for describing the institutionalization practices and the ensuing changes in the institutional configuration of a regional international society. In order to tap on the full explanatory potential – explanatory, it should be repeated, not in a narrow causal sense – the analysis needs to be complemented by methods that uncover the processes of stabilization and destabilization influencing the dynamics on the two institutional layers. This part essentially relies on three elements: analyzing the role of feedback effects, identifying sources for contestation and examining the interplay of the two institutional layers.

With regard to the first step, I have elaborated in the theoretical part how various feedback effects may impinge on actors' ability to engage in practices of institutional contention. As outlined in the theoretical section, these are power effects, reification, vested interests and institutional linkages. As all of them can be at work simultaneously,

the analysis takes up each effect, analyzing how strongly they worked in favour of the continued institutionalization of the existing institutions and impeded oppositional discourses from posing serious challenges to the institutional configuration.

Power effects rely on the phenomenon that institutions have an impact on actors' abilities to participate in the process of their reproduction because they identify certain actors as legitimate and authoritative while others are ascribed a subordinate position or denied actorness altogether. In international societies, the inclusiveness of these processes depend on the degree of its 'stratification' (Keene 2014), meaning the differentiation of power positions within an international society, indicates which actors assume privileged or subordinate discursive positions.[38] If a primary institution ascribes legitimate authority for some actors over others, I will take this to indicate a privileged power position. Secondary institutions constitute actors in the sense that they ascribe more differentiated roles. To determine their stratifying effects, it is helpful to identify what kinds of positional power they entail. Such power is indicated by privileged access to institutionalization practices, for example through the granting of veto power in the decision-making procedures of a regional organization. The more restricted the access to the main institutionalization processes of an international society, the stronger I will assume power effects to be.

Reification means that the basic structural conditions of international society generated by the international institutions are taken for granted. This effect is of course hard to pin down, as it by definition concerns latent aspects that are not manifest in discourse. One way of dealing with this problem is to look at the degree to which discursive articulations of an institution are connected to explicit legitimizing arguments. For example, the virtual absence of a discourse legitimizing the restriction of national self-determination, and the hierarchy constituted by this interpretation, during the colonial era attests the naturalized status of these ideas.

Vested interests are present when the relevant actors have preference structures that are conducive to the reproduction of existing institutions. The empirical observation

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[38] Unlike Keene, who uses a multi-dimensional framework to analyze the relative importance of different logics of stratification (material, social and legal), I adopt the more simplified view that generally, the power positions constituted by different international institutions, or in different power dimensions, will be more or less aligned. The view is thus rather one of an international society stratified along a single hierarchy. While Keene focuses on interstate relations, the concept can easily accommodate supranational and 'world society' actors.

of preferences is a longstanding problem of neo-liberal institutionalist literature, which has tried to circumvent the lack of means of direct observation by assuming 'revealed preferences', meaning that preferences can be observed from behaviour. I will take a slightly different, though similarly parsimonious, approach here, which infers preferences, on the one hand, from a simple assessment of the general distribution of benefits effectuated by the institution in question, and on the other, from discursive statements of actors. I thus ask two questions: first, who benefits from the allocation of resources, broadly understood to include pecuniary as well as security rents and social status? And second, what preferences do the actors express factually? If those benefiting the most are also the ones with privileged access to the reproducing institutionalization practices, then the feedback effects should be assumed to be strong.

Institutional linkages are strong when the institutional configuration displays a high degree of consistency. I have argued that references to endogenous tensions provide oppositional actors with arguments justifying their discursive practice. If, however, the configuration is largely consistent, the strong institutional linkages will make criticism harder. In the empirical chapters, I therefore map out the relevant primary and secondary institutions that defined the institutional context at the point in time when calls for change first gained momentum in the discourse, and look for potential tensions in the configuration. This requires comparing the constitutive logic of different institutions, both within and between the two layers. Are all the institutions consistent with regard to the actors and the practice they identify as legitimate? Or are there conflicting expectations in the sense that a specific action can be judged as legitimate or illegitimate, depending on which institutions' standard is applied? The less consistency I find, the weaker I assume institutional linkages are.

The impact of these effects can be influenced by institutionalization practices. Drawing on specific discursive sources, subordinate actors can increase their authority, problematize apparently natural conditions, change preference structures and weaken institutional linkages. This is one of the core assumptions of my constitutive explanation of institutional change. As indicated in the theoretical section, an analysis of the social processes that make institutional change possible must consider two sources: exogenous shocks and endogenous dynamics. The two sources are not mutually exclusive, as it may well be that the discursive representation of a shock exacerbates dynamics that are internal to the institutional configuration itself. For example, the collapse of the colonial

empires of the UK and France beginning with the Second World War coincided with, and accelerated, an incremental discursive shift in the relation between, on the one hand, the institution of national self-determination and, on the other, the interpretation of sovereignty as a gradual concept applying first and foremost to the nation-states of the Western core of international society. Accordingly, the objective of the analysis is to determine the relative importance of the two sources in the particular instance of change in question, rather than making an either-or distinction.

The analysis of these sources pays particular attention to oppositional voices at the onset of change. It is not so much the *substance* of the competing visions of international order that are central here but rather the *justifications* that are given for the call for change by those actors. On what grounds do some actors call the existing institutional configuration into question? If the texts mainly refer to a contingent and discrete event to delegitimize an institution and make change appear desirable, then we can assume such pressures to be exogenous, or **shock-induced**. Such arguments can take the form of describing the expectations of an existing institution as outdated or dysfunctional in light of certain events, or promoting new institutional expectations as timely or better equipped to fulfil certain functions. These events must not necessarily be punctual but can also take the form of longer-term processes, such as globalization. The relevant feature of a shock is not its 'suddenness' but the fact that it initially occurs outside of the institutional logic of constitution and institutionalization.

If an external reference is missing and oppositional discourses refer to the institutional configuration as such, then **endogenous dynamics** should be assumed to be present. This can take the form of explicit references to contradictory expectations in order to delegitimize an institution. For example, socialist anti-colonial actors pointed to the inherent contradiction between the institution of national-self determination and the idea that the sovereignty of peripheral states could be compromised. Obviously, the opportunity to use this kind of discursive resource is influenced by the degree of consistency in the institutional configuration, which is analyzed in the previous step. Alternatively, the need for a new institution can be derived from an existing institution. For example, the ECJ began ascribing constitutional character to Community law on the grounds that the institution of pooled sovereignty constituted a relation between the individual, the nation-state and the supranational authorities which could not be accounted for under the premises of classical international law.

I have pointed out in Section 3.4.3 that shocks and endogenous dynamics are not transcendental events but only become relevant and actionable through certain discursive interpretations. Therefore, it is important to know not only the source of change as such but also the kind of interpretation that made the source discursively relevant and mobilized opposition – the process, in other words, that transformed it from a mere event into a motivation for acting towards institutional change. The discourse analysis follows this line of thinking by uncovering the main line of argument behind the discursive interventions that contest established institutions: *why* is the *status quo* considered to be in need of overhaul? Change can be constructed as a necessary and inevitable response to coercion, as an expedient choice to maximize utility or as a morally desirable act. Only if the argument resonates with the frames of thought of a large part of the audience, it will interrupt the feedback effects by changing power relations, deconstructing taken-for-granted perceptions, modifying interests and preferences, or putting institutional linkages into question have a chance of inducing change.

Important aspects in this respect are points in time when a particular primary or secondary institution has become institutionalized. The theoretical implication is that in such instances, change in the institutions on one level has created a new constitutive context for institutionalization on the other. This context consists of discursive positions and meaning structures which either *stabilize* the institutional configuration by 'freezing' tensions, or further *destabilize* it by affecting the feedback effects and thereby enabling certain actors to challenge the institutions on the other level (institutionalization). The former case is evidenced by instances where an institutional discourse on one of the two levels has become dominant, but this is not followed by institutional change on the other level. The latter case is marked by a discourse in which references to certain general expectations have become dominant and now calls for the creation or adaption of specific rules that apply to a certain regional organization in the same field become more pronounced, frequent and formalized – or *vice versa*, the formalization of certain secondary institutions in a regional organization is followed by an increase in interventions promoting expectations that apply more generally beyond the organization as such. In both cases, the analysis examines how change on one level affected the feedback effects and what results this had for institutionalization practices on the other:

- Did it create new power positions for the involved actors or leave them intact? The positional power of an actor or a group of actors, in this context, can be conceived to increase when influential texts ascribe new authority to them. This authority can come in different forms. It might be by a diffuse acknowledgement of equality or inequality between groups of actors, by concrete statements of specific rights or by defining rules of participation in the discourse, such as more or less restrictive decision-making procedures.

- Did it create meaning structures that called into question taken-for-granted realities, or reinforce their reification? Hard evidence for de-naturalization is difficult to find, but the increasing need to legitimize previously taken-for-granted assumptions may provide some indication. Coming back to the example given above, after the Second World War, colonial practices were increasingly dependent on being legitimized through the notion of development, which indicates an increasing problematization of the structural conditions of the international society in this period.

- Did it alter preference structures or leave them intact? Based on the considerations outlined above, I examine whether the institutional change resulted in an altered distribution of resources. Such an altered distribution may mean that a certain practice is now rewarded or sanctioned differently. For example, the rise of a nationalist discourse in the Southeast Asian dependencies caused local elites to reorient their loyalties from collaborating with the foreign rulers towards supporting the independence movements, as local audiences were increasingly central for the acquisition of status and authority.

- Did it freeze institutional dynamics by strengthening institutional linkages or catalyze further change by weakening them? Freezing can be assumed when the institutionalization contains implicit or explicit references to seemingly contradicting institutions on the respective other level. For example, the Bangkok Declaration of ASEAN froze the tension between the primary institutions of national self-determination and non-alignment in security and defence policies through ambiguous language in its provisions on foreign bases and accession criteria. Evidence for a catalyzing effect of institutionalization can be found when the call for new institutions on one level is explicitly justified by

reference to a previously established institution on the other level, but also when they are less explicitly connected – for example, when a primary institution is invoked in the preamble of a resolution calling for secondary institutional change.

4.4.6   Structure of the narrative and summary

Bringing together the analytical steps outlined above allows me to write a 'dialogical narrative' of each instance of institutional change. This narrative does not precisely follow the sequence of analytical steps outlined above; instead, it consists of four parts in each case: first, I briefly outline the cases under study and determine the timeframe from the first calls for change until the formalization of new secondary institutions. Then, a section on the context of change describes the initial configuration of primary and secondary institutions at the beginning of the timeframe and outlines the main feedback effects. A third part then traces phases of institutional change and describes the sources of change on which the oppositional actors drew to challenge the existing institutional configuration. By showing which of the two institutional levels these challenges were targeting over time, I can discern different phases of institutionalization. Taking into account the impact of these institutionalization processes on the feedback effects, the narrative shows how change on one level achieved during a particular phase affected the chances for change on the other in the subsequent phase.

As we have seen, the analytical tasks needed to produce this narrative are quite extensive. To give an overview, the basic elements are summarized in Table 3. It divides the elements of the approach elaborated above into distinct analytical steps and provides questions guiding each step. These questions are further specified in the above sub-sections but I do not provide clear-cut rules of evidence. For example, I do not employ a strict coding schema that provides me with exact criteria for when a text refers to a certain institution, or a certain source of change. This would neither reflect the interpretive research practice of most English School authors, some of which were quite vocal in rejecting such rigid research designs (Bull 1966a; Jackson 2009; Wight 1966), nor would it lend itself to a research question with an explicitly long-term, historical, and general perspective on institutional change. For this reason, the questions listed here are deliberately held rather open.

Table 3: Overview of analytical framework

Analytical step	Analytical tasks	Guiding questions
Collating discursive material	Identify timeframe Identify texts Bring material in chronological order	What is the key formalization event? When did the call for change in this dimension first emerge? Which sources have been identified as central texts on the issue at hand? Which other texts may be central because of intertextual references in other primary sources? When were the texts written?
Map initial primary and secondary institutional context	Draw on existing academic literature for heuristic ideas about existing institutions and attempt to reproduce them Extract expectations relating to the relevant functional dimensions from the early texts Triangulate findings from both analyses Distinguish between primary and secondary institutions on the basis of formalization	What institutions have been identified by other authors? Does this conform to my reading of the texts? What other expectations are formulated with respect to the dimension in question? Who is defined as a legitimate actor? How are relations between the actors understood? Which parts of the texts relate to (actual or attempted) formalization and which do not?

Tracing institutional changes	Map discursive field Identify sources for contestation Trace changes on both levels over time	Which actors defended the existing configuration? Which actors opposed it? What justifications do oppositional actors give for their challenges to existing institutions? Do they refer to existing institutions or external events? Why do they perceive the institution to be in need of overhaul (inevitable response to coercion, lack of effectiveness, or lack of legitimacy?) Which institutional level was the focal point of the discursive struggle? When did actors emphasize (actual or attempted) formalization, and when did they not? When was a given set of expectations firmly institutionalized (by means of formalization or its general acceptance)?
Analyzing constitutive mechanisms	Analyze feedback effects Analyze impact of discursive practice on feedback effects	To what degree was the institutional configuration stabilized by power effects, reification, vested interests and institutional linkages? How did discursive practices affect these mechanisms? Did shifts from primary to secondary institutionalization strengthen or weaken them?
Writing the narrative	Outline case study Map initial institutional configuration and feedback effects (context) Describe and explain phases of institutional change (account for institutional practices and their impact on feedback effects)	

PART II: THE CASES OF EUROPE AND SOUTHEAST ASIA

5 Decolonization: collapsing empires and the emergence of regional organizations

The emergence of regional organizations in Europe and Southeast Asia started early in the second half of the 20th century. The European Coal and Steel Community (ECSC) was established by the Treaty of Paris in 1951. Plans for a European Defence Community (EDC) took form in 1952 but were later buried due to their rejection by the French National Assembly. In 1957, representatives of the six member states of the ECSC[39] signed the Treaties of Rome, which created the European Atomic Energy Community (Euratom) and the European Economic Community (EEC). Of the three Communities, the EEC with its goal of establishing a customs union and a common market was the most far-reaching in terms of intervening in formerly national competences.

In Southeast Asia, several early attempts at fostering inter-state cooperation failed. The Southeast Asian Treaty Organization (SEATO) was founded in 1954 under U.S. leadership as a kind of complement to NATO but quickly fell into obscurity. The governments of Malayia[40], the Philippines and Thailand formed the short-lived Association of Southeast Asia (ASA) in 1961, which remained equally insignificant. In reaction to this failure, Malaysia, the Philippines and Indonesia launched a number of agreements under the heading of Maphilindo in 1963, but the cooperation dismantled only weeks after its inception due to the policy of *konfrontasi* (confrontation) adopted by the Indonesian government against its Malaysian neighbour. Only after the resolution of the conflict in 1967 did the attempts at forming a regional organization finally gain traction. The foreign ministers of Indonesia, Malaysia, the Philippines, Singapore and Thailand convened to sign the Bangkok Declaration establishing ASEAN.

As pointed out in Chapter 2, the fledging Comparative Regionalism literature has developed various theoretical arguments about the emergence of regional organizations. It points to power-political, domestic and ideational factors as well as to functional demands and diffusion processes. By contrast, due to its focus on synchronic

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[39] These were Belgium, France, the Federal Republic of Germany, Italy, Luxembourg and the Netherlands.
[40] Malaya was the name of the federation which existed on the Malay Peninsula until the formation of the state of Malaysia in 1963.

explanatory factors, it has largely ignored processes of decolonization and their historical legacy for regionalism in different parts of the world. Even studies that adopt a historical perspective do usually not focus on colonialism and its demise but on the regional repercussions of the global Cold War and superpower influence (Beeson 2005; Hemmer and Katzenstein 2002; Katzenstein 2005). This is regrettable because the particular importance of colonial, de-colonial and post-colonial experiences for regionalism around the world has been described as one of the main potential insights from more comparative perspectives (Acharya 2012).

In a rare exception, Domínguez (2007) acknowledges that 'international rules' in emerged among the newly independent states in Latin America, transforming colonial legacies such as imperial territories into regional principles and norms such as a respect for inherited boundaries. He also argues that these legacies informed the shape of the Organization of American States (OAS). Domínguez does not inquire into the discursive struggles that accompanied the construction of these primary institutions, or ask to what extent their translation into formal rules and procedures was contested or incomplete. While it is possible that the institutionalization processes were rather unproblematic in Latin America, the same does certainly not apply to Southeast Asia and Europe, where tensions between and disagreement over different normative claims and organizational models were quite pronounced, as the following analysis will show.

I argue that the initial efforts of building regional organizations in Europe and Southeast Asia – per definition one of the critical moments in the regional organizational pathways – were closely connected to broader processes of decolonization and their normative ramifications. Regional organizations emerged as the colonial international society, which had covered virtually the whole globe, unravelled. By consequence, questions of boundary-drawing came to the fore, both in geographical and in normative terms: cutting colonial ties gave rise to various regional ideologies such as pan-Africanism, pan-Arabism, pan-Asianism and pan-Europeanism, each of which ultimately sought to establish their own primary and secondary institutions. This required thinking not only about what types of practices and understandings of actorness should guide regional affairs, but also who could be legitimate interaction partners beyond the region and how the relations with those external actors should be defined.

This chapter focuses on the latter set of questions and *sees the construction of primary and secondary institutions concerning external relations as an indispensable element in the emergence of regional organizations*. By establishing and maintaining norms and rules differentiating between members and non-members, organizations attain an inside-outside distinction necessary for their emergence and maintenance. For Europe, the question of external relations materialized mainly in the discourse about relations with 'overseas territories' in the context of the creation of the EEC. The discussions eventually resulted in the creation of the Association framework for development policy in the early 1960s. In Southeast Asia, negotiators argued over guidelines for ASEAN member states' security relations with major states – including former colonial powers.

The following analysis demonstrates that these developments in the secondary institutions of the two regional organizations were related to transformations in the primary institutional context of the global international society and, subsequently, the emerging regional international societies. It is organized in three main sections. The first section will outline the main relevant primary institutions characterizing the global colonial international society and show how discursive contestation resulted in the demise of those institutions, focusing on actors from Europe and Southeast Asia. To narrow down the scope of the inquiry, the focus on the primary level will be on how the institutions of gradual sovereignty and concert of empire became subject of anti-colonial critique. These two can be seen as the colonial core institutions because they chiefly define the stratified nature of the colonial international society. The second and third sections then deal with how the emergence of regional organizations in the two regions was related to attempts of building primary institutions expressing post-colonial standards of legitimacy. I will focus on the institutionalization of primary and secondary institutions concerning external actors because, as I argued above, it is a necessary – although not sufficient – condition for the emergence and maintenance of regional organizations.

5.1   Challenging the colonial international society

The colonial international society that existed roughly until the 1950s was of an virtually global reach and a case can be made that there neither existed a Southeast Asian nor a genuinely European international society prior to its dismantling. In fact,

Southeast Asia as a regional concept was not in common use prior to the establishment of the Allied South East Asia Command in 1943 (Katzenstein 2005: 54; Tarling 2001a: 3–4). There were other geographical notions that partially overlapped with this space, such as the Indies, East Indies, Farther/Further India or the Malay Archipelago (Encyclopedia Britannica 1902: 487–491). However, these were mainly tied to the representation of colonial possessions by individual Western states, and therefore constituted territorial claims rather than a coherent regional identity, let alone regionally specific institutions.

With regard to Europe, there definitely existed a regional concept and possibly even a collective identity. However, if there had been a genuinely European international society at some point in time, its boundaries had shifted fundamentally by the beginning of the 20th century: first, a considerable number of non-European polities such as Japan and the U.S. had acquired membership as sovereign states; second, if we depart from the classical Grotian view of international society as constituted by a group of sovereign equal states and instead allow for more hierarchical and nuanced conceptions of international society (Keene 2014; Wæver 1996; Watson 1992), one sees that what existed in the first half of the 20th century was *not* a European but a global, albeit highly 'stratified' (Keene 2014) global international society. Its institutions constituted a core-periphery structure, the core being made up by a small number of sovereign states while the periphery consisted of a large number of dependent and semi-dependent polities (Bull 1984a: 124–125; Buzan and Little 2000: 337).[41]

In the process of decolonization, the primary and secondary institutions of this stratified international society became increasingly challenged and eventually replaced by institutions that constituted more regionally oriented social spaces – even before the actual creation of regional organizations. This chapter traces these developments, starting with an outline of the institutional configuration at the outset.

Some historians have depicted decolonization as a process driven mainly by the imperial powers themselves, spurred by cost-benefit estimates that made overseas possessions appear increasingly as economic or geostrategic liabilities (Darwin 1991; Springhall 2001: 13–17). It is not the purpose of this study to evaluate the significance

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[41] The conceptualization of international societies – or states-systems, in his parlance – in core-periphery terms goes back to Wight (1977: 42-43).

of these calculations for domestic imperial policies. However, while such considerations may have had a profound effect on domestic colonial policies in specific cases, they did not affect the general institutional configuration of the colonial international society as a whole, at least in the initial post-war years. As the following analysis of shows, pro-active and deliberate renunciations of colonial practices were decidedly not a dominant part of the discourse in Europe, and strictly anti-imperialist positions remained marginalized until at least the late 1950s. By contrast, powerful discursive challenges to the colonialist institutions of gradual sovereignty and the concert of empires in the periphery mobilized resistance to colonial practices, which eventually led to the collapse of colonial secondary institutions.

5.1.1   Institutional context

With the consolidation of foreign rule in the non-Western communities, the institutions of the colonial international society were shared in the sense of being accepted as valid by actors both in the core and the periphery. The fact that those institutions constituted a highly stratified international society and were primarily upheld by force makes their legitimacy questionable but does not put their existence into doubt. What did the institutional configuration of this international society look like? In the following, I will give a short overview over the main primary and secondary institutions as well as the feedback effects surrounding their reproduction. The focus is on those institutions constituting the international society's stratified structures.

Primary institutions

The first of these was a **gradual conception of sovereignty**. In this interpretation, sovereignty was not an absolute, natural right but seen in direct relation to a teleological conception of civilizational advancement (Gong 1984b). Therefore, full sovereign statehood was granted only to a core of civilized polities. It was expected that in the periphery, authority could be penetrated to varying degrees by the imperial states which had established protectorates and colonies. In these territories, governmental authority was often not centralized but divided between local rulers and an imperial administration that held far-reaching prerogatives, especially concerning foreign policy and international representation. This was legitimized by reference to the idea of trusteeship: a 'civilized' state could assume governing powers over a less advanced people until their development allowed them to be left to self-government (Louis 1984).

Whether and when this paternalistic relationship was to be terminated was determined by their degree of development (Anghie 2005) or by the 'standard of civilization', a set of preconditions to be fulfilled before membership as an autonomous actor in international society would be granted by the established core members (Gong 1984b). While it was created initially by European states as a benchmark for accrediting equal status to external states and as such narrowly defined the boundaries of the community of sovereign equal states (Stivachtis 2014: 113), the standard of civilization was a shared institution beyond European borders insofar as polities beyond Europe recognized it as a linchpin for ensuring independence and indeed aspired to fulfil it (Gong 1984a), as Siam successfully did in Southeast Asia.

Second, and closely related to this gradual notion of sovereignty, was the primary institution of a **concert of national empires**. What I mean by this is the dominant role of a few major powers within the core, which recognized each other as sovereign-equal but successfully claimed supremacy in the periphery. While this imperial system contained strong elements of competition over territorial control, it was to some extent based on informal coordination. Although their analysis is limited to the period from 1870 to 1914, Puchala's and Hopkins' (1983: 68) assessment that a notion of constraint, equity and "international management over selected parts of the non-European world" was present among the imperial powers holds true also for much of the first half of the 20th century. An early expression of this coordination was the Berlin Conference in 1884 and 1885, which established norms and principles such as that of 'effective occupation', according to which colonial claims had to be supported by actual territorial control (Hansen and Jonsson 2014: 33–34).

A characteristic element of imperial concert can be found in the tacit or explicit agreements on spheres of influence and neutral 'buffer states' such as the Siamese Kingdom in the periphery (Tarling 2001b: 49). It was expected that the polities in one power's sphere of influence do not hold relations with other major powers, nor that a major power interfere in another's sphere of influence (Puchala and Hopkins 1983: 68). It thus becomes obvious that the special role of national empires impacted deeply on the logic of territoriality in international society: within the core, territoriality was based on the principle of nationality. Meanwhile, in the periphery, the logic of territoriality was based on the colonial interests and power relations of the empires (Puchala and Hopkins 1983: 68; Tarling 2001b: 91–92). One of the consequences of this logic was the

fragmentation of social structure in the periphery, where individual polities were to limit their interaction to relations with the metropole and refrain from establishing political ties with other peripheral polities (Galtung 1973: 42–43). This impacted on the global economy, as intra-imperial trade relations conflicted with the idea of global free trade. It also precluded the construction of a regional international society in the Southeast Asian periphery.

Third, while the state was seen as the paramount source of legitimate force in international relations, both externally and internally, the notion of **national self-determination** bound the execution of sovereign state rights in form and substance to the will of a people with a collective identity living under its rule. By means of the principle of nationality, the state was also the source of identity of individuals in the international realm: only by virtue of belonging to a specific state did people require international status and certain political rights. Statelessness and double nationality were seen as an abnormality to be eradicated (Convention on Certain Questions Relating to the Conflict of Nationality Law 1930, preamble). The institution of national self-determination was not a stratifying concept in principle but its actual distribution of these rights was unequal, as indigenous populations of colonies and protectorates did not necessarily assume the full status of citizenship as the people in the core, although in the case of France, the populations of its colonies were regarded as French citizens. In general, imperial administrations were not obliged to apply the same principles regarding nationality to them as to their home population, not least because it would have blurred the distinction between the civilized and the non-civilized (Convention on Certain Questions Relating to the Conflict of Nationality Law 1930: Art. 29; Société des Nations 1922: 88).

To these three could be added other primary institutions that also displayed a stratified logic. For example, international law at that time displayed a dual structure, meaning that its applicability was dependent on the recognition as a sovereign state, which was not decided upon on the basis of a codified catalogue of requirements but generally granted or denied by the established members of international society (Anghie 2005: 53–54; Gong 1984a: 179). Equally, the institution of peaceful dispute settlement reserved the right to use force in conflicts to exceptional cases of self-defence but conferred this right only to those actors enjoying full status as a member of international society, i.e. independent nation-states. Finally, the institution of diplomacy limited the

access of representatives of the periphery to the circles of authoritative communication and the ability to establish diplomatic contacts among themselves (see Satow 1922: 190–191). However, I would argue that these asymmetries largely reflect the stratified nature of other primary institutions, rather than producing them. For example, the asymmetries of diplomatic principles and norms can be traced back to the fact that sovereignty was seen as a gradual, rather than absolute, concept. For this reason, I focus on the institutions of gradual sovereignty, concert of empires and national self-determination here.

Secondary institutions

A number of secondary institutions existed alongside these primary institutions. I cannot go into much detail here and will only provide a basic overview. Generally, much like today, multilateral and bilateral secondary institutions co-existed. Among the former can be counted the rules and procedures of the **League of Nations**, which was the dominant, albeit seriously flawed, international organization of the interwar period. The creation of the League was mainly informed by ideas about collective security, but through its Mandates System, according to which member states could assume authority over foreign communities formerly under German or Ottoman rule, it also had a connection to questions of colonialism.

Other secondary institutions include the **multilateral treaties** specifying rules for a peaceful international order. Some of these installed mechanisms of collective security, such as the Locarno Pact, while other treaties defined goals of disarmament, such as the Naval Treaties of Washington. Both types were mainly concluded by major powers of the core of the international society. There were also multilateral treaties that aimed at preserving a particular territorial *status quo* in the periphery. The Four Power Treaty between France, Japan, the UK and the U.S., which was concluded at the same conference as the Naval Treaties and which secured the respective parties' possessions in the Pacific, can serve as an example.[42]

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[42] A type of secondary institutions left out of this overview are multilateral conventions that followed the overarching objective of codifying and specifying established principles of conduct of international law, primarily in the field of peaceful dispute settlement. Examples include the Geneva Conventions, the Paris Peace Conventions of 1864 and 1906 and the Hague Conventions of 1899 and 1907. They are of minor interest to this analysis because their structural logic was not as clearly stratified as that of the other secondary institutions.

Finally, there was the plethora of **bilateral treaties** between members of international society. It is, of course, impossible to account for their contents here. However, two general patterns can be discerned: first, the core of international society functioned as a hub of a system of bilateral treaties, so that actors from the periphery often had contractual relations with only one European state, while European states concluded treaties with a large number of other actors from the core and the periphery.[43] Some of the core-to-core treaties delineated the boundaries of imperial control in the periphery, such as the Anglo-French Entente Cordiale or the Franco-Italian Agreement of 1935, which both determined spheres of influence in African territories. Second, while the treaties among the core states were generally based on notions of reciprocity, European states drew on the tradition of unequal treaties in their dealings with the periphery. The most common examples are treaties granting extraterritorial jurisdiction to Western powers in semi-sovereign states under their influence, which provided for religious freedoms, but also immunities and exemption from taxation for people from the core. Although the heyday of this practice was the 19th century and there was increasing resistance against it, it was still common during the first half of the 20th century (Satow 1922: 251–328). This was facilitated by a treaty law that recognized the validity of treaties concluded under duress (Bull 1984b: 217; Stivachtis 2014: 115).

Feedback effects

Taken together, the primary and secondary institutions of the colonial international society constituted a starkly stratified structure of highly unequal power relations between the core and the periphery. This institutional configuration was far from monolithic. There was an increasing social mobility – meaning that, through various forms of 'accession' to the community of sovereign nations, states could move from the core to the periphery – and the reproduction of the institutional set-up suffered some serious blows by anti-colonial uprisings (Springhall 2001), the declining importance of the League as well as its inability to respond to crises such as in Abyssinia in 1935 and 1936, and the aggressive ideology of fascism. Considering these challenges, the principal logic of stratification remained remarkably stable until the outbreak of the Second World War. This relative stability of international society during

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[43] Keene (2014) describes this phenomenon for the 19th and early 20th century, but it extends in principle to the entire first half of the 20th century, albeit with a larger and expanding core.

the interwar period can be attributed to the feedback effects surrounding its international institutions (cf. Puchala and Hopkins 1983: 87).

Power effects were obviously very strong up until the interwar period. The primary and secondary institutions were created mainly by a community of influential state representatives. Bull (1984b: 217) notes that up until 1945, the evolution of primary institutions was dominated by a group of international lawyers and politicians of mostly European origin. For example, the single most important moment of institutionalization of the interwar international order was the Paris Peace Conference of 1919, which was dominated by the 'Five Great Powers' represented in the Supreme Council of the allied victors, namely the U.S., the UK, France, Italy, and Japan.[44] While they aimed at setting the seal on the dismantling of the defeated old European empires, they ensured at the same time that their own imperial interests beyond Europe were kept. Although the core of fully sovereign states was growing, a large part of the non-Western world was still granted limited or no access at all to the conference (Mishra 2013: 192–194, 199–200). This concentration of decision-making was also institutionalized in the Council of the League of Nations,[45] which comprised the major imperial powers, and which could for example define the exact degree of colonial control in the framework of the Mandate System (Société des Nations 1921: 5). Based on an exclusive logic, which connected autonomous actorness to being identified as 'civilized', the institutions perpetuated the unequal capabilities of claiming authority. Insofar as non-European elites of the periphery participated in this process, they were normally educated in European institutions and acculturated to Western ways of thinking.

Power effects are also, and more obviously, recognizable in the unequal treaties on the secondary institutional level, where local rulers were stripped to varying degrees of their authority. Once established, these conditions were seldom seriously challenged by local actors for a number of reasons: first, compliance could be enforced by the imperial party, who disposed over superior military power (cf. Puchala and Hopkins

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[44] Some accounts of the events ascribe the leading role merely to the Council of the 'Big Four' Western powers, but Satow (1922: 190) notes that a Japanese member was included in the proceedings of the Council.

[45] Similar to the UN Security Council, the League Council was formed by four permanent and four non-permanent members. The permanent members were the UK, France, Italy and Japan. The U.S. was not a member of the League because Congress refused to ratify the Versailles Treaty establishing the League.

1983: 69) and in some cases also over coercive measures in the dependent territory, such as para-military colonial police forces and penal or convict labour systems as a means to suppress resistance.

Second, a discourse that tied the right to self-determination to purported civilizational advancement **reified** colonial institutions, as it deprived independence movements of a potentially powerful basis for legitimate authority by effectively denying them recognition as legitimate actors. However, the impact of this effect was arguably limited and seriously weakened at least since the early 1900s. Mishra (2013) has described how the Russian defeat in the war against Japanese forces in 1905 helped anti-imperial agents in Asia deconstruct the image of the seemingly invincible West and spark hopes for independence. A growing assertiveness and demand for recognition by actors from territories under foreign dominance thus increasingly worked against the reification of international society's stratification. Similarly, the First World War had unveiled the destructive potential of imperialism, which could be interpreted either as a sign of the West's moral nihilism or of the necessary epiphenomenon of a capitalist world order. Either way, it delegitimized Western claims to act as a guarantor of peace, wealth and stability. As formulated by the League against Imperialism (1927),

> [t]he world-war and its consequences clearly showed [...] that imperialist colonial capitalism, and capitalism in general was its own grave-digger. The explosion of the worldwar not only revealed the amazing internal dissessions [sic!] by which capitalist society was torn, but millions of men had to lose their lives in the attempt to adjust and smooth over these dissensions.

Third, local elites often had **vested interests** in upholding the institutions, as their preferences were aligned with those of the core states. From the *collaborateurs* in French Cochinchina to the Anglo-Burmese and Indian officials in Burma, a cooperative local bureaucracy, often actively recruited by the colonial power, executed administrative tasks and thus helped in upholding the institutions of colonial rule in exchange for receiving a privileged status within the system and for being protected from challenges by rival groups or ethnical or religious violence (Anderson and Killingray 1991; Benda 1965; Puchala and Hopkins 1983: 69).

Finally, **institutional linkages** exist both between primary institutions, and between primary and secondary level. Starting with the latter, it should suffice to point to a number of vertical linkages between the secondary institutions of the League of

Nations and the primary institutions to demonstrate their pervasiveness: first, the membership rules enshrined in the League Covenant explicitly allows dominions and colonies to become members and thus effectively legitimized the idea of gradual sovereignty. It is also instructive to look at the exact wording of the Mandates System, which confers the right to govern other territories *in the name of the League*. This is to say that the legitimization of foreign rule did not emanate from the respective populations of the mandate territories but was transferred by the League (cf. Société des Nations 1921: 5). The limited applicability of self-determination finds its specification in administrative rules here. The type of mandate, and consequently the degree to which sovereignty was assumed by an outside power, was classified into three categories according, among other criteria, to the "stage of the development of the people" (League of Nations 1919: Art. 24). The Mandate System emphasized that the ultimate goal was to lead the mandates into independence but there were no set time frames for its achievement (Anghie 2005). In fact, even among the 'Class A' mandates of more 'advanced' peoples, only Iraq was able to achieve independence by the time of the outbreak of the Second World War (Springhall 2001: 23).

Thus, while it contained the long-perspective of overcoming colonial structures, the Mandates System had the immediate effect of translating the primary institution of gradual sovereignty into specific rules and procedures. The privileged position of the members of the League Council,[46] meanwhile, fostered their dominant position in the concert of empires. Similar institutional linkages to the institutions of gradual sovereignty and concert of empires can also be found in other secondary institutions. For example, the formal rules regarding security cooperation of the Four Power Treaty are connected to an assertion of the major powers' claims to imperial territorial control in the periphery.[47]

However, when it comes to horizontal linkages between primary institutions, a fundamental tension existed between the institutions of gradual sovereignty and the concert of empires, on the one hand, and national self-determination on the other. The

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[46] Similar to the UN Security Council, the League Council was formed by four permanent and four non-permanent members. The permanent members were the UK, France, Italy and Japan. The U.S. was not a member of the League because Congress refused to ratify the Versailles Treaty establishing the League.

[47] The preamble describes the parties as acting "with a view to the preservation of the general peace and the maintenance of their rights in relation to their insular possessions and insular dominions in the region of the Pacific Ocean [...]" (Four-Power Treaty 1921).

constitutive logics of these institutions are ultimately irreconcilable: while the former enabled actors of the core to restrict self-government in the periphery, the latter bound the right to exert authority to the will of local political communities. As the further analysis will show, anti-colonial actors drew on this tension as a source to legitimize their calls for a demise of the stratified institutions of the colonial international society.

5.1.2   Institutional change

The preceding account shows that there were limits to the stabilizing effects surrounding the institutions of the colonial international society. However, it took a major shock, namely the Second World War, to finally dismantle the stratified global international institutions. The complex dynamics surrounding this process led to the emergence of distinct regional international societies but at the same time fundamentally transformed the institutional configuration on the global level. Due to this parallel manifestation on different levels, decolonization can be analyzed from a variety of different angles, depending on the preferred level of analysis – domestic, regional or global (cf. Springhall 2001: 4–17). The following analysis focuses on the challenges to colonial institutions emerging from actors in two regions, Europe and Southeast Asia. In this, I will take domestic or global discourses into account where they help to explain institutionalization practices on the regional level. This is an analytical choice based on the overarching goal of explaining the emergence and institutional transformation of regional international societies, and should not be understood as an argument that domestic or global dynamics had no bearing on the process of decolonization.

Early anti-colonialism

Discursive interventions in favour of decolonization were frequent already in the interwar period. The first half of the 20th century saw the emergence of a variety of anti-colonial mass movements in the dependent territories in Southeast Asia.[48] While these were of a diverse nature, three main currents can be identified: Islamic reform movements such as the Sarekat Islam in what was then the Dutch East Indies (Indonesia), nationalist movements such as the Dong Du Movement in the Vietnamese part of Indochina and the socialist parties which were springing up in nearly all the

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[48] With the exception of Siam/Thailand, all of today's Southeast Asian nation-states had been part of the colonial empires of Europe and, in the case of the Philippines, the U.S.

colonial dependencies of the European powers. While each of these strands drew on earlier epigones and intellectual forerunners (Mishra 2013), and there had been revolts against Western rule before, it was only after the turn of the century that mass mobilization was truly taking root in Southeast Asia. Their political demands were obviously diverse but often focused on concrete practices that were perceived as unjust, and which had their roots in secondary institutions. For example, Vietnamese socialist leader Ho Chi Minh (1961) criticized exploitative working conditions, repressive legal systems and the League of Nations, which he saw as the 'general staff' of imperialism.

Despite the fact that some of these movements represented explicitly transnational identities, they formed within the patterns of territoriality set by the colonial powers, and their political goals were mostly connected to national reference points. Therefore, their discourses did not primarily concern themselves with international society in its entirety but with local manifestations of an international order. Southeast Asia's socialists, for example, were able to establish some fragile transnational ties, and delegations were sent to the 1927 Conference of the League against Imperialism from Indonesia, Indochina and the Philippines. However, while socialist discourses made use of a shared rhetoric, national independence of the respective polity was the paramount goal (see for example Indochinese Communist Party 1998). Lenin's (1977a) works on Imperialism and Colonialism provided the ideological justification for this intersection between and amalgamation of nationalist and socialist thought, which later found its manifestation in united liberation fronts including communists, bourgeois and even the monarchy, as for example in the Vietnamese struggle for independence. In the context of the weak positional power of anti-colonial actors and the lack of a transnational infrastructure, such temporal alliances were very well justifiable.

In Europe, anti-colonial positions were initially less pronounced. With the exception of some anti-imperialist and pacifist movements, most notably the Communist International and its League against Imperialism founded in 1927, a broad imperial consensus pervaded the political landscape of the major European states. This included Germany, which had lost its dependencies following the First World War but made efforts to reinstate its colonial claims throughout the Weimar Republic, e.g. through the Deutsche Kolonialgesellschaft (Hansen and Jonsson 2014: 44–45). Even the Socialist International did not take a clear anti-imperialist stance at that time (Ho Chi

Minh 1998). If political actors did challenge the colonial system, it was with the geopolitical aim of perfecting territorial control and optimizing access to resources, rather than abandoning it. The first pan-European transnational advocacy groups connected this colonial reformism to their ideas about European integration. The most vocal of these demands came from Richard Coudenhove-Kalergi's Paneuropean Union, which in its call for a European union included the vision of a joint management of Europe's colonies, especially in Africa, for both economic and geopolitical reasons (Coudenhove-Kalergi 1923; Hansen and Jonsson 2014: 27–31). Similar ideas were put forth by the Federalist Union in the UK (Müller 2001).

Tying up European integration to communitarized colonialism, these actors challenged the classical concert of national empires but did not call into question the institution of gradual sovereignty. While the Paneuropean idea and the closely related concept of 'Eurafrica' gained considerable support in diplomatic circles between the World Wars, it was opposed by a dominant discourse of national imperialism in the metropolitan governments (Hansen and Jonsson 2014: 55–56), especially in the UK, which had a strong preference for developing its relations with the Dominions and colonies within the Commonwealth framework, rather than in a joint European project. In sum, the initial discursive field in Europe was characterized by three main strands: a small faction promoting leftist anti-imperialism, integrationist reformists, and defenders of the established institutions of national imperialism.

Anti-colonialists in both Europe and Southeast Asia tried to legitimize their claims by pointing to the institutional tensions outlined above. Communist anti-imperialism was inspired by Leninist thoughts on the necessary connection between national liberation and social revolution in oppressed countries (Lenin 1977a). The main argument was that the application the right to national self-determination could not logically be restricted to the core of capitalist countries, which is why the institutions of gradual sovereignty and the concert of empires must be abandoned (Lenin 1977b). Expressing this view, Indonesian political leader Sukarno declared in October 1945:

> Indonesians will never understand why it is, for instance, wrong for the Germans to rule Holland [under wartime occupation] if it is right for the Dutch to rule Indonesia. In either case the right to rule rests on pure force and not on the sanction of the populations. (cited in Klose 2015: 51)

In response to this perceived hypocrisy, the peoples of the periphery should turn the institution's claims against its inventors. The Manifesto of the Brussels Congress of the League against Imperialism (1927) reads: "In their inexcusable struggle against each other the imperialist powers were themselves forced to announce the solution of self-determination. The oppressed, enslaved peoples took the Imperialists at their word [...]."[49]

However, the feedback effects outlined above seriously limited the impact of these challenges to colonial institutions. This is particularly true for political activists in the colonial territories. Mobilization capacities were hindered by lack of material resources and low levels of literacy, but also by censorship and more physical means of repression, such as the crackdowns on the revolt initiated by the Partai Komunis Indonesia in the late 1920s and Sukarno's nationalist movement in 1933, and the Saya San rebellion in Burma in 1930, which were often accompanied by the exilation or imprisonment of the movements' leaders (Springhall 2001: 27–28). What is more, as most political entities were products of a colonial logic of territoriality, not all anti-colonial movements could draw on a mobilizing narrative of a historical national collective to support their claims by appealing to the primary institution of national self-determination.

The Second World War and its impact on feedback effects

The Second World War was the single-most important shock catalyzing decolonization as it fundamentally disturbed the feedback effects. First, it disrupted **power effects** by perfecting the ascendance of the declaredly anti-imperialist superpowers (Puchala and Hopkins 1983: 73). It was particularly the U.S. that put pressure on apologists of colonial institutions in Western Europe, be it by acting as a champion of sovereign equality through the new-founded UN – which enshrined national self-determination and indivisible national sovereignty in the Charter, and condemned Dutch repression of Indonesian independence movements in the infamous 'Police Actions' – or by using Marshall Aid assistance as a bargaining chip (Garavini 2012: 9–10; Springhall 2001: 36–37). While the European governments endorsed

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[49] As a further tension, the contradiction between the imperial competition for spheres of influence and the emphasis on peaceful dispute settlement was raised: "The sturggle [sic!] of the groups of imperialist powers for the last stretches of territory which had not yet been finally parceled out, for a fresh division of the world led finally to the greatest catastrophe and to the greatest crime in the history of humanity, to the world war" (League against Imperialism 1927).

efforts to establish a new global order in principle and quickly acceded to the UN, their attitudes towards emphasis in subsequent UN activities on the primary institution of sovereign equality remained lukewarm (Springhall 2001: 10–11).

However, in a more immediate sense, the Second World War also disrupted power effects by radically altering the relative distribution of positional power from the colonial metropoles to the actors in the periphery. In the course of the Second World War, starting with the invasion of Indochina in 1940, Japanese forces occupied almost all of Southeast Asia. The Japanese actively supported the development of nationalist political activity in some countries – albeit within narrow confines and mainly as an anti-Allied instrument (Christie 1998: 88). When the Japanese retreated from the occupied territories in 1945, a political vacuum opened up in many places which could be filled by those nationalist movements. Where this opportunity was seized, a part of the broad front of nationalist movements could draw on a massive surge in authority virtually overnight. Starting in Southeast Asia, and spreading to other regions, the wartime events allowed nationalist liberation movements to occupy the political centre stage. The ensuing anti-colonial uprisings that drew European colonial powers into conflicts in places such as Indochina, Algeria and Egypt can be seen as aftershocks to the great catalyzing events of the war.

The war also speeded up the deconstruction of **reified** colonial institutions by putting the atrocities of imperialist powers on display. Rather than appearing as the natural order of things, the expansion of German forces in Europe and Japanese occupiers in Southeast Asia highlighted the deeply inhumane character and potentially catastrophic consequences of foreign dominance. In Europe, the transnationally shared experience of wartime resistance to fascism and occupation served to partially delegitimize nationalism, racism and imperialism, at least in its most aggressive variants (Kahler 1984: 159; Springhall 2001: 29). The war also further contributed to the debunking of the myth of Western empires as benign protectors. The fact that the European occupants so easily surrendered their colonies and 'protectorates' to Japan served to further delegitimize their claim to act as guarantors of stability, a fact decried among others by Burmese leader Aung San (2010).

The war also affected the preferences of actors that had hitherto been supportive of colonial institutions and therefore dissolved **vested interests**. In Europe, the

usefulness of a loose concert of national empires as a way of managing conflicts was put into question as threat perceptions were exacerbated. The Message to Europeans issued at the Council of Europe's Congress in The Hague in 1948 illustrates this point:

> Alone, no one of our countries can hope seriously to defend its independence. Alone, no one of our countries can solve the economic problems of today. Without a freely agreed union our present anarchy will expose us tomorrow to forcible unification whether by the intervention of a foreign empire or usurpation by a political party. (Congress of Europe 1948a)

However, for the champions of the national empires, the experience of existential threat to their societies actually *increased* the rationale for clinging on to the overseas dependencies, especially in France, where the overseas territories had been a refuge for the Résistance (De Gaulle 1944; Springhall 2001: 9–10). Meanwhile, in the periphery, the colonial empires lost the support of and legitimization by local elites, whose preferences had shifted towards championing the nationalist cause (Springhall 2001: 213–217).

Discursive contestation and Asian decolonization

In sum, the shock of the Second World War benefited anti-colonial actors in Southeast Asia more so than in Europe. Southeast Asian nationalism became the dominant stream of political discourse among local elites during the war. Shortly after the Japanese surrender, one Southeast Asian state after the other declared independence – as early as 1945 in the cases of Cambodia, Indonesia, Laos and Vietnam. The declarations reaffirmed the gradual move towards the institutionalization of an inclusive interpretation of national self-determination and sovereign equality. In this, the discursive actors continued to claim primary institutions that had previously applied only to the core of international society in order to overturn the stratified structure of international society and to achieve the status of a legitimate actor.

By 1945, this de-hierarchization in primary institutions had been accepted in principle at the global level, as the UN Charter testifies. However, it should take some time until the asymmetries on the secondary level, embodied above all by the various bilateral treaties of cession, protection etc. and the multitude of informal rules and procedures governing colonial practices, should be fully eradicated. In fact, none of the 1945 declarations of independence was recognized by the former colonial powers of

France and the Netherlands, which both embarked on bloody expeditions to re-establish their rule and keep up their grip on Indochina and the Dutch East Indies, respectively. Decolonization of British Malaya took until as late as 1957.

European governments resisted decolonization because the attempts at secondary institutional change challenged their privileged position in the stratified international society. This was not a universal pattern, as the relatively straightforward transition of British Burma – which gained independence in 1948 – shows, but such individual cases do not mean that European imperial governments abdicated their role as colonial powers altogether (Springhall 2001: 62–64). Numerous authors have shown how the 'colonial consensus' in Europe broadly survived the Second World War and the initial post-war years even after the wave of decolonization had spread across Asia (Garavini 2012; Kahler 1984; Müller 2001). Even when the European empires granted a degree of self-government to their former dependencies, they made attempts to qualify independence, keep the polities in close political union and maintain 'special ties', as embodied by the constitutional frameworks of the Commonwealth, the French Union and the Netherlands-Indonesian Union.[50]

However, by pointing to the obvious tensions between the new primary institutions of sovereign equality and the residual, now anachronistic secondary institutions, the new national movements had a strong discursive argument at hand to de-legitimize the practices of their opponents. Their cause was particularly supported by the ability to refer to the primary institutions of sovereign equality and national self-determination enshrined in the UN Charter. In fact, the statements of the new Southeast Asian leaders disclose rather conservative views on international relations. Indonesia's Sukarno (1974), for example, had promoted a pluralist understanding of international society even before his country declared independence:

> We have not only to establish the state of Indonesia Merdeka [independent Indonesia], we must also proceed towards the familyhood of nations. [...] When I say internationalism, I do not mean cosmopolitanism, which does not want the existence of nationalism [...]. Internationalism cannot flourish if it is not rooted in the soil of nationalism.

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[50] A similar pattern can be observed in the Philippine case, where the U.S. recognized the country's independence in 1946 but made sure to keep a special relationship by asserting privileged access to the country's natural resources through the so-called 'Parity Amendment'.

Due also to this conservative argumentation, the Western powers found themselves in a sort of 'rhetoric entrapment' (Schimmelfennig 2005b). They had signed the UN Charter and consequentially endorsed the universality of the primary institutions of sovereign equality and national self-determination. If they wanted to retain legitimacy, they had to acknowledge that these principles would apply also to the nations beyond the Western core of international society. This change on the primary level formed a new constitutive context for the reproduction of secondary institutions. The maintenance of arrangements that impinged on the authority of local political actors against their express will did no longer appear as a legitimate option. Accordingly, they formally accepted the independence of all major Southeast Asian states within the first twelve post-war years, thereby effectively completing the de-colonization of Southeast Asia's secondary institutions.[51]

When the empires finally accepted the constitutional changes forced upon them in the Asian wave of decolonization, this marked a milestone in the division of the global colonial international society into geographically circumscribed spaces. The Southeast Asian polities that gained independence in the late 1940s and the 1950s began to form a genuine regional international society. The European empires – with the exception of the Netherlands – reacted to this by reaffirming their colonial claims on Africa (Waites 1999: 258). This geographically more circumscribed international society cannot be called global but neither was it genuinely European at that time – Euro-African might be the most adequate description, although its outermost periphery extended to some other parts of the world as well. In the following years, actors in both regions attempted to build secondary institutions in order to consolidate these new regional boundaries. An important element of these efforts was the definition of relations with external actors. The following two sections analyse how these processes were connected to the transformation of colonial primary institutions and the construction of post-colonial legitimacy standards in Europe/Euro-Africa and Southeast Asia.

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[51] The latecomers in this respect are Singapore, which entered the Federation of Malaysia in 1963 only to leave it again two years later, West Irian, which was annexed from the Netherlands in 1969, East Timor, which gained independence from Portugal in 1975, and Brunei, which gained independence from the UK in 1984.

5.2   The Association framework and the imperial question, c. 1945–1963

The imperial origins of European integration have received increasing attention in recent critical EU Studies and historiography. In their pathbreaking study of the 'Eurafrica' concept, Peo and Hansen (2014) describe the post-war ascendance of the notion of European cooperation on colonial questions. In their view, the building of regional organizations in Europe, in particular the EEC, was substantially driven by a shared concern of regional states to maintain a grip on their 'overseas territories'. While offering a magisterial genealogy of how colonial ideas were inscribed into initiatives for European integration, the two authors tend to overlook how post-war discourse was actually torn between different visions of the relations of European states with external actors. The emerging European primary institution of pooled sovereignty came into clear tension with the established notion of a concert of empires. This tension heavily shaped the post-war discourses about potential regional organizations, and the vagueness and ambiguity of the first post-war documents of this regional discourse testify to the struggle between champions of nationalist imperialism on the one hand and integrationist imperialism on the other.

As a concession to defenders of the national empires, advocates of integration argued that the pooling of sovereignty should and will be compatible with the parallel maintenance of national imperial ties. However, how this could be realized in concrete policies remained unclear. The resolution of the Congress of Europe at The Hague in 1948 echoed the call of pooled sovereignty and a joint responsibility for the 'overseas territories'[52] but at the same time claimed that this should be done "without prejudice to the special ties which now link these territories to European countries" (Congress of Europe 1948b) – an ambiguous formulation that can in similar forms be found in many other documents of discourses on European order at that time (e.g. European Parliamentary Union 1991). The International Committee of the Congress resolved that "[t]he European Union must, of course, include in its orbit the extensions, dependencies and associated territories of the European Powers in Africa and elsewhere, and must preserve the existing constitutional ties which unite them" (Congress of Europe 1991). Even the Draft for a Federal Pact by the European Union of Federalists, one of the documents most clearly in favour of a communitarized empire, renounced the "era of

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[52] The term 'overseas territories' was used as a catch-all concept to designate the different peripheral territories with varying degrees of dependence, ranging from effectively self-governing dominions to colonies under direct rule.

national ownership of colonial territories" (emphasis added) but at the same time reaffirmed the special ties of these territories with their "mother countries", leaving open how the competing claims of national and European empire could be reconciled (European Union of Federalists 1991). Similarly, the 'Third Force' project by then Foreign Secretary Ernest Bevin imagined a close European cooperation but refrained from breaking up the national empires (Bevin 2007; Hansen and Jonsson 2014: 84–90). Thus, while there was a clear thrust towards pooling sovereignty within Europe, how to integrate the relations with the periphery into regional secondary institutions remained an open question.

However, the Second World War had effectively strengthened the position of the reformist-integrationist strand. This development was abetted by the surge in importance of transnational interest groups in the post-war years, which by nature had a less national outlook than strictly domestic actors. Against nationalists championing the prestige of national empires, reformists interpreted the position of European states within the new, geographically more circumscribed boundaries of the Euro-African international society and their relations to the new superpowers, as an existential challenge. They soon rediscovered the 'Eurafrica' concept of the interwar period to frame their ideas of joint colonial undertakings as a geopolitical response. Only by joining forces could the Asian wave of decolonization be stopped from flooding Africa as well (Hansen and Jonsson 2014: 73). Generally, the idea of secondary institutions which pooled competences at home while retaining political control over the periphery gained traction. While the stratified nature of the Euro-African international society as such was not challenged, therefore, the organization of the centre was now a subject of debate. Meanwhile, supporters of unconditional and immediate decolonization remained marginalized.

5.2.1 Building the EEC

Initial attempts at building regional organizations in Europe, which emanated from a series of intergovernmental conferences in the late 1940s and early 1950s, were informed by this ongoing equivocality. For example, the Organization for European Economic Co-Operation (OEEC) contained secondary institutions which allocated funds to *individual* European states, the purpose being to support their colonial empires, but it also promoted European *cooperation* in the overseas territories. These ideas

influenced the Strasbourg Plan, which was prepared chiefly by the OEEC and adopted by the Council of Europe in 1952. A far-reaching project for joint development and exploitation of economic resources in the overseas territories, a European development bank and a preferential trade area, the Strasbourg Plan was never put into effect (Council of Europe 1952; Hansen and Jonsson 2014: 112–117). The ECSC included a most-favoured nation clause that extends preferences granted by one member state to its overseas territories to all ECSC members, but it did not include the overseas territories in the common market (Hansen and Jonsson 2014: 121–122).

The EDC would have extended the ambiguities to the security sphere: the EDC Treaty – which never entered into effect – envisaged the creation of joint military forces and also their stationing on non-European dependent territories, but it claimed that any forces used in case of an emergency situation in these territories "shall cease to be subject to the authority of the Community until such time as they are once again placed at its disposal" (Treaty Establishing the European Defense Community 1952: Art. 13), thus designating the defence of colonial empires as an ultimately national responsibility (see also Müller 2001: 444–445).

Even the institutionalization of the EEC through the Treaties of Rome in 1957 did initially not resolve this issue. The Anglo-French fiasco of the Suez crisis is said to have put an end to French global power ambitions and turned its strategic attention to European integration as a means to retain geopolitical influence (Dinan 2004: 71–72). With this goal in mind, the French government, together with its Belgium counterpart, insisted during the EEC negotiations on institutionalizing rules and procedures for close association of the 'overseas territories'. By consequence, the EEC provided secondary institutions that effectively communitarized economic relations with the dependencies of European states (Dinan 2004: 74; Hansen and Jonsson 2014; Rempe 2011; Waites 1999: 273–278). What is more, the Treaties of Rome indirectly affirm the principle of sovereign equality by referring to the principles of the UN Charter (Treaty Establishing the European Economic Community 1957, Preamble).

On the other hand, *national* colonial ties continued to determine the geographical extension of these relations, and constitutional questions of colonial relations remained a matter of national politics. For example, Algeria, by virtue of being legally part of the French Republic, was initially incorporated as EEC territory (Hansen

2002: 488).[53] Other territories with constitutional ties to a European state were automatically included in the EEC's preferential trading system. Only in case of independence from the metropolitan power should any continued association be conditional on explicit approval of the government in question. By linking the new economic framework to a classical imperial logic of territoriality, the secondary institution of the EEC translated the persistent tensions between pooled sovereignty and the national concert of empires into a secondary institutional framework.

The argument that the colonial primary institutions still characterized the Euro-African international society by the time of the ratification of the Treaties of Rome is evidenced by the European reactions to initiatives that aimed at advancing the decolonization of the global international society. When the Security Council adopted a resolution in support of Congolese independence in 1960 and called upon Belgian troops to withdraw from its territory (United Nations Security Council 1960), the permanent European members of the Council, France and the UK, abstained.[54] Similarly, when the General Assembly adopted the Declaration on the Granting of Independence to Colonial Countries and Peoples later that year (United Nations General Assembly 1960), five European countries – including two EC members – abstained, thereby stating their reservations against an unconditional endorsement of the global primary institutions of national self-determination and sovereign equality.[55]

5.2.2 African decolonization and the emergence of developmentalism

Based on these observations, it can be argued that, in the short run, the institutionalization of the secondary institutions for association in the EEC formed a compromise between the competing logics on the primary level, rather than resolving them. In the medium to long run, however, the new secondary institutional framework further disturbed the feedback effects supporting the reproduction of gradual sovereignty and national imperialism as a primary institution. It did so primarily by changing the preference structures of the national governments and let unilateral imperialism appear as anachronistic. National imperial ambitions were harder to justify

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[53] A similar pattern can be found in the Euratom framework, which applied to all overseas territories (Treaty Establishing the European Atomic Energy Community 1957; Müller 2001: 445–446).

[54] Italy, by contrast, supported the resolution, pointing to crumbling intra-European support for continued colonial adventures.

[55] These were Belgium, France, Portugal, Spain and the UK, all of which were retaining colonial dependencies at the time of the adoption.

when the prospects of a common market promised security and prosperity in Europe (Holland 1985: 163; Waites 1999: 274). It also raised the imperative of securing influence on political developments in Europe, rather than in the empires. Holland (1985: 172–173) notes that, in an effort to secure French leadership in the EEC, the government reallocated political, economic and military resources from the overseas territories to Europe. On top of this, the prospect that preferential economic relations could be maintained by association with the EEC *even if the 'overseas territories' gained independence* weakened the argument of colonial possessions as a matter of national security and prestige. By consequence, the struggle between national and European orientations in France was decided in favour of the latter with the advance of the Fifth Republic in 1958 (Kahler 1984; Rempe 2011).

The UK constitutes a special case in this respect as it was not a founding member of the EC, not least because of the significance of its preferential trading arrangements with the Commonwealth (Dinan 2004: 70; Hansen 2002: 492). Still, the creation of the EEC increased the rhetorical leverage of advocates of (regional) free trade over those favouring classical imperial trade relations, leading to a reorientation towards European markets and finally to a first, albeit unsuccessful, application to the EEC in 1961 (Holland 1985: 206–207; Schenk 2003; Springhall 2001: 15). Beyond purely economic arguments, Europe also served as a new source of international identity and status for the colonial powers. In this line, Kahler (1984: 134–135) writes that "Europe would become for the Conservatives the substitute for empire, a new source of international prestige and influence", and Hansen (2002: 494) calls Europe

> a space in which ruling elites were provided an opportunity to trade the grievances over the loss of empire – and all that this would encompass in terms of damaged national pride, international prestige, sense of national direction, and, not the least, the humiliating experience of being defeated by peoples often designated as inferior races – for a new beginning, a new project, and a new national purpose in a 'new Europe'.

Against the background of such favourable conditions, European empires reacted differently to the wave of decolonization that spread the African continent in the early 1960s than to the earlier phase of decolonization in Asia. The challenge directed at constitutional secondary institutions by independence movements were more readily accepted and, in fact, entirely unilateral declarations of independence were the exception. Violent repression of independence was increasingly delegitimized, forcing

France to accept complete Algerian independence in 1962 despite its effective earlier military victory over the National Liberation Front forces. Arguments defending the notion of gradual sovereignty or the instrument of territorial control in relation to the non-European world all but vanished from the discourse. The well-known Wind of Change speech given by Harold Macmillan (1972) in South Africa in 1960, which acknowledges the strive for national self-determination in African dependencies, and the affirmation of a right to independence for the overseas territories in Charle de Gaulle's second Brazzaville speech in 1958, which evidenced the transition of Gaullism from an imperial to a "nationalism of the 'hexagon'" (Kahler 1984: 99) during the French Fifth Republic, illustrate that this shift was also reaching the former colonial empires of the region.

Subsequently, the primary institutions of gradual sovereignty and a concert of empires were replaced by a developmentalist discourse, which emphasized the sovereign equality of the developing countries and called for more symmetrical relations (Hansen and Jonsson 2014: 256). Interpretations of external relations in terms of development were not new at that time. The Strasbourg Plan had spoken of the development of the overseas countries as a goal of the Council's economic cooperation (Council of Europe 1952: 127). In French politics, *développement* (and the roughly synonymous *mise en valeur*) had been a buzzword in discussions of colonial reform since at least the Brazzaville Conference in 1944 (De Gaulle 1944; Rempe 2011: 7). The concept can even be seen in the tradition of the *mission civilisatrice* idea dating back to the heyday of colonialism – in fact, the very term was used by the Dutch Foreign Minister Joseph Luns (1957, see also Hansen and Jonsson 2012: 1035) at the occasion of the signing of the Treaties of Rome.

Until well into the 1950s, however, this goal of development was usually connected to a purported necessity to assume sovereign rights over the underdeveloped subjects. By contrast, the idea of sovereign equality became deeply inscribed into the new interpretation of development. Accordingly, the Yaoundé convention (1963) formalizing trade relations between the EEC and the newly independent African states, which was signed in 1963, explicitly affirms the principle of "complete equality" between the parties and makes reference to the principles of the UN Charter.

Thus, while it continued to develop the primary institution of pooled sovereignty internally, the European international society came to accept the principle of sovereign equality in its external relations. An argument can even be made that communitarized **developmentalism** became a new primary institution of the emerging European International Society replacing the concert of empires: it is a coherent set of principles and norms containing ideas about actorness – the EEC as a part of the developed world and its partners from the developing world – and legitimate practice, namely Europe's duty to assist the developing countries in their economic, political and cultural advancement. It also constitutes practices such as developmental policy and secondary institutionalization, e.g. the trade rules and procedures laid out in the Yaoundé convention and its successor agreements.

The power positions constituted by this institution continued to be stratified and geographically distributed along the lines of Europe's former empires.[56] The argument, made by some scholars (e.g. Galtung 1973; Hansen and Jonsson 2014; Müller 2001; Wæver 1996), that elements of an imperial or neo-colonial logic of dependence, control and centre-periphery structures have been a feature of European external relations even after formal decolonization certainly cannot be dismissed. Indeed, the secondary institutions of Yaoundé mainly contain the same rules and procedures as the association provisions for 'overseas territories' in the Treaty of Rome. However, these continuities should not lead researchers to overlook the important discursive changes that attest to changed beliefs about legitimacy that accompanied the decolonization of international society in Europe (cf. Diez and Whitman 2002a).

5.3   ASEAN and the question of non-alignment, c. 1945–1967

In the first post-war years, the decolonization discourses of local actors had primarily been concerned with achieving actorness, i.e. becoming fully-fledged members of international society. Therefore, they were national in form and substance, and emphasized primary institutions that had become established on the global level. The national format was also a natural consequence of the anti-colonial struggle and the endoscopic efforts at state- and nation-building, as well as of the suppression of independent diplomatic ties among regional countries in the colonial institution of

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[56] The Yaoundé convention and the subsequent agreements of Lomé and Cotonou extend to the EEC's (and EU's) relations to former dependent territories only and do not include other developing countries (Galtung 1973: 76–80).

diplomacy, deplored among others by India's then Prime Minister Jawaharlal Nehru (ARO 1948: 21). This limited the extent to which institutionalization could take place at the regional level. However, the more the new leaders were able to consolidate their rule against internal and external challengers, the more they came to ascribe an international and even global responsibility to their governments, and the more the political discourse became regionalized.

The Asian and Asian-African conferences of the post-war period provided a format for a debate on the possible shape of a regional post-colonial international society. However, the question of building regional organizations was not the focal point of these gatherings. The Asian Relations Conference in New Delhi in 1947 did in fact establish an Asian Relations Organization (ARO), but this was rather a secretariat for information-sharing than a truly intergovernmental body. The discourses instead focused on the primary institutional level, as they aimed to define the parameters of practice in the new post-colonial international society.

5.3.1   New discursive arenas: the New Delhi conferences

Although regional in format, the debates at the Asian Relations Conference were still rather inward-looking in substance and concerned mainly with the support for independence movements and questions of development and human rights within Asian countries, as is evident from the discussion reports (ARO 1948, see also Acharya 2009: 34). If they did invoke international norms, speakers referred almost exclusively to general institutions of the global international society, both primary and secondary, as evident in the support for the fledging UN. Defence and security questions did feature on a preliminary agenda of the conference but they were later omitted by the organizers because "they raised controversial political issues which it was undesirable to raise at this first Conference." (ARO 1948: 4). Moreover, it was argued at the preparatory meeting that

> the security of Asia had more than an Asian incidence as it was almost identical with world security. The view prevailed that in an Asian Relations Conference we should avoid on the one hand controversial issues relating to particular states and, on the other, issues which have more than an Asian incidence and can be solved only at higher levels. (ARO 1948: 4)

This reasoning is remarkable as it does not only preclude the institutionalization of distinctive regional institutions (primary or secondary) but may also be read as supporting the global institution of great power management, if the 'higher levels' to which authority is ascribed are taken to mean either the formal concert of the UN Security Council or the workings of superpower rivalry. In either case, intervention from outside is at least accepted, if not encouraged. It has to be noted that the gathering was organized and hosted by the Indian Council of World Affairs, not the Indian government, and was not an official intergovernmental conference. What is more, at the time of the conference, of the nine participating Southeast Asian countries,[57] only the Philippines and Siam enjoyed full independence, and most high-level government representatives were participating as observers only. This naturally limited the ability to speak authoritatively on international matters and may have contributed to the inward-looking focus of the meeting. Still, it was the first expression of a regional post-war discourse, which centred on the fully-fledged accession of the region and its countries to international society.

The geographical boundaries of this discourse were still very indistinct. In fact, the organizers considered limiting the conference to Southeast Asia, reflecting a suggestion by Burmese leader Aung San, who argued that Southeast Asian nations "should form an entity" (cited in Wood 2014: 17; see also Acharya 2001: 71) before exploring wider, pan-Asian cooperation. However, they ultimately opted for a broader format including "all Asian countries", which included countries as distinct and far apart as Georgia, Palestine and the Philippines. Additionally, Egypt was invited on grounds of its close ties to Middle Eastern countries. The decision was justified by the positive psychological effect of a larger gathering and the preliminary character of the conference, which would eventually clear the way for more confined fora (ARO 1948: 4–5). Speakers also repeatedly emphasized that the conference was not the expression of a Pan-Asian regionalism directed against Europe or America (ARO 1948: 24). Although Asian narratives and identities were promoted, no distinctive perspective on international relations was advanced at the Asian Relations Conference.

A second conference in New Delhi, this time convened as an official intergovernmental gathering by Prime Minister Nehru in 1949, had a similarly broad

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[57] These were Burma, Cochin-China, Indonesia, Cambodia, Laos, the Malayan Union, the Philippines, Siam and the Democratic Republic of Vietnam.

range of participants[58] but a more regional outlook, at least in principle. It met specifically to address the conflict between Indonesia and the Netherlands. Still, the resolution adopted deals with questions of sovereignty and self-determination rather than genuine (Southeast) Asian institutions.

5.3.2   Non-intervention and anti-hegemonism

This changed with the Colombo Conference of 1954, attended by representatives from Burma, Indonesia and other Asian countries. It was the first regional gathering that included an official reference to Southeast Asia, although the fact that the line-up differs significantly from today's understanding of the region indicates that the boundary-drawing efforts were far from definite.[59] Again, the solution of a decolonization conflict, the First Indochina War, was one of the main items on the agenda. However, this time the positions of the participants were, for the first time, framed mainly in terms of non-intervention, as the minutes of Krishna Menon, an Indian delegate, show: "nonintervention in Indo-China in any form by the great powers, UK, USA, USSR and China" features as one of Nehru's (1999: 425) five-point proposal on Indochina. Particularly advocated by Nehru, who also included it in his Five Principles of Co-existence with China (Republic of India and People's Republic of China 1954), the norm was founded on the belief that a localization of conflicts such as that in Vietnam would heighten stability in the region. As such, non-intervention would reinforce a second primary institution, that of the peaceful settlement of disputes. As it was primarily directed against *outside* intervention, the idea had a clear anti-hegemonic undertone at this stage.

The notion of non-intervention was reflected and at the same time reinforced by the secondary institution of the Geneva Accords of 1954, which brought the First Indochina War to an end. Apart from sealing the independence of Cambodia, Laos and Vietnam, the final declaration contains recognition of the will of the three states to expel foreign troops, abstain from military alliances – unless they are provided for under an UN framework – and renounce external military assistance. The connection made in the accords between the rejection of foreign troops, bases and assistance to the abstention

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[58] The conference was attended by representatives from Afghanistan, Australia, Burma, Ceylon, Egypt, Ethiopia, India, Iran, Iraq, Lebanon, Pakistan, the Philippines, Saudi Arabia, Syria and Yemen, with observers participating from China, Nepal, New Zealand and Siam (International Organization 1949).

[59] The official title of the meeting was 'South East Asian Prime Ministers Conference'. It was attended by representatives from Burma, India, Indonesia, Pakistan and Sri Lanka.

from alliances reinforce the point that, initially, a clear anti-hegemonial logic was underlying the idea of non-intervention. Despite these developments on the global level, non-intervention was initially not translated into *regional* agreements.

The institutionalization of primary institutions was further advanced at the Afro-Asian Conference of Bandung in 1955. It was here that the emerging principles and norms were most comprehensively and explicitly stated as a regional approach to international politics (Acharya 2009: 54–55). Apart from the not-yet independent territories, all Southeast Asian nations were present, with a Malayan delegation attending in the capacity of an observer.

Throughout the conference sessions, and in the final communiqué, the right to national self-determination was reaffirmed. Apart from that, the reaction of the Asian and African states towards continued colonial practices, and towards the intrusive power politics of the Cold War was the main issue. In his opening speech, Indonesian President Sukarno promoted the ideas of non-intervention and non-alignment as a reaction to neo-colonial phenomena:

> Colonialism has also its modern dress, in the form of economic control, intellectual control, actual physical control by a small but alien community within a nation. [...] Wherever, whenever, and however it appears, colonialism is an evil thing, and one which must be eradicated from the earth. (cited in Kahin 1956: 44)

From the point of view of the post-colonial international society, the global institution of great power management manifested itself in neo-colonial practices of political interference, 'special relations' and economic dependence, and cultural hegemony.

As an alternative to the power-political approach to international politics, Sukarno advocated a particular regional approach based on the peaceful and non-confrontational settlement of disputes. Exemplifying this through the response of the Colombo Powers to the Indochina conflict, he said:

> They [the Southeast Asian Prime Ministers] issued no ultimatum, they mobilized no troops. Instead they consulted together, discussed the issues, pooled their ideas, added together their individual political skills and came forward with sound and reasoned suggestions which formed the basis for a settlement of the long struggle in Indo-China. [...] those five Prime Ministers brought a *fresh approach* to bear on the problem. [...] They had no axe of power-politics to grind. They had but one interest – how to end the fighting in such a way that the chances of continuing peace and stability were enhanced. [...] They spoke on a subject of immediate concern to Asia, and in doing so made it quite clear that the affairs of Asia are the concern of the Asian peoples themselves. (cited in Kahin 1956: 46)

Especially the last phrase stands in remarkable contrast to the strong regional-global security nexus purported ahead of the Asian Relations Conference. In fact, they can be seen as an implicit rejection of the two global primary institutions of the balance of power, embodied by the Cold-War superpower rivalry, and the notion of collective security, which was at that time being reinvented within the UN framework on the global level.

The principles of non-intervention and peaceful settlement of disputes outlined by Sukarno explicitly found their way into the list of principles of the Declaration on the Promotion of World Peace and Cooperation that emerged from the conference, which can be seen as marking their institutionalization as primary institutions. Notably, they resonated substantially with Nehru's (and Chou En-lai's) Five Principles – mutual respect for territorial integrity and sovereignty, non-aggression, non-interference, equality and mutual benefit, and peaceful co-existence – which were also explicitly invoked by speakers such as Cambodia's Prince Norodom Sihanouk, Thailand's Prince Wan Waithayakon and Burma's U Nu (Kahin 1956: 13, 21).

Despite the fact that non-intervention had initially carried anti-hegemonic connotations, the question of relations with major external powers was a difficult subject and in fact a contested issue in Bandung. A number of participating countries, such as Pakistan, the Philippines and Thailand, entertained military ties with Western states[60] or even hosted foreign bases on their territories. In Bandung, the representatives of these states postulated a right to collective defence, referring among others to corresponding UN Charter provisions (Kahin 1956: 23). Others, led by Nehru and supported by Cambodia's Norodom, who had already made his stance on the issue clear

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[60] The most important multilateral of these, the Southeast Asia Treaty Organization (SEATO), is briefly discussed below.

during the negotiations in Geneva, argued that to succumb to power-politics by aligning with one of the two blocs would cause armed conflict (Kahin 1956: 23). They therefore promoted the idea of non-alignment as a guideline for extra-regional relations.

However, the pro-Western bloc could fence off their criticism by evoking the norm of non-intervention: after all, the formulation of foreign policies was a national matter and should not be subject to external interference. This argument marks a reinterpretation of the primary institution of non-intervention, which is now seen to apply also to intra-regional relations. To mark this transition, I call this new interpretation **non-interference**. Non-interference and non-alignment could no longer be seen as mutually reinforcing but in fact potentially conflicting ideas. How could one norm make certain prescriptions with regard to regional states' foreign policy conduct if another explicitly bars such interference? Eventually, the Declaration formulated an ambiguous compromise between proponents and opponents of the principle: while it acknowledged the "right of each nation to defend itself singly or collectively", it declared the intention to abstain "from the use of arrangements of collective defence to serve the particular interests of any of the big powers." The non-alignment principle was thus institutionalized, but in a narrow sense of implying only the rejection of great-power dominated collective defence mechanisms (Acharya 2009: 55–56). **Anti-hegemonism** may be a more exact term for this primary institution.

5.3.3   Building ASEAN

Apart from the already quite firmly established institutions of sovereign equality and national self-determination, thus, Bandung served as a forum to institutionalize peaceful dispute settlement, non-interference and anti-hegemonism as primary institutions of the post-colonial international society. This primary institutional context was fairly consolidated but displayed certain ambiguities, as is evident in the equivocal interpretation of non-alignment and its tension with the principle of non-interference. While this emerging society slowly began to take contours through the formulation of distinctive primary institutions, it was not yet consolidated and its geographical outlines still quite blurred, constructed as it was in various formats of discourse production ranging from the Indian Ocean-rim format of the Colombo Powers to the vast extension of the Asia-Africa conference. One reason for these poorly defined boundaries was a lack of secondary institutionalization.

The first attempt at building a regional organization was SEATO, a counter-piece to the North Atlantic pact, including Pakistan, the Philippines and Thailand.[61] Notably, it was established in 1954, that is, prior to the Bandung conference. The institutionalization of anti-hegemonism clearly constituted a primary institutional context that delegitimized SEATO's rules and procedures, which provided for close cooperation with major external powers. As a consequence, SEATO cooperation never gained serious traction and became insignificant in Asian security affairs. There was less and less commitment to practices reproducing the organization until it was formally dissolved in 1977.

Evidently, the regional conferences had established an effective regional primary institutional framework that set certain limits for the range of possible secondary institutionalization. For one, anti-hegemonism and the implied rejection of great power management made it virtually impossible for any great power to become a member of such an organization. For those with a more rigid interpretation of the norm, it also precluded the establishment of an organization with a clear anti-communist stance, as is evidenced by the lukewarm reception of the proposal by the then Malayan Prime Minister Tunku Abdul Raman in 1958 to establish a Southeast Asian Friendship and Economic Treaty (SEAFET), which was to codify cultural and economic cooperation in the region. One of the reasons of SEAFET's failure was that the Philippines insisted on an institutional linkage to SEATO, an idea opposed by the Indonesian government, which subsequently abandoned the project. The remaining states involved in the debate over SEAFET – Malaya, the Philippines and Thailand – eventually moved on to create an Association of Southeast Asia (ASA) (Jetschke 2009: 414). All three member states had a declared anti-communist outlook, which strengthened perceptions by other Southeast Asian governments that ASA constituted a pro-Western bloc. Encumbered by the Philippine-Malayan conflict over Sabah in Northern Borneo, the organization was all but stillborn (Narine 2002: 10–11).

Only the initiative for the establishment of ASEAN, which was not susceptible to being a security alliance or overtly pro-Western, eventually proved to be sustainable.

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[61] The other member states were Australia, France, New Zealand, the UK and the U.S..

Statements by the foreign ministers at ASEAN's founding meeting in Bangkok in 1967 attest the anti-hegemonic sentiment of its member states' governments:[62]

> Indonesia always wants to see Southeast Asia develop into a region which can stand on its own feet, strong enough to defend itself against negative influence from outside the region. (Adam Malik, Indonesia)

> If there are people who misunderstand the proposed grouping, or manifest hostility towards it, […] it can only be because […] outside powers have vested interests in the balkanisation of this region. We ourselves have learnt the lessons and have decided that small nations are not going to be balkanised so that they can be manipulated, set against one another, kept perpetually weak, divided and ineffective by outside forces. (Sinnathamby Rajaratnam, Singapore)

Even ASEAN's translation of primary institutions into a secondary institutional framework was far from perfect, though. The references to the primary institutions of non-interference and anti-hegemonism in the Bangkok Declaration remain quite vague, mostly because of different interpretations of the primary institutions. Indonesian Foreign Minister Adam Malik had pushed for a formulation prohibiting great power-led collective defence in the region (Sucharitkul 2015: 4). The other states shared Indonesia's scepticism towards external powers in principle but were factually reliant on them in the foreseeable future, as they all entertained some kind of security ties with great powers, and consequently opposed Malik's proposal (Narine 2002: 13–14).

The eventual text merely states the founding members' resolve "to ensure their stability and security from external interference in any form or manifestation" and that "all foreign bases are temporary", without setting a clear timeframe for their termination.[63] The non-intrusive and ambiguous rules and procedures, which form part of what should later become known as the ASEAN Way (Narine 2002: 31–33), served as a way of mediating the tensions between the primary institutions of non-alignment on the one hand and non-interference (into national security policies) on the other. The formal statement but lack of enforcement of non-alignment through secondary institutions can be seen as a political compromise acknowledging the heterogeneity of

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[62] The quotes are taken from Jorgensen-Dahl (1982: 73–74).
[63] A similar ambiguity can also be found in ASEAN's Declaration on a Zone of Peace, Freedom and Neutrality of 1971, which rejected great power interference in the region but stopped short of formalizing actual neutralization and was declaratory, rather than legal, in nature (Narine 2002: 19–22).

member states' positions towards the institutional configuration.[64] The fact that close security cooperation with the West persisted throughout ASEAN's history despite the continued proclamation of ideas of neutrality, non-alignment and anti-hegemonism demonstrates that this institutional solution created a pathway that accommodated a considerable amount of ambiguity in the institutional configuration of Southeast Asia's international society.

5.4   Conclusion

This chapter examined the emergence of regional organizations in Europe and Southeast Asia in the context of decolonization processes in the mid-20th century. It started from the assumption that one – though not the single – condition for their coming-into-being was the creation of primary and secondary institutions regarding the relations between intra- and extra-regional actors, and made the case that the discursive processes surrounding these institutionalization processes were heavily informed by the legacy of colonial primary and secondary institutions. The Second World War was the main exogenous source influencing the discursive power position of actors challenging or defending certain institutions. While Southeast Asian discourses of decolonization were rather pro-active, institutional change in Europe was carried out in response to declining relative power and in an attempt to ward off further challenges to the legitimacy of European actors. Actors in both regions partially endorsed global primary and secondary institutions, but they also drew substantial boundaries delimitating their regional international societies from the global level.

The narrative illustrates that the normative context of building EC and ASEAN rules was more complex than existing accounts of the imperial origins of European integration and the postcolonial literature on early Southeast Asian regionalism suggest. In both instances, secondary institutionalization was carried out in an ambiguous and contested primary institutional context. However, a main difference can be discerned: in Southeast Asia, the creation of vague rules regarding member states' external relations in the Bangkok Declaration reflects a changed interpretation of the non-interference norm that brought it into tension with non-alignment, which was itself a contested

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[64] Acharya (2001: 55) points at another aspect of the half-hearted institutionalization of non-alignment: Indonesian policy-makers feared that a highly formalized declaration of neutrality would make the regional states dependent on guarantees of the great powers. Thus, a stronger institutionalization of non-alignment would have resulted in practices inconsistent with the primary institution of sovereignty.

notion and eventually was institutionalized in a more vague interpretation as anti-hegemonism. However, secondary institutionalization did not subsequently prompt further change on the primary level (Figure 2). Organizational traits of the ambiguous norm of anti-hegemonism can still be found in today's ASEAN: the formal enshrinement of the imperative of 'ASEAN centrality' in official documents[65] and the incorporation of the Declaration on a Zone of Peace, Freedom and Neutrality (ZOPFAN) in ASEAN's (2009) white paper on the Political-Security Community demonstrate a persistent concern about the potential domination of regional affairs by foreign actors.

Figure 2:   Change in Southeast Asian institutions relating to external relations
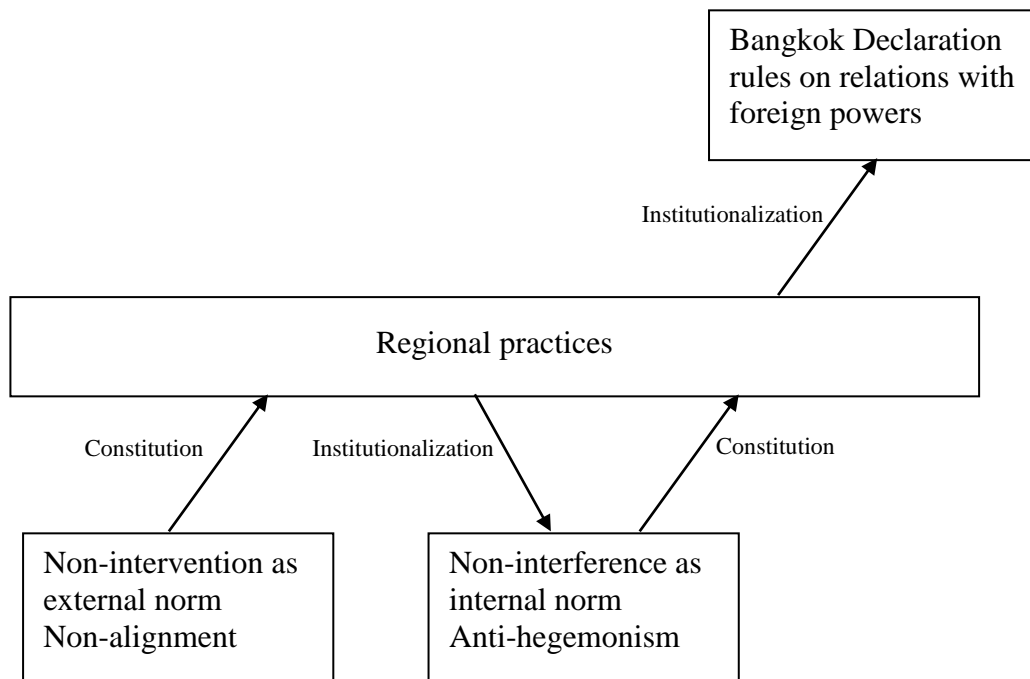
In Europe, meanwhile, the relation between primary and secondary institutions was more dynamic. The development of early secondary institutions relating to the external relations of EEC member states unfolded in a primary institutional context informed by the tension between colonial institutions that had survived the wave of Asian decolonization and integrationist institutions. Subsequently, these secondary

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[65] Art. 41 para. 3 of the ASEAN Charter (2007) demands that ASEAN be the "primary driving force in regional arrangements that it initiates and maintain its centrality in regional cooperation and community building". The Concept Paper of the ASEAN Regional Forum (1995: Art. 3–4), a sort of cooperation blueprint for the grouping, ascribes to ASEAN the "obligation to be the primary driving force of the ARF".

institutions catalyzed the dismissal of those colonial institutions by altering preference structures, and led to the emergence of developmentalism as a new primary institution governing external relations. Eventually, the boundaries of the regional international society were redrawn and the Euro-African became a genuinely European international society. The notion of developmentalism reinforced these boundaries, as it constituted a distinct set of principles and norms that differed from the global international society and was based on a clear inside-outside distinction. Thus, while the EEC's secondary institutions were themselves informed by institutional tensions on the primary level, they also served to transform primary institutions and contributed to the consolidation of a decolonized European international society.

That being said, institutional ambiguities persist. The primary institution of developmentalism reproduces notions of inequality that may be understood as (post-)colonial undertones and display a certain tension with the declared promotion of sovereign equality in the EEC's external relations since the Yaoundé Convention. Hovering over these issues is the perennial tension in the European international society between the primary institutions of pooled sovereignty and national self-determination.

The EEC's association framework translated this ambiguous context of primary institutions into secondary institutions that are characterized by specific rules and procedures that emphasize the community aspect of dealing with former colonial territories (Figure 3). Relics of European colonialism, such as the EU's Cotonou Agreement on development cooperation with the ACP countries and the treaty provisions regarding its 'Outermost Regions and Overseas Countries and Territories' can be seen as the contemporary heritage of the institutional pathway adopted in the early days of regional organization-building (Treaty Establishing the European Economic Community 1957, Part Four and Art. 227; see also Müller 2001).

Figure 3:   Change in European institutions relating to external relations
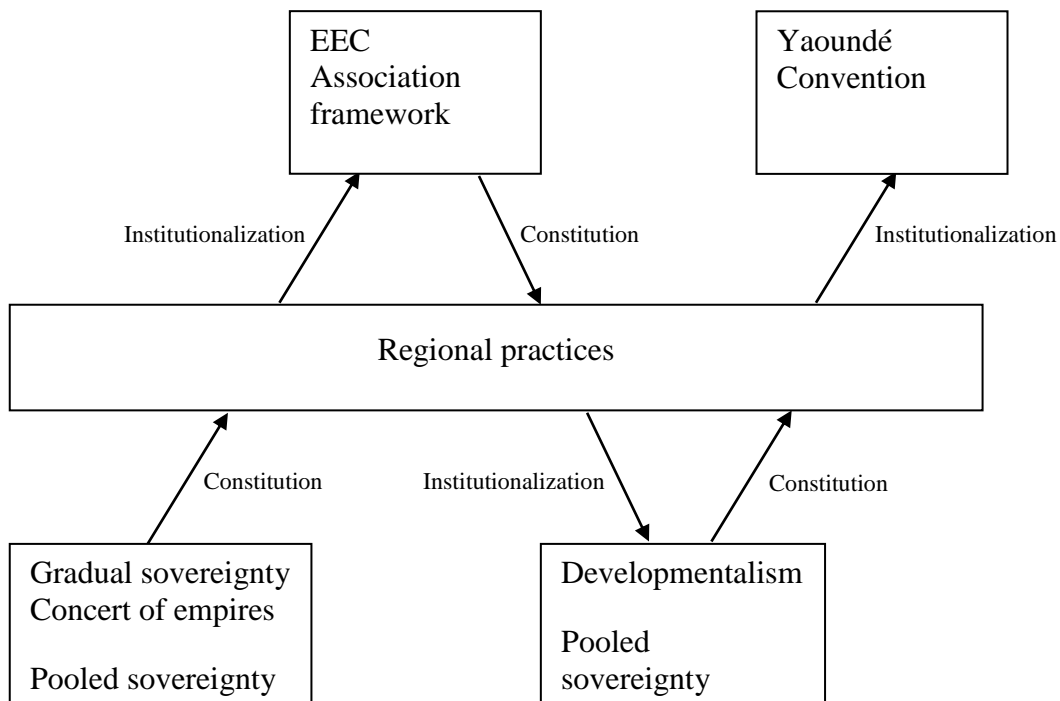
The analysis of the dynamic relation between primary and secondary institutions contributes to Comparative Regionalism literature by showing that normative arguments connected to decolonization processes set the regional organizations in Europe and Southeast Asia on specific pathways. The institutional legacies pointed out in this conclusion demonstrate that the results of the discursive struggles at these critical junctures have a bearing on the shape of the contemporary regional organizations. The English School-based approach also brings into focus that the institutionalization practices in both regional international societies did not imply a complete de-stratification and institutional ambiguities and tensions persisted. In the case of Europe, the institution of developmentalism created an exclusive identity based on ideas of inequality, which left it in unclear relation to the EEC's proclamation of sovereign equality as a guiding principle of external relations. In Southeast Asia, meanwhile, the continued contestation of the primary institution of anti-hegemonism, its unresolved relation to the primary institution of non-interference and its vague translation into ASEAN's secondary institutions indicate a continued dependence, actual or apprehended, of internal on external actors. In this sense, both regional international societies are essentially post-colonial phenomena.

6   Regionalization: legal integration and new hierarchies

The preceding chapter showcased that the processes of building regional organizations in Europe and Southeast Asia were tightly linked to efforts of consolidating the decolonization of the two regional international societies. While the EC and ASEAN were fundamentally different, they both subsequently underwent quite fundamental changes in their legal framework. The EC successively developed a set of rules that granted individuals of its member states certain rights and therefore constituted them as legal subjects of the European regional international society. These rules were extended and formally enshrined in the Treaty of Maastricht signed in 1992, which simultaneously transformed the Communities into the EU. Roughly fifteen years later, ASEAN's legal framework also underwent a process of formalization, which culminated in the signing of the ASEAN Charter in 2007. The Charter endowed ASEAN with legal personality, and reformed and strengthened existing mechanisms for dispute settlement between its member states.

As Alter and Hooghe (2016) note, legal integration is "a game changer in regionalism that stands for more than just a commitment to use legal means to resolve […] disputes; it signals a commitment to uphold specific community values." As such, it is part and parcel of a broader process of regionalization of the European and the Southeast Asian regional international societies. I use the term regionalization in a narrow sense to describe institutional changes that lead to significant transformations of the structure of a regional international society once the regional organizations are set up. The term is also used in Regionalism literature, especially by Hettne and Söderbaum, where regionalization denotes a process of increasing 'regionness'. Regionness is the degree to which "a geographical area is transformed from a passive object to an active subject capable of articulating the transnational interests of the emerging region" (Hettne and Söderbaum 2002: 461; see also Warleigh-Lack 2006).[66]

A number of Comparative Regionalism authors have paid attention to legal aspects of regionalization. For example, they noted that Asian regionalism is less 'legalized' than that of other regions, meaning that agreements are generally less

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[66] On the one hand, this is a broader definition of the term than that employed in much of the New Regionalism literature, where regionalization is used in a more narrow sense to distinguish societal, bottom-up processes from the conventional, more top-down oriented notion of regionalism. On the other, it is narrow in that it excludes initial processes of institutionalizing regional primary and secondary institutions, which I deal with in this thesis under the rubric of decolonization.

formalized and less binding in character (Higgott 2014).[67] In some cases, this leads to an almost ideal-typical juxtaposition of European 'strong' legalistic versus Asian 'weak' non-legalistic regionalism, where the actual developments towards regionalization for example in Southeast Asia are brushed over for the sake of sustaining a neat typology or theoretical argument (Kanthak 2012; Katzenstein 2005).

I already outlined the various explanatory approaches to these very general differences in Section 2.2. For the purpose of this Chapter, I am more interested in how and why specific legal secondary institutions developed at the regional level. In this context, Comparative Regionalism literature has focused on the study of regional courts and dispute settlement mechanisms. Most of this literature is concerned with the general rise in the use of more formal judicial dispute settlement across the globe and argues that the European model diffused to other regions (Alter 2012). The proliferation of dispute settlement mechanisms has also been described as a sort of spillover resulting from the increasing use of multi-purpose international organizations on a regional scale (Alter and Hooghe 2016: 541). In this respect, Southeast Asia is more of an outlier case, as its dispute settlement mechanisms, while growing, are less judicialized than those of other regions (Alter and Hooghe 2016).

There are also approaches explaining variation in legal integration. Those paying attention to domestic factors argue that formal dispute settlement is more common among democracies (Jo and Namgung 2012) or states with a civil law tradition (Duina 2006). Another line of argument is that differences can be explained via functional demands or institutional links, in the sense that stronger dispute settlement will be set up in regions that display either high economic interdependence (Haftel 2013; Korte 2012) or 'deep' regional trade agreements (Allee and Elsig 2014). Alter (2012: 145; see also Korte 2012) connects this idea to the diffusion concept, arguing that regions with a free trade agreement, such as ASEAN, tend to 'download' dispute settlement mechanisms from the global script embodied by the WTO, whereas common markets like the East African Community rather emulate the regional court model of the EU. However, she also concedes that this theory does not apply to all cases, and as ASEAN launched its

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[67] For an early statement of this finding, see Kahler (2000).

common market initiative, the ASEAN Economic Community, in 2015 without establishing a regional court, the argument has become even less convincing.[68]

What the Comparative Regionalist study of legal integration lacks, so far, is an account of the discursive processes leading to the establishment of rules and procedures in the legal realm, and how these were informed by common normative considerations (Alter and Hooghe 2016: 550–553). Insofar as norms are acknowledged, scholars usually refer to legalization as a means of increasing international legitimacy, as Korte (2012) does for the case of ASEAN. However, these arguments assume that there is only one, global normative point of reference, whereas distinct regional normative patterns are left out of the picture.

The analytical approach of this thesis can fill these gaps, as it draws attention to how legal integration is connected to the fundamental normative constitution of regional international societies. In English School terms, regionalization implies a move away from the institutions of the classical Westphalian international society and is its anarchical structure, where states are by and large the only legitimate actors. Using Watson's (1992; see also Diez and Whitman 2002a) terms, higher levels of regionness imply a move from independent constituent units to a more hierarchical or imperial international society. It therefore goes beyond the notions of 'solidarization' and stratification in that it implies a relocation of legitimate actorness at the aggregate regional level, while solidarization and stratification happen among basically like units, usually states. Since ideas about legitimate actorness and appropriate behaviour are condensed into international institutions, regionalization from an ES perspective is a *process of change in and of primary and secondary institutions that gradually relocates authority on the regional level*.

In the legal realm, this implies changing norms and rules that impinge on the role of the nation-states as the sole source of judicial authority. Using this process-based concept helps in two ways: first, it allows me to subsume institutional dynamics that may run at different speeds and intensities under the same concept and render them comparable by placing them on a continuum from weak to strong regionalization. It therefore acknowledges that all regional organizations contain elements of relocating

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[68] Other cases are also hard to explain with this theory, such as that of Mercosur, which has only made minor steps towards a formal judicial body since its creation in 1991 (Alter 2014: 86, 374).

authority, but some do so more than others. In this way, I can circumvent the ideal-typical juxtaposition of legalist European vs. non-legalist Southeast Asian regionalism evident in many Comparative Regionalist studies and focus instead on actual institutional changes towards legal integration in both regions. And second, it puts the focus of attention on the practices – in particular, discursive practices by dominant and oppositional actors – that lead to such changes.

Based on these conceptual considerations, the following two sections present a comparative study of regionalization in Europe and Southeast Asia in the legal terrain. In this sense, I use the terms of legalization and legal integration interchangeably to denote regionalization in those realms of international society that are concerned with the 'sanctity of agreements' (2004: 189; see also Bull 1977: 16–20) and the definition of binding rights and obligations. Legalization is thus understood in a broader sense than just instances of the formal codification of rules (Goldstein et al. 2000), which would imply that the study could be limited to secondary institutions. Taking up Finnemore and Toope's (2001: 749–750) claim that the legitimacy of law may also depend on less formal institutionalization practices, and that it needs to be compatible with "the larger moral fabric of society", I also examine the context of primary institutions and how it was connected to the secondary institutionalization practices.

6.1   Towards citizenship: legal integration in Europe, c. 1961–1992

This section examines the process of legalization from the initial Community years until the signing of the Maastricht Treaty in 1992, focusing on the introduction of rules on European citizenship as a new feature of the organization's secondary institutions. Part two of the Treaty formalizes the status of Union citizen for all citizens of EU member states, and confers rights of free movement and residence, voting in local elections in the country of residence (*in loco*), petition and diplomatic protection beyond EU borders. In addition, it creates the position of an ombudsperson, who is to act as a representative of the Union citizens' interests at Community level. Maastricht can thus arguably be seen as the (preliminary) culmination of legal integration in the European international society, as it created a secondary institution constituting rights for individuals *vis-à-vis* the EU as a supranational regional organization (O'Leary 1996: 21). It thereby supplemented the established horizontal structures of co-existing national constitutional orders and international law with a more hierarchical legal construct. This

process began with first discursive interventions in favour of a Community citizenship in the 1960s. At that time, there were already some provisions in place concerning the free movement of people and rights of residence; however, being conceived as they were as means to implementing economic integration, they were restricted to the Community's working population.

The existing approaches to legal integration in Comparative Regionalism do not deal with citizenship, as only the EU has developed substantial rules in this area. However, the following analysis can draw to some extent on insights from EU studies. Most of these focus on dynamics on the secondary level and present neo-functional (Burley and Mattli 1993; Stone Sweet and Caporaso 1998), intergovernmental (Garrett 1995), legal-rationalist (Weiler 1991) or rational institutionalist (Alter 2009b; Weiler 1994) accounts. There is, however, also research pointing at broader changes in European conceptions of sovereignty and international law (Diez et al. 2011), and how these might affect notions of citizenship (Linklater 1996). There is also a comprehensive study by Wiener (1998) on the citizenship discourse in the EC/EU. The following analysis expands on these works by systematically asking how the development of secondary institutions of legal integration was linked to general understandings about legal authority on the primary level.

6.1.1 Institutional context

The following two sections provide an account of the genesis of an institutional framework for European citizenship. As I am dealing with regionalization in the legal field, I employ a rather narrow, classical definition of citizenship in the sense of "a juridical condition which describes membership of and participation in a defined community or state", and which "carries with it a number of rights and duties which are, in themselves, an expression of the political link between the state and the individual" (O'Leary 1996: 13). It thus comprises institutions defining a legal status for individual, which may be associated with political, social and economic rights and obligations *vis-à-vis* an administrative entity, and which are based on a sense of equality. In contrast to Wiener's (1998) more expansive conception, this definition excludes notions of collective identity. As pointed out above, early figurations of the discourse on citizenship emerged in the 1960s, only a few years after the creation of the EEC. To start the analysis, the context of primary and secondary institutions at that time needs to

be outlined. Rather than offering a full inventory, I will focus on those institutions that were connected to the problem of the 'sanctity of agreements' and the definition of binding rights and obligations.

Primary institutions

On the level of primary institutions, the notion of **pooled sovereignty** formed part of the dominant discourse of European international society by the time the Treaties of Rome were signed (Diez et al. 2011). Departing from both the gradual conception of sovereignty of the Colonial era and the sovereign equality doctrine of the contemporary global international society, European international society was founded to a large extent on the construction of an authoritative supranational actor, which was legitimized by reference to both economic and security concerns.

However, this reallocation was only partial. Instead of reconstituting unpartitioned sovereignty at a regional level, **national self-determination** remained an important primary institution (cf. Milward 1992) and was in fact reasserted as a main reference point for the development of the EC's political framework throughout much of the 1960s and 1970s, as the rhetoric of an *Europe des patries* during the 'Empty Chair Crisis' demonstrates. The idea of national self-determination constituted individuals as holders of rights in their state of citizenship, but not in the region as a transnational whole.

Finally, even with the institutionalization of the EC, the legal doctrine of the European international society initially remained dedicated to **positivist international law**. States could only enter into obligations set freely amongst themselves, thus the regional legal order above the state-level could only be based on interstate conventions. Accordingly, the rules and procedures of the EC were the result of interstate treaties. The fact that non-state actors such as the ECJ could serve as a source of jurisdiction does not contradict this notion, as international courts have been a common feature of pluralist international societies. Individuals, meanwhile, could only acquire legal status by virtue of being a citizen of a nation-state. Therefore, their claim to legal rights was directed at those states and could not be extended to supranational bodies.

Secondary institutions

The fact that Europe hosted a multitude of regional organizations with different secondary institutions, functional scopes and overlapping memberships affirms arguments about the fragmented and layered character of the European international society (Diez et al. 2011; Diez and Whitman 2002a; Wæver 1996). Aside from the EC established by the Treaties of Paris and Rome, organizations such as NATO, the Western European Union and the Council of Europe formed essential elements of the secondary institutional framework. For the purpose of this study, however, I will focus on the EC as they were the principal theatre of legalization dynamics in Europe.

The **EC** combined elements of centralized and dispersed authority through the parallel existence of supranational and intergovernmental structures. In the legal realm, the most notable supranational feature were the rules and procedures of the **ECJ**, which was created in 1952 as part of the Treaty of Paris and had the authority of jurisdiction in certain circumscribed areas. However, there were only rudimentary elements of a secondary institution of citizenship in its legal framework. Art. 48 of the Treaty Establishing the EEC conferred the **right to free movement** to individuals, but this provision was limited to the active and former workforce in the private sector (Baldoni 2003), which means that the privileges were limited to a section of the population. The rationale behind the concept was to optimize the allocation of the factor work in the common market, not to ensure equality among citizens of European states. There were neither special rights for citizens of a member state in other member states nor fundamental rights granted to all citizens of member states.

Feedback effects

The institutional configuration in the early years of the Communities constituted a regional international society in which nation-states were still the main legal actors. This set-up was stabilized by certain feedback effects. Access to the main institutionalization mechanisms – to which one could count the intergovernmental conferences, meetings of heads of state and government, and the Council meetings – was restricted to state representatives, giving rise to strong **power effects**. However, the ECJ began to take on a more assertive position and actively tried to extend its role in the development of the legal framework of the Communities in the mid-1960s, thereby challenging the intergovernmentalist structure.

Regarding **reification**, the existence of the Community institutions certainly challenged traditional perceptions of international relations in which the nation-state was the paramount actor of international society and the only source of legitimacy. However, the subordinate role of the individual as a legal subject beyond national constitutions in traditional international law doctrine worked against the introduction of a transnational concept of citizenship. On the other hand, the objective of an 'ever closer Union', enshrined in the Treaty of Rome, already opened up a potential discursive space for de-naturalizing the role of the nation-state in this respect.

Feedback effects were arguably the weakest in terms of **vested interests**. A number of sub-national actors could expect to benefit from closer legal integration and a weakening of national legal authority: lower-level national courts saw the prospect of building coalitions against the predominance of supreme courts; and individuals and companies expected enhanced possibility for litigation and more favourable jurisdiction (Alter 2009b; Stone Sweet and Caporaso 1998). Of course, national supreme courts were anxious to safeguard their important position. But even a number of nation-state governments, namely those with a more federalist outlook, such as Italy and the Benelux countries, had a certain preference for legal integration.

As regards **institutional linkages**, there were strong vertical connections between the secondary institutions of the EC and the regional primary institutions. The provisions for free movement made the principle of pooled sovereignty in the economic realm actionable, but the very limited extension of individual rights paid tribute to the institution of national self-determination. The EC's legal foundations were also in line with the positive law doctrine since they were founded by intergovernmental treaties. It becomes clear, thus, that the EC institutions were firmly linked to the main legal primary institutions of Europe's international society. Even the ECJ fits into this assessment, as it was originally set up for the purpose of sanctioning the Community institutions if they overstepped their narrow competences.[69] Horizontally, however, the primary institutions of pooled sovereignty and national self-determination constituted fundamentally conflicting expectations about the location of legal authority.

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[69] See Chapter IV of the Treaty of Paris (1951), which almost exclusively refers to infringements by the High Authority, see also Alter (2009d: 112).

6.1.2   Institutional change

Contrary to what neo-functionalist theories suggest, those arguing for more far-reaching integration in the legal field did not execute an automatic integration logic but used specific discursive strategies to advance their agenda. As the following analysis reveals, specific features of the secondary institutional legal framework and tensions in the primary institutions of Europe's international society were conducive to their goals, as they increased their positional power in the discourse and allowed them to make strong claims about the legitimacy of sub- and supranational actors.

The institution of democracy

As possibly the first vocal advocate of a European citizenship, Lionello Levi Sandri, then Commissioner for Social Affairs, made several attempts to put the issue of individual rights on the Community agenda in the 1960s (Levi Sandri 1961, 1966; see also Maas 2005: 4). Departing from a purely economic rationale in legitimizing the free movement for workers, he stated before the EP in 1961:

> Je ne conçois pas la libre circulation des travailleurs comme un simple moyen d'obtenir une combinaison optimale des facteurs de production, une combinaison optimale du facteur travail avec les autres facteurs de la production; je la considère en réalité comme le premier aspect d'une citoyenneté européenne. (Levi Sandri 1961: 135)

At the intergovernmental level, the idea was first taken up at the 1972 Paris Summit of Heads of State and Government, where the Italian Prime Minister of the time, Giulio Andreotti (1972; see also O'Leary 1996: 18), stated that

> we could as of now decide to establish a European citizenship, which would be in addition to the citizenship which the inhabitants of our countries now possess. It should permit the citizens of the Community countries, after a stay of certain length in one of our countries, to exercise some political rights, such as that of participating in communal elections.

Andreotti was seconded by Sicco Mansholt, then Commission President, who echoed Levi Sandri by including the free movement of persons to the short list of possible rights of political participation for Community citizens. At the 1974 Paris Summit, the EC leaders established working parties on a potential passport union and 'special rights' (Wiener 1998: 74). The Tindemans Report of 1975 called for the recognition of citizen rights and the abolition of border controls, and in 1978, the EP held a Roundtable on

Special Rights and a Charter of Rights of the Citizens of the European Community. Despite these initiatives, attempts at formalizing citizenship rules in the 1970s and early 1980s provided few tangible results.

Things looked different on the primary level, however, as that period saw the emergence of two important primary institutions: liberal democracy and Community constitutionalism. The story of the first one is quickly told: principles of **liberal democracy** were not a part of the Treaty of Rome, but the Birkelbach Report of 1962 as well as the Luxembourg (or Davignon) Report of 1970 contributed to their elevation to a primary institution (Diez et al. 2011: 131).[70] The Luxembourg Report was adopted by the foreign ministers, and the Declaration on European Identity by the heads of state and government at the 1973 Copenhagen Summit affirmed democracy as a basic element of the Community's set of values. In conjunction with the frequent invocation of the concept in subsequent documents such as the Tindemans Report (1976: 26), this provides evidence for the firm institutionalization of liberal democracy as a primary institution of the European international society by the mid-1970s. The European Council's Declaration on Democracy (1978) provides additional evidence. Although explaining the emergence of democracy as a primary institution is not my chief concern here, the fact that all member states were liberal democracies certainly contributed to the swiftness of this process: there was simply no real opposition by any key actor to enshrining democracy as a principle.

Drawing on these developments, advocates of European citizenship started to link their arguments to a call for democratization of the EC in the 1970s. This is exemplified in the Bayerl Report of the European Parliament's legal affairs committee: "Only equal treatment of citizens in every member state can guarantee in the long term a democratization of the Community and contribute to its further development" (Legal Affairs Committee 1979; see also European Commission 1976; European Parliament 1979). This runs counter to Wiener's (1998) claim that early European citizenship discourse was concerned above all with creating a European identity, while legitimacy concerns only entered the picture in the course of the 1980s.

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[70] A more detailed account of the institutionalization of democratic principles as part of the EC's standard of membership will follow in Section 7.1.2.

However, the strategy of legitimizing citizenship with democratic principles in the 1970s suffered from one major drawback, namely that the traditional notion of democracy was tied to national constituencies. Liberal democracy as a primary institution of the European international society initially was an attribute of the member states. Consequently, pro-citizenship actors like MEP Bayerl, had to reassure more conservative stakeholders that nation-states would remain the only legitimate sources of citizen rights:

> Nobody wanted a 'superconstitution', and no Member of the European Parliament who supported the idea of drawing up rights for the Community's citizen wanted to take from national authorities the powers which devolved on them in the field of fundamental rights. (European Parliament 1979: 44)

However, it was hard to see how citizenship could acquire a distinct European dimension under these circumstances. It was only in connection with the emerging primary institution of Community constitutionalism that the notion of democracy acquired a meaning beyond the nation-state level.

The constitutionalization of Community law

The constitutionalization of the Community legal order, the second important development on the primary level, was heavily influenced by ECJ activism. As pointed out above, the ECJ was initially set up by the contracting parties as a means of safeguarding the member states against excessive interpretation of competences by the High Authority. National governments thus saw the Court as a secondary institution that should help resolve potential tensions between pooled sovereignty and national self-determination in favour of the latter. However, by including a preliminary ruling clause in the Treaty of Rome (Art. 177), the governments unwillingly created a secondary institution that should transform itself from a guardian of nationalism to an ally for those in favour of federalism. The preliminary ruling clause increased the positional power of national courts in favour of legal integration, as it allowed them to refer cases touching upon EC law to the ECJ in circumvention of national high courts, which generally upheld the institution of national self-determination and were critical towards legal integration (Alter 2009c; Weiler 1994). For the ECJ, in turn, the complicity of national courts was beneficial in that they could ensure compliance with its rulings (Alter 2009c). By making governments liable for infringing prior Community decisions before national courts, the clause imposed a legal logic of discourse upon issues that had

hitherto been subject to diplomatic rationality. This restricted the argumentative leeway of governments, as it increased the self-binding nature of their speech-acts (Weiler 1994: 519) and restricted the use of means such as ambiguous language in order to advance their interests. The preliminary ruling clause also expanded the ECJ's authority by effectively allowing private individuals access to Community jurisdiction (Burley and Mattli 1993).

The Court, meanwhile, did not merely use the case references to create expansive interpretations of EC law. The leading political science scholar of European legal integration, Alter (2009d), argues that the well-known early rulings such as *Van Gend & Loos* or *Costa v ENEL* did not interpret EC rules in a way that fundamentally impinged on nation-state interests in the specific cases at hand. Their real significance lay in the construction of a legal doctrine establishing the principles of direct effect and the supremacy of EC law. To this end, the ECJ pointed to an essential tension on the primary level, namely the contradiction between the legal implications of pooled sovereignty on the one hand and the provisions of conventional international law on the other. If individuals hold rights against their sovereigns and if interstate treaties create bodies of authoritative decision-making beyond the state that affect the lives of European citizens, then this creates a new kind of legal order which must provide for individual rights *vis-à-vis* the new sovereign, even if this sovereignty is only partial. The ECJ expressed this view in its judgment in the important *Van Gend & Loos* case:

> [The Treaty of Rome] is more than an agreement which merely creates mutual obligations between the contracting states. This view is confirmed by the preamble to the Treaty which refers not only to governments but to peoples. It is also confirmed more specifically by the establishment of institutions endowed with sovereign rights, the exercise of which affects Member States and also their citizens. […] states have acknowledged that Community law has an authority which can be invoked by their nationals before [national] courts and tribunals. (European Court of Justice 1963)

In areas where Community goals are affected, the Treaties effectively established a legal order bestowing individuals with rights that go beyond those granted by the respective national constitutions (European Court of Justice 1963). Such a view inversed "the public international law assumption that legal obligations are addressed to states only, and do not create direct effect for nationals of that state" (Haltern 2004: 180; see also Mancini and Keeling 1994: 183). This argument was further strengthened by

the parallel development of the principle of supremacy, which established the paramount authority of law on the supranational level (Weiler 1994).

Assisted by transnational organizations of 'Euro-law scholars' such as the Fédération Internationale de Droit Européen, which created a persuasive narrative of ECJ authority (Alter 2009a), the practices of the ECJ and lower national courts pushed for the institutionalization of a new primary institution, namely that of **Community constitutionalism**.[71] Governments opposing the development were in a bad position, as decisions by the ECJ could only be overturned by Treaty revisions, which would have required unanimity (Stone Sweet and Caporaso 1998: 96–97, 105) – for once, this procedure played into the hands of pro-integrationist actors.

However, in the 1970s, this institutionalization was far from complete. While former Commission President Walter Hallstein (1972: 37) was adamantly affirming that "the Community's legal system conforms to the fundamental principles essential to a free democratic constitution", he had to admit that the "thesis of the superiority of the law of the Community over national law is not accepted by everyone" (Hallstein 1972: 34). The most reluctant actors in this respect were a number of national High Courts, in particular the German Bundesverfassungsgericht,[72] the French Conseil d'Etat and the Italian Corte Constituzionale (Kwiecień 2005: 1487). It took the Corte Constituzionale until 1984, the Bundesverfassungsgericht until 1986 and the Conseil d'Etat until 1989 to fully recognize EC law supremacy – although not without the reservation that Community law supremacy was derived from the provisions of their national constitutions (Alter 2009c: 104; Craig 2004: 37–39). Due to the influence of the Courts on the legislation of three major member states, these rulings can be seen as benchmarks in the institutionalization of Community constitutionalism.

Towards European citizenship

It should not surprise, then, that the discourse on European citizenship regained momentum in the late 1980s. The development of community constitutionalism created a new constitutive context for subsequent institutionalization on the secondary level. The new primary institutions of liberal democracy and Community constitutionalism

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[71] Although not using the exact term, Weiler (1994: 514) speaks of a "constitutionalized" EC law.
[72] In fact, the Bundesverfassungsgericht (1974) explicitly opposed the principle of EC law supremacy in the *Solange I* ruling.

disturbed the **power effects** supporting existing institutions as they constituted individuals as legitimate actors of the European international society by making them "the principal 'guardians' of the integrity of the Community legal order" (Haltern 2004: 180, see also Burley and Mattli 1993: 60–61). It increased the relative authority of both the Community institutions and individuals. Weiler (1994: 513) notes that the number of individual appeals to the ECJ increased significantly with the progressive constitutionalization. The new primary institutions also provided a new basis of legitimacy for the EP, which had always nurtured a self-understanding as a champion of individual rights in accordance with its by and large federalist outlook. At the same time, it also further deconstructed the notion of the state as the constituent unit of international relations, thus disturbing **reification** effects.

The Parliament's Draft Treaty on European Union (1984), masterminded by Altiero Spinelli and published in February 1984, affirmed the ideas of an EC law with direct effect and supremacy (Art. 34–44), as well as the principles of democracy and individual rights. This was connected to rules that were to establish a European citizenship:

> The citizens of the Member States shall *ipso facto* be citizens of the Union. Citizenship of the Union shall be dependent upon citizenship of a Member State; it may not be independently acquired or forfeited. (European Parliament 1984, Art. 3)

The proposed framework was directed against proponents of a *Europe des patries* but it also paid respect to national legal traditions by deducing individual rights from "the common principles of the Constitutions of the member states and from the European Convention for the Protection of Human Rights and Fundamental Freedoms" (European Parliament 1984, Art. 4.1). Thus, the Draft Treaty took up the qualified interpretation of Community constitutionalism by the national High Courts in an attempt to mediate the tensions with the institutions of national self-determination and international law.

In what seemed to be a prompt reaction to the publication of the Draft Treaty, the European Council of Fontainebleau in June 1984 decided to set up a committee that was to concern itself with how to promote the identity of the Community among its citizens. The Addonino committee, interpreting this mandate quite broadly, published two reports in which citizenship rules are suggested that largely reflect the ultimate

framework of the Maastricht Treaty. The reports use different justifications for these proposals: for example, the freedom of movement is described as a "necessary corollary of the programme for the completion of the internal market which has received, rightly, the highest priority", echoing the market logic that is inscribed into the primary institution of pooled sovereignty (Wiener 1998: 191). On the other hand, citizen rights are seen as a means to defend the principles of the EC, among which representative democracy features prominently, and to make it more credible and responsive (Adonnino 1985: 9, 19).

There were also some setbacks. Advances in the realm of free movement peaked in the Schengen Agreement of 1985, which remained ineffective because it lacked specific provisions for implementation. The Single European Act signed in 1986 did not contain any provisions on citizenship. By consequence, the Commission criticized the Council for failing to take action on the recommendations of the Adonnino reports. Referring to the institutions of Community constitutionalism and democracy to legitimize its call for formalizing citizenship rules (but also disclosing a discomforting gender bias in its citizen concept), it stated:

> After thirty years of European integration, the steady – and sometimes spectacular – development of Community law has produced a legal order which affects the whole of society: those in business, industry and commerce just as much as the ordinary citizen in his [sic!] day-to-day life. Community legislation offers him new opportunities, opens up new perspectives and confers on him specific rights which he may exercise both in his private and in his working life if he so wishes. But in order to do so he has to be aware of them. […] [The European people] should […] be made aware of their special rights as well as their economic and social rights, and in this connection, the right to vote in local elections for all Community nationals would be the best way of demonstrating the creation and existence of a People's Europe. (European Commission 1988: 26–27)

> If ordinary citizens are to be involved in the building of Europe, they must gradually be granted at European level the political rights enabling them to do so. (European Commission 1988: 34)

Maastricht

These efforts ultimately proved to be successful, as citizenship rights came to figure high on the agenda of the Intergovernmental Conference on Political Union, which resulted in the signing of the Maastricht Treaty (1992). From the memoranda of the national delegations on the matter, it becomes clear that it was particularly the

smaller and medium-size member states that pushed for the inclusion of some sort of citizenship concept in the Treaty, although there was no consensus on the kind of rules to be considered.[73] Some member states rejected the idea of including citizenship provisions in the Treaty altogether. The Belgian, Danish and Greek delegations pursued a rather minimalistic concept centred on the *in-loco* right to vote in local elections (Belgian Memorandum 1992; Greek Memorandum 1992; Memorandum from the Danish Government 1992). The Portuguese went beyond this in adding free movement for all citizens and diplomatic protection in third countries to the list of potential rights (Ministry of Foreign Affairs 1992). The proposals by the Italian and Spanish representatives were most extensive, including broader political and social rights such as the freedom of expression and association (European Commission 1990). The Spanish proposals were distinct in that they contained

- a provision obligating the Union to guarantee equal opportunities for all citizens;

- the notion of obligations such as military service, rather than just the conferral of rights;

- the possibility to extend the rights to further areas of EC policies in the future;

- the possibility to extend the rights to non-Community citizens (Délégation espagnole 1991; Permanent Representation of Spain to the European Communities 1990; see also Wiener 1998: 262–265).

In that, they were quite close to the ideas of the EP, which also favoured a more comprehensive approach, which included citizens' duties (European Parliament 1991; see also Wiener 1998: 270), rights to petition and information, and the possibility of extension to non-Community citizens (Bindi 1991).

The justifications for these suggestions varied. Some pointed to contemporary events: German reunification and post-Cold War uncertainties increased the need for a more integrated treaty framework (European Commission 1990; Greek Memorandum 1992: para. 1.3); and the increased migration flows accompanying globalization made exclusive citizenship concepts appear outdated (Bindi 1991: para. 1.a). This indicates that external shocks created new preference structures which worked against the **vested**

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[73] For a detailed overview of the delegations' positions, see also O'Leary (1996: 23–30).

interests of the national governments. Others displayed citizenship as a necessary consequence of previous integration efforts:

> The move towards Political Union, including a common foreign and security policy and Economic and Monetary Union, radically changes the existing situation and requires the creation of an integrated common area in which the European citizen occupies a central and fundamental position. On the way to European Union it is therefore necessary to establish a **citizenship of European Political Union** […]. (Permanent Representation of Spain to the European Communities 1990, emphasis in original)

Most often, however, the memoranda depicted citizenship rules as a question of democratic legitimacy of the EC (O'Leary 1996: 23, 30). One of the Spanish notes is exemplary here as it outlined

> an integrated area serving the citizen, which will be the very source of democratic legitimacy and a fundamental pillar of the Union, through the progressive constitution of a common citizenship, the rights and obligations of which derive from the Union. (Délégation espagnole 1991)

Thus, the memorandum links citizenship rules to the primary institutions of democracy and, by describing the Union as the source of citizen's rights and obligations, Community constitutionalism. The EP endorsed a similar view. In her report on behalf of the Committee on Institutional Affairs, MEP Bindi based her arguments on legitimacy demands, comparing the Community institutions to a democratic government:

> government must derive its legitimacy from a mandate given by citizens, and, in particular, laws must stem from institutions democratically elected by citizens […]; citizens must, in their own right enjoy specific rights – including political rights – vis-à-vis the institutions of the Community and each of the Member States; those rights must enjoy full protection of the courts in the Member States and, by extension at Community level […]. (Bindi 1991: para. G)

The report also explicitly cites ECJ case law as a source of these considerations (Bindi 1991: para. L). This line of reasoning subsequently became the mainstream of the EC discourse. For example, the foreign ministers of the Community took up the idea of citizenship rights, noting in a reflection paper that

> [l]e transfert progressif de tâches à la Communauté et l'accroissement correspondant des compétences et des responsabilités de ses institutions nécessitent un renforcement du contrôle démocratique. (Foreign Ministers of the European Community 1990)

Here as in other cases, arguments about democratic legitimacy could not be separated from functional ones (Belgian Memorandum 1992; Permanent Representation of Spain to the European Communities 1990; see also Maas 2005: 10), echoing the original argument of the ECJ that the constitutional character of EC law results from the effective political authority that had been transferred to the Community institutions.

The linkages to the primary level provided a strong legitimizing basis for the introduction of citizenship rules. By the start of the Intergovernmental Conferences in December 1990, the citizenship agenda had also been adopted by the European Council (1990b), albeit in a form that mirrored the more minimalistic concepts of the reluctant states. This line was to dominate the conference debates, and it is also represented in a number of draft treaty texts issued by the Luxembourg Presidency in the first half of 1991. These texts contain all the elements that would ultimately be included in the Maastricht Treaty and only differ in details. For example, an early draft of April contains a provision that member states will ensure a fair distribution of the burdens imposed by establishing free movement for all citizens, and it makes the right to vote in other member states conditional on having the right in the country of origin, as well as on a minimum period of residence (Conference of the Representatives of the Governments of the Member States 1991a), elements that were excluded in later versions (Conference of the Representatives of the Governments of the Member States 1991b; Présidence Luxembourgois 1991). The drafts also contained specific time frames for implementation. It is unclear why these dates were omitted in the ultimate treaty text.

Building on these developments, the treaty signed in Maastricht in February 1992 established rules of a common European citizenship, which included free movement of all persons, the right to vote in municipal and EP elections at their place of residence, diplomatic protection by other member states in third countries, and the right to petition at the EP (Treaty on European Union 1992, Part two). It did not make reference to any more far-reaching political or social rights, and neither did it confer obligations on Union citizens. Providing linkages to the primary institutions of

conventional international law and national self-determination, on the one hand, and Community constitutionalism on the other, the treaty defined national constitutional law as a source of Community law (Art. F) and based European citizenship on national citizenship in the member states (Art. 8.1).

Despite these limitations, the legal integration achieved in Maastricht was a leap in the regionalization of European international society as its principles, norms, rules and procedures constituted a more hierarchical legal order. The relative positional power of the nation-state *vis-à-vis* the supranational institutions and the individuals in terms of legal authority was weakened. The boundary-drawing dimension of regionalization was mainly effectuated through the secondary institutions: by defining who was eligible to benefit from the citizenship rights, the Union attained more exclusive borders – an effect that is most tangible in the realm of the free movement of persons, where the internal abolition of border controls is accompanied by more restrictive control of the Union's external borders, and in municipal elections, where local residents from a non-EU country of origin are excluded from the right to vote. These borders might have acquired a different character had the Intergovernmental Conference adopted the EP's idea of including the possibility of extending citizenship rights to non-Community citizens.

As the analysis has shown, the EU's new legal secondary institutions were not the simple consequence of functional necessities, nor the mere result of rational negotiations between governments, but depended on the discursive action of pro-integration actors who benefited from a changed constitutive context on the primary institutional level that disturbed the stabilizing feedback effects. As such, it supports accounts arguing that the introduction of citizenship rules was connected to specific legitimization strategies (Wiener 1998), but it shows that the ability to draw on specific argumentative patterns depended on the discursive resources provided by the broader normative context of primary institutions of the European international society. Bringing the argument full circle, the dynamics in this primary institutional context could in turn only have occurred because specific secondary institutions provided structures conducive to change.

6.2   Dispute settlement in ASEAN, c. 1976–2007

This section follows the legal integration process in Southeast Asia from the institutionalization of ASEAN until the adoption of the ASEAN Charter in 2007 and the related protocols. While the signing of the Charter accompanied a process of Community-building in ASEAN, which is supposed to deepen cooperation in the politico-security, economic and socio-cultural domains, developing a concept of Community citizenship was not part of this process. Still, the Charter marked a key event in legal integration, not just because it conferred a legal personality on the organization but also because it introduced provisions for legal dispute settlement that went significantly beyond existing standards, as ASEAN traditionally emphasized non-legal forms of dispute settlement, such as confidence-building, consultation and mediation (Caballero-Anthony 1998). By contrast, the provisions of the Charter also provide for elements of compulsion and binding arbitration in dispute settlement. This development will be the focus of my analysis of legal integration in Southeast Asia.

Apart from the sparse Comparative Regionalism literature on the issue, my account can draw on a small number of non-comparative studies analyzing legalization in ASEAN. There are some works written from a legal perspective. Insofar as these offer explanatory approaches, they take recourse either to neo-functional arguments (Ewing-Chow and Tan 2013) or see the nature of legal secondary institutions as a direct reflection of the principles and norms of Southeast Asia's international society, with its emphasis on national sovereignty (Desierto 2011: 317–318). Of course, there are numerous IR contributions on the development of the ASEAN Charter in 2007 and also to the specific aspect of dispute settlement. However, these are largely written with a focus either on the economic or security aspects of regional cooperation (Caballero-Anthony 1998) and see its legal implications as a by-product of these dynamics. I argue that my analysis can offer a more differentiated account of legalization in Southeast Asia by tracing the accompanying political and discursive processes and illuminating the primary institutional context in which they unfolded.

6.2.1   Institutional context

In principle, dispute settlement mechanisms had been a part of ASEAN's secondary institutional framework since 1976; however, as we will see, they were only of marginal significance for the first two decades. In the 1990s, a discourse on

strengthening legal integration through enhanced dispute settlement emerged. I will briefly describe the institutional context of that period. As in the section on Europe, I will focus on those primary and secondary institutions with a clear relation to legal questions.

Primary institutions

To a large extent, the Southeast Asian international society reproduced primary institutions of the global international society. It rested on the closely linked institutions of **sovereign equality**, **national self-determination** and **non-interference**. Taken together, the latter three implied that states were the only sources of legal authority both internally and internationally. Being much less compromised by other institutions than in Europe, the principles of national sovereignty constituted an essentially pluralistic international society. In distinction from the global level, the Southeast Asian discourse connected the sustainability of national self-determination to the idea of 'regional resilience', which denotes the building of regional institutions to fend off security threats. Unlike pooled sovereignty, however, regional resilience did not imply a qualification of national self-determination but, on the contrary, a way of strengthening it: national and regional resilience were mutually reinforcing concepts.

Another way in which the Southeast Asian international society was indistinct from the global level was in its adherence to **positive international law**. Even more so than in Europe, region-building was seen as the result of a self-binding commitment of independent states. As exemplified in the ASEAN Declaration (1967) and the Treaty of Amity and Cooperation in Southeast Asia (1976), the regional states expressly acknowledged the "rule of law" in the sense that their interactions were bound to a set of legal provisions, but these were conventions agreed upon freely – at least in principle – by the states themselves and did not constitute an independent legal entity.

Finally, the primary institution of **peaceful dispute settlement** embodied the conviction that power politics inevitably result in imperial tendencies and are not conducive to the region's peace and prosperity. It implied the "[r]enunciation of the threat or the use of force" (Treaty of Amity and Cooperation in Southeast Asia 1976). As such, the commitment to peaceful means was one of the very few of voluntary self-restraint by state actors institutionalized in Southeast Asia. While per se also a global primary institution, in Southeast Asia peaceful dispute settlement connoted a specific

interpretation: here, 'peaceful' meant non-confrontational, based on accommodation and without any kind of coercion that impinged on the sovereignty of its member states (Boyce 1973: 175–178). This could easily be understood to exclude the option of legal coercion – in contrast to conventional international law, where sovereignty has for a long time been seen as compatible with formal arbitration (Naldi 2014: 3). This regionally specific adoption underscores claims about the 'polysemy' (Costa Buranelli 2015a; see also Acharya 2009) of primary institutions, i.e. the fact that globally shared concepts may be localized in specific ways. For this reason, peaceful dispute settlement could only be achieved through conventional interstate diplomacy.

Secondary institutions

ASEAN's legal basis was not a legally binding treaty but the **Bangkok Declaration** (1967), which was an intergovernmental agreement that did not establish any centralized source of legal authority nor, in fact, a legal entity (Ewing-Chow and Tan 2013: 11; Lin 2010: 824). Subsequent **intergovernmental agreements** such as the Declaration of ASEAN Concord (1976) had advanced the institutionalization of the grouping and created something like an ASEAN *acquis* (Naldi 2014) but they were not legally binding in character. Also, ASEAN lacked a judiciary authority for dispute settlement such as the ECJ. Therefore, even when ASEAN states started entering into legally more binding economic agreements from the late 1970s on, compliance could not be enforced (Desierto 2011: 286; Ewing-Chow and Tan 2013: 5–6).

The voluntary nature of ASEAN cooperation was also reflected in the **Treaty of Amity and Cooperation in Southeast Asia** (TAC) of 1976, which sought to establish a regional security framework based on the primary institutions of sovereignty, non-interference and peaceful dispute settlement. The machinery of the TAC echoes the regionally specific interpretation of peaceful dispute settlement outlined above: as an embryonic dispute settlement mechanism, the framework provided for a High Council which was supposed to take on matters of dispute by offering various non-legal instruments of settlement, such as good offices, mediation, inquiry and conciliation – but not legal arbitration (Treaty of Amity and Cooperation in Southeast Asia 1976, Art. 14–15). What is more, the Council's mandate was compromised from the outset by the procedural requirement that it could only be activated by unanimous member state consent (Art. 16) and that its personal composition must not be based on legal expertise

but could be subject to political considerations (Caballero-Anthony 1998: 50). It should come as no surprise that, to date, its services have never been invoked and regional governments have preferred to refer their disputes to global dispute settlement mechanisms (Ewing-Chow and Tan 2013: 23; Kahler 2000: 564–565). While it continued to exist *de jure*, the TAC's dispute settlement mechanism was never actively reproduced through effective operation, which means that its institutionalization remained very weak.

Feedback effects

The strong emphasis on national sovereignty, in combination with the consensus rule, constituted a regional international society with a clearly pluralist, horizontal structure, in which states acted as the single source of authority. Non-state actors, which played such an important part in European legal integration, were virtually excluded from the institutionalization practices, which took place in arenas of classical multilateral diplomacy, such as intergovernmental conferences. These **power effects** had a strong stabilizing effect on the institutional configuration.

They were reinforced by strong narratives of national liberation and post-colonial discourses that **reified** the nation-state as the paramount international actor and guarantor for stability and independence. Against this background, any infringement on the state's internal or external authority must appear as a threat to hard-fought political freedom. That being said, the governments of ASEAN member states did acknowledge the UN as an important source of adjudication in international disputes at the global level and called upon it in cases where they saw international norms violated, as during the Vietnamese occupation of Cambodia from 1977 to 1991.

The institutions were also strengthened because the absence of stronger dispute-settlement mechanisms provided certain benefits to the Southeast Asian governments, leading to **vested interests**. In the economic realm, it enabled them to protect important domestic industries if necessary. An independent mechanism for solving investment disputes, for example, would have seriously impinged on this ability. The economic *dirigisme* that dominated many ASEAN economies meant that a large number of domestic economic actors were benefiting from this policy and that domestic pressure for legalization of regional economic relations was lower than in the European case. In security issues, it ensured that they were able to conduct an independent foreign policy

that maximized their freedom of action. It also excluded the possibility of losing international prestige by losing a case before an international court.

Finally, the institutional configuration as outlined above displays strong **institutional linkages**. Vertically, ASEAN's decidedly intergovernmental set-up and consensual decision-making procedures linked up to the primary institutions of sovereign equality, national self-determination and non-interference. They also ensured that the management of inter-state conflicts proceeded within the comfort-zone of member states. The same can be said for the procedures of the TAC's High Council, which ensured that all parties involved had to consent if a case was to be handed over to its jurisdiction, so that the primary institution of non-interference would be respected. Horizontally, the primary institutions displayed a high degree of consistency. As the institutional configuration constituted a virtually ideal pluralist international society, hardly any tensions provided oppositional actors with potential attacking points for a contestational discourse. In principle, the emphasis on dispute settlement could have been interpreted in a way that put into question national sovereignty and non-interference: if sovereign acts of one or more states threaten the peaceful resolution of a conflict, this could be seen as calling for actions that curtail its ability to act as a sovereign. This is a core idea of collective security. However, as pointed out above, the regionally specific interpretation of peaceful dispute settlement was so strongly based on the idea of non-coercion that it excluded the possibility of *judiciary* coercion. Insofar, the potential for tensions between the primary institutions of peaceful dispute settlement on the one hand and national sovereignty and non-interference on the other was quite low.

6.2.2 Institutional change

During the first twenty-odd years after the signing of the TAC, there were only marginal changes in the legal institutional configuration of Southeast Asia's international society. In the legal field, secondary institutions were built in a gradual process of accumulating treaties and cooperation agreements, which did not imply any qualitative change. Starting in the late 1970s, the ASEAN member states entered into economic agreements covering specific aspects of trade and financial policies, which led to the harmonization of laws and the gradual creation of an ASEAN Free Trade Area (AFTA) (Desierto 2011: 284–285). These secondary institutions remained firmly

within the parameters of conventional international law. While some of the obligations were binding in principle, the member states did not create strong independent bodies to interpret them and monitor or enforce compliance (Ewing-Chow and Tan 2013: 5–6).

Nevertheless, in response to the institutionalization of these economic secondary institutions, the 1990s saw a slight move towards legalization. Under the 1992 Framework Agreement on Enhancing ASEAN Economic Integration, which also provided an action plan for the AFTA, the ASEAN Secretariat assumed a minor role in monitoring the implementation of the agreement and developing recommendations on further institutionalization (Kahler 2000: 554), but it had to do so hand in hand with national ASEAN bureaucracies, while the intergovernmental ASEAN Summit remained the paramount decision-making body (Desierto 2011: 286; Lin 2010). Dispute settlement was designated the responsibility of the involved member states.

In 1996, ASEAN leaders signed a Protocol on Dispute Settlement, which covered potential non-compliance with the organization's economic agreements. This mechanism was established in response to pressure from industry representatives but ASEAN leaders were reluctant to establish far-reaching rules and procedures (McCall Smith 2000: 168). They limited the Protocol to good offices, mediation and conciliation, rather than adjudication, which means that their decisions were non-binding and political – i.e. based on the reconciliation of interests – rather than based on legal procedure (High-Level Task Force on ASEAN Economic Integration 2003). While the agreement envisioned third-party arbitration by *ad-hoc* panels, it vested adjudicative decision-making capacity in decidedly intergovernmental bodies, namely the Senior Economic Officials Meeting and the ASEAN Economic Ministers Meeting as a final appellate body. In addition, panels could only be established after a unanimous decision of all member states including the dispute parties (Korte 2012: 109). Just like the TAC's High Council, the Protocol remained inactive because its use was non-compulsory and subject to bilateral consensus (Lin 2010: 835).

In contrast to the European case, thus, there were no developments fundamentally disturbing the feedback effects in Southeast Asia. Institution-building at the early stage of regionalization had not included the establishment of an authoritative supranational entity like the ECJ, which could have participated in the regional discourse as an autonomous actor, changed the preference structures of actors and

created a regional legal doctrine (Ewing-Chow and Tan 2013: 18). The interpretation and application of rules remained subject to national administration, legislation and jurisdiction, and, by consequence, national constitutional traditions. The absence of a supranational court also implied that the positional power of sub-national actors that might have a preference for legal integration, such as lower-level courts and certain private actors, remained unchanged. As the constitutive context for the institutionalization on the primary level remained unfavourable to discursive opposition, the institution of positive international law was not seriously challenged.

Building momentum for legal integration

This changed in the late 1990s, when pressure by pro-integration actors mounted to increase the legalization of Southeast Asia's international society. I pointed out above that in Europe, decisive pressure for institutional change emanated from non-governmental actors. This is also true for the regionalization process in Southeast Asia, albeit only with considerable qualifications. There were no influential transnational associations like the European Federalists, not least because the authoritarian nature of many of the member state regimes impeded the development of a transnational civil society – a state of affairs which was reinforced by the lack of democracy rules in ASEAN's foundational documents.[74] To the extent that non-government actors were able to penetrate the discourse of the regional international society, they were usually not entirely independent from their national governments. The consultation of 'Eminent Persons Groups' (EPG), usually former high-level officials appointed by incumbent governments, and High-Level Task Forces of senior officials, was a recurrent pattern by which ASEAN member state representatives sought to broaden the legitimate basis of their institutionalization practices while keeping a firm grip on the actual degree and direction of discursive contestation.

Another channel of access for non-official actors was the advocacy by actors of the so-called 'track-two diplomacy' consisting of conferences, seminars and workshops attended by policy experts and decision-makers participating in a non-official capacity.

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[74] It is doubtful that a transnational oppositional advocacy network would have formed even in absence of repression because of the strong reification of the state through narratives of liberation and national identity present in all the Southeast Asian states. It might simply have seemed illogical to fight for independence only to give it up again so quickly and freely. In this sense, public opinion and the political preferences of the state leaderships coalesced in providing for feedback effects that stabilized the institutional configuration.

Academic institutions and think tanks like the ASEAN Institute of Strategic and International Studies (ASEAN-ISIS), a regional association of research and policy-consulting institutes, and the Institute of Southeast Asian Studies (ISEAS) in Singapore were important venues for such events and sources of publications championing the legalization of Southeast Asia's international society (Soesastro and Hew 2003).

Another pro-integration actor, the ASEAN Secretariat, was the only ASEAN body with distinctive supranational characteristics. The Secretary-Generals Rodolfo Severino, in office from 1998 to 2003, and Ong Keng Yong (2003–2007) gave important impulses towards further legal integration by using their informal agenda-setting power and, in the case of the latter, by orchestrating the negotiations of the High-Level Task Force drafting the ASEAN Charter (Chalermpalanupap 2009: 120–121). As one of the first to publicly urge for such regionalization, Severino (1998) declared:

> ASEAN may have to move toward the greater use of more formal instruments and binding commitments in the future, as developments like the financial and economic crisis [...] press ASEAN's members to ever closer coordination, cooperation and integration.

From this observation, the Secretary-General derived an ambitious agenda to reform ASEAN's secondary institutional structure, including more binding agreements, effective enforcement and legal adjudication. "This would mean", Severino (2002) assertively claimed, "voluntarily ceding a measure of sovereignty for regional purposes".

This was a direct challenge to the primary institutions of non-interference and sovereign equality. However, Severino wasn't able to link his agenda to an established primary institution, as European actors did when they derived the rules of European citizenship from the primary institution of Community constitutionalism. The existing primary institutions, such as positive international law, non-interference and the strongly pluralist interpretation of peaceful dispute settlement did not provide a source of legitimacy for his agenda. He also lacked a strong ally for his vision, as a supranational judicial body might have been. This was especially consequential since the Secretariat itself was notorious for its lack of resources and decision-making authority, which limited its influence. While the discourse was thus open to some actors beyond the official governmental realm who produced some pressure for institutional

change, access was generally limited to academic and meritocratic elites, and ultimate authority remained firmly vested in the government representatives.

Although government positions were not uniform and the five ASEAN founding members[75] (and Brunei) were willing to move beyond the minimalist configuration of Southeast Asia's international society, the consensus-oriented procedures of the organization ensured that the newly acceded group of the CLMV states, which generally were more conservative, determined the pace of official discourse on legalization (Chalermpalanupap 2009; Koh 2009; Roberts 2005). After their accession, CLMV leaders made every effort to reaffirm the established primary institutions, often using culturalistic explanations that tied in with the 'Asian values' debate of the 1990s. Phan Van Khai (2004), then Prime Minister of Vietnam, exemplified this view in a speech on ASEAN Day 2004:

> We believe that, [sic!] ASEAN fundamental principles will still be the foundation for the existence and development of our Association in the long run, even when the ASEAN Community is materialized [...]. I would like to emphasize the importance of culture in maintaining the relevance of ASEAN and its fundamental principles. They are reflective of Asian values […]. They have been manifested as Asian way in international relations [sic!] [...].

Thus, Khai expressed the resolve of the CLMV countries to move along with secondary institutional reform – the building of an ASEAN Community – in a cautious way that did not put into question the established primary institutions.

Arguments for change

The champions of legalization, on the other hand, used a number of different justifications for their claims. In contrast to the European case, none of the main justification strategies included references to a primary institution – it was in fact the conservative actors that used such a line of reasoning by reaffirming the principles of sovereignty, self-determination and non-interference. Instead, three lines of argument were particularly prominent in calls for change: the imperatives of globalization, the changing regional strategic context and functional requirements. First, it was claimed that economic globalization led to a need to increase competitiveness of the Southeast Asian economies, something that could be achieved through economic integration (Tay 2008: 155–156). In the eyes of the advocates of change, the Asian financial crisis of the

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[75] These are Indonesia, Malaysia, the Philippines, Singapore and Thailand.

late 1990s reinforced the need to adapt. In December 1997, amidst financial turmoil in Indonesia, Malaysia and Thailand, ASEAN leaders presented the Hanoi Plan of Action as a sign of commitment towards closer integration:

> In recognition of the need to address the current economic situation in the region, ASEAN shall implement initiatives to hasten economic recovery and address the social impact of the global economic and financial crisis. These measures reaffirm ASEAN commitments to closer regional integration. (ASEAN 1997c; see also Severino 1998)

A neo-liberal economic agenda is clearly visible behind this argument, according to which regional integration would accelerate integration into the world market and, ultimately, economic growth (cf. Higgott 2014). Notably, however, the institutions in Southeast Asia had not been built on a strong consensus on the economic model of market liberalism. Unlike in the European case, free market principles and the goal of economic integration were not inscribed into the discourse on ASEAN cooperation from the outset. Without such a primary-institutional reference point, it was now hard to use economic imperatives as a justification for adaption on the level of secondary institutions.

The second development affecting the discourse on regional international institutions was the rising influence of China and India. As the EPG report put it:

> The rise of China and India, coupled with the resurgence of Japan, is also changing the economic landscape of the region, with profound implications for the rest of the world. Southeast Asia is well-poised to benefit from these developments, provided that ASEAN Member States strengthen cooperation among themselves and with the rest of the region and the world. (Eminent Persons Group on the ASEAN Charter 2006: 14)

The changing strategic context created additional pressure for ASEAN to increase its competitiveness by codifying the regional integration project, but also to bundle its resources and act in a more unified way so as to engage in the politics of the wider Asia-Pacific region and possibly act as a mediator of tensions between the great powers (Tay 2008: 156).

These statements do not always specifically address the question of legal integration but mostly focus on the need to strengthen economic and security cooperation as such. However, and this brings us to the third argument, further

regionalization in the economic field was seen as dependent on the firmer legalization of regional interaction. Thus, the references to the exogenous shocks of globalization and the rise of regional competitors were ultimately also a strategy to push for change in the legal field. In this sense, spillover effects from the economic sphere resulted in a need for legal integration, including a move towards codifying international agreements, making them more binding and providing for effective enforcement, as can be seen in Secretary-General Severino's (2001) argument

> that closer regional economic integration requires basing it on binding legal foundations if integration is to be stable, credible and effective. The commitments undertaken must be clear, firm and enforceable, and those making them cannot lightly back out of them.

The need for enhanced monitoring and compliance to accompany economic integration was also stressed by his successor Ong (2003): "The existing economic cooperation schemes in ASEAN serve as a good foundation for an [ASEAN Economic Community]. What we need to improve on is to enhance implementation capability of ASEAN members and ensure compliance." Enhancing the institutionalization of secondary institutions in this way was to provide the legal context believed to be necessary for an integrating regional economy dependent on foreign direct investments (Ewing-Chow and Tan 2013). Insofar, any argument for increased economic cooperation was ultimately also an argument for the legalization of the regional international society. This functional reasoning is taken up in the Vientiane Action Programme, a declaration by ASEAN heads of state and government that outlines the intent to create an ASEAN Charter:

> Deepening integration, especially in the economic sphere, will also require the Member Countries to […] make binding commitments, identify appropriate implementing timetables and mechanisms, extend national and regional capacities and competences, and develop institutional frameworks, responses and human resources in a range of areas that extend far beyond the existing scope of ASEAN integration. (ASEAN 2004a, Section 5)

An agenda for reform

On this basis, in the early 2000s, an agenda to reform the legal framework of the Southeast Asian international society materialized. Besides the campaigning of Severino and Ong, this was also due to the advocacy of non-governmental actors. Apart from publications of the 'track-two' actors mentioned above (High-Level Task Force on

ASEAN Economic Integration 2003; Soesastro and Hew 2003), an ASEAN-commissioned study by McKinsey & Company (Schwarz and Villinger 2004) argued for more binding agreements to tap the full potential of regional economic integration. The recommendations relating to legal integration revolved around three aspects: the codification of ASEAN's soft law, bestowing ASEAN with legal personality, and ensuring effective implementation and enforcement. Generally, the proposals focused on the economic realm while the security dimension became increasingly marginalized.

Subsequently, these ideas entered the intergovernmental realm, buttressed by the member states' decision in 2003 to create an ASEAN Community covering security, economic and socio-cultural cooperation by 2020. The Declaration of ASEAN Concord II by the ASEAN leaders contained commitments to improve dispute settlement mechanisms and the implementation of agreements (ASEAN 2003). In 2004, the Protocol on Dispute Settlement was reformed. The establishment of an independent appellate body could now only be prevented by member state consensus (Korte 2012: 109). While this limited the power of the Senior Economic Officials Meeting, national governments maintained considerable influence over the procedure (Naldi 2014: 15). It was soon agreed that an ASEAN Charter should serve as the main instrument of further institutionalization (ASEAN 2004b), and that it should contain elements of legalization such as enhanced compliance mechanisms (ASEAN 2004a).

However, the precise framework was still unclear. Some leaders, such as Malaysia's then Prime Minister Abdullah Ahmad Badawi (2004), argued that "there should be capacity for enforcing Community decisions." Others, such as Vietnam's then Prime Minister Phan Van Khai (2004), were more critical towards legalization altogether and expressed a preference for established practices "such as tacit consultations, closed door diplomacy, and not rushing to regionalize or internationalize disagreements or disputes among nations." While Abdullah was not able to legitimize his argument for integration by referring to an established primary institution, Khai (2004) expressly linked his preference for non-legal, non-intrusive ways of dispute settlement to the principles of non-interference and sovereignty, reaffirming their validity despite the shock of globalization:

> Globalization has increased interdependence among nations. A crisis or epidemic may erupt in a country or region, but their impact could quickly spill over to other countries and regions. [...] But we do not abuse regional cooperation to leverage pressure on other countries or use it as an excuse to interfere into other's internal affairs. Thanks to this unique 'ASEAN Way', many issues facing the Association have been addressed successfully while ASEAN's non-interference principle continued to be upheld.

Even progressive actors such as Abdullah, however, did not call the ASEAN Way into question. From the very beginning, therefore, the Charter was supposed to reaffirm the established principles and norms of the regional international society. Thus, the ASEAN foreign ministers stated that the proposed Charter

> would, inter alia, reaffirm ASEAN's goals and principles in inter-state relations, in particular the collective responsibilities of all ASEAN Member Countries in ensuring non-aggression and respect for each other's sovereignty and territorial integrity […] (ASEAN 2004b; see also Acharya 2005).

Advancing legalization on the secondary level but in a way that was consistent with, and would not threaten the existing primary institutional framework – this was basically the compromise found between the progressive ASEAN member states and the CLMV group. As a consequence, when the leaders tasked an EPG in 2005 to develop recommendations for a Charter, the group's mandate was fairly circumscribed. The Kuala Lumpur Declaration (ASEAN 2005), which served as a kind of mandate for the EPG, stated that "the ASEAN Charter will codify all ASEAN norms, rules, and values" and "reaffirm […] the principles of inter-state relations in accordance with the UN Charter and established international law."

Thus, strong supra-national institutions like the 'high-level judiciary body' (Soesastro and Hew 2003) proposed in the ISEAS study were effectively ruled out before the EPG took up its work. Still, its report published in 2006 was quite far-reaching in some respects, too far-reaching in fact for the more reluctant national governments. As the High-Level Task Force of government-appointed negotiators, who wrote up a draft Charter in the first half of 2007, operated by consensus, those more reluctant states were able to water down or simply omit some of the main suggestions of the EPG (Chalermpalanupap 2009; Ong 2009: 110). The fact that the new ASEAN Secretary-General Ong, a champion of further institutionalization, could only participate in the High-Level Task Force as an impartial 'resource person' and not as a negotiator

in his own right (Ong 2009: 111–112), and that the foreign ministers repeatedly intervened in the negotiation process to safeguard their governments' interests, further weakened the integrationist position. By consequence, the High-Level Task Force rejected the EPG's proposals on provisions for sanctions in case of non-compliance, as well as a clause inhibiting unconstitutional changes of governments (Koh 2009). Similarly, ideas for a formal court were discussed but eventually rejected (Woon 2009: 74).

The Charter – an ASEAN constitution?

As a result of these developments, the Charter signed in 2007 displayed a mixed record in terms of legalization. Legal scholars are very cautious in their assessments whether and to what extent the document represents a constitutionalization of ASEAN law. Some analysts argue that it is a constitutional document in that it gives the regional organization legal personality (Desierto 2008: 428–429; Lin 2010: 825). This view is affirmed by the obligation established in Article 5 (2) that member states need to implement provisions of the Charter using "all necessary measures, including the enactment of appropriate domestic legislation". On the other hand, ASEAN decisions have no direct effect as they have to be ratified by national parliaments under most member states' constitutions and member states may invoke domestic law "to justify suspending, delaying or declining to comply with ASEAN Summit decisions, ASEAN Law and international law norms subsumed in the ASEAN Charter" (Desierto 2011: 304). Chow and Tan (2013: 22) further qualify the nature of ASEAN's legal personality: while the rules of the Charter establish ASEAN as an authoritative actor under the *domestic* laws of its member states, its personality remains weak in the *international* realm, where it can only act through representatives of its member states, therefore lacking independence from its constituent member states.

This equivocal assessment also extends to the more specific rules and procedures regarding dispute settlement. The Charter calls for expanded dispute settlement mechanisms, which is to recognize the accumulated body of ASEAN law (ASEAN 2007, Art. 12, 14, 25). This provision was implemented by a protocol in 2010. The protocol departs in some ways from the requirement of mutual consent that dominated earlier mechanisms (ASEAN 2010, Art. 9 (1)), but it leaves considerable freedom of choice for the member states and does not set up a formal, permanent court (Naldi

2014). Instead, supreme decision-making and enforcement authority in dispute settlement are vested in the ASEAN Summit, which creates a potentially powerful tool (ASEAN 2007, Art. 7 (2.e), 26; see also Lin 2010: 828), but also lets concerns about the political – rather than legal – nature of the region's dispute settlement mechanisms resurface, especially because rules of procedure and potential sanctioning measures remain unspecified (Desierto 2011: 313–314; Ewing-Chow and Tan 2013: 25). The Secretariat is ascribed a monitoring role (ASEAN 2007, Art. 11 (2), 72 (1); see also Tay 2008: 159), but it lacks any mandate to enforce compliance. This leaves effective judicial oversight to national courts (Desierto 2011: 313–317; Ewing-Chow and Tan 2013: 16–17). Neither does the protocol contain a right to appeal for private actors (Naldi 2014: 19), thus avoiding any sense of an ASEAN citizenship.

There are other aspects of the Charter with legal implications, such as its notable but qualified commitment to democracy and human rights (Naldi 2014: 10–11) and its call for a human rights body, which was eventually realized half-heartedly through the creation of ASEAN Intergovernmental Commission on Human Rights – a body criticized for its lack of independence from national governments and enforcement capabilities (Ewing-Chow and Tan 2013: 32). A detailed analysis of these aspects cannot be undertaken here but, in any case, such an examination would not fundamentally alter the assessment: the Charter represented a remarkable move towards legalization in the region's secondary institutions as it created more binding commitments and enhanced dispute settlement mechanisms, but it fell short of aspirations to be a genuine regional constitution due to its largely non-intrusive character and half-hearted provision of enforcement capabilities. In this sense, it advanced the institutionalization of international law in Southeast Asia, but only tentatively regionalized it in the sense of creating legal authority at the regional level (Desierto 2011: 275–277; Naldi 2014: 8; Tay 2008: 158).

My analysis contextualizes this mixed record within the broader normative context of Southeast Asia's international society, which remained rather constant throughout the processes of institutional change on the secondary level. Those who would have liked to see further-reaching legal rules and procedures were not able to transform the primary institutions in a way that would have been conducive to further constitutionalization. What is more, the ASEAN governments were anxious to avoid creating a constitutive secondary context for the development of such principles and

norms in the future. This is evident in the 2010 Protocol on Dispute Settlement, which explicitly precludes the possibility of the development of legal doctrine through case-law: "The award of the arbitral tribunal shall not add to or diminish the rights and obligations provided in the ASEAN Charter or any other relevant ASEAN instrument" (ASEAN 2010, Art. 15).[76] In addition, the ASEAN Coordinating Council clarified in 2012 that interpretations of the Charter by the ASEAN Secretariat "shall be non-binding and non-authoritative in nature and shall not be considered as representing the view of any Member State of ASEAN as an intergovernmental organisation" (ASEAN 2012), which undermines the Secretariat's potential to intervene as a progressive actor in the discourse on Southeast Asia's primary institutions.

6.3   Conclusion

The analysis revealed that both the European and the Southeast Asian international society underwent a process of legalization but along different institutional pathways. In Europe, the institutional context at the outset was informed by strong tensions between the primary institutions of pooled sovereignty and positive international law, and relatively weak feedback effects. The main dynamic towards legal integration emanated from the institutionalization of liberal democracy and the constitutionalization of Community law. The primary institution of Community constitutionalism, advanced in particular by the ECJ in conjunction with national courts, replaced classical international law and provided pro-legalization actors with a normative template that allowed them to link democratization demands to the Community level. This legitimizing strategy resulted in the inclusion of rules for EU citizenship in the Maastricht Treaty (Figure 4).

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[76] Of course, as Naldi (2014: 32) correctly observes, it is far from clear whether such a view can prevail in practice.

Figure 4: **Change in European institutions relating to legal integration**
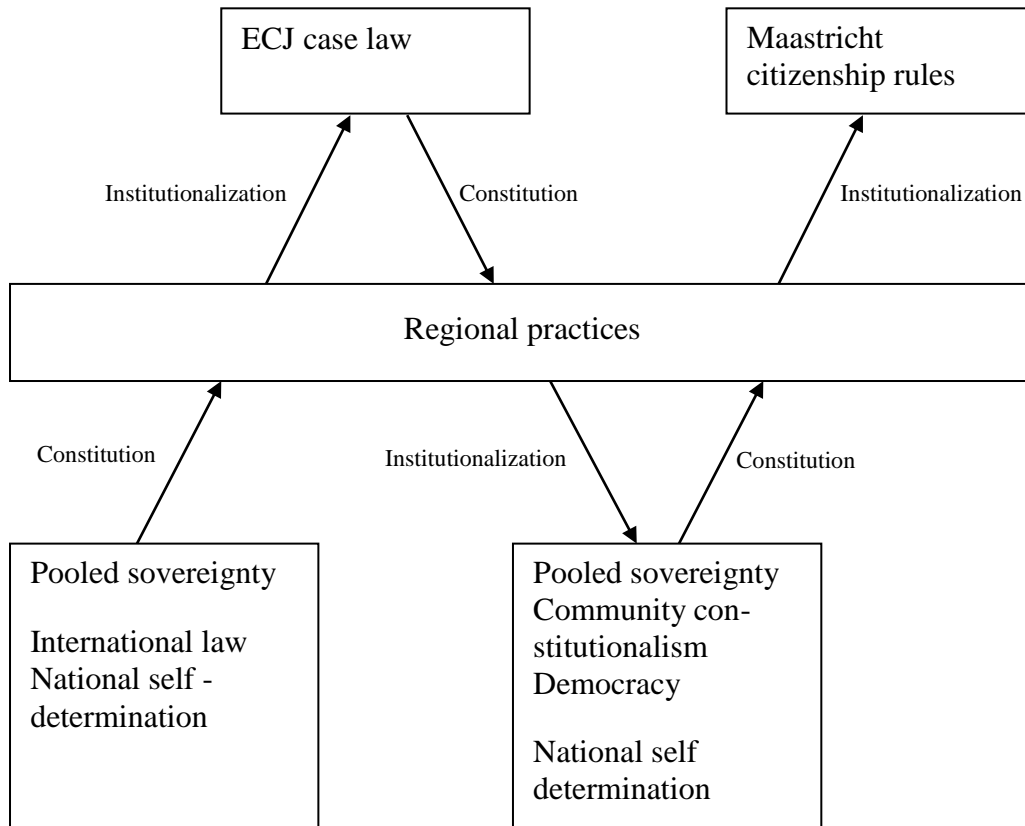
In Southeast Asia, the primary-institutional framework lacked the strong tensions of the European case and consequently resulted in stronger feedback effects. The absence of a powerful supranational actor in the legal realm put pro-integration actors in a weaker position and thus worked against change in the primary institutions, which therefore remained constant. By consequence, the feedback effects remained largely unaffected and advocates of legalization had to rely mostly on functional arguments. However, lacking a firmly institutionalized primary institution of market liberalism, the construction of economic globalization as a shock requiring increased economic integration did not resonate strongly (Figure 5). Since recourse to principles and norms of centralized authority was not possible, progressive discursive positions had a hard stance in arguments about the possible legal features of the ASEAN Charter. Taking this rigid primary-institutional context into account, it is almost surprising how far the new legal framework actually went, even if the degree of regionalization was fairly limited. Given the strong opposition to integration by the CLMV states, a mere

perpetuation of the existing institutional framework would appear as an equally likely outcome.

Figure 5:   Change in Southeast Asian institutions relating to legal integration
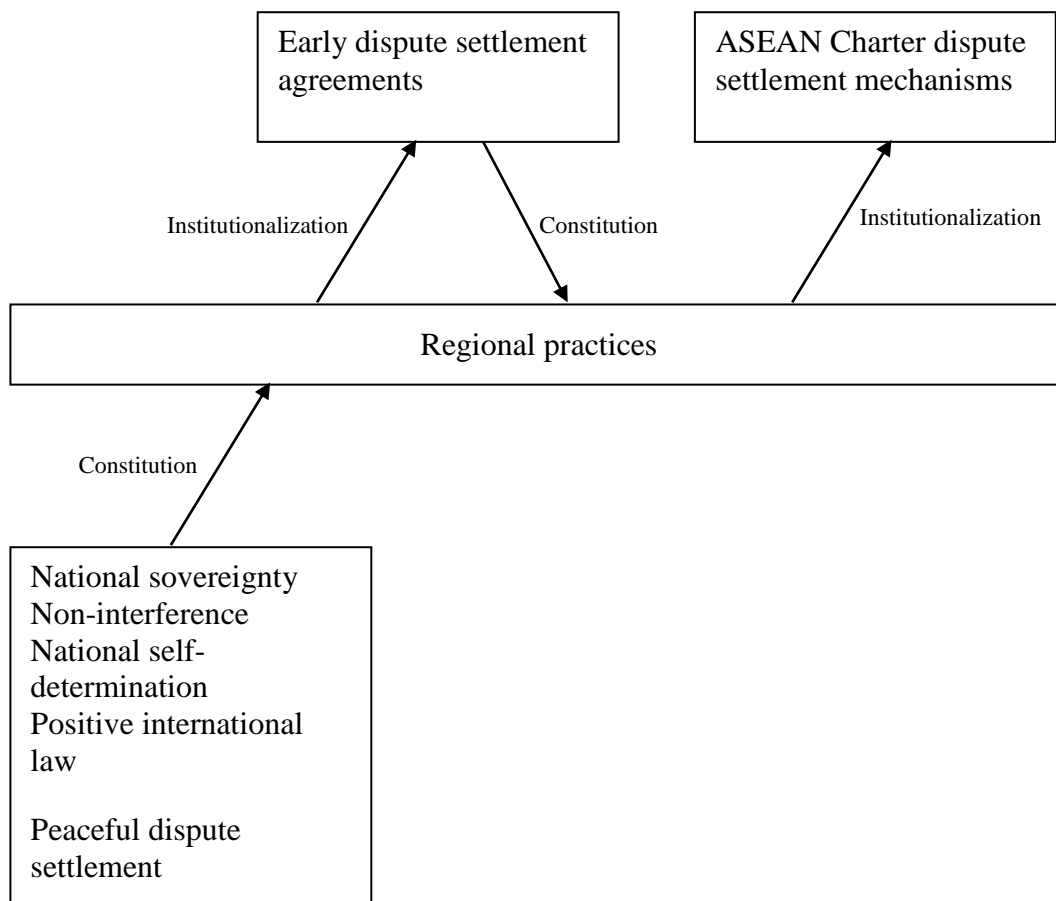
Existing Comparative Regionalism accounts do not disclose how normative arguments shaped the discourses about legal integration. By contrast, a two-level analysis of change in primary and secondary institutions reveals that, while both European and Southeast Asian actors used functionalist arguments to advance legal integration, only in the European case was it possible to link these arguments to principles and norms which made a far-reaching redefinition of rules and procedures possible. At the same time, it is only possible to understand the emergence (or absence) of these principles and norms by referring to the secondary institutional context in which they have been institutionalized (or not). It is the co-existence of general and

specific institutional frameworks, and how these two levels are connected and mediated by discursive practice, that shapes processes of regionalization.

7 Enlargement: redefining regional boundaries

Since the establishment of the EC/EU and ASEAN, their geographic boundaries have been pushed. By the mid-1980s, the EC's geographic extension had come to cover half of what was commonly understood as the European continent at best. Denmark, Greece, Ireland, the UK, Portugal and Spain had by then joined the six founding states. Turkey was aspiring to join, but to the east, the boundaries seemed fixed for the foreseeable future. ASEAN, meanwhile, had admitted Brunei Darussalam in 1984, but it, too, was far from being a pan-regional organization when measured against common geographical conceptions of Southeast Asia (Acharya 2001: 102). These limitations were hardly surprising given the 'overlay' of regional politics by global superpower rivalry (Buzan and Wæver 2010). However, with the end of the Cold War and the dissolution of the Soviet Union, questions of boundary-drawing and membership in their respective regional international societies came to the forefront for both the EC and ASEAN. Who was in and who was out was suddenly up for debate, which eventually led to enlargements both through formal admission of new member states and the creation of new organizational frameworks beyond formal membership.

Studies of enlargement are virtually absent from Comparative Regionalism, which means that I rely primarily on insights from idiographic studies of the respective regions.[77] The only research I am aware of that works from within a principally comparative framework is a single case study of the accessions by Cambodia, Laos, Myanmar and Vietnam to ASEAN in the 1990s by Aschhoff (2012). He applies a framework developed initially for the EU by Schimmelfennig and Sedelmeier (2002), which aims to explain preferences for membership by outsider states and not, as this chapter does, how inside actors made decisions on admitting new members. The explanatory variables of the framework – general systemic conditions such as a changing security environment, organization-specific systemic conditions such as external effects, and positional characteristics of the outside states such as expected economic gains – point to power-political, functional and domestic factors. Therefore, there is currently no comparative research on how fundamental norms have shaped the discourses of enlargement in different regions.

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[77] An overview of existing non-comparative literature on enlargement of both regional organizations follows in the respective sub-chapters.

Against this background, the following chapter examines how the processes of redrawing institutional boundaries[78] through secondary institutionalization were connected to discussions about the broader primary institutional fabric of the regional international societies of Europe and Southeast Asia. In terms of institutional functions, I look at those primary institutions that are connected to questions of membership. This is not to deny that geopolitical and economic considerations or identity politics have informed the decisions. However, these factors must be seen in the context of the construction of specific primary institutions that defined who could be seen as a legitimate member of the regional international society in question.

As I flesh out in the section on the European case, *these primary institutions serve as a 'standard of membership', which constitutes a discursive space within which concrete decisions about the institutional forms of enlargement are made.* These decisions may concern the geographical scope as well as the differentiation of the borders, since institutional boundary-drawing by regional organizations need not take dichotomous forms but can also encompass the creation of new institutional frameworks that give certain actors a special status without granting them full formal membership. In this latter case, an actor becomes a member of the regional international society, but not of the regional organization around which this society is centred (Diez and Whitman 2002a). Once these institutions are built, the enlargement practices revolve around socializing new actors into this framework (Sedelmeier 2011: 15–16; see also Risse and Sikkink 1999: 11), but this is not the focus of my analysis. Neither do I concern myself with the motivations of external actors to become members of a regional international society but see them as an exogenous stimulus, which can trigger changes in the primary institutions of the standard of membership in a regional organization.

7.1   The enlargement of the European Union, c. 1973–2007

The accession of twelve Central, Eastern and Southern European states to the EU in 2004 and 2007 marks the most comprehensive round of enlargement in terms of population, territory and number of states. Even while finalizing the accession negotiations with these countries, the EU launched the Stabilisation and Association

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[78] By institutional boundaries, I mean socially constructed principles, norms, rules and procedures about the inclusion and exclusion of actors in an international society, i.e. expectations about membership. They should be regarded as separate from geopolitical, transactional and cultural boundaries of a region (Smith 1996).

process with states from the Western Balkan that have expressed a wish to join the Union. As accession candidates or prospective candidates, these and other states enjoy a special relationship with the EU without having officially joined. Roughly in parallel to these processes of formal admission, the EU developed a political framework for its relations with those states on its newly extended borders that have not been granted a membership perspective. The participants in this European Neighbourhood Policy (ENP), officially launched in 2003, can participate in a number of important aspects of EU integration, ranging from free trade to security cooperation and, theoretically, full access to the Single Market. By consequence, they acquire an ambiguous status between formal membership and non-membership (Smith 2005). The overall picture of the EU's new borders is thus 'fuzzy' and the finality of its extension is unclear (Christiansen et al. 2000; Diez 2006; Tonra 2010).

The Eastern Enlargement and the launch of the ENP mark a milestone in the pathway of the EC/EU's enlargement, which had started with the accession by Denmark, Ireland and the UK in 1973. In the attempts to explain this complex set of outcomes, the formal enlargement of the EU has been the object of much scholarly attention. Schimmelfennig and Sedelmeier (2005b) have provided a comprehensive overview of this body of literature. Drawing on and expanding on their summary, one can find analyses from virtually all theoretical vantage points, including legal (Ott and Inglis 2002), institutionalist (Sedelmeier 2011), governance (Christiansen et al. 2000; Friis and Murphy 1999), realist (Skålnes 2005), political-economy (Mattli 1999: 80–105; Moravcsik and Vachudova 2003), game-theoretical (König and Bräuninger 2004), constructivist (Fierke and Wiener 2005, Schimmelfennig 2005a, 2005b) and theoretically pluralistic (Smith 1996; Zielonka 2001, 2002a, 2006) perspectives. While some of these studies explicitly set out to explain enlargement processes from the EU macro perspective, others focus on the politics of individual applicant and member states, on specific policy areas or on the impact of enlargement (Schimmelfennig and Sedelmeier 2005a). A similar pluralism is also present in works on the ENP, as the edited volume by Whitman and Wolff (2010b) demonstrates.

A few authors have also applied English School concepts to questions of EU enlargement; however, they largely focus on the consequences of enlargement for the structure of the European international society (Diez and Whitman 2002a; Stivachtis and Webber 2011) and hardly offer explanatory narratives. In this respect,

Schimmelfennig's (2005a: 47) conceptualization of enlargement as the 'expansion of international community' is more illuminating. Schimmelfennig maintains that enlargement followed an essentially normative logic: the EU expanded to include those states that best conformed to certain of its core norms. This resonates with the concept of the standard of civilization, which was famously introduced to the English School by Gong (1984a) as a means to analyze the accession of new states into international society.

Picking up on this idea and linking it to the framework of primary and secondary institutions, I argue in this section that the specific trajectory of the EU's Eastern Enlargement, broadly understood, was informed by a set of primary institutions that EU actors constructed as a 'standard of membership'. The individual institutions that made up the standard can be seen as 'externalizations' of certain internal institutions. This standard of membership constituted the context for the secondary institutionalization, which manifested itself in the diverse frameworks for preparing accession (the pre-accession strategy and the Stabilisation and Association Process), realizing accession (the relevant articles in the EC/EU Treaties and the Accession Treaties) or providing alternatives to accession (the ENP and its Action Plans). The secondary institutions defining membership are thus shaped by the broader normative discourses surrounding a regional organization.

Unlike Schimmelfennig, however, I do not conceive of the standard of enlargement as a fixed catalogue of unmalleable core norms, which are mainly an externalization of important domestic political principles. This essentialist assumption is problematic for two reasons: first, it ignores the historical political processes that have led to the formulation and interpretation of certain principles and norms as core conditions for membership in the 'liberal community' (Thomas 2006). After all, even the most fundamental of the EU's membership criteria, that candidates dispose of democratic institutions, was not an explicit accession condition from the start. Second, the description of this community as fixed and monolithic overlooks to what extent its

boundaries are in fact fuzzy and 'fray out' from an organizational core to the periphery.[79]

7.1.1 Institutional context

The European international society initially did not have very elaborate institutions with respect to membership. When the issue of British membership arose in the late 1960s, the EC could apply some basic conditions and procedures but the question was eventually resolved on political grounds, as de Gaulle, whose French government had rejected the first British application, left office. In this section, I outline the primary and secondary institutions with respect to enlargement as it existed around that time, as well as the feedback effects stabilizing this institutional configuration. The subsequent section then discerns different phases of institutional change in the enlargement process.

Primary institutions

This overview presents the EC's initial standard of membership, which encompasses those primary institutions that draw boundaries by explicitly describing qualities an actor must have acquired to be considered a potential member of the European international society in general and the EC as its main regional organization in particular. Not all of a regional international society's internal primary institutions must form part of this standard of membership. For example, the notion of pooled sovereignty could not have become part of the EC's standard by definition as it consisted of principles and norms applying to the organization's *internal* constitution. Hence, an actor could only be socialized into the principles and norms *after* being accepted as a member state.

As the founding document of the EC, the Treaty of Rome is quite inclusive about who may accede, at least if taken by the letter. It describes membership as open to any European state. In that, it follows the Schumann Declaration, which foresaw the coal and steel organization as being "open to the participation of the other countries of Europe" (Schuman 1950; see also Hillion 2011: 188). As a principled expectation about legitimate actorness, this can be read as an expression of a primary institution of

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[79] From a comparative vantage point, one could add that the idea can hardly be applied to regional organizations with a membership that displays a large heterogeneity with respect to domestic political institutions such as ASEAN.

Europeanism, which defines the organization as the representative of an international society covering all of the region and, by consequence, as open to potentially all European states. This claim was upheld in principle despite the factual exclusion of Soviet bloc states from the very beginning of the EC's existence. The geographical dimension of this part of the standard became obvious when Morocco's membership application was rejected in 1987.

The second relevant primary institution is that of **Community constitutionalism**. I argued in the preceding chapter that, *within* the EC, the understanding of Community law as a genuine supranational legal order emerged as a primary institution from the 1960s onwards but was still challenged by certain national high courts in the late 1980s. *Externally*, however, the acknowledgement of EC law supremacy and direct effect were central conditions for accession from the very first round of enlargement. For example, the Commission (1972; see also Hoffmeister 2002: 98; Ott 2002: 15) stressed in its opinion on the applications of Denmark, Ireland, Norway and the UK that

> it is an essential feature of the legal system set up by the Treaties establishing the Communities that certain of their provisions and certain acts of the Community institutions are directly applicable, that Community law takes precedence over any national provisions conflicting with it, and […] accession to the Communities entails recognition of the binding force of these rules, observance of which is indispensable to guarantee the effectiveness and unity of Community law.

The later Commission opinions on Greece, Portugal and Spain reaffirmed this view, thereby defining the acknowledgement of Community constitutionalism a constitutive characteristic of any potential new member state.

Although the term was yet to be established as a common EC colloquialism, the idea of an ***acquis communautaire*** to be accepted by aspiring members also figured prominently as a membership condition in these early documents on EC enlargement.[80] It was first introduced by the heads of state and government at the The Hague Summit in 1969, where they argued that applicant states needed to "accept the Treaties and their political finality, the decisions taken since the entry into force of the Treaties and the options made in the sphere of development" (The Hague Summit 1969; see also Hillion

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[80] On the *acquis communautaire* as an internal primary institution of the European international society, see Diez, Manners and Whitman (2011).

2011: 192). The Commission took up this notion by making it clear in its 1972 opinion that

> in joining the Communities the applicant States accept without reserve the Treaties and their political objectives, all decisions taken since their entry into force, and the action that has been agreed in respect of the development and reinforcement of the Communities. (European Commission 1972)

Through this, the EC asserted that enlargement must not lead to a watering-down of previous integration by new members who might question certain parts of EC law or secure opt-outs from certain already established obligations. Candidate states were thus prevented from assuming the role of upstart revisionists. Since the factual *acquis* of the EC included the creation of a supranational legal order, it was closely linked to the institution of Community constitutionalism.

Secondary institutions

A look at the most relevant secondary institutions reveals that the rules and procedures for enlargement in the EC were of a rather generic nature and followed a dichotomous in-or-out logic. The **Treaty of Rome** provided for the possibility of accession of new members but did not specify any conditions, which made concrete decisions on membership applications almost entirely subject to immediate political considerations, as pointed out above. Neither was it determined how compliance could be measured or whether the principles had to be respected upon application or accession, or new member states could subsequently be socialized to adhere to them. The only way in which the membership criteria were formally specified and developed during this time was through the **accession treaties** with new member states, which set precedence for future candidates in terms of their obligations in the Community context.

The **enlargement procedures**, i.e. the regular processes by which applicant states were considered as new members, were formalized but had no substantial provisions. Upon application, the Commission would draw up a recommendation, based upon which the Council would make a formal decision. The terms of the agreement were to be negotiated between the member states and the applicant (Treaty Establishing the European Economic Community 1957: Art. 273). The publicized assessment of the applicants by the Commission narrowed down the political leeway provided by the Treaty of Rome by clarifying the basic criteria on which decisions were to be based but

they did not follow a standard approach based on clearly operationalized benchmarks, so that politics between member states heavily shaped decision-making on enlargement (Hillion 2011: 190–191).

Conspicuously absent from the secondary institutions at that time were rules and procedures providing forms of status in-between full membership and non-membership (Smith 1996: 19–20). Of course, the EC disposed of a framework for association but this was mostly reserved to its former colonies. As I have shown in Chapter 5, the EC actors had forfeited attempts to integrate their former dependencies into a Eurafrican international society by around 1963, which meant that the association framework did not imply a membership status or an enlargement perspective but was seen as a part of the EC's external relations.[81] Even the states recognized as member candidates were not formally included in the pre-accession process and did not participate in institutionalized EC cooperation before their formal accession. The accession treaties reaffirm this picture of clear-cut, dichotomous borders: apart from certain transitory provisions, any new member had to fully comply with EC legislation upon accession – the treaties did not allow for opt-outs.

Feedback effects

This configuration of primary and secondary institutions was supported by a number of feedback effects. On a basic level, like the standard of civilization analyzed by Gong (1984b), the EC's standard of membership was constructed primarily by the 'insiders' of international society. The main actors in this respect were the heads of state and government, acting through the European Council, and, to a lesser extent, the European Commission. Like the substance of the standard, the assessment of its fulfilment by individual countries was also reserved to the insiders. As evidenced by the French veto on the UK, the formal, state-centred enlargement procedure provided for a large number of veto-players and the absence of objective measurement left a lot of room for political considerations on the side of the EC's internal actors (Hillion 2011: 191). This led to strong **power effects**. Because the relation between insiders and outsiders was usually asymmetrical, applicants did not challenge the standard as this would have reduced their chances of accession. That being said, the factual room for

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[81] Notable exceptions are the Agreements with Greece, signed in 1961, and Turkey (1964), which both contain a membership perspective.

manoeuvre of the EC actors was of course seriously compromised by the superpower overlay making expansion towards the East virtually impossible. As Smith (1996: 22) put it: "the initial drawing of the [geopolitical] boundary was a function more of superpower confrontation than of the EC's independent action; the EC in a sense had simply accommodated itself to the boundary […]."

Reification is particularly apparent with respect to the geographical connotation of Europeanism. While there was no ultimate consensus as to the region's – or the continent's – boundaries, the notion of 'Europeanness' as a necessary attribute for a member candidate denotes a seemingly natural quality. This stabilized the institutional configuration of the EC's boundaries because it prevented the accession of actors who could have challenged its self-understanding as a geographically defined entity, such as Morocco. However, the effective limitation of membership to Western Europe provided an alternative interpretative framework, which resonated with the widespread view of Europe as a divided continent and deconstructed pan-European sentiments. Thus, the reification of Europe as a geopolitical concept, and by consequence the notion of Europeanism as part of the standard of membership, was undermined to a certain extent.

Another stabilizing factor was that the actors which defined the EC's standard of membership had strong **vested interests** in their reproduction. This can be seen on two levels: intra-institutional politics and the organization's collective interests. First, the Commission, whose relative position in the EC polity *vis-à-vis* the member states was strengthened by the commitment of new member states to the existing level of legal, political and economic integration, benefited from an emphasis on Community constitutionalism and the *acquis communautaire*, both of which impinged on member state sovereignty. Through the 'opinions' on accession applications, the Commission ensured that these two institutions took pride of place in the standard of membership. In this, it was supported by pro-integrationist member states. These preferences are revealed in the admonition of EC institutions and integrationist EC governments that haphazard enlargement may lead to a backlash in the EC's internal institutional development (Schimmelfennig 2005b: 163).

In addition to these mechanisms, **institutional linkages** provided for stability in the configuration. Horizontally, the different institutions of the standard of membership followed quite different logics – geographical (Europeanism), legal (Community

constitutionalism), administrative (*acquis communautaire*) and political (liberal democracy) – but they were complementary rather than contradictory: adherence to one did not preclude or complicate adherence to another. Put differently, the primary institutions of the standard of membership did not display any fundamental inconsistencies that could be used as a hook for arguments in favour of new boundaries. Vertical linkages were more problematic in that it was unclear how the standard could be translated into formal enlargement decisions: first, the existing secondary institutions lacked a clear operationalization of the standard that could serve as a basis for decisions on concrete cases; second, the question arose how applicant states should be treated that fulfilled the standard only partially.

7.1.2   Institutional change

The first important challenge to the standard of membership came as the use of Association Agreements with European non-member states raised the question of the EC's relations with autocratic states, and triggered "a political struggle to set the rules by which the community would respond to applications for membership" (Thomas 2006: 1191). First, plans of Francoist Spain to apply for association in 1962, which would have made possible eventual membership, met with strong resistance by the European Parliamentary Assembly and civil society actors. The EP's Birkelbach Report, drawn up in response to the Spanish issue, struck a highly critical note. In the Parliament's view,

> [l]a garantie de l'existence d'une forme d'État démocratique, au sens d'une organisation politique libérale, est une condition à l'adhésion. Les États dont les gouvernements n'ont pas de légitimation démocratique et dont les peuples ne participent aux décisions du gouvernement ni directement ni par des représentants élus librement, ne peuvent prétendre être admis dans le cercle des peuples qui forment les Communautés européennes. (Birkelbach 1961: Art. 25)

To justify this assertion, the report connected it to the prevalence of democratic institutions in the current member states, arguing that non-democratic states would constitute "un corps étranger" in the Community (Birkelbach 1961: Art. 24). While most member state governments had publicly supported the Spanish initiative, the Council eventually gave in to mounting political and public pressure, and decided not to make any commitments to Spanish membership for the time being (Thomas 2006: 1191).

Adding to these dynamics was the shock of Greece, with which the EC had concluded an Association Agreement in 1961, suffering a *coup d'état* in 1967. The subsequent assumption of power by a military junta was condemned by the EP, which immediately argued for a suspension of the Agreement:

> l'accord d'association entre la Communauté européenne et la Grèce, qui prévoit l'adhésion ultérieure de ce pays à la Communauté, ne pourra être appliqué dans ses différentes phases que si les structures démocratiques et les libertés politique et syndicale sont rétablies en Grèce […]. (European Parliament 1967)

Subsequently – and certainly under the impression of the EP's strong rhetoric – the Commission decided to effectively put the Agreement, and with it the prospect of Greek membership, on hold "so long as democratic and parliamentary structures have not been reestablished in Greece." (cited in European Commission 1975). The explicit application of conditionality with respect to democratic government is notable, since democracy was neither an explicit part of the accession criteria in the EC at that time (Thomas 2006: 1191), nor was it part of the initial Association Agreement. It was precisely for this lack of legal basis that the EC decided to only limit the application of – but not entirely suspend – the agreement, even though the EP had asked it to do so (Katselli Proukaki 2010: 119–120).

The Greek question was resolved after the restoration of democratic rule in 1974, following which the EC reactivated the Association agreement. A year later, the newly elected government applied to become a member of the EC in 1975, to which the EC eventually assented. However, the shock of the Greek episode had changed the preference structures – and thereby offset **vested interests** – of EC actors in that it had impressed upon them the urgent need to weigh potential economic benefits of enlargement against normative considerations (Thomas 2006: 1203). By consequence, they strove to institutionalize hitherto domestic principles of **liberal democracy** in a broad sense – including pluralist, representative political institutions, the rule of law and the notion of human rights – as part of the organizations' standard of membership. The urgency of this was increased as Spain, this time together with Portugal, another formerly authoritarian state, applied for membership in 1977. The European Council's Declaration on Democracy was an important response to these requests. It made the respect and maintenance of democracy and human rights "essential elements of membership of the EC" (European Council 1978). Subsequently, the European

Commission delivered a second opinion on Greece, which echoed this statement by emphasizing that

> the principles of pluralist democracy and respect for human rights form part of the common heritage of the peoples of the States brought together in the European Communities and are therefore essential elements of membership of the said Communities (European Commission 1979; see also Hoffmeister 2002: 93).

Subsequent EC documents consolidated the firm institutionalization of liberal democracy as a new primary institution of the standard of membership. The Single European Act, for example, listed it as part of the EC's principles in the preamble, although it did not explicitly make accession conditional upon the acknowledgement of these principles in the applicant country.

By institutionalizing liberal democracy as a new primary institution of the standard of membership, the EC was able to exert a strong socializing and transformative power upon potential new members. Accession candidates had to subscribe to normative understandings that were compatible with the region's internal institutions, reinforced the identities of the insiders and changed the ones of the acceding states in a way that stabilized the standard. By subscribing to the political norms and principles, states acceding the EC assumed a democratic identity that matched those of the established members. They were thus unlikely to challenge the criterion of liberal democracy once they had joined the EC – democratic states do not question democratic principles. In this way, the standard of membership tended to socialize new members into an identity that worked in support of its norms and principles.

The end of the Cold War and the question of Eastern Enlargement

The second decisive shock for the EC's standard of membership was the end of the Cold War. The events unfolding to their East from the late 1980s onwards took European actors by surprise. The detente in bloc rivalry and the democratic reforms in the Central and Eastern European Countries (CEEC), which were soon to be followed by the end of the Warsaw Pact and the collapse of the Soviet Union, led to a fundamentally new geopolitical context. This shock affected the feedback effects surrounding the reproduction of the EC's boundary institutions in different ways. In

terms of **power effects**, it removed the Cold War overlay of the discourse on the limits of the hitherto Western European international society and put the power to redefine the boundaries firmly within the hands of European actors (cf. Buzan and Wæver 2010: 352). It also debunked the belief that Europe would, for the foreseeable future, remain a divided continent. As this view had **reified** the EC's boundaries to the East, the organization's Western European nature was suddenly up for debate, and images of a (re-)united continent gained momentum in the discourse on European international society.

The end of the Cold War also affected the preference structures of EC actors and therefore displaced **vested interests**: it was no longer a given that a rigid definition of the organization's boundaries was conducive to the European international society as a security community. Most of the states to its east – the CEEC, the countries of the West Balkan and the Newly Independent States (NIS) of the former Soviet Union[82] – expressed a clear interest in close relations with or even membership of the EC, and it was assumed that some form of integration was needed to provide a stabilizing effect on the region and in particular to avoid mass migration from the CEEC to the EC (Mattli 1999: 96–97). This view was expressed, for example, by then German President Richard Weizsäcker (1990) in a speech at the Collège d'Europe. However, it was improbable that all of the CEEC and NIS would be able to fully meet the standard of membership as it existed at that point. This meant that the security interests of the EC actors, which called for an inclusion of the CEECs, and their preference for preserving the achieved level of integration through a rigid standard of membership were no longer aligned.

As a further complicating factor, the impact of enlargement on the economic performance of the EC was all but clear. The standard did not have an explicit economic dimension at that time. Economic arguments had been used but only selectively, for example by the French government to reject the UK's application (Hillion 2011: 191). They did not feature as criteria in the Commission's opinions on the early candidate states. Now, the EC faced the challenge of almost a dozen states in its neighbourhood whose economies lay in ruins, without clear principles and rules on how to deal with

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[82] For the purpose of this analysis, I count the former Soviet States of Estonia, Latvia and Lithuania as part of the CEECs because of their eventual inclusion in the enlargement process. At the same time, the analysis only includes those NIS that eventually became part of the Eastern dimension of the ENP: Armenia, Azerbaijan, Belarus, Georgia, Moldova and the Ukraine.

their demands for closer ties with Western Europe. In light of this, the support for the existing standard of membership, which was equivocal on economic structures, through actors' vested interests was diminished. The ensuing discourse on how to redefine the EC's boundaries was carried out on the primary as well as the secondary level of the EC's border institutions.

In the first phase of change, the EC began to move from a policy of cooperation to one of enlargement. As Friis and Murphy (1999) observed, the initial reaction of the EC to the improved East-West relations was cautious at best. On the one hand, West European politicians celebrated the democratic reforms and the prospect of overcoming the East-West divide, thus underscoring the institutions of liberal democracy and Europeanism (European Council 1989b: para. 1.1.14; see also Schimmelfennig 2005b); on the other hand, the initial redefinition of relations on the level of secondary institutions did not raise prospects for enlargement. The European Council in Rhodes in December 1988 offered the CEECs undergoing democratic transformation enhanced cooperation and dialogue but no membership perspective (Friis and Murphy 1999: 218; Ingham and Ingham 2002). A clear preference for cooperation over enlargement also informed the creation of assistance instruments like PHARE[83], the European Bank for Reconstruction and Development and the Europe Agreements concluded from 1991 on, starting with Czechoslovakia, Hungary and Poland.

Several authors have shown how the EC, despite these signs of goodwill, soon came under increasing normative pressure to admit new members from inside and outside its own borders (Fierke and Wiener 2005; Schimmelfennig 2005b). Among the most fervent advocates of enlargement among political leaders was then British Prime Minister Margaret Thatcher (1990), who suggested that

> the Community should declare unequivocally that it is ready to accept all the countries of Eastern Europe as members if they want to join, provided that democracy has taken root and that their economies are capable of sustaining membership. We cannot say in one breath that they are part of Europe and in the next our European Community Club is so exclusive that we will not admit them.

The combination of security imperatives and moral appeals put the reluctant EC actors, who depicted widening as a threat to deepening (Schimmelfennig 2005b: 163), on the

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[83] The acronym stands for 'Poland and Hungary: Aid for Restructuring of the Economies', although the programme was later extended to other CEECs.

defensive so that the need to enlarge was essentially accepted by the early 1990s (Friis and Murphy 1999: 220–221).

Towards Copenhagen: debating membership institutions

However, this development presented the EC with a double dilemma. First, there were the already mentioned uncertain consequences of integrating an array of economically weak countries, which was not a possibility accounted for in the existing standard of membership. Second, even when judged against the existing standard, the eastern neighbours performed quite unfavourably: the CEECs were clearly European but their democratic transformation was far from consolidated, and while they may have accepted the supremacy and direct effect of EC law, they were at that time clearly not in a position to adopt the *acquis communautaire*. The Commission had made it clear in its opinion on the accession of Portugal and Spain that a mere partial adoption of the *acquis* was not enough to warrant accession (European Commission 1985). Generally, there had been a consensus that all of the accession criteria had to be met by applicant countries. According to the standard, therefore, the CEECs did not fully qualify as prospective members, and could not be admitted under the rules and procedures of the secondary institutions, which applied a dichotomous membership concept and did not provide for any intermediate form of membership. The overall institutional configuration surrounding the EC's boundaries thus appeared to be inadequate to deal with the complexities of the situation. Against this background, the EC's reluctance to offer a definite membership perspective was quite comprehensible.

The need for the EC's institutional actors and member states to respond to the normative demands and the security context while safeguarding their economic interests and the institutional achievements made apparent a need to reform the institutional configuration of its membership concepts. This discourse targeted both the primary and the secondary institutional level.

On the primary level, it became apparent that the existing standard had to be complemented by economic conditionality. A decisive moment in the development of this discourse was the Bonn Conference on Economic Co-operation in Europe hosted in April 1990 by the Conference for Security and Co-operation in Europe (CSCE). In the final document, the representatives of the attending states – which included the EC members, five CEECs, the Soviet Union and Yugoslavia – acknowledged an intrinsic

connection between democratic institutions and conditions of market liberalism. Taking up this idea, the Dublin European Council of the same month explicitly connected the prospect of membership in the European international society to the adoption of a liberal economic order.

> This process of change brings ever closer a Europe which, having overcome the unnatural divisions imposed on it by ideology and confrontation, stands united in its commitment to democracy, pluralism, the rule of Law, full respect for human rights, *and the principles of the market economy*. (European Council 1990a, emphasis added)

The summit also noted that the conclusion of the Europe Agreements was conditional upon the transition to a market economy. While a primary institution of **market liberalism** was thus being constructed as part of the standard of membership, it only partially found its way into the Treaty of Maastricht. Article 3.a.1 does specify "an open market economy with free competition" as one of the newly founded EU's principles. However, Article O., which was specifically concerned with accession, maintains the indeterminate language of the Rome Treaty by stating that "any European state" was eligible to join without laying down any further conditionality. Due to this ambiguity, the Maastricht provisions concerning enlargement were still too vague to effectively institutionalize market liberalism as part of the standard of membership.

On the level of secondary institutions, there were two discursive positions about wider borders of the European international society. The first one was that of a new organizational framework for partial integration of the Eastern neighbours into the European international society separate from the EC/EU. The first vocal supporter of this idea was then French President François Mitterrand (1989; see also Smith 2005: 761), who floated the idea of a European Confederation distinct from the EC, "which will unite all states of our continent in a common and permanent organisation for trade, peace and security." Mitterrand made it clear that membership of the Confederation would only be possible "after the establishment of party pluralism, free elections, a representative system and freedom of information." He thus proposed an organizational system of concentric circles, where all states fulfilling the prerequisite of liberal democracy could join the 'outer circle' of European political structures while membership in the EC remained conditional upon the full standard of membership.

Mitterrand's idea was taken up by the Institutional Committee of the EP. In a report from 1992, the Committee clarified that it

> [d]oes not believe that it is possible or desirable for all the nations of Europe or those which feel themselves to be European or are allied with Europe to be gathered together at some future point into a union […] (Hänsch 1992: 15)

However,

> the Union must beware of entering a cul-de-sac at the end of which the European countries will be faced with the stark choice between accession and exclusion. European countries (and countries which feel European) that cannot become members of the European Union, or do not wish to join, must not be excluded from European cooperation. The Union must offer these countries new forms of cooperation outside the Member States. (Hänsch 1992: 23)

It therefore proposed to create a pan-European system of 'confederative cooperation' in multiple functional fora on security, environmental, health and other issues. This system would be based on intergovernmental decision-making driven by the EU (Hänsch 1992: 24–25). Despite these proposals, the idea of organizational differentiation did not yield any results at that stage. The EC's heads of state and government simply stated that the existing institutional frameworks of the CSCE and the Helsinki Final Act could adequately deal with the security implications of the transformations in Central and Eastern Europe, implying that no new institutions were needed (European Council 1989a: para. 1.1.16; European Council 1990a: Annex 1).

The second proposal was to create new forms of association with the EC/EU. A motion for a resolution in the EP in 1990 proposed the concept of a two-tier Community as a "transitional solution to the aspirations for membership of new countries" (Hänsch 1992: 28). Thatcher (1990) took a similar stance, emphasizing that these associations should contain a clear membership perspective:

> Of course it will be some time before they are ready for membership, so we are offering them intermediate steps such as Association Agreements. But the option of eventual membership should be clearly, openly and generously on the table.

In the same line of thinking, then Commissioner for trade and external relations, Frans Andriessen (1991; see also Smith 2005: 761), introduced the concept of 'affiliated membership' of the EC, where neighbouring states would be co-opted in certain policy fields as a transitory measure, but not granted access to decision-making. The idea

resonated with a report by the Parliament's Institutional Committee, which suggested that the Europe Agreements be revised to provide for an association of the partner countries with the CFSP. The Commission suggested a European Political Area that involved the inclusion – without voting rights – of 'partner-members' in certain EU policies (European Commission 1992: 18). However, most EC actors rejected the idea of formal part membership on the grounds that this would cause "institutional, political, and psychological problems" (Hänsch 1992: 16). Similarly, Thatcher (1990) warned that

> introducing the concept of first and second-class membership of the Community, which would be divisive and defeat much of the purpose of bringing [the Eastern European] countries into Europe.

These remarks may seem odd as the proposed forms of association factually implied partial membership, but they can be read as a means to emphasize the temporary nature of the desired framework and delineate it from any permanent two-tier system.

This second strand of discourse eventually became dominant. From the point of view of the EC/EU, the association model had the advantage that it could display a degree of openness while at the same time maintaining control over the conditions of membership and the eventual contours of a wider Europe. As a Commission report put it:

> The term 'European' has not been officially defined. It combines geographical, historical and cultural elements which all contribute to the European identity. The shared experience of proximity, ideas, values, and historical interaction cannot be condensed into a simple formula, and is subject to review by each succeeding generation. The Commission believes that it is neither possible nor opportune to establish now the frontiers of the European Union, whose contours will be shaped over many years to come. (European Commission 1992: 11)

On the other hand, it was clear that for practical reasons, such associations preparing for membership would need to specify accession conditions and procedures. A first move into that direction was made by the Commission report, which called for a clear roadmap towards accession in the Europe Agreements (European Commission 1992: 18–19). By that time, however, the heads of state and government still struggled to make a commitment to Eastern enlargement. At the Lisbon European Council in June 1992, which saw the decision to open accession negotiations with the countries of the European Free Trade Area, they declared their intent to develop an enhanced

partnership with the CEEC, but at that point, they could not bring themselves to commit to a clear membership perspective, as pro-enlargement and more reluctant governments failed to reach an agreement (Schimmelfennig 2005b).[84]

The Copenhagen European Council a year later marked an important moment of institutionalization, which consolidated the discursive developments of the previous years. The Copenhagen criteria are a concise statement of the primary institutions of the standard of membership (Hillion 2011), including market liberalism as a new institution, which had two dimensions: "the existence of a functioning market economy as well as the capacity to cope with competitive pressure and market forces within the Union" (European Council 1993). This alleviated concerns of several member states such as France, Italy, Spain and Portugal, who were sceptical about the economic capabilities of the CEEC and feared that unconditional accession might lead to an economic periphery within the EU (Michalski and Wallace 1992: 54). The Copenhagen summit saw a firm commitment to an institutional framework for expanding the EU's borders to the East by incorporating the CEEC. Accession was defined as the ultimate goal of association and a roadmap towards full membership was outlined, which included trade concessions and a 'structured relationship' consisting of high-level dialogue with representatives from the candidate countries. Through a combination of primary and secondary institutionalization, the EU thus managed to reform the institutional configuration in a way that both responded to enlargement demands and preserved its interests in political and economic stability.

Putting enlargement into practice

In the years following Copenhagen, the focus of the EU's enlargement activities was on putting the Copenhagen agenda into practice through secondary institution-building. Besides internal reform to build capacities for dealing with an enlarged membership (Dinan 2004: 283–297), this meant putting the accession roadmap into practice and ultimately deciding on membership applications. To this end, important questions regarding the standard of membership had to be resolved. In particular, the EU actors faced two problems: first, the standard had to be specified and operationalized in order to make concrete decisions possible. The most important

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[84] A detailed analysis of member states' positions was presented by Michalski and Wallace (1992: 54–59).

document in this regard was the European Commission's Agenda 2000, released in 1997, which developed indicators for the assessment of individual applicant states (Hillion 2011: 195). Despite providing supposedly objective criteria, these rules still left room for political considerations (Zielonka 2002b: 8), as the disagreements between different EU actors over the eligibility of individual countries shows.

Second, the rigidity of the standard was up for debate. The Luxembourg European Council in December 1997 opined that fulfilment of the Copenhagen criteria was in fact a prerequisite for the opening of negotiations. This restrictive interpretation was criticized by the Commission because it risked alienating aspiring members (European Commission 1999; Prodi 1999). In light of this pressure, the Helsinki European Council in 1999 gave up its tough stance, making the opening of negotiations conditional upon meeting the political criteria only, whereas the full adherence was only expected upon accession proper. This effectively implied the recognition of an intermediate membership status: accession candidates that partially fulfilled the membership could not at present become formal members of the EU but they were regarded as legitimate actors of the European international society. In line with this interpretation, the EU bodies created secondary institutions that provided rules and procedures for incrementally socializing potential member states into full adherence to the standard of membership. The 'pre-accession strategy' that offered privileged relations for candidates before actual accession and a gradual intensification of cooperation in exchange for improved performance are a case in point (Christiansen et al. 2000: 390–391; Inglis 2002), as are the Stability and Association Agreements with the West Balkan states, which included an eventual membership perspective and created an intermediate membership position (Prodi 2002).

Dealing with a new neighbourhood

These secondary institutionalization practices culminated in the signing of the Accession Treaties with the CEECs (plus Malta and Cyprus) in 2003. However, the question of how to define the EU's boundaries was not settled through these changes. Once the decision to enlarge had been made in principle, the discourse on the EU's borders merely started to shift further towards the periphery of the European international society. With the impending accession of the CEECs, the status of the NIS and the West Balkans came into focus, not least because enlargement was seen as

producing externalities in the adjoining countries both in the realm of security (European Commission 1999; Prodi 1999) and Economic and Monetary Union (European Commission 2003: 6). In that sense, endogenous institutional dynamics induced the next phase of institutional change: the neighbourhood *problématique* was an unintended consequence of formal enlargement as the latter shifted the interests of the main EU actors away from support of the existing, dichotomous configuration of the borders of the European international society.

Adding to this dynamic, external shocks rendered the question of how to deal with the new Eastern neighbourhood particularly urgent. The violent conflicts in the collapsing Yugoslavian Republic provoked the question of whether excluding the West Balkan from the EU was in its security interest (Prodi 1999), while the EU simply had failed to formulate an adequate response to the collapse of the Soviet Union in 1991. Thus, the existing membership institutions came into question, starting in fact at the very sidelines of the Copenhagen summit, where then French Prime Minister Edouard Balladur – echoing Mitterrand's earlier Confederation plans – presented a plan for a European Pact including the Western States, the CEEC, Belarus, Moldova, Russia and the Ukraine (Agence Europe 1993). Against the background of the Balkan Wars, the goal of the proposal was to formulate new principles on borders and minority rights for an inclusive post-Cold War European international society. Consequentially, participation was to be conditional on resolving border conflicts and minority issues.

Besides reaffirming the notion of liberal democracy, therefore, Balladur's plan implicitly invoked classical institutions of international society such as national sovereignty and peaceful dispute settlement as a standard of membership. Respect for the more EU-specific institutions of Community constitutionalism or the *acquis communautaire* did not feature in this proposal. In Balladur's idea, the outer circle of the European international society clearly was to take more conventional forms than its post-Westphalian EU core. The concept of a separate standard for the periphery also informed the approach initially taken towards the Balkan states: from 1996 on, the Council developed a policy of closer cooperation with the Southeast European Countries that was conditional on

- the respect for democratic principles, human rights, and the protection of minorities;

- the development of regional economic cooperation;

- the liberalization of the economies;

- and the peaceful settlement of disputes through the adherence to peace agreements and peace processes (Council of the European Union 1997: Annex III).

While the Balkan countries eventually moved to the accession track of the EU's boundary policies, this general idea of a peripheral standard of membership survived. With this differentiation on the primary institutional level came first attempts at creating differentiated secondary institutions. The European Commission proposed a European Conference in 1997, which was to bring together all European states which aspired membership in, or were associated with, the EU, to discuss issues of CFSP and Justice and Home Affairs. The European Council took up this idea and connected it to a reformulation of the standard of membership for the broader regional international society by connecting participation in the Conference to the respect for certain shared principles:

> The members of the Conference must share a common commitment to peace, security and good neighbourliness, respect for other countries' sovereignty, the principles upon which the European Union is founded, the integrity and inviolability of external borders and the principles of international law and a commitment to the settlement of territorial disputes by peaceful means […]. (Council of the European Union 1997: 5)

Like Balladur's plan, this paints the picture of a rather conventional international society based on national sovereignty, international law and peaceful dispute settlement – apart from the vague invocation of EU principles, which was most likely a reference to the reiteration of liberal democratic standards in Art. F of the new Amsterdam Treaty. It is consequential, then, that the European Council's initial approach of inviting only the Central and Eastern European accession candidates to the conference was dismissed in 2001 and replaced by a more comprehensive format including, among others, Moldova, Russia, the Ukraine and the West Balkan states (Smith 2005: 762). This was more in line with the Commission's intentions, which had thought of the Conference as separate from the enlargement process, and in fact with those of a majority of the member states (European Parliament 2000: para. I. (a), (c)).

The eventual enlargement of the European Conference demonstrates that the new standard of membership for a wider European international society, which was less exclusive than that for formal accession to the EU core, made it harder to justify the continued exclusion of the Eastern neighbours from organizational frameworks, as most of them fulfilled the standard more or less clearly – especially as the Council had declared that participation was not conditional upon *ex-ante* fulfilment of the standard, but that the aspiration towards them would be sufficient for participation (European Parliament 2000: para. I. (c)). This enhanced their positional power and their claims to admit them to the regional international society through organizational participation consequently had a stronger legitimacy.

Launching the European Neighbourhood Policy

It was not long, therefore, before the neighbourhood issue reappeared in the discourse on the EU's position in the region. Proposals for new institutional frameworks were made in letters to the Council Presidency in 2002 by the then British Foreign Minister Jack Straw, the Swedish government, and the then High Representative for the CFSP Javier Solana and the then Commissioner for External Relations Chris Patten (2002). Citing the security implications of a new EU border with Belarus, Moldova and the Ukraine, Straw (2002) called for a "'special neighbour status' rooted in a commitment to democratic and free market principles" for these three countries that would allow them to participate in certain Community policies, but not grant them membership. The suggestions by the Swedish Foreign and Trade Ministers at the time, Anna Lindh and Leif Pagrotsky (2002), focused on economic cooperation with all of the EU's neighbours and a potential free trade area "from the Sahara to Vladivostok", conditional on the endorsement of WTO principles by those countries. Upon invitation by the April General Affairs Council, Solana and Patten (2002) presented ideas about a comprehensive EU approach to 'Wider Europe', which included political dialogue, financial assistance, economic cooperation and partial integration into EU policies in order to avoid a 'negative spillover' of political, economic and security issues especially from the new Eastern neighbours. They argued that

> [t]he starting point should be that relations with all our neighbours should be based on a shared set of political and economic values. […] Looking to the medium and longer term, we could foresee a gradually evolving framework for an economic and political space surrounding the Union, which would nevertheless stop short of full membership or creating shared institutions. (Solana and Patten 2002)

They thus evoked the notion of a wider European international society, which did not manifest in EU membership but an upgrading of bilateral relations within a "new proximity policy initiative" (Solana and Patten 2002). The Council's 'Eastern Europe and Central Asia' Working Group (2002; see also Permanent Representatives Committee 2002) responded positively to Solana's and Patten's letter, emphasizing however that conditionality should play an important role in the process. They agreed to limit the framework to Ukraine, Moldova and Belarus and noted that the initiative should not raise "unrealistic expectations over the prospects of accession in the short term", while not ruling out eventual membership in the future. Based on these recommendations, the Council eventually launched a New Neighbourhood Initiative at a meeting in November 2002 – the same gathering that saw the determination of May 1st 2004 as the accession date of the new member states (Council of the European Union 2002).

In a speech in December of the same year, then Commission President Romano Prodi described the rationale of this idea: against the background of instability in the Middle East and the Balkans, the EU needed to strengthen its profile as an international actor and project the benefits of integration beyond its borders. "We need a debate in Europe", he demanded, "to decide where the limits of Europe lie and prevent these limits being determined by others. […] Accession is not the only game in town" (Prodi 2002). The EU was to assert itself as the hegemonic actor in drawing the European international society's boundaries and determining its membership, but not through formal accession only. Consequently, Prodi outlined a conceptualization of the European international society as made up by an EU core and a peripheral neighbourhood. The EU's task was to socialize the adjoining states into this society: "The aim is to extend to this neighbouring region a set of principles, values and standards which define the very essence of the European Union." However, Prodi remained quite elusive both on which norms to spread, and on the composition of the neighbourhood and the precise status of the neighbours in this structure: "The quality of

our relations with them will largely depend on their performance and the political will on either side. Of course, geography will play a role too." The only primary institution that is explicitly evoked here is that of Europeanism, although the reference to 'performance' points to further conditions for membership.

The Commission tried to become more specific in this regard with a Communication entitled 'Wider Europe – Neighbourhood'. The paper develops the Neighbourhood Policy as a framework for bilateral Partnership and Cooperation as well as Association Agreements that aimed at graduated economic integration of the neighbourhood with the EU (European Commission 2003: 4; see also Whitman and Wolff 2010a: 5). It also touches upon questions of eligibility. Interestingly, it mentions "aligning legislation with the acquis" (European Commission 2003: 4) alongside political, economic and institutional reforms as one of the expected contributions of the neighbours. It also mentions the adoption of the *acquis communautaire* as part of the conditionality to be enshrined in bilateral Action Plans, though not as an *ex-ante* prerequisite for entering into any kind of structured relationship (European Commission 2003: 16). In outlining its vision for the Neighbourhood Policy, the Commission thus effectively applied the full standard of membership to the neighbourhood countries, but defined it in more gradual terms, in line with the 'everything but institutions' slogan: the more a specific country adhered to the standard, the more would its status in Europe's institutional structures be aligned to that of a full member – only falling short of formal accession.

The Council eventually took up this idea, envisaging a differentiated ENP comprising bilateral Action Plans with Belarus, Moldova and the Ukraine – and possibly, at a later stage, the states of the South Caucasus – which specified incentives and conditions that made the depth of cooperation with the respective country conditional on meeting of certain criteria (Council of the European Union 2003). Reiterating and specifying this concept, the European Commission (2004: 3) stated in a strategy paper on the Neighbourhood Policy that

> [t]he privileged relationship with neighbours will build on mutual commitment to common values principally within the fields of the rule of law, good governance, the respect for human rights, including minority rights, the promotion of good neighbourly relations, and the principles of market economy and sustainable development. Commitments will also be sought to certain essential aspects of the EU's external action, including, in particular, the fight against terrorism and the proliferation of weapons of mass destruction, as well as abidance by international law and efforts to achieve conflict resolution. […] The level of ambition of the EU's relationships with its neighbours will take into account the extent to which these values are effectively shared.

This statement of the standard of membership reaffirms all primary institutions that had been constructed in Copenhagen a decade earlier – liberal democracy, market liberalism and, partly, the *acquis communautaire* – except one: Community constitutionalism. Instead, it demands respect for (conventional) international law, thus placing the neighbour states and EU-neighbourhood relations outside of the EU's own legal order but tying them into the wider regional international society. The ENP, officially launched in 2003 with three NIS and later extended to the South Caucasus, provided the secondary institutional framework for this idea.

In sum, the process of redefining the boundaries of the European international society to the East had two main dimensions. The first focused on the primary institutional level, where the standard of membership was consolidated, made more explicit and complemented by the primary institution of market liberalism. Secondly, the boundaries of the European international society were expanded but at the same time differentiated. This process had a primary and a secondary component. On the primary level, the EU constructed a standard of membership for the periphery of the European international society, which was less demanding than that for the core of full EU members in that it was ambiguous about the *acquis communautaire* and reverted to conventional principles of international law instead of Community constitutionalism (cf. Diez and Whitman 2002a). On the secondary level, especially from 1993 on, the EU build institutions that were based on an increasingly gradual instead of dichotomous interpretation of the standard of membership (Friis and Murphy 1999; Smith 1996; cf. Wæver 1996). This found its manifestations both in the ENP and in the association policies of the Union.[85]

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[85] Of course, these are not the only instances of gradual membership, as the opt-outs by several member states in various integration areas demonstrate.

7.2   Southeast Asia and the Asia-Pacific, c. 1967–1999

The 1990s marked a number of important changes in the institutional framework centred on ASEAN. On the one hand, ASEAN itself embarked on an enlargement process that resulted in the accession of Vietnam (1995), Myanmar and Laos (1997), and eventually Cambodia (1999). On the other hand, from the early 1990s, ASEAN pursued a strategy of extending the geographical scope of its institutions towards the broader Asia-Pacific region. In 1993, ASEAN officials and representatives of the organization's dialogue partners decided to set up the ARF as a platform for interaction on conflict prevention among states with a stake in regional security. Since cooperation in the ARF was based to a large extent on the principles, norms, rules and procedures that also informed ASEAN, and since Southeast Asian actors have repeatedly claimed a leading role for their regional organization in the ARF, the institutionalization of the forum marks the expansion of primary and secondary institutions of the Southeast Asian international society into the wider Asia-Pacific region, which is taken to comprise the area of the Pacific rim (Acharya 2001; Wunderlich 2007: 129). The enlargement of ASEAN in the 1990s thus mirrors that of the EU in that it comprised both the acquisition of new members and the expansion of the boundaries of an 'outer circle' of its international society beyond its organizational membership.

When it comes to explaining the ASEAN's motivations for introducing these institutional changes, scholars have offered different perspectives.[86] Most of these works focus either on ASEAN's organizational enlargement or on the expansion of its institutional model into the Asia-Pacific region and the establishment of the ARF. With respect to the former, there is a variety of studies offering predominantly rationalist approaches. For example, Wesley (2003) sees ASEAN enlargement as the result of a favourable constellation of expected benefits and costs of expansion, while Amer (1999; see similarly Narine 2002) assesses the relative importance of security, economic and political considerations in the enlargement decision.

Scholars adopting constructivist ideas have emphasized the role of rhetorical commitments to pan-Southeast Asianism as a legitimizing concept (Chin 1997; Severino 2006; see also Amer 1999: 1040–1041), or the desire of the original ASEAN

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[86] Besides these works on ASEAN's internal decision to enlarge, there is also scholarship focusing on the motivations of the acceding states to join ASEAN (Aschhoff 2012) and on the consequences of enlargement (Nesadurai 2006; Emmers 2005).

member states to socialize their neighbours into the ASEAN Way of regional cooperation as an exercise in security-community building (Acharya 2001). Nesadurai (2006: 202–203) argues that the accession of the Indochinese states was made possible by normative convergence on market liberalism as a provider of growth and social stability. However, neither of these approaches explains why Cambodia's accession – originally planned to be completed together with Myanmar's and Laos's membership in 1997 – was suddenly put on the backburner in 1998 despite the great symbolic importance ASEAN's leaders attached to the goal of completing an ASEAN of Ten at the organization's 30th birthday in 1997. There is no systematic discussion in the existing literature of how ideas about legitimate actorness shaped the concrete development of ASEAN's membership.

As to the emergence of an institutional framework for the wider Asia-Pacific region, scholars mostly make arguments based either on broadly constructivist or (neo-)realist tenets. Leifer (1996) and Severino (2006: 5–6) depict the institutionalization of the ARF as ASEAN's response to the perceived instability of the post-Cold War security environment. Tan (2013) applies post-structuralist ideas, seeing the concept of the Asia-Pacific as the result of politics of representation unfolding in regional academic and policy circles. Like in his account of ASEAN's enlargement, Acharya (1997; 2001: 165–193) sees the establishment of the ARF as a sort of community-building effort focused on the promotion of ASEAN's security model in the wider Asia-Pacific.

While his and other studies (Leifer 1996: 25) rightly emphasize the role of norms in the emergence of the ARF, Acharya is simplifying the matter by portraying the process as a one-to-one extrapolation of ASEAN's institutions into the Asia-Pacific (see also Yuzawa 2012). In a similar manner, Nesadurai and Khong (2007) apply a simplistic interpretation of the concept of path dependence, claiming that the rules and procedures of the ARF are a result of ASEAN's institutional heritage.[87] By emphasizing the similarities between ASEAN and the ARF, Acharya as well as Nesadurai and Khong (see especially 2007: 64–65) overlook that the institutionalization of the ARF in general and its membership scope in particular were in fact possible only through processes of normative contestation and change. They see it as unproblematic and in

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[87] By contrast, their brief account of the Forum's membership is based on functionalist arguments (Nesadurai and Khong 2007: 60–61).

fact plausible that ASEAN, a Southeast Asian regional organization which hosted a long-standing discourse on non-alignment, neutrality and anti-hegemonism, as well as a scepticism towards explicit security cooperation, would found and assume the leading position in an Asia-Pacific security institution like the ARF, "with ASEAN being especially solicitous of the major powers" (Nesadurai and Khong 2007: 69). What is more, the layered institutional framework of the broader Asia-Pacific area reminds us that its regional international society is not monolithic but rather gradated. While members of ASEAN automatically become participants of the ARF, the reverse is not true because, as in the EU case, established actors apply a differentiated standard of membership when appraising the membership of a state that has hitherto been considered an outsider.

This section analyses how this differentiated standard came into being, focusing again on the interplay of the two levels of international institutions. It first provides an overview of the existing standard of membership and the related secondary institutions, and displays the feedback effects that held this configuration in place. The subsequent sub-section presents the discursive developments in response to the end of the Cold War that led to changes in the standard and in ASEAN's organizational framework.

7.2.1   Institutional context

In contrast to the EU, which constructed a standard of membership almost haphazardly with each new enlargement round, ASEAN's founding fathers[88] made sure to formulate conditions of membership from the very beginning. The Bangkok Declaration (ASEAN 1967) thus declares the Association open for participation by "all States in the South-East Asian Region" subscribing to certain principles.

Primary institutions

The principles spelled out in the Declaration's preamble contain commitments to "joint endeavours in the spirit of equality and partnership" and "active collaboration and mutual assistance on matters of common interest", which invokes the primary institution of **multilateralism**. The promotion of "peace and stability through abiding respect for justice and the rule of law in the relationship among countries of the region" (ASEAN 1967) pays tribute to the institutions of **international law** and the **peaceful**

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[88] The non-gender neutral formulation seems justified here, as the Bangkok Declaration was in fact prepared and signed by an all-male group of foreign ministers.

settlement of disputes. I have already pointed out that the institution of peaceful dispute settlement was subject to a regionally specific interpretation in Southeast Asia in that it excluded the option of legal arbitration. In the context of the standard of membership, it is important to emphasize a closely related feature of peaceful dispute settlement *à la* ASEAN: conflict generally was to be resolved through informal practices of quiet diplomacy (Khai 2004). The implication was that disputes were best settled if all involved actors could act in their 'comfort zone' and build personal trust. Involvement of the public, by contrast, would provoke practices such as shaming, which were conducive to escalation, rather than effective settlement. This connotation of peaceful dispute settlement implied a rejection of formal fora of conflict prevention, management and resolution (Acharya 2001: 64–67; Haacke 2009).

The Bangkok Declaration also contains a pledge to "ensure their stability and security from external interference in any form or manifestation in order to preserve their national identities in accordance with the ideals and aspirations of their peoples" (ASEAN 1967). The ASEAN member states thus based their interaction on **non-interference** and **national self-determination**. In substance, these parts of the standard of membership directly reflect the pluralism of the global international society at that time, and the preamble in fact contains a reference to the UN Charter (cf. Leifer 1996: 35). It is not surprising, therefore, that the association saw the primary institutions of non-interference and self-determination not only as an internal code of conduct but also projected it externally and judged its neighbours by them, as is evident from ASEAN's vocal condemnation of the Vietnamese invasion and subsequent occupation of Cambodia between 1977 and 1991.[89]

The only more restrictive criterion for participation spelled out in the Declaration is that the country needs to be located in Southeast Asia. Like in the EU case, therefore, the standard of membership sets geographical limitations, a primary institution of **Southeast Asianism**, for want of a better word. Despite the fact that Southeast Asia as a geopolitical concept was a rather recent invention, there was a broad consensus among political elites of the boundaries of this area as encompassing the continental states of the Mekong region excluding China and the states of the Malay

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[89] See for example the Joint Communiqué of the 21st Ministerial Meeting (ASEAN 1988), where the occupation is condemned as a "violation of the United Nations Charter and international law, of the right of the Kampuchean people to self-determination, and of the principle of noninterference in the internal affairs of a sovereign state."

Archipelago. The only ambiguous cases were Papua New Guinea and Sri Lanka, the latter of which was even offered membership upon ASEAN's establishment in 1967 (Severino 2006: 46–47). Eventually however, the view gained hold that both countries lay outside Southeast Asian territory. By consequence, when Sri Lanka formally applied for ASEAN membership in the 1980s, its bid was rejected on the grounds that it lay outside the confines of the region (Chin 1997: 5).

It could be argued that ASEAN's standard of membership in fact contained an additional primary institution. I have already pointed out in Section 5.3 that a strong rejection of foreign power hegemony informed the regional discourse surrounding the establishment of ASEAN in the period of decolonization, but those arguing for a strict interpretation of non-alignment did not assert a dominant position. The vague assertion that "all foreign bases are temporary" in the Bangkok Declaration was an expression of the need to compromise between orthodox neutralists and those relying on defence cooperation with major powers.

In 1971, this disputed notion of **anti-hegemonism** found its way into the Declaration on a Zone of Peace, Freedom and Neutrality (ZOPFAN) (1971), which states that "the neutralization of South East Asia is a desirable objective" in order to bring about a region "free from any form or manner of interference by outside Powers". When Brunei acceded to ASEAN in 1984, it subscribed to endorsing "all the Declarations and Treaties of ASEAN" (ASEAN 1984). This suggests that the ZOPFAN institution of anti-hegemonism had become part of the standard of membership of ASEAN, although its exact meaning remained disputed. Just like it could easily accommodate members with a clear Western alignment such as Singapore, the Philippines and Thailand, ASEAN was never as firmly anti-communist as its actual membership during the Cold War suggests. In fact, when the war in Vietnam ended with the South's defeat in 1975, the victorious communist government was offered ASEAN membership but declined (Anwar 2001: 28; Aschhoff 2012: 50).

Against this background, it is not surprising that ASEAN's initially limited geographical scope can hardly be attributed to a restrictive standard of membership but was due at least as much to a lack of interest among its neighbours. Vietnam, Laos, Cambodia and Myanmar were all traded as potential members at some point but their neutralist or isolationist foreign policy stance militated against participation (Chin 1997:

6–7). Generally, these four states were committed to a more radical interpretation of the institution of non-alignment, which made them sceptical towards the idea of becoming members (Aschhoff 2012: 50–51; Narine 2002: 40). As the principles of the Bangkok Declaration were so inclusive and the primary institution of anti-hegemonism so diffuse, Southeast Asianism virtually became the only relevant 'principled' criterion of ASEAN membership, as the Papuan and Sri Lankan cases illustrate.

Secondary institutions

In general, the degree of formalization of ASEAN's ideas about membership was quite low. While the **Bangkok Declaration** did make accession conditional on a commitment to the organization's principles and objectives, ASEAN lacked a body that could specify and develop these criteria, as the Commission did in the European case. The only formal enlargement document in the first 28 years of the Association's existence, Brunei's **Accession Treaty**, was so generic that it could not set any substantial precedence for subsequent enlargements. By consequence, ASEAN's membership decisions were largely based on political considerations negotiated, in the end, between the foreign ministers of the member states. This sometimes led to flexible arrangements, as the opening up of the TAC to extra-regional states, or the granting of ASEAN observer status to Brunei in 1981, three years before its formal independence – quite a remarkable move for an organization emphasizing national sovereignty (Dhanabalan 1984).

The conception of boundaries was fairly dichotomous: between full organizational members and non-members, the only intermediate position was the observer status just mentioned, which implied participation in some of the Association's meetings but without access to decision-making. Observer status was granted without distinction to two types of countries: accession candidates, such as Brunei, and states with whom the maintenance of special relations was deemed desirable but membership not desirable, such as Papua New Guinea since 1976 (Chin 1997: 5). Apart from the informal partial inclusion in the organization's operations through the granting of observer status, there were no **enlargement procedures** or a clear pre-accession strategy.

Feedback effects

For the first 20-odd years of its existence, the institutions of ASEAN borders underwent very limited change only. Insofar as concrete organizational expansion is concerned, this stability can to some extent be attributed to a lack of opportunity, as neighbouring states repeatedly turned down invitations to join. This should not obscure the fact that, had Vietnam been willing to join after the start of the Cambodian crisis, it would certainly have been refused entry because, as a violator of non-interference, national self-determination and peaceful dispute settlement, it would have failed ASEAN's membership test. The basic standard of membership – and the associated rules and procedures of accession – remained intact, which can partially be attributed to feedback effects that provided the constellation with stability.

Looking at **power effects**, the enlargement discourse was effectively monopolized by government or government-affiliated actors of member states. The low degree of formalization of membership institutions was in line with their desire to maintain a maximum of political freedom in decisions about enlargement. However, this does not explain the maintenance of the specific, inclusive variation of the standard of membership in ASEAN. As all of the member states were to a certain degree factually aligned with the West, it would have been possible for their representatives to redefine ASEAN as an anti-communist club. As to external powers, it could be expected that the major power antagonism of the Cold War worked in favour of a continued exclusion of communist states from ASEAN. However, the various overtures and formal invitations by the existing member states towards Cambodia, Laos, Myanmar, and Vietnam make evident that these states were not excessively concerned with possible impacts on their major power relations. On the whole, ASEAN remained a non-, rather than anti-communist regional organization. Taken together, this evidence suggests that power effects were present but not overly strong.

References by ASEAN representatives to pan-Southeast Asian ideas reappear time and again throughout the Cold War (Severino 2006: 41–50). As the confines of this region were hardly ever problematized but rather taken for granted, a certain degree of **reification** existed, which marked the limited membership of the organization as a transitory deficiency. On the other hand, it could be argued that this very mismatch also served to somewhat deconstruct the idea of Southeast Asia as a natural entity. Still,

Southeast Asianism remained a strong symbolic concept, not least because the alternative framework of bipolarity was not able to capture the logic of membership in ASEAN either. The international relations of Southeast Asia were too complicated to be framed in a simple dualistic scheme of East-West alignments. The consequences of the Sino-Soviet rift on politics in Indochina as well as intra-Communist fighting in Cambodia thwarted attempts to naturalize the division of Southeast Asia into a Western ASEAN and a communist non-ASEAN camp. If anything, the imagery of all countries of the region jointly belonging to a Third World may have been more informative of boundary conceptions in Southeast Asia than the distinction of two ideological camps.

Within the given framework of ASEAN, most national representatives were eager to avoid any appearance of ASEAN as a Western, anti-communist bloc with potential defence implications. Their **vested interests** thus militated against the construction of a more restrictive standard of membership. In the same vein, the rejection of great power involvement, however symbolic, was supposed to maximize ASEAN countries' clout over regional affairs. The member states' security rationales allowed them to limit the promotion of peaceful dispute settlement norms to the realm of Southeast Asia. There was no question of extending the boundaries of the regional international society further into the Asia-Pacific, where ASEAN member states could count on the stabilizing effect of the U.S.'s role as an 'offshore balancer'.

When it comes to **institutional linkages**, the picture is rather mixed. It has to be noted that the low level of formalization of enlargement rules and procedures sets limits to vertical linkages, i.e. logical connections between the primary and the secondary institutional level. However, some evidence can be found: when Papua New Guinea signed ASEAN's TAC – which had initially only been open to Southeast Asian states, it did so by virtue of a protocol that was specifically established to allow the accession of *extra*-regional states. The ASEAN member states thus ensured that the secondary institution of the TAC remained aligned with the primary institution of Southeast Asianism. The acknowledgement of the established *acquis* of treaties and declarations by Brunei in its accession treaty – a secondary institution – ensured a commitment to the standard of membership and thereby reinforced its primary institutions. On the other hand, the treaty did not specify or operationalize these institutions. As far as concrete enlargement policies are concerned, I have already pointed out that ASEAN's geographical scope remained very limited despite the maintenance of an inclusive

standard of membership. While this could be read as a sign of vertical tension between the primary and the secondary level of boundary institutions, ASEAN's factual policy of sending out invitations to other Southeast Asian states refute this interpretation. Horizontal tensions were also not very pronounced, as the standard of membership combined primary institutions of a pluralist international society. The only exception to this was the persistent tension, already emphasized in Chapter 5, between the primary institutions of anti-hegemonism on the one hand and non-interference on the other.

7.2.2 Institutional change

Like in Europe, the end of the Cold War had a profound impact on the institutional landscape in Southeast Asia, although through different pathways. One of the main results of the end of the superpower antagonism for regional politics was that it brought about an end to the Vietnamese occupation of Cambodia and rapprochement between Vietnam and the ASEAN member states (Chin 1997: 7–8; Wunderlich 2007: 118–119). With dwindling support from the Soviet Union and a weak domestic economy, a new Vietnamese leadership introduced economic reforms in 1986 and consequently sought improved relations with its neighbours (Acharya 2001: 103–108). The shock of the end of the Cold War thus provided a changed external environment for the reproduction of ASEAN's border institutions. It also had a considerable, though by no means fundamental impact on the feedback effects surrounding the institutional configuration. These effects were enough, however, to open up discursive space for the discussion of institutional change.

There was no immediate impact on the **power effects** in the institutionalization processes, as the dominance of government representatives remained unbroken. The **reification** of Southeast Asia as a geographical point of reference, meanwhile, was clearly strengthened because its alternative, the image of a region divided by dualistic antagonism, appeared even more out of touch with reality than it had before. Those arguing for enhanced boundaries now unearthed – correctly or mistakenly – the aim of bringing together all of Southeast Asia as a primordial goal of ASEAN. Naturally, the window of opportunity to accomplish 'One Southeast Asia' also forced ASEAN leaders to think about questions that had not been mooted before: at what price were they willing to realize their objective of including the entire region under ASEAN's wings? Could the Indochinese states and Myanmar accede in their present state? If not, how and

when could they join the organization? In other words: will the standard of membership and/or the enlargement procedures have to be adapted?

With respect to ASEAN actors' **vested interests**, the rapprochement brought with it a de-securitization of the neighbouring Indochinese sub-region. Instead, their perspectives on relations with Cambodia, Laos and Vietnam were increasingly dominated by an economic logic, although this was an uneven development. Thailand was particularly receptive towards Vietnam's overtures for better relations as they brought with them the prospect of a new area of economic cooperation, with Thailand at its centre. The prospect of turning Indochina "from battlefields into market places", as Thai Prime Minister Chatichai put it (Australian Financial Review 1989; see also Narine 2002: 54), was backed by references to the mythical concept of a 'Golden Peninsula' under Thai hegemony. It lead to a pro-Vietnamese shift in Thailand's foreign policy outlook, which had hitherto been particularly critical of the occupation of Cambodia, being as it was ASEAN's frontline state to Indochina (Weatherbee 1990). Singapore's leaders shared Thailand's interest but the more distant member states did not see similar benefits for their economies.

Against the reification of Southeast Asia as a geographical concept and the de-securitization of Indochina stood developments that changed the security interests of regional actors in a way that made it desirable to reconceptualize the regional boundaries in less restrictive ways. The governments of ASEAN member states were fearful that, with their Cold-War animosities settled, the U.S. and the Soviet Union might rescind their military presence in the Asia-Pacific. Apart from the impact on their immediate national security relations, they also saw the possibility of a power vacuum and increasing instability in the region. This point was stressed, for example, by Indonesian then President Suharto (ASEAN 1990), his Foreign Minister Ali Alatas (Far Eastern Economic Review 1991) and Lee Kuan Yew (cited in Acharya 2001: 168), who was then Senior Minister in Singapore's government. Their preference was to keep the U.S. engaged as a security player in the Asia-Pacific and to socialize China into behaviour that was predictable and consistent with their security interests (Nesadurai and Khong 2007: 59–60). However, to actively pursue such an engagement meant to break with the traditional perception of ASEAN as a primarily inward-looking organization with stakes only within Southeast Asia. It also put into question the established association of peaceful dispute settlement with informal diplomatic practices

and the principle of rejecting hegemonial aspirations of major powers. There was thus a tension between new security preference structures and the existing standard of membership, which constituted ASEAN as an exclusively Southeast Asian organization that tried to minimize outside intervention.

The ARF – from a Southeast Asian to an Asia-Pacific international society

Proposals for an Asia-Pacific wide forum to discuss security matters first emerged in the late 1980s. These initial plans did not come from within ASEAN but from policy-makers from Russia, Canada, Australia and Japan (Acharya 2001: 166; Narine 2002: 102–104; Severino 2006: 6–10). At first, they were not warmly received by the governments of ASEAN member states because of their long-standing aversion to anything that might be perceived as a defence alliance (Fukushima 2003: 81; Severino 2006: 8–9) – which was in line with the dominant interpretation of the primary institutions of dispute settlement and anti-hegemonism.

However, over time, a more positive stance towards the idea materialized in ASEAN circles and they began reinterpreting the institution of peaceful dispute settlement in a way that allowed for more formal diplomatic practices. The Indonesian government supported the idea of an Asia-Pacific security framework after Suharto's visit to China in 1990 (Leifer 1996: 8). In particular, the initiative by Japan's then Foreign Minister Taro Nakayama to establish a security dialogue based on ASEAN's Post-Ministerial Conferences (PMC) with its dialogue partners resonated strongly with ASEAN's leaders, as it ascribed a leading role in the process of institution-building to ASEAN and foresaw that ASEAN's principles and institutional characteristics should serve as a model for the new cooperation format (Acharya 2001: 174; Severino 2006: 9). In 1991, the ASEAN-ISIS network of Southeast Asian think tanks produced an influential policy paper including a proposal for an Asia Pacific Political Dialogue under ASEAN's leadership. It suggested that "ASEAN must play a central role in whatever processes and mechanisms arise. It must do more. It should be creative initiator as well as active participant" (ASEAN-ISIS 2006: 171–172). Commenting on the wider Asia-Pacific region, the Joint Communiqué of the 24th ASEAN Ministerial Meeting (AMM), which took place shortly after the ASEAN-ISIS report, takes the same view:

> The Foreign Ministers took note of the increasing interest in issues relating to peace and security in the region. They were of the view that ZOPFAN, the Treaty of Amity and Cooperation in South East Asia and the PMC (Post Ministerial Conferences) process are appropriate bases for addressing the regional peace and security issues in the nineties. The Foreign Ministers reiterated that ASEAN, in responding to the challenges of the nineties, should be more dynamic and forward-looking. […] They also recognised that ASEAN and other countries in the East Asia region and the broader Asia Pacific should engaged [sic!] in regular constructive consultations. (ASEAN 1991)

At the PMC immediately following this AMM, ASEAN officials and their counterparts from the dialogue partners decided to extend the PMC's scope, which had hitherto focused on economic questions, to security matters (Singh 1992: 111). They thus linked the PMC's secondary institutions to the primary institution of peaceful dispute settlement. By adopting Nakayama's idea and making it an ASEAN initiative, the intra-ASEAN debate about security cooperation was reframed as a project of extending the scope of the institutions of its international society beyond the confines of formal ASEAN membership.

As pointed out, these ideas also put further strain on the notion of anti-hegemonism, which was already tainted by diverging interpretations. The security dialogue, whichever form it was to take, was an attempt to engage major players in the region. The fact that they were seen as potential members in an ASEAN-affiliated institution was a complete departure from the claim to rid Southeast Asia "from any form or manner of interference by outside Powers", as the ZOPFAN Declaration demanded (see also Kraft 2012: 63).

So how were the changed security preferences to be reconciled with the existing primary institutions? In an interview for the Far Eastern Economic Review, Indonesia's Foreign Minister Alatas (Far Eastern Economic Review 1991: 13; see also Acharya 2001: 172) offered a reinterpretation: "We can't keep the four powers [the US, Japan, China and the Soviet Union] out of the region. But there must be equilibrium among them and between them and Southeast Asia." According to this reading, the overarching objective of minimizing dependence on outside powers as articulated in the ZOPFAN Declaration was still valid but should be achieved through an active balancing policy by ASEAN's member states, not by excluding major powers altogether (Singh 1992:

101).[90] The Singapore Declaration (ASEAN 1992) by the ASEAN leaders adumbrates this reinterpretation by incorporating a commitment of ZOPFAN "taking into account changing circumstances". This minimal shift in rhetoric provided the basis for the call in the same document that "ASEAN should intensify its external dialogues in political and security matters by using the ASEAN Post Ministerial Conferences". The vague nature of the reference to the ZOPFAN norms indicates that this reinterpretation was disputed at first (cf. Acharya 2001: 172), but later documents referring to ZOPFAN also affirm the balancing dimension while abandoning the idea of neutrality (ASEAN-ISIS 1993: 10, 16).

As proposed by ASEAN-ISIS, the subsequent institutionalization of the ARF was based on the PMC. However, even before the first PMC meeting on the issue, the question of membership was posed. Departing from the original proposal by Nakayama to limit membership to the ASEAN and its dialogue partners (Severino 2006: 9), Singapore's then Prime Minister Goh Chok Tong noted that "flexible arrangements to bring in China and Russia are […] being explored" (cited in Kin 1993). When senior officials of the PMC states met in May 1993, they suggested to also include Laos, Papua New Guinea and Vietnam (Acharya 2001: 171). This proposal was based on practical considerations, as a Malaysian Foreign Ministry official noted: "If we are going to talk about political and security issues, it does not make sense if China and Russia and Vietnam and Laos are not included" (Wah 1993). In the context of the existing, highly inclusive standard of membership, these proposals posed no problem and they were swiftly implemented by inviting all of these states to the inaugural ARF meeting in 1994.

Soon, however, ARF participants felt the need to establish formal criteria for membership – not least in response to North Korean and Myanmar diplomats, who early on expressed a wish to participate in the ARF (The Straits Times 1994). While the North Koreans' plea was turned down without any public statement – although the foreign minister of the Philippines at that time, Roberto Romulo, suggested to eventually include North Korea in the forum – Myanmar was invited as a guest to the

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[90] An early formulation of this interpretation was made by Malaysia's Minister for Home Affairs, Ghazali Shafie in 1974 (cited in Singh 1992: 61), who described his idea of a Southeast Asian neutrality system as encompassing, *inter alia*, "the observance of a policy of strict equi-distance by Southeast Asian states in political-security terms in their relations with external powers as a means of reinforcing an equilibrium situation between them."

inaugural meeting by the Thai host government against the express objections of the U.S. government representatives (Acharya 2001: 173; Fujiwara 1994).

Against the background of these seemingly arbitrary decisions, the ARF participants charged the Indonesian chair to draw up a catalogue of membership criteria in 1995 (Leifer 1996: 48–49). This presented an opportunity to formulate a precise standard of membership for the emerging Asia-Pacific international society. However, of the four 'principles' eventually adopted by the Forum's senior officials, only the first one can be read as a reference to primary institutions:

> The first principle should be that any new member must subscribe to and work cooperatively to help achieve ARF's key goals. […] the main challenge of the ARF is to sustain and enhance the unprecedented period of peace and prosperity now enjoyed by the Asia-Pacific region. All members should work to develop an agenda which focuses on the security concerns of the Asia-Pacific region. (ASEAN Regional Forum 1996)

It becomes obvious here that the primary institution of peaceful dispute settlement is now associated with diplomatic practices that it, hitherto, could not have justified in its specific Southeast Asian interpretation. As a standard of membership, the references to multilateralism and peaceful settlement of disputes are highly inclusive, as both institutions are basic elements of the global international society (cf. Acharya 2001: 173). The other principles are merely functional and procedural:

> The second principle should be that the ARF should only admit members that can directly affect the peace and security of the region on which the ARF shall focus its peace-building and peace making efforts. […] The third principle should be that the ARF should expand carefully and cautiously. […] The fourth principle should be that all membership questions should be decided by consultations among all ARF participants. (ASEAN Regional Forum 1996)

The only limitation to the inclusiveness with major implications for the ARF's membership configuration was that members "will all be sovereign states." The obvious addressee of this formulation was Taiwan, which was denied entrance upon insistence of officials of the People's Republic (Severino 2006: 24). Ironically, this principle was disregarded from the very beginning, as the EU participates in the ARF as a corporate entity. This provided for a certain amount of tension between the primary and the secondary level. Generally, the expansion of the ARF kept on following *ad hoc* political considerations even after 1996, whereas principled questions of a candidate's legitimacy

were pushed in the background. For example, ARF participants introduced an expansion moratorium in 1998, so that even states that might actually fulfil the standard of membership would be denied entry into the Forum (ASEAN Regional Forum 1998; see also Wesley 2003: 103). Even North Korea's eventual entry in 2000 was made possible not by a fundamental reassessment of the regime's eligibility against the standard of membership but by considerations of political expediency. The U.S. and its allies had used the prospect of accession as an incentive for the regime to change its policy in the conflict over nuclear armament (Leifer 1996: 48), and the eventual admission was initiated by U.S. Foreign Minister Madeleine Albright in response to progress in inter-Korean rapprochement (Agence France Presse 1999).

In sum, the establishment of the ARF marked the expansion of the institutions of the Southeast Asian international society beyond the formal boundaries of ASEAN (Acharya 1997). However, it did not imply an unchanged extrapolation of Southeast Asian institutions but was in fact only possible by a reinterpretation of the primary institution of peaceful dispute settlement and the ceased reproduction of anti-hegemonism. The new standard of membership of this wider Asia-Pacific region was inclusive to the point of being indiscriminate, so that concrete enlargement decisions on the level of secondary institutions followed a largely political logic.

Market liberalism? Vietnam's accession

In parallel to this expansion of the international society beyond ASEAN's formal membership, the organization itself departed on a path towards enlarged membership. Calls for expanding the organization date back at least as far as 1991 (Vatikiotis 1991). I have pointed out above that economic interests in closer cooperation with Indochina were unequally distributed among the ASEAN member states, and Leifer (1996: 47) has argued that the initial impulse emanated from Thai foreign policy circles. However, he provides no evidence for this claim. In fact, even Indonesia's Alatas (1991: 13), whose country was not one of the primary expected beneficiaries, was positively inclined towards the idea of an ASEAN of Ten already in 1991: "Now that Cambodia can hopefully be resolved we will go back to our original blueprint: Southeast Asia must become one, not a region of two polarized mini-blocs." Officials from other member states, such as the then Finance Minister of Malaysia, Anwar Ibrahim, and Singapore's

then Second Minister for Foreign Affairs, George Yeo, also lobbied hard for an ASEAN of Ten (Choo 1993; *Business Times (Singapore)* 1993).

It is safe to assume, therefore, that a general openness to the idea of enlarging ASEAN to include the CLMV states was widespread among representatives of the existing member states by the end of 1993. The question was, then, on what conditions this objective should be achieved. The existing standard of membership constituted ASEAN as a community of sovereign states in Southeast Asia sharing a commitment to non-interference, the peaceful settlement of disputes and, possibly, the rejection of great power hegemony. Measured against these criteria, the states of post-conflict Indochina and Myanmar all qualified for accession. However, the idea of introducing stronger conditionality soon entered the regional discourse and gave rise to some controversy. Interestingly, it was Thai and Singaporean officials who took a more demanding stance towards the accession candidates, especially regarding economic reforms. A Thai official stated that Vietnam must prioritize economic policies over political considerations and endorse economic interdependence as a condition for accession to ASEAN (Jayanama 1991).

Singapore's then Prime Minister Goh Chok Tong (1991) seconded these thoughts by highlighting the importance of further reforms: "The doi moi reform program adopted by Vietnam in 1986 is a good beginning. Its successful implementation will broaden and deepen links between Vietnam and the other countries in the region." During a visit to Vietnam in March 1994, Goh even proposed an 18-month moratorium on the question of Vietnamese accession. Representatives of the other member states mostly argued for quick and unconditional accession. In stark contrast to Goh, Philippine President Fidel Ramos lobbied for a quick admission of Vietnam at his own visit to Hanoi later the same month (Isberto 1994).[91]

Despite the concerns voiced by some actors, market liberalism did not become enshrined as a part of ASEAN's standard of membership.[92] Reluctance on the part of those seeing a potential tension with the other, non-intrusive institutions of the standard

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[91] On the other hand, Ramos' Undersecretary of Foreign Affairs and later ASEAN Secretary-General, Rodolfo Severino (cited in Xinhua General News Service 7/30/1993) had cautioned that quick enlargement would threaten ASEAN's efficiency, arguing that "we cannot open the dam to a flood of signatories."

[92] For the broader East Asian region, this assessment is shared by Foot (2014: 191), who explicitly refrains from according primary institutional status to the notion of 'market'.

may have been a decisive factor. In any case, the idea of an 18-month moratorium did not gain support and in July 1994, ASEAN's foreign ministers signalled their readiness to admit Vietnam as ASEAN's seventh member state. At the same meeting, they also pledged to enhance participation of Vietnam and Laos in ASEAN cooperation schemes so as to "facilitate […] their preparations for eventual membership in ASEAN" (ASEAN 1994). This not only indicates that the member states saw Laos as eligible for accession. In effect, it also represents a sort of a minimal, informal pre-accession strategy.

Liberal democracy? The disputed case of Myanmar

In some respect, Vietnam was an easy test for ASEAN's boundary institutions, as the country had become an overall stable and well-recognized state by the mid-1990s. Myanmar and Cambodia should prove to provide a much more profound challenge because of the criticism their regimes faced from Western actors as well as their problematic human rights records and lingering internal instability. Accordingly, the question that ASEAN officials faced was whether liberal democratic standards, specifically respect for human rights, and/or the internal resilience of a country should play a role in the assessment of accession candidates.

During much of the 1990s, the Myanmar military junta of the State Law and Order Restoration Council (SLORC) was the object of heavy criticism from the West for its disrespect of democratic and human rights principles. In ASEAN, meanwhile, liberal democracy played an ambivalent role. The organization first officially acknowledged the importance of human rights as a universal principle in 1991 but emphasized that their "implementation in the national context should remain within the competence and responsibility of each country" and "that the international application of human rights be narrow and selective nor should it violate the sovereignty of nations" (ASEAN 1991).

Whether such vague and stunted statements are enough to see an embryonic primary institution of human rights in them is debatable, but it becomes apparent liberal democracy also had champions within Southeast Asia, and there was indeed a lively debate on how assertive the organization should be towards Myanmar. Against Philippine and Indonesian will, Myanmar was not invited to the 25th AMM in 1992. The granting of ASEAN observer status – originally planned for 1993 – was delayed until

1996 (Acharya 2001: 111–112). The Malaysian government urged Myanmar to move forward on political liberalization (Acharya 2001: 112), and when the military junta cracked down on the oppositional National League for Democracy in 1996 and 1997, this prompted Malaysia's then Foreign Minister Abdullah to publicly put Myanmar's planned accession by 1997 into doubt (Narine 2002: 115–116). The Thai foreign minister at the time, Amnuay Viravan, suggested that the SLORC should move ahead with the democratization of the country before it could be admitted to ASEAN (Chin 1997), and his successor Prachuab Chaiyasan likewise argued that the domestic situation was an important factor to consider (Stewart 1997).

However, these arguments never became a consensual view of ASEAN governments, let alone an official ASEAN position. Even critical member state representatives were sometimes reluctant to explicitly refer to liberal democratic standards when justifying their warnings. As Narine (2002: 115–116) points out, "[t]heir reservations were expressed as uncertainty over Myanmar's ability to meet the conditions of the ASEAN Free Trade Area (AFTA), but they actually revolved around Rangoon's domestic conduct." In other words, they used functional arguments for their reluctance while refraining from invoking legitimacy criteria that could be seen as compromising national sovereignty.

As a consequence, liberal democracy did not become a part of ASEAN's standard of membership, and Myanmar was admitted alongside Laos – which was never seen as a problematic case – in 1997. Officials justified this move by referring to the primary institution of non-interference. Singapore's Prime Minister Goh argued that "we have always taken a position that the internal situation of a country is that country's concern", and then Philippine President Fidel Ramos stated that "as far as the internal politics within each country, well, we did not begin Asean by examining that and excluding those that had a different system from ours" (cited in Khandeparkar 1997).[93] The idea that ASEAN must not suddenly change its standard of membership so as to provide equal treatment was echoed by Indonesian Foreign Minister Alatas (cited in Acharya 2001: 112), who argued that "it is impossible for Asean to apply criteria and conditions for Burma's entry which have never been applicable for other members in the past." At the same time, Western criticism was refuted as 'meddling' in Southeast

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[93] This latter quotation is falsely attributed to Goh by Acharya (2001: 112).

Asian affairs (Narine 2002: 114). Southeast Asia's primary institution of anti-hegemonism was thus used as a legitimizing source to ward off external calls for excluding Myanmar.

Domestic political stability? Cambodia's delayed entry

Originally, ASEAN had planned to also admit Cambodia in 1997. However, on July 5th, just weeks before the planned accession, violent conflict broke out between supporters of the First and Second Prime Minister, Prince Ranariddh and Hun Sen. The clashes resulted in the ousting of Ranariddh, who temporarily fled the country, the takeover of governmental control by Hun Sen and the suspension of constitutional bodies such as the Senate, which is why the events have widely been interpreted as a *coup d'état*. In an urgently convened meeting on July 10th, the ASEAN foreign ministers decided to delay Cambodia's entry (ASEAN 1997a).

This decision stood in stark contrast to Goh's statement made only a couple of weeks earlier that "the internal situation of a country is that country's concern." How could the organization justify the move when it had just rejected the application of liberal democratic standards in the case of Myanmar? Looking at the documents related to the Cambodian question, it becomes apparent that issues of democracy and human rights are virtually absent. Rather, the criticism focuses on the instability of the domestic political order and the ensuing security threats. The meeting of the ASEAN Standing Committee just three days after the *coup* produced a statement that deplored the impact on the well-being of the Cambodian population:

> ASEAN is dismayed by and deeply regrets the unfortunate turn of events in Cambodia, resulting in the loss of innocent lives, both of Cambodian citizens and foreigners. ASEAN calls for an immediate ceasefire. ASEAN also calls upon the Government of Cambodia to take immediate steps to ensure the safety of foreign nationals and provide protection to their properties in that country. ASEAN further calls on the two co-Prime Ministers, the 1st Prime Minister Prince Ranariddh and the 2nd Prime Minister Hun Sen, to resolve their differences peacefully. The Cambodian people have suffered from conflicts for the past two decades. (cited in Severino 2006: 58).

In subsequent statements, ASEAN officials described the peaceful resolution of the conflict and the return to constitutional politics as a precondition for resuming the accession process. Malaysia's Foreign Minister Abdullah said: "All that we want to see is that the government is in place, the coalition will continue, that the national assembly

will not be dissolved" (cited in Agence France Presse 1997). Singapore's then Foreign Minister Shunmugam Jayakumar condemned the use of force as a means of political contestation and demanded a peaceful resolution of the conflict as well as respect for the constitution (Acharya 2001: 116; Kassim 1997; see also ASEAN 1997b).

Notably, this language refrained from using notions of liberal democracy or human rights, focusing instead on the need of ASEAN member states to be able to uphold the constitutional order, the rationale being that domestic unrest would eventually threaten the stability of all the regional states (Acharya 2001: 116–117). The notion that 'national resilience' – taken to mean *domestic political stability* – and 'regional resilience' were intertwined had a certain tradition among ASEAN countries (Amer 1999: 1033; Leifer 1996: 14–15) and had first been officially acknowledged in the Declaration of ASEAN Concord:

> The stability of each member state and of the ASEAN region is an essential contribution to international peace and security. Each member state resolves to eliminate threats posed by subversion to its stability, thus strengthening national and ASEAN resilience. (ASEAN 1976)

Initially, however, this did not imply any prescription for the way in which ASEAN member states were governed. For example, ASEAN had remained silent on the events surrounding Marcos' rule under martial law and the blatant election fraud in 1986 in the Philippines. It also did not speak out against the *coup d'état* by the so-called National Peace Keeping Council in Thailand in 1991 (Chalermpalanupap 1999). All in all, the concepts of national and regional resilience had represented more of a security doctrine directed against the subversion of the established regimes, not an intrusive criterion of legitimacy.

Only in the context of Cambodia's accession did domestic political stability become elevated to a primary institution of the organization's standard of membership. This implied in particular a proscription of unconstitutional changes of government. The ASEAN foreign ministers first expressed this view in 1991, when they demanded "that no Cambodian party should be allowed to seize or retain power through force of arms" (ASEAN 1991). After the 1997 incidents, ASEAN officials clearly depicted the violation of this principle as the primary reason for the delay of Cambodia's entry into the organization. Singapore's Jayakumar (1997; see also 1998) was most explicit about

this, counting the imperative of domestic political stability explicitly as one of the "essential principles" of ASEAN cooperation:

> Any unconstitutional change of government is cause for concern. Where force is used for an unconstitutional purpose, it is behaviour that ASEAN cannot ignore or condone. As a principled and constructive Organisation, ASEAN's reputation will be diminished if does not register its dismay and displeasure at certain conduct unacceptable to the international community. […] Recently, ASEAN reaffirmed this position by its quick, collective arid unequivocal response to the recent events in Cambodia […]. The use of force to overthrow the established government is a legitimate concern of the international community because it can also pose a threat to regional stability – a matter of concern to ASEAN.

Alatas (1997) supported Jayakumar's position, describing the "regrettable turn of events in Cambodia which significantly changed the governmental set-up and political situation in that country brought about, unfortunately, by the use of armed force" as a challenge to Southeast Asia as a whole. These statements are remarkable, given that historic evidence for a long-standing norm against *coups* is fairly weak. Rather, ASEAN leaders appear to have introduced the normative justification *after the fact* of Cambodia's temporary exclusion. Still, the notion resonated with the diplomatic community of ASEAN. In what may be the clearest sign of its recognition, the Cambodian representative[94] at the July 1997 AMM, Ung Huot (1997), said:

> I would like to stress that the operation which took place on 5th and 6th July 1997 were not a fighting between the 2 political parties CPP [and] FUNCINPEC, nor between the two Prime Ministers. It was not [a] so-called Coup d'Etat [as] has been alleged, but a legitimate action to prevent Cambodia from slipping into anarchy and a possible second genocide. […] The Royal Government of Cambodia abides by the Constitution, promises to do everything, to maintain political stability, bringing about peace, democracy, the respect of human rights and the freedom of expression in Cambodia.

Rather than rejecting the validity of domestic political stability as a criterion, Ung Huot chose to present his faction's actions as a means to abide by it.

In line with these developments, Cambodia was only allowed entry into ASEAN after elections were held in 1998 – an express demand by the ASEAN foreign ministers (ASEAN 1998) – and a new coalition government had formed. While representatives from Indonesia, Malaysia, Myanmar and Vietnam urged to admit the country at the Hanoi Summit in 1998, the Philippines, Singapore and Thailand insisted to wait until

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[94] Cambodia was still allowed to participate in the AMM as a guest.

the Cambodian Senate was re-established (Singapore Ministry of Foreign Affairs 1998). As a result, Cambodia's accession was further postponed until 1999.

The new emphasis on domestic political stability was in obvious tension with the primary institution of non-interference: How could the politics of a state affect its membership prospects if ASEAN claimed that these were internal affairs not to be interfered with by others? In an attempt to solve this apparent contradiction, some ASEAN leaders tried to introduce legitimizing concepts like 'constructive intervention' and 'flexible engagement', which had different contents but converged on the notion that, in cases where the internal affairs of a member state threatened the security or welfare of the others, a deviation from the non-interference norm would be justified. Describing the rationale of his idea of constructive intervention, then Malaysian Deputy Prime Minister Anwar Ibrahim (1997) wrote:

> We need to 'intervene' before simmering problems erupt into full-blown crises, like the one now unfolding in Cambodia. […] Our noninvolvement in the reconstruction of Cambodia actually contributed to the deterioration and final collapse of national reconciliation. […] That's why we need to consider the idea of 'constructive intervention'.

The concepts would thus have had a similar function as the R2P idea in the UN framework, which clarified that a right to intervene in a sovereign state when a state failed to provide adequately for the security of its population, and thus mediated the tension between the primary institutions of national sovereignty and humanitarian intervention. However, neither constructive intervention nor the slightly less intrusive 'flexible engagement', a term introduced by the then Thai Foreign Minister Surin Pitsuwan (Acharya 2001: 152), were endorsed by the representatives of the other ASEAN member states. The insistence of the proponents that their ideas do "not violate the principle of noninterference in the internal affairs of another state" (Anwar 1997) did not resonate with conservative governments (Acharya 2001: 118; Nesadurai and Khong 2007: 45–46). Furthermore, they were not able to establish horizontal linkages to the existing primary institutions of the Southeast Asian international society. On the other hand, the debate did not result in an easy reaffirmation of the established primary institutions, as Acharya (2001: 156) suggests. The construction of domestic political stability as part of the standard of membership in the Cambodian case could not just be

undone. Instead, without any concept clarifying the relation between the anti-*coup* norm and the primary institution of non-interference, the tension between the two persisted.

In sum, the developments show that the established ASEAN actors rejected market liberalism and liberal democracy as membership criteria but applied the criterion of domestic political stability when assessing the eligibility of Cambodia as ASEAN's tenth member. Since 2006, when the ASEAN Charter was signed, the requirement of domestic political stability is also legally enshrined as a principle of Southeast Asia's regional international society. The Charter counts "adherence to the rule of law, good governance, the principles of democracy and constitutional government." This development heightened the potential for tension on the level of primary institutions as it begs the question of how to mediate between the intrusive logic of the primary institutions of domestic political stability and the non-interference principle, which never ceased to play an important role in ASEAN's enlargement practices. Even when putting off Cambodia's accession, Alatas (cited in Agence France Presse 1997) emphasized – somewhat awkwardly – that ASEAN "did not pass judgement on who is right, who is wrong, who is legitimate or who is illegitimate, or whether there was a coup d'etat."

In the EU case, we have seen that ambiguities in applying the standard of membership resulting from tensions between primary institutions can be mediated in different ways: by differentiating membership statuses, by operationalizing and specifying membership conditions, and by political negotiation. While the first two of these involve secondary institution-building, the third is an alternative to institutionalization on the secondary level. Looking at ASEAN, we can see that it used the strategy of differentiation to a certain extent. It created the ARF as the organizational embodiment of an international society of states that fulfilled ASEAN's substantial standard of membership but not the geographic criterion of Southeast Asianism. The differentiation principle was taken even further in 1997 with the establishment of ASEAN+3, a grouping including the ASEAN states as well as China, Japan and South Korea. However, differentiation was also used in the framework of ASEAN itself. For example, Cambodia's membership perspective was never revoked and it never lost its observer status between 1997 and its accession in 1999. As the observer status usually included a right for candidate states to participate in a number of ASEAN administrative meetings, this secured Cambodia a position between full

participation and non-membership. In another example, ASEAN member state officials pressured Myanmar, which faced domestic civil unrest, to abstain from taking up the rotating ASEAN chairmanship in 2006, effectively degrading it to a second-class member, although this was possibly at least as much a response to external criticism as it was an application of the domestic stability principle.

In contrast to the EU, however, ASEAN's secondary institutional boundary framework remains weakly specified. There was no attempt at operationalizing membership criteria and the Charter provisions also remained very vague in terms of membership conditions. This left a lot of room for political considerations, a fact that became obvious when ASEAN failed to produce a word of criticism, let alone impose sanctions or suspend membership rights, on Thailand after the *coups d'état* in 2006 and 2014. This raises doubts how firmly the primary institution of domestic political stability is institutionalized. Looking to the future, the only ambiguous case remaining is that of tiny East Timor. While the country's government has expressed a wish to become a member, ASEAN officials have been reluctant to come clean about its prospects. As long as its domestic political situation remains stable, other Southeast Asian governments can hardly provide convincing justifications why not to admit East Timor.

7.3   Conclusion

To date, Comparative Regionalism has largely neglected the issue of regional organization enlargement. Existing comparative research focuses on why outsider states chose to join regional organizations. The foregoing analysis expanded on this limited body of research by asking how inside actors redraw the boundaries of regional organizations in cases of enlargement. I argued that the respective regional discourses are connected to a normative process of redefining the regional standard of membership, which defines actor qualities as accession criteria. I found that EU and ASEAN enlargement displayed certain common traits. In both cases, the standard of membership was contested and changed over time. As a further commonality, the standards displayed some ambiguities, which derived from a lack of specification and the question what would happen if candidates only partially fulfilled the standard. This impacted upon the way in which the enlargement of the regional organizations found its expression in specific secondary institutions: the differentiation of membership was an

important way in which the regional organizations translated the ambiguities into concrete provisions.

Apart from these general similarities, the narrative reveals regionally contingent pathways of enlargement. In the EC/EU, the clarity of accession conditionality was comparatively poor in the beginning. Instead, regional actors developed the standard successively as they were confronted with concrete cases of possible enlargement. In this process, the Commission took on an important role through its opinions, the substance of which then found its way into the accession treaties. The Copenhagen criteria were a milestone in the development of the standard; however, they had to be formalized and operationalized through secondary institution-building. The main problems for a translation into secondary institutions were not tensions between individual primary institutions of the standard but the question of partial fulfilment. The establishment of an accession process as well as the launch of the ENP can be seen as a way of resolving this issue by differentiating full organizational membership from membership in the larger European international society (Figure 6).

**Figure 6:   Change in European institutions relating to enlargement**

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┌─────────────────────┐              ┌─────────────────────┐
│ Pre-1990 accession  │              │ Pre-accession       │
│ agreements          │              │ strategy            │
│                     │              │ Eastern Enlargement │
│                     │              │ ENP                 │
└─────────────────────┘              └─────────────────────┘
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Institutionalization   Constitution   Institutionalization

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┌──────────────────────────────────────────────────────────┐
│                  Regional practices                        │
└──────────────────────────────────────────────────────────┘
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Constitution   Institutionalization   Constitution

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┌─────────────────────┐              ┌─────────────────────┐
│ Europeanism         │              │ Europeanism         │
│ Community           │              │ Community           │
│ constitutionalism   │              │ constitutionalism   │
│ Acquis              │              │ Acquis              │
│ communautaire       │              │ communautaire       │
│                     │              │ Liberal democracy   │
│                     │              │ Market liberalism   │
└─────────────────────┘              └─────────────────────┘
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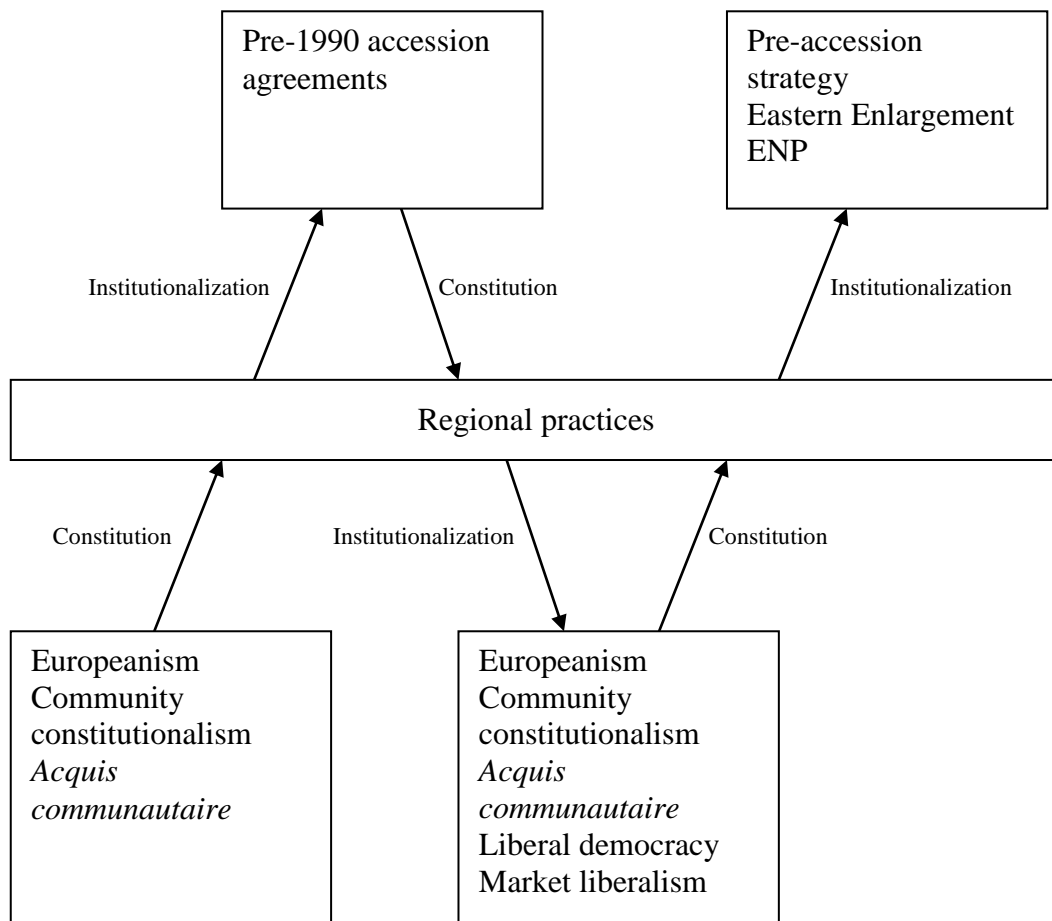
In the ASEAN case, the standard of membership was quite well developed and substantial before enlargement actually became an issue. This standard experienced two main challenges in the 1990s. First, the shock of the end of the Cold War prompted regional actors to debunk the remains of the primary institution of non-alignment which had put a brake on formal security cooperation on the regional level. In connection with this, the primary institution of peaceful dispute settlement was reinterpreted in a way that called for more extensive secondary institutions, which could provide an arena for formal diplomatic exchange on security issues. These changes made possible the institutionalization of the ARF on the secondary level, which – like the ENP in the European case – introduced a differentiation of membership in the regional international society. In the long run, this differentiation may serve to further undermine the existing primary institutions: despite all claims to ASEAN centrality, the new regional forum now includes actors in the discourse that may push for a solidarist revision of the existing standard of membership (cf. Foot 2014: 192–193). The second challenge came from the chance to incorporate the CLMV states into ASEAN. In the case of Cambodia, the regional actors made attempts at introducing a new primary institution of domestic

political stability to the standard, which had its roots in the idea of national resilience. However, the degree to which this norm has been institutionalized remains unclear, as it has not been invoked in response to the subsequent *coup* in Thailand (Figure 7).

Figure 7:   Change in Southeast Asian institutions relating to enlargement
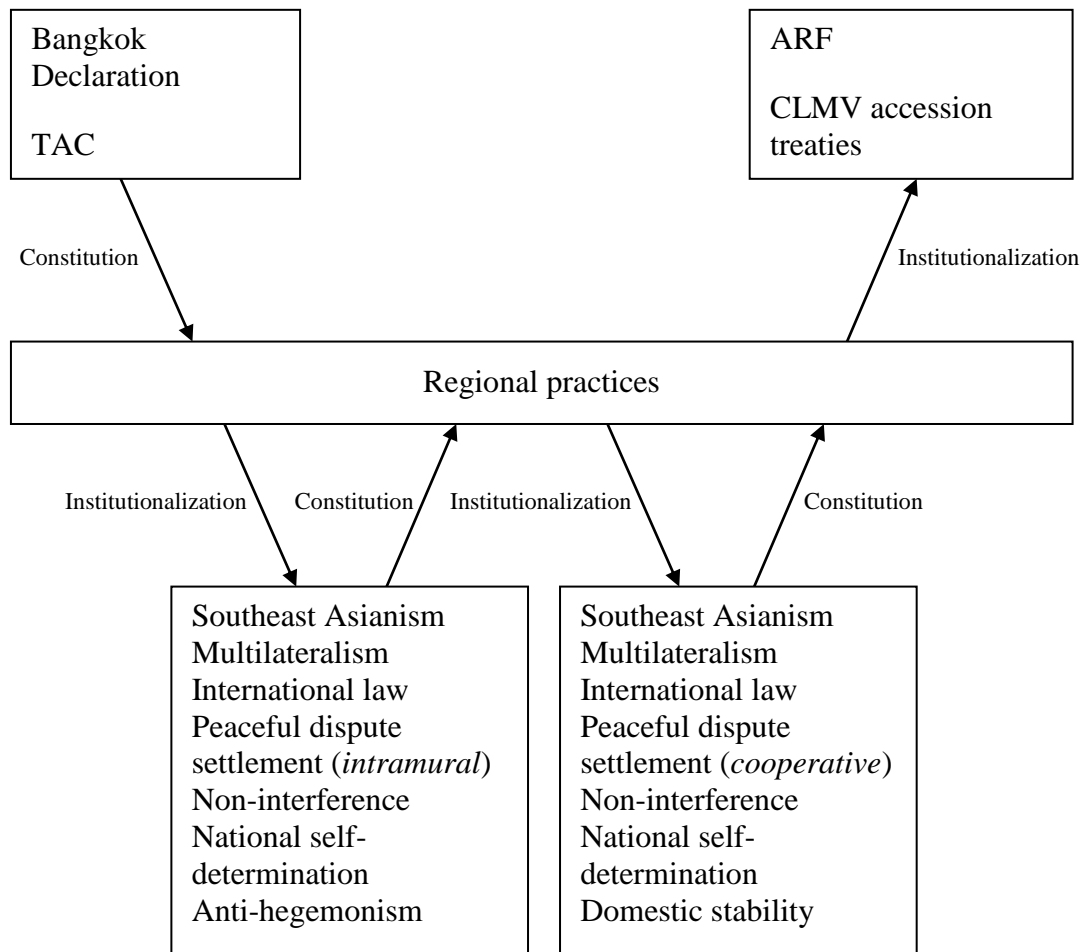
PART III: THE INSTITUTIONAL POLITICS OF REGIONAL INTERNATIONAL SOCIETIES

8 Comparative summary

This chapter presents the main findings from Part II in a comparative perspective. The empirical studies illuminate some of the specific pathways of the rules and procedures of regional organizations in Europe and Southeast Asia (their secondary institutions) by relating them to the parallel development of the respective region's normative deep structure (its primary institutions). The underlying assumption is that the primary institutions inform the discourse on secondary institutions by constituting actors and basic ideas about international conduct and by providing a legitimizing basis for arguments about organizational change.

Four main conclusions can be drawn from the analysis: *first, change in primary and secondary institutions is interdependent; second, the logic of path dependence exerts a strong influence on the development of regional organizations; third, there are different strategies to deal with contestation and tensions in the framework of primary institutions; and fourth, despite these attempts, secondary institution-building itself always includes ambiguities and face contestation.* The following sections elaborate on each of these points in turn.

8.1 Interdependent change of primary and secondary institutions

When actors argue about changes in organizational rules and procedures, they invoke and reinterpret existing norms as well as promote new ones. They are thus able to transform the primary institutional context, making it malleable rather than static. The episodical case studies demonstrate this interdependence of change in primary and secondary institutions. Chapter 5 asks how the emergence of regional organizations was shaped by, and reinforced, the legacy of colonial primary institutions after the Second World War. It focuses on how regional actors institutionalized relations with external actors, arguing that these processes were a necessary – though not sufficient – condition for the emergence of regional organizations. Thus, the analysis showed that the genesis of the EC and ASEAN was accompanied by a redefinition of relations with the respective Other of the colonial era.

In Europe, the question of how to deal with the overseas territories of France and other countries in a potential regional organization was the main source of friction. Underlying the debate was a tension between the primary institutions of national

imperialism and pooled sovereignty. The secondary institution of the Association framework, which maintained relations with the overseas territories but communitarized them, was an attempt at resolving these issues. Subsequently, this secondary institution-building contributed to the demise of national imperialism: it changed the preference structures of the declining empires by redirecting their foreign policy focus towards Europe. The emergent primary institution of developmentalism can be seen as a functional substitute of imperialism, as it also governs asymmetrical relations with external actors. These observations connect to emerging scholarship on the imperial origins of European integration but provide a more fine-grained view: while scholars such as Peo and Hansen (2014) argue that the European integration project was essentially a way of perpetuating colonialism by tying dependencies into the EC, my analysis finds that secondary institutional choices did not simply peg hierarchies but also contributed to their transformation by supporting the institutionalization of new ideas about the EC's relations with the external world, as is evidenced by the recognition of sovereign equality in the Yaoundé Convention of 1963.

The section on Southeast Asia echoes post-colonial literature on the Third World and regionalism in the Global South in that it emphasizes local agency in early regionalism. Like in Europe, external relations were an important focal point of the discussions. One of the central questions among regional political elites was whether a new regional organization should prescribe certain rules with respect to the newly independent states' foreign policy ties to external powers. The notion of anti-hegemonism had emerged as a primary institution out of pan-Asian regionalist discourse in the aftermath of the Second World War. However, it was in tension with a set of primary institutions renouncing the interference in domestic affairs of states, including foreign policy. This conflict impacted on the ultimate shape of ASEAN, where the provisions regarding external relations were limited and vague, while the relation between anti-hegemonism and non-interference remained unresolved.

In Chapter 6, I use the example of legal integration to show how actors used existing regional institutions to push for regionalization. In both regions, the locus of legal decision-making was gradually shifted to the regional level. Only in Europe did this also include the partial recognition of individuals as legal subjects with certain rights with regard to the EU. This development occurred against the background of a tension between the primary institutions of pooled sovereignty and national self-

determination. The analysis confirms findings by legal and institutionalist writers that decisive momentum for the establishment of citizenship rules came from the ECJ, itself a body based on regional secondary institutions. However, it also looks at other pro-integration actors such as the EP, as well as opponents, and how their different positions were legitimized by drawing on existing or promoting new regional norms. The study finds that functional arguments, which are emphasized by many integration and EU Studies scholars, were in fact important but not sufficient conditions for regionalization. Rather, different primary institutions constituting different logics – functional, transnational-democratic and national-sovereign – informed the discursive positions in the debate. Overall, the decisive development was the institutionalization of two new primary institutions: liberal democracy and Community law. These provided a powerful normative reference point for the ultimate inclusion of a citizenship chapter in the Maastricht Treaty.

In Southeast Asia, a counterpart to the ECJ was missing, as was an equivalent to the primary institution of pooled sovereignty. Nevertheless, a vibrant discourse over legal integration developed from the 1990s onwards. Proponents drew mainly on functional arguments based on the economic logic. However, market liberalism was not a firmly anchored primary institution in Southeast Asia, which robbed the functionalist logic of an important normative fundament. Meanwhile, opponents of integration invoked the principles and norms of non-interference and a specific interpretation of the primary institution of peaceful dispute settlement, which rejected intrusion into national sovereignty. This discourse resulted in the creation of new but not particularly authoritative dispute settlement mechanisms within the ASEAN framework.

Chapter 7 illustrates that the redefinition of the two regions' boundaries was pursued in reference to specific normative 'standards' in the respective regional international societies. In contrast to the liberal community hypothesis (Schimmelfennig 2005a), however, it emphasizes that the normative frames of reference can be malleable, ambiguous and differentiated. In both Europe and Southeast Asia, the standard – consisting of a set of primary institutions that defined legitimate membership – was constructed in response to concrete accession inquiries by neighbouring states. In parallel, secondary institutions pertaining to the regions' boundaries – accession processes as well as membership statuses – were created to apply the respective standard. In Europe, the Copenhagen European Council provided a clear definition of

criteria, which consolidated the standard of membership but also begged the question of how to operationalize it, and how to deal with applicants that only partially fulfilled it. The establishment of differentiated membership statuses – evidenced in the development of a pre-accession strategy and the association agreements of the ENP – was the main secondary institutional outcome of these ambiguities in the context of primary institutions.

In Southeast Asia, the redrawing of boundaries was informed by two core problems in the standard of membership. First, changes in the primary institution of peaceful dispute settlement, which was reinterpreted in the spirit of cooperative security after the end of the Cold War, brought it into tension with the primary institution of anti-hegemonism, as the former suggested more inclusive and the latter more exclusive organizational frameworks of security cooperation. As in Europe, the result was a differentiation of membership statuses, which materialized in the creation of the ARF. This narrative builds on existing constructivist accounts but also goes beyond their rather simplistic narrative of ASEAN simply exporting its normative framework to the broader Asia-Pacific region. The second core question was whether, in light of the pending incorporation of the CLMV states, the standard of membership should be revised. While liberal democratic principles were rejected as membership conditions, ASEAN member state representatives invoked an anti-*coup* norm to justify the delay of Cambodia's entry into the organization. However, the absence of a clear formalization of this norm in ASEAN's secondary institutions and the organization's indifference over the subsequent *coup* in Thailand suggest that the institutionalization of this primary institution remains contested.

8.2   Path dependence

Previous institutional choices are a main factor for the further development of the institutional configuration of a regional international society. I highlighted in Chapter 5 that Comparative Regionalism cannot properly understand some of the distinct institutional characteristics of Asian and European regional organizations unless it accounts for the way in which processes of decolonization were discursively negotiated at their inception. The EU's Cotonou framework for development cooperation is in part a colonial heritage, as are the provisions in the ARF's documents to secure ASEAN's centrality in the forum.

Path dependence is one of the reasons – alongside the synchronic factors emphasized by conventional Comparative Regionalism – why typical processes in the development of regional international societies such as decolonization, regionalization and enlargement can materialize in different organizational forms. However, the term should not be equated with institutional stasis, as Comparative Regionalism researchers sometimes do (see Section 2.3.1). Through such a theoretical lens, researchers are tempted to overstate continuity, as I have shown for the case of the ARF. While it is true that ASEAN's institutional outreach resulted in the adoption of some of its norms and organizational features in the wider Asia-Pacific region, the creation of the ARF was in fact only possible through abandoning the primary institution of anti-hegemonism and a reinterpretation of the primary institution of peaceful dispute settlement.

Change becomes possible when the feedback effects surrounding the reproduction of institutional configurations – power effects, reification, vested interests and institutional linkages – are disturbed. Such opportunities present themselves when regional actors manage to capitalize on the occurrence of external shocks such as the end of the Cold War before the enlargement of ASEAN and the EU or on endogenous sources such as the institutional tensions summed up in the preceding section. They can then influence the path along which the secondary institutions of a regional organization develop. However, there are limits to change because actors have to take into account the specific normative context which defines the parameters of what can legitimately be demanded.

Seen in such a way, difference between regional organizations presents itself not exclusively as a consequence of different contemporary conditions such as regime types or economic structures, but importantly also as a result of historical conditions and processes. This is not to say that the former do not matter. The more illiberal governments in ASEAN, for example, might still have argued against legal integration out of the desire to maintain domestic political control and guarantee regime security even if non-interference and the traditional non-judicial interpretation of dispute settlement had not been long-standing regional primary institutions. But the fact that they did exist provided them with strong legitimacy, which significantly increased their positional power in the in the discursive struggle against the more pro-integration governments.

8.3 Different types of secondary institutionalization

Despite these path dependencies, institutional development is at no point predetermined. Rather, the analysis in the empirical chapters has illuminated that in all cases under study, different positions on how to reform, abandon or replace existing secondary institutions can be found. As such, the study fleshes out, and transfers to the Southeast Asian and Europe case, the argument by Foot (2014) that secondary institutions are informed by contestation about primary institutions. The way in which these struggles unfold is an important factor for institutional development, and one that always involves an element of contingency. By consequence, the secondary institutions of a regional organization are related to, but not a direct effluence or epiphenomenon of the respective region's primary institutions, as simplistic 'embeddedness' arguments prevalent in Comparative Regionalist arguments about the role of norms would have it.

In all the episodes observed, the primary institutional contexts provided difficult conditions for the creation and reform of regional organizations because rather than being clear-cut and consistent, they provided malleable, competing and ambiguous standards of legitimacy. They empowered different types of actors and constituted divergent hierarchies of authority, as was the case in Europe, where national imperialism and the idea of pooled sovereignty coexisted in the period immediately following the Second World War. They also called for competing policies, as evidenced by the parallel emphasis in Southeast Asia on non-interference and national sovereignty, on the one hand, and anti-hegemonism on the other. Finally, they were usually too vague to prescribe concrete ways of action in a day-to-day application, as the Copenhagen criteria of the EU demonstrate. The case studies reveal that there are basically three ideal-typical strategies in institution-building to deal with such ambiguities, which differ in the political logic applied:

- **Politics of deliberation**: in this type of secondary institution-building, the rules and procedures are changed in a way that creates a framework for deliberation and impromptu negotiation by the concerned actors. A good example are the security implications of the Bangkok Declaration, which provided a framework for regular consultation and remained consciously vague with respect to the role of external security actors in the region, thus leaving the resolution of tensions between the primary institutions of anti-hegemonism and non-

interference/national sovereignty to political considerations in concrete cases.[95] For example, ASEAN would decide *ad hoc* in official meetings of government representatives such as the Ministerial Meetings, whether the conflict with Vietnam over its invasion of Cambodia called for the involvement of the U.S. or should be resolved internally. If this type of secondary institution building dominates, subsequent change hinges on the successful introduction of new normative claims in the deliberative arenas. The reinterpretation of the norms of dispute settlement in Southeast Asia preceding the establishment of the ARF are a case in point.

- **Politics of administration**: a regional organization can also provide formal prescriptions for action as concretely as possible. Rather than specifying rules and procedures which open up discursive space for deliberation, the goal is to minimize uncertainty about how to translate principles and norms into legitimate action. This attempt is visible in the enlargement rules and procedures of the EU developed after the Copenhagen Council in 1993, which tried to specify and operationalize criteria for membership eligibility as well as the details of the accession process. If secondary institutionalization relies primarily on this logic, subsequent change will mainly be driven by functional spillover or unintended consequences of rule-making. For example, the establishment of concrete criteria for EU membership raised the question how to deal with candidates which only partially fulfilled the criteria, and resulted in the differentiation of membership statuses, ranging from full formal accession to association with or without a clear membership perspective.

- **Politics of adjudication**: finally, an impartial authority can be established with the task of evaluating the legitimacy of conduct in debated cases. If uncertainty over concrete obligations in specific cases arises, this body clarifies ambiguities by interrogating the meaning of the primary institutions, judging their relative importance and issuing more or less binding interpretations. Subsequent change on this institutional basis is possible either when the authority demands that

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[95] The term deliberation as I use it here diverges from its use in some works of political theory (see for example Fishkin 1991). In my understanding, deliberation merely describes a process of decision-making based on normative arguing among actors with potentially different beliefs and interests. As such, it does not necessarily take place in inclusive, public settings involving all stakeholders. I thank Michael Giesen for bringing this to my attention.

existing secondary institutions be adapted because they are illegitimate in their current form, or when its case law drives change in the primary institutions. The ECJ's role in driving the constitutionalization of EC law is an instance of the latter.[96]

In the instances observed, European actors tended to choose secondary institutions that emphasized the politics of administration and adjudication to a greater extent than their Southeast Asian counterparts, who relied more heavily on frameworks for politics of deliberation, as is evident from the more informal, non-confrontational and consensus-oriented rules and procedures of most of the ASEAN bodies. This finding resonates to some extent with the numerous characterizations of regionalism in Europe and Southeast Asia as legalistic versus informal or network-oriented (Eliassen and Árnadóttir 2014; Higgott 2014; Jetschke 2009; Jetschke and Katada 2016; Jones and Smith 2007; Katzenstein 2005; Mattli 1999; Yeo 2010). However, the analysis also reveals that a simple dualism overlooks important nuances. Secondary institutions in both regions usually contain elements of all three different institutional logics. For example, dispute settlement in Southeast Asia is largely characterized by political deliberation but it also contains certain judicial elements, as is evidenced by the High Council of the TAC, and it is increasingly being formalized. Even if Southeast Asian actors prefer to settle disputes in bilateral, informal settings, they increasingly have to take the 'shadow of hierarchy' (Héritier and Lehmkuhl 2008), i.e. the possibility of eventual referral to an independent judiciary, into account.

Still, the observation of different approaches to secondary institutionalization is important in terms of difference between regional organizations because, as pointed out, they affect possibilities for further change. More administratively and legally informed secondary institutions tend to have a more subversive impact on the feedback effects surrounding the reproduction of institutional configurations. In other words, they provide more endogenous pressure for change than deliberative secondary institutions. The creation of new bodies with some kind of judicial authority is probably the most effective strategy in this respect because it can alter power configurations and impinge on the positional power of national governments. The judicial body itself can directly

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[96] In his essay on the three types of political rule, Weber (2010) has subsumed the latter two types under the ideal-type of rational-legal authority. However, for the purpose of obtaining a more fine-grained picture of institutional design and its effects, it seems expedient to keep the logics of administrative and adjudicative secondary institutions separate.

promote changes in primary institutions or demand adaption in secondary institutions. As seen in the case of legal integration in Europe, it can also alter the preference structures of domestic actors. Interests can also be realigned through politics of administration because specific administrative rules and procedures distribute privileges in an unprecedented way. This was the case with the EEC's Association framework, which directed the collapsing European empires' foreign policy orientation away from its former overseas territories. If secondary institutions rather provide an arena for deliberation and *ad hoc* negotiation, on the other hand, power effects – meaning the closure of the discursive arena against potential challenges – are strengthened because existing power configurations are formalized and perpetuated, which makes institutional innovation harder.

As a consequence of the reliance on judicial and administrative types of institution-building, 'norm entrepreneurs' in Europe promoting change in primary institutions were often in a favourable position because endogenous dynamics in the context of secondary institutions improved their discursive position. Changes in European organizations therefore often catalyzed further institutional dynamics – endogenous sources for institutional change could thus coincide with exogenous influences such as the end of the Cold War. The dynamics of change in Europe often approximated a template where the discourse surrounding regional organizations translated a certain normative context into corresponding secondary institutions, which subsequently transformed the discursive spaces and positions for the reproduction of primary institutions. Subsequent change on the primary level then in turn led to renewed efforts to reform secondary institutions. In this way, change oscillated between the two institutional levels of the international societies: the creation of the ECJ catalyzed the emergence of Community constitutionalism and democracy as primary institutions, which subsequently provided a conducive context for the institutionalization of citizenship rules in the EU.

While changes in primary institutions were also possible in Southeast Asia, the more deliberative nature of secondary institutions did not disturb the feedback effects in the same manner and therefore mostly served to consolidate, rather than undermine, the normative framework of the region's international society. By consequence, exogenous shocks did not coincide with endogenous institutional dynamics to the same extent as in Europe. This made it harder for progressive actors in Southeast Asia to promote

institutional reforms. These institutionalization practices, in conjunction with the logic of path dependence, help explain why similar external influences could materialize in divergent institutional forms in Europe and Southeast Asia.

8.4   Limitations of institution-building

Despite these findings, I am hesitant to claim that Europe hosts more *advanced* secondary institutions than Southeast Asia. This position, evidenced by characterizations of (South-)East Asian regionalism as 'belated' (Beeson 2005: 978) or 'lagging' behind its European counterpart (Breslin et al. 2002: 11), is questionable for at least two reasons. First, while the empirical findings show that regional international societies may display common macro-phenomena of change like decolonization, regionalization and enlargement, there is no evidence to support the idea of a teleological tendency towards a common template of regional primary and secondary institutions. To the contrary, my study highlights that institutional pathways are contingent and divergent. Absent a common end-point, a gradual measurement of advance is problematic and differences should be understood more in qualitative terms.

Second, it could be argued that Europe's own record of building regional organizations displays too many inconsistencies and ambivalences to be regarded as a particularly advanced model of institutionalization. In fact, in no case under study did secondary institution-building resolve the ambiguities or end contestation on the primary level definitely:

- Decolonization: in Southeast Asia, ASEAN and its predecessors buttressed newly independent states, but differences persisted over their external relations and the exact meaning of the primary institution of non-alignment or anti-hegemonism and its translation into organizational rules. Meanwhile, in Europe, the communitarization of the EC's relations with its former colonies through the Association framework helped abandon national imperialist ideas, but the arrangement continued to face criticism for maintaining neo-colonial centre-periphery structures.

- Regionalization: in Southeast Asia, mechanisms for interstate dispute settlement have proliferated but remain scarcely used, as regional actors prefer to resolve issues bilaterally or refer them to global bodies. In Europe, an independent legal

order and citizenship rights were established, but the latter remain rather circumscribed and fell short of the expectations of many supporters.

- Enlargement: in both Europe and Southeast Asia, regional boundaries have been redrawn. ASEAN has admitted new members and also expanded its normative framework to the broader Asia-Pacific region, but the organization's uneven reactions to the *coups* in Cambodia and Thailand as well as East Timor's unclear future raise the question whether all member states are judged against the same standard. Meanwhile, within the ARF, those pushing for active conflict prevention face opposition by more sovereignty-minded participants who would like to see it as a mere discussion group. In Europe, the EU's enlargement and the creation of the ENP have fundamentally reshaped the continent but questions as to the finality of the EU's borders and its relations to the more peripheral European countries persist.

Against the background of my analytical framework, these mixed records do not appear as failures in institution-building but as a necessary corollary of reproducing institutions in a dynamic and inconsistent normative context.

9 Conclusion

This thesis set out to explain differences between regional organizations by analyzing how regional actors draw on a dynamic regional context of norms when arguing about institutional change. The following chapter critically reflects the strengths and limitations of the analytical approach and points out some lessons for the field of Comparative Regionalism. It then briefly touches upon normative and practical implications before concluding with some suggestions for future research.

9.1 Theoretical reflexion

My study builds upon existing Comparative Regionalism literature, which provides some important cues as to the sources of differences between regional organizations. For example, the existing literature rightly points out that regional organizations are conscious constructions by state representatives, who can draw on differential power resources in their attempts to gear the organizations' rules and procedures towards forms which are consistent with their preferences (Beeson 2005; Webber 2006). Despite the fact that institutions are supposed to fulfil certain functions (Goltermann et al. 2012) and respond to crises (Gillespie 2015), they often seem to be less than optimal solutions to given problems (Jetschke 2009) and develop a 'life of their own' (Moxon-Browne 2015: 69).

While appreciating these insights, I also identify certain weak spots in Comparative Regionalism, especially its a-historicity and the unclear status of norms. Scholars hardly ever acknowledge that the reproduction of organizational structures is interdependent with dynamics in the 'deep structure' of regional international societies. Those approaches that do take fundamental norms into account usually treat them as unmalleable and consistent. In this perspective, regional organizations are 'embedded' in a more or less exogenously given normative context. They are thus ignorant to the way in which the norms themselves are subject to discursive struggles and, as a consequence, may be contingent, dynamic and ambiguous.

In order to fill this gap, I developed an analytical framework that makes it possible to analyze the social mechanisms surrounding the reproduction of institutional configurations in regional international societies. The theoretical apparatus builds upon the English School concepts of primary and secondary institutions. However, I also

undertook some fundamental refinements of the School's established theoretical framework. Drawing on concepts and ideas from social constructivism and historical institutionalism, my study focused on clarifying the relation between primary and secondary institutions by mapping the mechanisms of institutionalization and constitution that reproduce institutional configurations of international societies. The general theoretical argument is that these mechanisms create path-dependent dynamics of institutional stability and change. The concrete manifestation of change in regional organizations depends on regionally specific and dynamic normative contexts, previous choices in secondary institutions and discursive processes. Because of these path dependencies, forces such as global shocks, globalization and diffusion (Börzel and Risse 2012; Börzel and van Hüllen 2015a) can stimulate changes that are similar in form – decolonization, regionalization and enlargement are cases in point – but different in substance.

9.1.1 Contributions to Comparative Regionalism

In all the case studies, this approach provided insights that linked up to existing research but also went beyond existing findings. The empirical chapters highlight that, contrary to common assumptions of Comparative Regionalism researchers, *the normative context of regional organizations is hardly ever static*. Instead, it can be changed in the very process of arguing about the creation or reform of regional organizations. This is especially evident in the section on the enlargement of the EC/EU, where I show that the standard of membership – the set of primary institutions defining necessary qualities of an eligible member – was not the logical by-product of a community-building project of democratic states (Schimmelfennig 2005a) but actively constructed in the process of enlargement.

Comparative research on Southeast Asian regionalism often takes the normative underpinnings of ASEAN for granted and uses them to explain the region's idiosyncrasies subsumed under the buzzword of the 'ASEAN Way' (Narine 2002; Nesadurai and Khong 2007). Although the criticism of such approaches as essentialist (Börzel 2016: 50; Lenz and Marks 2016: 521) is sometimes overstated, I agree that the question of normative continuity or change should be an empirical one. For example, the chapter on legal integration provides some support for the thesis that normative inertia is obstructing change in ASEAN. Without strong pro-regionalization actors, the

primary institutional context remained constant and could not provide a strong legitimizing background to arguments for stronger legalization. On the other hand, when it comes to enlargement, normative change, not stasis, serves to explain the specific secondary institutions which redrew the region's boundaries. Only by dismantling the primary institution of anti-hegemonism and reinterpreting existing notions of peaceful dispute settlement did the institutionalization of the ARF and by consequence the expansion of the Southeast Asian international society into the wider Asia-Pacific realm become possible.

In a further difference from conventional Comparative Regionalism, my study shows that *normative ambiguity is the rule rather than the exception* in regional institution-building. The long struggles over the meaning of non-alignment in Southeast Asia and the constitutional character of EC law in Europe highlight that primary institutions are essentially contested concepts (cf. Costa Buranelli 2015a). The form of regional organizations is not simply the 'reflection' of a regional normative consensus, as the narrative of the 'ASEAN Way' pervading many of the Comparative Regionalist accounts of Southeast Asia suggests, but a result of an attempt to reconcile divergent interpretations in a single organizational framework.

Primary institutions can also be in tension with each other. Emphasizing inconsistencies is more than nitpicking because such tensions can be mobilized to construct pressure for change. One reason why processes of legalization were more dynamic in Europe than in Southeast Asia was because of a strong initial tension between the primary institutions of national self-determination and pooled sovereignty in the former regional international society, as compared to a relatively consistent primary institutional context in Southeast Asia. This sensibility for ambiguities, and the role they have for the reproduction of differences between regional organizations, contrasts with the assumption that organizations directly reflect underlying norms, which dominates existing explanations in Comparative Regionalism.

My study thus holds added value for Comparative Regionalism and makes a case for using English School concepts in this strand of research. Apart from drawing attention to the role of fundamental regional norms in general, the focus on primary and secondary institutions may also help to explain some open questions in the current literature, such as why functionalist explanations seem to work well in some cases but

less so in others (Jetschke and Katada 2016; Korte 2012; Lenz and Marks 2016: 518–519). As the study of legal integration in Chapter 6 revealed, some primary institutional contexts are more conducive to a functional logic of regional organization-building than others. Absent a firmly institutionalized primary institution of market liberalism, functionalist arguments for stronger dispute settlement did not resonate strongly in the Southeast Asian discourse.

The approach also provides an explanation why there is continued resistance to the diffusion of institutional models, be it from the EU towards ASEAN (Jetschke 2009; Wong 2012) or in the form of 'downloading' from a global script (Börzel and van Hüllen 2015a). Diffusion theories claim that regional actors tend to 'localize' norms (Acharya 2009), but they do not usually provide an account for how local predispositions come into being in the first place. Here, a focus on the relation between primary and secondary institutions can disclose how fundamental normative structures limit the adaptability of regional organizations to external influences such as the R2P norm. To be sure, the normative context can be changed, but such change is usually slow and depends on the discursive support of a regional diplomatic community.

Apart from making the case for a fruitful engagement of Comparative Regionalism with English School concepts, my study also provides some evidence that the theorization and analysis of the social mechanisms surrounding the reproduction of international institutions will be of value for the theoretical advancement of the English School itself. Other scholars have also identified this potential and begun to employ it successfully in different research contexts (Friedner Parrat 2015; Knudsen 2013; 2015a). An emphasis on how different actors attempt to assert and maintain definitional power by engaging in normative arguing serves as a reminder that order is not given in international relations but instead international society is an inherently political phenomenon (Spandler 2015).

9.1.2 Potential criticism

Despite this positive evaluation of the approach's viability, I would like to highlight three caveats. First, as indicated already in Chapter 4, producing generalizations is only in a very limited sense possible with this approach. It can uncover differences in historical pathways of institutional development but, because of the reliance on constitutive explanation and contingencies, it is unsuitable for

hypothesis testing or uncovering scope conditions for the development of particular secondary institutions. The comparative summary has aggregated the empirical observations to some more general claims about how the institutionalization of regional organizations in Europe and Southeast Asia accorded primacy to certain political logics. This being said, theoretical generalization was not a goal of the study in the first place. In fact, the very idea of regional organizations following pathways that are connected to a dynamic normative context suggests that general claims are only of a very limited use. Contingencies, not general laws, are the main determinants in the development of regional organizations.

Second, it might be argued that the framework supports certain Eurocentric assumptions about regional governance, a charge frequently launched at regionalist literature (Hurrell 2007b: 133; Sbragia 2008). While my framework is applicable to different spatial contexts, and it can explain differences between regional organizations, the procedural notion of secondary institutionalization could be taken to suggest that cross-regional differences are of a gradual nature. If this perspective is assumed without care, Southeast Asia's regional organizations in general, and ASEAN in particular, may simply appear as underdeveloped versions or imperfect replications of its European counterparts. I tried to sidestep this pitfall by emphasizing the qualitative rather than gradual character of institutional differences. In this view, the merits of specific secondary institutions can only be judged against the rationality constituted by its primary institutional context. Judged against the tenets of a purist Westphalian international society, for example, the seemingly progressive secondary institutions of present-day Europe may inspire fears of a dangerous neo-medievalism and ever-contested authority (Zielonka 2006).

As a third caveat, some might argue that the framework is overly complex. This critique has two aspects. First, could not equivalent results have been produced using a simpler analytical framework? Second, does not the multi-layered and process-oriented character of the approach make its empirical application difficult? In response to the first question, I would argue that a mere descriptive re-narration of the development of normative references in arguments about rules and procedures in regional organizations would have missed out on a lot of explanatory potential: without an analysis of the interlinking mechanisms, it would have been considerably harder to disclose *why* the development of certain secondary institutions drove normative change, and *vice versa*.

The analysis would have disclosed that actors arguing for legal integration gained the upper hand in Europe while those in Southeast Asia failed to do so, but it would have been largely blind to the way in which existing normative frames favoured some actors and some arguments over others. By analyzing the effects of endogenous and exogenous influences on the discursive positions of the involved actors, a mechanism-based inquiry offers answers that connect the macro-perspective of institutional patterns with a micro-perspective of agency in discourses (cf. Bennett and Checkel 2015a: 3–4).

The second part of the critique concerns its practicability. Examining the parallel development of primary and secondary institutions over time but also about the social mechanisms of their reproduction is already an arduous task. Translating the findings into a coherent narrative is at least equally as challenging, in particular because there is a certain trade-off between providing detailed accounts of discursive processes and keeping the big picture in view. This dilemma is common to approaches transcending the micro-macro divide and cannot be entirely resolved. It may, however, be mediated by narrowing down the empirical scope of the study to certain key aspects of institutional change, as I did in my case studies. Focusing on specific institutions rather than the institutional configuration of the regional international societies as a whole allowed me to keep the complexity and extent of the analysis at a manageable level.

9.2   Normative and practical implications

The findings of this study gain relevance in light of the increasing importance of regional organizations in international relations, which are both complementary and in competition to national and global forms of international governance. An analysis of the historical development of organizational differences is important not least because it informs our normative assessment of them and may prevent 'integration snobbery' (Murray 2010). It does so, first of all, by contextualizing their genesis and directing our expectations of change. Seeing how an ambiguous normative framework and previous institutional choices influence options for change makes it clear that regional organizations will not perfectly respond to economic or security demands because functional considerations are hardly ever the only rationality at play in discourses surrounding regional organizations. Certain rules and expectations may appear as suboptimal in terms of input responsiveness or output performance but are nevertheless rational if you trace the dynamic normative background and the institutional history in

which they developed. If the context of primary institutions displays fundamental tensions, there is no silver bullet for the makers of regional organizations, no institutional choice that will simply resolve all contradictions.

Going a step further, the study reminds us that the very criteria of a normative assessment are malleable and subject to political argumentation. Non-intrusive secondary institutions may be desirable for a regional international society which sees national and regional resilience as deeply intertwined aspects of regional order, but unsatisfactory for one in which the pooling of sovereignty is a central principle. This relativism does not imply that any criticism of institutional configurations is ruled out. On the contrary, the focus on the social mechanisms of reproducing institutional configurations prevents a reification of regional governance configurations as *sui generis* in an essentialist sense. By paying attention to structural hierarchies in institutional configurations, the role of power effects in their reproduction and different positions within the discourses on institutional change, the analytical framework may point to the role of norms in reproducing institutional inequalities, silenced voices and possible alternative institutional pathways.

Turning to practical implications, an acknowledgement of the relation between primary and secondary institutions is especially important from the vantage point of the EU with its ambitions to act as a normative power abroad (Ahrens and Diez 2015; Manners 2002) and to diffuse its institutional model to other regional organizations (Börzel and Risse 2012; Jetschke and Murray 2011; Wong 2012). There is some well-founded scepticism as to the desirability of these ambitions (Diez 2013), but if one accepts the transformative potential of an instrumental approach to international institutions, two lessons can be drawn. For one, organizational and normative diffusion both need to go hand in hand. Wherever an EU institution is adopted without normative transformation, as in the adoption of an ASEAN Charter modelled on the EU's legal foundations, this may result in hollow organizational forms that are disregarded in practice (Jetschke 2009; Jetschke and Rüland 2009).

While the EU is not in a position to impose the necessary normative adaptations on other regions (Lenz 2013), new secondary institutions may eventually result in corresponding normative change. However, the study highlights the importance of discursive agency by *local* actors in this process. The second lesson is thus that the EU

will promote sustainable change abroad best if it helps to create an institutional context in which such local agents are empowered to promote further institutional change themselves. In this view, it is not important that reforms bring other regional organizations as close to the EU model as possible, but that they give a voice to regional agents who may act as norm entrepreneurs. Further adaption of organizational rules and procedures – and policies – in accordance with the EU's goals is then possible in the long run.

9.3   Future research

Like institutional choices may open up possibilities for further change, this study creates pathways for further research. I would like to conclude this study by highlighting and briefly discussing four of them. First, possibly the most obvious option would be to apply the theoretical framework to other regions than those covered in this study. Besides broadening our ideographical knowledge about the development of regional organizations around the world, this could also support theory-building – in spite of the scepticism expressed above regarding the generalizability of processes of change in regional organizations.

For example, it seems plausible to assume that certain aspects of Southeast Asia's institutional trajectory – the tension between Westphalian notions of international society and prescriptions about foreign policy relations with external hegemonic powers, as well as a certain preference for politics of deliberation in regional organizations – are common traits of post-colonial regional international societies of the Global South (cf. Fawcett 2015: 41). If an analysis of regional international societies in Africa, Latin America or elsewhere reveals similar processes, it might be justified to create ideal-types or taxonomies in the development of regional organizations. Knowing more about primary and secondary institutions in other parts of the world may also help designing more rigid comparative research designs than the looser, more illustrative case studies employed in my thesis.

A second avenue is the question – left largely unaddressed in my study – how differences in regional organizations relate to dynamics on the *global* level of international society. At least since the advent of the New Regionalism wave, the nexus between regionalism and global governance has become an important point of attention in the field. Scholars have discussed the relation between the two levels from both

normative and empirical vantage points. Two aspects of this research have obvious contact points with my study. From a top-down point of view, regional institution-building may be, at least partly, a reaction to developments on the global level. Building regional organizations, in this view, can take the form of a political intervention to the 'defence of society' (Hettne 2003; see also Falk 2003; Gamble and Payne 2003; Hay and Rosamond 2002), i.e. a dialectical response to the contested forces of globalization. Alternatively, however, regional organizations can also be seen as an expression of the desire of regional actors to participate in, rather than shut out, the global economy (Bowles 2002; Higgott 2014; Hurrell 2007a: 244–245).

In either case, discourses on regional institution-building will have to integrate different normative underpinnings and their regional organizations will have to satisfy competing standards of legitimacy. An example is the reconciliation of the globally promoted institution of market liberalism with the strong emphasis on national sovereignty in the organizational framework of 'regulatory regionalism', the idea of "closer integration through the development of *common* national 'regulation' rather than regional institutions building" (Higgott 2014: 101, emphasis in original), in East Asia. However, the logic applies not just in the economic realm. Future research could analyze how these tensions are translated into particular organizational forms, and whether regional organizations may also help transforming primary institutions on the global level.

A further interesting strand of research on the regional-global nexus takes the reverse point of view, asking about the implications of the continuing pluralism in regional norms and policies for global governance. Again, much of this literature focuses on economic issues (Bhagwati 2008; Breslin et al. 2002: 6–8; Melo and Panagariya 1992), but the central questions also apply to other realms (Buzan 2004: 213–214; Hettne 2003; Hurrell 2007a: 239–261): can regional differences be reconciled because they embody a general trend towards a post-Westphalian international order? Are they building blocs of a regionalized world? Or are they symptoms of fragmentation, containing essentially competing visions of international cooperation and potentially leading to a Huntingtonian 'Clash of Civilizations' (1993) undermining global international society?

Adapting the analytical framework of this study, one can say that much depends on whether and how global secondary institutions manage to accommodate a variety of regionally specific primary institutional contexts. This concerns not only instances where primary institutions are in obvious contradiction to each other, as is the case with pooled sovereignty *à la* Europe and non-interference *à la* Southeast Asia. These are fundamental differences but they are also easily recognizable and may therefore be addressed in a straightforward way. In a different vein, Costa Buranelli (2015a) has pointed to the problem of 'polysemy', i.e. the mutual endorsement but diverging interpretation of the same primary institution by actors from different regions. For example, the R2P norm may be endorsed by EU and ASEAN representatives but filled with different meanings. These subtler differences may actually be more difficult to mediate in secondary institution-building on the global level because the involved actors appear to be on the same page nominally, while there are actually momentous inter-regional differences at play.

Third, I have already briefly pointed to some normative implications of the principally empirical exercise of this analysis. This agenda could be expanded upon by more specific normative theorizing. For example, future research could judge the legitimacy of regional organizations against the background of the inclusiveness of the discursive processes or by discussing whether some ways of dealing with institutional tensions on the primary level by means of secondary institution-building are more desirable than others. Diez and Whitman (2002a: 51–55) have pointed out that tensions in regional international societies may have implications for the legitimacy of regional organizations. It could be instructive to discuss whether certain primary institutions should be considered more important than others[97] and therefore accorded primacy in the shaping of regional organizations, and whether administrative and judicial strategies of mediating primary institutional ambiguities are to be preferred over deliberative ones. Based on such an exchange, scholars could then turn to identifying the conditions under which discourses will lead to institutional forms that satisfy central criteria of legitimacy.

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[97] Ideas about a normative hierarchy between primary institutions can be found classically in Bull's (1977) preference for order over justice and more recently in Schmidt's (forthc.) discussion of the role of *jus cogens* as a primordial norm in international society.

Finally, any further research in the pathway of this study would benefit from a refinement of the methodological toolbox of analyzing the social mechanisms of surrounding the reproduction of primary and secondary institutions. A number of scholars working in the field of IR methodology have recently tried to raise the validity standards in the analysis of social mechanisms also for those working within an interpretive methodological paradigm and to provide them with the appropriate tools (Bennett and Checkel 2015b). For example, it could be explored whether a more rigid adoption of process-tracing methods is possible (Costa Buranelli 2015b). Inspiration from these methodological forays could help reduce the dependence of the analysis of feedback effects on secondary sources, i.e. existing academic literature, and allow for a more empirically grounded reconstruction of events as they unfolded.

This roughly sketched research agenda can go a long way in equipping researchers with the theoretical and normative sensorium necessary to face the challenges that lie ahead. For it is fair to assume that normative divergence and contestation in world politics will not magically disappear, and that regionalism will remain an important way in which these differences manifest for the foreseeable future. As Bull (1977) famously noted, pluralism in international society can be both a desirable model of international order and a source for conflict or injustice. IR scholars thus need to continue studying how normative change on the regional and global levels may contribute to or be driven by frictions between political actors which claim to represent different constituencies, and theorize how this affects chances of achieving a more just world order.

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