EU rules beyond EU borders: theorizing external governance in European politics
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ABSTRACT The concept of external governance seeks to capture the expanding scope of EU rules beyond EU borders. This article elaborates the theoretical foundations of this concept, differentiates the various institutional modes through which external governance takes place and suggests a set of hypotheses addressing the conditions under which EU external governance is effective. Here, we contrast institutionalist explanations, which are the most germane to an external governance approach, with competing expectations derived from power-based theories and approaches emphasizing the role of domestic factors in the target countries.

KEY WORDS Association policy; external governance; foreign policy; neighbourhood relations.

INTRODUCTION

The development of the European Union (EU) towards a political system *sui generis* has gone along with an increasing international presence. This finds expression in the Union’s influence on third countries and international affairs more broadly. Apart from its attempts at co-ordinated external action through the common foreign and security policy (CFSP), the EU has developed a wide array of external relations which reach from the traditional field of external trade to democracy promotion and co-operation in various policy areas falling under its legislative competence. Since the basis of EU external action is usually the *acquis communautaire*, the ongoing constitutionalization of European values and the deepening integration in traditional fields of domestic politics such as environmental, competition or immigration policy are also rapidly developing an external dimension, which consists in the attempt to transfer the EU’s rules and policies to third countries and international organizations. It is this extension of internal rules and policies beyond formal membership that the notion of external governance seeks to capture (Lavenex 2004).

The most prominent case of external action based on the projection of the EU *acquis* is enlargement, the EU’s most successful foreign policy according to the European Commission (2003: 5). The experience of enlargement is illustrative of both the magnetic force of European integration and the transformative...
power of its norms on candidate countries (see, e.g., Grabbe 2005; Schimmelfennig and Sedelmeier 2005). Yet whereas the ‘externalities of European integration’ (Lavenex and Uçarer 2002) persist, and interdependence with the surrounding world creates the need for further external engagement, the ‘enlargement model’ might soon reach exhaustion. Therefore, the notion of external governance is both an attempt at conceptualizing important aspects of the EU’s international role and a step towards analysing forms of integration into the European system of rules that remain below the threshold of membership.

EU external governance varies across countries, regions, and also policy fields. It is sometimes part of an overarching foreign policy initiative, such as the European Economic Area (EEA) or the European neighbourhood policy (ENP). It may be based on bilateral co-operation agreements such as with Switzerland. It may emerge in the context of less constraining co-operation frameworks, such as in the relations between the EU and the African, Caribbean and Pacific (ACP) countries or with North America, or it may exist without overarching contractual relations at all as a function of the prescriptive qualities of the EU acquis, often limited to a specific area of public policy. Here, external governance can also emerge spontaneously when mutual interdependence is high and adaptation to EU templates meets the interest of third countries or international organizations.

Theoretically, the notion of external governance has been inspired by debates in international relations (IR) and comparative politics and combines these with newer approaches to EU external relations. It is a general characteristic of the external governance literature that it rejects the (sometimes implicit) projection of the unitary state actor model on to the EU and deviates from traditional foreign policy analysis by adopting a more institutionalist view.

In this collection of articles, we seek, on the one hand, to describe and compare the modes and effects of external governance in various policy fields and areas of EU external relations. On the other hand, we strive for explanations. Why do modes of governance differ across policies and third countries? Under which conditions are they effective? To answer these questions, we explore three sets of factors: institutions, power, and domestic structure. According to the institutionalist explanation, which is the most germane to the external governance approach, the modes and effects of external governance are shaped by internal EU modes of governance and rules. By contrast, the power-based explanation attributes the modes and effects of EU external governance to EU resources vis-à-vis, and interdependence with, third countries and to alternative poles of governance and influence, namely the United States and Russia. Finally, the domestic structures of third countries may condition the modes of external governance and their effectiveness. Exploring these sets of factors will help us to answer the ‘big question’ of external governance: to what extent is the EU able to integrate its external environment into common systems of rules?

This introductory article discusses the foundations of the external governance approach and elaborates the conceptual and theoretical framework for the
contributions. We start with a short paragraph on the empirical dynamics behind the advent and intensification of the phenomenon and then turn to the theoretical roots of the concept. In the main part of the article, we attempt to synthesize existing analytical approaches in order to formulate hypotheses regarding the modes and effects of EU external governance. The article ends with a synopsis of the contributions and a summary of the main findings.

EXTERNAL GOVERNANCE AS AN ANSWER TO COMPLEX INTERDEPENDENCE

Several developments sustain the further expansion of external governance. The first and probably most influential one is the historic enlargement of the EU to nearly twice its size in 2004 and 2007 and the possible admission of a few more new member states in the near future. The second trigger is the need to address interdependence with neighbouring countries, and a third, less purposeful dynamic results from the external effects of integration as such.

There are a number of reasons to assume that enlargement will cease to be the predominant EU mode of dealing with its neighbouring countries. First, enlargement is becoming a victim of its own success. With each enlargement, the number of ‘European’ non-member countries that qualify as potential member states decreases and the debate on where ‘Europe’ ought to end becomes more divisive. Second, the massive enlargements of 2004 and 2007 have triggered strong concerns about the EU’s ‘integration capacity’ and the fitness for membership of some new member states. Third, and relatedly, the remaining potential candidates for membership face more difficult problems in meeting the conditions for accession than recently admitted countries. Their transition to liberal democracy has been slower and less successful. In part, ethno-nationalist conflicts and contested statehood bear responsibility for their transition problems. In addition, their administrative and judicial capacities – crucial for effective EU governance – are weak. Fourth, and finally, there is one group of countries including Norway and Switzerland that would easily meet the conditions but failed to join because of persistent popular opposition to EU membership. For all these reasons, the policy of enlargement is likely to lose its momentum and recede into the background in the near future.

Whereas the relevance of enlargement may be decreasing, this does not necessarily hold true for the depth of interdependence and the intensity of EU relations with its neighbourhood. This not only prompts the EU to develop policy strategies and arrangements beyond enlargement. It also requires students of EU policy to broaden the scope of their research. In the context of enlargement, and in view of the massive policy transfer and adoption required ahead of membership, studies of EU governance and ‘Europeanization’ have already expanded from their previous focus on the member states to the accession process and the candidates for membership (Friis and Murphy 1999;
Grabbe 2005; Schimmelfennig and Sedelmeier 2005). More recently, they have started moving beyond the candidates for membership (see, e.g., Lavenex and Uçarer 2002, 2004; Lavenex 2004, 2008; Weber et al. 2007).

Whereas enlargement minimizes variation in the content, validity, and organizational context of European governance rules (except for transitional periods), the study of external governance beyond enlargement needs to take into account that there is more than one institutional solution to EU–third-country relations. This is also true for the tools that the EU has at its disposal in dealing with third countries. Early studies that applied the notion of external governance to the context of EU enlargement emphasize the predominance of ‘governance by conditionality’ (Schimmelfennig and Sedelmeier 2004). That is, the geographic, territorial expansion of EU rules was mainly driven by the conditional promise of EU membership. Other ‘models of Europeanization’ such as social learning or lesson-drawing were found to be only marginally relevant in the accession process (Schimmelfennig and Sedelmeier 2005; Sedelmeier 2006). Now that accession is becoming less of an option, accession conditionality is losing its predominance and other mechanisms and conditions of governance and Europeanization require renewed and increased attention. Hence the need to analyse and explain highly differentiated relations between the EU and third countries and extremely varying sets of rules negotiated and agreed between them.

Finally, the interest in external governance is spurred by certain qualities of the acquis communautaire itself and the externalities it produces. EU norms and rules may even gain prescriptive qualities towards third countries and/or their citizens by default, that is, without purposeful policy transfer on the part of the Union. The most spectacular case in point is the EU’s competition policy which not only applies to mergers, acquisitions, and cartels within the EU but also to firms like Boeing or Microsoft based outside Europe. More generally and less visibly, however, it affects all countries and firms with an interest in exporting to the EU market (see, e.g., Bach and Newman 2007; Princen 2003).

THEORETICAL FOUNDATIONS OF EXTERNAL GOVERNANCE

In contrast to analyses of EU external relations, which mostly adopt an agency-based perspective on the EU’s performance as a foreign policy actor, the governance approach promotes a more institutional, structural view. Traditional accounts of EU foreign policy usually converge in underlining the Union’s limited capacities owing to the lack of formal competences, legal authority, power resources or strategic coherence (e.g. Hill 1993; Smith 2003). By contrast, from a governance perspective, the point of reference is not the (often implicit) unified state actor model of traditional foreign policy studies but institutional processes of norm diffusion and policy transfer. This change of perspective and the focus on rule expansion also imply a shift in the unit of observation. Whereas a foreign policy perspective concentrates on countries or regions as
units of analysis, the governance perspective takes systems of rules as its point of departure. It addresses the external dimension of the internal process of integration and hence adopts a sectoral optic on norms, policies and regulations and their external dimension.\(^2\)

The notion of governance is particularly suitable to grasp this process of rule expansion beyond formal membership in the EU polity. We understand ‘governance’ as institutionalized forms of co-ordinated action that aim at the production of collectively binding agreements (Benz 2007; Mayntz 2005; Scharpf 2000). While the term has seen a fabulous career throughout the social sciences, our understanding of governance is inspired by its origins in the fields of IR and comparative politics. In IR, the term governance was introduced to conceptualize the emergence of political order at the international level in the absence of a global public regime let alone a world government (Rosenau 1992). Whereas the politics of international governance may involve a variety of actors (intergovernmental, public–private, private, international), the policies produced reflect a degree of legalization (including soft law) and socialization (referring to shared understandings) that goes far beyond the absence of political order assumed under the premise of anarchy. When applied to EU external relations, the governance approach implies a high degree of institutionalization and the existence of a common system of rules beyond the borders of the EU and its formal, legal authority.

The comparative politics sources of the term governance derive from its opposition to the notion of ‘government’ and reflect a broader transformation from the interventionist to the co-operative state (Jachtenfuchs 2001; Mayntz 2005). This transition finds its expression in the specific institutional modes through which governance is exerted, i.e. its horizontal instead of hierarchical nature, its focus on process rather than output, the emphasis on voluntary instruments in contrast to legal obligations, and its inclusive character, providing open fora for the inclusion of stakeholders and, in many sectors, private actors. As pointed out by Renate Mayntz, a key characteristic of governance is the vanishing distinction between the subject and the object of political steering (Mayntz 2005). In this context, the institutional form of governance arrangements is usually associated with a network constellation which delineates the horizontal, participatory, flexible, and inclusive structure of governance frameworks in contrast to the vertical, bureaucratic notion of hierarchical government.

Taken together, the move away from traditional realist or intergovernmentalist notions of ‘anarchy’ in IR and from the hierarchical model of government in comparative politics provide a useful basis for conceptualizing processes of institutionalization within and around the EU. Whereas internally the governance approach has been invoked to challenge the traditional ‘Community’ or ‘Monnet method’ of integration (based on the quasi-hierarchical supranational formulation of binding European Community (EC) law – see Héritier 2002: Tömmel 2007), externally it has increasingly been invoked to conceptualize a deepening of EU external relations based on the widening of the prescriptive
scope of EU policies and rules beyond formal membership (Friis and Murphy 1999; Lavenex 2004, 2008; Weber et al. 2007). The external modes of governance reach from more hierarchical settings that involve third countries’ adaptation to a predetermined and legally constraining *acquis* (often by the use of conditionality) to ‘new governance’, i.e. more horizontal forms of network governance and communication in which rule expansion progresses in a more participatory manner.

This rule expansion can be conceptualized as shifts in the regulatory and organizational boundaries of European governance. The regulatory boundary refers to the extension of the regulatory scope of EU rules or policies to non-member states, while the organizational boundary refers to the inclusion of non-member states in EU policy-making organizations. Whereas it is true that, under the Community model of hierarchical integration, organizational inclusion is only conceivable with full membership, the advent of different forms of governance within the EU, in particular network governance and the proliferation of functional policy-making organizations (e.g. agencies such as the European Aviation Safety Agency or the European Agency for the Security of the External Border – Frontex), has opened up new opportunities for organizational inclusion below the level of the central legislative authorities. Thus, for a basic definition, ‘external governance takes place when parts of the *acquis communautaire* are extended to non-member states’ (Lavenex 2004: 683). This external governance can, however, also develop participatory elements and hence move closer towards alternative forms of integration when regulative expansion is accompanied by the opening-up of organizational structures of policy-making. This is possible especially in areas governed by horizontal, participatory and process-oriented modes of policy-making, often referred to as ‘network governance’. In this case, i.e. when third countries participate in the definition of relevant EU policies, we can speak of extended governance. Although we find this form of mutual influence most prominently in the relations with the western neighbours, instances of network governance can also be observed with ENP countries (Lavenex 2008).

**MODES OF EU EXTERNAL GOVERNANCE**

This special issue seeks to provide answers to two sets of questions. First, which modes of external governance prevail in various policy areas and regions, and why is this so? In addition, we seek to identify the effects of external governance and to specify the conditions under which these effects are produced.

Drawing on an analogy with ideal types of governance in political systems and previous conceptualization by Lavenex et al. (2007), we distinguish between three basic institutional forms: hierarchy, networks, and markets. These institutional forms act as opportunities and constraints on actors’ modes of interaction and hence have repercussions on the mechanisms of rule expansion. The modes of governance are a heuristic device for analysing the ‘macro-level’ of EU–third-country relations, referring to overarching institutional structures
such as the EEA, the ENP, or negotiated bilateralism (Switzerland), and/or sectoral patterns of external governance at the ‘meso-level’ of individual policy fields.

Hierarchical governance takes place in a formalized relationship of domination and subordination and is based on the production of collectively binding prescriptions and proscriptions. In the modern state, this function is exerted through legislation, that is, the definition of authoritative, enforceable rules whose violation may be sanctioned. Both the institutionalization of domination and the authority of rules go along with the implicit acquiescence of the ‘ruled’ (Benz 2007; Tömmel 2007: 26). The vertical relationship between the ‘rulers’ and the ‘ruled’ implies that influence is exerted in an asymmetric manner. At the sectoral level, hierarchical governance describes a form of steering based on formal and precise rules that are non-negotiable and legally binding as well as enforceable upon actors.

In the EU context, hierarchy is associated with the traditional ‘Community method’ of policy-making. This mode of governance is based on the existence of supranational institutions engaged in the production of strongly legalized supranational law which can be enforced and sanctioned by the European Court of Justice. Although the EU competes with the member states over sovereign authority and lacks a monopoly of force, the ‘Community method’, decision-making by qualified majority, and the prescriptive qualities of EC law come close to the hierarchical model (Börzel 2007: 70). At the sectoral level, hierarchical governance relates to those aspects of the acquis that are strongly integrated in the sense of precise and enforceable supranational law.

In the context of EU external relations, the term hierarchy must be qualified further since, formally, non-members retain full sovereignty vis-à-vis the Union. Informally, however, certain types of external governance come close to a hierarchical system and undermine important sections of third countries’ autonomy over their legislation. The clearest example of a quasi-hierarchical system of external governance is the EEA. Although the ENP as such lacks the degree of legal formalization inherent in association relations with the western neighbours, a sectoral perspective on the structures of regulatory expansion shows a more varied picture (see Lavenex et al. 2009). The existence of precise rules, formal procedures, monitoring and sanctioning associated with hierarchy are also necessary prerequisites for the effective exercise of conditionality as a mode of top-down policy transfer on the basis of external incentives (Schimmelfennig and Sedelmeier 2004: 664–5; Schimmelfennig and Sedelmeier 2005). Other authors have referred to such formalized forms of external impact as ‘compulsory impact’ (Diez et al. 2006: 572–3) or ‘compliance’ (Bauer et al. 2007).

In contrast to hierarchy, a network constellation delineates a relationship in which the actors are formally equal. This does not preclude the possibility of power asymmetries, but it means that in institutional terms actors have equal rights and that no party can bind the other party to a measure without the latter’s consent (Börzel 2007: 64). Whereas hierarchical systems are focused on the production of binding authoritative law, networks usually produce less
constraining instruments that are based on mutual agreement and often prescribe procedural modes of interaction rather than final policy solutions (Benz 2007). Sometimes, the literature also refers to networks as ‘negotiation systems’ in which conflicts of interests are not solved via law and jurisdiction but through negotiations and voluntary agreement on the basis of bargaining or arguing (Börzel 2007: 65).

In the EU, network governance has come to challenge the Community method of policy-making in particular in those policy fields where the lack of a permissive consensus precludes the transfer of legislative power to the supranational organs. This form of ‘policy-making without legislating’ (Héritier 2002) is only loosely coupled to the formal legislative organs of the Union and takes place in decentralized, sectorally specialized governance institutions such as agencies, committees or policy networks. The composition of these networks is usually based on functional expertise rather than political affiliation and may include private actors or other international organizations apart from civil servants from the member states.

Applied to the EU’s external relations, network governance at the macro-level of association relations would delineate a strongly institutionalized and unified system of ongoing horizontal co-ordination. Regulatory expansion here occurs through the co-ordination of national rules rather than the ‘top-out’ (Magen 2007: 365) implementation of EU law. In the framework of the EEA, shared central institutions such as the Joint Committee and its working parties promote such co-ordination. Swiss–EU relations lack central institutions, but networked co-ordination can take place decentrally within the different sectoral Bilateral Agreements. Some elements of networking can also be identified in the ENP’s macro-institutional structure. These refer to the joint elaboration of ENP Action Plans, the joint evaluation of progress in the Association Councils, as well as the attempt to establish stable communication between sectoral experts in the framework of the ENP subcommittees and the possibility of such sectoral experts participating in EU agencies and programmes (Lavenex 2008). For all three types of neighbourhood association, however, the more fruitful level for analysing network governance is the sectoral level where internal EU networks have partly been extended to include representatives of third countries (see Lavenex et al. 2009).

Given their voluntary basis and their process orientation, network constellations provide a favourable context for mechanisms of influence based on socialization, social learning and communication (Schimmelfennig and Sedelmeier 2005; Bauer et al. 2007). As Schimmelfennig and Sedelmeier (2005) point out, network qualities such as deliberative processes, co-ownership, and density of interaction are likely to enhance the legitimacy of rules and are thus conducive to their expansion. This contrasts with the size of incentives and the credibility of monitoring and sanctioning as conditions of rule expansion in the hierarchical context. What is more, in the hierarchical model, EU rules provide a fixed institutional template for governance. The question is whether and to what extent third countries adopt EU rules. By contrast,
network governance gives the negotiating parties more room for manoeuvre. Here the external governance can also take place on the basis of other shared rules, such as international rules, or new jointly negotiated rules.

The market is the third basic mode of external governance. Here, outcomes are the result of competition between formally autonomous actors rather than the result of hierarchical harmonization or networked co-ordination. Whereas the political science literature usually does not regard markets as a form of governance since they lack the overarching system of rule which is characteristic of political systems, competition is sometimes included in the newer governance approaches as an institutionalized form of political market interaction.

In the EU, the typical form of institutionalized market governance is the principle of mutual recognition, at least in its application in the Single Market. Avoiding the definition of common rules (harmonization), mutual recognition unleashes a regulatory dynamic in which, owing to consumers’ demand, the most competitive products and services prevail. This may lead to a voluntary de facto approximation of legislation on the basis of the respective production and service standards (Benz 2007: 46; see also Schmidt 2007). Regulatory adaptation may, however, also occur in the absence of institutionalized mutual recognition as a consequence of competitive pressure.

In the external realm, the principle of mutual recognition has been extended to the EEA via the full transfer of Single Market legislation. The bilateral agreements with Switzerland allow only for a very limited application of mutual recognition in the economic sphere but respect this principle in the Agreement on the Free Movement of Persons. The dynamics of regulatory approximation through competition identified for the member states should also be identifiable in relations with third countries. Yet, even in the absence of mutual recognition rules or other direct institutionalized settings for rule transfer, EU rules can lead to third-country adaptation indirectly. Here, the EU’s impact on third countries results from its ‘presence’ (Allen and Smith 1990) and third countries’ interdependence with its system of regional governance and Single Market rather than from any form of association policy.

EU rules can produce both negative and positive externalities for external actors who adopt and comply with EU rules because ignoring or violating them would create (opportunity) costs. This ‘governance by externalization’ is most obviously produced by the EU’s internal market and competition policies: firms interested in participating in the EU market need to follow the EU’s rules. This is in line with the competition mode of governance described by Bauer et al. (2007). It may affect societal actors (such as firms and business associations) as well as governments (induced to change their own rules and policies in line with the EU’s). Finally, the EU as such as well as its processes and policies may also provide a model for other regions, states, and societal actors who may come to see them as appropriate solutions to their own problems. This kind of indirect impact has been termed ‘lesson-drawing’ (Schimmelfennig and Sedelmeier 2005), ‘deliberate emulation’ (Lavenex and Uçarer 2004) or ‘enabling impact’ (Diez et al. 2006: 573) and may apply to governments as
well as non-state actors. Table 1 provides a summary of the structural modes of external governance, the first core dependent variable for the study of external governance.

### EFFECTIVENESS OF EU EXTERNAL GOVERNANCE

Effectiveness is the second core dependent variable for the study of external governance – and the explanatory focus of most articles in this volume. While reference to the EU *acquis* has become standard in EU association agreements with third countries, and several institutionalized settings have been established to promote these associations, the question of how far third countries outside the circle of candidates for membership actually adapt to EU norms has remained little investigated. Here we define effectiveness as the extent to which EU rules are effectively transferred to third countries. In order to pay tribute to the specific characteristics of network governance, as well as to the fact that EU rules are often embedded in overarching international norms (Lavenex and Wichmann 2009: 94–98), we also include the promotion of such ‘joint rules’ in the analysis of external governance. We contrast the effective transfer of EU and joint rules with alternative outcomes that may involve not only third countries’ adherence to their domestic rules but also the impact of influential states (like Russia or the US) and international norms and organizations. Effectiveness can be measured at the levels of rule selection in international negotiations and agreements, rule adoption in domestic legislation and rule application in domestic political and administrative practice (see Table 2).

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### Table 1  Modes of external governance

<table>
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<tr>
<th>Actor constellation</th>
<th>Institutionalization</th>
<th>Mechanism of rule expansion</th>
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<tbody>
<tr>
<td>Hierarchy</td>
<td>Vertical: domination and subordination</td>
<td>Tight, formal</td>
</tr>
<tr>
<td>Network</td>
<td>Horizontal: formal equality of partners</td>
<td>Medium-tight, formal and informal</td>
</tr>
<tr>
<td>Market</td>
<td>Horizontal: formal equality of partners</td>
<td>Loose, informal</td>
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1. *Rule selection* is relevant at the level of international negotiations and agreement between the EU and third countries. It measures whether and to what extent EU rules constitute the normative reference point of EU–third-country relations. Do third countries accept EU rules as the focus of their negotiations and agreements? Or do they accept joint rules that reflect EU rules embedded in international norms or jointly negotiated rules? Alternatively, the EU and its negotiating partners may select rules that do not conform to the EU *acquis* and that are set by other international organizations (such as the United Nations...
Rule selection is a relevant first step in the analysis of the effectiveness of external governance because, in contrast to the study of enlargement, it cannot be taken for granted that EU rules will necessarily dominate the negotiations and provide the focal point of EU–third-country agreements.

2. To assess rule adoption, we ask whether EU rules selected for international negotiations and agreements are then also transposed into the third country’s domestic legislation. Empirically, this is relevant because even though third countries may accept EU rules as the normative reference point of their negotiations with the EU, or develop joint rules, they may not adopt these rules domestically in the end. Whether and to what extent EU rules become domestic rules of third countries constitutes, therefore, the second level of impact. Rule adoption is indicated by the ratification of agreements with the EU or the adoption of laws and other legal documents that incorporate EU and joint rules.

3. Finally, rule adoption does not necessarily imply rule application. Whether and to what extent EU or joint rules are not only incorporated into domestic legislation but also acted upon in political and administrative practice is a separate question. Application constitutes the deepest impact of external governance.

Whereas rule adoption builds on rule selection, and rule implementation builds on rule adoption, the sequence of effectiveness may be interrupted at any level of impact. We therefore need to study the three levels separately.

**CONDITIONS OF EXTERNAL GOVERNANCE**

Conceptualizing the modes and effectiveness of governance allows us to answer basic descriptive questions. On which modes is EU external governance based
and how effective is it? How does the mode and effectiveness vary between third countries, regions, or policies? We may also ask whether there is a correlation between the mode of external governance and its effectiveness. For example, is hierarchical governance generally more effective than network governance? Or does it all depend again on the issue-area or the countries the EU is dealing with? In addition, we seek to explain this variation. What are the conditions of EU external governance in its various shapes and ramifications, and under which conditions is it more or less effective? Here we contrast an institutionalist perspective — the most germane explanation for a governance approach — with alternative or complementary power-based and (third-country) domestic explanations of external governance.

**Institutionalist explanation**

In the institutionalist perspective, EU external governance is generally shaped by existing EU institutions. They provide the template for the externalization of EU policies, rules, and modes of governance and condition their effectiveness. According to the institutionalist explanation, we thus expect the modes of external governance to reflect the internal structures of policy-making within a given domain. Simply put, if these are based on hierarchy, network, or market modes, so will external governance be. The reasons why the EU orients itself toward internal modes of governance could be manifold. According to sociological institutionalism, existing institutions may either serve as a template in a highly uncertain policy context or they may be imbued with high legitimacy. In a more rationalist-institutionalist perspective, they may represent efficient institutional solutions for the policy problem at hand, or EU actors may simply be legally obliged to externalize their institutional structures (and sanctioned otherwise).7

The effectiveness of external governance may be seen to depend on existing EU institutions as well. The general institutionalist hypothesis stipulates that effectiveness increases with legalization and/or legitimacy. On the one hand, the more precise, binding, and enforceable EU rules are (Abbott *et al*. 2000), the more likely they will be selected, adopted, and implemented beyond EU borders. This entails the hierarchical mode of governance being most likely to lead to the effective transfer of EU rules, because rules are normally more legalized in this mode than in the network or market modes. Strong monitoring and sanctioning promote both rule adoption and rule application. Alternatively (or in addition), the effectiveness of external governance increases with the international legitimacy of the rules in question (Franck 1990). The more an EU rule is supported and complied with within the EU (Schimmelfennig and Sedelmeier 2005: 19) and the more it is in line with international rules beyond the EU, the more likely third countries will accept it as a basis of negotiation, adopt it and apply it. In sum, institutionalist explanations stipulate that the mode and effectiveness of EU external governance depend on the quality of existing EU institutions.
We thus put forward three simple institutionalist hypotheses to be explored in the contributions to this issue:

(I1) The mode of external governance follows the mode of internal governance.

(I2) The effectiveness of external governance increases with
(a) the legalization of rules; and/or
(b) the legitimacy of rules.

(I3) The hierarchical mode of external governance is the most effective one.

In the following, we contrast these hypotheses with power-based and domestic structure explanations.

**Power-based explanation**

The power-based explanation suggests that external governance is determined by the EU’s power and its interdependence with regard to third countries as well as competing ‘governance providers’ in its neighbourhood and at the global level – mainly the US and Russia but also international organizations such as the UN or the Bretton Woods organizations. In this view, the modes of external governance do not correspond to EU internal institutional structures but to external structures of power and interdependence. The hierarchical mode of governance requires third countries to be both strongly dependent on the EU and more strongly dependent on the EU than on alternative governance providers – just as has been the case in Eastern enlargement. Without such high and asymmetric interdependence in its favour, the EU will not be able to impose hierarchical governance upon third countries. Market governance presupposes significant market integration but not a dominant, centralized governance provider. We thus conjecture that it is most likely to be found where interdependence is high and symmetric. By contrast, network governance is compatible with symmetric power relations and medium degrees of interdependence. The co-ordination mechanisms of institutionalized communication and social learning in network governance compensate for the absence of a dominant power (required for hierarchical steering) and an integrated market (necessary for steering through competition).

In this perspective, power and interdependence also drive the effectiveness of external governance. Whether EU rules (rather than other rules) are selected for co-operation, and whether these rules will be adopted and applied, depends on the bargaining power of the EU. According to the power-based explanation, accession negotiations are the prototypical case of high EU bargaining power. In the accession process, the EU offers an extremely strong incentive. At the same time, the candidate countries are usually much more dependent on the EU and eager to join the Community than vice versa. This puts the EU in a position in which it can demand the full transposition of the *acquis communautaire*. It is therefore no coincidence that accession negotiations are characterized by an extremely fast and massive adoption of EU rules. Outside the context of enlargement, EU bargaining power is weaker and varies more strongly across countries and policies. The same can be expected
with regard to the effectiveness of external governance according to the power-based explanation. The institutionalist and power-based explanations agree that the hierarchical mode of governance is the most effective one. The reasoning is different, however. Whereas institutionalism attributes effectiveness to high legalization (and legitimacy), the power-based explanation stipulates superior EU power as the cause of both hierarchy and effectiveness.

In sum, power-based explanations suggest that the modes and effectiveness of EU external governance vary with international structures of power and interdependence between the EU and third countries. We thus conjecture:

(P1) The mode of external governance varies with structures of power and interdependence.
   (a) High and asymmetrical interdependence in favour of the governance provider tends to produce a hierarchical mode of governance.
   (b) High and symmetrical interdependence is conducive to market governance.
   (c) Medium (and symmetrical as well as asymmetrical) interdependence is conducive to network governance.

(P2) The effectiveness of external governance increases with the bargaining power of the governance provider.

(P3 = I3) The hierarchical mode of external governance is the most effective one.

**Domestic structure explanation**

The third explanation, finally, attributes the modes and effectiveness of external governance to the domestic structures of third countries. As for the modes, the approach assumes an affinity or compatibility between the institutional structures of domestic politics and of international governance. In this regard, it is similar to the (international) institutionalist hypothesis of corresponding modes of governance in EU internal and external governance. As a competing domestic explanation to the institutionalist hypothesis, we can thus hypothesize that the mode of external governance will follow the mode of third-country domestic governance. As with the institutionalist hypothesis, the relationship between domestic and EU external governance can be theorized as one of functional necessity or efficiency or as one driven by legitimacy and resonance. On the one hand, whereas hierarchical governance requires functioning rule of law systems as well as strong administrative and implementation capacity, market governance does not work without a high degree of economic liberalization. In turn, network governance presupposes decentralized and sectorally differentiated state structures with access for experts and stakeholders. On the other hand, third-country actors are more likely to accept modes of external governance that resonate with their domestic institutional structures – to the extent that these are seen as ‘normal’ and legitimate.

In similar ways, domestic structures will also impact on the effectiveness of external governance. First, EU rules are more likely to be selected, adopted and applied if they resonate well with domestic rules, traditions, and practices.
A second condition is what one could call ‘EU compatibility’ of domestic institutions. The more similar third countries are to the type(s) of states, societies, and administration of the EU member countries and the European multi-level system, the better EU rules are likely to fit. In this vein, economic and administrative autonomy and openness should facilitate the selection and adoption of EU rules and, together with high state capacity, they should promote rule application as well. In line with the literature on the Europeanization of candidate countries, we also suggest that effectiveness will decrease with the number of veto players that incur high costs from rule adoption and implementation (Schimmelfennig and Sedelmeier 2004: 664–5).

In sum, the domestic structure explanation sees the mode and effectiveness of external governance not so much driven by international institutions and power as by its compatibility with domestic institutions. We thus stipulate two final hypotheses:

(D1) The mode of external governance follows the mode of third-country domestic governance.

(D2) The effectiveness of external governance increases
(a) with the resonance of EU rules;
(b) with the EU compatibility of domestic institutions;
(c) as the number of adversely affected veto players decreases.

While we are open to the possibility that institutions, power, and domestic structures may interact, we also seek to establish the individual contribution of each of these perspectives to the explanation of external governance.

OVERVIEW OF CONTRIBUTIONS

The contributions to this issue scrutinize the emergence of different modes of external governance in the EU’s relations with its western, eastern and southern neighbours and investigate the conditions for their effectiveness in various policy fields reaching from foreign and security policy to trade, energy, environmental policy as well as democracy promotion.

The first contribution by Sandra Lavenex, Dirk Lehmkuhl and Nicole Wichmann (Lavenex et al. 2009) analyses the relationship between macro-institutional modes of external governance in the EEA, Swiss–EU bilateralism and the ENP, on the one hand, and the modes of governance towards these countries at the level of individual policy sectors (research, air transport, the environment, and different aspects of EU justice and home affairs), on the other. This comparative analysis offers much evidence for the validity of the institutionalist hypothesis: despite their pronounced differences, overarching macro-institutional structures have little impact on the modes of external governance in individual sectors. In contrast, the latter follow largely sectoral dynamics which are remarkably stable across this heterogeneous group of countries.

The following contributions deal with particular (groups of) countries or policies and analyse the degree to which the EU effectively promotes its rules
beyond its borders. Esther Barbé, Oriol Costa, Anna Herranz and Michal Natorski (Barbé et al. 2009) examine rule selection in the area of foreign and security policy in relations with Morocco, Ukraine, Georgia, and Russia. Their study shows that with regard to foreign policy dialogue, control of export of dual-use goods in the context of weapons of mass destruction, and crisis management, the EU promotes policy convergence mostly on the basis of international and mutually negotiated rules rather than the EU acquis alone. In conclusion, two variables are identified as both necessary and jointly sufficient for explaining the selection of EU rules: their perceived legitimacy and EU power towards the country.

The question of power is also at the heart of Antoaneta Dimitrova and Rilka Dragneva’s article ‘Constraining external governance’ (Dimitrova and Dragneva 2009). In a study of Ukraine, it investigates the limits imposed by Russia’s influence and the Commonwealth of Independent States (CIS) on the EU’s endeavours. The comparison of trade, energy, and foreign policy relations shows that the effectiveness of EU rule export varies with the patterns of interdependence in the different sectors, reaching from stronger effectiveness in trade to less impact in energy and foreign policy.

Looking at the field of environmental policy, the contribution by Christoph Knill and Jale Tosun – ‘Hierarchy, networks or markets’ (Knill and Tosun 2009) – takes these different modes of governance as independent variables and examines their respective effectiveness in promoting EU environmental rules abroad. This quantitative study covering 32 European states (both EFTA, candidate and ENP countries) in the period from 1980 to 2006 documents not only that EU environmental norms have repeatedly been adopted in third countries, but also that hierarchy has been the most effective mode of external governance to date.

The final two contributions examine EU democracy promotion through the lens of an external governance framework. ‘Democracy promotion as external governance’ by Richard Youngs (Youngs 2009) gives a comprehensive analysis of the governance modes applied by the EU in the promotion of democracy in Ukraine, the Western Balkans and the southern Mediterranean – and of their effectiveness. Youngs shows that a hierarchical mode of governance can only be found in the Balkans, whereas the network mode prevails in relations with Ukraine and the Mediterranean ENP countries. Moreover, the effectiveness of democracy promotion has been moderate in the Balkans and Ukraine but weak in the Middle East and northern Africa. He explains the variation by a combination of EU power and the domestic structures of the partner countries.

By contrast, Tina Freyburg, Sandra Lavenex, Frank Schimmelfennig, Tatiana Skripka and Anne Wetzel (Freyburg et al. 2009) combine a sectoral perspective on EU external relations with the study of democracy promotion and ask how far elements of democratic governance may be promoted through functional co-operation. Comparing more and less politicized sectors (asylum, competition and environmental policy) in the EU’s relations with three countries (Moldova, Morocco, and Ukraine), the article shows that the EU is capable
of inducing neighbouring countries to adopt policy-specific democratic governance provisions in the absence of hierarchy or accession conditionality. This is particularly the case when the corresponding EU rules are strongly legalized and when they are linked to overarching international norms. Although this effect can be observed at the level of rule adoption, i.e. the transposition of EU rules into domestic laws, the study also highlights its disconnection with political and administrative practice, i.e. rule application.

**SUMMARY OF MAIN FINDINGS**

Which conclusions can we draw beyond the individual contributions? Which are the main characteristics of external governance as a relatively new form of institutionalized interaction with non-member states, and what explains the modes and effectiveness of external governance?

The contributions show that external governance defined as the expansion of EU rules beyond EU borders is particularly intensive with the ‘close’ neighbours in the West who have committed themselves to the adoption of significant parts of the EU *acquis*, but is also intensifying with the countries of the ENP. These processes extend the scope of European integration (or at least its *acquis communautaire*) beyond formal membership, and they differ significantly from the way in which the EU exports its norms to membership candidates in the context of enlargement.

Generally, the contributions show that external governance follows a sectoral, policy-specific logic. Although external governance is institutionalized in overarching frameworks such as the EEA or the ENP, the actual expansion of EU rules follows sectoral lines rather than these macro-institutional prerogatives (Lavenex et al. 2009). External governance is shaped by issue-specific modes of governance and patterns of power and interdependence, which contribute to a strong differentiation of its forms and effects.

With regard to the modes of external governance, we find a tendency to rely more on networked forms of interaction than on the hierarchical forms of policy export practised in enlargement. The contributions by Lavenex et al. (2009) and Youngs (2009) emphasize practices of networked co-ordination both in sectoral policies and in democracy promotion. External governance is also less fixated on the export of the precise *acquis* in its entirety than on promoting approximation to EU norms and practices, at least in the relations with the ENP countries. In addition, whereas it is clear in enlargement that EU and only EU rules provide the normative foundations of the relationship, this is an open issue in the relations with the eastern and southern neighbours of the Union. Here, approximation often draws on international or jointly negotiated rules (Barbé et al. 2009; Dimitrova and Dragneva 2009).

Finally, the external governance perspective yields a different view on the ways in which the EU can promote political change in third countries. Whereas the instruments of enlargement or traditional foreign policy democracy promotion address democratic change at the (macro-) level of the political system, Richard
Youngs shows that in the EU's relations with non-candidate countries, the EU does not even consistently seek to promote democracy, let alone succeed in bringing about democratic change. The macro-policy of democracy promotion appears to be incompatible with the sectoral logic of external governance. Rather, external governance promotes norms of democratic governance at the sectoral level through the projection of the EU *acquis* (Freyburg *et al.* 2009). In sum, whereas the EU has shown its ability to establish institutional order in its neighbourhood without at the same time expanding its membership, this order is more sectorally fragmented and differentiated and less ‘Europeanized’ than the order projected through enlargement.

But what explains this variety of forms and effects of external governance? How relevant are the EU’s institutional features, the relations of power and inter-dependence between the EU and its neighbouring countries, and the domestic structures of third countries? The contributions to this issue certainly do not lend themselves to a comprehensive test of the hypotheses proposed above. For that purpose, the articles are too much specialized in individual policies, third countries, and explanations. But they suggest some tentative conclusions and general patterns for further analysis.

For the modes of governance, which only Lavenex *et al.* (2009) made the main focus of their analysis, the findings support the institutionalist hypothesis (I1) that external modes follow internal modes. The institutionalist explanations find support in other contributions as well. Barbé *et al.* (2009) discover that the perceived legitimacy of EU rules is one prerequisite for selecting EU rules as the basis of co-operation in EU–third-country relations (I2b). Freyburg *et al.* (2009) show that the adoption of democratic governance rules increases with the degree of their legalization in the EU (I2a), and Knill and Tosun (2009) come to the conclusion that the hierarchical mode of governance is the most effective one (I3). Whereas this hypothesis is shared by the power-based explanation (P3), Knill and Tosun operationalize it in terms of legalization so that the effects can be attributed to the quality of institutions rather than power. Thus, all institutionalist hypotheses receive some initial support.

This, however, is true for the power-based explanations as well. Youngs (2009) argues that limited EU bargaining power in its relations with neighbouring countries militates against hierarchical democracy promotion and favours network governance (P1). As for the sectoral patterns of norm expansion, our contributions show that superior EU power cannot be generally assumed but varies across issue areas. Barbé *et al.* (2009) find that EU bargaining power is as strong as legitimacy in explaining the selection of EU rules in EU–third-country CFSP co-operation, and Dimitrova and Dragneva (2009) identify constellations of interdependence and bargaining power as the central conditions of governance effectiveness in EU–Ukraine relations (P2).

Finally, whilst Youngs (2009: 901) sees bargaining power as a potential explanation of the mode of governance in democracy promotion, and concedes that the hierarchical mode of governance is more effective in democracy promotion than the network mode (P3), he attributes the strongest causal relevance to
domestic conditions. In this perspective, network governance fits best with the ‘soft’ strategy of socializing third countries to democratic and human rights norms without endangering the stability of political systems (see also, e.g., Gillespie and Youngs 2002 and Youngs 2002 on democracy promotion in the Mediterranean). In addition, even hierarchical democracy promotion (through political conditionality) is likely to be effective only in at least partly democratized countries.

In sum, none of our hypotheses can safely be discarded at this point. To move ahead on the theoretical front, further studies would need to go beyond the exploratory set-up of this issue and turn to analyses that explicitly test the hypotheses against each other in controlled comparative designs. Another issue for further theoretical reflection that results from our findings is the need to investigate the discrepancy we find between rule adoption and rule application as a result of external governance. Whereas the EU may be quite successful in focusing its external relations on its rules and even in inciting third countries to adopt EU rules into domestic legislation, its impact is much less visible at the level of rule application. This points to a possible next step in the development of the external governance approach which may focus less on what the EU does in promoting its norms than, much akin to the research on ‘Europeanization’ (e.g. Knill and Lehmkuhl 2002; Radaelli 2004), on the domestic conditions for effective policy implementation in third countries.

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NOTES

1 For a general analysis of the external face of the acquis, see Magen (2007).
2 This approach is closer to conceptualizations of the EU’s international role that depart from the unitary foreign policy actor model and emphasize its ‘variable and
multi-dimensional presence’ (Allen and Smith 1990: 20; see also Bretherton and Vogler 2006) or its constitution as a ‘system of external relations’ that is fragmented across pillars and levels of policy-making (Hill 1993; Ginsberg 1999). The external governance approach is one way of analysing the effects of this fragmented multi-dimensional presence based on the projection of the *acquis communautaire*.

3 For the distinction between macro- and meso- (or sectoral) policies in the context of EU enlargement, see Sedelmeier (2002, 2005).

4 In the formal definition, sovereignty comprises the internal autonomy over legislation and enforcement institutions, external autonomy *vis-à-vis* other states and non-intervention, as well as territoriality.

5 External governance can theoretically also involve other effects than rule transfer, such as, for instance, the involvement of third-country policy-makers in joint regulatory networks (see Lavenex 2008).

6 Rule selection is a dimension usually not analysed in studies of compliance that take EU law as the given normative focus. Both adoption and application can be seen as two levels or dimensions of compliance or implementation. We prefer this terminology to ‘transposition’ and ‘enforcement’, which refer to compliance with EU law and thus imply a hierarchical mode of governance. Rule selection, adoption and rule application are open enough to be compatible with the network and market modes of governance.

7 For an overview of institutional mechanisms, see Scott (1995).

8 Here we start from the assumption that low interdependence will not generate any demand for governance.

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