

Divergence or Convergence? The Example of State Regulation of the Banking Sector

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Abstract

The simultaneous processes of globalisation and European integration have rekindled the interest in the role of the nation state. But this debate is an ongoing one, as participants cannot agree whether this will result in the “erosion”, “decline” or even “the end” of the nation state, or, quite to the contrary, in its “revival” because of “new tasks” for it, exposing ideas about the “powerless state” as a “myth”.

One reason for this stark disagreement, the paper argues, is that theoretical considerations offer two different perspectives and dynamics for an interpretation of that process, and consequently expect different outcomes: one sees an overwhelming pressure for policies to converge (and hence reduce the role of the individual nation state), the other expects exactly the opposite, namely a continuing or even mounting divergence of policies (and thus a continuing or enhanced role for the individual state).

The paper spells out these different positions in greater detail and then goes on to argue that only empirical evidence can resolve the debate. The empirical part of the paper draws on four detailed case studies which have followed the course of banking regulation in the US, the UK, Germany and Switzerland. Their main result is that both initial positions have to be modified, and that domestic institutions function as strong “filters” for globalisation, producing quite different policy dynamics and outcomes in the four countries.

1 Introduction

In the last ten to fifteen years, the simultaneous processes of globalisation and European integration have informed an ongoing debate about the issues of governance and the role of the nation state. The latter topic has been particularly prominent in political science. Here, it has been widely accepted that the role of the state has in reality become quite different from that put forward by Political Theory, which traditionally described the state as characterised by external independence and sovereignty within (e.g. Hintze 1970).

By the end of the 20th century, this role has changed significantly. Internally, sovereignty has been challenged by the growing differentiation of societal subsystems as well as by pluralist and corporatist influences which successfully resists state attempts at hierarchical coordination; externally, sovereignty is penetrated by growing transnational links and supranational integration (Scharpf 1992).

But the debate about these developments is far from resolved. Indeed, participants in that debate draw quite different conclusions as far as the consequences for the nation state are concerned. Some speak of an “erosion” (Cerny 1996), “decline” (Schmidt 1995), “crisis” (Dunn 1995), “retreat” (Strange 1996) and even “the end” (Ohmae 1995) of the nation state. They point to the impotence of state governance of the economy in a world largely without borders and the futility of attempts at compensation through welfare state measures which will only serve to disadvantage the competitive position of domestic business. Ultimately, the cohesion of society and the legitimacy of the state are seen to be under threat, as the following quotation illustrates:

“[T]he more economies of scale of dominant goods and assets diverge from the structural scale of the national state [...] the more the authority, legitimacy, policymaking capacity, and policy-implementing effectiveness of the state will be eroded and undermined both without and within.” (Cerny 1995: 621)

On the other hand, there are authors who refute the hypothesis of the growing insignificance of the state and see not only a continuing significant task for the nation state, but one that may actually be growing. These authors talk about the “revival of the nation state” (Lütz 1996) and of “new tasks” for it (Sassen 1998). In this perspective, the hypothesis of the withering nation state is seen as a “myth” (Weiss 1998): rather than losing importance, the nation state continues to be the crucial institution determining the conditions under which the process of economic globalisation takes place. This is even the case in the seemingly so autonomous sphere of financial markets (Helleiner 1995, 1994, Kapstein 1994). Even for the future, prospects for continuing state capacity to act look good:

“It seems likely that as we move into the twenty-first century, the ability of nation-states to adapt to internationalization (so-called ‘globalization’) will continue to heighten rather than diminish national differences in state capacity and the associated advantages of national economic coordination.” (Weiss 1998: 212)

Why is it that this debate has spawned such wildly different views of the role of the nation state? Conditions for state action are changing – that is not only agreed in the academic debate, but also the result of voluminous studies from international organisations (cf. United Nations Research Institute for Social Development 1995; World Bank 1997). But so far, the academic community has not been able to agree on a common view as to the direction of that change.

One reason for this, I want to suggest, is that theoretical considerations offer two different perspectives and dynamics for an interpretation of that process, and consequently expect different outcomes: one sees an overwhelming pressure for policies to converge (and hence reduce the role of the individual nation state), the other expects exactly the opposite, namely a continuing or even mounting divergence of policies (and thus a continuing or enhanced role for the individual state). In the remainder of this paper, I will first briefly sketch out these two different views, and then confront their predictions with results from two recently concluded studies that deal with governance and state capacity in the financial sphere, the reason for that choice being that this is where “pressure” from globalisation is commonly perceived to be highest, making this policy area into an ideal and “hard” test case for theories of convergence that presently dominate the discourse about globalisation.¹

2 Convergence or divergence?

Research about the state’s capacity to act (and the potential change thereof) requires hypotheses that can be empirically tested. There are at least two strands of theory regarding the consequences of greater integration for advanced industrialised states that inform the analyses in the debate mentioned before – even if these theoretical foundations are not always explicitly mentioned or acknowledged. One predicts greater convergence, the other constant or even increasing divergence.

2.1 Convergence

Theories that predict a trend towards political convergence can be traced back on the one hand in the economic theory of international trade, on the other to theories of intergovernmental or inter-jurisdictional competition.

The former build on the *Heckscher-Ohlin theorem* which sees comparative advantage as based on differences in relative factor endowments across countries and differences in relative factor intensities across industries. A country will thus tend to export such goods where it has a relative abundance of factor endowments, and import such goods where

¹The comments in this paper draw for empirical information primarily on the results of a study by the author on the subject of “State and Globalisation: Banking regulation in comparative perspective” which focuses on state capacity under conditions of globalisation (Busch 2002b), but also on the results of the finance section of the project on “Success and Failure in Public Governance”, for which the author acted as sectoral editor (Bovens et al. 2001). While the latter is available in print, the former is not yet. If you are interested, please contact the author at the address given on the front page of this paper.

there is a comparative scarcity of production factor endowments. Building on such standard economic theory, Ronald Rogowski suggested a model – which makes rather simple assumptions about the domestic political process² – to explain the development of societal cleavages (Rogowski 1987, 1989). Later, this model was extended to accommodate the process of globalisation and to explain the policy preferences of relevant domestic actors, the policies implemented and the development of domestic institutions (Frieden and Rogowski 1996). Thus the authors postulate that the ability of interest groups to assert themselves co-varies with the mobility of their production factor: those who can most credibly threaten with *exit* will increase their negotiating power and prevail. It follows that a consequence of globalisation is the adaptation of government policy to the interests of capital (as the most mobile production factor), and since this will take place everywhere, a convergence of policies is the result.

The second approach focuses on government action under conditions of competition and ultimately arrives at similar conclusions. The fundamental idea is that governments compete for mobile capital seeking the highest net return. This leads to an international equalisation of net yields and consequently to tax competition between countries seeking to offer the best conditions for business.³ Competition, however, is not limited to taxation alone, but extended to labour market, social and environmental regulations – which all have an effect on the expected return on capital – and leads to an equalisation here as well.

To sum it up, these theories postulate that growing international integration will have implications for domestic policy – once indirectly through a change in the domestic distribution of political power, once directly through influence on government policy – and will lead to a convergence of policies and institutions.

2.2 Divergence

Another group of theories, however, expects completely different consequences from the same process. These approaches focus on the stability of specific national characteristics such as differences in national policy styles, the stability of institutional arrangements and the importance of path dependence. Consequently, they predict constant or even increasing divergence in national policies and institutional structures.

These theoretical approaches – an early representative is Andrew Shonfield’s (1965) study on “Modern Capitalism” with its emphasis on the importance of specific historically derived assumptions of national actors – focus e.g. on differences in policy-making and policy implementation, such as in the concept of “policy styles” (Richardson 1982). These

²There are only two assumptions (Rogowski 1987: 1123):

1. Those who stand to profit from a change will promote it, while those who stand to lose will try to prevent or delay it.
2. Those whose welfare is presently or will in the future be enhanced will derive an increase in political influence.

³A survey of the respective economic literature can be found in e.g. Schulze and Ursprung (1999).

national policy styles show a great deal of resilience when challenged (Waarden 1995), which is not least due to institutional stability:

“[T]o portray political institutions simply as an equilibrium solution to the conflicting interests of current actors is probably a mistake. Institutions are not simply reflections of current exogenous forces or micro-behavior and motives. They embed historical experience into rules, routines, and forms that persist beyond the historical moment and condition.” (March and Olsen 1989: 167f.)

As a consequence, even increasing international integration is not likely to lead to major changes, both in terms of institutions and policies.

The most general formulation of this perspective can be found in the concept of *path dependence* as pioneered above all by the institutional and transaction cost schools of economic theory (e.g. North 1990; Williamson 1994). In this view, positive returns to scale, network externalities and feedback effects can lead to equilibrium outcomes that are very stable (*lock-in*). Therefore, the costs of change are prohibitively high and consequently change is very rare.⁴

To sum this position up, one can expect that even growing international integration would not deflect states from their historically rooted trajectories, so that not convergence, but constant and perhaps even increasing divergence would be the result for policies and institutions.

We can conclude this section by saying that there are good theoretical grounds for both positions – that of convergence and that of divergence. This controversy is consequently one that can only be resolved by subjecting it to empirical research and check which of the two schools of thought’s predictions are more accurate and reflective of the developments in reality.

3 State regulation of the banking sector

As an empirical test case, this paper chooses state regulation of the banking system in order to test the two competing sets of hypotheses outlined in the previous section. This policy area seems particularly suitable to the task at hand for a number of reasons:

On the one hand, the banking sector plays a special role in the economy. The reason for this is twofold:⁵ the banking sector makes credit available to all the other sectors in the economy and to consumers; a well-functioning banking sector is thus a vital prerequisite for a well-functioning economy as a whole. Yet at the same time, it is particularly vulnerable, for the failure of a bank can have distinctly different consequences from the failure of a business in another sector of the economy and threaten the viability of the whole banking sector (*bank run*). States have therefore traditionally subjected the banking system to specific regulation. This regulation could take a variety of forms, such as

⁴For a recent application of the concept of path dependence to the study of politics see Pierson (2000).

⁵See Busch (2001) for a more detailed exposition of this argument.

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- socialisation of the whole or part of the banking system,
- the issuance of detailed directives to allocate credit to specific purposes,
- a legally enforced separation of activities between commercial banks and investment banks to limit risk,
- state setting of interest rates for deposits and lending or
- the creation of a mandatory system of deposit insurance.

As a result, national institutional configurations in this policy area have historically developed in widely differing ways, making it an ideal test case for the convergence hypothesis.

At the same time, globalisation is particularly prominent in the financial sphere, which has so far come closest to the idea of an integrated world market that is working 24 hours a day. Add to that the rapid decrease of capital controls in most countries since the mid1970s⁶ and – at least partly resulting from that – a massive increase of cross-border bank lending in the same period (see figure 1), and it becomes clear that national regulators were faced with quite a challenge to maintain banking system stability in the last 30 or so years.

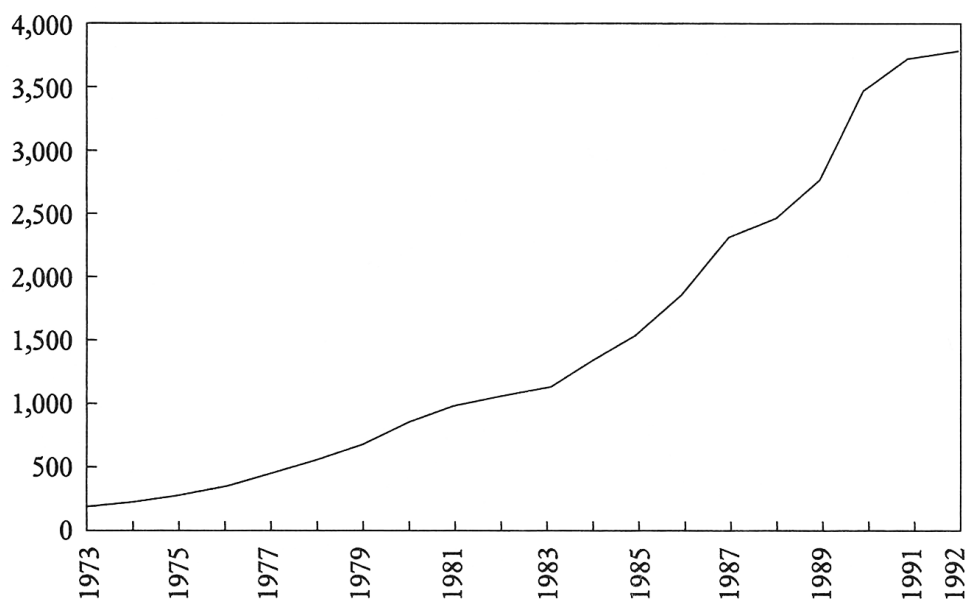


Figure 1: Volume of cross-border bank lending, 1973–1992 (in bn. US Dollar)

Source: Herring and Litan (1995: 26)

Indeed, many countries suffered substantial problems in their banking system in the period since the breakdown of the Bretton Woods system of fixed exchange rates in 1973

⁶Cf. the data presented in (Simmons 1999: 42).

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– no fewer than two thirds of IMF member states reported problems in the period since 1980 (Lindgren et al. 1996). But the success or failure of the national regulatory systems is not what the focus of this paper is on, even if it may be interesting to have a look at this variable in the end.

Rather, the country sample was chosen so as to reflect as much variety as possible in a small group. In choosing the United States, the United Kingdom, Germany and Switzerland, this was largely achieved: the group comprises different “varieties of capitalism”, having two members of the “Anglo-Saxon” (USA, UK) and “Rhenish” (GER, CH) variety each; EU member states (GER, UK) and non-EU member states (USA, CH); and lastly representatives of the “consensus” (CH, to a lesser degree GER) and Westminster types of democracy. Table 1 summarises the key indicators.

	<i>USA</i>	<i>UK</i>	<i>GER</i>	<i>CH</i>
political system	presidential	parliamentary	parliamentary	(presidential)
balance between parliamentary chambers	symmetrical	asymmetrical	asymmetrical	symmetrical
judicial review	Yes	No	Yes	No
territorial organisation	federal	unitary	federal	federal
dominant party in government, 1950–1994 (Schmidt 1996)	Conservative	Conservative	Centrist	Liberal
party system	Two party system	Two party system	Multi party system	Multi party system
EU member	No	Yes	Yes	No
type of economy (Soskice 1999)	Liberal Market Economy (LME)	LME	Coordinated Market Economy (CME)	CME
type of financial system (Cox 1986)	capital market oriented	capital market oriented	credit oriented	credit oriented
type of banking system (Pohl 1994)	Specialised banking system (political regulation)	Specialised banking system (historical development)	Universal banking system	Universal banking system

Table 1: Summary of country characteristics

Developments in these four countries in the field of banking regulation were researched through detailed case studies for the period of 1974 to 1999. A multiplicity of interviews with key actors in regulatory agencies, interest groups and legislative bodies as well as academic experts were conducted to gain insights into the motives, world views and problem definitions not accessible through the analysis of legislative and other policy documents alone.

3.1 Much variation to start with

While the detailed case studies of the four countries under consideration cannot be reproduced here in the breadth of their historical and institutional detail, some paragraphs can serve to summarise them in order to support the main claim to be made here, namely that there was very significant variation at the beginning of the time period under consideration.

3.1.1 The United States

Among the four cases considered here, the United States banking system must be considered the most heavily regulated in the early 1970s. This was largely the legacy of the strict regulation imposed after the traumatic experiences of the Great Depression in the early 1930s and its massive banking crisis. After almost a quarter of all existing banks had failed, stringent controls were introduced in the “most comprehensive attempt ever to restructure the American financial system” (Cerny 1994: 181). Extensive product, price and geographical regulations were introduced in order to curtail the “excessive competition” that was viewed as the root cause of the problems.

Together with a multiplicity of regulatory agencies that had been set up since the middle of the 19th century, an extremely complicated system of various types of banks regulated by a multiplicity of agencies with often overlapping briefs was the result. Figure 2 attempts to depict the relationship between types of banks (left), regulatory agencies (right) and primary (solid line) and secondary (dashed line) regulatory oversight.

Evidently, this complicated system is unlikely to produce optimal results – an opinion widely shared by many observers since the 1950s. Many scholars and various commissions formed by Congress had called for wholesale reform of the system, simplification, and the abolition of the regulations introduced by the *Glass-Steagall Act*.⁷

3.1.2 The United Kingdom

If the United States system had to be regarded as highly regulated in the early 1970s, that of the United Kingdom was the complete opposite, at least with respect to formal regulation. For no formal system of banking regulation and no agency empowered by law to deal with this area existed in the UK at all. Rather, a both geographically (the “City”) and in terms of the number of banks highly concentrated system had weathered

⁷See as two examples among many Pierce (1977) and Task Group on Regulation of Financial Services (1984).

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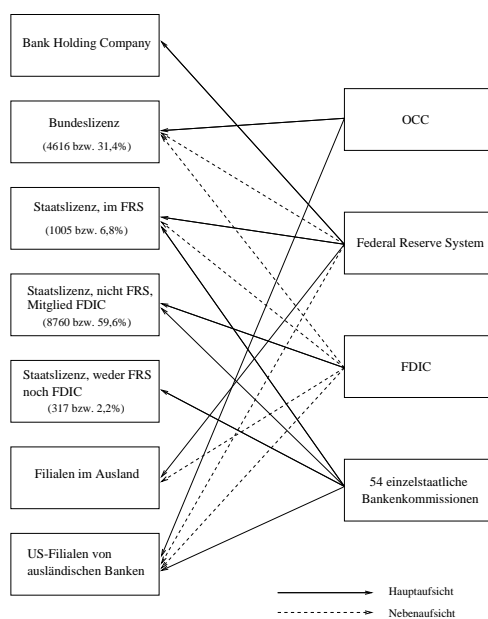


Figure 2: Overlapping regulatory competences in the US banking system
Source: Busch (2002b: 76)

even the crises of the 1930s remarkably well and was guided by advice from the Bank of England. The latter, for centuries a private bank and only nationalised in 1946, “served as spokesman both for the City within the government and for the government within the City” (Vogel 1996: 98). Preferring the flexibility and informality traditionally associated with the “club culture” of the City (and stressing the latter’s cost efficiency), the Bank was not in favour of codifying its powers and preferred a system in which the “raised eyebrows” of the Bank’s Governor were the ultimate sanction. Its success in avoiding major problems in the British banking system were a considerable resource to defend its position.

3.1.3 The Federal Republic of Germany

State regulation in Germany had reacted swiftly to the major banking crisis in the early 1930s by imposing an encompassing system of banking regulation and partly even of bank socialisation, but the latter was quickly reversed until the end of the 1930s. In the Federal Republic, a relatively liberal approach to banking regulation was taken. Caps and ceilings on interest rates, introduced in the 1930s in an attempt to avoid “destructive competition”, were lifted in the the mid 1960s. The Federal Republic was thus one of the first countries to liberalise this sector, and no attempts were ever made to use the banking system as a means of monetary policy (as in Britain) or for the allocation of credit (as e.g. in France or Sweden). Also, the whole topic was politically un-contentious, in marked contrast to the situation in the United States. There were, however, two specific topics that were recurrent during most of the 20th century: on the

one hand a public debate about the “power of banks” (deemed excessive by exponents of both the political left and right, albeit for different reasons), and worries about deposit insurance.

3.1.4 Switzerland

Lastly, the Swiss case. While it had introduced a system of banking supervision as a reaction to the banking system crisis of the 1930s, the Swiss state handled it in a very liberal way and never tried to impose wide-ranging regulations through it. Also – and remarkably in so strongly federalised a state – this was a unitary supervision system which mainly operated through fiduciary agencies assessing the banks’ accounts according to rules set up by a largely independent “banking commission”. While the majority of Swiss political opinion was in favour of the traditionally liberal approach towards the banking sector (economically one of the most important sectors of the Swiss economy), a sizeable minority – the Social Democrats – demanded stricter regulations and were critical of the negative economic consequences of a strong banking sector such as upward pressure on the Swiss currency (induced by capital movements) and the ensuing problems for Swiss exports. After the breakdown of the system of fixed exchange rates and the switch-over to a system of currency floating in the early 1970s, these problems became particularly pressing.

3.2 Twenty five years later: What are the results?

As the previous section has argued, the four countries under consideration exhibited considerably differences both in terms of institutional setup and the extent and use of regulation in the early 1970s. They therefore entered the ensuing decades of growing economic integration and globalisation from quite different positions.

Given the competing theoretical models outlined at the beginning of this paper and the questions they raise, is there a clear result that allows us to endorse or refute one or the other position? Did globalisation lead to a convergence of policies and institutions? And if so, was that the result of democratically legitimate action and conscious political decisions, or did internationalised, anonymous markets force that development? Or did policies and institution follow the trajectory determined by past decisions, and if so, for reasons of conscious political choice or because of an inability to adapt to changing circumstances? Depending how these questions are answered, four results are possible. They are summarised in the scheme of Table 2.

Obviously, the different developments in each of the four countries cannot be summarised in the space available here.⁸ Only some hints at main aspects of the respective developments are possible in the remainder of the paper. But even if one takes all the evidence into account, it is not possible to give a clear affirmative or negative answer to any of the above questions. However, a differentiation between the dimensions of *policy*, *politics* and *polity* – the content, processes and the institutional aspects concerning our topic – can help to make further distinctions and yield more insights.

⁸For that, see chapters 4 to 7 of Busch (2002b).

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		Convergence	
		yes	no
voluntary	yes	<i>active political design</i>	<i>path dependent development</i>
	no	<i>market dominance</i>	<i>blockade</i>

Table 2: Typology of possible policy outcomes

3.2.1 Policy

Looking at the content of regulation, it becomes evident that here a lot of convergence has taken place in the last 25 years. Compared to the situation in the mid 1970s, there has been a clear trend towards both codification and liberalisation in the field of banking regulation. While the UK did not have a formalised system of banking regulation at the start of the period, it developed both an institutional structure and legal regulations by the end of the 1970s, catching up with the other countries that had developed such institutions already in the 1930s. Both a national banking crisis and the development of European integration played a role in the British case. Liberalisation was also an international trend, even if in this sample only the heavily regulated US banking market was affected, and the result was less than successful, being characterised by abject policy failure (the crisis of the *Savings & Loan* system in the 1980s and early 1990s) and an endless series of attempts at repealing the *New Deal* regulations of the 1930s that heavily restricted the banking system which ultimately resulted in both courts and regulatory agencies taking the lead in deregulation.

These trends, however, produced nothing like perfect convergence in terms of policy. While international cooperation in the *Basel Process* has helped to coordinate regulations by focusing it on agreed parameters such as banks' own capital ratios, implementation of these measures varies widely across countries. Not least the fact that a new round of negotiations (the *Basel II process*) was started in 1999 demonstrates continuing differences in the content of regulations – but also the desire to overcome them. So far, top international bankers keep complaining about the different treatment their banks receive in different countries, and even within the European Union and its single market, different national implementations of the respective directives as well as opt-out clauses and effects of the tax system have led to some continued divergence (Molyneux 1996).

While there is a strong overall tendency towards convergence, there still remain significant differences.

3.2.2 Politics

In the politics dimension, however, there is practically no convergence whatsoever at play. The hypotheses assuming that growing international economic integration will lead to more power and influence for the capital side (Frieden and Rogowski 1996), resulting in “convergence towards an agenda set by investors” (Cohen 1996: 288), is not confirmed by the case studies. Rather, these demonstrate that attempts at liberalisation can fail because of the resistance of sub-groups of the capital side (as in the United States), or that they can be forced through even against the express wishes of the banks (such as the abolishment of cartels in Switzerland in the early 1990s).⁹ In the view of this evidence, any assumptions often made about homogenous interests within this rather divergent group of sectors and companies must seem highly questionable.

Above all, the case studies demonstrate that the national systems of interest intermediation and the respective policy networks work in very different ways, and demonstrate great stability over time. The more consensual systems of Germany and Switzerland are here contrasted with the more adversarial systems of the United Kingdom and the United States.¹⁰ Change, if it takes place at all, is only on the margins. This can partly be explained by the stability of the institutional frameworks within which these processes take place (see below), but also by the fact that in each country a multiplicity of issues compete for influence on the national political agenda. The assumed “pressure” from globalisation – a comparatively long-term and slow process – must be judged as relatively small and unimposing. Only in cases of acute crisis, the issue of banking regulation gains universal attention, as the respective episodes in all four country studies demonstrate. Otherwise, this issue is characterised by *low politics* and a relatively high degree of expert influence and technicality – not exactly the stuff media headlines are made of. . .

3.2.3 Polity

Similarly, convergence seems largely absent from the institutional dimension. The components of the national policy networks in banking regulation appear in their clear majority very stable and highly resistant to change. This is particularly evident in the case of the United States where repeated attempts to reduce the number of regulatory agencies and / or reform their respective tasks (and assign them more logically. . .) failed. Both in the German and Swiss cases, there were no attempts at institutional reform. The only exception from the rule is the case of the United Kingdom where a major institutional reform took place after 1997. It not only stripped the *Bank of England* of its supervisory role, transferring that task to a new *Financial Services Authority* (FSA), but also transferred all areas of financial market supervision to that new institution – once

⁹For a similar developments in Spain see Pérez (2001).

¹⁰Which, however, differ substantially in terms of state capacity! See more below.

the Westminster system has made up its mind, there is literally nothing that can stop it. But the characteristics of the FSA do not resemble the institutional structures of any of the other countries' regulatory systems so that clearly there is no tendency towards convergence on a common institutional model, or even the emergence of a "reference model".¹¹

In addition it must be emphasised that the reform in Britain was triggered by two national failures of the existing system of banking regulation (*BCCI* in 1991 and *Barings Bank* in 1995) and not by the pressures emanating from international developments of globalisation. And both the blockade of institutional reform in the US and the implementation thereof in the UK can best be explained by characteristics of the national political institutions, namely the tendency of Congress for stalemate in dealing with contested measures in the maze of committees and sub-committees on the one hand, and unchecked centralisation of power in the case of the British Westminster system on the other.

A convergence of institutional systems in the foreseeable future thus seems rather unlikely. And since different institutions react differently to identical challenges, namely according to their respective "logic of appropriateness" (March and Olsen 1989), even complete convergence in the content of regulations (the policy dimension) would still likely yield different national reactions to similar crises.

4 The sources of change and their national filters

Looking at the, if varying, changes that have taken place in the national systems described in this paper, it is interesting to ask whether common sources exist for these changes.

Among such potential common sources, the "Basel Committee" stands out. Following disturbances in foreign exchange markets after the end of the system of fixed exchange rates, it was set up in December 1974 by the G-10 countries and operated under the auspices of the *Bank for International Settlements*. It is within this institutional context that international cooperation in the field of banking regulation has been conducted since. However, the "Basel Committee's" agreements are not legally binding – they are merely "Gentlemen's agreements" which are voluntarily followed by the participating parties as well as many other countries.

Since there is a large degree of overlap in the membership of the "Basel Committee" and the European Union,¹² the recommendations of the former are usually transformed into EU directives. This was the case with the First Banking Directive of 1977, which included the principle of home country control as well as the commitment to further supervisory cooperation. As the idea of a common European banking law failed because of member states' resistance, the 1980s saw the application of the principle of mutual recognition of national practices enshrined into the Second Banking Directive of 1989.

¹¹E.g. in the way an independent central bank has become the international "reference model" or "best practice" for central banks during the last decade.

¹²Eight of the twelve members of the Basel Committee are also members of the European Union.

Banks from EU member states thus only needed a “single passport”, i.e. to be licensed in one member state allowed operation in all member states.

The regulations emanating from the “common sources” are not very detailed. They leave room for national manoeuvre and different implementation – a necessary condition given the varying characters of national financial systems. But more importantly, these recommendations and regulations do not constitute an external imposition for nation states, but are the result of international negotiations that have been voluntarily accepted.¹³

But what happens with these regulations in the national systems? Here, the “stimuli” that emanate from the international regulatory sphere meet very different domestic circumstances which act as national filters. Two examples may serve to illustrate that point:

- In the United States, for example, the national environment in this policy area is characterised by a high degree of politicisation, a multiplicity of policy actors¹⁴ and a policy style that is confrontational and legalistic. As a result, adaptation of the existing regulatory system through changes of the laws governing it failed for many years – repeated attempts at reform failed to overcome the high consensus requirements in the maze of committees and sub-committees on Capitol Hill in the brief time span of a congressional period of session.¹⁵ Given the blockade of the legislative system, however, the necessary changes were provided by other parts of the system which acted, as one can argue, as “safety valves”, preventing lasting damage. Court decisions and changes of long-standing interpretations on the part of the regulatory agencies introduced the flexibility into the process that the legislative system could not provide. Ultimately, in 1999, after several decades of failed attempts, a law was passed that ratified the changes courts and regulatory agencies had carried out.
- In contrast, the system in Germany is characterised by low politicisation and a high degree of corporatist cooperation which takes place both between the industry associations and the state and between the sectoral peak associations of the three main banking sectors. This system, in which consultation of industry is mandatory before any changes are introduced, has provided the state with relatively low costs (as the associations take on a large part of the supervisory work themselves), and has given the industry a high degree of flexibility. Within this system, the shift from a system largely determined on the national level to one largely determined on the European level has been implemented without any great disruptions.¹⁶ Apart from the two directives mentioned above, seven more directives have been incorporated into national law between 1983 and 1995.¹⁷

¹³This is true in the strict sense only for the states that participate in the “Basel Committee”.

¹⁴See figure 2 above.

¹⁵See Reinicke 1995 for a detailed description of the process.

¹⁶The German *Kreditwesengesetz* is today considered as “largely determined by EU directives”. See Boos et al. 2000: V.

¹⁷Busch 2002b: 131ff..

The different domestic environments, I argue, work as national filters, preventing convergence and producing continuing difference among both banking systems and regulatory systems. These, in turn, produce different interests in regulatory matters on the national level. As international institutions like the “Basel Committee”, however, are made up of national representatives, these different national interests are being brought into the international negotiation process. As a consequence of such cycles, one would expect negotiations in the “Basel Committee” to become more time-consuming and politicised, and this is indeed what seems to be the case. The more detailed “Basel” regulations get (and the more they matter under conditions of increasingly integrated financial markets), the more governments get involved. What used to be primarily technical negotiations now become politicised more and more. This is certainly a completely different situation from the one of the “Basel Committee’s” first meeting, where “supervisors sat around a table, quiet and suspicious of each other”.¹⁸ Nowadays, national representatives bargain hard for their national interests and advantages.

This is also the reason why the “Basel Committee” cannot be adequately described as an epistemic community. World views and interests differ substantially among this group of experts, which constitutes a clear difference over the existence of a shared belief system that unites the community of central bankers and has made policy coordination in that area so much easier (Haas 1992). In banking supervision, however, the role and influence of ideational factors is quite limited, which is primarily due to the highly technical nature of the field and to the absence of a “best practice” model (Busch 2002a).

The changes in the preferred instruments of banking supervision (from no common instruments at all in the 1970s to a focus on fixed capital ratios in the 1980s to the use of flexible risk-adjusted models in the 1990s) do therefore not reflect the pursuit of a coherent vision of banking regulation, but rather the increased experience with the workings of financial markets, the development of ever more sophisticated financial instruments and the influence of powerful interests that push for the adoption of instruments that save them money¹⁹ or suit the interests of their national banking system.²⁰

While the “Basel Committee”, being the focus of international cooperation in questions of banking regulation, may thus be a common *source* of change, it cannot be considered the *cause* of these changes. Mancur Olson has advocated that distinction, and (criticising his fellow economists’ explanations of economic growth) stated that

“they trace the water in the river to the streams and lakes from which it comes, but they do not explain the rain.” (Olson 1982: 4)

In a similar fashion, looking at the “Basel Committee” tells us a lot about the way standards in banking regulation were invented and implemented, but it does not explain why the need for them was felt. After all, systems had worked for decades without such common standards. If we want to explain why this situation changed, looking at the development of and negotiations in the “Basel Committee” will not get us very far. Rather,

¹⁸This is how one of the participants describes it (Kapstein 1994: 45).

¹⁹This is e.g. the case with big international banks and the introduction of risk-adjusted measures of core capital.

²⁰As is the case with the exceptions from the system of risk-adjusted measures won by small banks.

we will have to take into account more basic underlying factors such as technological development (computer and IT revolution, the invention of ever more sophisticated financial instruments), but above all the experience of crises. For it is both on the national level (see below) and the international level that crises led to the perception of the need for change: the “Basel Committee” was set up as a reaction to the failure of the German *Herstatt Bank*; its *Concordat* was revised as a reaction to the Latin American debt crisis and the collapse of *Banco Ambrosiano* in the early 1980s and again in the 1990s as a reaction to the *BCCI* case.

5 Conclusion

Looking back on the arguments presented in this paper, what is the conclusion? It was demonstrated that evidence from the policy area of banking regulation does not support the more sweeping claims at (policy and institutional) convergence often found in the literature on globalisation. While there is substantial (but imperfect) convergence in terms of regulatory content and policy, there is none in terms of the political processes and the institutional dimension. Policy discourses in the field are only to a small degree characterised by the *frame* of international competitiveness, while more often national specific issues dominate the day-to-day legislative debates – e.g. in the Swiss case the issue of money laundering, in the UK the details of the several high-profile banking failures that each triggered changes in the banking legislation, and in Germany the debate about access to bank accounts for everybody.

But does that mean that there is more support for the theories of divergence and path dependence? Again, some relevant qualifications have to be made. When faced with the momentous changes in the policy field in the mid-1970s, countries did not primarily embark on the search for national specific solutions, but tried to coordinate their actions through the *Basel Committee*. Even if these negotiations took 15 years to reach a first agreement, they resulted in a common regulatory framework that often required substantial changes in national regulation.

With respect to the dimensions of politics and polity, however, the latter theoretical approaches are much better suited to explain the absence of change and the continuing divergence. Nationally specific institutional configurations, historically developed, produced incentives which favoured certain patterns of action and inaction and thus influenced the strategic choices of political and economic actors. Routines and patterns of interaction were developed and in turn created stability and lowered transaction costs.

If there was any change, it was in all four cases triggered through *national* crises, not international developments, and different national contexts led to very different reactions:

- In Germany, the *Herstatt* crisis led to substantial self-regulation, if only after the threat of massive state intervention;
- in Switzerland, the *Chiasso* scandal also led to increased self-regulation, but as an influential party (the Social Democrats) was not satisfied with the result, continuing politicisation was the result;

5 Conclusion

- in Britain, reactions to crises came exclusively from the side of the state or the regulator, the *Bank of England*. Banks and associations never proposed any reforms of their own, which they did not regard as their task;
- and in the United States, not even the *S&L* crisis with its enormous costs could stop the long-standing trench warfare about liberalisation. Also, there were no reform proposals from associations here either, but that was more probably due to their competitive relationship with each other than with their perceived role in the policy process.

National institutions, we can sum it up, function in a way as “filters” of globalisation. They deal with similar or even the same problems in their own specific ways, thereby producing different policy outcomes and dynamics in the various countries. In terms of the possible outcomes of Table 2, we can say that the results vary between “active political design”, “path dependent development” and “blockade”. That the position of “non-voluntary convergence” or “market dominance” could not be observed should be good news for reasons of democratic legitimacy of national policy making.

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