

The Sources of Organizational Autonomy

Sociological Systems Theory and Lessons from and the UN Security Council

**Section “Re-discovering International Organizations” of the
7th Pan-European International Relations Conference,
Stockholm, 9-11- September 2010**

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1. Introduction

International organizations constitute a seriously under-researched part of international relations. This observation made by Abbott and Snidal (1998) more than ten years ago is still valid, although the interest in this particular type of international institutions has significantly increased since then (Barnett/Finnemore 2004; Reinalda/Verbeek 2004; Hawkins et al. 2006; Dingwerth et al. 2009). This situation is particularly surprising because international organizations and similar institutions are extremely widespread. Virtually all relevant issue-areas of modern international relations comprise at least one competent international organization and some of them, like the World Trade Organization (WTO) and the European Union (EU), have acquired considerable power in their respective fields of competence. Other well-known international institutions, like the international regimes for the protection for the ozone layer and the global climate change regime, as well as treaty systems like the convention on the law of the sea, comprise remarkable organizational components which are indispensable for their governance activities (Churchill/Ulfstein 2000; Brunnée 2002).

The limited interest in international organizations may be attributed not least to the lack of a reliable theory of international organizations. While intergovernmental and transnational cooperation as well as the formation, operation and effects of international institutions have been subject to fruitful and theoretically guided analysis over the past three decades (Simmons/Martin 2002), the core analytical instruments assign little relevance to international organizations. Cooperation theory draws mainly on the preferences of key actors, especially the member states, as well as constellations of interests, to explain the success (or failure) of international cooperation and related institutional arrangements ("international regimes" Krasner 1983; Keohane 1984). In this perspective, organizations acquire merely auxiliary functions in the course of regime formation or stabilization (Martin 1993) – or they are considered as largely uninteresting appendices of cooperation projects (Keohane 1989: 3-4) with "headquarters and letter heads, voting procedures and generous pension plans", which require no conceptual elaboration (Ruggie 1992: 573). This research strategy reflects the renunciation of the theoretically less promising research on international organizations of the 1960s and 1970s (Kratochwil/Ruggie 1986). While contemporary global governance research identified new actors, in particular non-governmental organizations (NGOs), it has largely ignored international organizations.

Existing attempts to deepen the theoretical understanding of international organizations have not yet brought about a comprehensive theory of such institutions. Basically, there are three different lines of research. *First*, scholars increasingly identify the *secretariats* of international organizations as separate actors within international relations. They point to bureaucracies organizing environmental policy processes (Biermann/Siebenhüner 2009) or eluding the control of relevant member states (Nielson/Tierney 2003). Barnett and Finnemore (1999, 2004) draw on Weberian bureaucracy theory to explain the autonomy of such bureaucracies. While this is without doubt an important source of organizational autonomy, international organizations comprise much more than their secretariats. *Second*, some rare attempts

to assess the specific cultures of international organizations are rooted in organizational sociology (Ness/Brechin 1988). However, such approaches have rarely been picked up. Not only are they also limited to exploring the secretariats and ignore all other components of international organizations, including the intergovernmental ones. They are also difficult to link to the established cooperation theory because they drop the rational actors assumption and do not carefully spell out the role of organizational bureaucracies vis-à-vis the member states, as well as organizational entities dominated by them. *Third*, scholars increasingly explore the relevance of organizational decision processes beyond simple intergovernmental negotiation systems (Reinalda/Verbeek 2004). Such decision processes may include both the bureaucratic and the intergovernmental, as well as possibly additional, components of an organization. Attention has been focused particularly on the “rational” design of organizational decision processes (Koremenos et al. 2001), on matters of delegation (Hawkins et al. 2006), on compliance procedures (Victor et al. 1998), on adjudicative arrangements (Keohane et al. 2000; Alter 2008), and on procedures designed to producing decisions that are problem adequate irrespective of their distributive effects (Gehring/Kerler 2008; Gehring/Plocher 2009). While all these approaches point to important aspects of international organizations and contribute to their understanding, they do not offer a conception of the fundamental properties of such organizations and their basic functions.

In this paper, we develop a theory of international organizations that focuses on the organizational aspects of such institutions while being at the same time fully compatible with the established analysis of international institutions (“regime analysis”) rooted in cooperation theory. Since established organization theory focuses almost exclusively on hierarchically ordered bureaucracies and firms (March/Olsen 1989; Scott 2004), we draw on the modern sociological theory of social systems (Luhmann 1995, 2000). It offers a comprehensive theory of socially constructed and institutionalized entities (“social systems”), which emerge exclusively from interaction among relevant actors, but gain an existence on their own and henceforth exert influence on actors’ activities. Since this approach is hardly known in international relations or political science (for rare exceptions, see Albert/Hilkermeier 2004; Koch 2009), we do not explain the theory as such but draw on some of its core logics.

Our theory of international organizations offers a fresh approach that elucidates so far neglected aspects of such organizations without having to ignore the decade-long fruitful research on international institutions and to sacrifice the bulk of existing knowledge. It elucidates the sources of organizational autonomy vis-à-vis their member states even though they are created and sustained by the latter. Their autonomy distinguishes organizations from regimes and social norms. Due to their (limited) autonomy, organizations acquire the ability to exert influence on the activities of member states and other actors, to develop dynamically, and even to become actors of the international system that are capable of acting separately from their members (Keohane 1989; Rittberger/Zangl 2003). In a nutshell, international organizations, like other formal organizations, constitute decision-making machines that gain relevance by

structuring decision processes and by producing decisions in contingent situations. In such situations, decisions of organizations matter, because actors must make a collective choice among at least two available options. International organizations may exert influence on this choice by structuring their internal decision processes. This theoretical approach can thus account for specific institutional arrangements, such as a strong secretariat or a principal-agent relationship or an adjudicative or a scientific body, but it also applies to minimum organizations such as intergovernmental negotiation forums.

We illustrate the power of our theory by examining the United Nations Security Council as an international organization. This entity constitutes a hard case of any theory of organizational autonomy, because the member states, among them the currently most powerful states, seem to control virtually all decision processes. The institution does not comprise a strong secretariat, or any other powerful non-state agent like a court. Moreover, it is part of the United Nations Organization (UNO/UN) and, thus, not formally independent. If this simple organizational structure can gain significant autonomy vis-à-vis its member states, more sophisticated organizations like the WTO and the EU will probably do so even more.

The paper is organized as follows: In section 2, it explores, against the backdrop of established cooperation theory, the demand of actors for an institution that is capable of producing collective decisions. Subsequently, it examines the core characteristics of organizations, whose main function is the making of decisions from an organization-theoretical perspective (section 3). It then identifies two particularly important sources of autonomy of international organizations, namely the evolution of a selection structure that leads to path-dependent decision-making and the functional differentiation of internal decision processes (section 4). Finally, it examines patterns of Security Council decision-making and identifies both path-dependence and the effects of functional differentiation in this basically intergovernmental organization (section 5).

2. The Demand for a Decision Machine

The key to understanding the basic function of international organizations is the distinction between spontaneously emerging institutions and negotiated or otherwise purposively established institutions (Young 1983). This distinction does not address the degree of cooperation achieved or the social desirability of an arrangement. Both spontaneously emerging and negotiated institutions may enshrine far-reaching cooperative arrangements that direct the behaviour of relevant actors, and both forms of institutions consist of social norms, i.e. institutionalized normative expectations that indicate socially desired behaviour. Instead, the distinction focuses on the *process of institutionalization*. While process is tremendously relevant for any social development, be it international, transnational or otherwise, it is, as a theoretical category, virtually absent from current institutional analysis.

Cooperation may evolve spontaneously without any collective decision-making. As Axelrod (1984) has demonstrated, it can evolve solely from repeated interaction among

a group of actors. A strategy of punishing defection and rewarding cooperation may induce actors even in repeated Prisoner's Dilemma situations to turn to cooperation and refrain from free riding. The actors communicate by signals that are inherent in their action, not separately from this action (Kratochwil/Ruggie 1986: 765). An actor must control sufficient acting capacity to participate in the interaction and to be recognized and accepted by other actors as relevant. The spontaneously emerging cooperative arrangement implicitly allocates costs and benefits. In traditional international relations, many important arrangements have evolved spontaneously, such as the three-mile boundary separating the freely usable high seas from the coastal zone under the jurisdiction of a coastal state which reflected the actual shooting distance of canons at the time of emergence (Nussbaum 1947: 81). Hence, spontaneously evolving cooperation is not at all merely the product of an abstract thought experiment.

Spontaneously evolving cooperation may be stabilized by a spontaneously emerging institution. In this case, social norms indicate socially expected behaviour. Like the underlying cooperation, spontaneously emerging institutions do not require any collective decision-making (Lewis 1969; Sugden 1989). All important aspects, including the subject matter in question, the relevant group of actors, and the content of social norms emerge directly from interaction, as if being determined by an invisible hand (Ullmann-Margalit 1978). International customary law demonstrates that such institutions can last for long periods of time without explicit agreement among the actors concerned. Moreover, they can remain valid and accepted even if the conditions, from which they emerged, have changed over time. Hence, the three-mile coastal zone remained intact for many decades even though military technology developed continuously.

Unfortunately, spontaneously emerging institutions are not suited to support active governance. The evolution of spontaneously evolving social norms is not only cumbersome and time-consuming, if only because signals are difficult to interpret in complex settings (Kratochwil 1989: 23-25). These norms are also inherently sticky and merely suited to stabilize existing (cooperative) behaviour. They are not apt to bring about changes of behaviour, because the prior existence of cooperation is a prerequisite for their emergence. In contrast, social norms intended to bring about changes of behaviour must be elaborated *prior* to, and separately from, the desired changes of behaviour.

A group of actors intending to improve a sub-optimal outcome through the establishment of an international institution has to acquire the joint capacity to adopt collectively binding decisions on the specificities of a cooperative arrangement separately from the interaction to be governed by the future institution (Gehring 1994: 387-392; 2002). They must open a second arena of interaction, in which they can discuss a truce or peace contract, while still fighting fierce battles in the field; or decide how pollution ought to be reduced in the future. The opening of a sphere of communication or negotiations that is separate from the sphere of action is a prerequisite for coordinated collective policy-making. It relieves actors from having to

communicate by action and allows them to communicate in one arena and to act simultaneously in another one.

A simple negotiation system is the most widespread and the least ambitious device for collective decision-making (Zartman 1978), but its establishment opens a Pandora's Box of new problems. Engagement in a negotiation round does not seem to be very risky. All decisions are adopted by the participants collectively, and there are no other actors involved. However, a negotiation system is an institution for the making of collective decisions by structured communication that is intentionally separated from the outside world. It allows what has been called "institutional bargaining" (Young 1991: 282-285), but it does not automatically reflect relevant patterns of the outside world. While Axelrodian evolution of cooperation does not require any collective decisions at all, a negotiation system requires a number of pre-decisions of imminent importance before serious negotiations can even start.

First, the relevant group of actors has to be determined. While in the case of spontaneously emerging cooperation the group of relevant actors is inherently limited to those actors willing and capable *to act* in the respective issue-area, *communication* about desirable social norms requires little resources and almost no capacity to act meaningfully outside of the conference room. Whereas fighting a war, polluting the climate significantly or protecting international peace by carrying out sanctions against deviating states requires capacity and willingness to act, *talking* about how to end a war, how to change pollution patterns or whether to impose sanctions does not. Many actors, including small or far away states that are not directly involved as well as a potentially unlimited number of non-state actors (e.g. NGOs) may claim to participate in the collective decision process. Yet, decisions about social norms that are meaningful in the sense of being implemented in the sphere of action and capable of changing the behaviour of those with acting capacity are difficult to achieve in round tables with unrestricted participation (Scharpf 1991).

Second, organized collective decision-making requires a delimitation of the range of issues at stake. Ideally, a group of actors might deal with all pending issues that are of relevance to them. Cooperation theory will even suggest that a larger issue-area tends to offer more room for compromise and mutually beneficial package deals (Tollison/Willett 1979). However, complexity increases dramatically with the number of issues and parties (Zartman 1994b). Whereas it is widespread practice in bilateral settings to link issues opportunistically to form mutually beneficial packages, this will be difficult in multilateral settings (Miles 1977). If the roughly 200 member states of the UN decided to deal with all issues pending among them within a single comprehensive world affairs round, they would be inevitably overwhelmed by the sheer amount of aspects to be considered. With increasing complexity on the actors' dimension, real-world actors tend to limit the issue dimension to contain complexity. Moreover, in some cases, express exclusion of some contentious issues will facilitate negotiations. For example, world trade rounds benefit from the fact that human rights issues are virtually entirely excluded from their agendas (Hoekman/Kostecki 1995). To avoid overwhelming complexity, even the most rudimentary negotiation system requires a

clear-cut definition of the issues at stake that draws a boundary between the (limited) set of issues within the negotiation system and the rest that is not.

Third, organized collective decision-making cannot begin without a preliminary agreement on the procedures for the adoption of decisions. Without such procedures, the participants would not know, under which conditions a decision is considered to be collectively adopted. While unanimity may be the “natural” procedure for a negotiation system, other forms, like consensus, are fairly widespread (Buzan 1981).

Initial decisions on these three dimensions of an emerging organisational system are difficult to question from within the system, but they can be changed according to the procedures of the system. Within the system, they are taken for granted. There is no answer to the question of who entitled the 51 original members of the United Nations to found the world organization in 1945, or the six original member states of the European Economic Community to found this predecessor of the EU. However, initial decisions can be changed according to the procedures of the organization. The 35 UN founding members devised a procedure for accepting new members, as do the founding members of virtually all other organizations. Because of their importance for pursuing one’s interest within a negotiation system, the exact delimitation of boundaries is frequently subject to intense and time-consuming pre-negotiations (Gross-Stein 1989). Hence, the Conference on Security and Cooperation in Europe was preceded by two years of intense negotiations (Helsinki consultations) on how to define the issue-area and whether non-European countries (US and Canada) ought to participate (Ferraris 1979). And the first part of the current World Trade round dealt exclusively with the question of which issues were to be included into the mandate of the substantive negotiations (Das 2005).

The pre-decisions of a negotiation system establish socially constructed norms that emerge from a coordination situation. Whereas decision procedures reflect shared expectations as to the conditions under which one ought to accept an agreement as adopted, the boundaries provide limitations of attention and allow to concentrate on certain issues pending among specific actors, rather than having to deal with all aspects at the same time (Zartman 1994a; Scharpf 1991). These norms are meaningful exactly because they provide a solution for a coordination problem of the actors involved. They are contingent, i.e. they could have been drawn differently. Whereas different groups of actors might prefer different delimitations of membership and issue-area, or a different decision rule, all of them will favour some delimitation because this is the prerequisite for meaningful negotiations and the prospect of mutually desired cooperation. Hence, these actors are in a coordination (Battle of the Sexes) situation (Stein 1983; Snidal 1985). Once a solution has emerged, from whatever process, it will be quite stable, because no actor can gain from unilateral deviation. Changes must be made by collective agreement and cannot be expected unless preferences have changed significantly. The norms are stabilized by the collective consent on the necessity of some boundaries. Accordingly, memberships, institution-specific issue-areas and decision rules are pure social constructions (see already Haas 1975) without an objective existence beyond the system.

Despite their social construction, the pre-decisions of a negotiation system exert a tremendous influence on the negotiations and their outcomes. “Adding and subtracting issue and parties” can dramatically change the negotiation situation (Sebenius 1983). Actors must define their preferences according to the specific negotiation situation. It is no useful to make concessions vis-à-vis actors that are not members, or to press issues that are excluded from the negotiations. Hence, negotiations among varying groups of actors (e.g. regional and global), as well as outcomes, can be expected to differ significantly even if dealing with identical issues (Sebenius 1991). And negotiations within an identical group of actors will differ significantly, if the issue-area is enlarged or reduced. Likewise, decision rules allocate power to the actors involved. It matters whether all participating actors must positively agree (under unanimity), or whether disagreement has to be voiced (under consensus), or whether other quorums are considered to be sufficient to adopt a decision (e.g. under majority voting) (Buzan 1981).

In conclusion, we can say that actors need a machine for the making of collective decisions, if they want to go beyond spontaneous coordination. The desire to govern an issue-area of international relations in their common interest forces them to establish an institution that is capable of adopting collectively accepted decisions. As a corollary, they must accept the constraints imposed upon them by this institution in terms of substantive and actor-specific boundaries as well as decision rules. It does not make sense to ignore the rules of the game established by the institution (Kratochwil 1989: 26; Searle 1996: 42-45).

3. The Essence of International Organization

Against the backdrop of the essentially actor-driven demand for organized decision-making in international relations, we explore in this sub-section the core characteristics of international organizations. This endeavour is based upon two theoretical pre-decisions. First, in line with the bulk of organization theory, we argue that the full implications of the emergence of an (international) organization can only be grasped by adopting an organization-centred, rather than an actor-centred, perspective. After all, international organizations constitute new entities of international relations that are distinguishable from their constituting actors, i.e. their members, as well as from interaction among these actors. However, we seek to carefully avoid “smuggling in” (Keohane 1984) aspects that are not fully in conformity with the interests of the actors involved, so as to secure compatibility with the established actor-centred theories on cooperation and regimes. Second, following the modern sociological theory of social systems, we assume that the core characteristics of international organizations are present not only in full-fledged organizations, such as the World Bank and the United Nations, but also in simple intergovernmental negotiation systems. If this is so, the core characteristics of organizations may be even more clearly visible in such minimum organizations precisely because of their limited internal complexity.

International organizations are founded on the core distinction between the system and its specific environment. They separate themselves from their environment and allow distinguishing aspects occurring within the system from everything else located in their environment. Already this delimitation is a product of the organization, because the systemic boundaries would not exist without the system. The delimitation of a new organizational system automatically creates a particular environment that is unique for the respective organization. In contrast to the system, the environment is not structured, but it may comprise other organizations. As has been demonstrated above (section 2), international organizations are separated from their environment especially by two types of boundaries. With the delimitation of an issue-area, they define an area of relevance for organizational decision-making, and can ignore everything else as irrelevant. And even the most rudimentary negotiation system requires a clear-cut boundary between those (few) actors that enjoy membership status and the rest that does not. Therefore, it is a core characteristic of all organizations – from a farmer's association in Bangladesh to the United Nations – that *membership is restricted* and, therefore, comparatively clearly defined. Current international organizations throughout privilege states over non state actors, but many of them, like the G 8/20, the OECD or the EU, are much more restrictive. With the definition of membership, they create a specific group of actors with a privileged status within their internal decision processes, accompanied by specific obligations related to the membership role. Likewise, all organizations, irrespective of their power and internal complexity, operate under a specific mandate.

International organizations may, like all other organizations, be conceived of as social communication systems (Luhmann 2000). They consist exclusively of communication among actors and social structures emerging from such communication. This conception of international organizations allows conceiving of international organizations as completely newly emerging entities of international relations. After all, organizations do not absorb their members. Even the member states of the most powerful international organization, namely the European Union, remain separate entities of international relations. The European Union as well as traditional organizations like the World Bank and the WTO and even simple negotiation systems emerge as totally new entities of international relations in addition to their members. As a consequence of this conceptual move, organizations comprise exclusively the collective structures that emerge from communicative interaction among relevant actors of international relations, including their boundaries. While membership roles belong to the organization, everything else, including the actors carrying these roles and any other actors with an independent existence, such as non-governmental organizations, scientists or employees (see also Pfeffer/Salancik 1978; Scott 1992: 83), as well as external resources, such as money or troops, are located in their environments. The conception of organizations as communication systems implies a radical abstraction from current approaches toward organizations and the international system, which usually reflect the idea of an organization being a whole which includes its parts (for the international system, see Waltz 1979), or being more than the sum of its parts.

The principal function of international organizations, like any other organization, is the making of collective decisions. The capacity to adopt collectively accepted decisions has been identified above (section 2) as the most fundamental demand for groups of actors intending to engage in active governance in international relations. Organizations constitute the institutionalized response to this demand. All full-fledged international organizations and similar institutions are decision machines. The World Bank decides about acceptability of development projects, the WTO on the rules of international trade and possible conflicts about their interpretation, the climate change regime decides on obligations to reduce certain emissions as well as the particularities of emissions trading, and even a simple negotiation system constitutes a decision machine with no other purpose than allowing to make collectively accepted decisions. Whether resources are under direct control of the organization, as are World Bank funds, or remain under immediate control of other actors, as is the case for the UN Security Council and the WTO, may be relevant for its effectiveness, but it is irrelevant for its key function.

An organization is functional for its environment, especially for its constituting members, (only) in as far as there is anything to decide. Situations requiring decisions are contingent, i.e. they comprise at least two options that are not excluded by external factors. Contingency is ideally reflected in those game-theoretic situations, in which the choice of relevant actors depends on the choice of other actors, such as Stag Hunt and Battle of the Sexes (Stein 1983; Luhmann 1995: 113-136; see also Parsons 1951: 10, 36-37 for this type of 'double contingency'). In the real world, its relevance is dramatically increased by the complexity of many problems in light of limited information processing capacity and significant transaction costs of information processing. Complexity 'bounds' actors' rationality (Simon 1976; Denzau/North 1994) and increases the demand for social coordination, because it forces actors to act without having fully calculated the merits of all available options, thereby creating uncertainty for other actors in interdependent situations. Even fully rational utility maximizers engage in a bargaining process to identify a mutually accepted solution, because the exact point of agreement is difficult to determine in advance. Organizations transfer existing contingency into contingent decisions, i.e. decisions that could also have been shaped differently. Therefore, an organizational decision always emphasizes one of at least two possible options and points at the same time implicitly at other options that had been originally available, but were not realized. Hence, organizational decision-making complements non-systemic structural patterns like well-defined interests and power relations.

Due to its information processing capacity, the organization acquires the ability to *observe* its environment and to develop its own perspective on the outside world. It gradually obtains an internal reconstruction of its environment, which is not, however, a scaled reproduction of the outside world, but distorts the latter in several dimensions. The reconstruction drastically reduces the complexity of the outside world, because it is limited to systemically relevant aspects. It focuses exclusively on issues within the realm of the organization, because everything else is put aside as noise and does not

exist for the system. Therefore, organizational perspectives are throughout limited to certain aspects of the real world, such as liberalizing world trade, protecting whales, or promoting development in least developed countries, while ignoring everything else. The internal reconstruction depends exclusively on those bits of information introduced by relevant actors. If actors bargain fiercely over distributional gains, the system acquires knowledge about actors' preferences and the constellation of power and interests among relevant actors, but not about the problem adequacy of identified solutions and about the opinion of non-represented actors. If the organization includes a scientific or technological committee, in which actors engage in a detailed discussion of the specificities of the underlying problem and the merits of available solutions, the system acquires knowledge about these aspects.

In spite of their openness for signals originating from its environment, international organizations can fulfil their decision-making function only if they are operationally closed. They process information exclusively according to their own rules. Whether or not an occurrence has relevance for the internal decision process is exclusively determined by systemic structures, including the system boundaries and decision-making procedures – not by any objective relevance of the occurrence or by the power of an interested actor. System boundaries determine whether an issue can be made subject to the systemic decision process, or whether a claim or proposal issued by an actor is relevant. Decision procedures determine the conditions under which a decision is considered to be adopted. In this regard, internal operations of organizations are closed, because they rely exclusively on their specific structures. This does not mean, however, that such organizations are autistic and operate completely separately from their environment. Systemic decision process are triggered and driven by signals originating from the organizational environment. Every claim or proposal or vote made by a member state, or any other relevant actor, is a signal that originates from the systemic environment and may affect the organizational decision process. Without such signals, there would be nothing to decide and the decision process would inevitably end. Whether the signal gains relevance within the decision process or whether it is ignored as noise is decided by the system according to its own rules. Relevant are exactly those signals that have an impact on the internal decision process (differences that makes a difference; Bateson 1972: 315; Luhmann 1995: 40).

An organization can govern its realm only indirectly by producing relevant decisions intended to induce states and non-state actors operating within its environment to adjust their behaviour accordingly. No international organization controls directly its ultimate target or governance, e.g. international peace, climate policy or whaling, nor the states and non-state actors that are relevant for these targets. It cannot force these actors to adjust their behaviour. Implementation of its decisions occurs inevitably outside of its confines within its environment, and that is, beyond its immediate control. Yet, the organization is part of the environments of states and relevant non-state actors as well as other international organizations, and organizational decisions may create signals that are considered as relevant by these entities and induce them to adjust according to their own internal procedures. Hence, the Security Council may decide to

impose economic sanctions against a country considered to jeopardize international peace and security, but economic relations with the target state are controlled by states outside of the system. These states must be induced to adjust their behaviour accordingly.

Upon adoption of a collective decision (e.g. in the form of an agreement), the specific organizational apparatus, from which a negotiated institution emerges, may either be sustained or closed down (Gehring 2007). If it is sustained, the relevant group of actors retains its capacity to adopt follow-up decisions collectively and establishes an organization with a permanent existence. The organization may observe the effects of its own decisions within its environment and then adjust its decisions accordingly, if considered desirable. It may thus develop, refine or expand the original contract in response to changing circumstances or new information; or it may collectively appraise implementation behaviour by the norm addressees and respond to instances of non-compliance, e.g. through adoption of sanctions or an offer of assistance. This is true not only for full-fledged organizations such as the WTO, but also for most multilateral environmental agreements (MEAs), including the Convention on International Trade in Endangered Species, the Basel Convention on Hazardous Wastes, the climate change institutions (Churchill/Ulfstein 2000), and even for permanent negotiation systems such as the Conference on Security and Co-operation in Europe (CSCE). Alternatively, the organizational apparatus might be closed down upon adoption of an agreement by a diplomatic conference, as had been frequent practice in the past (on the Ramsar Convention, see Bowman 1995). This choice does obviously not affect the specifically organized interaction process from which the agreement emerged. However, the interpretation and adaptation of rules and obligations cannot take place through collective decisions, but occurs 'spontaneous' and triggers a tacit process of norm-development.

The concept emphasizes the highly dynamic nature of international organizations. In functional terms, an organization exists only as long as it decides, because decision-making is its primary function. Hence, traditional international treaties emerging from diplomatic conferences that terminate with the adoption of an instrument do not comprise their own organizational component. As long as organizational decision-making takes place, organizationally relevant behavioural expectations (social norms) change with every decision. They are permanently shaped and reshaped through subsequent decisions as long as the organizational decision process continues. It is impossible to assess the rights and obligations associated with the membership role without regard to subsequent and secondary decisions (Brunnée 2002). This is illustrated by the *acquis communautaire* of the European Union, i.e. the sum of all rules to be accepted by a new member state, grows with every treaty amendment, adoption of a directive or regulation, or court decision. In this regard the dynamic concept of international organizations differs fundamentally from the inherently stable concept of international regimes that intervene between a given constellation of interests and behavioural outcomes (Keohane 1989; Levy et al. 1995). It draws attention to the fact

that behavioural expectations emerging from organizational decision processes are not stable over time, as long as the organization fulfils its decision function.

The importance of the dynamic nature of international organizations is illustrated by the cybernetic distinction between trivial and non-trivial machines. A machine is not necessarily a technical apparatus, but an entity that processes incoming signals through its own operational processes and produces specific outputs. Trivial machines are characterized by the fact that a given incoming signal always leads to the same output. This is true for technical machines and automats, but also for biological stimulus response schemes like anthills. In this case, an observer can predict the output depending on the input without opening the black box of the machine. Hence, trivial machines are not only analytically determined, because their processing of inputs depends on their internal program, they are also predictable, because this program is stable over time. However, international organizations, like other social systems, constitute non-trivial machines. They adapt their internal operation processes upon their own operations. If a given signal is repeated, it does not automatically generate the same decision. This does not imply that organizations, conceived of as non-trivial machines, would produce random decisions. Yet, the number of possible options increases dramatically with the number of input signals because of their history-dependence. Even if they were analytically fully determined, the consequences of an incoming signal could not any more be readily predicted without knowledge of their internal program (Foerster 1992: 65).

Although the capacity to act is not a constitutive characteristic of organizations, these entities can act in specific ways. They can process information, observe their environment, adopt decisions, and thereby change the environment of social entities within their environment. However, exerting influence on the behaviour of an actor within the environment of an organization is a matter of successful communication among two entities which is per se undirected. Its success relies as much on the organization producing an appropriate signal as on the response of the target entity considering this signal as making a difference within its own decision process. Communication may be ascribed to one of the entities involved, if it appears as particularly relevant and will then be conceived of as action. The status of an organization as actor relies thus on the ascription of action to this organization (Luhmann 1995: 137-175). It is important to note that the ascription of communication to one side of the communication process does not change the outside world. A possible stimulus to adjust behaviour does not originate from the ascription of an undirected communication to the sending organization, but from the fact that the organization is capable of producing a signal that is considered as relevant by the target entities which respond accordingly through appropriate adjustments of their behaviour.

A permanently established organizational apparatus has all prerequisites of an organization (Luhmann 2000; see also March/Olsen 1989: ch. 2). It constitutes a decision-making system that is established and maintained by its members to produce collectively binding governance decisions for an area of international relations.

Irrespective of its size (e.g. in terms of competencies, number of administrators, or amount of money available) it is identifiable as a new entity of world politics. Its system-specific boundaries separate internal operations from everything else located in its environment. Its internal organization may vary grossly and change over time – from a very simple negotiation system in which the member states adopt all collective decisions themselves to a highly differentiated structure that includes numerous sub-systems (e.g. a secretariat, science and technology committees, a dispute settlement mechanism etc.) with specific functions and, possibly, attributes a specific role to selected non-state actors. However complex its internal structure, the organization will select information from its environment that matters for its internal process and ignore everything else. Decisions will be made according to its own, more or less complex, internal process structure. Accordingly, every organization develops its own intrinsic logic of operation (Koch 2009), so that a given event, say adoption of an environmentally motivated trade sanction or a human rights violation in China, may be appraised very differently by different organizations, even if their memberships are identical. Rules and norms constitute the output of this collective decision process. As noted above, they reflect collectively shared normative expectations as to how one ought to behave in a given situation. They form part of the organizational structure and may be changed by subsequent decisions. While the organization cannot ensure compliance with its decisions, because any envisaged behavioural changes occur necessarily beyond its boundaries, i.e. within its environment, it can observe the effects of its decisions and may respond by subsequent decisions that might adjust rules, or trigger sanctions or assistance

4. The Sources of Organizational Autonomy

Two patterns of organizational operation elucidate the sources of organizational autonomy particularly well. To explore them, we have to examine in more detail, how organizational decisions are made. We should refrain from simply assuming that the organization, rather than its members or other external actors, produces organizational decisions, because this would be a mere change of conceptual notions. Moreover, international organizations are, in contrast to firms and state bureaucracies, characterized by the fact that their constituent members (i.e. their member states) are usually deeply involved in decision-making. Hence, an organization will gain autonomy only, if it affects the decision process separately, so that results were expected to be different in the absence of a specific organizational factor. From the above, it appears that organizations help actors choose among available options in contingent situations. Accordingly, they can exert influence on the decision process and the content of resulting decisions by structuring the organizational selection process. While each organization and similar entity (such as a negotiation system) structures its internal decision processes in a specific way, organizational autonomy will generally increase with an organization's selectivity, i.e. the specificity of its constraints, and with its internal complexity. We demonstrate the former by examining the role of doctrines that

emerge over time from organizational decision-making and the latter by analysing the relevance of the emergence of sub-systems within the organizational decision-process.

4.1. Path Dependence and the Emergence of Doctrines

International organizations gain autonomy, and exert influence on international politics, through their historicity. Organizational decision processes and their outcomes are path-dependent (Pierson 2000) because the production of new decisions is based upon previous decisions that could have been shaped differently. This is in conformity with, but reaches beyond, March and Olson's (1989: ch. 2) suggestion that organizational autonomy is rooted in the evolution of decision routines. It implies the causal claim that organizational decisions would – or at least might – be different in the absence of relevant previous decisions.

Our conception of organization suggests, in line with established organization theories, that organizations gradually develop structures as specific selection instruments, as is visible even in a simple bargaining process. System structures increasingly constrain the choice of options and gradually replace random choice by accentuating certain options as particularly system-adequate. They reflect cognitive or normative expectations of relevant actors that are never certain, but may be disappointed. The evolution of system structures within the organizational decision process is illustrated by a simple bargaining process, which splits the decision process into numerous partial decisions (Bartos 1978; Scharpf 1997). Typically, bargaining sets out from far apart initial claims and offers, while the negotiators move gradually toward agreement by making reciprocal concessions. Each concession excludes some originally available options and thus narrows the array of possible solutions by establishing additional systemic constraints on the choice of further moves. The final "decision" in a bargaining process amounts to a fully constrained situation with only a single option left for agreement. Whereas the negotiators decide, which concessions they wish to make, the system, or the collectively achieved "state of the negotiations", selects signals that make a difference for the system and sorts out everything else as noise. Relevant are exactly those signals that affect the decision-process. Hence, an offer with tremendous influence at one point in the negotiation process will be sorted out as noise, if simply repeated, because it does not carry any additional information of relevance for the decision process. Moreover, negotiators know that it would violate the rationale of a bargaining process to step back behind concessions that have already been made, because this would jeopardize the prospect of agreement.

Because of the selection function of organizational structure, new decisions have always to be accommodated with the existing structure. Somehow, they must be related to existing ones. This does not necessarily lead to stability. A new decision may supplement, change, interpret, or abolish existing ones, but it can hardly ignore them. It is thus not taken from scratch, but in the institutionalized context of all previous decisions. Accordingly, the choice of equilibrium in a contingent (Battle of the Sexes) situation exerts influence on the availability of options in subsequent contingent

situations, because it has become part of the organization's structure and shapes the expectations of relevant actors. To put it differently: Contingent decisions are built upon previous contingent decisions.

If an organization is repeatedly confronted with similar contingency problems, an organizational decision doctrine is likely to evolve. Decision doctrines are well-known from judicial decision-making (Shapiro 1968, 2002). Typically, judges cite previous decisions either to follow an established argument, or to explain why the present case is different and ought, therefore, to be decided differently. The European Court of Justice is well-known for looking at its own previous decisions when deciding a new case (Stone Sweet 2002). Yet, judicial decision-making is a specific case, because courts are held to interpret the law and apply it to cases according to the standards of law-based jurisprudence, whereas regular international organizations, including the Security Council, are largely independent from judicial oversight. Hence, doctrinal judicial decision-making will be relevant for a theory of international organizations only if it can be demonstrated that it reflects broader patterns of collective decision-making that are not immediately dependent on the particularities of the legal system.

Evolution of decision doctrines relies on the provision of focal points and rules of thumb by the organizational structure indicating how to overcome contingency in repeated situations. In contingent situations, actors typically require some sort of commonly recognized focal point to overcome their coordination problem that must be taken from beyond the respective decision situation, because the situation does not provide this information (Schelling 1960: 99-108; Garrett/Weingast 1993: 173-185). The organizational structure offers a precedent that has been accepted within the organization in regard to a similar decision problem. Accordingly, one or more decisions in like situations, agreed upon according to the organization's procedures, lend themselves as focal points regardless of their content for the very reason that they have been agreed upon previously within the same organizational setting (Snidal 1985: 932; Gerhardt 2005). It will be difficult to identify a commonly accepted solution beyond the organizational structure, while rejecting the focal point provided by a previous and mutually agreed decision without presenting an equally acceptable alternative option amounts to obstructing the organization's operability and thus produces institutional and reputational costs. In addition, March and Olsen (1989: ch. 2) suggest that actors suffering from complexity and limited information processing capacity will tend to resort to existing precedence, because it relieves them from investing attention in the development of a case-specific solution. A precedent thus provides a rule of thumb (Simon 1976) and allows routine-oriented behaviour (for judicial decision-making, similarly Shapiro 1968). Whereas major political decisions like those made by the Security Council can hardly be simply attributed to such habit-driven action (Rosenau 1986), this second pathway may be relevant for comparatively minor decisions with limited implications. Both causal mechanisms result in an implicit linkage of an otherwise independent organizational decision to previous decisions because of the existence of an organizational structure.

An existing doctrine is self-reinforcing; it creates a path-dependent process (Hathaway 2003) that produces increasing returns (David 1985; Pierson 2000). A doctrine's stability will increase with the number of relevant cases, because shared expectations become gradually more firmly established. It is well-known that past experience in coordination situations has a stabilizing effect (Snidal 1985: 936). Thus, it will be difficult to ignore a long-standing and well-established doctrine, because such behaviour will arouse comparably fierce resistance by those actors adhering to the doctrine, if only because it challenges a firmly established decision-making practice to which other actors have accommodated, so that adaptation costs increase. Accordingly, actors advocating ignorance or fundamental change of a well-established doctrine will incur higher reputation costs than an actor challenging a newly emerging doctrine, because it reflects a major inconsistency of decision-making behaviour relating compared to past cases (Shapiro 1968: ch. 1; Stone Sweet 2002: 149-150).

Doctrinal decision-making fosters incremental change of an organization's structure rather than complete stability over time. At first glance, doctrine might seem to result in stability and inertia, because decisions are adapted to previous decisions. However, this is not true. Path dependence does not exclude incremental change (Mahoney 2000; Beyer 2005). Legal doctrines can develop dynamically over time without abandoning their general direction, and thereby increase their relevance within the organizational decision system (Shapiro 1968: 39-43; Stone Sweet 2002: 146-149). Incremental change is triggered by the fact decision situations are hardly ever fully identical (Fon et al. 2005). A slightly different case forces decision-makers to choose whether to *consider* it as sufficiently similar with previous cases, so that it can be treated in light of an established doctrine that facilitates decisions-making, or whether differences justify the endeavour to identify an alternative focal point. Even if the choice is contentious among the actors involved, the organization tends to push it toward accepting the doctrine's applicability – and thus expanding its scope. Moreover, a doctrine increases the probability of success for cases fitting its requirements, once it has evolved. While cases that clearly fall under the doctrine will most probably be decided accordingly and reinforce its stability, cases located at the margins of the doctrine, although less certain, may lead to a gradual expansion of the doctrine. Accordingly, rational actors are encouraged to submit decision problems which are compatible with an existing doctrine, and to refrain from submitting cases that violate a well-established doctrine. Hence, an existing doctrine generates its own cases by influencing the prospect of their relative success, thus affecting the case-specific cost-benefit ratio. As a result, even extremely sceptical members of the organization, which consistently struggle against expansion of a given doctrine, will be confronted with ever new decision problems that arise only because of the existence of the relevant doctrine (Shapiro 2002; Stone Sweet 2002: 97-98, 112 ff.).

To conclude, the emergence of a decision doctrine creates a strong incentive for decision-makers to accept guidance by applicable precedent, while it does not presuppose a collective intention to decide consistently. This incentive must be sufficiently strong to overcome any existing temptation for opportunistic decision-

making. The above analysis demonstrates that even powerful members of an organization have an incentive to follow existing decision doctrines. Accordingly, consistent decisions over time within an organization are fully compatible with the pursuit of unilaterally defined interests.

4.2. Functional Differentiation of Organizational Decision Processes

International organizations also gain autonomy through functional differentiation of their organizational decision processes. Such differentiation increases the capacity of an organization to process large amounts of information in highly selective ways, whereas undifferentiated negotiation systems are not only cumbersome, but also insensitive to many aspects of the organizational environment with regulatory relevance (Luhmann 1995: 189-194). Full-fledged international organizations, and even intergovernmental negotiation processes addressing complex issues (Buzan 1981), comprise usually a number of specialized sub-systems, each of which fulfils a specific function within the overall decision process.

The emergence of functionally specialized sub-systems may fundamentally change the decision rationale of an organization. The establishment of a new sub-system within an originally undifferentiated intergovernmental negotiation system does not simply add anything to a basically unaffected entity. It triggers adaptation processes of all existing sub-systems, because any particular task assigned to the newly established sub-system is automatically removed from the task-list of all other sub-systems. The original state conference specializes automatically on the remaining tasks and thereby becomes itself a specialized sub-system within the organization, as is well-known from principal-agent settings (Hawkins et al. 2006). Henceforth, the organization decides only through its specialized sub-systems, each of which is characterized by a narrowed focus, which allows intensified elaboration of relevant aspects and ignorance of everything else (Mayntz 1988). The potentially enormous increase in productivity based on the meaningful combination of the component tasks is well-known since Adam Smith from the functional division of labour of production processes. Functionally differentiated organizations can produce decisions that have been scrutinized from different perspectives (Scharpf 1997).

This effect is illustrated by the creation of a scientific committee within a negotiation round (Andresen et al. 2000). The purpose of the scientific committee is to discuss, and possibly reach agreement on, disputed or unclear science-related aspects that are relevant for the negotiations. It is not asked to replace the political negotiations, even if its members are nominated by member states. Accordingly, the committee will contribute most to the success of the entire negotiation round, if it adheres to its own, truth-related, decision criteria and sincerely seeks to reach a consensual appraisal of originally disputed propositions. The allocation of science-related matters to the committee will automatically remove scientific issues from the political negotiation body, so that the latter automatically specializes on the balancing of interests of the member states in light of the existing distribution of power. Any attempt by the political

body to deal with scientific matters would not only undermine its own decision to establish a scientific committee, results would also necessarily be less convincing than conclusions reached by the specialized committee (Gehring 1999). The committee does not determine the subsequent decisions of the political body, but it changes the environment, within which the negotiations occur, by providing relevant information that shapes preferences and precludes that negotiators refer to alleged scientific uncertainty or justify parochial interests on scientific grounds (Biermann 2002).

The separation of specific decision functions may even systematically deprive the participating actors of their opportunities to influence the decision-making process through bargaining. The vertical differentiation of a decision process, in which the elaboration of general (abstract) criteria and the settlement of cases in light of these criteria are assigned to different forums, may dramatically change the decision-making rationales of the actors involved at both levels (Gehring/Kerler 2008; Gehring/Plocher 2009). Specialisation on the elaboration of abstract decision criteria tends to prevent actors from pursuing case-specific parochial interests. Actors are forced to be consistent across cases. Since their task is limited to producing abstract standards which can be implemented by other actors, they are deprived of their opportunity to bargain over case-specific deals (Brennan/Buchanan 1985: 28-31. Even when attempting to calculate their overall interest across cases, parties will be forced to formulate a 'median preference' which can be transformed into coherent principles. Moreover, actors may have to decide on general criteria before becoming aware of their future case-specific preferences, so that they operate under a Rawlsian 'veil of ignorance' (Rawls, 1971 #3938). In this case, even rational utility maximisers controlling power resources gain an interest in struggling for criteria which promise to produce acceptable decisions irrespective of their distributive effects. The common search for such criteria and the evaluation of the consequences of different options is a matter for discourse rather than bargaining. Deciding single cases in light of existing decision criteria is, in turn, highly constrained, because criteria limit discretion and provide standards against which decisions can be appraised. If the decisions are small and sufficiently well separated from each other, so as to preclude their linkage within explicitly negotiated packages, the typical patterns of committee governance (Sartori 1987: 227-232) emerge. The distributive effect of the single decision is usually asymmetrical and precludes a mutually acceptable bargaining outcome. Actors pursuing their case-specific interests under such conditions will inevitably jeopardize the entire cooperation project, to the effect that actors seeking to realize cooperation gains must compromise. The decision criteria provide a natural focal point (Schelling 1960: 99-118; Garrett/Weingast 1993: 173-185) that indicates on which decisions to compromise. Committee governance will be especially prone to producing criteria-based decisions if there are, besides the stakeholders, sufficient parties without stakes in the particular decision, because these neutral parties have no inherent interest in violating the criteria. Accordingly, arguments supporting the proper application of mandatory decision criteria become a powerful source of influence in the decision-process.

The decision rationale of a functionally differentiated organization can only be grasped by examining the complex decision system, not by a focus on a specific, presumably particularly important, sub-system. Since each sub-system operates according to its own selection criteria, the final decision is the product of a combination of all relevant selection criteria. All functionally specialized sub-systems are of equal theoretical importance, because each of them fulfils a relevant specialized function, irrespective of formal hierarchy. Accordingly, assessment of their relative influence on the final decision is an empirical, not a theoretical task.

5. The UN Security Council as an International Organization

From an organization theoretical perspective, there can be no doubt that the UN Security Council is an international organization. It is an institution established for the sole purpose of making collectively binding decisions, i.e. a decision machine. It disposes of recognizable boundaries and decision rules while its area of competence is readily defined, i.e. it is responsible for matters of international peace and security, while excluding everything else. Its membership is clearly identifiable and comprises the permanent five veto powers (USA, Russia, China, France and United Kingdom), plus ten elected states representing the regions of the world for two years. Moreover, there are decision rules enshrined in the UN Charter (art. 27), stipulating that substantive decisions are adopted by at least nine votes with no negative vote by any of the five veto powers.

The Security Council enjoys its status of an organization in spite of its being part of a larger organization, namely the United Nations (UNO/UN). For its *internal operation*, this formal dependence on the UN is of little theoretical relevance, because a sub-system of a larger organization has all the properties of an organization. Any sub-system is itself a decision machine with its own boundaries that produces decisions according to its own rationale. Yet, its formal dependence on the UN may be relevant for the impact of its decisions vis-à-vis the powerful actors of international relations, especially states. States would hardly have accepted the Council as an agent of the international community with far-reaching powers, if it were not part of the larger package enshrined in the UN Charter.

At first glance, the internal operation of the Security Council seems to be dominated by the distribution of power and the constellation of interests among its members. It provides a forum for the most powerful states in world politics and is dominated by intergovernmental negotiations among members that pursue (often domestically driven) national interests (Malone 1997: 155; 2004: 643; 2008: 117). Non-state actors, such as the UN-Secretariat or NGOs, play a subordinate role at best, and legal supervision of the Council's activities is virtually absent, if only because this organization is deliberately designed as a political, not primarily a legal, organ. It thus lacks the attributes to which organizational autonomy is typically linked (cf. Lowe et al. 2008: 29-30; Barnett/Finnemore 2008: 43-54). Therefore, the Council is basically treated as a forum for great powers (Hurd 2005; Luck 2007). From a theoretical

perspective, this does not mean that an organizational logic is absent from the internal operations of the Council. Rather, it reflects the fact that the organization's internal decision rationale seems to focus almost entirely on power and interests. How does this organization gain autonomy from what states might have done in its absence?

5.1. Expanding the Organizational Boundaries to Include International Terrorism

Security Council measures at the fringes of its mandate touch upon delicate issues of delegated decision competences. Within its issue-area, the Council is entitled to adopt authoritative recommendations under Chapter VI of the UN Charter and, under Chapter VII, even decisions that are binding according to international law. Beyond these boundaries, it enjoys no competencies at all. Thus, the powers delegated to the Council by the members of the UN are substantively limited to the settlement of disputes and action with respect to threats to the peace, breaches of the peace, and acts of aggression. Accordingly, any activity beyond this original issue-area amounts to an interpretative expansion of the Council's competencies by itself that thus constitutes a delicate form of self-empowerment. Yet, the literature agrees, that the far-reaching empowerment of the Council was originally meant to cover basically traditional intergovernmental conflicts (Nolte 2002: 163-171; Frowein/Krisch 2002). Terrorism was obviously not considered by its drafters, and the UN Charter does not mention terror at all (Boulden 2008: 427; Luck 2007: 337).

Council activities directed at combating international terrorism raise the specific problem of whether terrorist acts committed by non-state actors can be considered as threats to peace and international, even though they had originally largely been treated as criminal activities committed by private actors that are subject to internal police prosecution and regular intergovernmental cooperation (e.g. in the framework of INTERPOL). This applies especially to the adoption of legally binding resolutions under Chapter VII, which authorize international sanctions and thus undermine state sovereignty which is otherwise guaranteed by art. 2.7 of the UN Charter. In fact, the Council has gradually expanded the boundaries of its area of competence to include terrorist activities. Thus, the area has witnessed a process of incremental change over the past three decades.

Terrorist activities became first part of the structure of the organization in the specific form of hijacking and interference with international air traffic, when the Council approved resolution 286 (1970). While this weak and short resolution, following a series of aircraft hijackings, merely appealed to states and called them to take legal steps to prevent further hijackings, it recognized for the first time, that certain forms of international terrorism might fall within the Council competencies under Chapter VI. During many years of the Cold War period, the Council had not taken clear position on terrorism at all, although it had many opportunities. Terrorism in Kashmir, Northern Ireland, Sri Lanka, Vietnam, and Kurdish-populated areas in Turkey during the 1950s and 1960s was not placed on the Security Council's agenda because of the links between the permanent members and the various militant groups and their opponents

(Stiles 2006: 41). The Soviet Union and China were fully committed to the support of Palestinian sovereignty, for example, while the USA consistently endorsed Israeli counter-terrorism measures (Wallenstein/Johansson 2004: 18). These member states took advantage of their control over agenda setting to either ignore or veto the question (Luck 2004: 86). As other attacks occurred during the 1970s and 1980s, the Council was often deadlocked over whether and how to respond. For example, a relatively weak draft resolution condemning terrorism in general following the Munich attacks in 1972 was vetoed by the Soviet Union and China and rejected by four other elected members (Luck 2004: 87).

In the late 1980s, recognition of terrorism as a matter for consideration by the Council intensified gradually, accompanied by recommendations under Chapter VI (cf. also Saul 2005). After the hijacking of the Italian cruise ship *Achille Lauro* in 1985, the Council President made a statement on behalf of all members, condemning “terrorism in all its forms, wherever and by whomever committed” (S/17554). Yet, this phrase was not explicitly recalled for several years. Upon request of the United States, the Council adopted unanimously resolution 579 (1985) that, while referring to the statement by the President, condemned all acts of hostage taking and abduction, urging international cooperation against hostage taking and abduction as *manifestations of terrorism*. This decision was later reaffirmed by presidential statements (S/17702, S/18641) and unanimously adopted resolutions 618 (1988) and 638 (1989). Governments had obviously ran out of patience with the growing activity of militant groups after a string of bloody hijackings and bombings around the globe that also affected the Soviet Union and Third World Countries (Bailey 1993: 547-548; Luck 2004: 90).

By the turn of the decade, international terrorism moved closer to Chapter VII competencies. By this time, recognition that certain forms of terrorism fell into the competencies of the Council and justified recommendations under Chapter VI was firmly established and wide-spread among the Council members. In resolution 635 (1989), the Council did not only reaffirm its appeals for international cooperation to “prevent and eliminate all acts of terrorism” but also invoked a consciousness of the “implications of acts of terrorism for international security”. This may be taken as an implicit link of terrorism to its supranational competencies under Chapter VII that are directed at maintaining or restoring international peace and security (UN Charter, art. 39). The resolution, adopted under Chapter VI, was a response to a string of airline bombings, including the Pan Am flight 103 (Bailey 1993: 550) and called to intensify research on the marking of plastic or sheet explosives for the purpose of detection. By 1991, terrorism figured as part of a binding resolution adopted under Chapter VII. The Council included in its cease-fire resolution of the Second Gulf War the Iraqi obligation to renounce all acts, methods or practices of terrorism (res. 687 (1991): para. 32). Thus, for the first time, terrorism had actually become part of a binding sanctions regime (cf. below, sanctions were upheld until Iraq fulfilled its obligations under res. 687) – although merely as a subordinate part of a much more encompassing package.

The three Western veto powers could found their initiative to condemn Libya for its involvement in the bombings of two airliners on a firmly established organizational

structure, reflecting widely shared expectations as to the relevance of international terrorism for international peace and security. The USA, the United Kingdom, and France had been directly and most strongly affected by the attacks on American Pan Am flight 103 over Scotland (1988) and UTA flight 772 over Niger (1989) and their governments faced domestic pressures to act (Jentleson/Whytock 2006: 65). They were supported by some Council members, but other states less affected by terrorism, especially African countries and China, or actually involved in terrorism, especially in the Middle East and Northern Africa, or being part of the sovereignty-minded Non-aligned Movement (NAM), were generally hesitant or even hostile to international measures and could be expected to prefer non-action. Yet, in light of the Council's repeated condemnation of terrorist acts and interference with international civil air traffic, these preferences were obviously inconsistent with the organizational structure. In the end, the Council adopted unanimously resolution 731 (1992), which referred to relevant previous decisions (resolutions 286 and 635), expressed a determination to eliminate international terrorism and demanded a full and effective response from Libya to the requests to extradite suspects of the terrorist acts as its contribution to the elimination of international terrorism (Hurd 2005: 506). Almost all UNSC members stated that international cooperation was required to eliminate terrorism and that the resolution would send a clear signal in this regard. Only Morocco, the Arab member, and China refused to comment on the general implications of terrorism on the Libyan situation, remaining vague and ambiguous (S/PV.3033). Although the resolution seemed merely to apply an established practice to a specific case, it supplemented the evolving organizational structure with another element. For the first time, a *single country* had been targeted for a terrorist act interfering with international air traffic.

Compared with the established organizational structure related to Council activity on international terrorism, the imposition of sanctions on Libya required only a small expansion of the decision doctrine. Only three months after its first resolution on Libya, the Council adopted, explicitly under Chapter VII, resolution 748 (1992) which required Libya to comply with the previously requested measures, and imposed certain sanctions on the country with legally binding force on all other states (Hurd 2005). The decision referred to the previous resolution 731, as well as to its general condemnation of international terrorism, and expressly stated that Libya's failure to comply with this previous decision constituted a threat to international peace and security. It was adopted by only ten votes, with five abstentions, including China, India, and Morocco. The opponents stated that they did not prefer to impose sanctions as a general instrument and precedent but refrained from voting against the resolution as they wanted to uphold both their own and the Council's credibility on combating terrorism and non-intervention (S/PV.3063). China, being unhappy with the sanction and facing low risk of further Western pressure, apparently abstained to preserve the credibility of the Council and its own role within the organization (Morphet 2000: 161, 165; Lynch 2002: 2000). Hence, besides exerting pressure on some hesitant Council members, the Western powers could take advantage of the existing structure of the Council as organizational decision-making system by pointing to the organization's credibility concerning the elimination of terrorism (Hurd 2005: 507-508).

The organizational structure on terrorism was fully preserved and developed further in the 1990s and after the attacks of 11 September 2001. Council members from the developing world pushed on similar extradition demands for sanctions against Sudan in 1996 and decision-making followed (resolutions 1044 and 1054), with some modifications, the logic of the Libyan case. This time, Russia abstained despite opposing interests in that particular situation, as did China once again for reasons of principle, to preserve the credibility of the Council (cf. S/PV.3627, S/PV.3660). The same model was used again in 1998/99 by the United States, when it gradually escalated Council decision-making after the terrorist attacks against its embassies in Kenya and Tanzania (1998) from general condemnation and call for action (resolution 1189 (1998)) to linking the attacks to Osama Bin-Laden and his associates and demanding that the Taliban in Afghanistan turn him over to a country where he was indicted (resolution 1214 (1999)) to the imposition of sanctions under chapter VII (resolution 1267 (1999)) to enforce the previous resolutions – this time all resolutions were adopted unanimously (cf. S/PV.3915, S/PV.3952, S/PV.4051). After 11 September 2001, this logic was taken to a new level (Stiles 2006; Heupel 2007), *inter alia* by relating this terrorist attack to recognition of the inherent right of individual or collective self-defence in accordance with the Charter (resolution 1368 (2001)).

The above analysis suggests that cases related to international terrorism have not been treated as occurrences that were totally isolated from each other. Instead, they were linked to each other by an evolving organizational structure reflecting collective expectations of how to deal with terrorist attacks. It is obvious that these expectations, though firmly established, were not fully stable over time, but developed incrementally. On several occasions, the evolving doctrine was expanded to include situations that were not identical with previous ones. Moreover, actors were well aware of the decision doctrine, as witnessed by the many references in resolutions to previous decisions and presidential statements. This does not mean that differences of interest among Council member would have diminished. However, the doctrine clearly favours actors advocating, for whatever reasons, positions that are compatible with the doctrine, while disadvantaging those other actors pursuing deviating interests. It does so because it is part of the organizational structure and constitutes, in respect of intra-organizational decision-making, a point of reference that is difficult to ignore unilaterally.

5.2. The Logic of Functionally Differentiated Decision-making in the Security Council

The Security Council establishes subsidiary committees to underpin its increasingly complex sanctions regimes that require permanent supervision and decision-making. Generally, it hesitates to delegate subsidiary decision functions to the UN Secretariat to stay in control and avoid obvious principal-agent problems (Hawkins et al. 2006). Delegation of such decision functions to Council committees according to art 29 of the UN Charter appears to be less risky, because these sub-systems are attended by the Council members, although committees regularly decide by a different quorum, namely consensus. Virtually all sanctions regimes comprise such committees - the only exception was Sudan from 1996 to 2001 (Bailey/Daws 1998: 365; Cortright et al.

2008). In doing so, they acquire important decision functions related to the specific sanctions regime. Hence, committees decide about the heavily debated listing or delisting of individuals suspected of being terrorists or of supporting terrorism (Biersteker/Eckert 2009; Heupel 2009). Several committees with decision functions operated within the Iraq sanctions regime which lasted for more than a decade, including the United Nations Claims Commission (Frigessi De Rattalma/Treves 1999; Houtte et al. 2008) and the Iraq Sanctions Committee (Conlon 2000; Walsum 2004).

The establishment of specialized committees within the framework of the Security Council introduces functional differentiation into the organizational decision machine, even though the membership of committees is identical to that of the Council. By delegating a part of the overall decision load to a subsidiary committee, the Council creates specialized decision functions (Hawkins et al. 2006). Henceforth, decision-making is split into two separate functions, both of which are limited to fulfilling a specific part of the overall decision-making functions and rely on the other sub-system for the remainder. The Council is relieved from administrative work and becomes a purely political organ that determines the overall conditions of a sanctions regime and provides guidance to the committee in *general terms*. The committee, in turn, operates within the comparatively narrow constraints of relevant Council resolutions. This is illustrated by the Iraq Sanctions Committee.

The Iraq Sanctions Committee (ISC) was established as a monitoring device in the framework of the comprehensive sanctions regime against Iraq adopted upon Iraq's intervention in Kuwait in 1990, but the extensive demand for subsidiary decisions transformed the committee rapidly into a decision-making organ. After the militarily eviction of Iraq from Kuwait by a US-led coalition (Operation Desert Storm) authorized under chapter VII (resolution 678 (1990)), the sanction regime was kept in place for another 13 years to ensure Iraqi compliance with the Council's cease-fire resolution (Malone 2007). Resolution 661 (1990: para. 3c) had obliged all states to ban all economic activities related to Iraq, except exports "of supplies intended strictly for medical purposes and, in humanitarian circumstances, foodstuffs". This sanctions regime was to be monitored by the ISC, established as a subsidiary organ under this resolution. However, there was considerable and permanent demand for the interpretation of the respective Council resolutions. Was beer or cigarettes to be considered as foodstuffs? Was the removal of construction equipment belonging to an Indian company a prohibited export? States sought clearance for exports of accepted items, waivers for exports of items for humanitarian circumstances, and guidance in borderline cases (Conlon 2000: 45). The committee decided an average of 6000 decisions per year, although many of them of a banal nature (Conlon 2000: 28). Without any explicit delegation of competencies, the committee became the authority for the interpretation of relevant Council resolutions that was tacitly accepted by UN member states. Both the Western powers strongly supporting the sanctions regime as well as its opponents, e.g. Cuba, sought clarification of the precise conditions from the ISC (Conlon 2000: 47).

To operate smoothly, the committee required sufficiently precise criteria guiding its decision-making, which were (to some degree) provided by the Council. Conlon (2000: 46-47) reports a typical problem created by the lack of reliable decision criteria and its solution in a functionally differentiated organization. Right in the beginning, the committee had to determine the precise meaning of the notion “humanitarian circumstances” (resolution 661: para. 3 and 4), because under these circumstances exports of foodstuffs to Iraq were exempted from the ban of economic relations with the country. Whereas some committee members advocated a wide interpretation of this term, allowing foodstuffs to be generally exempted from the sanctions regime, others favoured a narrow interpretation directed at avoiding overall food shortage. Failure to reach consensus blocked the Committee and required a clarifying Council decision. In Resolution 666 (1990), the Council stipulated that the Committee should keep the situation regarding foodstuffs under constant review and determine, on the basis of reports by UN agencies, whether circumstances have arisen in which there is an urgent need to supply foodstuffs to Iraq and Kuwait – thus putting forward a narrow specification of the disputed term. After the withdrawal of Iraq from Kuwaiti territory, the Council by Resolution 687 (1991: paras. 20 and 23) modified the conditions and in fact established a new set of criteria for the committee. Accordingly, foodstuffs were made subject to notification and thus generally exempted from the embargo. Certain materials and supplies for civilian needs, as identified by a report of the UN Secretariat, were exempted upon approval by the committee under the so-called non-objection procedure. It also empowered the committee to approve exemptions to the prohibition of imports of commodities and products from Iraq, if required to finance food imports (later the foundation of the infamous “oil for food programme”).

The Committee operated under constraints that differed significantly from those of the Council. *First*, the Committee was faced with streams of decisions of comparatively limited scope which closely resembled each other, while the Council treated Iraq sanctions as a single comprehensive case with little resemblance with previous ones. Hence, the two sub-systems operated within significantly different sets of substantive boundaries which shape the negotiation space. Moreover, the Committee operated under pressure to treat like cases equally, whereas the Council was considerably less constrained by previous sanctions regimes. *Second*, the Committee decision situation was heavily shaped by the conditions of the sanctions regime and the selection criteria provided by the Council, because its authority closely relied on its operating within the general regime. In contrast, the Council operated considerably more unconstrained under the loose terms of the UN Charter and the informal expectations reflected in the organizational structure. Hence, the choice of Committee members was far more constrained than that of the Council members. *Third*, the default condition which would prevail in case of non-agreement differed remarkably. While the Council required a sufficiently high quorum of its members to establish the sanctions regime, with failure amounting to no Council action at all, the Committee required a consensus to *waive* certain restrictions and thus mitigate its intended adverse effects. Thus, Council negotiations *on the establishment* of the sanctions regime were dominated by the veto position of possible opponents to sanctions (especially China), whereas Committee

decisions were influenced by the veto position of sanction supporters, threatening to block waivers.

Committee decision-making was largely, although not fully, criteria-based. These criteria were partly taken from Council resolutions, and they developed partly by Committee practice. Since about 1992, four categories of goods were distinguished (Conlon 2000: 60-65): i) Medicines (supplies intended strictly for medical purposes) and ii) foodstuffs were accepted upon notification without approval. iii) Items that were deemed humanitarian, if no delegate objected, were generally approved according to a 'gentlemen's agreement'; this category included inter alia medical equipment, civilian clothing, soaps and detergents, and books for educational purposes. iv) Non-objection items, that were approved on a case-by case basis in the absence of veto. These formal categories were supplemented by some tacitly evolving criteria that have never been codified. Committee choices were made considering the end-use, the end-user, as well as the quantity of imports applied for. As a result, applications to import items intended for health-care, educational or agricultural purposes were more favourably considered than those concerning items for private or industrial use. The occasional involvement of the UN Secretariat's legal council (Conlon 2000: 49) reinforces the impression of a tendency toward criteria-based decision-making. Criteria-based collective choice was limited, however, by the considerable discretion of delegates and their member states in deciding whether to veto a decision.

Close observers of Security Council decision-making emphasize the rationalizing effect of functional differentiation and committee involvement. Although the sanctions committees operate within the legally binding framework of Council resolutions and interpret their general clauses, it would be overstressing the argument to consider them as quasi-judicial forums, as has been suggested (Scharf/Dorosin 1993: 826), because of the considerable discretion enjoyed by them. Committees are more readily compared with regulatory agencies (Conlon 2000: 87) that are well-known not only from domestic political systems, but also from the European Union (Majone 2001) and international institutions (Gehring/Plocher 2009). Malone (2007: 61) considers the establishment of decision-making committees by the Council as an important step "away from its classical politico-military approach [...] toward a more legal-regulatory approach, imposing standards of conduct on a Member State, which it then monitored and implemented through a regulatory agent – on this occasion the 661 Committee." And Conlon (2000: 9) summarizes the promising influence of functional differentiation of Council decision-making: "If Council and subsidiary organ practice were more clearly distinguished from each other, the political discretion of the Council, with its often questionable sanctions decisions, might appear more legitimate. Member states would have to accept politically driven sanctions decisions of the Council, but once those decisions were adopted, member states would have a more predictable system of norms and practices to fall back upon within the sanctions committees."

6. Conclusion

International organizations, like all other organizations, fulfil predominantly decision functions for their members. Accordingly, these functions and their implications should be placed in the centre of a theory of such organizations. If this is done, it turns out immediately that the theoretically relevant distinction is not that between regimes and organizations. Rather, it is the distinction between spontaneously evolving order and collectively designed (negotiated) order. Organizations are an indispensable device for establishing such collectively designed order. They provide the collective capacity to make decisions and offer solutions for contingency (coordination) problems. Empirically observable specificities of particular organizations, such as their treaty-making power or the existence of a secretariat, are thus of secondary relevance for a theory of international organizations, although they may be highly important for the empirical analysis of the decision processes and effects of particular organizations.

Organizational decision processes are shaped by the organization's selection structure. This structure does not only include the formal mandate and rules of procedure. It also comprises the whole package of valid decisions that constitutes a natural point of reference for additional decisions. By its very structure, the organization determines whether a signal from its environment, say a proposal made by a more or less powerful member state, introduces relevant information into the organizational decision process, or whether it is sorted out as noise. Accordingly, the organizational selection of input from its environment exerts influence on the probability that the organizational decision process can be affected by a given statement, irrespective of an actor's basic preferences and external power resources. Moreover, the organizational structure is highly dynamic and changes with every newly adopted decision. Therefore, it is almost impossible to predict organizational decisions without sufficient knowledge of the organizational structure.

International organizations will gain autonomy from their member states, if their internal selection structures affect their decision processes so as to allow results that would not have been occurred in their absence. Autonomy must be assessable in empirical terms, if it is not merely conceptualized as a theoretical category describing the closure of their internal operations which is typical for all organizations. Accordingly, we suggest that autonomy refers to the separate influence exerted by the organization as distinguished from their members as well as from the latter's' external power resources and interests. International organizations can gain autonomy in particular on two different pathways. On the one hand, they link otherwise unrelated decisions by their selection structures which rely on past decisions. They do so *inter alia* by offering a specific choice based upon past decisions in contingency (coordination) situations which typically allow for more than one solution. This link of a present decision to past ones occurs almost automatically in an organizational context, even if not provided for by the formal decision rules and even if disliked by the actors involved. On the other hand, the organizational decision-making procedures may be functionally differentiated. Organizational decisions are then adopted in light of a division of labour among two or more sub-systems, each of which is specialized on the performance of a specific

decision function and operates according to its own specific selection criteria. Functional differentiation of a decision process may change its decision rationale fundamentally, and this change is observable only by a careful analysis of the entire decision-making system, not by the mere exploration of parts that are deemed to be particularly important.

The UN Security Council enjoys a considerable amount of autonomy from its member states, even though it constitutes a fully intergovernmental setting dominated by the great powers, which is virtually unaffected by non-state actors such as the UN Secretariat. Council decisions are linked to each other over time, as expected by the theory of international organizations, even though the precedence of actual decisions for future cases is constantly rejected by the member states because it would impose a formal institutional constraint on their future choice. Analysis of the emergence of a doctrine of treating international terrorism as a matter affecting international peace and security in the meaning of the UN Charter showed that the organization is prone to adhering to established practice and to incremental change instead of sudden fundamental change. Moreover, the Council increasingly establishes committees as subsidiary organs which are, formally or informally, invested with decision-making competencies. Accordingly, it develops into a functionally differentiated decision-making system, in which the decision load is allocated to a number of specialized sub-systems. In spite of their identical memberships, the decision rationales of these sub-systems differ significantly because of fundamentally different constraints defining the respective decision situations. If fully developed, functionally differentiated decision-making promises to increase the legitimacy and predictability of Security Council sanctions regimes. In sum, the Security Council is by no means merely an inert forum for the strategic interaction of its powerful member states.

7. References

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