NEWGOV
New Modes of Governance

Integrated Project
Priority 7 – Citizens and Governance in the Knowledge-based Society

2nd Annual Activity Report
Covering the period months 13-24
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Executive Summary

1. The key objectives of NEWGOV

The aim of the NEWGOV IP is to examine the transformation of governance in Europe (and beyond) by mapping, evaluating and analysing the emergence, execution, and evolution of what we refer to as ‘New Modes of Governance’ (NMG). By new modes of governance we mean the range of innovation and transformation that has been and continues to occur in the instruments, methods, modes and systems of governance in contemporary politics and economies, and especially within the European Union (EU) and its member states.

The precise scientific objectives of NEWGOV will be pursued within four different clusters, each of which contains a set of inter-linked projects. The four clusters are dedicated, respectively, to ‘emergence, evolution and evaluation’, ‘delegation, hierarchy and accountability’, ‘effectiveness, capacity and legitimacy’, and ‘learning, experimental governance, and reform’.

Within these clusters there is a total of 24 projects which cover topics such as ‘capacity building and the OMC’ and ‘arguing and persuasion in EU governance’ in cluster 1, ‘regulatory agencies and network governance’, ‘governance and the EU securities sector’ and ‘European public services regulation’ in cluster 2, ‘new forms of governance and eastern enlargement’, ‘the domestic impact of European law’ and ‘new modes of governance in relations with non-member states’ in cluster 3, and ‘varieties of capitalism and economic governance in CE Europe’, ‘new corporate governance regimes’ and ‘distributive politics, learning and reform’ in cluster 4. The clusters and the projects are accompanied by two transversal task forces, one on ‘legal issues’, the other on issues of ‘legitimacy and democracy’ which will make inputs across the Integrated Project. Joint activities across the consortium as a whole include workshops, conferences, the mutual exchange and cross-fertilisation of ideas, information, and data, and through research training conducted in two summer schools.

2. Major scientific achievements during the second year and expected end results, intention for use and impact

The second year of the NEWGOV project saw an intense process of activity at the Consortium, cluster and project levels. While each sub-project has its own implementation plan and pursues its own methodological path and set of objectives within the overall research agenda elaborated by the Consortium and cluster leaders, the second year (depending on the duration of the individual project) was mainly used for primary research (surveys, interviews, etc.), the analysis of the findings and theoretical consolidation of the analytical frameworks, as well as for the production and dissemination of research results. The overall scientific framework document was revised and focussed, so that project and clusters could more easily produce research output that can be compared across clusters and projects. Several ‘collective goods’ instruments managed at the Consortium level, in particular workshops, the consortium conferences, and practitioner fora, are applied to facilitate this process.

At the cluster level, the cluster leaders have worked hard to ensure that the projects continue to relate their analysis to the four broad sets of analytical perspectives (the “Four E’s” – Emergence, Execution, Evaluation and Evolution), which constitute the guiding questions at the core of this Integrated Project. The second annual report gives account of the progress made and the tentative answers each of the projects have to the related hypotheses that have been formulated in the NEWGOV Scientific Objectives Document. The richness of these analyses cannot be conveyed or unified in a short piece of text, but the Steering Committee will produce synthetic results in the course of the next implementation phase; identified linkages are further explored in workshops and conference reaching across clusters and projects. The systematic comparison of
the theoretical questions and findings on Emergence, Execution, Evaluation and Evolution will be compiled in a joint publication at the end of the project.

The most important achievements have obviously been made at the level of our individual projects, since that is the level at which most of the hard research is being conducted. Depending on the implementation plan of each of the projects, some projects are still carrying our primary research in their respective fields, while others are more advanced in their research plan and are engaged in analysis and evaluation in order to prepare the final research output. In addition, two projects have concluded their research already during the second year; academic publications will appear in the course of the next months. Around 130 project deliverables have been produced in year two, ranging from project workshops and meetings, websites, technical deliverables such as glossaries, indicators, scientific guidelines, refinements of research approaches, and interviews digests, to reports on empirical research, working papers, journal articles, book chapters, special issues of peer-reviewed journals, edited volumes, and final project research reports.

Finally, the NEWGOV Consortium successfully participated in a Commission call for proposals to enlarge the Consortium by a partner from the Targeted Third Countries. The European University at St. Petersburg will join the Consortium during the third project year and will participate in the “Inside-Outside” project dealing with “New Modes of Governance in Relations with Non-Member States”. The study of EU-Russian co-operation conducted by the new partner will complement the comparative research which is being done by the sub-project and the Integrated Project as a whole. The NEWGOV project will benefit from the expertise of the new partner specialised in the co-operation between the EU and Russia. It will enhance the dissemination of research results to the Russian academic community and practitioners.

At the end of the second project year, the Consortium saw the departure of Helen Wallace who had been a committed and excellent Chairperson of the NEWGOV Steering Committee and of the NEWGOV General Assembly. The Consortium is very grateful to the work she has put into the project since the initial stages. New Director of the Robert Schuman Centre for Advanced Studies at the European University Institute (the coordinator), and therefore successor to Helen Wallace within the NEWGOV Consortium, is Stefano Bartolini.

3. Main elements of the plan for using and disseminating knowledge

The “Plan for Using and Disseminating Knowledge” of the NEWGOV Project focuses on the effective dissemination of the generated knowledge. We rely on a two-tier strategy which includes (a) activities coordinated and implemented on the Consortium level, and (b) activities which are implemented by the individual partners and projects.

The primary tool for disseminating the results of the research conducted by the Consortium is the Consortium web-site www.eu-newgov.org. Launched on 1 February, 2005, it contains topical information concerning the project, in particular publications, reports, articles and working papers of the Consortium. Links to other information sources relating to the project’s research fields are provided, as well as regularly updated information on events organised in the framework of NEWGOV. After a starting period, the website has between 3.000 and 4.000 visits per month, predominately from European and the US-American higher education institutions, but also from governmental institutions, companies and organisations.

During the first two project years, three working paper coming from the NEWGOV project have been published (a total of ten Working Papers are available), with another three still in the review process. Around 50 Working Papers are foreseen to be published during the duration of the

Relaying the results of the research to the scientific community and strengthening the integration of the research carried out on the cluster and project level is mainly implemented by Consortium-level workshops and conferences, each of them focusing on specific analytical themes or empirical topics. The workshops bring together researchers from across the Consortium with access for scholars from the wider circle of associated institutions, in particular from other FP5 and FP6 projects. The second annual Consortium-wide conference took place in June 2006, bringing together researchers from all projects and Task Forces. In response to the comments by the external evaluators, thematic workshops were organised along common topics: ‘Delegation of Regulatory Tasks to Independent Agencies’, ‘Civil Society and Democratisation’, ‘EU Governance after the Constitutional Treaty: Crisis or Opportunity?’, and ‘New modes of governance in old and new member states compared’. With the adopted approach, cross-cluster communication was facilitated. The same was achieved by a workshop on ‘Law in New Governance’ with members of the Law Task Forces as well as other members of the NEWGOV Consortium and the CONNEX Network participating.

Dissemination for practitioners is a key aim of the Consortium. Besides the publication or a research results-oriented External Newsletter (issue no. 1 was published during the second year) and the Policy Brief Series (with one issue published so far), a Practitioner Forum series is being organised at the Consortium Level, complementing similar activities of the individual sub-projects. The first Consortium Practitioner Forum took place in March 2006 on “Policy learning and experimentation in EU economic governance: Laboratory federalism in practice?” At the same time, many NEWGOV projects have organised workshops and seminars with the participation of practitioners, e.g. projects 7, 8, 12, 19a, 22, and 23. The decentralised approach secures that stakeholders from the respective policy fields can be targeted.

Besides these activities coordinated at the Consortium level, NEWGOV researchers have already been very actively disseminating project generated knowledge to the academic and policy making communities. During the first two project years, researchers have presented NEWGOV research at more than 170 conferences, workshops, seminars and on other occasions. It included the most prestigious academic events such as Ninth Biennial International Conference of the European Union Studies Association (EUSA), conferences of the European Consortium for Political Research (ECPR), the International Studies Association (ISA), the International Political Science Association (IPSA), the Society for the Advancement of Socio-Economics (SASE), the American Political Science Association (APSA), the Conference of Europeanists, or the International Association for Legal and Social Philosophy. Beyond that, around 300 articles, book chapters, working papers etc. have been published or are in the process of being published by NEWGOV researchers.
Projects and Project Leaders

1. List of Projects
   (click on the cluster/project to be transferred to the presentation on the NEWGOV website)

Cluster 1: Emergence, Evolution and Evaluation
1. The Evolution and Impact of Governing Modes
2. The Open Method of Co-ordination
3. Arguing and Persuasion in EU Governance
4. Legal Perspectives on Democracy and New Modes of Governance

Cluster 2: Delegation, Hierarchy and Accountability
5. New Modes of Governance in the Shadow of Hierarchy
6. After Delegation: Regulatory Agencies & Network Governance
7. Governance and the EU Securities Sector
8. European Public Services Regulation
9. Choice and Combination of Policy Instruments
10. Private Dispute Resolution: Legitimate & Accountable?
11. The Role of Civil Society in Democratising European & Global Governance

Cluster 3: Effectiveness, Capacity and Legitimacy
12. Coping with Accession: New Forms of Governance and European Enlargement
13. The Domestic Impact of European Law
15. Evolving Regional Governance Regimes: Challenges for Institution Building in the CEE Countries
16. Inside-Out: New Modes of Governance in Relations with Non-Member States
17. Democratisation, Capture of the State and New Forms of Governance in CEE countries

Cluster 4: Learning, Experimental Governance and Participation
18a. Distributive Politics, Learning and Reform: Emergence and Evolution of National Social Pacts
18b. Distributive Politics, Learning and Reform: Emergence and Evolution of Administrative Partnerships
19a. New Approaches to Economic Governance in the EU
19b. New Approaches to Economic Governance in the EU: The Politics of Central Bank Accountability in the Age of Globalisation
20. ‘Varieties of Capitalism’ and Economic Governance in CE Europe
21. Towards New Corporate Governance Regimes in Europe
22. Changing Governance Architecture of International Taxation – TAXGOV
23. Learning and Local Innovation System
24. Democratisation/Participation of Civil Society in New Modes of Governance

Task Forces
- Democracy Task Force
- Legal Task Forces
  - New Modes of Governance and the relevance for EU law
  - Which governance structures for European private law?
  - Litigating EU Law
2. Contractors and project (co-)leaders

(click on the name to be transferred to the contact details on the NEWGOV website)

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* as of 1 September 2005, partner 4 was replaced by partner 44
** as of 1 June 2006, partner 17 was replaced by partner 45
Overview on the major scientific objectives achieved during the second year

1. The research framework: Analytical Questions on the Emergence (E₁), Execution (E₂), Evaluation (E₃) and Evolution (E₄) of New Modes of Governance

The aim of the NEWGOV IP is to examine the transformation of governance in Europe (and beyond) by mapping, evaluating and analysing the emergence, execution, and evolution of ‘New Modes of Governance’ (NMG). By new modes of governance we mean the range of innovation and transformation that has been and continues to occur in the instruments, methods, modes and systems of governance in contemporary polities and economies, and especially within the European Union (EU) and its member states.

‘New modes of governance’ cover a wide range of different policy processes such as the open method of co-ordination, voluntary accords, standard setting, regulatory networks, regulatory agencies, regulation ‘through information’, benchmarking, peer review, mimicking, policy competition, and informal agreements. But we also include new modes of governance and forms of policy experimentation in different economic sectors, where either new mixes of public and private goods are sought, and/or where new and innovative forms of policy process linking public and private actors have been put in place to deal with new policy problems. Policy areas in which the new and innovative modes of governance have been, and are being applied include, for example, macro-economic management, economic reform and innovation, research and development, employment, social inclusion, public service provision, and sustainable development; migration, criminal prosecution, utility and service regulation, taxation, training and education and others. Thus, we are not simply interested in exploring the mix of old, renovated and new governance mechanisms in the EU’s multi-level structure, we are also interested in the manifestation of new and innovative modes of governance in systems of socio-economic organisation.

Our analytical attention does not solely focus on the creation of new or novel instruments of governance. NMGs should not be studied in isolation from existing political, legal and socio-economic structures.

1. innovation is rarely path-breaking and usually occurs in the context of institutional inertia and complexity, demanding that the ‘old’ is examined along with the ‘new’;
2. a core concern of the project should be to understand the reasons for, and consequences of shifts to NMG, again demanding that the dynamics of relations between ‘old’ and ‘new’ should be analysed;
3. the innovation and the transformation of ‘old modes’ in the face of new challenges in Europe’s multi-level polity are also important
4. moreover, the most fascinating puzzles may be found at the boundaries of governing modes, both old and new, where they overlap, merge into one another and develop hybrid forms.

As set out in the Implementation Plan, we derive four broad sets of analytical questions (our “Four E’s” – Emergence, Execution, Evaluation and Evolution), which constitute the ‘puzzle’ or ‘puzzles’ at the core of this Integrated Project. They constitute the research framework of each of the clusters, projects and Task Forces and the individual reports below give tentative answers on these questions after two years of research.

- **EMERGENCE.** Why did the new modes of governance emerge in the first place? Are they primarily a response to ‘complexity’ and related primarily to the search for effectiveness and efficiency, and to what extent are they driven by perceived need to enhance legitimacy? Can they be traced to intentional strategic planning or have they emerged gradually through experimental learning? Or, at the EU level, do they rather manifest a search for ‘second-best’
means of policy influence by transnational elites and coalitions faced with the reality that much regulation is still national (and still jealously guarded at that level) and other supranational channels for exerting that influence are blocked? Do they signal the emergence of new kinds of power – technocratic, elitist, and exclusive – seeking new forms of control and new specific interest-oriented policy processes, or the maintenance of old forms of power on a new basis?

- EXECUTION. How are the new modes executed? How do they function in practice? To what extent are new modes of governance characterised by ‘experimental deliberation’ and to what extent do they manifest processes of learning? And can such processes become institutionally embedded and endure? Or are new modes of governance necessarily linked to ‘old modes’, especially the use of hierarchy - i.e. legislation and executive intervention - in order to render them more effective? Do new modes of governance undermine existing power relations between actors or do they reflect them in a new form? Do they give access to new actors or are they subject to capture and manipulation by traditional actors?

- EVALUATION. Are these new modes of governance better able to tackle the challenges of competitiveness and linked social problems in a diverse and interdependent world? Are they - as has been claimed – indeed more efficient, effective, robust and flexible? Do they improve governability or do they detract from it? What is the impact of shifts to new forms of governance on existing state structures and legal accountability and what are their implications for existing forms of democratic legitimation? Are they destabilising of these structures or do they strengthen them? Do they lead to legal differentiation and flexibility (de Witte, Hanf and Vos 2001)? To what extent are ‘deliberative’ networks coupled to representative institutions or are they rather closed and exclusive to technocratic memberships?

- EVOLUTION. Finally we raise the question of the long-term development of the new modes. How do they develop over time? Do they escape from or are they subject to the traditional distributive politics of ‘who gets what, when and how?’ Are they gradually subject to processes of institutionalisation and embedding in existing political/administrative frameworks, and assisted or impeded by the ongoing but uncertain process of EU constitutionalization, or are they especially subject as ‘light’ forms of governance to capture by ‘traditional’ forces and institutional erosion?

In the following, we will present a synthesis of the provisional results after 24 months of NEWGOV research, based on the reports of the four clusters.

2. The Emergence (E₁), Execution (E₂), Evaluation (E₃) and Evolution (E₄) of New Modes of Governance: A first overview

2.1 Emergence (E₁) of New Modes of Governance

Key analytical questions on emergence are: Under what conditions did new modes emerge and what were the underlying (causal) processes? How do our original hypotheses fare in the light of the empirical findings of the different clusters?

The following hypotheses have been formulated in the Scientific Objectives Document:

- “Political intervention failed due to lack of expertise reach its set policy objectives, and led to the development of the new modes of governance, e.g. delegation.”

- “In highly contested issue areas, new modes are chosen in order to save political transaction costs.”
• “If a new mode of governance stands out as a successful practice of one organization, other organizations tend to emulate this practice.”

Cluster 1: Emergence, Evolution and Evaluation
Cluster 1 addresses the analytical questions and hypotheses developed in the overall framework of the Integrated Project and relates empirical findings to these questions across the various projects.

The main factors accounting for emergence of new modes of governance identified by cluster 1 are:
- sensitivity of a policy area: non-binding policy outputs, i.e. new modes of governance are chosen in areas that are highly contested and deeply embedded in national traditions of the Member States,
- member states pleading to act at Community level but showing reluctance to cede sovereignty (such as in cohesion policy), Here new modes could serve as a learning path before making more decisive steps towards deepening,
- Simultaneity with old modes In both the second and the third pillar of the EU, traditional intergovernmental approaches had prevailed until quite recently, without relying explicitly upon new modes of governance;
- ‘Window of opportunity’ economic (globalisation etc.) factors, but also political variables like the existence of left-wing governments in the EU play a role in the emergence of the new modes
- Agencies as an expression of new mode of governance have emerged as a result of the ever more important problem-solving capacity of governance. The reduction of political transaction costs, technical expertise, and enhanced credibility are commonly identified as main advantages of task-delegation to agencies and may account for an explanation of a veritable agency “mushrooming” discernible since 2000.
- The how of emergence of new modes of governance as communicative modes shows that arguing and bargaining emerge as a function of pre-existing informal and formal institutions. Transparency, the presence of trusted actors, is a precondition for arguing.

Cluster 1 – based on the above general claims – has identified empirical patterns in different EU policy areas. Two different developments may be observed: while new modes under the EC pillar serve to generate more flexible, softer and less binding ways of decision-making and steering, under the second and third pillar attempts to overcome intergovernmentalism and to arrive at more binding and more centralised decision-making become apparent which stop short of passing the threshold of supranationality.

More specifically, in Justice and Home Affairs the most important “new” modes applied are the extensive use of multi-annual area and issue specific legally non-binding programme documents (such as the frequently revised EU Action Plan on terrorism), the extensive use of situation and evaluation reports as a means to enhance convergence between the national systems (mutual evaluation, threat assessment reports, etc.) and the proliferation of institutionalised cooperation and coordination structures (like the special agencies).

1 This summary of Cluster 1 theoretical interpretations and empirical findings build on (D34) and the empirical findings from interviews and key EU official reports (at the base of D15b and D29b) have represented an important source of information. The integrated approach of our research cluster and the ongoing exchange of information between partners will help to deal with them. The Review of cluster 30 month results with stakeholders / practitioners (D66) will be focused on this.
In *Cohesion policy* there is reluctance to relinquish sovereignty. The Commission, in the form of Communications highlights new challenges of cohesion policy but leaves it to the member states to reflect on appropriate action about them. De facto partnerships (including the regional/local levels and the civil society too) comply with these principles.

*Research and development* as well as information society, OMCs R&D and IS have emerged due to national policy failure that provoked experimental delegation at EU level.

**Cluster 2: Delegation, Hierarchy and Accountability**

Cluster 2 focuses on new modes of sectoral governance and the shadow of hierarchy as an element of government. Do new modes emerge in the shadow of hierarchy i.e. legislative and executive decisions and court rulings? And what is the institutional nature of the link between sectoral governance and hierarchy as territorially bound democratic government?

Answers to these questions are – to an important extent – derived as hypotheses from principal-agent theory and submitted to empirical scrutiny. The emergence of sectoral governance may be interpreted as an act of delegation in a principal-agent relationship (see also the hypothesis under E1). Assuming bounded rationality of actors and information asymmetry between principal and agent, we argue that the principal, a public actor, because of lack of expertise and in order to secure policy credibility over time, delegates a task, i.e. the formulation of public policies, to private actors or other public actors outside the political/legislative stream. This may occur in an exclusive form (self-regulation), as regulated self-regulation or in a partial form, i.e. joint decision-making with public actors (co-regulation). In so doing, the principal runs two risks, the risk of adverse selection and the risk of moral hazard, i.e. the occurrence of agency loss. In order to minimize this risk principal and agent conclude a contract specifying important conditions of the delegation such as the conditions governing the control over contract compliance. This contract then defines the particular nature of the link between democratic government and sectoral governance. The principal-agent literature spells out a variety of instruments the principal may apply in order to reduce the two risks, such as the mechanism of policy patrol, firebell ringing, multiple agent-structure, budgeting, monitoring, new legislation.

The emergence of new forms of governance is discussed in a number of different areas, highlighting the different motives for new modes to emerge. Focussing on *voluntary agreements by industry in environmental policy*, one project (P5) puts most emphasis on legislative threats as being a precondition for voluntary environmental agreements by industry (VAs). The empirical findings show that indeed a threat to initiate legislation or tighten legislation in the plastic and the paper industry in Europe has prompted the emergence of sectoral governance by voluntary agreements of industry with the objective to pre-empt legislation..

Delegation to independent regulatory agencies at the national level and their networks at the European level as a new mode of governance in *telecommunications and financial securities* (P6) points out that delegation may be motivated by the fact that ‘central intervention failed to reach its set policy objectives’ (E1); at the same time the project scrutinizes the “success hypothesis” arguing that European regulatory networks have acted as models for the developments in other sectors, e.g. energy (E1, third hypothesis: ‘If a new mode of governance stands out as a successful practice of one organisation, other organisations tend to emulate this practice’).

Looking at new modes in the *financial securities sector* from the perspective of another mode of delegated decision-making, the ‘Lamfalussy process’, another project (P7) finds that new modes may be more suitable in order to respond rapidly and in a flexible way to the new requirements...
of EU policy-making. The new modes have the advantage of avoiding the prevailing ‘traditional’
 modes of governance based on lengthy legislative processes. The ‘Lamfalussy process’ is ana-
lysed as an attempt to enable the speedy adoption of the required and often very technical legis-
lative proposals in the securities sector: only ‘essential elements’ of legislation should be decided
by the normal EU procedure, whilst all other measures required to implement the objectives of
the framework principles are to be decided by the Commission in close co-operation with a regu-
latory committee (comitology). The empirical findings support two of the working hypotheses.
Firstly, it is plausible that ‘central intervention failed to reach its set policy objectives (i.e., a sin-
gle European securities market) and led to the development of the new modes of governance,
e.g. delegation (to the Commission and to CESR)’. Secondly, the Lamfalussy case tends to con-
firm that ‘in highly contested issue areas, new modes are chosen in order to save political trans-
action costs.’ (i.e. between the European Parliament, the Council and the Commission).

Comparing the emergence of new modes in energy policy (gas and electricity) in Spain (P8) it
becomes evident that Spain new modes of governance already established in other countries
(United Kingdom) have been copied (E1). The Spanish government established two private un-
dertakings, namely OMEL and REE, and delegated the operation of the market and the operation
of the transmission system, respectively. It also created the CNE, the national regulatory author-
ity. It is found that electricity companies hesitate to participate in OMEL and REE, as the dele-
gation of functions is described in detail and concludes that, though liberalisation favours new
modes of governance, central intervention is reluctant to weaken in strategic sectors such as en-
ergy.

How do policy instruments emerge and then develop over time and across different policy sec-
tors, including urban and environmental policy? The research focussing on the particular combi-
nation of policy instruments (P9) to analyse the arising coordination problems shows that the in-
troduction of such policy instruments at the EU level is justified because “central intervention
failed to reach its set policy objectives, and led to the development of the new modes of govern-
ance” (E1), e.g. OMC, Benchmarking, Mainstreaming, etc. It also finds that new modes of gov-
ernance have been introduced in contested issues areas (environment and urban policies) (E1).

Studying the change of governance modes in competition policy (P10) emphasizes that the re-
source constraints of public actors such as lack of expertise, time and personnel constitute an im-
portant motive for delegation. The workload in dealing with disputes arising from competition
issues, turned out to overstretch the limited resources of the Commission. Increasingly subject to
criticism regarding the consistency and economic rationale of its decisions which was underlined
by high profile Court ruling against the Commission, spurred a substantial reconsideration exist-
ing practices. As a result, the Commission launched a fundamental overhaul of its merger control
and anti-trust policy that centres on the concepts of decentralisation and modernisation, linking
national competition authorities and the Commission through the European competition network.

Cluster 3: Effectiveness, Capacity and Legitimacy
The cluster focuses on the role of new modes of governance for the implementation of EU poli-
cies and EU primary Law in different types of states, “weak states” in particular, including
Southern European member states, CEE candidate countries and associated states in the former
Soviet Union and Northern Africa. Which new modes are employed by the EU to facilitate the
adoption of and adaptation to EU policies and EU Law in countries with weak state capacities?
To what extent do these new modes lead to more effective policy outcomes? What is the poten-
tial of new modes of governance when compared to the established Community principles? Does
the application of new modes require specific scope conditions, such as a minimum of political
and administrative resources and the rule of law (shadow of hierarchy), working systems of interest intermediation (civil society, corporatist business-government relations) or political trust and a “negotiation oriented” culture in order to make (EU) policies more effective? Do new modes reinforce certain pathologies of the political institutions in transition countries or, on the contrary, are new modes able to compensate for some of the institutional weaknesses? Beside the question to what extent new modes facilitate the effective transfer and adoption of EU policies, we will also explore the implications of new modes for the political and societal structures in accession countries. Are new modes an effective means of capacity building (resources transfer, including information and expertise)? Do they trigger administrative (e.g. civil service) or political reforms (e.g. territorial decentralization)? Which actors are empowered by new modes? Do new modes undermine traditional forms of representational democracy by fostering functional interest representation? To what extent do new modes privilege the participation of corporate (for profit) interests over public (not for profit) interests in public policy-making at the various levels (regional, national, EU)?

Starting from an explicit or implicit functionalist approach new modes are expected to emerge when actors expected them to increase the effectiveness and legitimacy of public policy, after the failure of central intervention. Yet, the empirical findings of our projects only partly confirm this expectation. While mutual recognition in the Single Market was indeed a way to overcome the ineffectiveness of the “old harmonization approach”, the emergence of soft law in the field of state aid is a new form of central intervention rather than an alternative (P13). It is certainly the case that policy failure, caused e.g. by weak state capacities and/or high costs, often triggers the search for alternative, new modes of governance (P16). Yet, it seems that problem pressure is only a necessary condition for the emergence of the new modes. Thus, all projects emphasize the importance of (further) scope conditions shaping the capacity and the willingness of state and non-state actors to engage in new modes.

However, the benefits of new modes (increased effectiveness and legitimacy) tend to overestimated and the costs, such as agency loss neglected (P15). This is particularly the case if state actors feel too weak, i.e. unable to match the resources (money, expertise, human power) of non-state actors in the decision-making process and to monitor their compliance with the agreed policy. The risks of state capture by and shirking of non-state actors often tend to prevent state actors from resorting to new modes, even if their superior effectiveness is acknowledged (P12). Thus, in line with Cluster 2 focusing on the new modes and the shadow of hierarchy, Cluster 3 emphasizes the importance of state capacities to maintain stable relations with non-state actors (P12; P17), to negotiate with non-state or third state actors and monitor their compliance (P12; P16), and to mobilize the dispersed resources of non-state actors (P12; P14; P15).

Moreover, state capacities have to be matched by capable non-state actors who possess resources state actors may want or need in policy-making, on the one hand, and who have the action capacity to exchange these resources, on the other. The emergence of new modes is not only impaired by the unwillingness of state actors to cooperate with non-state actors but by the lack of reliable and capable societal counterparts, as in case of the social partners in Poland and Estonia (P17; P12; P14; P15).

However, resourceful non-state actors may be able to pressure their way into the policy process even if state actors are not willing to cooperate in the first place. Thus, Spanish and Portuguese environmental authorities have increasingly invoked new modes built in environmental policies,
such as the Environmental Impact Assessment Directive, in order to prevent environmental groups from litigating against the authorization of environmentally harmful projects (P12). Non-state actors are particularly successful in pulling new modes into the policy-process if supported by the European Union. Thus, the EU regional policy with its partnership principle initially sought to push accession countries towards new, network-type modes of governance (P15) like EU institutions of social dialogue did promoting the involvement of social partners as a standard for social policy-making (P17). Likewise, the Commission took the initiative to open up pre-accession negotiations on pharmaceutical policies to a broader range of (non-)state actors to compensate for the weak regulatory capacities of the candidate countries (P14).

Yet, EU (legal) requirements for the introduction of new modes are not always sufficient for their actual emergence as the case of environmental policy clearly indicates (P12). Nor does the EU always push new modes. On the contrary, in regional policy the Commission shifted towards more centralized modes of governance which it deemed more effective in building the absorption capacity of the accession countries in the run up for membership (P17). In general, the strong emphasis on conditionality by the European Commission, on the one hand, and the huge policy load and the time pressure, on the other, did not leave much time and place for the systematic involvement of non-state actors in the accession process (P12; P17).

Thus, Cluster 3 identifies the capacities of state and non-state actors as important factors explaining the emergence of new modes. While this is in line with the focus of the cluster, the findings contradict our starting assumption! Weak capacities tend to impair rather than promote new modes of governance. Moreover, state capacity is a differential concept that entails different dimensions (political autonomy, administrative efficiency, enabling/penetrating capacity) that may vary not only across countries but also across different policy sectors and even single issues within a policy sector according to the problem structure at hand (P12; P16). In short, we need to further unpack the concept of (state) capacity. Hence, capacity will remain a major focus of Cluster 3.

Next to capacities, policy-related incentives for state and non-state actors to invest their resources in new modes are investigated. Thus, the different degree of economic integration into the Single Market explains why the Hungarian pharmaceutical industry has been more willing to endorse the attempt of the European Commission to the introduction of new modes in the harmonization of pharmaceutical standards than their Polish counterparts (P14), confirming a finding of P5 in Cluster 2 on voluntary agreements in the plastic and paper industries. And in case of the EU’s external relations with neighbouring countries, so called enforcement problems (prisoner’s dilemma) are less conducive to the emergence of new modes of than distributional problems (P16).

While capacities have a strong influence on the incentives of state and non-state actors to engage in NMG, some of our projects point to a cultural factor that may severely impair the emergence of NMG in accession countries. The Central and Eastern European countries as well as their Southern European counterparts share an institutional legacy of an authoritarian state that heavily interfered with society and economy. The organization of societal and corporate interests used to be weak. Even after transition, structures of interest intermediation have remained fragile. Thus, the approach of systematically involving non-state actors in the making and implementation of public policy does neither resonate with the traditional paradigm of a strong state nor can it build on existing state-society relations (P12; P17). The persistence of the “administrative state” is reinforced by the political and economic transition the accession countries go through. Managing the transition process requires a strong government to introduce and implement often
costly political and economic reforms. Moreover, many accession countries have opted for a liberal form of capitalism in which de-regulation and private self-regulation is the appropriate mode of governance. This may explain why Lithuania, which adopted the “Nordic” model of coordinated capitalism has been more receptive of the social dialogue than Estonia and Poland (P17). New modes seem to be as little compatible with an economic preference for market capitalism as they are with a political preference for majoritarian institutions.

In sum, only the first of the three hypotheses on Emergence has proved to be of relevance for the Cluster as a whole. The failure of central intervention may be a necessary but not sufficient condition for the emergence of new modes.

Cluster 4: Learning, Experimental Governance and Participation

The emergence of new modes of political and socio-economic governance are characterized as much by power-seeking and by conflict between actors (and in the EU’s case, member state governments). Evidence of delegation has been found, for example, when central intervention has failed to meet its objectives. This has been true of central bank governance, the search for flexible central and local ‘pacts’ for governing socio-economic change, and the development within firms of new forms of decentralized (and sometimes negotiated) corporate governance practices. Successful practices also tend to be emulated, as found in the spread of central bank independence and the emergence of new forms of corporate governance transparency, as well as in the emergence of new elements in taxation systems.

Nevertheless, in the same sense that ‘delegation’ as a notion may reflect to too great an extent the concerns of a rational choice agenda in explaining the reallocation of authority between levels of power (in central banking there has been a ‘power shift’ as well as ‘delegation’ shift; the development of novel forms of social pact reflect a ‘loss’ of central authority) so too does the idea that a principal objective is to save political transactions costs. Transaction costs may actually increase in the emergence of more participatory, less hierarchical modes of governance and to considerable problems in meeting the high expectations of the actors involved (P19a; P24).

What we are actually witnessing in many areas of socio-economic governance are new contests over the exercise of power at multiple levels and considerable difficulties outside the strictly technocratic areas of central bank independence and corporate governance laws in reducing transaction problems and finding new ways of delivering on policy objectives. This is the central lesson, for example, of the mechanisms launched to help reach the objectives of the Lisbon agenda. The danger of linking ambitious objectives to untried and unproven new policy mechanisms is that process will substitute for substance and ‘output’ legitimacy will decline.

2.2 Execution (E2) of New Modes of Governance

Key analytical questions on execution are: Once new modes have emerged, how do they operate? How is the application of the new instruments institutionalized? Whose knowledge and expertise determine the particular features of an instrument? Who prevails in the shaping of the policy instruments applied under the new mode? How do they interact with ‘old’ modes of governance? Do the new modes function in the shadow of ‘old’ modes of governing?

The following hypotheses have been formulated in the Scientific Objectives Document:

- “If a new mode is linked to hierarchy, agency loss is less likely.”
- “If a new mode and its organization is embedded in a regulatory space with several cooperating principals, it is less likely that its operation can become self-serving and biased in favour of particular interests.”
• If principals do not agree on the targets to be reached by the agent, the likeliness of agency loss is higher.”

• “The harder it is to substitute an actor’s resources, the more power the actor in question has to shape the application of the new mode of governance.”

• “The actors in the application of the new mode may engage in a process of deliberation and joint learning and come to convergent views on how to solve the problem”.

Cluster 1: Emergence, Evolution and Evaluation
The following preliminary empirical results emerge: Common Foreign and Security Policy in the early years of European Political Cooperation, was dominated by the rules and habits of diplomatic intercourse and not formal rules. Execution was a process of trial and error in the shadow of formal international law and customary international law.

In Justice and Home Affairs modes of governance (old and new) were emulated among issue areas. Some “intergovernmental” third pillar issues (Title VI TEU) were transferred to first pillar (Title IV TEC), such as the establishing of a agency model, Frontex. “Old” legislative modes of governance in the communitarised areas have been given counterparts in the non-communitarised areas (decisions and framework decisions under Title VI TEC), producing a mixture of “old” and “new” modes in the different JHA areas.

In the field of OMC on pension reform a ‘closed’ and ‘weak’ method of coordination is found. It does not strongly involve either social partners or NGOs. The learning process seems to be limited. This is accounted for by the particular strength of national institutions providing protection against old-age risks. Some learning appears to take place in technical committees, e.g. in the definition of common indicators as regards the ‘adequacy’ of pensions).

The OMC’s Research and Development and Information Society reflect the hypothesis that if new mode of governance is not linked to hierarchy, agency loss is likely. Member states can choose to ignore the policy goals. At the same time the intensive communication processes engaged in conveys the impression of policy achievement although there is no de facto evidence for implementation. OMCs are fraught with such ‘communication’ measures in lieu of wide and precise implementation of policy objectives. Actors have an incentive to ‘talk up’ their performance, inflate any real progress and select biased, favourable data for presentation.

20 European agencies as a new mode of governance are operating in fields as diverse as vocational training, trademarks, aviation safety, or border control. The more the new agencies use hard legal instruments, the more issues of democratic legitimacy, liability, accountability, and legal protection come into play.

Empirical results focussing on the new member states reveal in cohesion and structural policy that all new member states are ‘Haunted by centralization’: Since they all have a legacy of centralized administrations, they do not dispose of the necessary administrative infrastructure for implementation of cohesion and structural policy at the regional and local level. Poland, the Czech Rep., Hungary and Slovakia are engaged in a process of regionalization and devolution.

To give an example, winning an eEurope best practice award for ‘e-enabling life event data’ does not guarantee that the Irish government website for online registration of birth actually exists (Cluster 1)
It also becomes evident that the point in time of becoming sovereign states matters: countries (re)gaining sovereignty after 1989 had an advantage in building up national institutions from scratch. In most new member states the institutional set up responsible for programming, implementation and monitoring is highly complex and lacks transparency. An initial weakness in partnership appears to be typical for the new member states due the multiple pressures of administrative capacity building, administrative reform and the need to deliver the National Development Plan to the European Commission.

Cluster 2: Delegation, Hierarchy and Accountability

Probably most emphasis of research within the cluster so far focuses on the execution of new modes. Looking at Voluntary Agreements in the paper and plastics recycling (P2), it is found that such links are often too weak in order to have a substantial impact on the execution of new modes. The legislatory threat is substantially weakened over time and monitoring proves not to be a promising avenue of control. Two major factors contribute to this lack of control: firstly, there is an important conflict between principals, i.e. internal to the Commission between DGs Environment and Enterprise. Secondly, public (Commission, EP) as well as private actors (NGOs) lack the resources to effectively monitor self-regulation once it operates.

In the area of financial market/securities regulation, the Lamfalussy system (P7), it is found, when looking at the execution of the new procedures, that most of the original hypotheses of the NEWGOV consortium are validated: Firstly, ‘If a new mode (delegation to Commission and CESR) is linked to hierarchy (sunset clause, call-back right and aerosol clause), agency loss is less likely.’ Secondly, ‘If a new mode and its organization (Commission at level 2 and CESR at level 3) is embedded in a regulatory space with several principals (e.g. European Parliament, Council, Member States and market operators), it is less likely that its operation can become self-serving and biased in favour of particular interests.’ Thirdly, ‘the harder it is to substitute an actor’s resources (CESR expertise), the more power the actor in question has to shape the application of the new mode of governance (at levels 2 and 3).’ Finally, ‘the actors in the application of the new mode may engage in a process of deliberation and joint learning and come to convergent views (e.g. institutional control mechanisms of the Parliament and Council) on how to solve the problem.’

In energy policy (P8) a strong link to hierarchy is found: either by regulating in detail the functions of agents (OMEL and REE) and modifying them without previous consults, or by functionally controlling the activities of the national regulatory agency (CNE). Hence the hypothesis on E2 ‘The harder to substitute an actor’s resources, the more power the actor in question has to shape the application of the new mode of governance’ proves to be right. The Spanish institutional framework in the electricity sector shows how easy it is for the principal (namely, the Ministry of Industry) to substitute the agents’ resources, and therefore, the little power that these actors have to shape the application of the new mode of governance.

In competition policy, the resource constraints which were at the basis of the new mode of delegation, proves also to be a means to strengthen the Commission’s position. Central to the approach of the Commission is the strategic use of soft governance means including the creation of a network involving national competition authorities, and the issuing of a whole series of notices and guidelines. Privatisation or outsourcing of much of the monitoring and enforcement does not imply a weakening of the Commission’s strong control capacities. On the contrary, in comparison to private action before national courts, the use of arbitration as a means to strengthen the private enforcement in EC antitrust and merger policies would grant the Commission the privilege of an even closer control.
Cluster 3: Effectiveness, Capacity and Legitimacy
Cluster 3 does not focus on Execution, hence does not yield findings on the operation of new modes of governance to be interpreted in the light of the guiding hypotheses of the Integrated Project.

Cluster 4: Learning, Experimental Governance and Participation
In European economic governance, it is unclear that within the complex multi-level EU polity even hierarchy can guarantee against agency losses. The fate of the Stability and Growth Pact over the last couple of years reveals the limits to hierarchy in such a setting, as various countries have breached the rules of the pact with apparent impunity. And yet the pact is still operating and most of those countries out of line with the deficit criteria have brought their accounts back into line. A combination of hierarchy and the role of multiple principles seems to operate here as a disciplining device. There may even have been a degree of policy learning in the EU economic governance policy making community as to how the application of rules should be secured. But this is not true of all new modes – as the first ‘hierarchy hypothesis’ suggest. In the various OMCs, and the implementation of the Lisbon process, the operation of the new mode has tended to be hijacked by domestic interests who have been able to exploit the ambiguities in the rationale underpinning the policy objectives.

There are also clear limits when thinking about innovations in the regulatory arena: thus in the EU’s multi-level tax policy system, hard law remains a critical component of governance (witness the increasing importance of the ECJ in this area as analysed in P22) and the ‘hard law’/’soft law’ and new modes/old modes distinction seems to have little heuristic value. The real limits appear, however, when examining new forms of corporate governance and the governance of new local and national economic issues where, in all cases, the real issue again is the struggle for power and resources among actors (as well as within their organizations) and attempts to shape the future of distributive outcomes. Levels of organization and influence are important elements of these distributive conflicts. Deliberation and joint learning may occur and be central to some of these developments (18a, 19b). Nevertheless, even in these cases, bargaining and ‘powering’ can rarely be divorced from deliberation and ‘puzzling’ in the application of new distributive settlements. In this respect some of the hypotheses of E3 have much greater relevance.

2.3 Evaluation (E3) of New Modes of Governance
Key analytical questions on ‘evaluation #1: impact on policy results’ are: One main emphasis here lies on the policy impacts of the new modes of governance. Do they tackle a given policy problem better than ‘old’ modes of governance? Are they more efficient? How are problem types and available instruments linked? How successful will new modes be in the dealing with ‘tough’ problems of policy (such as prisoners’ dilemma problems and redistributive problems)?

The following hypotheses have been formulated in the Scientific Objectives Document:

- “The higher the policy misfit between the existing policies and the expected policy performance of the new mode, the less likely policy effectiveness”;
- “Given a need to adjust, the number of veto players engaged in the domestic implementation process determines the policy outcome of a new mode of governance”;

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• “The higher the number of veto players with diverse preferences (or the less integrated political leadership in a political system), the lower the expected policy effectiveness”; and

• “In the case of a balanced domestic power structure pro and against a reform, the European policy demands may strengthen the pro-reform faction”.

• “If redistributive, prisoners’ dilemma and institutionally deeply entrenched problems are at stake, new modes of governance are less likely to be effective”

• “under conditions of uncertainty and given non-redistributive problems, a successful mode of new governance will be imitated by other member states”.

Key analytical questions on ‘evaluation #2: impact on structures’ are: With respect to the structural outcomes of the new modes the following questions are posed. How are the relationships between the different European and domestic institutions, or between different European and domestic actors affected under NMG? Do some institutions gain or lose in power due to the application of new modes? How are the relationships between different levels of governance affected? Is subsidiarity enhanced through the application of the new modes? Have actors at the local level gained or lost in power due to adoption of NMG? Given the important role of private actors in new modes of governance, the question arises of how they can be held accountable for the consequences of their activities? How can the lack of democratic legitimation, linked to the use of new modes of governance involving non-elected private actors, be compensated for? Which different forms of democratic legitimation play a role in the present application of new modes of governance, such as parliamentary control, transparency requirements, elements of negotiated democracy, and judicial procedures?

The following hypotheses have been formulated in the Scientific Objectives Document:

• “New modes of governance lead to a shift from classical modes of democratic legitimation through vertical representation to other modes of democratic legitimation such as negotiating democracy, deliberative democracy and others.”

• “New modes of governance lead to a shift from political to sectoral modes of guidance”

Cluster 1: Emergence, Evolution and Evaluation

Focusing on policy impacts first, these findings are preliminary since this question will be dealt with in the second half of the project. Nevertheless first incoming data indicate that in Justice and Home Affairs, given the new challenges in this policy area, the new modes of governance allow for cooperation and coordination where the existing Community legislative instruments would have permitted little or no progress at all. One case in point is police cooperation. Most Member States are reluctant to transfer powers in the sensitive internal security domain to central agencies, the new modes, i.e. existing special agencies provide the possibility of sharing information, assessing common threats and coordinating cross-border law enforcement operations. The unanimity requirement\(^3\) has delayed decision-making and reduced the importance of meas-

\(^3\) Until 1 January 2005 in the entire JHA domain, and still applying to the third pillar areas, legal legal immigration and cooperation in areas of family law
ures. There is also a lack of implementation in the multi-annual programmes and the cooperation of national authorities (special agencies etc.) which result from missing enforcement mechanisms. The gap between ambitious political objectives formulated at EU Council level on the one side and poor achievements and inertia at the level of national administration and many JHA practitioners is considerable.

In the area of Research and Development and Information Society the OMCs appear to be rather ineffective. Thus, in the case of R&D, the creation of a well-funded European Research Area/Council appears to have to a loss in effectiveness: although there are attempts to create a sectoral policy space, strategic political objectives frequently hinder cross-border sectoral cooperation.

As regards structural impacts, the consequences for national institutional structures has been rather limited since most measures rely on the cooperation and coordination of national administrations, not their integration. Moreover, from a democratic legitimation perspective, the diversity of JHA policy areas and instruments, the first/third pillar split and the culture of secrecy surrounding many aspects of EU internal security measures present a challenge for democratic legitimation.

Transparency is, therefore, crucial for evaluating these modes of governance, but difficult to obtain. In a number of policies these new modes do not compete with nor substitute the classical modes. Rather do new modes complement the classical modes by providing for both a learning path before handing over sovereignty to the EU level, and once communitarized to ensure more transparency and efficiency.

In cohesion and structural policy the new modes prompted partnerships under which the EU seeks to induce member governments to open up their public administrations and to include a variety of stakeholders into the processes of decision/making, implementation and monitoring.

Resorting to soft law has been a way of overcoming a lack formal law-making powers. If the option of hard law does not exist, soft law is chosen as the only available form of norm-generation or commitment. Increased reliance on soft law corresponds to the (“backwards”) trend towards intergovernmentalism. Quantitative analysis has shown such a trend, unevenly distributed across the years but growing in number especially from 1996 onwards. The majority of these documents consist of ‘common positions’ addressed to the European institutions, particularly before 1998.

As regards modes of communication it has been found that processes of arguing indeed increase the efficiency and legitimacy of a negotiation outcome among the negotiating actors involved. Processes of arguing do not result in compromises between diverse interests, but in a reasoned consensus. Such outcomes can therefore be assumed to lie above the lowest common denominator, and furthermore to increase compliance as actors will comply due to the insight of the legitimacy of an adopted rule. It is difficult, though, to extend this argument to a whole polity, since the legitimacy of the ultimate result depends on representativeness of the negotiating actors.

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4 See deliverable D28- Cluster 1.
Cluster 2: Delegation, Hierarchy and Accountability

The policy performance question discussed raises the question whether a shadow of hierarchy is needed to guarantee the efficacy of policy-making under functional governance. Which typical link between government and governance ensures a high policy performance as measured by policy output?

The evaluation of new modes in terms of their impact on policy results proves to be a rather complex and difficult task and may to some extent be premature with respect to new modes which have only recently emerged. Moreover, this type of evaluation is indeed not at the heart of some of the research in the cluster. To the extent that it constitutes a focus, such as in the Voluntary Agreements in the Plastic and Paper Industries (P5), it emerges that self-regulation by industry actors may run short of achieving the objectives set in the absence of economic incentives or technological feasibility to do so – a pattern which holds for PVC recycling. In other cases – paper recycling is an example – VAs may be sufficient, or even better policy tools to achieve certain policy goals, so that legislation becomes obsolete.

The evaluation of the results of the Lamfalussy reforms (P7) comes to rather positive conclusions: It is argued that, by introducing a new mode of governance, the EU institutions have succeeded in reducing to a large extent the backlog in the securities market regulation. Cooperation with market practitioners and national supervisors have increased the overall policy effectiveness. Empirical evidence suggests that the speed of the process has increased overall and that there are less bottlenecks than before in the different steps leading to the adoption of legislation. It is also shown that there is more consistency in the proposals submitted by the Commission to the Parliament and the Council, thanks to extensive consultation. In sum, the Lamfalussy process would have brought about more transparency and more expertise in the policy process and has also contributed to the emergence of a common culture of supervision in the securities sector.

The delegation of powers from the national government to regulatory authorities in the Spanish electricity sector has been substantially limited in the Spanish electricity sector. The reason is that energy is considered to be a strategic sector. Hence the E3 hypothesis ‘If institutionally deeply entrenched problems are at stake, new modes of governance are less likely to be effective’ proves to be applicable in the Spanish electricity sector.

While the impact of new modes of governance on policy results is not at the heart of P9, by analysing the process of ‘instrumentation’, i.e. of choosing policy instruments and going beyond description and typologies, it implicitly tackles the question of effectiveness. However, empirical results show that their impact depends from the degree of convergence between sectoral actors. Thus, the E3 #1 first hypothesis (“The higher the policy misfit between the existing policies and the expected policy performance of the new mode, the less likely policy effectiveness”) proves to be applicable to new modes of governance in the environmental and urban policies.

In the evaluation of structural impacts there is ample evidence that new modes of governance alter pre-existing institutional structures and have an impact on the relationship between the different European and domestic institutions, or between different European and domestic actors. Thus in the case of voluntary agreements (P5) which, by definition, take regulatory tasks out of the political arena, weaken the say of the European Parliament and member state authorities. The Commission, circumventing the European Parliament and not having to rely on member states for implementation, has an overall preference for voluntary agreements. There is however an important disagreement within the Commission: DGs which are traditionally closer to industry (DG
TREN, DG Enterprise) support self-regulatory activity, whilst DG Environment is not willing to endorse such agreements and favours co-regulation, if not traditional forms of legislation. (P5)

The trans-European regulatory networks in telecommunications and securities have altered the evolution of regulatory authorities and their relationships with national governments (P6). It is examined, for instance: whether regulatory authorities have similar positions on execution of regulatory issues before these issues are discussed in trans-European networks; and which resources trans-European networks provide regulatory authorities in their relations with national governments; how and with which results regulatory authorities may use such resources; Empirical findings on nominations, departures, tenures and resources of regulators hint to the fact that regulatory authorities are relatively independent from elected politicians.

With respect to structural impacts, the analysis of the Lamfalussy reform (P7), contrary to expectation, has not changed the balance of power at the Levels 1 and 2 dramatically, even if the European Parliament has increased its control on the Comitology committees (right of information, call back mechanism if the Commission exceeds its implementing powers, sunset clause). The Commission according to the empirical findings appears to have gained a great deal of power. At Level 1, it has the right of initiative; at Level 2, it has a preponderant role because it drafts the proposals, controls the consultation process and chairs the meetings of the L2 committees. It is further argued that there are a lot of uncertainties with regard to CESR’s autonomy vis-à-vis the member states. Even if the common approaches defined by CESR members produce already effect in the day-to-day supervision, their effects are was still not binding. Yet the modification of the legal profile of CESR would require a new legal text and it was doubtful whether member states would be inclined to grant additional powers to CESR and to see it evolving into a European regulatory agency.

New modes of governance (P9) have the capacity to challenge the existing balance of powers between actors, depending on the way actors manage to mobilize them in a strategic way. The example of the OMC shows that although not systematically embedded with a formal steering competence, the Commission has been able to insure an informal influence through the use of expertise and information. It also benefited from the lack of convergence between Member States, which has prevented them from steering with effectiveness these processes. Thus, the E3 #2 second hypothesis (“New modes of governance led to a shift from political to sectoral modes of guidance”) is supported by empirical findings (P9).

In competition policy (P10) the structural implications of reform may be described as an horizontal institutional strengthening of the Commission vis à vis the European Parliament and Council of Ministers and a vertical strengthening vis à vis member states and their competition authorities. The Commission’s increasing reference to legally non-binding notices, guidelines is interpreted as an incremental strengthening of the European level in general and the role of the Commission in particular.

The analysis of the emergence of different forms of civil society participation (P11) under the new modes in the EU finds that participation modes vary across policy fields, having a long tradition e.g. in occupational health and safety regulation, whilst being more recent and by the more confrontational nature in the field of GMO. In the analysis of the WTO (WP 2), an increasing number of participatory practices at all levels of the organisation’s activity have been observed. Civil society participation appears to be rather limited in the execution of the new modes. Given the degree of professionalisation in the trade community, it seems unlikely that WTO staff or delegates from the industrialized world would have to rely on NGO expertise in research or pol-
icy formulation. In theory, developing country delegates at the WTO with a lack of support staff and technical expertise would have more reason to collaborate with non-state actors. So far, however, this potential for collaboration has not been realized. Many developing country delegates still distrust NGOs because they perceive them as pursuing the political agenda of industrialised societies.

Cluster 3: Effectiveness, Capacity and Legitimacy

As regards the impact on policy results the new modes (even though actors expect them to increase the effectiveness and legitimacy of policies), do not necessarily render policy results more effective and legitimate. The policy impact of new modes seems to depend on similar factors as their emergence, which lends some credibility to the functionalist approach despite its disconfirmed claims about the emergence. Part of the reason may, however, lie in the fact that most projects have not yet gathered enough evidence to systematically evaluate the policy impact of new modes (reinforced by the problem that there are not so many new modes in the first place).

The failure of centralist intervention combined with the push of the European Union and the pull of domestic actors may provide sufficient incentives for state and non-state actors to engage in new modes. However, they may still lack the capacities necessary to maintain their cooperative relationship. This is particularly the case for civil society actors, which may not have sufficient resources to carry through the oft lengthy negotiations with state actors.

Another problem is that actors may initially engage in new modes without having a true interest in complying with its major principles. Thus, state actors may instrumentalize new modes in order to strengthen their political capacities. Thus, the Polish government used the social dialogue to circumvent political deadlock in the parliamentary arena. Likewise, it launched a civic dialogue in the hope to lock-in certain policy reforms in face of an up-coming government change by trying to give the policy results some additional legitimacy. As a result, non-state actors may lose faith in the willingness of state actors to treat them as partners in the policy process. But non-state actors can be equally inclined to (ab)use new modes for their self-interest only. The low effectiveness of the social dialogue in Poland and Estonia is at least partly due to the lacking willingness of trade unions to commit themselves (P17). A problem related to the instrumental use of new modes is the political volatility in CEE accession countries. Due to unstable political majorities, state actors may not be able to deliver, i.e. turn a negotiated agreement with non-state actors into a public policy (P12).

As regards the structural impact of new modes, their impact on legitimacy seems to be wanting or even counterproductive. In Poland, for example, we find some strong scepticism, both among the public and politicians, against new modes, such as public-private partnerships, which are seen to circumvent majoritarian, i.e. democratic institutions, particularly if they do not provide more effective policy results to compensate for the lack of input legitimacy. This is particularly the case for the provision of public utilities, such as drinking water (P12), but also in the area of social dialogue (P17). Thus, instead of helping to deal with ‘tough’ policy problems, new modes can also create additional policy problems.

In sums most of the projects, which look at the structural impact of new modes, have not advanced enough to come to any generalizable conclusions. But even towards the end of our projects, it will be difficult to isolate the effect of the new modes. Not only is their number limited, their emergence coincides with other changes induced by accession to the EU. Moreover, for the Central and Eastern European countries, accession to the EU has overlapped with their still on-
going political and socio-economic transition, which makes it even more difficult to attribute structural changes to the effect of new modes.

So far, our empirical evidence seems to imply that the impact of new modes on (domestic) power relations is at best differential. New modes may empower non-state actors and local authorities vis-à-vis their central governments if they have the capacities to exploit the opportunities offered to them for participating in the policy process. Thus, Spanish and Hungarian environmental groups, often supported by transnational organizations, have been more successful in getting involved than their Greek and Rumanian counterparts, partly because environmental mobilization in Greece and Romania is much more localized (P12). In a similar vein, Polish regional actors have been more involved in regional governance regimes than their counterparts in Hungary where the degree of territorial decentralization is still weak (15). But the overall finding so far seems to be that new modes have reinforced rather than changed existing domestic structures, particularly with regard to the dominance of executive actors at the national but also at the EU level (P16). Thus, the introduction of social dialogue institutions in Poland, Estonia and Lithuania has done little to transform the socialist legacy of the administrative state towards a more “Western-type” network model. On the contrary, new modes may reinforce some of the pathologies of these states by undermining “classical” modes of democratic legitimation allowing state actors to circumvent majoritarian institutions (P17). Mutual recognition is another example where new modes erode democratic legitimation without providing compensation through alternative modes, such as deliberation (P13).

Cluster 4: Learning, Experimental Governance and Participation

The notion of ‘misfit’ is easier to apply to the ‘steering’ forms of socio-economic governance than to organization and institutional creation. Problems in the implementation of the Stability and Growth Pact and in the utility of the pre- and post-Lisbon OMCs all concern to some extent a clash of principles and objectives between levels. Nevertheless, the notion of ‘misfit’ suffers from numerous problems, including the ‘static’ nature of the purported phenomenon it attempts to identify. Principles and objectives in anything other than the ‘hardest’ form of ‘old modes’, such as EU regulations, are subject to negotiation and interpretation and what is interesting are the determinants of the latter. Thus the hypotheses regarding veto players, diverse preferences and the prisoners’ dilemma nature of many of the distributive issues stake in socio-economic governance are much more pertinent to our concerns. In the areas of corporate governance, local and national pacts, the emergence of new forms of local governance etc., the centrality of power games in determining both institutional and policy outcomes brings the role of power and vetoes (and their negotiation) to the centre of the analysis.

This is the obverse of the hierarchy principle. More vetoes mean less effectiveness when deliberation is the goal – also revealing an important flaw in the Lisbon processes. The aim of bolstering participation in the name of ill thought through deliberative ideas has led to dissatisfaction on all sides (P24). Thus while it may be true (as one hypothesis under E3 suggests) that some new modes involve more deliberation than old ones, there is in reality (a) little distinction between the reality of bargaining in old modes and bargaining in new ones (i.e. in old corporatism versus ‘new’ social pacts) and (b) little indication that the expansion of deliberation will either empower weaker organizations or (confirming the veto power hypothesis) produce more effective and legitimate decision making. The hypothesis that “new modes of governance lead to a shift from classical modes of democratic legitimation through vertical representation to other modes of democratic legitimation such as negotiating democracy, deliberative democracy and others” reveals more about the normative objectives of certain policy makers enamoured of such modes than about the natural outcome of shifting to less hierarchical forms of governance. It is likely that as
‘new modes’ evolve they will either go into decline or assume more traditional forms of vertical representation and hierarchy within or alongside them. Similarly, there is little support for the idea that “in the case of a balanced domestic power structure pro and against a reform, the European policy demands may strengthen the pro-reform faction”: this may have been true under different circumstances (e.g. the terms on which former Soviet-bloc countries secured the condition of EU membership), but in that case there was much in the way exogenous coercion and material incentives involved that do not apply to ‘new modes of governance’. European policy demands under ‘new modes’ which have little in the way of hierarchy seem to have disruptive affects with unpredictable outcomes regarding the consolidation of pro- and anti-reform coalitions. Under the post-Lisbon OMC’s elite conversion creates ‘worm-hole’ effects (i.e. linkages between Brussels and domestic policy nodes) – as the policy diffusion literature tells us - but domestic mobilization is generally limited. Finally there seems to be little evidence for the hypothesis that “new modes of governance lead to a shift from political to sectoral modes of expected policy effectiveness”. Old modes and new modes appear to require identical justification in terms of political support and vindication, as well as sectoral effectiveness at the level of policy implementation.

2.4 Evolution \( (E_4) \) of New Modes of Governance

Key analytical questions on evolution are: Once new modes of governance have been introduced, how do they evolve over a longer period of time? Do they increasingly converge in terms of structures, processes and instruments, or do we find an increasing differentiation of new modes?

The following hypotheses have been formulated in the Scientific Objectives Document:

- “A polity with multiple arenas gives rise to more differentiation of new modes of governance” (linked to diffusion theory: if modes are successful others will seek to emulate them).

- “Once a new mode of governance is instituted, it will be subject to transformation. This transformation will be subject to a typical national/sub-national pattern of change (path dependency).”

- “The stronger the cross-border character of the object of regulation of a new mode, the less differentiation we expect to find in the evolution of the new mode”.

- “New modes of governance will result as a process of experimentalism and longitudinal learning across the multiple levels of a federal or quasi-federal system, offering new solutions to traditional distributional trade offs.”

Cluster 1: Emergence, Evolution and Evaluation

Asking how the new modes evolve, it has been underlined that there are possibilities for cross-sector dynamics in the sense of spill-over processes, which are mainly driven and shaped by policy entrepreneurs. The links between individual policies may also be a precondition for the emergence and evolution of coordination processes in fiscal policy and education policy, while less so in CFSP.

The evolution of binding and non-binding policy measures in social policy and environmental policy shows that regulations and directives still play a prominent role in environmental policy where they outnumber by far non-binding policy outputs. In contrast, in social policy non-
binding policy outputs are more relevant. Binding and non-binding policy outputs developed on a parallel basis.

From the parallel evolution of binding and non-binding policy measures in social and environmental policy it may be concluded that binding legal acts are not necessarily regarded as more effective than non-binding policies. Non-binding policy outputs do not increase at the expense of directives and regulations. This is confirmed by a first analysis of qualitative data based on expert interviews. Moreover, the existing quantitative data were related to the development of EU competences and the development of decision rules, from unanimity to qualified majority voting. According to an institutionalist hypothesis more binding legal acts will be adopted if decisions are taken by qualified majority voting. This hypothesis was not borne out empirically. In environmental policy, binding policy outputs have increased irrespective of the change in decision rules. Only in two issue areas of social policy, namely in the area of “health and safety of workers” and “working conditions”, more binding legal acts have been passed after qualified majority voting was introduced.

Another typical development which has been identified is a diversification of governance modes. Thus in JHA there has been a diversification of modes after the Treaty of Amsterdam in response to the massive increase of objectives and new EC/EU competences. The political pressure generated by the September 11 terrorist attacks led to a flurry of “experiments” with coordination, evaluation and information exchange and instruments of analysis. After the activities had abated, “new” came to exist alongside “old” ones, with Council and Commission making use of both of them according to policy objectives and opportunities in the different fields. There is, however, a strong element of continuing “learning” resulting from the periodic evaluations (e.g. in the anti-terrorism and asylum fields).

Another typical feature in the evolving of new modes is described by institutional path-dependency. Thus, preliminary findings show that there is an enormous stability of governance modes. There is a continuous development of the OMC despite lack of interest on the part of politicians; this development is rather insulated from public attention. Agencies are slowly developing over time as well. In the course of legal consolidation there appears to be a trend of European agencies converging in structures and instruments.

The evolution of OMCs depends (as does the emergence) on pre-existing processes (e.g. European employment strategy predated OMC employment) and their proximity to the Lisbon objectives; competitiveness enhancing OMCs have more political impetus (R&D, Pensions, Education) than merely declarations of good intentions (e.g. Youth policy, civil protection).

Cluster 2: Delegation, Hierarchy and Accountability
The question is raised as to how the link to hierarchy evolves over time. Two broad contrasting patterns of a changing link are conceivable: Under the first pattern which may be labelled “sectoral governance to roll back the frontiers of government” there is a stepping-back of governmental intervention and a concomitant shift of these tasks to non-legislative and private actors’ policy-making bodies. This may occur at the vertical or horizontal level.

National governmental tasks may give way to supranational or national functional forms of governance. If national governments see a need to perform a particular policy task at the supranational level, a sectoral mode of governance not based on legislation may be preferable because it does not imply the yielding of formal competences at the national level. The opposite pattern, “sectoral governance to prepare the way for government”, identifies a shift from functional
modes of governance to governmental action. Was a lack of policy performance at the roots of this shift? In-between the two extreme shift patterns a variety of gradual changes are conceivable.

This question is at the center of the question of how regulation in telecommunication and securities develops after the initial delegation (P6)? How do national regulatory authorities and trans-European networks alter over time and for which reasons? The project is paying particular attention to the relationship between national governments, regulators and trans-European networks (see summary of preliminary findings under Evaluation - structural impact).

In another area of regulation, i.e. the analysis of the Spanish electricity regulation (P7), it emerges that over time, what initially appears to be ‘new’ may not hold to qualify as a ‘new mode of governance’ once a longitudinal perspective is adopted. In the Spanish electricity sector, the operation of the system was initially carried out by an association of electricity undertakings (UNESA) to which the Government attributed large leeway: it had to implement very general and vague criteria issued by the Government. In the new, post-liberalisation system, however, delegation is limited and functions are described in detail. The regulatory authority is very much controlled by the principal, i.e. the ministry. Hence, new modes of governance did not emerge from the liberalisation of the electricity market in Spain because delegation of functions to UNESA has been a constant pattern from the emergence of the Spanish electricity system in 1944. Moreover, there is a change of pattern concerning the control that the principal extends upon their agents: the loose control played by the Ministry of Industry upon UNESA contrasts against the tight control over OMEL and REE (by spelling out all their functions) and over CNE (by having the last word in any of the procedures initiated by its agent). Evaluating the impact of the Spanish electricity ‘new’ modes of governance on policy results has a difficult fitting in NEWGOV: it compares new and old modes of governance presupposing that old modes are strongly governmental and hierarchical. However, new modes of governance in the Spanish electricity sector are now more linked to hierarchy.

A longitudinal analysis of policy instruments (P9) systematically analyses conflicts and controversies around their creation, implementation and modification of policy instruments over a 30 years period. Building up an encompassing empirical database, policy sectors are systematically compared though the lenses of policy instruments. Two E4 hypotheses ‘Once a new mode of governance is instituted, it will be subject to transformation following an existing path dependency’ and ‘New modes of governance will result as a process of experimentalism and longitudinal learning across the multiple levels of a federal or quasi-federal system, offering new solutions to traditional distributional trade offs’ are scrutinized in the light of empirical findings.

Cluster 3: Effectiveness, Capacity and Legitimacy
Since the focus of Cluster 3 rests on Evaluation and Emergence, the projects have not yielded findings on the evolution of NMG that could be systematically compared and summarized in light of the hypotheses developed by the Integrated Project.

Cluster 4: Learning, Experimental Governance and Participation
The hypotheses are less useful for Cluster 4. Thus, when the evolution of macro-economic governance at the EU (19a) was investigated in the light of the hypothesis that “new modes of governance will result as a process of experimentalism and longitudinal learning across the multiple levels of a federal or quasi-federal system, offering new solutions to traditional distributional trade offs”, little evidence was found that there was any ‘laboratory of experimentation’ involved. The hypothesis that “the stronger the cross-border character of the object of regulation of
a new mode, the less differentiation we expect to find in the evolution of the new mode” is cer-
tainly borne out, however, by our studies new modes containing strong club rules that are bol-
stered by strong sanctions (either hierarchically applied or horizontally-induced by peer pres-
sures) in certain areas of macro-economic management. It is also obviously true that “once a new
mode of governance is instituted, it will be subject to transformation along a pattern of path-
dependency”, for such modes are almost always the subject of ongoing re-negotiation – a source
of their strengths as well as their weaknesses. Some of our studies have suggested alternative hy-
potheses to the above and those should clearly be addressed in subsequent iterations of the sci-
tific framework.

3. Synthesis and Linkages
The reports from the different clusters on preliminary empirical findings in the light of the hy-
potheses originally set out and a modification of the latter indicate results which have already
been linked across clusters. Further joint publications and joint workshops are planned in the
next project phase. Just to mention a few examples of areas of synergy. Four were already dis-
cussed at different thematic workshops organised during the Consortium Conference in June
2006.

- The first workshop (led by Adrienne Héritier) was on ‘Delegation of Regulatory Tasks to In-
dependent Agencies’. The trend in European policy-making to increasingly delegate regula-
tory tasks to independent agencies was discussed in this thematic panel over two sessions: A
first session took a sectoral approach, concentrating on the role of regulatory authorities in
the field of energy regulation. A second session took a comparative approach, focusing on
the preconditions for delegation in terms of state capacity. Jorge Vasconcelos, chairman of
the ERSE (Entidade Reguladora dos Serviços Energéticos) and former president of the
CEER (Council of European Energy Regulators) and Burkhard Eberlein, a political scientist
who has published widely on energy policy, contributed to the first panel. Charalampos Kou-
talakis, project leader within NEWGOV cluster 3 (project title ‘Smoothing Eastern Enlarge-
ment: Independent Regulatory Agencies and Non-Hierarchical Steering’) presented his pro-
ject research in the second session, with comments provided by David Coen (project 6 After
Delegation: Regulatory Agencies and Network Governance).

- The second workshop ‘Civil Society and Democratisation’ (led by Jelle Visser) questioned
how new modes of governance tend to undermine the conventional assumptions concerning
accountability and legitimacy that theorists of democracy have typically applied to thinking
about democratic polities. Traditionally, political authority has been thought of as being lo-
cated in governments, and democratic theories of legitimacy argue that such governments
should be accountable to, and representative of the populations they serve. Europeanisation
(and globalisation) entail a) more cross-border effects of policies; b) contested territorial al-
locations of political authority; and c) shifts in the capabilities of private and public actors to
set, implement and enforce regulation. The thematic Workshop addressed these issues in par-
ticular in relation to the development of social dialogue in Central and Eastern Europe, the
democratising effects of civil dialogue, new modes of accountability and interaction between
civil society and political institutions, and local (private-public) partnerships. Contributions
came from projects 17 (Tomasz Grosse), 11 (Jens Steffek), 18b (Ida Regalia) and 24 (Michal
L. Federowicz).

- The third thematic workshop titled ‘EU Governance after the Constitutional Treaty: Crisis or
Opportunity?’ (led by Wolfgang Wessels) took up a up a highly controversial and relevant
issue of the current integration process. In view of the non-ratification of the TCE, it focused on scenarios and strategies for the EU in the coming years, approaching constitutionalization from a broader perspective and trying to identify conceptual links and interrelations between different and possibly new modes of governance. Contributions by: Wolfgang Wessels, Bruno de Witte, and Helen Wallace.

Finally, the fourth thematic workshop on ‘New modes of governance in old and new member states compared’ (led by Tanja Börzel) systematically compared new modes of governance in the EU 15 and the EU 25. Drawing on the expertise of the four clusters, the workshop explored whether the emergence, the effectiveness and legitimacy of new modes of governance differs significantly given the different historical trajectories, political and socio-economic development, political cultures, and capacities of old and new member states. Contributions came from projects 1 (David Natali), 6 (Mark Thatcher), 12 (Nuri Font), and 24 (David Lane).

In addition, one workshop, organised by one of the Legal Task Forces, focussed on the relationship between law and new governance (May 2005). The conference dealt with more general conceptual questions concerning the shifting relationship between law and new governance and explored their interaction in the practice of a number of distinct policy sectors. Among the highlights of the conference were the cross-disciplinary character of the discussions, as well as insights from US scholars engaged in similar research (into the character of new regulatory and governance forms) both within Europe and the US. Researchers from other parts and clusters of the NEWGOV project contributed to the debate (projects 5, 11, 19a, 24, and the Democracy Task Force).

For the next period, similar cross-cluster workshops are planned, in order to further exploit synergies of the research insights accumulated by the various clusters and projects:

- The results on new member states will be systematically linked at a workshop to be organised by the leaders of project 17 (spring 2007). It aims at exploring factors that influence the emergence (E1), execution (E2) and evolution (E3) of new modes of governance. It is assumed that the emergence, execution and evolution of NMGs is influenced by a series of cultural and historical factors and that path dependencies are rather country specific and mutual interactions between various factors differ from one country to the next. These factors should be further explored.

- The impact on democratic structures is discussed in the three clusters 1-3 and this should be further developed at a workshop jointly organised with the Democracy Task Force (second half of 2007).

- New Approaches to socio-economic governance and the effectiveness of new modes will be explored at a workshop organised in December 2005. While this issue is mainly dealt with by projects within cluster 4, overlaps exist with projects in other clusters exploring the effectiveness of regulatory and budgetary instruments (projects 1, 5, 6, 10, 13).

Other cross-cutting topics that have been identified are for example:

- The long-term development of instruments Cluster 2 will be linked with the empirical data of longitudinal development of instruments of Cluster 1 and findings of the Legal Task Force II on the role of the European Court of Justice.

- The shadow of hierarchy findings of Cluster 2 are related in an interesting way with the findings of Cluster 3 and will be jointly exploited.

- The typical nature of hybrid governance forms is another cross-cutting theme (Clusters 1, 2, Legal Task Force 1a).
In the final stages of the project, the Consortium, through the Steering Committee, will conduct a stock-taking of the scientific achievements of the project: the knowledge created, its empirical content, its analytical innovations, and its implications for subsequent scientific enquiry. This stock-taking will be used to produce a synthetic summary of achievements (and of any scientific problems encountered) by the Consortium. The systematic comparison of the theoretical questions and findings on Emergence, Execution, Evaluation and Evolution will be compiled in a joint publication.

4. Dissemination

Relaying the results of the research to the scientific community and dissemination for practitioners are key aims of the Consortium. Instruments for dissemination are the project website, www.eu-newgov.org, the working papers of the project, published in the peer-reviewed series EUROGOV, jointly implemented with CONNEX, workshops and conference, as well as academic publications. The academic and policy making communities are also target of the external NEWGOV newsletter, providing information concerning work in different parts of the Consortium, and the series of short and accessible Issues and Briefing Papers, relating to specific and topical events that arises during the course of the Integrated Project. A first issue of the External Newsletter, providing an overview on the NEWGOV project and a detailed description of the research carried out in cluster 2, was disseminated in summer 2006. At the same time, the first issue of the Policy Brief series was published, presenting key results of project no. 7 on “Governance of the EU Securities Sector: Impacts of the Lamfalussy Reform”.

During the second project year, dissemination activities have intensified, along with the generation of knowledge at all levels of the Consortium. During year 1 and 2, researchers have presented NEWGOV research at more than 170 conferences, workshops, seminars and on other occasions. It included the most prestigious academic events such as Ninth Biennial International Conference of the European Union Studies Association (EUSA), conferences of the European Consortium for Political Research (ECPR), the International Studies Association (ISA), the International Political Science Association (IPSA), the Society for the Advancement of Socio-Economics (SASE), the American Political Science Association (APSA), the Conference of Europeanists, or the International Association for Legal and Social Philosophy. Beyond that, around 300 articles, book chapters, working papers etc. have been published or are in the process of being published by NEWGOV researchers. The plan for using and disseminating the knowledge provides a detailed overview. It should be noted that these dissemination activities also ensure close interaction with other FP5 and FP6 and other international projects. This kind of ‘uncoordinated’ interaction with other programmes is constantly taking place by the individual researchers involved in NEWGOV, also because they are taking part in other programmes.

In addition, NEWGOV committed itself to organising a series of forums to bring together a mixed group of academics and practitioners from different sources and to discuss with practitioners research outputs from the Consortium as a whole. The objective is thereby to complement more focused meetings organised by individual project teams and/or clusters. Some examples from the second year are:

- The first Consortium Practitioner Forum “Policy learning and experimentation in EU economic governance: Laboratory federalism in practice?”, aimed to further theoretical and empirical insight into the working of laboratory federalism in three policy areas that are of particular relevance to EU economic governance: policy coordination through social partnership, tax policy and macroeconomic stabilisation. It looked for the various, perhaps hidden,
channels through which the EU may shape and induce policy innovation as well as the obstacles it faces in acting as an effective or unbiased reform lever. The answer that the workshop gave to this question was largely negative. EU membership and monetary union has led to some innovation in the role of social partnership, but this seems not to have had a lasting impact independent of the domestic setting. Participants come from, among other institutions, the German Bundesrat, the Irish National Economic and Social Council, the Italian Senate, the UK, German, and Italian Treasuries, the European Association of Craft, Small and Medium-Sized Enterprises (UEAPME), the Slovenian Chamber of Commerce and Industry, the European Trade Union Institute, the Dutch National Bank, and the European Commission. 5

- Project 7 organised a Round Table Discussion on the Lamfalussy Process in January 2006. The meeting was chaired by Professor Alexandre Lamfalussy. The purpose of the round-table discussion was to get input from practitioners on the Lamfalussy-model and the research carried out within the project. The meeting was attended by a number of persons who are working with the Lamfalussy-process on a daily basis in the EU institutions, e.g. from the Council, the Committee of European Securities Regulators (CESR), the EP, and the European Commission.

- Project 8 organised a workshop on “The electricity sector in Spain: Competition and Public Service”. It was devoted to the analysis of the liberalization process of the electricity market in Spain, and the way this process affect the traditional legal notion of public service. Participants and speakers came from the Spanish Energy Commission, Industry, and local government. The workshop was also attended by around 60 students.

- Project 12 presented the major findings of the project on the emergence and effectiveness of New Modes of Governance in the implementation of four environmental directives in three Southern European and three Central and Eastern European countries at a workshop in June 2006. The major results were summarized in an interim report and discussed with policy experts and practitioners from the Commission’s DGs Environment and Enlargement as well as Environmental NGOs.

- Project 19a furthermore organised a series of lectures at the London School of Economics on the political economy of European Integration, with speakers from the academic and practitioners community.

- Project 22 presented their research at a workshop focussing on “The Public Interest in International Taxation”. The international workshop gathered 20 European high-level policy-makers, practitioners and academics engaged in international taxation. It was for the first time that many of these stakeholders sat together at one table and talked to each other. Participants came from the EU institutions (the Commission and the Council), civil society organisations (Tax Justice Network), business representatives (CBI, Ernst & Young), think tanks (Institute of Economic Affairs), academics, lawyers, and policy-makers from the UK, the dependent territories, Ireland, and Estonia.

- The dissemination activity to a wider public, including practitioners, undertaken for project 23 was to hold a public conference to publicise the results of the research. It was held in Prato, a leading location for the textile and clothing industry of central Italy, where many of the ideas related to the development of public policy towards this sector were developed. It

5 See the special website at: http://www.eu-newgov.org/Econpol/PractitionerWorkshop.asp
was therefore a particularly suitable location for an event on this topic. The conference was attended by about 200 people, including specialists in and students of local economic development of the University of Florence, and representatives of the textile industry of Prato and of the municipality.

It should finally be mentioned that interaction with practitioners is a two-way process in which NEWGOV researchers not only disseminate research findings to practitioners, but very actively seek information from the latter. A large number of qualitative interviews have been conducted in the individual projects in all clusters that have offered immensely valuable empirical insights into how the new modes of governance are being applied in reality.

5. The next Implementation Phase, Months 25-42

The second and/or third project years (depending on the duration of the individual project) were and are mainly used for primary research (surveys, interviews, etc.), the analysis of the findings and theoretical consolidation of the analytical frameworks, as well as for the production and dissemination of research results. During the second part of year three and year four, the IP and its projects will primarily focus on the (normative) evaluation of the findings, the formulation of policy recommendations as well as on dissemination activities.

Drawing on the stock of empirical knowledge developed so far about the different policy fields and the governing modes, and the revised set of indicators and evaluation criteria for classifying Governing Modes, the final version of the Cluster 1 data base on governing modes will be produced. This version of the database will include more aspects both of secondary and primary law. In particular, primary law of the EU will be systematically structured and categorized as to enable a full-fledged research for specific terms. The database will provide a sound empirical foundation for research, serving as a foundation for more refined qualitative analysis. Furthermore, the analysis of the evolution of governing modes will continue to be one of the key perspectives of work during the months 25-42. A set of working papers will address the emergence and evolution of governing modes in different fields of action in order to test the theoretical and empirical assumptions made within the project outline.

The evaluation of different modes of governance will take place based upon the indicators, as well as the working papers on the emergence, evolution and impact of governing modes, which shall be used as a starting point for further-reaching reflections. A specific working paper will grasp the issue, serving as a kind of first important milestone for the synthesis of the research results. On the basis of this paper, each project partner will present a policy memorandum on the specific area he/she has been working on, trying to address a broader audience (decision-makers, journalists, academic community).

The work of Cluster One will be concluded by a monograph on the Emergence, Evolution and Evaluation of Governing Modes in year four. This joint publication, summing up and presenting the findings of the cluster participants, will ensure comprehensive dissemination among the academic community and the interested public.

The next 18 months in Cluster 2 will be dedicated to two lines of activities: firstly, the finalisation of the forthcoming joint publication on new modes of governance and the shadow of hierarchy (in the new Journal Regulation & Governance). A second joint publication which puts more emphasis on the accountability and legitimacy aspect of new modes of governance will be discussed in upcoming cluster meetings.
Cluster 3 will start to draw together the main findings of the individual projects in light of the cluster’s research agenda. The project leaders will be asked to systematically evaluate the effectiveness of new modes of governance in facilitating the adoption of and adaptation to the acquis communautaire in accession countries, and the role of state capacity as a scope condition for new modes of governance in particular, as well as to explore the implications of new modes of governance for the political and societal structures in the target countries. Are new modes of governance an effective means of capacity building (resources transfer, including information and expertise)? Have they helped to increase the legitimacy of public policy-making. Do they trigger administrative (e.g. civil service) or political reforms (e.g. territorial decentralization)? Which actors are empowered by new modes of governance? Do these new modes undermine traditional forms of representational democracy by fostering functional interest representation? To what extent do new modes privilege the participation of corporate (for profit) interests over public (not for profit) interests in public policy-making at the various levels (regional, national, EU)? Do new modes of governance foster the emergence of an endogenous civil society? These research questions provide a common framework that shall integrate the individual projects into a joint publication, e.g. a special issue of an international journal or an edited volume. A three days conference is planned for month 41.

Cluster 4 will continue to focus on areas of regulation where EU involvement is new and where at the national level existing modes of governance have been called into question - either because they are or appear to be ineffective, or because they are challenged by (mostly international, sometimes domestic) developments. This is the case of economic and monetary government, tax policy and corporate governance. Two cluster workshops are planned, one of which will focus on socio-economic governance. This workshop will also discuss a possible joint publication from cluster 4. Since many projects within this fourth cluster will continue their research up to the end of the project duration, synthetic results from this cluster will only emerge in the latter part of this Implementation Phase.

The Task Forces on Legal Issues and the Legitimacy and Democracy Task Force will all conclude their research during the upcoming Implementation Phase. A number of edited volumes are in the process of being finalised, as well as a data set on the effectiveness of the European Court of Justice. The Task Forces and its members will continue to contribute their expertise to the other clusters and projects.
Scientific Deliverables during the second year
(for direct download click on those marked with ‘*’; other deliverables are not publicly available)

Cluster 1: Emergence, Evolution and Evaluation

Project 1 and Cluster 1: The Evolution and Impact of Governing Modes

Cluster One Interim Report - Year 1*
Udo Diedrichs and Wolfgang Wessels
During the first 12 months of NEWGOV, research within Cluster One has been dedicated to refining the research design at the cluster and project levels. The report outlines the main steps taken on the cluster level and by the four projects located in cluster 1.

Structure of and Guidelines for Joint database with Information on Governing Modes
Udo Diedrichs, Wolfgang Wessels, Tobias Kunstein
In the NEWGOV project, cluster 1 focuses on the 'emergence, evolution and evaluation' of modes of governance. A systematic comparative approach for the study of how different modes of governance emerge and evolve in interdependence of each other and across a range of selected policy fields is adopted. Taking into account that, as deliberations within the scientific community indicate, the term 'modes of governance' eludes attempts to arrive at a single, overarching definition, it is imperative for us to arrive at least at some coherent typology as a starting point for the joint database.

The Emergence and Evolution of the Sectoral and Interprofessional Social Dialogue? A Quantitative Analysis*
Philippe Pochet
In this paper we will draw together two objectives of the NEWGOV project. On the one hand to map all the existing documents in the field and on the other to reflect on the emergence and the evolution of new modes of governance in specific domains. We have created a database including all the joint documents signed by the social partners at European level. We present the results of a quantitative analysis covering all 353 agreements adopted since 1978 at sectoral level and 52 at interprofessional level. From this quantitative analysis we can detect certain overall trends on the emergence of and evolution affecting the sectoral social dialogue and compare the dynamics with the interprofessional social dialogue. This article is structured in four main parts. First we classify the texts adopted into six categories: ‘agreements’, ‘recommendations’, ‘declarations’, ‘internal rules’, ‘tools’ and ‘common positions’. Then, we briefly set out the main stages leading up to the formation of the 31 sectoral committees now in existence and the developments at interprofessional level. The two main parts are part 3 and part 4 which present the findings from our data. The third describes the developments in the sectoral social dialogue, analysing the different dimensions (number of documents, type, topics, and to whom they are addressed). The fourth part follows the same lines but at the interprofessional level. Then we draw some conclusions.

Working Paper: The Emergence of the Structural and Cohesion Funds in Central Europe*
Kalmán Deszeri
The European Union consists of member states of different development levels and regions within the member states whose diverging levels of development have been creating increasing gaps. To reduce the regional disparities within and among the member states as well as to pursue the aim of catching up with the average EU development level in the backward regions of the
member states have always been important elements of the community policies. The EU’s structural and cohesion policies are assigned to serve this goal. This paper summarises the findings of five background papers, which aimed at analysing the similarities and differences in governance and issues of governability, accountability and legitimacy in the area of structural and cohesion policies of the new member states.

**Background Document: New Modes of Governance in the EU Cohesion Policy: Emergence, Evolution and Evaluation**

*Kristina Vida*

In this study we try to explain and identify the ways and means – in our terminology the modes of governance of European cohesion policy. Under cohesion policy we understand at the same time the EU’s comprehensive regional development policy dating back to 1987-1988 (initially to 1975) and financed by the Structural Funds, as well as the EU-level development assistance financed through the Cohesion Fund (dating back to 1993-1994). The wider interest of this study is to find answers to the question why did new modes of governance emerge under cohesion policy, how did these new modes evolve during the past three decades, and finally, how can their role be assessed within the overall governance-developments of this policy. This study is composed of three chapters. The first chapter highlights shortly the origins of cohesion policy and describes the initial modes of its governance. The second chapter – broken down into three sub-chapters in a chronological rhythm – is detecting the evolution of governance modes of cohesion policy, including new or alternative modes. The third chapter contains the evaluation of governance issues under this policy field and attempts to place this evaluation in the context of existing theoretical approaches to European governance.

**Background Document: New Modes of Governance and the EU Structural and Cohesion Policy in Estonia, Latvia and Lithuania**

*Annamária Artner*

This paper was written in the frame of the NEWGOV Project, which aims to identify, measure and assess the emergence and evolution of new modes of governance (NMG) in the European Union. In the following we investigate this question with an eye of an economist, through the example of the new Baltic Member States: Estonia, Latvia and Lithuania. Looking at the question as an economist can make a difference in comparison to the perspective of a political scientist, since the former is more likely to concentrate on the economic and social dimensions and roots of the developments than the latter. This difference in the approaches is, however, not only allowable but explicitly desirable, as the different ways of thinking surely fertilise each other, and a multi-dimension investigation may easier give results corresponding to the realities than the one-sided view-points.

**Background Document: New Modes of Governance and the EU Structural and Cohesion Policy in the Czech Republic and Slovakia**

*Zoltán Bassa*

Section 1 of this paper discusses the general (pre)conditions and the social environment for new governance in new EU Member States, with special attention to structural and cohesion policy and the Czech and Slovak Republics. Section 2 and 3 deal with the Czech and the Slovak Republic respectively. In both cases we pursue the following topics: Legal framework related to structural/regional/cohesion policy; Institutional issues; Examples for seeds of new governance in strategic documents; Elements of new governance when interpreting EU regulations; Cooperation between the state administration and the civil, private sector. In the Summary and Conclusions section we test the earlier hypotheses of our Institute; we sum up positive and negative experiences related to new governance modes and finally, we discuss the area and the extent to
which new governance modes have emerged so far in the Czech and Slovak Republics and we try to make an evaluation of the use of new modes of governance in these two new Member States.

**Background Document: New Modes of Governance and the EU Structural and Cohesion Policy in Poland**

Anna Wisniewski

The following paper was prepared with the intention to observe the emergence and evolution of new modes of governance in the implementation of the EU cohesion policy instruments in one of the new EU Member States, Poland. The paper has been divided into five main chapters. In the beginning we describe the characteristics of present day governance in Poland and the elements derived from the past. We try to discover country specifications as to the new modes of governance in the legislative, as well as in the institutional field. The second chapter therefore deals with the general attitude of legislation towards European law, regional policy and the legislative framework for cohesion policy instruments, i.e. Structural and Cohesion Funds. Next, we look at the main features of the country’s institutional structure, the role of local, as well as non-governmental institutions in the decision-making process. In this third part, the institutional structure and the level of involvement of other than central actors in the decision-making and implementation process of cohesion policy are under scrutiny. In the fourth part, we present the findings and experience drawn from the example provided by Poland concerning emergence and evolution of new modes of governance. In the last part of the paper we draw some conclusions.

**Background Document: New Modes of Governance and the EU Structural and Cohesion Policy in Hungary**

Gábor Lakatos

In this paper the notion of New Modes of Governance is used in terms of „indirect effect of EC legislation”. This means that we examine those activities and decisions of state authorities that are affected by the EU structural and cohesion policy, but not via direct instructions of binding EU rules. The indirect effect of this common policy concerns such fields as managing the state structure, organising national social dialogue, determining national budgetary priorities, etc., belonging to the exclusive competence of the Member States. The new element in the implementation of structural and cohesion policy is that – even without any substantial transfer of competences – the EU is able to push Member States to make decisions in line with its conceptions. Why do Member States act like this? What is the driving force behind this behaviour? What is exactly the „indirect effect of EC legislation” in the field of structural and cohesion policy? The essence of New Modes of Governance originates from these questions. In this paper the author tries to answer these questions while analysing the case of Hungary.

**Background Document: New Modes of Governance and the EU Structural and Cohesion Policy in Slovenia**

Kalman Dezseri

This paper provides an overview on the introduction of the EU’s structural and cohesion policy as well as the drafting of the National Development Plan (NDP) for 2004-06 in Slovenia.

**Specific factors, typology and development trends of modes of governance in the EU Justice and Home Affairs domain**

Jörg Monar

EU governance in the domain of justice and home affairs (JHA) has developed substantially since the entry into force of the Treaty of Amsterdam. It is marked by a number of determining factors specific to this domain such as the diversity of the policy fields covered, a particular fo-
Focus on cooperation and coordination issues, a strong operational dimension and the artificial divide between the "first" and third pillar fields. On the basis of a detailed analysis of the texts adopted by the JHA Council in the period 1999 to 2005 four modes of governance can be distinguished, tight regulation, framework regulation, target setting and convergence support. Especially the last two modes comprise a number of distinctive features of EU governance in this domain, such as the extensive use of multi-annual programme documents and collective/mutual evaluation reports. These phenomena can be explained both by the Member States' preference for particularly ‘light’ forms of governance in sensitive areas and by the strong operational dimension of the JHA domain for which ‘hard’ regulation is often inappropriate. The strong reliance on supporting institutional structures, in particular the agencies Europol, Eurojust and Frontex, is a further distinctive feature. It can be explained by the preference of Member States for ‘light’ institutional governance structures which can facilitate the interaction between the national systems rather than integrating them through legislative harmonisation and the creation of institutions with supranational powers. As regards main trends, considerable variations of the ratio between the use of binding and non-binding measures can be observed as well an increasing blurring of the divide between the (communitarised) “first” pillar fields (Title IV TEC) and the (intergovernmental) “third” pillar fields can observed which can be interpreted as a pragmatic reaction to the different constraints in the individual fields.

Expansion of the Community Method in European Environmental and Social Policy*
Holger Bähr, Oliver Treib, Gerda Falkner
This paper analyses the expansion of the "Community Method" in European environmental and social policy. The Community Method denotes one specific mode of policy-making within the EU which usually leads to policy outputs in the form of hard law. The paper describes the development of competences and decision-making procedures in these policy areas as well as the quantitative development of hard and soft law, and it relates this development to changes in decision rules in the two policy areas. First, the analysis reveals that the expansion of explicit legislative competences and the proliferation of qualified majority voting was a much more protracted process in social policy if compared to environmental policy. Second, binding and non-binding policy outputs have developed differently in both policy areas. In order to account for these developments, the paper discusses two contrasting hypotheses. The data yields no support for the argument that there is a general trend towards the adoption of softer, more flexible policy instruments since these are more effective in solving many of the problems faced by complex systems of governance. The alternative hypothesis that soft law is regarded as second-best solution, which is replaced by hard law as soon as institutional arrangements allow it, is supported by the observations in social policy but not by the observations in environmental policy. In conclusion, the paper points to the different levels of political conflict in both policy areas as a possible explanation for the divergent developments.

Working Paper: The Emergence of Intergovernmental Governing Modes in the EU’S CFSP*
Udo Diedrichs
The emergence of intergovernmental modes of governance in CFSP represents the background against which processes of change and transformation may be assessed. Thus, the paper describes the initial steps of institutionalisation of European Political Cooperation (EPC), then focuses on the creation of CFSP, in order to analyse the driving forces, the key motivations and the crucial conditions for the establishment of intergovernmental governing modes, as well as the dynamics of change and reform which led to a redefinition of basic institutional and procedural provisions.
Working Paper on the Emergence of Hierarchical governing Modes in the Area of Central Banking*
Udo Diedrichs
Governing modes in EU monetary policy are often described as hierarchical, although no precise definition of what this label exactly means is available. The following analysis will investigate the establishment of EMU and explore the different procedural and institutional set-ups before arriving at some conclusions on the nature and key features of EU monetary policy.

Second Set of Indicators/Variables for Classifying Governing Modes
Udo Diedrichs, Wolfgang Wessels
The second set of indicators/variables enhances and refines the empirical categories established in the first set, by which EU governance may be classified and built into typologies. As the research process progresses, a number of these indicators have been taken up in order to assess their ability to grasp certain types of new modes of governance. The choice of indicators is mainly cut to the needs of empirical investigation and tries not to foreclose the definition of old and new modes of governance in general. Instead, a number of tools are offered which are considered as useful for the systematic empirical analysis of EU governance. This list of quantitative and qualitative indicators is not exhaustive and will be further refined and systematically deepened in the wake of future research within cluster 1.

Policy Memorandum: Specific factors and development trends of modes of governance in the EU Justice and Home Affairs domain*
Jörg Monar and Anya Dahmani
EU governance in the domain of justice and home affairs (JHA) has developed substantially since the entry into force of the Treaty of Amsterdam. It is marked by a number of determining factors specific to this domain such as the diversity of the policy fields covered, a particular focus on cooperation and coordination issues, a strong operational dimension and the artificial divide between the “first” and third pillar’ fields. On the basis of a detailed analysis of the texts adopted by the JHA Council in the period 1999 to 2005 four modes of governments can be distinguished, tight regulation, framework regulation, target setting and convergence support. Especially the last two modes comprise a number of distinctive features of EU governance in this domain, such as the extensive use of multi-annual programme documents and collective/mutual evaluation reports. These phenomena can be explained both by the Member States’ preference for particularly ‘light’ forms of governance in sensitive areas and by the strong operational dimension of the JHA domain for which ‘hard’ regulation is often inappropriate. The strong reliance on supporting institutional structures, in particular the agencies Europol, Eurojust and Frontex, is a further distinctive feature. It can be explained by the preference of Member States for ‘light’ institutional governance structures which can facilitate the interaction between the national systems rather than integrating them through legislative harmonisation and the creation of institutions with supranational powers. As regards main trends, considerable variations of the ratio between the use of binding and non-binding measures can be observed as well an increasing blurring of the divide between the (communitarised) “first” pillar fields (Title IV TEC) and the (intergovernmental) “third” pillar fields can observed which can be interpreted as a pragmatic reaction to the different constraints in the individual fields.

Policy Memorandum on the Emergence and Evolution of the Governing Modes in the Areas of Social and Environmental Policies*
Holger Bähr, Oliver Treib, Gerda Falkner
How does the European Union (EU) reach its decisions and which instruments does it employ to achieve its political goals? This paper sheds light on the evolution over time of different govern-
ing modes in two policy areas that are in many ways crucial for the everyday life of EU citizens: EU environmental and social policy. In order to explore the emergence and evolution of governing modes in European social and environmental policy, the present paper analyses the quantitative development of legally binding and legally non-binding policy outputs. It gives an overview of the quantitative development of binding and non-binding policy-outputs in European environmental and social policy, and presents two alternative hypotheses to explain the emergence of hard law and soft law. The paper describes changes in the decision rules in both policy areas because decision rules are regarded as a potential explanatory factor by one of these hypotheses. It then discusses the empirical findings against the background of the theoretical arguments and summarises the results of the analysis and considers their implications for future research.

Policy Memorandum: The Emergence and Evolution of Budgetary and Redistributive Modes of Governance
Kálmán Dezseri
The EU budget always leads to intense debate and tough negotiations, yet its total amount represents only a very tiny share of aggregate public spending of the EU-25 and around 1% of the GNI of the 25 member states. The EU budget is characterised by basically four points: a) the general structure of both revenue and expenditure sides has remained rather stable since 1988, b) the size of the budget is a permanent issue of debate and is actually capped by a ceiling, b) about 70% of the expenditure has been allocated to just two areas: Common Agricultural Policy and cohesion policy, d) the funding of the budget has shifted towards direct payments from the national budgets of the member states. Under such conditions, the redistributive function of the EU budget cannot fulfil the expected positive role fully.

Policy Memorandum on the Emergence and Evolution of Intergovernmental Governing Modes in the EU’s Common Foreign and Security Policy
Udo Diedrichs
The emergence and evolution of intergovernmental modes of governance in CFSP represents the background against which processes of change and transformation in EU foreign policy governance may be assessed. The memorandum combines an analysis of the main steps and stages in the evolution of governance in CFSP, before presenting a number of recommendations and options for policy-making.

Policy Memorandum on Emergence and Evolution of Economic Policy
Udo Diedrichs
The analysis of key problems in economic governance in the EU hints at some fundamental difficulties that will probably not be solved by minor institutional or procedural reforms. Instead, a general approach would be necessary aiming at addressing the very nature and architecture of economic governance in the EU.

Policy Memorandum - Emergence and evolution of the European social dialogue: A quantitative analysis
Philippe Pochet
Traditionally, the European social dialogue has been studied by experts in its interprofessional dimension. Yet, the sectoral social dialogue has attracted less attention until now. That limit of the contemporary literature seems even more evident if we compare last trends in both fields. Interprofessional dialogue has developed in three phases a) the emergence from Single Act to Maastricht b) the consolidation from Maastricht to 2000 c) the uncertain time from the autonomous joint programme to today. Recently it has entered into a crisis as the last legally binding agreement was signed in 1999. In the new century, the interprofessional social partners have
only signed soft law agreements (e.g. telework, stress, long life learning). As to the sectoral dialogue, then, recent studies stressed that the type of documents adopted has underwent a qualitative change. In other words, it appeared that significant developments were underway both at interprofessional and sectoral level which needed to be better understood, analysed and assessed. To improve the knowledge of all these elements, the Observatoire social européen has created a database including all the joint documents signed by the social partners at European level covering the 31 official sectoral committees and the interprofessional social dialogue. From this quantitative analysis we can detect certain overall trends on the emergence and evolution of the sectoral social dialogue and compare its dynamics with those of the interprofessional dialogue.

Database on Governing Modes CODE (Cologne Database on the European Union) – Version 1 with basic content
Udo Diedrichs et al.
The CODE database provides an opportunity for undertaking empirical research on governing modes in the European Union. In a first version the retrieval of data on the legal output and on different categories if legal acts will be made available, so that a systematic investigation on the legal profile and the use of certain instruments in a number of EU policy areas may be conducted. The pilot version of CODE was launched on 8 March, 2006. For accessing this pilot version please mail to diedr@uni-koeln.de

Workshop – Review of cluster 18 month results
Udo Diedrichs, Wolfgang Wessels
The Cluster Review meeting which took place on 2nd and 3rd February 2006 in Cologne made a first interim assessment of the work undertaken so far and provided an outlook for the months ahead.

Updated State of the Art Report Cluster 1*
Udo Diedrichs and Wolfgang Wessels
Deliverable 1/D34 (Updated State of the Art Report) updates the reports on policy areas covered within Cluster 1 of the NEWGOV consortium which formed the original State of the Art Report (1/D02). The aim of the report is not an overall description of the academic debate in the different policy areas and fields of interest as such – some of that might be included – but rather a reflection of the basic patterns, conditions and tools for decision-making and -implementation, as well as their dynamic development over the years. Thus, the report tries to provide a more subtle understanding of the basic problems of EU governance. As a work in progress, the updated state of the art report reflects developments on the basic scientific problems related to EU governance which are addressed by the Cluster. It will provide the reader with the background to follow the lines of discussion which have emerged among cluster participants.

Next Stage of Cluster Glossary on governance
Udo Diedrichs and Wolfgang Wessels
This deliverable contains an updated and revised set of key terms which are relevant for dealing with new modes of governance in the EU, but also offers a broader picture. In those cases where terms are based on scientific literature in the narrow sense, the sources are indicated. In case the definition has been obtained from other, more general sources (internet search systems, encyclopaedia, lexical sources, or the partners’ own definitions), there is no explicit source indicated.
**Third Set of Indicators**

*Udo Diedrichs and Wolfgang Wessels*

The Third Set of Indicators/Variables tries to further refine the empirical categories established in the first and second sets, by which EU governance can be classified and built into typologies. The choice of indicators has been cut to the needs of empirical investigation without foreclosing the definition of old and new modes of governance. Instead, a number of tools have been offered which are considered as useful for the systematic empirical analysis of EU governance. This list of - quantitative and qualitative - indicators is not exhaustive.


*Udo Diedrichs and Wolfgang Wessels*

The revised guidelines for working papers on the evolution and impact of governing modes provide a toolbox for each partner within the project that may be used and applied according to the specific needs and requirements of the subject matter under investigation. Taking up discussions among the cluster participants, the guidelines have been re-structured in three sections, better reflecting the projects’ results so far. Nevertheless, it is intended to offer some lines of orientation for each partner in order to ensure that a sufficient degree of coherence is reached among the different working papers. As a result of the discussions and academic exchange in the project, the main lines of investigation are traced, key questions are presented, and guiding hypotheses are offered for assessing the research results.

**Project Open Interim Meeting**

*Udo Diedrichs and Wolfgang Wessels*

The Open Interim Meeting to discuss progress and next steps took place on Thursday, 22 June 2006, 10.00-13.30 at Montecatini Terme. All partners presented their contributions and projects, and discussed the key issues of their research in methodological and empirical terms. Participants from other Clusters joined the discussion and provided valuable input for future research. A second meeting during the evening addressed organisational aspects, such as a common publication and the practitioner’s forum in autumn this year.

**Project 2: The Open Method of Co-ordination**

*Policy Memorandum on Development of OMC in Research and Information Society*  
*Colin Shaw, Brigid Laffan*

This paper examines how new modes of governance measure up to other governing modes. Faced with complex policy challenges, how does non-binding coordination compare to binding coordination. Have OMC-type processes been successful where they have been applied and do they represent an attractive alternative to policy makers? These questions will be analysed with respect to two policy fields; Information Society (IS) and Research (R&D). Central to the Community’s Lisbon agenda, the policies present overlapping and complementary objectives. While the former promotes the diffusion of knowledge and existing technologies, the latter contributes to knowledge creation and technological innovation. Taken together, each policy domain displays revealing ‘governance asymmetries’ as regards their objectives and their means to achieve them. These asymmetries illustrate the relative success of binding, non-binding and financial instruments in achieving policy goals.
Project 3: Arguing and Persuasion in EU Governance

*Working Paper on Steering Modes in European Governance*
*Mareike Kleine, Thomas Risse*

New modes of governance focus on the inclusion of non-state actors in the provision of common goods, on the one hand, and non-hierarchical modes of steering on the other. In this paper the focus is on the latter dimension of these modes, and on one particular form of non-hierarchical rule-making, namely arguing and persuasion. We ask, which institutional scope conditions are particularly conducive to enabling arguing to prevail in negotiations and, thus, to affect both their process and outcome. After briefly sketching out the state of the art and our research question, we will subsequently set out several preliminary conjectures on arguing and persuasion in governance. Considering European treaty revisions as a “laboratory” for probing those conjectures, we will then discuss how to observe the prevalence of arguing, and how to derive meaningful conclusions from our observation.

*Policy Memorandum: Assessing the Legitimacy of the EU’s Treaty Revision Methods*
*Mareike Kleine, Thomas Risse*

How legitimate are treaty revision procedures in the European Union? Since the 1980s the EC/EU has been in a semi-permanent reform and subject to various revisions of its constitutional structure. Several multilateral negotiations were convened in order to amend the founding treaties or to create new policy areas outside the Communities, respectively. The considerable effect that EU’s policies have on the European citizen’s daily life implies asking for the legitimacy of the method of those minitous adjustments. In this paper we focus on two basic models for treaty revisions, namely Intergovernmental Conferences (IGC) on the one hand, and the combination of an IGC with a Convention as its preparatory body on the other. We therefore ask, whether and how the Convention may add legitimacy to the original intergovernmental procedure.

Project 4: Legal Perspectives on Democracy and New Modes of Governance

*Soft Law as a New Mode of Governance: A Legal Perspective*
*Anne Peters and Isabella Pagotto*

After a brief review of the history and typology of soft law in public international law, we approach the concept deductively. We reject the binary view and subscribe to the continuum view. Building on the idea of graduated normativity and on the prototype theory of concepts, we submit that soft law is in the penumbra of law. It can be distinguished from purely political documents more or less readily, depending on its closeness to the prototype of law. Insights gained by the study of public international soft law are relevant to EC and EU soft law despite some differences between those legal orders. European soft law is created by institutions, Member States, and private actors. The legal effects of soft law acts can be clustered according to their relation to hard law. Both practical and normative considerations motivate reliance on soft law. An examination of the soft legal consequences of a disregard of soft law shows that compliance control mechanisms for hard and soft international law are converging. Moreover, some factors of compliance are independent of the theoretical hardness or softness of a given norm. In a legal policy perspective, the proliferation of soft law carries both dangers and benefits. Especially soft acts with a law-plus function do not weaken the respective regimes, but perfect them.
“Mapping the Jungle”: A Legal Attempt to Classify European Agencies
Stefan Griller/Andreas Orator

An increasing trend of delegating specific tasks to European agencies, active in most diverse fields and dispersed all over EU territory, is clearly discernible. The provision of impartial and highly specialized expertise, increased transparency and visibility of EU decision-making may account for an explanation of the agency “mushrooming” phenomenon. The authors assume that the Commission’s definitions and typologies of European agencies do not suit the purposes of highlighting the delegation issue. In order to identify common issues and possible problems like delegation under the perspective of democratic legitimacy, it is imperative to develop a coherent and comprehensive concept of a definition and typology of European agencies. An exhaustive stock-taking shows that the vast majority of European agencies disposes of other than decision-making powers. So far, three agencies are empowered to adopt binding decisions (OHIM, CPVO, and EASA). Without closer examination it remains, however, doubtful whether EASA would also be the first agency with binding rule-making authority. The respective typology seems to be suitable to regroup agencies in order to identify common legal problems. Questions of liability, oversight, legal remedies, composition, and, more generally, delegation of powers, and democratic legitimacy play different roles and have different impacts when considering a “simple” information-gathering agency, an agency issuing binding decisions on trademarks, let alone a general law-making agency.

Cluster 2: Delegation, Hierarchy and Accountability

Workshop: Functional Governance and Territorially Bound, Democratic Government
Adrienne Héritier and Sandra Eckert

The second workshop of NEWGOV cluster 2: Delegation, Hierarchy and Accountability, took place in Florence, 17-18 February 2006. The major purpose of the meeting was to discuss the progress made within the NEWGOV projects and to find a common conceptual and theoretic denominator for the collective work in the group. The cluster intends to publish its results in a special issue of a peer-reviewed journal. An overall framework for such a publication as well as individual contributions were discussed during the workshop. Another issue addressed was how to integrate the accountability dimension of the cluster, which is at the centre of some few projects, but not of main interest to other projects.

Cluster 2 Workshop: ‘The Effectiveness of NEWGOV and the Shadow of Hierarchy: Conceptualising the Interface’
Adrienne Héritier

This collective deliverable reports on the third workshop of NEWGOV cluster 2 ‘The Effectiveness of NEWGOV and the Shadow of Hierarchy: Conceptualising the Interface’. It took place in the framework of the second NEWGOV Consortium Conference in June 2006. The major purpose of the half-day cluster meeting was to finalise our forthcoming joint publication on new modes of governance and the shadow of hierarchy. After detailed discussions on the conceptual framework and the individual contributions in a two-day workshop earlier this year, this shorter meeting was the last opportunity to exchange ideas on the forthcoming publication. The draft Special Issue will be submitted until 1 October 2006 and shall be published next year, in the new Journal Regulation & Governance edited by John Braithwaite, Cary Coglianese and D. Levi-Faur.
Project 5: New Modes of Governance in the Shadow of Hierarchy

Report on 2nd Round of Empirical Research on Case 1 PVC Environmental Issues
Adrienne Héritier and Sandra Eckert
This third deliverable of the NEWGOV project five ‘New Modes of Governance in the Shadow of Hierarchy’ presents the results of our second round of empirical research for case 1, the PVC Environmental Issues. It consists of three elements: a data report on the empirical knowledge we have acquired so far through document analysis and interviewing; a finalised questionnaire for the case study; some preliminary conclusions on the case from both, a practical-procedural perspective and from a theoretical-argumentative perspective: we can now draw some practical conclusions as to how we intend to proceed with our research on this case; and some preliminary conclusions on our working hypotheses. We have concluded from this empirical research that the likeliness of legislation to be adopted has considerably decreased over time. There was a strong legislative threat when voluntary action was adopted, but very soon after the commitment has been implemented, the adoption of legislative measures became very unlikely. From the evidence we have gathered, we deduce that the existence of a new mode, i.e. the industry voluntary commitment, is one factor to account for this process; yet we argue that there are other, additional factors, which explain that the shadow of hierarchy has become so weak over time: 1. actor’s preferences 2. restricted resources 3. the salience of the PVC issue.

Report on “Voluntary Environmental Agreements” Case 2 (Paper)
Adrienne Héritier
This report focuses again on voluntary environmental agreements (VEAs). It presents the results of empirical research on the second case study - self-regulation of the European paper industry. Following-up on D03, we have conducted a number of additional interviews on our case study on PVC, the results of which are included in this report. Furthermore, we discuss some recent regulatory developments in European environmental policy where VEAs are promoted as a policy tool. The deliverable contains the following elements: firstly, a data report summarising insights gained from interviews conducted; secondly, generic questionnaires to indicate the type of questions addressed during the interviews; thirdly and finally, some preliminary conclusions which can be drawn with respect to our working hypotheses. We conclude from our findings that VEAs most likely are motivated by a background legislative threat. In the cases studied, the initial development leading to the industry’s self-regulation, clearly occurred in the shadow of the legislative threat. On the effectiveness of self-regulation, we have found that such a background legislative threat needs to be sustained over time in order to enhance the efficacy of voluntary action. If the link between governance and government becomes too weak, this has negative consequences for policy performance. We have further found out that monitoring is not a very promising avenue to boost efficacy of VEAs. Under pure self-regulation, outside actors lack the necessary instruments to effectively control industry. In addition, there are constraints in terms of expertise and resources which hinder effective monitoring. With respect to VEAs at Community level more generally, we find a fundamental split between Commission DGs on what the merits of this new mode are. This disagreement is an obstacle to the development of a coherent European policy on VEAs. Instead, one encounters contradicting tendencies of privileging either self-regulation or legislation, depending on which DG takes the lead on an issue.
Analysis: Regulation after delegation
Mark Thatcher
From the mid-1980s onwards, many sectoral independent regulatory agencies (IRAs) have been created, notably in telecommunications and other network industries. The working paper begins by using principal-agent theory to explore why elected politicians delegated powers to IRAs. It then examines the strengths and limits of principal-agent (PA) theory in analysing post-delegation behaviour by IRAs, notably in stock exchanges and telecommunications. It suggests that while PA theories oblige us to analyse the formal framework of delegation and that although IRAs may be called 'independent', their independence is limited and can vary, since their principals (and other actors) keep controls over them, whilst the extent of their formal powers also vary. PA theory also provides a language and important concepts such as 'principal' or agency losses' for discussing delegation. At the same time, it is a broad framework that can be used in conjunction with other concepts. However, the neat division between principals and agents may be insufficient or even misleading when analysing post-delegation use of controls. Moreover, unexpected events may disrupt the anticipated relationships foreseen at the time of delegation. In addition, PA theory tends to present a single delegation, whereas in practice, a series of delegations are possible. The PA framework concentrates on formal controls. However, informal relationships and controls may become important, and IRAs may develop unanticipated strategies and resources. Finally, PA model focuses on formal controls as methods of accountability whereas informal ones may be equally important. The paper concludes that whilst the PA framework offers many useful elements, we need to go beyond it, or at least supplement it, in looking at regulation after delegation and suggests directions for research on regulation after delegation.

Analysis – Independent Regulators in Europe*
Mark Thatcher
The working paper presents data on the behaviour of regulatory agencies after delegation; it maps and analyses their relationships with elected politicians by looking at how the latter use their formal controls over IRAs, both in general and in two sectors, telecommunications and securities/financial services. Thus it examines nominations, departures, tenure of IRA members and resources. It finds that elected politician have not, in general, used their formal powers to appoint party politician or known party supporters. Equally, they have not dismissed IRA members or rarely forced them out of office before the end of their terms. Instead, most IRA members serve relatively long periods, well beyond those of the average minister, Although IRAs have limited budgets and staff, these appear to have grown over time and to be substantial, especially have new broader IRAs have been created. Finally, elected politicians have not abolished IRAs frequently. When changes have been made, they have expanded the scope of IRAs.

Project 7: Governance and the EU Securities Sector

Implications of the Lamfalussy Reform: Agency or Fiduciary Relationships between European Institutions and Market Actors?
Frédéric Varone & Christian de Visscher
This paper seeks to interpret the Lamfalussy reform in the securities sector from a theoretical perspective with the aim of evaluating the implications of this system of delegated powers. It focuses mainly on the relationships between the Commission and the comitology committees, drawing on the mainstream body of theoretical work regarding delegation, namely principal-
agent theory and fiduciary theory. The paper questions how far the two basic modes of delegation - agency and fiduciary relationship - described in the literature are appropriate to interpret the new comitology structure set up by the Lamfalussy Committee. It formulates hypotheses as regard to concrete implications of the Lamfalussy process both in terms of input and output legitimacy (cf. the seminal work of F. Scharpf) and of changes in the balance of power between the European institutions. The next step of our research project will consist in testing empirically the plausibility of the three research hypotheses presented in the paper. Therefore, interviews will be conducted with representatives of the European Parliament, the Inter-Institutional Monitoring Group, DG Internal Market, ESC and CESR.

**Workshop: Round Table Discussion on the Lamfalussy Process in Brussels on 24 January 2006**

*Frédéric Varone, Christian de Visscher, Josefin Almer*

On 24 January 2006 a round table discussion was organised in Brussels. The purpose of the round-table discussion was to get input from practitioners on the Lamfalussy-model and the research carried out within the project. The main result of the meeting was that the empirical findings thus far correspond to a large extent to how the Lamfalussy-model is perceived to function in its practical application. Many interesting points were raised during the discussion, especially concerning the role of CESR and the relationship between CESR and the Commission on the one hand, and CESR and the European Parliament on the other. Further steps to be taken in the project are mainly additional interviews, primarily with market actors.

**Delegation and Comitology in the financial sector and the Lamfalussy Report**

*Josefin Almer*

The article looks at some of the legal and structural changes produced by the Lamfalussy Report with regard to delegation and comitology in the financial sector. It focuses on the difficulties for the institutions to agree on a system for the adoption of legal acts in the securities market. For the institutions the comitology gives rise to at least three questions: (a) what field should be subject to delegation, (b) what type of committee procedure should be used, and (c) what would be the scope of the delegation. These questions have led to disputes between the Council and the European Parliament, inter alia, in the field of the financial market.

**Final Report**

*Frédéric Varone & Christian de Visscher, Carl-Fredrik Bergstrom & Josefin Almer*

In this paper we started from the theoretical perspective developed in our Deliverable 07/D3 (agency and trust theories) in order to interpret the Lamfalussy reform in the securities sector. We reformulated our three working hypotheses on the policy effectiveness of the Lamfalussy scheme and tested them empirically. Our conclusion is that:

(i) Evidence based on the four main directives adopted according to the new procedure seems to validate our hypothesis H2, namely that the Lamfalussy process has reduced the average time taken in order to negotiate and adopt the first framework directives at level 1 compared to the normal co-decision procedure, and that it has facilitated the removal of bottlenecks in the process through parallel working at the Levels 1 and 2. In this sense, we may conclude that delegation has indeed enhanced the policy effectiveness in the securities sector.

(ii) It is far more difficult to assess the validity of the trustee hypothesis (H3), i.e. whether the Commission and CESR, in fact, act not as agent and sub-agent of the Council and the Parliament, but as trustees of the member states and market actors at Level 3. The problem here is that the process is completely new and that for the time being no one knows how CESR will evolve into a European regulator in the securities markets.
Project 8: European Public Services Regulation

Convergence of the Internal Electricity Market and the Spanish Electricity Market - English Version*
Estanislao Arana García, Leonor Moral Soriano, and María Asunción Torres López
The paper analyses the influence of the electricity internal market on the establishment of the Spanish electricity market. First of all, it examines the content of Directives 96/92 and 2003/54 and then it focuses on the organization and functioning of the Spanish electricity market as regulated by Spanish Electricity Act 54/1997. The comparison of both regulatory systems (i.e., Community and national law) draws an interesting outcome: the electricity internal market has been regulated in such a way that upholds the singularities of national electricity markets and the Spanish electricity market goes beyond the mandates of Community directives. This is specially so in relation to public service obligations and universal service obligations.

Report summarizing the findings of the interviews in work package 1
Leonor Moral Soriano
The deliverable summarises interviews with members of OMEL (electricity market operator in Spain), REE (electricity system operator in Spain), CNE (Spanish regulatory body) and UNESA (Spanish representative body of electricity companies).

Workshop: The electricity sector in Spain*
Leonor Moral Soriano
The first workshop of the EUROSERVICE-Project was entitled “The electricity sector in Spain: Competition and Public Service” and took place on 15 and 16 December at Granada University. It was devoted to the analysis of the liberalization process of the electricity market in Spain, and the way this process affect the traditional legal notion of public service.

Project 9: Choice and Combination of Policy Instruments

Special Issue of Governance: Understanding Public Policy Through Its Instruments*
Pierre Lascoumes and Patrick Le Galès and collaborators
Deliverable: 09/02
Project 10: Private Dispute Resolution: Legitimate & Accountable?

Private Dispute Resolution: First Empirical Results
Dirk Lehmkuhl

Today, the private resolution of disputes is a widespread phenomenon as there has been a steady increase of private schemes to resolve disputes in general, and of arbitration in particular since the second half of the twentieth century. Alongside the increase we can observe a spread of arbitration into more and more different issue areas, including investment, domain name vs. trademark conflicts or sports. With a focus on conflicts arising in cross-border trade, the paper presents first empirical results on the investigation of international commercial arbitration. International commercial arbitration is a very important part of a governance arrangement to mitigate the problem of legal uncertainty in cross-border trade and investment. This is however not to say that international commercial arbitration is the only means to address this problem. On the contrary, the overall governance arrangement is much more complex. While this is not the place to elaborate on this complexity in an encompassing way, some of its basic pillars must be presented. International commercial arbitration has numerous links to other means addressing the general problem of territorially restricted laws of states rather than operating in a vacuum or in isolation but is rather. The paper is a first effort to summarize the basic features of the overall governance arrangement that links public and private contributions on the one hand and the dimension of origin of norms and actual dispute resolution on the other hand.

Arbitration and European Competition Policy: Traditional and New Roles
Dirk Lehmkuhl

With the interest in the features and dynamics of public and private contributions to the governance arrangement in the area of European competition policy, the paper will provide information on the background of the changes in the relationship between competition laws and arbitration. Attention will be given to the institutional dynamics of competition policy-making and implementation in Europe's multi-level setting in general and to the role of the European Commission in particular. Last but not least, the paper identifies the impact of these developments on transnational arbitration as a mode of private dispute resolution. As will be shown, the embracement of arbitration by the European Commission is not without institutional interest on the side of the Commission. At the same time, the embracement is also consequential for arbitration as an institution of private dispute resolution.

Project 11: The Role of Civil Society in Democratising European & Global Governance

Website on New Modes of Civil Society Participation*
Patrizia Nanz and Jens Steffek

The website http://www.civilsociety.uni-bremen.de is dedicated to an informed discussion about the appropriate role of civil society in the institutions of international governance. It is not meant to be a forum itself. Rather, its aim is to link existing forums and resources that are scattered over the World Wide Web and to monitor current discussions. This website is part of an academic project but it is not exclusively devoted to academic reflection. Our aim is to address a wider audience and to collect voices from many different sources. We therefore link to international organizations, civil society networks and discussion groups. All the web resources included so far are searchable through our constantly growing database. This database is the specific feature of the website. It is searchable by organization type and by policy field. In addition, the website features a download area from which users can obtain texts on civil society participation produced by our team at the University of Bremen and other NEWGOV members.
Working Paper: Reviewing normative theories on civil society participation*  
Stijn Smismans  
Deliverable: 11D04  
This paper aims at providing an overview of the existing normative theories on the role of civil society participation in democratic governance. It shows how current theories on civil society do not fit well with the complexity of modern governance, in particular with multi-level governance in the European Union. Among different democratic theories, deliberative democracy may still come closest to providing an answer to the role of civil society in modern governance. While analysing the remaining weaknesses of Habermasian deliberative democracy and directly deliberative polyarchy to address this issue, the paper will propose the model of reflexive deliberative polyarchy.

New modes of governance and the participatory myth*  
Stijn Smismans  
Deliverable: 11D05  
One of the most common arguments about ‘new governance’ is that it is characterised by heterarchy rather than by hierarchy, creating horizontal modes of governance among a multitude of actors – public and private – involving all relevant stakeholders. Often implicitly, but sometimes explicitly, this argument is linked with a normative democratic claim that praises the particular participatory features of ‘new governance’ as compared to ‘old governance’. Using as a case study Community occupational health and safety policy, characterised by a clear shift from ‘old’ to ‘new governance’ since the 1990s, this paper warns us that one should be very reluctant in making normative claims on new governance. More horizontal and heterarchical governance does not mean automatically more participatory governance in normative democratic terms. This deliverable has been published as EUROGOV Working Paper No. N-06-01.

Cluster 3: Effectiveness, Capacity and Legitimacy  
Cluster Three Workshop  
Tanja A. Börzel  
The cluster workshop took place at the Otto-Suhr-Institute of Political Science, Freie Universität Berlin on 9-10 December 2005. Its main goal was to explore the concept of state capacity, which the previous cluster workshop in May 2005 had identified as key. The following issues were discussed: the concept of state capacity (definition, operationalization); the relevance of state capacity for the individual projects (as independent, intervening or dependent variable, context condition to control for); empirical findings from the projects to the extent that they are relevant for the issue of state capacity. The workshop helped to clarify the meaning and causal relevance of state capacity, particularly with regard to the emergence and effectiveness of New Modes of Governance. Since the concept appears to be relevant to all projects, it may provide the central focal point for a joint publication of Cluster 3, e.g. in form of a special issue or edited volume.

Project 12: Coping with Accession: New Forms of Governance and European Enlargement  
Mapping the application of New Modes of Governance in the adoption of and adaptation to EU environmental policies in Greece, Spain and Portugal  
Charalampos Koutalakis, Nuria Font, and Tanja A. Börzel  
This paper explores the extent to which compliance performance of Greece, Spain and Portugal with EU environmental law can be attributed to developments in domestic modes of environ-
mental governance. The paper provides an initial appraisal of the emerging patterns of non-state actor’s involvement in environmental policy making and non-hierarchical conflict resolution mechanisms in Greece, Spain and Portugal. Our empirical investigation focuses on two sets of policy areas: a) traditional command-and-control policies, such as early water, waste and air pollution directives; and b) legislation that provides directly for private actors’ participation such as Natura 2000, Environmental Impact Assessment and the Water Framework Directive. Although we identify considerable variations both across countries and policies, patterns of non-state actors’ involvement display some commonalities in Spain, Greece and Portugal. Most importantly, the emergence of new modes of governance is not endogenously driven. The participation of non-state actors in the policy process is largely stimulated by EU legislative requirements. But even in these cases, non-state actors’ involvement is fragmented with the state retaining a dominant role in the process. However, our preliminary findings indicate a tentative trend towards increased effectiveness in the domestic application of EU rules though participatory non-hierarchical modes of conflict resolution.

Mapping the application of NMG to facilitate the implementation of environmental policy in Poland, Hungary, and Romania
Tanja A. Börzel, Aron Buzogany, Sonja Guttenbrunner
There are three core factors that attribute to the emergence of new modes of governance - and even more for the lack thereof - during the Eastern enlargement of European environmental policy. Country level analysis of the adoption of and adaptation to the four EU directives under review reveals that during the extraordinary enlargement process the accession countries were mainly led by the shadow of the past, i.e. they were harking back on command and control measures and limited public input. Even where the policy process was successfully opened up for new actors, the shadow of hierarchy was maintained. At the same time, however, deregulation processes not necessarily attributed to, but evidently enforced by EU enlargement in policy fields other than environment caused partial spill-over effects leading to the appearance of some nascent forms of new modes of governments in environmental policy-making.

Interim Report - New Modes of Governance and Enlargement: When Theory Meets Reality*
Tanja A. Börzel
The aim of this paper is to summarize the main findings of our empirical case studies and discuss them in light of our theoretical expectations. Most importantly, the paper seeks to find an explanation for the scarce emergence of new modes of governance in the accession process drawing on insights from the theoretical literature and the empirical cases of our study. The first part briefly outlines the theoretical and analytical framework on which the research project has been based. The second part explains the selection of our six countries and four environmental directives and summarizes the empirical findings of the 24 case studies. The paper concludes with some considerations on why our theoretical expectations have not been fully met and discusses the implication for future research on new modes of governance in European enlargement.

Workshop Report - New Modes of Governance and Enlargement: When Theory Meets Reality*
Tanja A. Börzel
The workshop took place at the Fondation Universitaire in Brussels, on June 7, 2006. Its main goal was to present the major findings of the project on the emergence and effectiveness of New Modes of Governance in the implementation of four environmental directives in three Southern European and three Central and Eastern European countries. The major results were summarized in an interim report and discussed with policy experts and practitioners participating in the workshop.
Project 13: The Domestic Impact of European Law

Interpreting the Treaty - The role of the ECJ and the Commission in the areas of mutual recognition of goods and services and state aid control*
Susanne K. Schmidt, Michael Blauberger

In this deliverable, we analyse the role of the ECJ and the European Commission in the areas of mutual recognition of goods and services and the control of state aid. We start by explaining the focus of our project and then turn to the relevance of new modes of governance. Thirdly, we expand on the development of the legal reasoning in the areas of our study. We close with a few observations and puzzles for our future work.

Journal Article - Problems of Eastern Enlargement. Small Countries in the EU*
Susanne K. Schmidt

One characteristic of the recent enlargement round is that – with the exception of Poland – small countries have joined the Union. The necessary institutional changes have been widely discussed in the context of the Treaty revisions. This article takes Katzenstein’s (1985) classic study as its starting point and asks whether small countries have – next to institutional – additional advantages. Differentiating between absolute and relative smallness, it becomes apparent that small states are often dependent upon the exploitation of regulatory niches, which are eroding through membership in international organizations. It is concluded that political-economic advantages of small countries have to be differentiated – smallness does not automatically lead to advantages as discussions, for instance of tax competition, seems to imply. (in German. The article is forthcoming in Zeitschrift für Politikwissenschaft, no. 1, 2006)

The Domestic Impact of European Law – Empirical Basis
Michael Blauberger, Wendelmoet van den Nouland

This deliverable builds upon deliverable D3a, in which the common conceptual framework and the main research questions of our project has been laid down. Its focus is on the empirical ground-work of the project, which will be presented in two separate parts with the same underlying structure. The first part deals with European state aid control in the new Member states; the second part focuses on mutual recognition of services in the enlarged European single market. Each section starts with a description of the legal framework and the institutional setting at the European and national levels. Secondly, the main sources of quantitative and qualitative data will briefly be presented and the way they are analysed will be outlined. The data that has been gathered so far will then be used to carry out a preliminary empirical analysis, mapping the main constraints on national policies resulting from the application of European primary law and sketching sources of conflict in both fields. In the concluding section, we will come back to our research questions and give some preliminary answers based on research conducted thus far.

Beyond compliance – the Europeanization of Member states through negative integration and legal uncertainty*
Susanne K. Schmidt

Europeanization, that is the domestic impact of European integration on Member states, is rightly attracting increasing attention, given the extent to which European integration determines domestic policies. However, the debate on Europeanization focuses predominantly on the conditions for successful compliance with European secondary law. This article argues that this focus captures insufficiently the implications of Member states being part of a multi-level system. By focusing only on measures of positive integration (market-shaping), and assuming that the nature of these commitments is precise, it is largely overlooked how negative integration (market-making) and legal uncertainty about the implications of European law constrains domestic pol-
icy-making. Article submitted to the Journal of Comparative Policy Analysis special issue on „The Europeanization of Public Policies in Comparative Perspective”, edited by C. Radaelli and S. Saurugger.

Project 14: Smoothing Eastern Enlargement: Independent Regulatory Agencies and Non-Hierarchical Steering

New Modes of Governance in the EU- Student Seminar*
Charalampos Koutalakis

The seminar was organised on a regular weekly basis during the Summer Semester 2005 and incorporated to the curriculum of European Studies of the Otto-Suhr Institute for Political Science, Free University Berlin. In this seminar students were asked to focus on theoretical and methodological issues related to the study of new governance modes in the EU. The seminar attracted students with an active interest at elaborating their final dissertation leading to their Diploma on a theme related to the emergence, application, effectiveness, efficiency and/or legitimacy of new modes of governance in the EU and the member states. The organisation of the seminar was mutually beneficial both for the organisers and the students. It provided to the leaders of SEEIRA and COPA the opportunity to systematically organise and present the wide literature on old and new modes of governance and assisted our theoretical investigation on the elements and characteristics that distinguish the two. It provided the basis for a systematic and thorough investigation of the factors that foster or impede the emergence of new modes of government in different institutional settings (EU and its member states) as well as their alleged degree of effectiveness, efficiency and legitimacy vis-á-vis more traditional hierarchical modes of coordination.

Pharmaceutical harmonization in Poland and Hungary – Assessing the effectiveness of new modes of governance
Charalampos Koutalakis

The paper seeks to identify the conditions under which non-hierarchical steering modes are effective alternative mechanisms of conflict resolution to hierarchical imposition in the framework of expanding the EU regulatory regime to new markets with highly heterogeneous demand and supply structures. It argues that the ‘political efficiency’ and ‘policy effectiveness’ of non-hierarchical steering modes is contingent upon the political capacity of the state to mobilise dispersed resources of diverse affected interests. The paper analyses the effectiveness of non-hierarchical steering modes in the framework of pre-accession negotiations between the Commission and the CEECs in the area of pharmaceutical harmonization. The combination of positive, negative and learning incentives raises a number of pertinent questions regarding the effectiveness of non-hierarchical modes of steering as an alternative to bilateral negotiations between the Commission and core executives from the candidate countries. The analysis focuses on Poland and Hungary, two member states with highly diverse pharmaceutical markets in terms of innovative potential, market orientation of domestic firms and domestic public and private demand for medical products.
Project 15: Evolving Regional Governance Regimes: Challenges for Institution Building in the CEE Countries

**Governing sub-national/regional institutional change: the implementation of the EU regional development policies in the CEE accession countries**
*Laszlo Bruszt and collaborators*

The report provides a description and analysis of the way the EU developmental policies were introduced in the Czech Republic, Hungary and Poland in the period of 2000-2004. The focus is on the interplay between diverse pre-existing regional developmental institutions and the unitary policies of the Commission. The governance of the regional developmental policies in these countries diverged prior to the implementation of the EU’s regional developmental policies. The introduction of these policies has just further increasing pre-existing centralizing tendencies in Hungary, increased conflicts about competencies of the different types of state and non-state actors in Poland and despite the strong centralizing impetus coming from Brussels, did not considerably weaken regional actors in the Czech Republic.

**Governing sub-national/regional institutional change: the factors shaping the evolution of regional development regimes in CEE countries**
*Laszlo Bruszt and Gerald McDermott*

This chapter discusses the factors of the dynamics in the evolution of the mode of governing regional development in three CEE countries based on the empirical findings of the first half of the EVOLVIN project. It starts with the discussion of conceptual issues: the conceptualisation of four modes of governing regional development and a somewhat more detailed discussion of multi-level governance, the NMG that is the subject of this research project. Then, using the tools of institutional analysis it turns to the question on the factors of the dynamics of the mode of regional governance focusing first on the general factors that might make incumbents to opt for a mode of governing regional development based on power dispersion. This part is followed by the discussion of the factors that might account for the diverging dynamics in the distribution of authority in regional governance in the three CEE countries. The paper ends with the discussion of the resulting different kinds of hybrid modes of governing regional development.

**Integration and Association: Varieties of Governing Regional Development and the evolution of regional project networks - Survey outline strategy**
*Laszlo Bruszt and Gerard McDermott*

The EVOLVIN project investigates the dynamics and the variation in the mode of governance of regional development in three CEE countries, the Czech Republic, Hungary and Poland. In the first half of the research project we have focused on the factors of variation across our three countries. In the second stage of our research we turn to the study of the interplay between different hybrid modes of regional development governance and the emerging forms of project cooperation among diverse sub-national actors. At this stage of the research we focus on the properties of project networks: on their associativeness, on their combinators, their transnationalization, their scope and the prevalence of public-private partnerships in them. Our question is whether and in what way does the characteristics of the modes of regional development governing affect the properties of emerging regional project networks. With the survey we will be able to assess with greater accuracy the variation in regional governance regimes according structure, composition, and relational quality. The data will also allow us to analyse relationship between properties of regional development governance and characteristics of development project networks. Finally, it will allow us to test alternative hypotheses on the factors shaping the characteristics of project networks. The results of the survey will be used than as a basis for a summary paper discussing the effectiveness of diverse modes of governing regional development.
Project 16: Inside-Out: New Modes of Governance in Relations with Non-Member States

Theorising the inside-out dimension of New Modes of Governance
Sandra Lavenex

In this paper, we draft a (preliminary) theoretical framework that shall allow us to analyse new forms of flexible integration of third countries beyond or below full membership. We will make the case for a revival of a functional approach to (pan-) European integration, since it appears to be the best suited to grasp the transformative dynamics that are at work in Europe today – and to point at their potential limits. By comparing the ambitious project of association developed towards the "new" Eastern European and "old" Southern Mediterranean neighbours (the European Neighbourhood Policy ENP) with related forms of cooperation with Western neighbours (Norway and Switzerland), we want to scrutinize the potential of NMG for flexible integration in asymmetric settings, and herewith also draw some more general insights in the chances and limits of functionalism beyond the EU ‘proper’. By combining new approaches to the measure of "political salience" with the background conditions for integration (governance capacity), we seek to present a cross-national and cross-sectoral comparative framework for analysing the conditions under which NMG can lead to integrative outcomes in neighbourhood relations.

Report on project workshop, September 2005
Sandra Lavenex, Dirk Lehmkuhl and Nicole Wichmann

The team workshop took place in the Centre for International and Comparative Studies, University of Zurich on 6 September 2005. Items discussed were: the state of the art and progress made, empirical research (data collection – interviews and written documents), the theoretical framework of the project, and planned activities/next steps.

State of empirical investigations
Sandra Lavenex and Nicole Wichmann

The report gives an overview on the first round of mapping the empirical reality of the external dimension of internal policies in the field of the environment, Justice and Home Affairs, Transport and Research. It consisted of collecting information on the existing Agreements concluded between the EU and a partner country covering a specific policy field for the countries under investigation, namely Switzerland, Norway, Ukraine, Moldova, Morocco, and Tunisia. The report also summarises the results of the first set of interviews conducted. On the basis of the results of this mapping exercise, a second round of interviews is in preparation, focussing on the instruments of external governance.

Modes of Governance and differentiated Integration in European neighbourhood policies
Sandra Lavenex, Nicole Wichmann, Dirk Lehmkuhl

This paper (written in German Language) contains the preliminary results of our text and interview analysis. It maps and conceptualizes the modes of EU external governance at the macro-level of EU association relations and scrutinizes sector-specific modes of external governance with the six countries under study in the following fields: asylum, migration, drugs, corruption, environmental and transport policy. The leading interest is in the integration potential of different modes of governance conceptualized along the analytical dimensions of "legal" and "institutional" boundaries of inclusion. The analysis produces interesting results in comparative sectoral and country perspective which constitute the focus of our future research. A modified version of this paper will be published in: Ingeborg Tömmel (ed.), Governance und Policy-Making im Mehrebenensystem der EU, PVS (Politische Vierteljahresschrift) Sonderheft 2/2007.
Project 17: Democratisation, Capture of the State and New Forms of Governance in CEE countries

Tripartite Commission, Effectiveness, Legitimacy and Pathologies of Weak States: Case Study Report Poland
Mateusz Falkowski
The report presents the results of the research on the tripartite dialogue in Poland. The object of the study and report is the performance of the Tripartite Commission after the adoption of the new law in 2001, and after the SLD/UP/PSL left-wing coalition government of Leszek Miller came to power in 2001. The functioning and role of the Tripartite Commission is analyzed primarily using the example of negotiations surrounding the Labour Code reform in 2002 and public consultations accompanying the government’s public spending reform plan initiated by deputy prime minister Jerzy Hausner in 2004. The study analyses the functioning of the consultation system, the role played by social partners, their actual impact on decisions and the process of state policy development; and relations between new methods of governance and the old (hierarchical) ones. The report concludes with an analysis of the extent to which consultations and associated innovations have promoted the effectiveness and legitimization of the reform process.

Tripartite Commission, Effectiveness, Legitimacy and Pathologies of Weak States: Case Study Report Lithuania
Rita Stafejeva
The report presents the results of the research on the institution of social dialogue - the Tripartite Council in Lithuania. The research was conducted in summer 2005. The research was focused on the functioning of the Tripartite Council and the role of the social partners within this institution. The role and influence of the government in the Tripartite Council was of particular interest. In order to get the deeper insight into functioning of the Council and the roles of the social partners within it, two issues were selected as the particular examples of the work of the Tripartite Council: (1) discussions over the Labour Code draft in conducted in 1995-2002; and (2) the debates on the increasing of the minimal monthly wage in May 2005. The report is organized as follows: the introduction and the short description of the methodology are followed by the presentation of the brief historical survey of the Tripartite Council and the presentation of the current condition of the social dialogue in Lithuania. It is followed by the analysis of the functions and procedures of debates in the Council as well as the short description of the social partners. The following part deals with the issues of accountability, transparency, legitimacy and efficiency in context of the Tripartite Council. Then, the issues chosen for analysis are discussed. Finally, the issue of weakness and strength of social partners and its impact on the functioning of the Tripartite Council are analysed. The report closes with conclusions.

Olga Napiontek and Mateusz Falkowski
The report analyses the process of public consultations of the draft of the National Development Plan for 2007-2013 in Poland, initiated by the left-wing government of Premier Marek Belka and conducted in January-September 2005. They were the first consultations in Poland after 1989 conducted by the government on such a large scale and with participation of a broad group of various organizations. The consultations of the NDP draft are treated here as an example of increasing participation of social partners and interest groups in activities and decisions of Polish public administration. They are also an example of leaving behind the path of a narrow dialogue with employers and trade unions, and separate contacts with territorial self-governments, in favour of a civic dialogue, where the group of partners is broadened by numerous non-
governmental, academic and community organizations. The main research questions concern the extent to which NDP draft consultations can be treated as a beginning of a more institutionalized application of such non-hierarchic methods of consulting and deciding in the Polish governance process, and to what extent these consultations have introduced the principles of transparency and accountability to the Polish system of governance. In the report two main dimensions: sectoral and regional are analyzed. At the regional level, two provinces were selected: Mazowieckie and Dolnoslaskie Woivodships. At the sectoral dimension the study was focused on three particular sectors: tourism, natural environment, and NGOs. The study was qualitative in nature. The key research methods were in-depth interviews with actors involved in consultations process and document analysis. The study was conducted between September and November 2005.

_Trippartite Commission, Effectiveness, Legitimacy and Pathologies of Weak States: Case Study Report Estonia_
Tomasz Grzegorz Grosse and Erik Sootla

The report presents the results of the research on the institutions of social dialogue and of tripartite relations in Estonia. The research was conducted in summer and autumn 2005. The research focused on the role of the government and of social partners in the Social and Economic Council and the tripartite negotiations as the main institutions of social dialogue in Estonia. The role and influence of the government in the Social and Economic Council and tripartite negotiations as well as the entire social dialogue was of particular interest. Three issues were selected as particular examples of tripartite relations in Estonia: (1) the debates over the adoption of the new Labour Code (e.g. Employment Contract Act) (1989-2005); (2) the debate concerning the negotiations over the minimum wage level in the national tripartite negotiations’ rounds (1993-2005); (3) the specific of drafting the Estonian National Action Plan for Employment (2000-2005). The paper analytically draws upon the issues of legitimacy, efficiency, accountability and transparency in Estonian tripartite relations.

_New Modes of Governance in New European Union Member States. A report on social dialogue in selected European Union countries_
Tomasz Grzegorz Grosse

The objective of this report is to assess new modes of governance associated with social dialogue in three new EU member states – Poland, Lithuania and Estonia. The starting point of the study was a comparison of two state models – administrative and network. The outcome of the study shows “path dependency” in Eastern European countries. Pursuant to the socialist legacy, an administrative state model continues to dominate. It is reinforced by the innate political culture and persistent administrative patterns. This reflects on the manner in which new modes of governance associated with social dialogue are implemented in the practice of state administration. Rather than transforming the existing administrative model into the network one, they are absorbed by it.

_Report of the Interim Seminar ”Civic and Social Dialogue in New Member Countries of the EU”_
Tomasz Grzegorz Grosse

The Interim Seminar was organized by the Institute of Public Affairs on 20 February 2006. The reason to hold the seminar was to conclude the first part of the research conducted by a team of international researchers within the NEWGOV project. The new mode examined was social dialogue. Researchers from Poland, Lithuania and Estonia gathered to discuss their research findings with scientists from outside of the team, both from the NEWGOV consortium and outside.
Agencies and Agency Systems - Background paper to Phase Two of the IPA study
Tomasz Grzegorz Grosse
This paper is a theoretical introduction to the second phase of the Institute of Public Affairs study conducted in three new EU member states: Poland, Lithuania and Estonia. The study examines the functioning of executive agencies tasked with implementing selected EU policies. It focuses on an analysis of how European integration influences changes in the management style in public administration. This phase of the study will deal with agencies that manage agriculture and rural development policies. In Poland, this role is played predominantly by the Agriculture Modernization and Development Agency. This paper looks into development of agencies and agency systems in enlarged European Union with particular attention to executive agencies and situation in new member countries. Paper examines basic theoretical concepts of this method of organizing public policies in EU. It analyses following theoretical questions and dilemmas: (1) two sorts of motivations to build up agency systems (functional and contextual), (2) concepts explaining relations among main actors in management structures, (3) dilemmas in ensuring agency effectiveness, (4) dilemmas of social participation and agency legitimization, (5) dilemmas and consequences of Europeanization of agencies, with particular attention to situation in new member countries. In closing remarks it is argued the importance of paradigm change in contemporary theoretical discussion about agencies and agency systems in EU. Delegation of public tasks to agency institutions, especially to European ones, as well as creation of networks of cooperation between the European technocracy and national agencies aims at increasing the effectiveness of the execution of public tasks. It also may have additional consequences, i.e. it may have an effect on the condition of the democratic system in Europe and deterioration of democratic legitimacy for public administration and EU public policies.

Agency System in Poland after 1989 - Background paper to Phase Two of the IPA study
Olga Napiontek
The objective of this article is to show how the elements of the agency system work in Poland and why agencies are created. It is also meant to draw attention to the assessment of the effectiveness of agency-type institutions over the past 17 years. State agencies have long been criticized in Poland and so the article also points out widespread pathologies in agency operations. The article focuses on a limited segment of the agency system in Poland and analyzes the performance of two agency types: state-run appropriated funds and so-called “state agencies”. This restriction of the field of interest is due, on one hand, to the concern for the usefulness of this article to future studies conducted within the IPA project on the Agriculture Restructuring and Modernization Agency (ARMA) and, on the other, to the fact that in specialized literature agencies and appropriated funds are very often discussed together because of their commonality in terms of functioning and problems associated therewith.

Cluster 4: Learning, Experimental Governance and Participation
Cluster 4 Workshop: Learning, Experimental Governance & Reform
Martin Rhodes and Jelle Visser
This collective deliverable (D01) reports on the second workshop of NEWGOV cluster 4 “Learning, Experimental Governance & Reform”. It took place in the framework of the second NEWGOV Consortium Conference in June 2006, Florence. The aims of the workshop were to firstly for the members of the group to become acquainted with one another’s projects and developments to date and to explore emerging synergies across them. The workshop was important for establishing just how far one could establish coherence across this cluster and how far, by contrast, we should allow diversity – of subject matter, levels of analysis and methodologies – to
prevail. The existence of the two distinct groupings across our projects means that we are still searching to establish links across them within the cluster, rather than engage in an artificial attempt to find unity across the cluster as a whole.

Project 18a: Distributive Politics, Learning and Reform: Emergence and Evolution of National Social Pacts

The Emergence and Evolution of Social Pacts: Country Papers
Various, coordinated by Martin Rhodes, Jelle Visser, and Sabina Avdagic

We now understand from a plethora of studies conducted in the 1990s how different social pacts of the last 10-15 years are from the neo-corporatist deals or political exchange that were characteristic of the Keynesian-era. These different features can be understood in terms of (a) the context in which they happen; (b) the content of pacts; (c) their aims; and (d) a much stronger role for government. Due to this distinctiveness, they have been characterized variously as "competitive corporatism", "supply-side corporatism", "post-corporatism" or "organized decentralization". However, we still lack a rigorous analytical framework able to facilitate comparative analysis and generate more wide-ranging conclusions regarding both the determinants of actors' behaviour and thus the likelihood that social pacts will emerge, and of their persistence and institutionalisation as a specific form of governance. Hence, two main questions guide our analysis in this project. The first is the question of institutional formation, i.e., how do social pacts emerge? The second is the question of institutional development, in which we try to understand how social pacts subsequently evolve. To answer these questions, we are relying on the in-depth empirical analysis of seven European countries: Ireland, Italy, the Netherlands, Poland, Portugal, Slovenia and Spain. These cases provide sufficient variation with regard to the degree of success or failure of social pact negotiations and of more regularized political exchange. Our empirical evidence is being collected and organized by respective country research teams around the common analytical framework. The country chapters presented here are the first drafts of the reports that will underpin the final study. Each will undergo further revisions, as will the framework document put in place in early 2005 by the project directors.

Workshop ‘Emergence and Evolution of Social Pacts #2: Country Reports and Cross-National Analysis’

Martin Rhodes

Project 18a studies the sources (emergence) and dynamics (evolution) of learning and innovation of socio-economic governance, focusing on social pacts, partnership or concertation. The main research questions in the first 18 month period are the conditions under which social partnership and pacts have emerged and how these birthmarks influence their further evolution ('institutional emergence'); the reasons for and nature of social partnership in practice and the conditions influencing their development and use by participants ('institutional evolution'). These questions are being studied through comparative study of concertation practices, partnership and pacts in Ireland, Italy, Spain, Poland, Slovenia, Portugal and the Netherlands. The purpose of the second project workshop was to bring the team leaders and country authors together for a first-stage analysis of the results. This will clearly not be the end of that process, and country authors will return to their prior to submitting their final results later in the second year of the project. Nevertheless, the workshop was extremely useful for (a) giving an opportunity to the project directors to assess the work of the country respondents and to ensure that it was conforming to the guidelines of the framework document and analytical grid (WP 1, D1) and (b) feeding back the country results into the grid and seeing if it indeed works as well as it should. In light of the workshop, some changes will be necessary in the framework and the grid.
Institutional Emergence: Framework Evaluation - Analytical Report I – Synthesis*
Sabina Avdagic
This report (D08) draws on this project’s most developed country reports − Italy, the Netherlands, Poland, Slovenia and Spain − presented in accompanying D09. This report links the empirical evidence from those country reports to the overall analytical framework. Section one assesses the relevance of the four central pillars of our bargaining model (D01) – bounded rationality, context-specific and changing preferences, non-unitary actors, and perceptions of power – for the real-world strategies of actors. The country reports confirm the relevance of those central pillars in shaping actor strategies but also indicate the need for further refinements to our indicators of relative power. Section two tests the bargaining model itself. We examine a number of the most important attempts to craft social pacts in the five countries concerned and confirm the general logic of the model, even if there are also several instances where social pact attempts do not conform to its core predictions. We therefore suggest ways of improving the model’s predictive power by making it more complex to allow for variation in the discount rates which indicate actors’ time preferences. Section three presents the steps we need to take in improving the model. In the conclusion we relate our study to the general literature on social pact emergence.

Revised Country Reports: Netherlands, Italy, Poland, Slovenia and Spain
Martin Rhodes, Sabina Avdagic, Jelle Visser and Collaborators
This deliverable (D09) presents some of the most developed country reports that have been revised in accordance with guidelines established and given to our country authors at Workshop 2 (D07) held at the Amsterdam Institute for Advanced Labour Studies in October 2005. The following studies of the Netherlands, Italy, Poland, Slovenia and Spain accompany our first analytical synthesis report D08. The objective of these reports is to begin linking the empirical evidence discovered in the country analyses to project 18a’s overall analytical framework. The reports confirm the relevance of the central pillars of the project’s bargaining model (D01) in shaping actors’ strategies, while also indicating the need for further refinements to our indicators of relative power (see deliverable D08 – First Synthesis Report). Along with further refinements currently being made to the Irish and Portuguese reports, the following country analyses represent the next analytical step towards a book on contemporary social pacts and the governance of distributive issues in Europe.

Project 18b: Distributive Politics, Learning and Reform: Emergence and Evolution of Administrative Partnerships

Local Partnership Consolidation: a Framework for Analysis
Patrik Vesan, Paolo Graziano, Matteo Bassoli, Valeria Sparano
The main aim of the paper is to present a framework for analysis which will be used for empirical studies of partnerships consolidation, with a particular focus on Italian and Spanish public-private partnerships aimed at territorial development regulation. First, an articulate definition of partnership will be provided building on the existing literature on the topic; second, a more specific framework for analysis will be presented and some research hypotheses will be formulated; third, a preliminary selection of cases will be discussed; fourth, the specific goals and timing of the future research will be specified; finally, some concluding remarks will follow.
Territorial Pacts: Which Kind of Concertation? Preliminary observations for a reinterpretation of social pacts at the sub-national level.

Ida Regalia

The paper is organized as follows. It first makes some preliminary and general specifications concerning the topic examined. It then concentrates on the subnational level of concertation, discussing the reasons for the emergence and spread through Europe of local partnerships and pacts, and presenting the forms identified in the empirical literature. Particular attention will be paid to territorial pacts for employment and development (European and of local/national origin) with reference being made to Italy and Spain, as the countries in which territorial pacts have developed to the greatest extent. The concluding section sets out proposals for the future development of the inquiry.

Contribution to Database - Literature review on local development partnerships in Spain

Francesc Gibert

The literature review, written in Spanish, is aimed to providing basic information on local development partnerships in Spain. In the first part, it presents the theoretical and empirical contributions connected to territorial pact analysis in Spain, whereas the second part presents the direct and indirect effects of local development partnerships on both the Spanish national and local political systems.

Country papers: Italy and Spain*

Valeria Sparano and Francesc Gibert

The first country report presents an analysis of Italian local partnerships aimed at promoting local development. First, it introduces the genesis and main features of partnerships regulation at the local level; second, it analyses the implementation of EU local partnership initiatives; finally, it discusses the relevance of such ‘new’ tool of governance in sub-national decision making on local development policies. The second country report presents the Spanish case with respect to local partnership initiatives aimed at local development. It focuses in particular on the interaction between the local and national level of government in the formulation, adoption and implementation of local partnership pacts. Some final remarks on the ‘institutionalization’ of local social pacts in Spain conclude the article.

Project 19a: New Approaches to Economic Governance in the EU

Workshop – Policy learning and experimentation in EU economic governance: Laboratory federalism in practice?*

Waltraud Schelkle

The workshop aimed to further our theoretical and empirical insight into the working of laboratory federalism in three policy areas that are of particular relevance to EU economic governance: policy coordination through social partnership, tax policy and macroeconomic stabilisation. We were looking for the various, perhaps hidden, channels through which the EU may shape and induce policy innovation as well as the obstacles it faces in acting as an effective or unbiased reform lever. The answer that the workshop gave to this question was largely negative. EU membership and monetary union has led to some innovation in the role of social partnership, but this seems not to have had a lasting impact independent of the domestic setting. The workshop took place at the European Institute, London School for Economics and Political Science, 30 – 31 March 2006.
Real Convergence and EMU Enlargement: The Time Dimension of Fit With the Euro Area
Iain Begg
This article examines the time dimension of negotiating fit with EMU in the light of economic arguments for and against rapid accession and of the circumstances of the different new member states from east central Europe. It briefly reviews some of the key economic policy issues that arise in negotiating fit with EMU. It then looks at what might be called ‘Stage 2 adjustment’ – what Euro Area candidates need to do to become fit for Euro Area entry. The subsequent section concentrates on how countries can be expected to deal with problems of managing fit within Stage 3. Concluding comments complete the article. The article will appear in: Dyson, Kenneth (ed.) (2006) Enlarging the Euro Oxford: OUP.

Bringing Macroeconomics back into the Political Economy of Reform: The Lisbon Agenda and the ‘Fiscal Philosophy’ of EMU
Deborah Mabbett and Waltraud Schelkle
The Lisbon Strategy supports reform of member states’ tax-benefit systems while the ‘fiscal philosophy’ of the EMU postulates that governments should allow only automatic stabilisers, built into tax-benefit systems, to smooth aggregate income. We ask whether these two pillars of EU economic governance are compatible. By exploring how structural reforms affect fiscal stabilisation, we complement a political economy literature that asks whether fiscal consolidation fosters or hinders structural reforms. Using EUROMOD, a tax-benefit model for the EU-15, we identify the connections between specific tax and benefit reforms and the size of the stabilisers. We conclude that Lisbon-type reforms may worsen the stabilising capacity of tax-benefit systems. The article will appear in 2007 in Journal of Common Market Studies (in print).

Economic governance in EMU revisited: What have we learnt about commitment and credibility?
Waltraud Schelkle
European integration is a fast changing subject and requires those who study it to do research very close to the present. While this makes the field both fascinating and relevant to policymakers’ concerns, it also makes it susceptible to academic fads and fashions. The scientific community in the field hardly ever finds the time to look back to evaluate self-critically whether the predictions made in the past and the policy advice put forward then have stood the test of time. The JCMS special issue – of which this article is the introduction – asks commentators who made seminal contributions to our understanding of the theory and practice of economic governance in the 1980s and 1990s to revisit their analyses with the benefit of hindsight.

Economic Policy and Institutional Transparency: The ECB
Iain Begg
The aim of this chapter is to assess the role of the ECB in signalling its intentions to other economic agents and thus in shaping the environment in which savers and borrowers function. In terms of the overall aims of this book, central bank (CB) transparency can be regarded as a key element and in this sense it can be regarded as a horizontal facet of transparency insofar as it affects both sides of the capital formation process. The chapter adopts a normative approach to the assessment of ECB transparency, focusing on whether the current approach is optimal in how it affects the risk premia. It starts by discussing the changes in central banking practice, then goes on to explore the notion of transparency as applied to CBs and how it bears on the conduct of monetary policy. Section 2.4 explains and documents the ECB approach to transparency and how it compares with other CBs, then Section 2.5 examines some of the key debates about transparency and what they might imply for the ECB and the capital formation process. Concluding comments complete the chapter. The article will appear in: in L. Oxelheim and J. Forssbaeck

**Annual Project Report**

**Iain Begg, Waltraud Schelkle**

The deliverable provides a summary of the research activities carried out in the first project year. It feeds into the general annual project report of the NEWGOV project.

**Project 21: Towards New Corporate Governance Regimes in Europe**

**Mergers and Acquisitions in Europe**

*Marina Martynova and Luc Renneboog*

Deliverable: 21D02

The bulk of European M&As of the 1990s was expected to improve efficiency as they triggered substantial share price increases at the announcement, most of which were captured by the target-firm shareholders. We find large announcement effects (of 9%) for the target firms compared to a statistically significant announcement effect of merely 0.5% for the bidders. Including the price run-up, the share price reaction amounts to 21% for the targets and 0.9% for the bidders. However, we show that market expectations about takeover profitability depend on the different attributes of the bids. There is also strong evidence that the means of payment has a large impact on the share prices of bidder and target. Furthermore, domestic mergers or acquisitions trigger higher wealth effects to the target shareholders than cross-border operations. The evidence suggests that the differences in level of stock market development and corporate governance regulation across countries of different legal origins have a large impact on premiums paid in take-overs. We also demonstrate that takeover waves tend to pass their optimal stopping point. Unprofitable takeovers at the later stages of the wave result from limited information processing, hubris, and managerial self-interest. Will appear as chapter 2 in: L. Renneboog (ed.), Advances in Corporate Finance and Asset Pricing, Amsterdam: Elsevier, 2006, 13-75.

**Transatlantic Corporate Governance Reform**

*Joseph McCahery and Arman Khachataryan*

The US legislative reforms introduced in wake of the 2002 governance scandals impose a number of new statutory measures that seek to improve the level of transparency of accounts, ensure auditor independence and limit the abusive actions taken by boards and officers. While such measures have surely taken away some of the shortcomings of the original corporate law regime governing listed firms in the US, they may suffer from several shortcomings as we have seen. EU listed firms do not have the possibility of opting out of the EU regime. Those who support the introduction of a lower regulatory regime can cite the benefit of allowing investors and firms to enjoy different levels of protection, which is likely to correspond to the diverse needs of investors for information and legal protection. In this respect, the issue of flexibility and reliability of different measures should be examined and assessed. Will appear as chapter 7 in: L. Renneboog (ed.), Advances in Corporate Finance and Asset Pricing, Amsterdam: Elsevier, 2006, 189-197.

**The Equilibrium Content of Corporate Federalism**

*William W. Bratton and Joseph A. McCahery*

This article contributes to the ongoing debate about the state-federal allocation of corporate regulation. Arguments about the legitimacy of charter competition and Delaware’s national role as a corporate law maker are as intense as ever. The Sarbanes Oxley Act simultaneously has triggered a loud discussion about the legitimacy of federal intervention into corporate internal affairs traditionally regulated by the states. However, despite recent evidence of infirmities in the charter market, we think Delaware legitimately plays a national role. At the same time, we see no
market, we think Delaware legitimately plays a national role. At the same time, we see no support for the view that recent federal expansion into internal affairs territory destabilizes or impairs corporate law’s federal structure. This Article explains why corporate federalism remains robust, offering a positive political economy. Drawing on the history of corporate law and basic concepts of evolutionary game theory, this article brings five points to corporate federalism discussions. First, federal intervention into internal affairs is inevitable because Delaware follows an evolutionarily stable strategy that constrains its ability to respond to shocks that create national political demands. Secondly, national interventions are structured so as to leave the rent-driven state equilibrium undisturbed. Thirdly, the cooperative federal strategy has come to respond to political demands focused on shareholder value. Fourthly, the state equilibrium’s second-best quality has no bearing on corporate federalism. From all of this follows a fifth point—the threat of federal intervention has sunk into the deep constitutional structure, leaving Delaware safe in the present context.

The managerial labor market and the governance role of shareholder control structures*
Luc Renneboog and Grzegorz Trojanowski
We simultaneously analyze two mechanisms of the managerial labor market: CEO turnover and monetary remuneration schemes. Sample selection models and hazard analyses are applied to a random sample of 250 firms listed on the London Stock Exchange. Both the CEOs’ monetary compensation and CEO replacement are strongly performance-sensitive. There is little evidence of outside shareholder monitoring whereas CEOs with strong voting power successfully resist replacement irrespective of corporate performance. With regard to CEO remuneration, we sketch a nuanced picture as we find evidence supporting alignment of interests hypothesis but also supporting the managerial power or skimming model for managerial remuneration practices in the UK. In particular, we show that CEOs with strong voting power choose their own benchmark (accounting performance) whereas in firms with strong outside blockholders, remuneration is related to shareholder value creation. Equity-owning CEOs compensate disappointing stock performance by augmenting their cash-based compensation package (salary and bonus). Finally, we also show that internal governance mechanisms (e.g. the presence of a remuneration committee) have little impact on remuneration.

Explaining the diversity in shareholder lockup agreements*
Marc Goergen, Luc Renneboog, Arif Khurshed
This paper investigates whether shareholder lockup agreements in France and Germany mitigate problems of agency and asymmetric information. Despite minimum requirements in terms of the length and percentage of shares locked up, lockup agreements are not only highly diverse across firms but also across the different shareholders of a single firm as most firms have different agreements in place for executives, non-executives and venture capitalists. The diversity across firms and types of shareholders can be explained by firm characteristics—such as the level of uncertainty—as well as the type and importance of each shareholder within the firm.

Is Investment-Cash Flow Sensitivity Caused by Agency Costs or Asymmetric Information? Evidence from the UK*
Grzegorz Pawlina and Luc Renneboog
We investigate the investment-cash flow sensitivity of a large sample of the UK listed firms and confirm that investment is strongly cash flow-sensitive. Is this sensitivity a result of agency problems when managers with high discretion overinvest, or of asymmetric information when managers owning equity are underinvesting if the market (erroneously) demands too high a risk premium? We find that investment-cash flow sensitivity results mainly from the agency costs of free cash flow. The magnitude of the relationship depends on insider ownership in a non-
monotonic way. Furthermore, we obtain that outside blockholders, such as financial institutions, the government, and industrial firms (only at high control levels), reduce the cash flow sensitivity of investment via effective monitoring. Finally, financial institutions appear to play a role in mitigating informational asymmetries between firms and capital markets. We corroborate our findings by performing additional tests based on the stochastic efficient frontier approach and power indices. Article appeared in: European Financial Management Journal 11 (4), 2005, 483-513.

Shareholder lock-in contracts: Share price and trading volume effects at the lock-in expiry*
Peter-Paul Angenendt, Marc Goergen and Luc Renneboog
This paper unveils the variety in lock-in agreements of firms listed on the Nouveau Marché stock exchange in France. The lock-in regulation and the changes therein since the inception of the stock exchange are discussed. In addition, the main economic reasons are given why shareholders adopt lock-in agreements that are more stringent than legally required. We relate the abnormal returns and the abnormal volume at the expiry dates of the different types of lock-in contracts to the degree of underpricing, venture-capitalist reputation and underwriter reputation. We find that the abnormal returns and the trading volume increase at the lock-in expiry (see the summary in Table 17); this is especially pronounced at the expiry dates of insider lock-in contracts as insiders are legally required to be locked-in. Surprisingly, we do not find significant abnormal returns at the expiries of VC contracts, even though trading volume increases at their lock-in expiry. The fact that VCs may have a large impact on the board of directors (through representation) and or may be more reputable through international activities does not influence the results. In addition, venture-capital backing has no impact on the abnormal returns or the trading volume. There is no evidence of a positive (negative) relation between abnormal returns (abnormal volume) and more stringent lock-in contracts. If lock-in contracts and the degree of underpricing were substitute signals of firm quality, we would find a positive relation between underpricing and the abnormal returns at expiry. However, it seems that the two signalling devices are complementary. Will appear as chapter 9 in: L. Renneboog (ed.), Advances in Corporate Finance and Asset Pricing, Amsterdam: Elsevier, 2006, 235-276.

Project 22: Changing Governance Architecture of International Taxation – TAXGOV

Report on New Modes of Governance in EU direct corporate tax policy
Claudio M. Radaelli and Ulrike S. Kraemer
This report contains two major Sections. Section A illustrates our methodology and relates it to the overall aims of the project. Section B presents the substantive findings of our research on experimental governance in EU direct corporate tax policy. International tax competition attracted a considerable amount of attention, either as dependent variable (i.e., why states compete, and how) or as independent variable (i.e., the impact of international tax competition on domestic policy autonomy). However, the European Union (EU) has experimented with different forms of coordination in direct corporate taxation - thus rekindling academic interest in explaining tax coordination. We draw on process-tracing and within-case analysis to examine the variance in modes of governance used by the EU to coordinate direct corporate tax policy. In order to explain the choice of different modes of governance, we look at different hypotheses. We find that modes of governance are not chosen because of their properties in terms of efficiency or social legitimacy. Instead, the choice can be explained by political transaction costs. We then draw on actor-centered institutionalism to explain how actors respond to the material and ideational context and choose a mode of governance rather than another. By using a model based on three main actors, that is, the Commission, the Member States, and the business community, we show the
emergence of functionally differentiated governance arenas. These arenas are based on different logics. Constellations of actors identify distinct policy problems and define the prevailing mode of governance, mixing formal and informal modes for reasons of political expediency. The conclusions show the implications of our analysis for the assessment of EU tax governance.

Chronology - Major Events in International and European Tax Governance*
Claudio M. Radaelli and Ulrike S. Kraemer
This chronology of tax events provides a description of the main events since the 1960s looking at a wide range of actors and initiatives. On the one hand this will allow other researchers and policy stakeholders to keep track of the policy development in this area. In the context of the research, on the other hand, it is a valuable tool for the description and interpretation process. It is used to formulate initial ideas of how the policy process unfolded, to identify the opportunities open to policy makers, and to describe how new issues reached the policy agenda. Complemented with the information distilled out of the semi-structured interviews, and primary documentation analysed, this chronology enables the researchers to blend objective and subjective information into the analysis of European and international tax policy. This then feeds-back into a framework based on a process-tracing research design.

Final Interviews Report
Claudio M. Radaelli and Ulrike S. Kraemer
This final report integrates the findings of the previous report on interviews with the recent interviews. We decided not to have a report on EU interviews and a report on OECD interviews because of the tight policy linkages between the tax policies of the two organisations. Accordingly, we have prepared an interim report and a final report in which there is no separation between the OECD level and the EU level. In this final report we integrate and expand on the text of the previous report. In total, we interviewed 35 people between months 7-16. In terms of findings, we add a fourth finding to the three mentioned in the previous report on interviews. The Sections on methodology have not changed. Finally, interviews and contacts established during our fieldwork enabled us to secure the participation of top tax policy makers from the EU, its member states, the OECD, offshore jurisdictions, and the Tax Justice Network at the workshop on the public interest in international taxation, planned for February 2006 at the University of Exeter.

Draft Report on International taxation*
Claudio M. Radaelli and Ulrike S. Kraemer
This report analyses the major events and developments in international direct taxation. It revolves around four questions. The first question deals with the emergence of the ideational context in international tax policy. Although this is not the only ‘policy idea’ available, there is no doubt that since the mid-1990s harmful tax competition has provided a focal point for tax coordination at the international level. It has also created the pre-conditions for integrating tax issues with other important issues, such as the fight against money laundering. Hence the question arises why have recent international tax initiatives revolved around the notion of harmful tax competition? We answer this question by looking at the major player in international tax coordination, that is, the OECD. Secondly, we examine the scope of international tax governance. Over the last ten years the OECD has moved towards multilateral, outward reaching and harder modes of governance. We look at the specific modes the OECD has chosen and deal with questions of timing (that is, when) and explanation (that is, why). Thirdly, we address the question why governance in international taxation has become less technocratic and more political by examining the changing constellation of actors and their preferences. Finally, we assess what has been achieved in three broad categories, that is, learning, processes, and outcomes.
International workshop on ‘The Public Interest in International Taxation’
Claudio M. Radaelli and Ulrike S. Kraemer
The international workshop gathered 20 European high-level policy-makers, practitioners and
academics engaged in international taxation. It is for the first time that many of these stake-
holders sat together at one table and talked to each other. Thus the workshop followed Chatham
House rules. The idea was to use the University of Exeter for a balanced discussion between EU
institutions (the Commission and the Council), civil society organisations (Tax Justice Network),
business representatives (CBI, Ernst & Young), think tanks (Institute of Economic Affairs), aca-
demics, lawyers, and policy-makers from the UK, the dependent territories, Ireland, and Estonia.
Since the issue is topical and often hotly debated but the basic assumptions, concepts, and
frameworks have not been clarified yet one main goal was to forge a common language in area
of highly heterogeneous policy preferences.

Project 23: Learning and Local Innovation System

Lo sviluppo di una industrializzazione leggera in Campania*
Andrea Valzania
Despite the generally depressed nature of the textile and clothing industry in southern Italy, there
are cases of newly developing industrial districts which seem to be defying the trend. This paper
examines the factors that seem to make this possible. This sector is one that is in crisis through-
out the advanced world as very cheap producers in parts of Asia take advantage of collapsing
trade barriers. In southern Italy these sector-specific problems are exacerbated by more general
ones of poor quality infrastructure and local institutions, corruption, and even the involvement of
organised crime in economy and polity alike. The successful cases in this context, that is those
which are finding expanding markets for their products, seem to be, in part, those where local
political and associational leaders have been determined to institute a good local institutional
context for firms. A further factor has been the capacity of the firms, which are mainly small, to
connect to large customer enterprises with strong brand names, reputations for quality, and con-
nections to work markets. This is not therefore a story of completely autonomous local develop-
ment, but it does indicate one of the likely ways in which local points of strength can connect to
global markets.

The survival of clothing production in SMEs in Lódz*
Monika Kaminska
Following the collapse of the long-established clothing, footwear and textile industry around
Lódz and following the collapse of its markets in the former Soviet Union and the general prob-
lems of these industries in Europe, some recovery of the sector has taken place. This is concen-
trated in a small number of locations and comprises a mix of micro-enterprises producing simple
clothing and footwear goods, and some larger enterprises specialising in the market of these
goods. These enterprises depend heavily on markets in Russia and the Ukraine which demand
very low-priced products. Firms therefore find it difficult to move to higher value-added produc-
tion and to a large extent exist mainly in the shadow economy. Partly because of this last fact,
partly because the sector is not an object of interest to government or to multi-national enter-
prises, and partly because the lack of trust in personal relations that seems to be characteristic of
Polish institutions, there is little evidence of development, though the sector continues to thrive
and to provide employment.
Dissemination Conference: Economia sommersa e sviluppo locale*
Colin Crouch
Deliverable: 23D06
The dissemination activity to a wider public, including practitioners, undertaken for this project was to hold a public conference to publicise the results of the research. It was held on 21 April at the Prato site of the University of Florence. Prato is a leading location for the textile and clothing industry of central Italy, where many of the ideas related to the development of public policy towards this sector were developed. It was therefore a particularly suitable location for an event on this topic. The conference was attended by about 200 people, including specialists in and students of local economic development of the University of Florence, and representatives of the textile industry of Prato and of the municipality.

The territorial governance of the shadow economy *
Luigi Burroni and Colin Crouch
The study of local economies can be applied to those concerned with “shadow” and illegal activities. These need to be seen, not as situations with an absence of governance and markets, but as constituting particular kinds of governance, this governance often being concerned with ensuring the functioning of markets. A scheme for modelling this governance is proposed. This is then used to formulate a critique of most prevailing policy approaches to trying to counter the shadow economy and encourage the “emersion” of firms from it. Some instances of policies that are better grounded in an appreciation of the reality of the shadow economy as a social order are also cited. Article submitted to Environment and Planning C, July 2006.

Local economic governance in hard times: The shadow economy and the textile and clothing industries around Łódz and Naples
Luigi Burroni, Colin Crouch, Monika Kamińska, and Andrea Valzania
The starting hypothesis of the study is that in localities with unfavourable initial economic, political, and social circumstances, revival or even survival of an existing industry will be highly unlikely, and that therefore continued decline must be predicted. This is indeed the case in the general regions within which the case study areas are located. The puzzle is therefore to explain the few points of local success that are clearly visible and that apparently refute the hypothesis. In both Italian and Polish cases an important explanation is that firms have made use of the shadow economy and minimal infrastructure and support services in order to become very low-cost producers. However, some Italian firms have been able to pursue a ‘high road’ of improving quality production, making use of various forms of infrastructure to do so. This has in turn necessitated at least partial emergence from the shadow economy. The relative absence of such possibilities in the Polish case draws our attention to some important institutional differences between central and western European economies, even when the example of the latter is a ‘weak’ region.

Project 24: Democratisation/Participation of Civil Society in New Modes of Governance

Working Paper: Good Governance Conditions for the Participation of Interest Groups in EU Consultations
Daniela Obradovic and Jose M. Alonso Vizcaino
Informal participation of interest groups in Union decision making has been a constant and distinctive feature of the European Integration process from its very beginning. The European Union (EU) institutions, in particular the Commission, have a long tradition of carrying out consultations with interest groups. Originally, EU accepted the policy of unrestricted access of interest
groups to its officials. However, the system of compulsory impact assessment for all of the Commission proposals to be carried out through EU consultations with interested parties places greater responsibility upon civic groups seeking to be involved in Union policy formation. It poses a considerable challenge to the open access policy for interest groups. More structured and formalised involvement of interest groups in EU policy process has been developed by the adoption of Commission’s minimum standards for consultations of civic groups. The European Transparency Initiative also calls for the introduction of eligibility requirements for interest groups wishing to participate in European policy process. The paper examines the impact of structuring of civil society participation in Union governance introduced by numerous Commission decisions upon the open access policy for interest groups traditionally applied by the Commission. (Forthcoming in Common Market Law Review).

*Participation of Civil Society in New Modes of Governance - The Case of the New EU Member States. Part 2: Questions of Accountability*
Heiko Pleines (ed.) and others
This working paper is part of a series presenting the results of a research team examining the impact of the 2004 EU enlargement on governance structures involving the participation of civil society organisations. In this second working paper the researchers focus on questions of accountability at the national level, distinguishing between its different forms and directions. The Working Paper includes articles by: Heiko Pleines, David Lane, Michal Federowicz and Michal Sitek, Zdenka Mansfeldová, Marcin Michal Wiszowaty, Jakub Plazynski, Martin Kay, and a bibliography by Aleksandra Lis.

**Task Forces**

**Democracy Task Force**

*Still in Deficit: Rights, Regulation and Democracy in the EU*
Richard Bellamy
Critics of the EU’s democratic deficit standardly attribute the problem to either socio-cultural reasons, principally the lack of demos and public sphere, or institutional factors, notably the lack of electoral accountability due to the limited ability of the European parliament to legislate and control the executive powers of the Commission and the Council of Ministers. Recently two groups of theorists have argued neither deficit need prove problematic. The first adopt a rights-based view of democracy and claim a European consensus on rights, as represented by the Charter of Fundamental European Rights, can offer the basis of citizen allegiance to EU wide democracy, thereby overcoming the demos deficit. The second adopt a public-interest view of democracy and argue that so long as delegated authorities enact policies that are 'for' the people, then the absence of institutional forms that facilitate democracy 'by' the people are likewise unnecessary - indeed, in certain areas they may be positively harmful. This paper argues both arguments are normatively and empirically flawed. For no consensus on rights or the public interest exists apart from the majority view of a demos secured through parliamentary institutions. To the extent these remain absent at the EU level a democratic deficit continues to exist. Forthcoming in the European Law Journal.
Democratic Values, Political Legitimacy and European Governance*  
Albert Weale  
What are the implications of new governance in terms of normative democratic theory? To answer this question, we need to distinguish between democratic values and the institutions that are claimed to embody democratic values. Democratic values include a concern for common or public interests, political equality and an acknowledgement of fallibility in decision making. Party systems in member states of the European Union can make a claim to have embodied these values to some degree, particularly the extent to which party competition provided an incentive to focus on issues of common public concern. However, those party systems operated under a specific set of conditions, including an unusual nationalisation of policy responsibilities. Where policy concerns are international and issues involve the need for functional representation outside of the confines of party competition, then new governance arrangements may meet the standards of democratic legitimacy. However, an adequate normative theory will still want to insist that criteria of fair representation and processes of deliberative accountability are imposed on the EU’s system of governance. This paper will be appearing in Carlo Ruzza and Vincent della Sala, Governance and Civil Society (Manchester: Manchester University Press, forthcoming).

Some Principles of Task-Assignment in A Multi-Level Polity*  
Albert Weale  
The problem of task-assignment, ineliminable in any moderately complex polity, is to determine the normative justifiable principles upon which the functions of government should be allocated to different levels. This paper reviews three approaches to this problem in the literature drawn from political theory. The first is pure proceduralism; the second the principle of subsidiarity; and the third the principle of functional competence. It is argued that there are problems involved in the first two. Proceduralism cannot stand on its own, and subsidiarity contains a bias to the near that it is difficult to defend. Functionality can be politically controversial to apply. None of the principles can be regarded as logically equivalent to one another, and democratic reflexivity suggests that all will be contested.

The Normative Logic of Two-Level Games and the European Union*  
Deborah Savage and Albert Weale  
A currently influential account of international diplomatic negotiation construes such negotiations in terms of the logic of two-level games. We explore the normative logic of such games, in terms of the obligations of fairness that diplomatic representatives owe to one another and the obligations of accountability that they owe to their constituents. The logic in both its empirical and normative interpretations can be applied to the European Council budget negotiations of December 2005. By exploring the varying conceptions of representation at play in these negotiations, we seek to provide an account of how the resulting bargain may be evaluated. We also claim that such an account also enables us to understand how inter-governmental negotiation may be a forum of democratic accountability, whilst not committing us to a particular empirical account of European integration.

Between Past and Future: The Democratic Limits of EU Citizenship*  
Richard Bellamy  
EU citizenship has been viewed as the basis for both ‘old’ forms of citizenship, whereby the Union might be democratised in a parallel manner to the Member States, and the creation of ‘new’ forms of citizenship, that could serve people’s interest in expert, efficient, equitable government without employing the standard mechanisms of democratic accountability to achieve them. This paper argues that the prospects for establishing the ‘old’ forms are weak, and that the ‘new’ are in themselves inadequate. Two conclusions follow. First, there is a trade-off between the benefits
the EU brings and democracy, suggesting there are democratic limits to the EU. Second, what democratic legitimacy the EU can claim comes from the scrutiny of EU policy within the established democracies of the Member States. To democratise the EU, therefore, we need to domesticate it and make the EU part of the national political agenda. The article has been published in R. Bellamy, D. Castiglione and J. Shaw (eds) Making European Citizens: Strategies of Civic Inclusion in European Civil Society (Palgrave, 2006), pp. 238-65.

Legal Issues Task Force ‘New Modes of Governance and the relevance for EU law’

Constitutionalism and New Governance in the European Union: Rethinking the Boundaries*

Neil Walker
One of the purposes of this essay is to map five key candidate relationships between constitutionalism and New Governance - the key dimensions of the relationship between constitutionalism and new governance, and to explain why each of them tells us something of importance about the peculiar regulatory dynamic of the European Union. The sketch is a cumulative one rather than a series of alternative visions, since each of the five addresses a connection (or a disconnection) which speaks plausibly to one aspect of the EU’s situation. The paper suggests that the first four possible relationships discussed - namely subsumption, instrumentalization, non-correspondence and structural antagonism - are all finally limiting relationships. Each plays on a different dimension of the weakness or myopia of the constitutional paradigm in the European Union, and its failure to grasp new governance fully, as well as upon a certain overemphasis on definition-by-contrast and a consequent fuzziness over the content and significance of the ‘new’ within the notion of New Governance itself. The fifth possible relationship, which flows from the insight that constitutionalism's historic connection to the idea of responsible self-government requires to be rethought for the postnational domain, holds out the possibility that constitutionalism need not be viewed in these limiting terms and, accordingly, that New Governance's horizons of innovation need neither be limited by these limiting terms nor depend on the wholesale rejection of constitutional discourse. It inquires instead into the more profound transformative possibilities for both constitutionalism and New Governance of a deeper level of mutual engagement.

The Coexistence of New Governance and Legal Regulation: Complementarity or Rivalry?*

David M Trubek and Louise G Trubek
This paper seeks to develop a typology of situations in which new governance and legal regulation may co-exist, at least temporarily, outlines some of the dynamics that ensue, and states a few factors that may explain these dynamics. It is meant to point the way to further analysis and research on an issue that is becoming increasingly important as more and forms of new governance emerge in areas that have been, or might, be governed by traditional forms of law.


Gráinne de Búrca and Joanne Scott
This paper introduces a set of working papers from the Law Taskforce, which explore the emergence of new approaches to governance (‘new governance’) in the European Union along three main lines of inquiry: firstly, the examination of the actual operation of new regulatory forms in a number of specific policy fields or issue areas; secondly, the interrogation of the relationship between law and new governance, both through these concrete case studies as well as through more abstract and conceptual reflections on how law and legal processes are implicated in the operation of new regulatory approaches; finally, the exploration of the relationship between new governance and constitutionalism. Collectively and separately, the papers presented try to ad-
dress these issues by highlighting the nature and contours of the challenge new governance presents for law and for our thinking about constitutional values and structures.

David M. Trubek, Patrick Cottrell and Mark Nance
Some of the new governance methods bear some similarity to hard law; but because they lack features such as obligation, uniformity, justiciability, sanctions, and/or an enforcement staff, they are classified as “soft law” and contrasted, sometimes positively, sometimes negatively, with hard law as instruments for European integration. This paper explores the concepts of hard and soft law in order to illuminate this important aspect of the new governance phenomenon. It does so by surveying the international relations theory on soft law and then going on to examine how soft law is approached in the EU, by examining, in particular, the sectors of employment policy and fiscal coordination as case-studies. It concludes that there are two major lacunae: a failure to create an integrated approach to soft law itself, and a lack of a unified theory on the relation of soft law to hard law, what here is called hybridity. Thus, the paper suggests the potential of a synthetic approach to soft law (that combines rationalist and constructivist elements) which can contribute to a better understanding and a full theoretical approach to the phenomenon of hybridity.

Working Paper: New EU Employment Governance and Constitutionalism*
Claire Kilpatrick
This paper begins by identifying the important but limited and specific ways in which EU employment regulation is new. It identifies the key characteristics of new EU employment governance as being: (a) a dramatic expansion of the EU governance tool-kit; (b) hybridization of the objectives and internal structures of those EU governance tools; (c) a shift from responsibility for certain employment governance tasks primarily resting with public institutions (executives, legislatures, courts, public administrations) to the design of more participatory governance spaces for the elaboration of EU employment norms and it goes on to examine these in more detail. It then uses these findings as foundations for considering both the implications of those changes which have occurred from the point of view of both governance and constitutionalism. It concludes that the path of ‘processual constitutionalism’ that has been proposed as more appropriate for the discussion of new governance has not proved capable of capturing the particularities of the employment governance. It therefore suggests that the full range of governance tools available in this sector and examined in this paper (legislation, expenditure, the OMC and fundamental social rights) must be considered if a debate is to take place on how these activities should best be carried out in the EU in order to ensure, in the words of the Constitutional Treaty, ‘unity in diversity’ in a ‘social market economy’.

Working Paper: Law and ‘New’ Environmental Governance in the European Union*
Joanne Scott and Jane Holder
This paper offers two European examples of new governance in environmental policy: the first case study is concerned with environmental assessment, and specifically with the manner in which this concept has evolved; the second case study is concerned with the implementation of the EU Water Framework Directive (WFD). From the examination of these two case-studies, it is suggested, in this paper, that there is emerging in the EU a unique approach to federalism which can readily be called experimentalist, so central that it is seen to emerge even where it is not explicitly mandated. One of its characteristics is that while it stands in contrast to the classic community method (since it is collaborative and multi-level, laying considerable emphasis upon soft law), it has also been created against the backdrop of this very classic community method.
The paper concludes that experimental federalism poses stark and difficult questions for law and for lawyers, and that some of these can be usefully explored by considering questions of EU constitutional law together with questions of EU governance.

*Working Paper: The European Union and the Governance of Health Care*
*Tamara K. Hervey*

This paper, using a case-study of the health-care sector, employs an understanding of the notion of “governance” as the use of legal and political authority, wealth and information, to exercise control in the management of relationships and resources in the pursuit of social and economic ends. Through this case-study, the paper explores the changing roles of law in EU governance processes and the EU’s constitutional construct, and highlights some uncertainties or problems with our understandings of “new” governance in the EU. It concludes: a) that the “traditional” conceptualisations of EU (constitutional) law, and its relationships with national legal regimes, do not capture the wide variety of governance processes brought to bear in the EU context of health governance but that our accounts of the roles of law in the governance of Europe need to take account of law’s roles in containing “soft convergence” processes (persuasive coordination, provision of funding, and collection and dissemination of information), as well as in the more visible “new governance” processes, especially the OMC; b) that far from abandoning “old governance” legislative responses, the EU institutions, especially the Commission, are keen to pursue them, alongside the array of new governance mechanisms now also available; c) that litigation, at least in this sector, remains a core site for the contestation of core ideological (“constitutional”) values within the EU’s juridical construct, and that this constitutional rebalancing, along with the various governance responses to the resultant instability, deserves the attention of EU (constitutional) lawyers, in terms of both its processes and its substantive policy outcomes.

*Gráinne de Búrca*

This paper uses the example of the EU race discrimination directive to consider how new governance methods interact with law, and in particular with legal ‘rights’. The merits of a new governance approach are sometimes contrasted with the merits of a human rights approach. The concern of the latter approach is that once important ‘rights’ are characterized primarily in terms of flexible goals, the important commitments they represent may become empty of content, and if not expressed in more substantive and specific terms, their delivery will not be susceptible to any meaningful accountability. The paper uses the example of EU anti-discrimination law in the field of race to outline a hybrid approach which jettisons neither the commitments of the rights approach nor the experimentalism of the new governance approach, but which seeks to combine the essential strengths of each.

*Working Paper: Accountability without Sovereignty*
*Charles F. Sabel and William H. Simon*

This paper, in surveying some of the other working papers presented, draws a number of general conclusions. It finds agreement on the basic dilemma: on the one hand, law’s changing nature tries to make rights and rules more responsive and to increase their reach and integration by putting in place the experimental frameworks suggested by new governance; on the other hand, doubts emerge as to whether law can be made an instrument of these changes and still be law in the sense of holding officials accountable for their acts and assuring that citizens are otherwise secure in the enjoyment of their rights. The case-studies try to explain this complex relationship by proposing different sets of relationships between law and new governance, and several of them conclude that “hybridity” is what characterises it. Of all the possible theses concerning the relation of law and new governance, this paper supports the view of a transformational role of
law and new governance for one another and proceeds to explain why it is more likely that new governance is (transformative) law. If that is so, the next step would then be to examine its relation with conventional constitutionalism. The paper concludes that experimentalist law is able to provide for institutions that allow rule-making which is both flexible and accountable, and for the vindication of open-ended rights to equality.

Workshop “Law in New Governance”*
Grainne de Burca
The aim of Legal Task Force Ia is to provide an analysis for the NEWGOV project as a whole of the implications for law and legal and constitutional values of the development of new modes of governance in the EU and to explain the relevance of law and legal institutions for the operation of these new modes. It is within this framework that the present conference was organised to discuss and develop the earlier findings of the Law Task Force on the relationship between law and new governance. The conference took place in London, 30-31 May, 2006. The papers presented during the conference are currently under revision in the light of the discussions held; and negotiations are underway for their publication in a journal special issue.

Legal Issues Task Force ‘Which governance structures for European private law?’

Workshop Report with Draft Chapters: Regulatory strategies
Fabrizio Cafaggi
The Paris Workshop (21-22 October 2005) was the first concretization of the research project on Regulatory Strategies and Governance in European Private Law. It was devoted to the issue of whether an integrated regulatory strategy is necessary in the field of private law. It explored this issue in five fields belonging to tort and contract. The seminar was therefore divided into five panels covering two fields relating mainly to tort (products safety, environment), and three to contract (services, electronic commerce, employment).

Intermediate Workshop: The Making of European private law – Regulation and Governance Design
Fabrizio Cafaggi
While the definition of what is European private law for the purpose of the harmonisation debate and the identification of the different regulatory strategies in five different regulated fields had been addressed at the Paris workshop, the Florence workshop (21-22 April 2006) focused on the issue whether a governance structure is needed for the process of EPL creation. Generally speaking, all contributors were faced with the following three fundamental issues. Firstly, if an integrated regulatory strategy is found to be necessary, is there a need for a governance structure? Secondly, what are the current existing models of governance? Thirdly, what is the appropriate system of governance for European private law? The discussion evolved in three steps. It began with stressing the plurality of private-law makers and the influence of intergovernmental organisations at an international level. Then, the different facets of market integration were broadly identified from an interdisciplinary perspective. Finally, the challenge of the appropriate governance structure for European private law was addressed: the need to resort to new conceptual categories was strongly felt.

Report: Intermediate Workshop – Rethinking Self-Regulatory modes and strategies in Europe
Fabrizio Cafaggi
The workshop was organised for the credit of comparative research group on self-regulation composed of research students. Their focus of this research group has been on self-regulation at
national level across regulatory sectors focusing mainly on three aspects: 1) The constitutional dimension of self-regulation, 2) The legal regime concerning governance and regulatory activity, and 3) the liability of private regulators. Each member of the research group has produced a national report on self-regulation focusing on his or her national system. In the workshop the reports were first introduced by the respective research group members which after they were discussed by the national experts that were invited to the workshop to comment and discuss the reports.

**Working Papers on Self-Regulation**

Fabrizio Cafaggi and collaborators

This is a comprehensive comparative study of self-regulatory practices across Europe. The purpose of the various working papers is to give an overview of how self-regulation is framed in the legal systems of several member states of the European Union: The Netherlands, Italy, Spain, Finland, England and Wales. The last working paper approaches the comparison among the data provided by the preceding national reports. It will stress the reciprocal difference and correspondences through concise presentations and open questions following the four main fields of research: constitutional aspects of self-regulation, delegability of legislative and administrative powers, limits to delegation, nature of regulatory body and its consequence, judicial review and liability of private regulators. In the comparison tables, the answers to the aforementioned questions will be presented, facilitating the analysis of each national system in relation to the others.

**Legal Issues Task Force ‘Litigating EU Law’**

*The European Court and Enforcement Actions: Codebook on Infringement Proceedings (Art. 226), 1958-98*

Alec Stone Sweet and Thomas L. Brunell

This data set contains the first 1,435 Art. 226 infringement proceedings (enforcement actions) filed. In these, the European Commission raised 2,804 separate claims that Member States were in violation of one or more provisions of EC law. The data set, available at this website, includes information on, among others, the date, the target Member State, the legal domain or subject matter (e.g., competition, environmental protection, free movement of goods), the official docket number given to the case by the European Court of Justice, whether the enforcement action led to a judgement of the Court, is still pending, or was removed from the docket.

*The European Court and National Courts: Codebook on Preliminary References in EC Law (Art. 234), 1958-98*

Alec Stone Sweet and Thomas L. Brunell

The data set, which is made accessible here, contains information on all of the Art. 234 preliminary references filed with the European Court since the first reference in 1961. The most recently collected data end, for most countries, in May or June of 1998. It contains the first 3,714 reference filed, which invoke 4,974 separate claims of EC law. The data set includes information on, among others, date, member state, court of referral, legal domain or subject matter (e.g., competition, environmental protection, free movement of goods), and the official European Court Reports citation. We are presently working to update the data through 2005.

*Some Basic Statistical Summaries of the Data Sets on Infringement Proceedings (Art. 226) and on Preliminary References in EC Law (Art. 234), 1958-98*

Alec Stone Sweet and Thomas L. Brunell

The document provides some basic statistical summaries of the data sets on Infringement Proceedings (Art. 226) and on Preliminary References in EC Law (Art. 234), 1958-98.
Dissemination Activities

The “Plan for Using and Disseminating Knowledge” of the NEWGOV Project mainly includes the dissemination of knowledge by effective communication means. Naturally, this social science project neither intends to produce exploitable results which have the potential for industrial or commercial application, nor can the scientific written output be defined as a product or service in the strict sense.

As a result, our strategy mainly focuses on the effective dissemination of the generated knowledge. We rely on a two-tier strategy which includes (a) activities coordinated and implemented on the Consortium level, and (b) activities which are implemented by the individual partners and projects.

1. Dissemination of knowledge on the Consortium Level

1.1 Website

The Consortium web-site www.eu-newgov.org is the primary tool for disseminating the results of the research conducted by the Consortium and for diffusing them to all relevant scientific and practitioner communities. The website exclusively dedicated to the NEWGOV project was launched on 1 February, 2005. A first project website was already available on the server of the Robert Schuman Centre in September 2004.

The public section of the website contains topical information concerning the project. In particular, it contains publications, reports, articles and working papers of the Consortium. Links to other information sources relating to the project’s research fields are provided, as well as regularly updated information on events organised in the framework of NEWGOV. The section ‘Research’ in the public area is dedicated to the work of the clusters and projects. With links to the web-server’s database, visitors can immediately access the outline of a project or cluster, deliverables and other documents, and the researchers involved in the project/cluster.

Publicly available deliverables as well as other project outputs can be downloaded from the website. This offer is widely used with the number of downloads increasing steadily.

After a starting period, the website has now between 3,000 and 4,000 visits per month. According to the website statistics, visitors come predominantly from Europe and the US but also from other continents. A good percentage of those visitors that can be identified come from higher education institutions. At the same time, also practitioners visit the websites, be they from institutions (European Commission, European Court of Justice, national ministries, IMF, etc.) or from companies and organisations.

After the successful establishment of the website in year one, the management of the website in year 2 dealt with the updating of the various website components. The idea of a web-based forum, publicly accessible, was abandoned, because experiences of other international research projects were mostly negative. Finally, the successful leaflet produced in the first year will need updating in year 3. The leaflet is a spin-off of the information provided on the homepage.

1.2 Working Papers

The working papers of the Project are published in the peer-reviewed working paper series EUROGOV, the joint series of the CONNEX and NEWGOV networks. This series is a tool for sharing knowledge across the Consortium itself, but also a crucial means of spreading this knowledge much more widely to the rest of the European and international scientific communities.
NEWGOV working papers are submitted via the scientific director and the relevant cluster leader. Once the internal NEWGOV refereeing process has been concluded, the proposed paper will also be subject to the EUROGOV peer-review process. Papers already accepted by a journal are not publishable in the EUROGOV paper series. EUROGOV is managed by the CONNEX Network. The NEWGOV project is represented in the Editorial Board of EUROGOV by Gerda Falkner, researcher within project 1.

During the first two project years, three working paper coming from the NEWGOV project have been published, with another three still in the review process. Around 50 Working Papers are foreseen to be published during the duration of the two projects (NEWGOV and CONNEX). The website of the Working Papers series is: www.connex-network.org/eurogov.

1.3 Active Relaying to Scientific Community
Relaying the results of the research to the scientific community and strengthening the integration of the research carried out on the cluster and project level are the main tasks at the Consortium level. In order to reach these objectives, a number of Consortium-level workshops (D6) are being organised, each of them focussing on specific analytical themes and / or empirical topics. The workshops bring together researchers from across the Consortium with access for scholars from the wider circle of associated institutions, in particular from other FP5 and FP6 projects. As such, they are also an element of the plan for using and disseminating knowledge.
Furthermore, in order to link researchers from across the Consortium and to achieve a better cross-fertilisation of research, an annual Consortium wide conference is organised which includes both plenary debates and cluster workshops. The first Consortium Conference was organised in Florence in May 2005 and was attended by more than 80 researchers from within the Consortium. It consisted of joint workshops for all four thematic clusters, and included an opening and a closing plenary for the discussion of the ‘integrative’ aspects of the scientific work. The second Consortium-wide conference took place in month 22, bringing together researchers from all projects and Task Forces. In response to the comments by the external evaluators on the first annual report, the Consortium Conference was organised in a slightly different way. Thematische workshops were organised along common topics in addition to the cluster meetings: ‘Delegation of Regulatory Tasks to Independent Agencies’, ‘Civil Society and Democratisation’, ‘EU Governance after the Constitutional Treaty: Crisis or Opportunity?’, and ‘New modes of governance in old and new member states compared’. With the adopted approach, cross-cluster communication was facilitated.

The strengthening of cross-cluster contacts and the integration of the Task Forces into the work of the clusters and projects are also aims of the workshops organised on the Consortium Level. The first workshop (month 21) was on ‘Law in New Governance’ with members of the Law Task Forces as well as other members of the NEWGOV Consortium and the CONNEX Network participating. A second workshop will take place in month 28), focusing on “New approaches to Socio-Economic Governance” and organised by cluster 4. The third workshop (around month 32, D9c) will bring together those projects dealing with issues of governance modes in new member states, whereas the fourth workshop (around month 38) will be organised together with the Democracy Task Force. These workshops are open to any other interested member of the academic community. The Consortium will seek to invite scholars from other relating 5th/6th framework projects and other international R&D programmes. For the next period, similar cross-cluster workshops are planned, in order to further exploit synergies of the research insights accumulated by the various clusters and projects.
At the end of year 3, the Consortium will produce a plan for ensuring that the Consortium management team, cluster co-ordinators and individual partners pursue a vigorous approach to relaying the results of the research to the scientific community, especially in its closing phases. We recognize that this will require action both through discipline-based scientific communities (via specialised journals, professional conferences and so forth) and ‘platforms’ (our newsletters and briefing papers can play a role here) for disseminating the knowledge produced that crosses conventional disciplinary boundaries.

At the same time, dissemination to the academic community is also ensured by the numerous publications and participations in a wide range of different workshops and conferences, including the most important ones organised by the large international associations of political scientists or sociologists (see below, 3).

1.4 Dissemination to practitioners
Dissemination for practitioners is a key aim of the Consortium. In addition to these activities, the Consortium management team will ensure that the EUI activates its links with EU institutions and the network of EU agencies to ensure that the results of the research are widely diffused to them. Similarly, the Consortium team will mobilise its links to the governments that belong to the EUI’s Convention, in order to achieve a dissemination of research results widely across the EU member states. The issues and briefing papers series (WP8) will be especially important as a means of communication in this regard, as will ease of access to material posted on our web-site (WP1). In this sense, therefore, this project will also be piloting an additional mechanism for developing the European Research Area.

Making these tools to effective will require active communication with relevant practitioner communities as the Project develops. Achieving this will be a considerable challenge given the diversity of practitioner communities that are relevant, by sector, by country, by level of governance, and by category of institutional actors. The contacts’ database created by the Consortium management team (D2 of the Management WP1), will in itself constitute a kind of map of the practitioner communities to which the knowledge created by the Consortium will be relevant.

The Steering Committee agreed that the Practitioner Forum series should start in year 2 only, as soon as first results of the Consortium’s empirical work are available. The first Consortium Practitioner Forum “Policy learning and experimentation in EU economic governance: Laboratory federalism in practice?” aimed to further theoretical and empirical insight into the working of laboratory federalism in three policy areas that are of particular relevance to EU economic governance: policy coordination through social partnership, tax policy and macroeconomic stabilisation. The Forum was organised in collaboration with project 19a on Economic Governance (D7, month 19). The second one (D11, month 27) will be organised by cluster 1 on the topic “Old and New Modes of Governance: Effectiveness, Efficiency, Legitimacy”, the third forum is scheduled around month 34 (D16), and will be organised by the cluster 2 and 3 leaders.

At the same time, many NEWGOV projects have organised workshops and seminars with the participation of practitioners, e.g. projects 7, 8, 12, 19a, 22, and 23. Project workshops specifically aiming at the dissemination of project results to the practitioner community will increase in the forthcoming period month 25-42 as numerous projects have scheduled these kind of event. This decentralised approach also secures that stakeholders from the respective policy fields can be targeted.

It should finally be mentioned that interaction with practitioners is a two-way process in which NEWGOV researchers not only disseminate research findings to practitioners, but very actively
seek information from the latter. A large number of qualitative interviews are being conducted in the individual projects in all clusters that offer immensely valuable empirical insights into how the new modes of governance are being applied in reality. Naturally, research results are also disseminated during these interviews.

1.5 Dissemination by means of the External Newsletter, Issues and Briefing Papers, Book Series

In addition to the written output in forms of deliverables, journal articles, EUROGOV papers, etc., three other instruments for disseminating the results of the research conducted by the Consortium and for diffusing these to all relevant scientific and practitioner communities are being provided on the Consortium Level. They are part of the plan for using and disseminating knowledge.

First, a research results-oriented newsletter, produced approximately every six months. It is sent to members of the broader academic and policy making communities and provides information concerning work in different parts of the Consortium. It is sent out to a larger email list in a formatted PDF-version; some printed copies are produced for promotion purposes. The Consortium makes sure that relevant other 5th and 6th framework projects, international research programmes as well as stakeholders concerned will receive this newsletter. A first issue of the External Newsletter, providing an overview on the NEWGOV project and a detailed description of the research carried out in cluster 2, was disseminated in summer 2006. The next publishing dates are foreseen for months 28 and 34.

Second, short and accessible Issues and Briefing Papers are produced to aid the dissemination of research results to a broader academic and especially practitioner community beyond the Consortium. These are related also to specific and topical events that may arise during the course of the Integrated Project and Consortium members can respond to and deploy their particular expertise. Briefing papers can also be short executive type summaries of Working Papers or topical pieces written by NEWGOV partners. Some clusters (most notably cluster one) have a series of briefing papers (or policy memoranda) as official project deliverables. In addition, PhD-students working within NEWGOV projects are invited to write briefing papers as this constitutes a good (training) exercise. The first issue of the Policy Brief series was published during year 2, presenting key results of project no. 7 on “Governance of the EU Securities Sector: Impacts of the Lamfalussy Reform”. A number of additional issues are currently being reviewed and will be produced in the early months of the third project year. Again, the target group includes other research projects.

Third, the Consortium plans to work with a publisher to produce a high quality book series that will record in fully worked and elaborated form the range of the knowledge created, its empirical content, its analytical innovations, and its implications for subsequent scientific enquiry. A two-track approach is currently planned whereby a systematic comparison of the theoretical questions and findings on Emergence, Execution, Evaluation and Evolution will be compiled in a joint publication, and a number of edited volumes and monographs. At the same time, the Steering Committee decided not to aim for a ‘series’ with one publishing house. Each cluster and each project, where applicable, should seek to publish its results with the best possible publishing house/journal available on its own. This will also enable project partners to pick publishing houses or journals best suited for their respective topic/discipline. Of course, publications should have the NEWGOV logo on the front page and should make reference to the NEWGOV project and the Commission funding (contractual obligation).
2. Dissemination of knowledge by project partners

The following list also includes those publications ‘in print’ and ‘under review’, and upcoming participation in conferences etc.


Begg, Iain (2004), Presentation on ‘Ways forward: the search for more effective policy’ conference organised by the Association Europe Société on Le dialogue social sectoriel européen : quelle contribution a la reussite de la strategie de lisbonne ? quelles pistes pour l’avenir?.


Begg, Iain (2005), Connex workshop on economic governance, Sciences-Po, Paris, 11th May

Begg, Iain (2005), Connex workshop on the open method of co-ordination, University of Sussex, July 8th.

Begg, Iain (2005), ESRC Workshop on the Lisbon Strategy, LSE, 3rd June.

Begg, Iain (2005), Real convergence and EMU enlargement: The Time Dimension of Fit with the Euro Area, workshop at the British Academy, London, February 7th.


Begg, Iain ‘Contested meanings of transparency in central banking’ forthcoming in special issue of Comparative European Politics, edited by Antje Wiener, due for publication late in 2006/early 2007


Begg, Iain, Invited contributor to Connex workshop on contestation of norms, Queens University Belfast (September, 2005)Begg, Iain, Invited contributor to panel on ‘Institutions as a factor in economic development’ Economic Forum, Krynica, Poland, September 8th, 2006

Begg, Iain, Invited key-note talk at the Polish Lisbon Strategy Forum meeting, Warsaw, 1st December 2005


Begg, Iain, Panellist for a roundtable on ‘Eight years of the euro’ 12th Croatian National Bank Dubrovnik Economic Conference July 1st 2006

Begg, Iain, Paper ‘Is there a convincing rationale for the Lisbon strategy?’ at ESRC seminar on ‘Lisbon’, Edinburgh, 28th April 2006 [earlier version presented at the University of Wisconsin, Madison, WI, 28th October 2005]

Begg, Iain, Presentation on ‘Balancing the budget’ Austrian Academy of Sciences, Presidency conference, Vienna, 22nd May 2006

Begg, Iain, Presentation on ‘Catch-up, the transition to full participation in EMU and financial stability’ DG Ecfin annual conference, October 7th 2005

Begg, Iain, Presentation on ‘Economic and social governance: is there a future’ TEPSA Austrian Presidency conference, Vienna, 2nd December 2005

Begg, Iain, Presentation on ‘Economic impacts of enlargement: myths, realities and surprises’ Europe Day conference organised by the Commission representation in Croatia and the IMO, Zagreb 9th May 2006

Begg, Iain, Presentation on ‘internal policies and the 2007 budget’ to the Budgets Committee of the European Parliament, June 28th 2006

Begg, Iain, Seminar on whether the Lisbon strategy is delivering, Chatham House, London 4th April 2006

Begg, Iain, Talk on ‘Responses to enlargement: economic perspectives’ British German conference, University of Birmingham, 9th December 2005
Begg, Iain, Talk on the future of economic policy in Europe, Dansk Industrie conference on the Future of Europe, Copenhagen, September 27th 2005

Bellamy, Richard, ‘Norberto Bobbio: Estado de Derecho y democracia’, Doxa: Cuadernos de filosofía del derecho 28 (2005), pp. 73-80


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