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THE INTERNATIONALIZATION OF PUBLIC POLICY AND MULTI-LEVEL  
GOVERNANCE: A COMPARISON OF FINANCIAL SERVICES SECTOR REFORM  
IN CANADA AND FRANCE

By

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A Thesis

Submitted to the School of Graduate Studies

in Partial Fulfilment of the Requirements

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## THE INTERNATIONALIZATION OF PUBLIC POLICY



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## ABSTRACT

By constructing a theory of multi-level governance, the thesis advances a framework to study the internationalization of public policy and that of the international economy. The theory is used to analyse the autonomy of states and national governments in a globalizing environment.

The thesis looks at the policy process in Canada and France in the financial services sector to determine the effects of multi-level governance on the way states take policy decisions. In Canada, the policy process for Bill C8, often incorrectly referred to as the merger legislation, was studied noting the changes that have occurred in the policymaking process since the last cycle of reform in the early 1990s. In France, the same type of analysis is provided for the newly adopted Financial Safety Bill, comparing the process for this legislation to that of the country's 1984 Bank Act. In both states, the discourse was adapted to include commitments and market opportunities provided through multi-level governance. The policy options studied took into account (though were not directed by) multi-level governance participation. The issue of competition was a dominant consideration in the policy process for both Canada and France. Lastly, the actors involved in the policy process have changed partly as a result of multi-level governance. Just as importantly, multi-level governance has strengthened the role of both public and non-governmental actors in policymaking. Contrary to those who see political globalization as restricting accessibility of policymaking processes, the strengthening of multi-level governance leads to greater openness of policy networks. Non-governmental actors, including private actors and consumer and civil society groups, are more prominent in these networks, but they do not exercise control, but rather engage further in broad-based policy consultation and negotiation. A striking feature of this thesis is the autonomy retained by states, even in Europe, in policymaking despite the internationalized nature of the finance industry.

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## **LIST OF ACRONYMS**

### **CANADA**

**CBA** - Canadian Bankers Association  
**CCRC** - Canadian Community Reinvestment Coalition  
**CDIC** - Canadian Deposit Insurance Corporation  
**CICA** - Canadian Institute of Chartered Accountants  
**CLHIA** - Canadian Life and Health Insurance Association  
**CAC** - Consumer Association of Canada  
**CPA** - Canadian Payments Association  
**CUCC** - Credit Union Central of Canada  
**FCAC** - Financial Consumer Agency of Canada  
**IBAC** - Insurance Brokers Association of Canada  
**IBC** - Insurance Bureau of Canada  
**IDA** - Investment Dealers Association  
**OSFI** - Office of the Superintendent of Financial Institutions

### **FRANCE**

**AFEI** - Association française des entreprises d'investissements  
**AFEC** - Association française des établissements de crédits  
**AFECEI** - Association française des établissements de crédits et des entreprises d'investissements  
**AFEP** - Association française des entreprises privés  
**AFGF** - Association française de la gestion financière  
**AFTI** - Association française des professionnels des titres  
**ASF** - Association française des sociétés financières  
**ANSA** - Association nationale des sociétés par actions  
**AMF** - Autorités des marchés financiers  
**BIM** - Banque d'investissements de marchés  
**CCIP** - Chambre de commerce et de l'industrie de Paris  
**CDGF** - Conseil de la discipline de la gestion financière  
**CMF** - Comité des marchés financiers  
**CB** - Commission bancaire  
**CBV** - Commission des bourses de valeurs  
**CCA** - Commission de contrôle des assurances  
**CEC** - Commission des établissements de crédits  
**CECEI** - Commission des établissements de crédits et des entreprises d'investissements  
**CCMIP** - Commission de contrôle des mutuelles et des institutions de prévoyance

**COB** - Commission des opérations de bourse  
**CDGF** - Conseil de la discipline de la gestion financière  
**CNA** - Conseil national des assurances  
**CNCC** - Compagnie nationale des commissaires aux comptes  
**CNCT** - Conseil national du crédit et du titre  
**CRB** - Commission de la réglementation bancaire  
**CSOEC** - Conseil supérieur de l'ordre des experts comptables  
**FBF** - Fédération bancaire française  
**FFSA** - Fédération française des sociétés d'assurance  
**MEDEF** - Mouvement des entreprises de France  
**MEF** - Ministère de l'économie et des finances  
**MINEFI** - Ministère de l'économie, des finances et de l'industrie

#### **INTERNATIONAL AND REGIONAL**

**BCBS** - Basel Committee on Banking Supervision  
**BIS** - Bank for International Settlements  
**CESR** - Committee of European Securities Regulators  
**FSAP** - Financial Services Action Plan  
**FSI** - Financial Stability Institute  
**GATS** - General Agreement on Trade in Services  
**IIF** - International Institute of Finance  
**IMF** - International Monetary Fund  
**IOSCO** - International Organization of Securities Commission  
**NAFTA** - North American Free Trade Agreement  
**OECD** - Organization for Economic Cooperation and Development  
**EU** - European Union  
**WTO** - World Trade Organization



## **Introduction**

### *1) The Internationalization of Public Policy and Multi-Level Governance*

In today's globalizing world, policy problems cut across and through national borders. This phenomenon can be termed the internationalization of public policy. Although in many ways environmental protection remains a very local concern, collective action at the national and international levels is also required to ensure sustainable worldwide development. Criminal activity has long stopped simply being a national issue, if it ever was one. International trade and finance have grown exponentially over recent decades. Even usually domestic policy fields like education or health care are said to be under the pressure of a neo-liberal global agenda. In fact, very few policy issues are strictly of a national nature any longer. Yet, there are few theories in political science that account for this reality and its political effects. The reason for this is simple. The theories across the discipline have tended to focus on the state, the activities of government, the interaction between states, and the interaction between governments and a host of private and civil society actors. The internationalization of public policy is forcing scholars in all fields of political science to move beyond the state to evaluate the political response to policy problems that stretch across borders. This is not to argue that the state is disappearing, but rather that the focus should be less on government than on governance. In this view, governance occurs through a wide array of arrangements from public and

private authorities, that cut across levels from the very local to the international. There have been few comprehensive efforts in studying the internationalization of public policy. Or more pointedly, few studies have looked at how governance arrangements take form and are structured to respond to problems that transcend borders.

This thesis lays the groundwork for a theory of multi-level governance. The construction of such a theory, I argue, provides a persuasive avenue for better understanding an interconnected world and the internationalization of public policy. As such, the research question that has driven this research is: *how does multi-level governance assist in understanding the internationalization of contemporary public policy?* The premise of this research is that as policy issues internationalize, they generate systems of multi-level governance, which in turn affect the manner in which these issues are addressed, and the arrangements and relationships between the authorities that address them. This research studies the impact of multi-level governance on domestic policymaking practices focussing on two states: Canada and France. More particularly, it looks at each state's most recent reforms of their financial services sector in light of the internationalization of the finance industry and compares them to earlier instances of policymaking. In Canada, the process that has led to Bill C8, the most recent effort in modernizing the Bank Act is compared to the dismantling of the four pillars policy that took place in the late 1980s. In France, the Financial Safety Bill, a restructuring of

regulatory authorities in the securities and insurance fields, is put under scrutiny, and compared to the process that led to the 1984 Bank Act. The reasons for the selection of these case studies are explained further in this chapter. Presented through this lens, the research question becomes: *how has multi-level governance affected the Canadian and French policy process in the financial services sector?* The study of these research questions allows one to make claims both about the internationalization of public policy and multi-level governance, and about the recent evolution of Canada and France's finance industry policy process.

The key finding from this study is that states retain autonomy of policymaking in the face of the internationalization of public policy. This result is particularly important in the study of financial services sector reform where it is often assumed that the creation of a global financial marketplace has hollowed out the capacity of the state to act coherently in this policy field. Scholars like Cox (1987) argue that finance ministries operate as transmission belts for the policies and the aims of a transnational elite structured around key international organizations like the International Monetary Fund (IMF). The reality based on this research is that the state level is able to structure policy debates and decisions independently of a neo-liberal global agenda or other levels of authority. Such an observation is consistent with the way multi-level governance is elaborated in this thesis. Multi-level governance distinguishes itself from the global

governance approach or a traditional international political economy approach by stressing the autonomy of each level of authority in the public and private spheres while levels remain interconnected through the policy issues that they address. A theory of multi-level governance is elaborated in Chapter Three.

The observations above are not an indication that multi-level governance does not affect the domestic policy process. In this thesis, I argue that multi-level governance systems, as institutional frameworks, have four main effects on domestic policymaking in the financial services sector in Canada and France. These affects are:

- 1) multi-level governance affects the discourse of a policy debate;
- 2) policy options are adjusted to take account of multi-level governance considerations, including the need in the financial services sector to render the domestic market more competitive and to render domestic firms better suited to compete internationally;
- 3) the composition of the actor constellation changes as a result of multi-level governance, with increased participation by non-governmental actors;
- 4) the policymaking capacity of both public and non-governmental actors are increased through multi-level governance because of the new governing requirements of an internationalizing polity.

First, the discourse behind policy decisions has changed to take into account the evolving international order. In Canada, the discourse both by public and non-governmental actors surrounding Bill C8 is fraught with references about globalization, the World Trade Organization (WTO), and the North American Free Trade Agreement (NAFTA). In France, policymaking is so embroiled with the European process that any new policy initiative is discussed in terms of France's relationships with the European Union (EU).

Second, policy options opened to decision-makers have expanded to include multi-level governance considerations. In both states, for instance, one of the key considerations of policymaking lied in strengthening the competitiveness of domestic firms and markets in the face of increasingly competitive regional blocs, like the NAFTA and the EU, and an international marketplace, evolving through the General Agreement on Trade in Services (GATS). In many ways, this is consistent with Cerny's discussion of the competition state (1997). As the discourse evolved to account for multi-level governance, so have policy options. The argument is not that states are constrained by multi-level governance, but rather that policymakers must account for a new policy environment. In some cases, multi-level governance could even account for new policy opportunities.

Multi-level governance also changes the players present in the actor constellation (those directly involved in decision-making). Non-governmental actors increasingly find their way into policymaking negotiations. Non-governmental actors include private sector actors such as business associations and private firms. They also include civil society actors such as consumer groups and anti-poverty organizations. Non-governmental actors play a more important role in policymaking but this does not take place to the detriment of public authorities. Negotiations about policy is not a zero-sum game. In that sense, policymaking capacity is free to expand for both governmental and non-governmental

actors as systems of multi-level governance become more institutionalized. In Canada, the recent rationalization of authority in the financial services sector helps to demonstrate the strengthening of the national government in this policy field. For the private sector, although banks have lost some of their powers of influence, the realm of market actors involved in the policy process has increased substantially over recent years. The participation of these new actors in policymaking has altered in important ways the policy agenda and policy options on the table for Bill C8. Of interest, consumer groups have also now forged their way into the actor constellation in the financial services sector. In France, through the liberalization efforts of the last twenty years, public authorities have managed to remain strong, in particular through the strengthening of the country's regulatory authorities. In regards to the role of private sector actors, there has been an important increase in consultation practices by the Ministry of the Economy, Finance and the Industry (MINEFI), though this has not necessarily led to the inclusion of consumer groups within the actor constellation. As well, the importance granted by the government in establishing a common French position between all actors of the finance industry for EU negotiations increases the weight of private, read business, actors in policymaking.

In other words, the structure of the policy process in both states studied has been altered by multi-level governance. Yet, despite the changes in the domestic approaches to policymaking, the state as a level of authority retains the capacity to act independently in

financial services sector decision-making. In Canada, this is demonstrated through the focus on domestic issues for Bill C8, while in France it is evidenced through the composition and interaction in the actor constellation where there is a desire to continually strengthen the 'Place de Paris'. As such, national institutions and practices can be said to shape a state's response to and involvement in the internationalization of public policy.

## *2) Research Contributions*

This thesis makes four distinct contributions to the fields of political science and international relations. First, it provides the basic elements of a theory of multi-level governance. This theory is built from existing knowledge in the discipline, especially from the fields of globalization, European and federalism studies. But it is also driven inductively from the case studies approach used in this thesis. Multi-level governance does not subsume other important theories in political science and international relations, rather it highlights inadequately considered relationships within these disciplines. It does so by studying how the national is affected by the regional and the international, and how states contribute to the international community. How can national policies be understood without taking into consideration the pressures exercised over them by international actors and events? And, how can the global sphere be understood without

studying the interplay between national actors? While this view of governance is hinted at in many political science theories, the argument of this thesis is significant in its contention that multiple semi-autonomous levels are having an effect on domestic policy.

Seen in this way, this thesis makes a second contribution, this time to public policy studies. Through this research, public policy scholars will be able to gain a better sense of how policy is made in an internationalized environment. The question is also to identify partly how policymaking practices have changed over recent years. Because finance is heavily internationalized, and because Canada and France are embroiled in highly different systems of multi-level governance, studying the recent attempts at Canadian and French financial services sector reform allows the researcher to enter debates about both globalization and public policy processes.

The third contribution of this research is to those interested in the regulation of financial services. This thesis provides the as yet untold story of Bill C8 in Canada and that of the Financial Safety Bill in France. The policymaking process that led to Bill C8 took almost five years and debates surrounding it were at the forefront of the Canadian political scene starting in 1996. Some of the most politicised questions addressed in the decision-making process regarded the possibility of banks merging, banks selling insurance and vehicle leasing in branches, the role of foreign financial services firms in



Canada, and increased access by insurance and mutual funds companies to the Canadian payment system. Some of these issues are still unresolved.

In France, the Financial Safety Bill was born out of the desire by the ex-Minister of Finance, Laurent Fabius, to merge the country's securities regulatory authorities. Over time, however, the bill became more encompassing to include a reform of insurance regulators and issues of corporate governance. The bill has been much more politicised in France than anticipated and illustrates the country's uneasiness towards financial markets. The French economy is undergoing a period of tremendous stress. Confidence in the CAC 40 (the French exchange), and in corporate France is low especially given such scandals as that of Vivendi, or even that of Enron in the United States. In that regard, the Financial Safety Bill is aptly named since its main purpose is to reassure investors and consumers alike.

Fourth, this research should also be of interest for those studying international financial trends. As to be discussed in Chapter Two, the international financial environment has changed tremendously since the end of the Bretton Woods Agreements. Bill C8 in Canada and the Financial Safety Bill in France represent elements of a national response to some of those changes. States remain the key players in the regulation of international finance. Viewing states' domestic intervention is thus important in highlighting national reaction to events on the international scene. Although Canada and

France are not 'major powers' in the financial services sector, they are both parts of continental regimes of governance and are both heavily involved in discussions regarding the regulation of international finance. In other words, Canada and France are not only subject to the reality of international finance, they also help shape the international financial environment.

This thesis should, thus, be of interest to a variety of scholars in many different fields of research. It should be worthwhile for those interested in the potential of a theory of multi-level governance. It should attract public policy scholars because of its focus on the Canadian and French policy process and how these processes may have changed in recent years. Last, it should equally be interesting for those that study the regulation of financial activity, both in domestic and international spheres. As such, this thesis spans the sub-fields of international political economy, public policy studies, comparative politics, and globalization studies.

The rest of the introduction presents the methodology of the research. It first highlights the case studies approach in the social sciences, as well as that of analytic narratives in political studies, those being the research tools used for this thesis. Second, the case studies from Canada and France are presented and the logic for their selection is elaborated. Last, the data collection process for this research is discussed.

### *3) Case Studies, Analytic Narratives, and Data Analysis*

The case studies approach is widely used across the different disciplines of the social sciences. It is recognized by almost all that well-conducted qualitative research can be as informative, and at times more so, than quantitative analysis. The case study approach is one of many ways by which to do qualitative research. This research method refers to the detailed analysis of individual cases explaining their dynamics and pathologies (Rothe 1993: 83). The fundamental assumption of case studies research is that it is possible to acquire knowledge of a phenomenon from intense exploration of the dynamic processes that constitute the phenomenon.

Bradshaw and Wallace note three reasons why researchers select a case study approach: 1) lack of knowledge or inappropriate theoretical orientation; 2) partial validity of a particular theory or theories; and, 3) unique and other special situations (1991). The case study approach has been selected for this research partly because of the under-development of multi-level governance theory. In the public policy literature, Heclo notes that in case studies, scholars can interrogate the purposes and consequences of policy actions (as taken from Hancock: 289). As such, through the case studies approach, it is possible to obtain a thorough description of the policy process, unobtainable through other means. As Scharpf points out, a caveat is, however, in order:

... in their reliance on narrative explanations, they [case studies] tend to overemphasize historically contingent sequences of events at the expense of

structural explanations; thus, though they help us to understand the past, they do not necessarily improve our ability to anticipate the future; and, more generally they do not contribute to the cumulative growth of systematic knowledge about political structures and processes and their effect on the substance of public policy (1997: 28).

The issue is one of generalizability. How does one make sure that the results obtained are not due to the particular characteristics of the case under study? Its only cure, as most acknowledge, is the careful selection of the case studies. Despite this warning, the case study approach remains a particularly interesting and provocative way by which to conduct thorough public policy research.

How is analysis of case studies conducted? In this research, studying the policy process is achieved through the use of analytic narratives. The purpose of analytic narratives are to draw in theory and data. The method comes from rational-choice institutionalists, such as Margaret Levi (1997), who recognize the importance of historical and social factors in delimiting people's choices. In that sense, an examination based on analytic narratives reflects the selection of the policy network approach and actor-centred institutionalism, to be discussed in Chapter Four, as part of this dissertation's theoretical framework. As Thelen notes, analytic narratives have been one attempt at diminishing the differences between the different schools of institutionalism (1999). The analytic narrative refers to the story that the researcher is presenting (in this case, the policy processes under study) with an examination of the actors' preferences, and interactions in

the story. Levi states: “An analytic narrative requires the researcher to identify clearly the key actors, their strategic considerations, and the relevant technological, social political, or economic constraints, and this specification depends on a detailed knowledge of the case” (1997). More to the point, analytic narratives are conducted in the following way:

Where possible, we make use of formal arguments. In particular, we analyze games, since we find them useful in order to create and evaluate explanations of particular outcomes. We identify agents; some are individuals, but others are collective actors, such as elites, nations, electorates, or legislatures. By reading documents, laboring through archives, interviewing, and surveying the secondary literature, we seek to understand the actors’ preferences, their perceptions, their evaluation of alternatives, the information they possess, the expectations they form, the strategies they adopt, and the constraint that limits their actions. We then seek to piece together the story that accounts for the outcome of interest: the breakdown of order, the maintenance of peace, the decision to fight or collude. We thus do not provide explanations by submitting cases under ‘covering laws’, in the sense of Hempel (1985). Rather we seek to account for outcomes by identifying and exploring the mechanisms that generate them. We seek to cut deeply into the specifics of a time and place, and to locate and trace the processes that generate the outcome of interest (Bates *et al.* 1998: 11-12).

In other words, analytic narratives permit mixing the knowledge that researchers have about the games that actors play in the policy-making process with a detailed account of what took place.

The reliability and validity of analytic narratives are to be judged by the following list of questions: do the assumptions fit the facts, as they are known? Do conclusions follow from premises? Do the implications of the findings find confirmation in the data? How well does the theory stand up by comparison with other explanations (Bates *et al.*

1999)? The end results that this research looks at are the policies that have been adopted. As such, I examine how these policies were created. In that sense the analysis is to be judged on whether or not the orientations and preferences of the actors were properly identified, and whether the mode of interaction within the constellation properly analyzed. Does the argument made indeed provide a useful explanation of the policy outcome? Have all data been taken into account? Are there other possible explanations as to why the policies were selected as such? Bates *et al.* add one more question to their list: how general is the explanation? Does it apply to other cases (1998)? The issue of generalizability, as pointed out earlier, is particularly challenging when using the case study approach.

In regard to this research, generalizability is important in that the contour of a theory of multi-level governance is elaborated. It is possible to generalize the results of this study in that the constraints of multi-level governance for Canada and France are not unique to those two states despite differences in regional integration processes across the NAFTA and the EU. The EU is composed of fifteen states, NAFTA of three and most states participate in the WTO. The increasing institutionalization of multi-level governance regimes in the financial services sector through the creation of multiple regional and international public and private organizations is felt on a worldwide basis. Although the strength and nature of the institutional linkages between national

governments and international institutions may differ, the constraints or opportunities faced by states are similar in nature. One of the strengths of this research is that it assesses how differing institutional structures in systems of multi-level governance systems impact upon domestic policymaking practices. The results of a research project on Canada and France can, thus, give some indication on how the policy process in other states may be affected by multi-level governance. The financial services sector is a prime policy field for this research since it is highly internationalized, and its regulatory and supervisory challenges are similar across the international system.

#### *4) Presenting the Case Studies*

This section first elaborates on the reasons for comparing across Canadian and French policymaking practices under the strengthening of multi-level governance systems in the financial services sector. As was just stated, the careful selection of case studies is essential to the validity of the research and its generalizability. The most important reason for comparing across these two states is that they are part of very distinct systems of multi-level governance. Although France is often considered a highly centralized state, it has gone through an important process of domestic decentralization granting more power to local governments over the course of the last twenty years. It is obviously a key player in the EU which has become a powerful political entity in the field of finance.

France is also heavily involved in international financial organizations. For its part, Canada is a federal state, operating in NAFTA, and also participating energetically in the international regimes governing the financial sector. More concretely, Canada is a decentralized federation with jurisdiction in the financial services field being split between federal and provincial authorities. NAFTA calls for the liberalization of the finance industry but it has no powerful governing structure. Having a state from the EU and one from NAFTA is important since these two regional agreements are at the centre of the most elaborate systems of multi-level governance existing in the world today. The fact that the EU is more institutionalized than the NAFTA is not a problem. In fact, this variance can come to be important in determining whether different institutional arrangements affect processes of domestic policy in dissimilar ways.

France and Canada are also a good comparison in that each has a strong banking sector. Although France is traditionally seen as a more credit-based economy, as compared to Canada which relies to a greater degree on capital markets, banks in both states can be considered important economic and political actors. Also, although neither of the two states is a major financial power, both have well developed and modern financial sectors heavily involved in financial globalization. There is an ample literature on the USA, the United Kingdom and Japan, but the literature regarding financial changes in medium-sized powers is less voluminous. Finally, like most states in the developed



world, Canada and France have modernized in important ways their financial services sector over the course of the last twenty years, with major reforms taking place throughout the 1980s, and impetus for reform to be found again in the last few years of the 1990s and at the beginning of the new millennium. Although the content of the reforms studied obviously differed, the timing and goal of the modernization efforts are comparable. It is important to note that the comparison proposed in this thesis is not of Canada and France's policy process *per se*. Rather, the comparison is on how the creation of multi-level governance systems has affected these states' policy processes.

With that in mind, here are the case studies that have been selected for this research.

Case Studies		
Canada	1987-92, The dismantling of Canada's four pillars policy	2001, Bill C8
France	1984, Bank Act	2003, Financial Safety Bill

Three comparisons are to be made in analysing these case studies. The first comparison is between the two Canadian examples. The first case study refers to a five year period of policy change in Canada in which the four pillars policy was dismantled. Canada's financial services sector used to be divided along sectoral lines: banking, securities markets, trusts and estates, and insurance. Responding to changes in the marketplace,

policy is adopted that blurs the line between these different pillars. During this period, Canada moves from what is called, in Chapter Three, a weak system of multi-level governance to a medium system of multi-level governance.

These early policy changes are to be compared to the policy process that led to Bill C8, *An Act to Establish the Financial Consumer Agency of Canada, and to Amend Certain Acts in Relation to Financial Institutions*, given royal assent in June 2001. Between 1992 and 2001, Canada's multi-level governance system evolved along with the internationalization of the policy sector. Domestically, the dismantling of the four pillars policy highlighted further the duplication and overlap present between levels of governments, especially as the federal government came to play a larger role across the whole spectrum of the finance industry whereas before it was mostly concerned with banking. Internationally, the re-regulation of finance in the 1990s created multiple governance arrangements at a supra-national level of authority. To compare these case studies, a most-similar approach is used noting the differences that the greater institutionalization of multi-level governance has brought forth in the Canadian policy process for financial services sector reform (Chapter Five and Six).

The second comparison regards both sets of French policies, the 1984 reform of the Bank Act, and the very recent Financial Safety Bill. Here as well a most-similar design can be used. This pre-post comparison shows the effect of multi-level governance

on France's policymaking practices (Chapter Six and Seven). Being subject to the EU's First Banking Directive, France, in 1984, was already involved in a medium system of multi-level governance. Today, France is part of a strong system of multi-level governance. As a result of the Single Market Programme, the Second Banking Directive, the Investment Services Directive, the creation of the Euro, and the Financial Services Action Plan (FSAP), almost no part of the French financial services sector is free of EU intervention. This is not to suggest that France's integration process within the EU, or its participation in international financial forum, has reached its peak. The multi-level governance system in which France is participating in the financial services sector can be strengthened. That being said, France's situation already presents the characteristics to be discussed for strong multi-level governance systems.

The third comparison involves studying the changes that have occurred in Canada in the policy process as a result of multi-level governance versus those that took place in France. Here also a most-similar approach is to be used so as to note the differences existing in distinct situations of multi-level governance (Conclusion).

#### *5) Collecting the Data*

A series of data collection methods have been used to conduct this research. A lot of the required data for the early case studies (Canada: the period of change 1987 to 1992,

France: the 1984 Bank Act), has been obtained through secondary sources. For both states, this period has been documented in books, journal articles, and even thesis work. This process has been complemented by archival work that sought to obtain the key policy documents of this period. Last, interviews with current members of Canada's and France's financial services sector community have referred to the changes that took place within this sector in the 1980s. Often, in these interviews, the discussion focussed on how the current-day process differed from the way policy was made twenty years ago.

The approach for obtaining data on the two later cases (Canada: Bill C8, France: the Financial Safety Bill) has been slightly different. That is, there are few, if any academic works yet on these reforms. In Canada, only three sources have been found that outline the changes brought forth by Bill C8. In France, with the Financial Safety Bill having just been debated, it has yet to be analysed in academic studies. For both cases, all policy documents have been considered. In Canada, these documents refer to the submissions and final report of the Task Force on the Future of the Canadian Financial Services Sector (commonly called the McKay Task Force), the House of Commons and Senate's Parliamentary hearings and reports on the work of the Task Force, the government's 1999 White Paper entitled *Reforming Canada's Financial Services Sector*, the Parliamentary hearings on Bill C38 (the precursor to Bill C8), the legislative summary for Bill C8, and the Parliamentary hearings on this legislation.

In France, the documentary reading list includes: the Viennot and Bouton reports on corporate governance, the *Projet de loi portant réformes des autorités financières* (the precursor to the Financial Safety Bill), the Financial Safety Bill, Ministerial statements on the actual Bill and its precursor, public statements from regulatory authorities, policy papers put forth by diverse business associations, and Parliamentary hearings and reports. A great deal of information was also gathered through newspapers, especially from *Le Monde* which can easily be accessed on the internet.

For both late case studies, I also carried out a number of interviews. In Canada, nineteen interviews were conducted in the fall of 2002 and spring of 2003 with representatives from the Department of Finance, regulatory authorities, representatives of the McKay Task Force, business associations, banks, and consumer groups<sup>1</sup>.

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<sup>1</sup>Interviews were conducted with members from the following organizations: Bank of Montreal, Canadian Bankers Association, Canadian Community Re-Investment Coalition, Canadian Imperial Bank of Commerce, Canadian Life and Health Insurance Association of Canada, Canadian Payments Association, Department of Finance, Insurance Bureau of Canada, Interac Association of Canada, Investment Dealers Association of Canada, Investment Funds Institute of Canada, Mouvement Desjardins, Office of the Superintendent of Financial Institutions, Royal Bank, Scotia Bank, and the Task Force on the Future of the Canadian Financial Services Sector.

In France, sixteen interviews were conducted all in December 2002 with the MINEFI, regulatory authorities, business associations, a bank and a financial services sector journalist<sup>2</sup>.

The interviews were divided in three distinct sections. The first part of the interview focussed on the policy process itself, the role of the interviewees' institutions within that process, the ability of the institutions to take part in the process, and its relationship with the other players in the process. The second part of the interview dealt with key policy issues. These differed based on the institution interviewed. Assessing the policy and the diverse options studied was important in determining how issues were, or were not, framed differently as a result of the internationalization of public policy. The third part of the interview focussed on the impact of multi-level governance issues on the policy process. As an example of a typical interview, the questionnaire used in interviews with representatives of the Canadian Department of Finance is presented in annex to this

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<sup>2</sup>Interviews were conducted with members from the following organizations: Association française des entreprises d'investissement, Association française de la gestion financière, Association française des professionnels des titres, Association nationale des sociétés par actions, Association of Specialized Finance Companies, Banking Commission, BNP Paribas, Commission of European Securities Regulators, Commission des opérations de bourses, Conseil des marchés financiers, Euronext Paris, European Commission, French Banking Federation, Le Monde, MINEFI, and the Paris Chamber of Commerce.

chapter. All of the information collected was put together so as to form the narrative of the policy process under study.

#### *6) The Thesis Outline*

The background of the research having been discussed, it is time to present the outline for the rest of the thesis. Chapter Two explains the particular reasons why financial markets are regulated. It then focusses on the evolution of the international financial environment. In this chapter, it is argued that following the process of de-regulation that took place through the 1970s and 1980s, international finance went through and is still undergoing a process of re-regulation that has led to the creation of multi-level governance systems in this policy field. The internationalization of finance has not diminished and in fact has exacerbated the need to regulate financial markets. In Chapter Three, a theory of multi-level governance is built using in part existing theories. The purpose of the chapter is to elaborate a model suited to studying policymaking in an internationalized environment. While Chapter Three provides an analysis of the macro circumstances in terms of the internationalization of public policy, Chapter Four addresses micro and meso levels issues. The chapter provides an analysis of the institutional approach to policy studies, and more precisely of actor-centred institutionalism (Scharpf 1997). The approach chosen in the chapter provides a way by

which to link multi-level governance to the study of domestic policymaking. Chapter Five offers a background to studying the Canadian financial services sector. It argues that Canada has moved from a weak system of multi-level governance to a medium system through the dismantling of the four pillars policy and the re-regulation of international finance. Chapter Six focusses specifically on our two Canadian case studies comparing the dismantling of the four pillars policy between 1987 and 1992 with the recently adopted and implemented Bill C8. Chapter Seven offers a background to studying the French financial services sector. It posits that France has moved from a weak system of multi-level governance to a strong one with the further elaboration of the European level of policymaking in the financial services sector. Chapter Eight elaborates on the French case studies. It compares the 1984 Bank Act to the process that has led to the Financial Safety Bill. The Conclusion compares the impact of multi-level governance on practices of Canadian and French policymaking in the financial services sector. It also offers avenues for further research.



*7) Annex*

*Sample Questions - Canadian Department of Finance*

- 1) From the McKay Commission to the many Parliamentary hearings, the process that led to Bill C8 was, by all account, very democratic. All those that sought to involve themselves in the policy discussions were allowed to do so. How did the Department of Finance see this elongated policy process?
- 2) During this five years period, what type of relationship existed between the House and Senate committees on finance and the Department? What type of relationship did you hold in particular with the Liberal caucus?
- 3) What type of relationship did you hold at this time with other governmental offices such as OSFI? What is the role of OSFI when a legislation like Bill C8 is in preparation?
- 4) How would you characterize your relationship with private sector actors, especially the banks and the insurance companies? How much clout do foreign financial firms hold in Canada?
- 5) How does your relationship with financial firms differ from your relationship with consumer groups? How influential were consumer groups in building Bill C8?
- 6) How involved are the Minister and the Deputy-Ministers when such a controversial legislation comes to the forefront of the political agenda? One of the most often heard argument regarding this legislation is that it was a way for the Minister of Finance to make for himself political capital on the back of the banks? How important was this 'personal element' leading to Bill C8?
- 7) This legislation dealt with a series of controversial and less controversial but nonetheless important issues such as: bank mergers, banks retailing insurance and leasing vehicles in branches, increase access to the CPA, and new ownership rules and structure. How do decisions come to be taken when all issues come to be so important and debated? How critical was the 1999 White Paper in the elaboration of Bill C8?

8) In the discussions leading to Bill C8, there were ample references made to 'globalization'. How important was the process of 'globalization' in shaping this legislation? How important were NAFTA and the GATS when putting together Bill C8? How about what takes place at Basle or IOSCO?

9) How important was the intergovernmental component when building Bill C8? What type of relationship did you hold with the provincial department of finances during the policy process? What were the issues at stake? Why does Canada not have a national cooperative bank?

10) From the outside looking in, it seems that Bill C8 has changed little in the day to day activities of the financial services sector. How would you at this point, and if at all possible, evaluate the impact of Bill C8?

11) How has the policy process in the financial services sector changed in Canada since the reform of the Bank Act in 1980?

## **Chapter Two - The Evolving Regulatory Environment in the Financial Services Sector**

This chapter first provides the reasoning behind the regulation of financial markets. In large part, the arguments presented apply to financial markets both at the domestic and international levels of policymaking. Second, the chapter paints a portrait of the evolving regulatory environment governing international finance. It is needed to highlight the larger context in which both states and financial actors shape and adjust domestic financial policies. The analysis that is offered describes the causes behind – and the emergence of – international regulatory regimes in the banking and securities sectors<sup>3</sup>. This section also provides a glimpse of regional governance arrangements, the EU and the NAFTA, in the financial services arena. The internationalization of financial markets has not eliminated the need to regulate financial services firms. In fact, it has had the opposite effect, the internationalization of financial markets creates an evermore substantial need for governance. In that sense, the re-regulation of international finance has spawned systems of multi-level governance that stretch from the very local, to the national, to the regional and to the international.

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<sup>3</sup>This chapter focusses on the international banking and securities regimes recognizing the importance of other areas of the finance industry such as insurance and accounting.

*1) Regulating the Financial Services Sector*

This section provides the generally accepted logic of policymaking in the financial services sector. It offers a necessary background to comprehending current attempts at reform and debates in the Canadian and French finance industry. Some of the key arguments about system, credit and market risks apply both to the domestic and international spheres of policymaking.

This study is interested in the regulation of financial firms, or more specifically in those firms that “...facilitate the transfer of savings from lender to borrower” (Courchene 1985: 68). As such, these enterprises play a specific role in society, that is to “...transform savings into investments and to allocate those funds among competing users” (Zysman 1983: 83). In other words, financial activity at its purest seeks an efficient allocation of available resources. Governments regulate financial markets so as to ensure that the finance industry fulfills that particular function in society while protecting the interest of depositors and investors. Generally speaking, there are three types of financial services firms: banks (which include commercial and savings banks, as well as credit unions and trusts), securities firms, and insurance companies. Financial services firms are the pillars of a market economy. As Zysman says: “... in market economies where freely moving prices allocate goods and services, money is not only a medium of exchange but also a means of political and social control: it is one way of deciding who gets what” (1983: 16).

Taking this into account, purposes for regulating financial services firms are many, vary across states and must strike a balance between the social and economic objectives of governments and the proper functioning of markets.

Broadly speaking, governments regulate the financial services sector in order to minimize one of three types of risks: systemic risk, credit risk, or market risk. Chant notes that “regulation deals with risk, but with a particular type of risk that is difficult to assess. It deals with the infrequent risk” (1997: 17). With globalization, the task of government in identifying risk is made even more difficult because of the complexity of regulating and supervising transnational firms and transactions. Systemic risks refer to the danger that the failure of one firm may be contagious, leading to a breakdown in confidence in the market, and to the failures of other firms. Credit risk refers to the inability of a firm to meet its obligations to investors and shareholders because of a lack of funds. Market risk speaks to the behaviour of market actors. In broad terms, governments seek to ensure that market failures, in all their forms, are minimized. To do that, they must determine the necessary extent of intervention.

The regulation of financial services firms has two target groups, financial institutions and their clients. The operations of the first must be checked both in regards to market behaviour (either criminal or overly risky) and services to clients. Clients are to be protected from being abused by their service providers, though institutional and

wealthy investors may not be granted the same type of protection as small investors because of the knowledge they are supposed to have of market operations.

There are a series of other goals to be listed for government intervention in the financial services sector. In Canada, purposes of state intervention usually involve those mentioned above plus promoting efficiency and growth within the industry and ensuring strong domestic competition. Another traditional goal of Canadian financial services regulations has been to prevent the excessive accumulation of power by one individual or firm over a particular sector of the industry. Just as important has been ensuring the domestic ownership of banks.

Regulation in France has many of the same goals as those mentioned for Canada. Traditionally, however, France has had a more 'dirigiste' state trying to dictate the allocation of credit. As well, both states have had to adjust their regulations to international standards. French policy, in particular, must conform to EU directives.

Another goal of financial regulation both in Canada and in France is the protection and promotion of their financial centres. Moran states that: "Regulating a major financial centre is for purposes of state prestige, thus like possessing nuclear weapons or controlling an industry at the leading edge of technology" (1991: 6). A strong financial centre is important in terms of the jobs, wealth, and knowledge it creates.

Governments intervene in the financial services sector through legislative and regulatory efforts. However, markets at times provide their own governance arrangement through self-regulation. In a report commissioned by the European Union, self-regulation is defined as:

L'autoréglementation peut se définir comme l'existence de normes élaborées directement par les entreprises sans que les pouvoirs publics soient impliqués d'une quelconque manière. Les entreprises élaborent de leurs propres initiatives des normes de conduites et les appliquent directement. Il s'agit donc d'une réglementation purement privée (Lex-Fori: 54).

Self-regulation, therefore, is elaborated and enforced through a firm or more likely by a professional association. Insiders argue that self-regulating regimes are best equipped to deal with technical issues found in their industry. However, a recent task force in the United Kingdom argues that self-regulation is not always desirable in situations where the fall-out from failure to comply with the rules can be damaging to society (Great Britain 2000). In that sense, Haufler argues that self-regulation is rarely the best regulatory option (2001). Last, there are also public-private arrangements for regulation. Those include voluntary accords, co-regulation or quasi-regulation arrangements.

Regulation and supervision of financial markets has not been rendered obsolete by globalization. To the contrary, the internationalization of markets highlights the need for strong domestic and international regulation and supervision in the financial services sector. The following section explores the international banking and securities regimes.

## *2) The International Financial Environment*

The international regulatory regimes in banking and securities have emerged as a result of both political and economic forces. The liberalization of financial markets, that is here dated as starting in the early 1970s with the abrogation of the Bretton Woods Agreements, has partly been the result of major changes taking place in the industry itself. In fact, Moran describes these transformations as a 'revolution' in the financial services sector (1991). The first component of the revolution was increased competition for firms as market entry became easier and price competition (in terms of the price of credit) intensified. Second, there have been rapid spurts of innovation in the industry, in parts involving the adaptation of new technologies creating new patterns of trading in the market. The third aspect of the revolution, according to Moran, was the changing nature of ownership in the industry leading to the emergence of a few dominant international firms. The last component of the revolution, in a way the result of the previous three components, was the increasing international integration of financial markets and the creation of a global system of trading dominated by a small number of competing financial centres (Moran, 1991: 10). Underhill reduces this description of changes on financial markets to three words: desegmentation (financial services firms are now involved in more than one sector of the industry), marketisation (a consequential increase in the size and importance of financial markets), and transnationalization (financial firms now conduct business in all regions of the globe) (1997: 1-13).



Markets alone, however, did not create the environment in which financial activity now takes place. Political, as well as economic forces, shape international finance.

Helleiner argues that there are three periods in the political history of international finance since the end of the Second World War (1995). The first took place during the application of the Bretton Woods Agreements in which there were tight controls on financial activity and most notably fixed exchange rates. The second phase of history according to Helleiner is that of the liberalization of financial markets, or more aptly the end of Bretton Woods, in the 1970s. This period is characterized by a political process carried out in large part by the United States who saw it to its advantage to have an open financial regime. The third part of the story, according to Helleiner, is the completion of the neoliberal framework in international finance in the 1980s. Helleiner describes the actions of states in international finance from the end of Bretton Woods on as follows:

First, they gave market actors much more freedom to operate than they would otherwise have had by liberalizing and removing barriers to the international movement of private financial capital. Second, through international lender-of-last-resort activities and international prudential regulation and supervision, states played a crucial role in containing and preventing international financial crises, crises which might otherwise have brought down the emerging global financial order. Third and most controversially, I argue that states might have tried to control capital movements more effectively than they did (1995: 319).

Cerny, for his part, posits that the 'financial services revolution' involved first a large process of deregulation, nationally and internationally, which came to be counteracted by a process of worldwide re-regulation (1993). This re-regulation, he later argues, has led

to “the crystallization of ‘third-level’ game structures [that] can ... be seen as constituting a web of relationships which impact the state both from above, and from below, as well as from within” (2000: 70). In short, what both authors make clear is that the changes in international finance are not the sole results of the evolution of markets, but also the results of a political process that seeks to manage international financial activity. This process of political structuration is the building of multi-level governance systems.

For the purpose of this work, I discuss two of the most important international regimes that have emerged to monitor and regulate transnational finance, the one in banking and the one in the securities sector. What is interesting is that the roles of these regimes have been as much one of containing crises as they have has been to monitor and prevent systemic failures. Before describing the banking and securities regimes, it is necessary to point out that legal authority in regards to financial regulation still rests with states and not with international organizations. It is up to states to implement within their territories agreed upon international agreements, and no organization in international finance has the direct authority to ensure a state or a firm’s compliance with international norms.

The international regime governing banking is structured around the Bank for International Settlements (BIS). The BIS was initially founded in the 1930s to help respond to the international financial crisis that struck during the interwar period. It was to be dismantled following the Second World War, yet it has survived to this day. The

membership of the BIS is of fifty five central banks. The main objective of the organization is to promote cooperation to secure monetary and financial stability. More concretely, the role of the BIS is to encourage discussion between central banks, to conduct research on the international financial sector, to performs banking functions such as transactions of gold, and to provide emergency financing to stabilize the international system when needed. The BIS is also the banker of some international organizations. The main task of the BIS, as it itself states, is to be the central bank for central banks (2003).

The BIS hosts the Basel Committee on Banking Supervision (BCBS) which seeks to formulate broad regulatory guidelines and standards to be implemented by states in the regulation of their financial system. The Committee has 13 member states represented by their central bank or their banking regulator. The Committee was formed in 1974 partly as a result of the collapse of the Herstatt and Franklin National Banks. A year later, the Basel Committee announced agreement on the first Basel Concordat, to be revised in 1983, 1990 and 1992. The Concordat established principles, as a matter of best practices, for how supervisory responsibility for banks' foreign branches, subsidiaries, and joint ventures was to be shared between host and parent regulatory authorities. By creating the Basel Committee, regulators gave themselves at a time of great volatility in financial markets, as a result of the collapse of the Bretton Woods monetary regime, a

forum where they could discuss and exchange information on regulatory and supervisory matters.

The international regime in banking was challenged in the 1980s with the debt crisis in the developing world. The BIS sought to ensure financial stability in the system (along with the IMF) supplementing American funds to Mexico with a bridging loan to that country. Similar arrangements were then made with other debt-ridden states. These loans served to overcome temporary liquidity problems in these countries. Helleiner also argues that following the 1987 stock market crash, the “global markets were stabilized primarily through concerted BIS central bank intervention in the markets” (1995: 333).

The BCBS’s biggest achievement is the Basel Capital Accord of 1988. In gross terms, the Accord is a risk measurement framework for banks ensuring that they retain enough capital to meet their financial obligations. The Accord calls for banks to observe a minimum standard ratio of capital to risk-weighted assets of 8%. Different categories of risk-weighted assets were elaborated ranging from claims on Organization for Economic Cooperation and Development (OECD) states being weighted at 0% while claims on the private sector were weighted at 100%. Kapstein states: “While the Basel Accord might appear to be no more than a supervisory guideline, it was in fact the cornerstone of a new regulatory order, one that aimed at restoring public confidence in a fragile international banking system by forcing banks that do not meet the international standard to recapitalize or shed their assets” (1992: 283). This initial Accord is under revision to be replaced by a

three pillars system imposing: 1) minimum capital requirements (refining the rules as laid out in 1988); 2) a supervisory review of an institution's internal assessment process and capital adequacy; and, 3) the effective use of disclosure to ensure market discipline (BCBS 2003). It is hoped that the new framework will be implemented by 2006-07.

Last, following the 1995 peso crisis, and the 1997 crisis in Asia, Latin America and Russia, the BIS in collaboration with the Basel Committee set up the Financial Stability Institute (FSI). The mandate of the FSI is to "improve and strengthen financial systems and institutions worldwide, primarily through assistance in implementing sound prudential supervision" (BIS 2003). In the late 1990s, the Basel Committee presented the Core Principles for Effective Banking Supervision to further encourage the exchange of information in supervisory practices. The actions of the BIS and that of the Basel Committee have been responsive more than preventive. As markets encountered difficulties, regulators came in to dampen repercussions.

The regime in securities is centred around the International Organization of Securities Commissions (IOSCO). The membership of IOSCO is generally composed of securities regulators from around the globe. The principal focus of this organization over the course of the last fifteen years has been to come to an international agreement on capital adequacy ratios, similar to the Basel Capital Accord. So far, no agreement has been reached due to contrasting views on the issue of 'position risk' between US regulators on the one hand, and representatives from the EU and the BCBS on the other.

For Coleman and Underhill: “The problem was that different regulators had different systems of measuring capital, and different interpretations as to what was ‘sound’ in a volatile and innovative market environment” (1998: 239). IOSCO, through its Technical Committee, focusses its work on five key issues: 1) multinational disclosure and accounting; 2) regulation of secondary markets; 3) regulation of market intermediaries; 4) enforcement and the exchange of information; and, 5) investment management (2003). IOSCO also has an Emerging Markets Committee which supervises and monitors events and occurrences on securities markets in industrializing states. Last, it is of note that the BIS, IOSCO and the International Association of Insurance Supervisors work collaboratively in diverse areas so that the banking, insurance, and securities regimes should not be seen as cordoned off from each other. This collaboration is reflective of the industry where large financial firms offer services in all areas of the financial services sector. It is clear is that the regime to monitor, to supervise and to regulate the international securities industry is not as elaborated yet as the one that is found in transnational banking.

Some organizations in finance span both the banking and securities regimes, highlighting the interconnectedness between sectors and how regulators see the health of these sectors as necessary for a properly functioning international financial order. For instance, there is the IMF, the World Bank, the G7 and the G20. There is also the WTO, which through the GATS, aims to ‘open up’ national financial markets. A principal

element of the GATS is to extend the use of the 'most favoured nation' principle from trades in goods to trades in services. In the case of the GATS, an annex dealing with financial services was added to the agreement excluding "services supplied in the exercise of governmental authority" as well as "prudential measures to protect investors, depositors, policy holders or persons to whom a fiduciary duty is owed by a financial service supplier, or to ensure the integrity and stability of the financial system" (WTO 1999). Because of this annex, the exact effects of the WTO agreement on national financial systems and on international finance are still unclear. Although governments have shown some desire to 'open up' trade in financial services, the exemption found in the annex suggests that states can still employ protectionist means to defend the interest of their financial services industry.

Alongside all of the efforts of states for regulating international finance lies a series of self-regulating industry associations and think tanks on finance. As such, it is possible to observe that political authority in finance is spread not only vertically but also horizontally. These associations, present in all sectors of the financial world, encourage international dialogue in their respective fields and most of them have standards and guidelines to regulate the activities of their members. All of these private bodies serve as industry lobbies to influence national and international policies. Some of the most important of these organizations include the International Accounting Standards Board, the International Swaps and Derivatives Association, the Institute of International Finance

(IIF), the Futures Industry Association, the International Securities Market Association, the International Federation of Stock Exchanges, the International Primary Markets Association, the Emerging Markets Traders Association, the International Hedge Fund Association, the International Chamber of Commerce, and finally the 'Group of Thirty'. The list made above does not pretend to be inclusive of all industry associations. As well, to show the extent of private authority internationally, it would be necessary to add to the list above all of the continental organizations that seek to influence regional and global financial policy.

The IIF has become particularly important representing major firms in the banking, securities and insurance fields. The organization was originally founded in response to the debt crisis, and indeed a large part of its mission remains in emerging market research as shown through its work in response to the financial breakdown of the 1990s. Its role has now expanded to include international financial regulations and policy issues. The IIF has played a key role in the Basel consultation process defending the view of some of the world's most important banks. The Institute has also focussed its efforts in electronic banking and finance, conglomerate supervision, public disclosure, risk measurement and management, as well as crisis resolution and prevention (2003). The IIF sees itself as the key interlocutor between large private firms and international public organizations.



The rise of multi-level governance in the financial services sector is also composed of regional initiatives. In Europe, where regional governance is more elaborated, the building of a continental financial services infrastructure dates back to the First Banking Directive of 1977. Through its home control structure, the First Banking Directive is still the cornerstone on which European integration in the financial services sector is built. Following that, the Single Market Programme established with the adoption of the Single European Act of 1986 sought to ensure the free movement of goods, services, and capital on the continent. In the financial services sector, twenty-four Directives were adopted by 1992 including the Second Banking Directive and the Investment Services Directive. The latest push for the creation of a single financial services market came following the creation of the Euro with the FSAP, which aims to create a unified financial marketplace across the continent. Even after the completion of the FSAP, there will remain differences in regulatory practices and legal procedures across Europe, however, it now seems impossible to consider one of the EU states' financial services sector without taking into account the increasing role and power of the EU in this field. Further discussion on the EU integration process in the financial services sector is provided in Chapter Seven.

In North America, the NAFTA also creates obligations for states at a regional level of governance. In large, it offers a framework to reduce barriers to trade in financial services across North America. A Financial Services Committee has been created as a

result of the Agreement and is supposed to oversee the liberalization of the finance industry across the continent. That being said, the exact power and impact of this Committee are debatable. Although the NAFTA is supposed to lead to the liberalization of the finance sector throughout North America, the movement towards market and regulatory integration is slow in coming. In both Canada and the United States, there remains important legislative and structural impediments to integration. The NAFTA is not as institutionalized as the EU, yet its existence does imply new policymaking considerations for member states. Further discussion of the NAFTA is provided in Chapter Five.

The contours of an evolving international financial order with a regime in banking and one in the securities sector has been drawn. This order is still in the process of being built and that construction will continue to respond to market changes as well as states' experiences with the current system in upcoming years. A look at the history of the BIS and IOSCO suggest that interstate regimes are strengthened following a breakdown in the international financial system. Porter states:

The first hypothesis [supported by the author in the research] is that private and interstate regimes are substitutes - that interstate regimes emerge when private regimes are absent or in decay. Private regimes would be likely to exist in oligopolistic industries. As a few powerful firms are weakened by increasing competitive pressures and other sources of loss of control over markets, states are likely to be able and willing to step in and construct interstate regimes" (1993: 8).

It is striking when studying international finance the different levels of authority that are

now responsible for regulating financial services firms. What is emerging in finance is not dissimilar to what is happening in many other policy fields – the rise of vertical and horizontal systems of subsidiarity (Reinicke 1998). In other words, more than one level of political authority, from the local, to the national, to the continental, to the international, to even the private play a part in regulating the activities of the financial sector. As finance internationalizes, and as finance as a policy field broadens, responsibility for its regulation is spreading through the creation of multi-level governance systems.

### *3) Conclusion*

In many ways, the internationalization of financial markets heightens systems, credit and market risks. The ability possessed by financial firms to transfer money around the globe in a matter of seconds raises important questions about how states can effectively regulate transnational financial activity. For Kapstein, the international financial regulatory environment has been built around the concept of home-country rule (1994). That is, home states are in charge of their country's financial firms. Home-country rule does not diminish, and in fact increases, the need for collaboration, coordination and information exchange between regulators. At the same time, it can be argued that the internationalization of financial markets has changed the role of states. Coleman and Porter state: "The task of the state has changed from protecting domestic

financial services firms to facilitating adjustments of the domestic sector to a new neo-liberal globalizing ideological consensus about world finance” (1996: 55). That being said, it is important to note that international finance is not unregulated. This chapter clearly highlights the efforts made in building an international regulatory framework in banking and the securities fields. Organizations like the BIS, the BCBS and IOSCO represent key attempts at interstate collaboration. Just how autonomous these organizations are *vis-à-vis* their members, and in that sense the extent to which they represent a powerful and independent level of governance, is in some ways an open question. States are both architect of and subject to the international regulatory environment in finance. States are still the core of the regulatory order for the global financial system.

Having discussed the reasons for regulating financial markets and the recent evolution of the international financial environment, it is time, in the next chapter, to define further what is meant when using the concept of multi-level governance.

### **Chapter Three - Constructing The Foundation of a Theory of Multi-Level Governance**

The problem at the core of this chapter, and indeed this thesis, is how to conceptualize policymaking in those situations where autonomous bases of authority have come to exist apart from the state. The answer is provided through the construction of a multi-level governance theory. Multi-level governance can be conceptualized as *two or more levels of authority arranged vertically through formal or informal agreements, of public or private sources or both, established in a policy field so as to regulate activity in that field*. In this chapter, current theories in political science and international relations are studied so as to better structure the arguments about the rise of multi-level governance systems. The literature studied covers aspects of globalization studies, regime theory, Putnam's two-level game theory, liberal intergovernmentalism, functionalism and federalism. These have been selected because they help shape the concept and theory of multi-level governance that I have developed. More to the point, the strengths and weaknesses of these literatures in the context of the internationalization of public policy are illustrated. Generally, current theoretical approaches, while useful, suffer from three broad weaknesses: 1) an incapacity to accommodate constant interactions between two or three levels of authority, and in that context to rethink the concept of sovereignty; 2) a narrow definition of governance that improperly accounts for the role of private and civil society actors in governance arrangements; and, 3) a blurred and incomplete vision of an

interdependent international environment. A theory of multi-level governance, as elaborated here, draws attention to the constant interplay between the different levels of authority, looking to analyse the effects of such interactions on each of the players involved. It also offers a problem-solving conception of governance, as originating from public and private sources, or both, and that takes into account both formal modes of governance and also norms and values as variables shaping institutional behaviour. Last, multi-level governance offers a vision of shared sovereignty between local, national, regional, and international levels of authority as the basis for the new international order.

In the second part of the chapter, the literature on multi-level governance is reviewed. The chapter concludes with a thorough discussion of the multi-level governance concept.

### *1) Drawing on Current Theoretical Approaches*

#### *- Globalization Studies*

This research seeks to re-conceptualize policymaking in an internationalized policy environment. As such, it draws from the globalization studies literature, and its international political economy variant that appeared starting in the early 1990s. This literature has re-oriented the old debate about the nature of the state and its interaction with market forces. For David Held *et al.*, there are three schools of thought concerning globalization and the future of the nation-state (1999). There are the sceptics (or the

conservatives), the hyper-globalists (both of the liberal or critical varieties), and the transformationalists. The sceptics either deny globalization or do not see it as a major transformation in world affairs. In this stream, there are scholars like Linda Weiss for whom globalization is not as threatening to the state as often portrayed (1998). For the hyper-globalists, globalization is un-mistakenly taking place, redefining the role of the public and the private. Some of the early authors in this school celebrated effervescently the benefits of globalization and the liberating role of market forces (Fukuyama 1991; McKenzie and Lee 1991; Ohmae 1991). The diminishing role of governments and the deregulation that they speak of has been counteracted in many ways through re-regulation and an increased institutionalization of multi-level governance systems. There are also critical scholars in the hyper-globalization school who decry the abuse of globalization. Susan Strange can be classified in this school with her aptly named books *Casino Capitalism* (1986), *States Against Markets* (1996), and *Mad Money* (1998).

This thesis builds on the effort of transformationalists which see the emergence of a new type of polity. For these scholars, led by Rosenau, the world has moved to a post-international order (1990). Rosenau states:

That is, with the globe becoming smaller and more interdependent, with causal flows cascading among and within collectivities in crazy-quilt patterns new to world politics, and with Western perspectives no longer predominant, we can break free by conceiving of humanity, not as a collection of countries or relations among states, but a congeries of authority relationships, some of which are coterminous with countries and states and others of which are either located within or extend beyond state boundaries (1990: 39).

According to Rosenau, the traditional relationship of authority between the state and its citizen has been damaged leading to processes of complicated relationships between the sub-national, the national, and the international. To analyze this new environment, one must look at the changes that have occurred in the daily life of individuals, in the macro-structures of governance and in the relationships between the two. These three levels of analysis are under stress. Individuals are now much more important in shaping world politics since they are more educated and aware of events around the globe. They are more ready to challenge authority. The macro-structure is changing away from the state to a multiplicity of actors that include NGOs, multinationals, international organizations and the state. Relationships of authority between the two are changing as new issues appear on the world scene, and as transnational relations are made easier by new technologies. Later, Rosenau would label these processes 'fraggementation' (1998).

For scholars within this school, the issue is not about the disappearance of the state. Rather, it is about its new role in a world of diffused power. Clarkson, for instance, argues that the state has become the 'ham' in the 'sandwich' of globalization (2001). The state is the conductor between the international and global, and the local. In Cerny's word, globalization can be described in the following way:

Globalization as a political phenomenon basically means that the shaping of the playing fields of politics is increasingly determined not within insulated units, i.e. relatively autonomous and hierarchically organized structures called states; rather it derives from a complex congeries of multilevel games played on multilayered institutional playing fields, above and across, as well as within, state boundaries.



These games are played out by state actors, as well as market actors and cultural actors. Thus globalization is a process of political structuration (1997: 253).

Such a view of international politics differs drastically from the traditional study of states and interstate negotiations as found in realist scholarship.

Although the transformationalist school recognizes the nature of the evolving international environment, their analysis lacks depth when supranational policymaking becomes institutionalized, routinized, and fixed in law, practices and norms. In other words, what type of order can be said to exist in this new global environment? It is one thing to describe the new international order, it is quite another to determine its impact. Multi-level governance draws on this literature for its focus on layers of authority and transnational networks, yet, it seeks to formalize the relationships that bind the system together.

#### *- Regime Theory*

Realism and structural realism are said to remain the dominant theories of international relations. However, because of their sole focus on states and power, they offer little in the construction of a multi-level governance theory. Because of the inflexibility of realism, other theories have emerged to account for the increase in cooperation to be found at the international level. Regime theory, among others, has sought to explain international cooperation. From regime theory, multi-level governance

draws parts of the knowledge required to theorize the world described by transformationalists.

Regime theory emerged in the 1970s seeking to explain the (re)-emergence of formalized, regular interaction between states. The now generally accepted definition of a regime is provided by Krasner: “International regimes are defined as principles, norms, rules and decision-making procedures around which actors’ expectations converge in a given issue-area” (Krasner 1983: 1). Although critiques lament what they perceive to be a lack of definitional clarity, regime theory has been used for over thirty years now to study a variety of cooperation arrangements from international trade, to finance, to the environment, to human rights, and so on.

Regime theory is divided between three schools of thoughts: neo-realism, liberal, and constructivist (Hansclever, Mayer and Rittberger 1997). Neo-realists see regimes as the result of underlying power struggles within states. For them, the institutions created by regimes are weak and malleable to states’ needs and interest. For liberals, regimes are the result of states collaborating towards achieving a public good to be provided by the regime and otherwise unobtainable. The shared interest of participants leads them to create strong international institutions. Constructivists, for their part, are interested in the norms, principles, and intersubjective understanding that underlie a regime. They focus on the constitutive norms of the regime and the evolution of those norms as players interact over time.

Regime theory has many strengths for the study of multi-level governance. First, regime theory is issue-focussed. As Keohane states:

As our examples of money and oil suggest, we regard the scope of international regimes as corresponding, in general, to the boundaries of issue-areas, since governments establish regimes to deal with problems that they regard as so closely linked that they should be dealt with together (1984: 61).

Multi-level governance arrangements, just like regimes, vary from policy fields to policy fields. Second, regimes are not solely constituted of states. International organizations, multinational corporations, and NGOs can all be important players in a regime. Last, regime theory is flexible so that it can describe many different types of cooperative arrangements. For instance, the international trade regime is strong and well-established, yet the regime against money laundering and terrorist financing is much weaker in nature.

Although it is possible for multi-level governance theory to build on regime theory, the root and purpose of each remain different. The regime literature tends to focus on the rise, maintenance and fall of regimes. The policies produced by regimes and their impacts are usually ignored. Regime theorists tend to minimize the effect of domestic politics on international negotiations and policymaking, and the other way around, the effects of international policies on domestic policies and actors tend to be under-studied. As such, regime theory does not offer insights into the complexity and nature of the relationships between different levels of authority whether from the public or private sector. Such a weakness renders it difficult to use the theory to explain regular patterns of

interactions and policymaking at different levels of authority, in many respects the purpose of a multi-level governance theoretical framework.

*- Two-Level Games and Liberal Intergovernmentalism*

Game theory produced the concept of two level games in international relations, one of the most sophisticated attempts at explaining the interaction between the domestic and international spheres of analysis. In 1988, Putnam elaborated the two-level game model in which governmental actors negotiate, simultaneously, with, on the one hand, their state counterparts, and on the other, domestic interest groups. When interests finally match nationally and internationally, that is when potential agreements fall on the domestic win-sets of the key players, an international agreement becomes possible. International negotiations, thus, become very difficult since governments must match domestic interests with international reality. Although such a theory can help explain the success or failure of international negotiations, it does little to explain established internationalized policymaking because it fails to account for autonomous supranational sites of authority.

Under the name of liberal intergovernmentalism, Moravcsik has extended and used the two-level game model to explain the process of European integration (1993). According to this view, treaty negotiations become focussing events in Europe driving further integration. In other words, European integration is the result of interstate

negotiation where states' positions are elaborated domestically in negotiations with pressure groups. Seen in this way, the two-level game places the state at the centre of an internationalized policy environment and reduces the role of interest groups and transnational networks in treaty negotiation and international policymaking. Risse-Kappen softens this view by arguing that transnational networks now play an important role in European politics (1996). His view, however, only seem to reinforce the difficulty of achieving regional agreements. The liberal intergovernmentalist approach to European integration tends to see the process through spurts from the Treaty of Rome, to the Single European Act, to the Maastricht Treaty. The theory does build in a role for supranational institutions, but it fails to take account of their authority. Two-level games and liberal intergovernmentalism address the balance between the practice of nation-state sovereignty on the one side and the pooling of sovereignty on the other. They do so by arguing that states remain in large parts sovereign, drivers of integration, minimizing the authority and powers of international organizations and institutions.

The two-level game model represents one of the rare attempts in international relations to conceptualize the relationships between different levels of political authority. In that respect, it has been used extensively to discuss international organizations. Lee Ann Peterson, for instance, extends the analysis to a three-level game in explaining the Uruguay Round negotiation in agriculture focussing on the elaboration through domestic negotiations of key European states' positions, negotiation at the European level, and

WTO negotiations. She concludes that: "... the power and heterogeneity of interest groups at various levels of the game matter, that the real and perceived costs of no agreement affect the degree of substantive reform, and, finally, that a three-level interactive strategy is important in achieving an acceptable agreement at each level of the game" (1997: 135).

As stated earlier, two-level games and liberal intergovernmentalism are helpful in understanding the dynamics of interaction during international negotiations. These theories, however, fail in their inability to accommodate the role and authority of supranational organizations. Two-level games and liberal intergovernmentalism do not address the nature of the relationship between states and autonomous international organizations, as well as the policymaking capacity of these organizations. It also does not address the evolving relationships between states (away from the intermittent treaty negotiations) and between EU institutions and member states. These weaknesses are tackled more thoroughly in the concept of multi-level governance that I develop.

#### *- Neo-Functionalism*

Neo-functionalism is at times seen as the theoretical forefather of the concept of multi-level governance (Jordan 2001). Liberal intergovernmentalism was built in opposition to neo-functionalism's explanation of European integration. The dichotomy, however, is not as sharp since both theories seek to address overlapping forms of political

authority. Whereas intergovernmentalism focusses on treaty negotiations between states as the source of integration, neo-functionalism pays more attention to the role of the newly created institutions in generating further integration.

The theory of functionalism, as first developed by David Mitrany, appeared at the time of the Second World War and assumes that governance can take place outside of traditional national government structures through international organizations. These technocratic institutions would be the result of increased cooperation between non-state actors across national borders. As Groom notes: “The implication of the functionalist mode is to see a multiplicity of forms and levels of organization each reflecting a system of transactions which may or may not produce institutions at the world level” (1975: 94). How the complex governance structure proposed by functionalism was to emerge was made clearer through its derivative theory of neo-functionalism, used to explain European integration. That theory added two features to the pre-existing approach: 1) a clarification of the process of integration with the creation of the spill-over effect, and 2) the proposed creation of a supra-national body to oversee the integration process. The spill-over effect refers to the idea that integration in one technical domain is to facilitate integration in another domain. The creation of a supra-national body came to be seen as necessary to govern the web of institutions that were to emerge from the functionalist approach. The graphic representation of neo-functionalism would not be that different than the one presented later in this chapter for multi-level governance.

The theory of multi-level governance I have developed draws on neo-functionalism in at least three ways. First, it sees emerging vertical and horizontal layers of governance covering a wide-range of policy issues. Second, it recognizes the critical role of 'independent' governance arrangements. Last, governance is seen as technocratic, or more pointedly as problem-driven. As policy issues cut and transcend borders, they become more and more complicated so that experts now seem to play an ever-increasing role in governance. The main difference between neo-functionalism and multi-level governance is that while the former seeks to explain the process of integration, the latter focuses on the result of integration. In other words, the concept of multi-level governance addresses how governance is arranged in systems where power is diffused between different levels of authority, and the impact of such arrangements.

*- Federalism*

Finally, multi-level governance as I have elaborated it also draws from federalism studies. It has been argued that the logical output of a neofunctionalist environment in Europe is that of a federal state. Michael Burgess already posits that the EU is built on the philosophies that underpin federalism (2000). In many ways, this view is comprehensible since federalism studies represent an established method of addressing complex overlapping forms of political authority. In fact, for some like Howlett (1999) and Painter (2002), references to multi-level governance represent little more than the



extension of federalism research. Federalism can be defined in the following way:

... a political system in which most or all of the structural elements of the state (executive, legislative, bureaucratic, judiciary, army, police, and machinery for levying taxation) are duplicated at two levels, with both sets of structures exercising effective control over the same territory and population. Furthermore, neither set of structures (or level of government) should be able to abolish the other's jurisdiction over this territory or population. As a corollary of this, relations between the two levels of government will tend to be characterized by bargaining, since neither level can fully impose its will on the other (Stevenson 1989: 8).

There are many strengths in federalism on which a multi-level governance theory can in parts be built. First, traditional theories of federalism may help in explaining the rise of multi-level governance systems. Second, federalism studies' focus on the jurisdictional division of powers between central and regional governments should be a key element of analysis in future multi-level governance analysis. Models like those of cooperative, executive, and collaborative federalism, as elaborated for the Canadian federal state, are useful in discussing institutionalized systems of multi-level governance. Third, a great deal of time has been spent by federalist scholars studying intergovernmental processes of policymaking. Such knowledge cannot be ignored in studying systems of multi-level governance, and in fact, is often applied in the context of the EU. For instance, Scharpf's joint-decision trap (1988), originally designed to address problems within German federalism, has been extended to the EU context (Scharpf 1994).

Yet, federalism studies also only provide an incomplete analysis of the internationalization of public policy. Federalism is built around the notion of the

sovereign nation-state. Within that state, constitutional authority is divided between levels of government. However, it is unclear how federalism can accommodate the development of levels of governance where there is no clear delineation of powers, and where sovereignty is pooled but fluid and unpredictable in the absence of strong rules, practices or norms. Federalist scholars, in fact, usually do not address this problem because they assume sovereignty to be a given and worry about how best to allocate it. On a more general level, it is unclear how federalism studies can be accommodated to include the role of a third level of governance, whether that level be the local (municipal), the regional or the international. Also, and although this is changing, the role of non-governmental actors in intergovernmental policymaking is still under-studied within the field. In short, federalism theories on their own can only provide an incomplete analysis of the internationalization of public policy.

## *2) The Literature on Multi-Level Governance*

Having provided this broad literature overview, it is time to address the development in scholarship of the multi-level governance concept itself. Until now, the literature on multi-level governance has usually been used within the framework of the EU. The European case represents the most elaborated form of regional integration with a distinct supra-national administration, powerful states, and ever-important regions. For Schmitter, the debates about the EU have always focussed around two distinct

perspectives:

- 1) The EC\EU will remain an intergovernmental organization limited to the collective pursuit of those tasks which protect and enhance the sovereign autonomy of its member states.
- 2) The EC\EU will become a supranational state and inherit all those tasks currently performed by its member states, which will have transferred their sovereignty to this new set of authoritative institutions (1996: 2).

The multi-level governance literature places itself in the middle of these two perspectives.

Although it has been constructed by many scholars as an alternate explanation to state-centric analysis of EU integration (Marks, Hooghe and Blank 1996; Jachtenfuchs 2001), it recognizes the central role of the Council of Ministers and therefore of states in European policymaking (Scharpf 1994; 2001). As well, recent work by Hooghe and Marks suggests that multi-level governance is but a step towards the construction of a European federal state (2001). Where there is strong agreement within this literature is that the EU is not a traditional international organization. More to the point:

It is as if Europe - having been previously invited by its nation-states to sit down to a light snack of regional cooperation and by its supranational civil servants to a copious *prix fixe* dinner of centralized governance - suddenly found itself before a *repas à la carte* prepared by several cooks and tempting the invitees, with diverse, but unequally appealing, arrangements for managing their common affairs! (Schmitter 1996: 130).

In many ways, integration in Europe is said to be uncoordinated and to vary along issue areas and states involved.

Based on the above analysis, multi-level governance has become one of the standard views by which to describe the EU in the 1990s. The rise of the concept of

multi-level governance came in reaction to the diverse impacts of the Maastricht Treaty. For Schmitter, the Maastricht Treaty represents a point of no return for member states creating avenues for collaboration, coordination and integration not thought possible in decades past (1996). Yet as Schmitter adds, while the departure point is known, Europe's destination is far from clear. For Hooghe and Marks, the construction of the EU is piecemeal which helps explain the European evolution towards a system of multi-level governance (2001). For them, we are witnessing the creation of a European polity where public and private actors interact from local and regional sources of governance, to the state level, to EU institutions. It is this interactive process that is referred to when referring about multi-level governance.

It is, however, too early to speak of an existing theory of multi-level governance. Mostly, the concept has been used descriptively since the EU is dissimilar to almost all other governance arrangements. In that sense, the literature on the EU has now moved away from discussing the evolution of integration to studying the operations of European institutions. A great deal of time is spent in the EU literature discussing how policy is made at the European level. As mentioned earlier, Fritz Scharpf has done this particularly well adapting his joint decision-trap as elaborated for Germany (1988) to the European situation (1994). More recently, he has focussed on the different games and interactions between the various actors involved in European level decision-making (2002). Another trend in the literature looks at the impact of the European polity on national policies. For

instance, Suzanne Lütz does this for Germany in the financial services sector demonstrating that regionalization and internationalization have led to the centralization of power in this field in the German federation (1998). Others like Cole and Drake (2000), Schmidt (1996), and Ladrech (1994) have looked at how the EU has influenced the French polity. In that sense, the realignment of jurisdictional powers is an important topic for EU scholars.

Another interesting evolution in the multi-level governance literature is the fact that governmental bodies themselves have started to use the concept. The Commission of the EU in its White Paper on European Governance, published in 2001, had a Working Group on multi-level governance. In its report to the Commission, the Working Group focused especially on the relationship between the regions and the EU central organs (2001). The report uses a case studies approach to conduct this analysis. In its report entitled *Managing Across Levels of Governments*, the OECD also studies the rise of systems of multi-level governance (1997). The report focuses on the redefined relationship between central and local governments across both federal and unitary states from an administrative point of view. The report is interesting because it demonstrates the trend in OECD states toward decentralization, unequivocally displaying the important role of local authorities in key areas of policymaking.

What is evident looking at the literature on the EU is that the European level has become an independent level of governance with clear powers of policymaking and acting

in ways not always desired by the member states. In other words, the EU has a life of its own and is not only subject to, but helps shape the changing nature of Europe.

There is only a scant literature that uses the concept of multi-level governance outside of the EU environment. Coleman and Perl, identifying different international policy environments, provide a more generalizable view of multi-level governance (1999). They distinguish multi-level governance from other international governance arrangements such as intergovernmental negotiations, private regimes, and 'loose couplings'. Coleman and Perl state: "... multi-level governance is an arrangement where there is significant institutional development at both national and supranational levels, and where politicians, bureaucrats, and civil society actors engage in a multitude of cooperative working arrangements that cross levels" (1999: 701). Of particular importance is that multi-level governance becomes a space for international policymaking within this model.

Hooghe and Marks have also attempted to present a more comprehensive overview of multi-level governance than one simply addressing issues within Europe. These authors argue that there are two different types of multi-level governance arrangements:

The first conceives of dispersion of authority to a limited number of non-overlapping jurisdictions at a limited number of levels. Jurisdictions in this system of governance tend to bundle authority in quite large packages; they are usually non-overlapping; and they are relatively stable... A second distinctive vision of governance pictures a complex, fluid, patchwork of innumerable,

overlapping jurisdictions. These jurisdictions are likely to have extremely fungible competencies, which can be spliced apart into functionally specific jurisdictions; they are often overlapping; and they tend to be lean and flexible - they come and go as demands for governance change (2001).

Theoretically, the authors seek to find out which of the two models should be most efficient. That being said, few research projects about multi-level governance have been conducted outside of Europe.

### *3) Conceptualizing and Operationalizing Multi-Level Governance*

This section provides a definition of multi-level governance and discusses the characteristics of these systems based on their level of institutionalization. In the literature on multi-level governance, four definitions of the concept (including the one provided by Coleman and Perl and found on the previous page) have been located. For Michael Howlett, the concept of multi-level governance applies to:

... processes of policy-making in which central and other governments are mutually dependent, in which co-ordination between levels or orders of governments is necessary and in which policy is typically achieved through processes of negotiations and cooperation because there is no clear hierarchical order between levels (1999: 525).

The role of supranational institutions is unclear in this definition. As well, the definition refers to a process between governments which minimizes the role of private and civil society actors in governance regimes. Peters and Pierre define multi-level governance as: “... negotiated, non-hierarchical exchanges between institutions at the transnational,

national, regional and local levels” (2001: 131). They then add that multi-level governance refers to a vertical ‘layering’ of governance processes at these different levels (2001: 132). The weakness of this definition is that it seems to apply mostly to the EU where there is constant negotiations through the Council of Ministers, the Commission, and even the Parliament to a certain extent, between states, and between EU institutions and states, to further determine the course of the integration process. As well, it is confusing to think of multi-level governance as non-hierarchical when it is vertical by nature. The fourth and last definition of multi-level governance found in the literature comes from Risse-Kappen, and is here quoted from an article by Coleman and Montpetit: “Multi-level governance refers to situations where private, governmental, transnational and supranational actors deal with each other in highly complex networks of varying density, as well as horizontal and vertical depth” (2000: 173). This is the best definition seen and very similar to the one proposed for this research. Multi-level governance is here defined as *two or more levels of authority arranged vertically through formal or informal agreements, of public or private sources or both, established in a policy field so as to regulate activity in that field*. This definition is preferable in that it offers a more explicit treatment of the different components of the multi-level governance concept.

First, there is the issue of verticality. Multi-level refers to a juxtaposition of authorities that can range from the local, to the national, to the regional, to the international with all levels possessing jurisdictional powers in a policy field, though



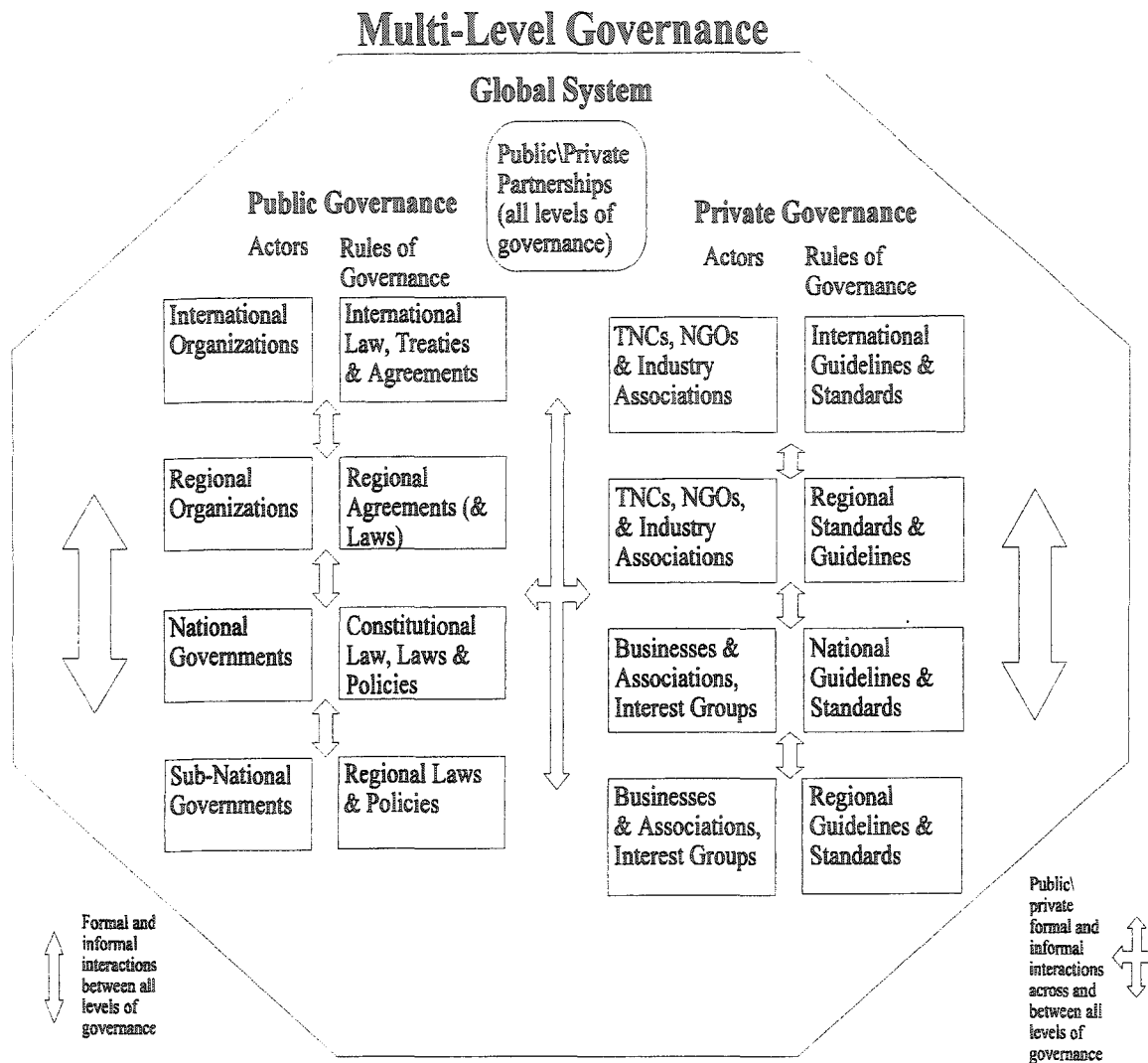
these powers can be of a varying degree. As the definition points out, the only requirement for the existence of a multi-level governance system is that there be, at least, two distinct levels of authority with some form of jurisdiction in the same policy field. In that sense, a federation can be considered a minimal form of multi-level governance. In this way, territory is an important component of multi-level governance systems.

Second, there is the issue of governance. It is important to distinguish between government and governance. The first refers to the state and its elected representatives, the latter is:

... the sum of the many ways individuals and institutions, public and private, manage their common affairs, ... a continuing process through which conflicting or diverse interests may be accommodated and co-operative action may be taken. It includes formal institutions and regimes empowered to enforce compliance, as well as informal arrangements that people and institutions either have agreed to or perceive to be in their interests (Commission on Global Governance: 1995).

First, governance implies compliance. Second, governance activities can be carried out by private regimes, and not only by public actors. Also, governance is not only about formal arrangements, such as laws and policies on the public side, or codes, standards and contracts on the private side. Informal arrangements, as driven by norms and values, must equally be considered in systems of multi-level governance. In other words, multi-level governance is functions-based in that it differs from policy field to policy field.

The figure on the following page further clarifies the definition of multi-level governance. First, multi-level governance does not require that all four levels of authority



in the figure be participating for it to exist. As was stated, situations in which two or three levels of governance exist also represent situations of multi-level governance. Second, any level of governance can be interacting with any of the other levels without going through the ones immediately above or below it. As well, the relationships between the levels and the actors are not pre-supposed by the model. These relationships could be

‘nested’ in that they would involve two or three level games or they could be ‘stacked’ in that they would involve full negotiations by all actors involved in the policy area. The relationship between public and private actors could be anywhere on the continuum between pluralism to corporatism. Using this model, it is striking to note that every state in the international system is embroiled in some form of multi-level governance system.

Multi-level governance arrangements can be measured according to their level of institutionalization. The table below summarize the differences between weak, medium, and strong levels of institutionalization.

**Operationalization: Multi-Level Governance**

	<b>Levels of Governance</b>	<b>Division of Policymaking Powers</b>	<b>Role of Non-Governmental Actors</b>
Weak	- 2 Levels of Authority	- No Duplication or Overlap	- Point of Entry Limited to One Level of Authority - Limited Policymaking Role
Medium	- More than 2 Levels of Authority (Possible Participation of Either Regional or International Levels of Governance)	- Possible Duplication and Overlap	- Point of Entry Across Levels of Authority - Increased Policymaking Role

Strong	- More than 2 Levels of Authority (Definite Participation of Either Regional or International Levels of Governance)	- Institutionalized and Routinized, Possible Duplication and Overlap	- Point of Entry Across Levels of Authority - Increased Policymaking Role
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In a weak system of multi-level governance, only two levels of authority interact. Their role is clearly delineated and private regimes are less present in governance arrangements. In many ways, this type can be said to refer to federal systems.

In a medium system of multi-level governance, there are more than two levels of authority with the possible inclusion of either a regional or international level of governance. The rise of this new level of governance creates a redistribution in jurisdictional authority. In that context, the delineation of powers between levels is unclear with an increase opportunity for duplication and overlap. The role of non-governmental actors in governance arrangements increases from what it was in a weak system of multi-level governance. The number of non-governmental actors involved in the policy process is expected to increase along with the greater institutionalization of multi-level governance. Non-governmental actors can play two roles in the policy process, that of policy advocacy and that of policy participation (Coleman 1985). Policy advocacy refers to the lobbying of government. Policy participation refers to the ability of

non-governmental actors to help formulate the general orientations of a policy, the actual text of the law, and the regulations derived from the legislation. By an increase in non-governmental actor participation, I mean that a rise in the multi-level governance arrangement should lead to both a greater policy advocacy and policy participation role for these actors. As the internationalization of public policy occurs, problems and solutions generally become broader in scope. The impact of policy change is thus to be felt by a larger number of players. As policy broadens, these actors seek to involve themselves more and more in the policy process. The opportunity for non-governmental actors to participate in policymaking will in large part depend on their resources, their knowledge, and their capacity to effectively represent their sectors of operation. For their part, private sector actors (business associations and firms) have a third avenue in governance arrangement. They have the opportunity to set up their own norms, rules, or standards to be applied throughout an industry. In other words, self-regulation represents a governance arrangement. A change from a weak to a medium system of multi-level governance can both increase and decrease opportunities for self-regulation. That is, the dispersion of governmental authority can provide more opportunities for self-regulation. At the same time, the resources of private sector actors may be strained in multi-governance arrangements so that they have difficulty in implementing a self-regulatory regime. Canada, in the financial services sector, and in many other policy fields, is part of

a medium multi-level governance system. At the time of the 1984 Bank Act, France was also involved in a medium multi-level governance regime.

In a highly institutionalized multi-level governance system, there are more than two levels of authority, and the regime may even stretch to four or five levels of authority. Not only is there the possibility for the number of levels to increase, but the institutionalization of these levels is also more substantial. That is, their authority becomes more formalized and routinized. The capacity of these levels to formulate and implement policies is more elaborate. The regional and international levels of governance have the resources and the know-how to fully exercise their authority. Though duplication and overlap is still likely to exist in a strong system of multi-level governance, the jurisdictional authority of each level is refined. Either through some form of treaty or constitutional agreement, or through norms in use, there is a clarification of the role and power of each level of authority. That being said, international events could outpace institutionalization ensuring continual jurisdictional conflicts across levels of authority. Third, the role of non-governmental actors in governance is here again to increase. The distinction between a medium and a strong system of multi-level governance in terms of the role of non-governmental actors is one of degree. Although there is a clear limit to the extent to which these actors can increase their lobbying of governmental authority, their role in policy participation can expand the more they are affected by a broader range of

policies. Strong systems of multi-level governance exist across many European states for a variety of policy fields. It currently exists in France in the financial services sector.

The relationship between public and private authority could be affected in four ways by multi-level governance. First, the power of public authorities could be strengthened while those of non-governmental actors could diminish with the internationalization of public policy. Such a view is adopted by scholars like Skogstad (2000) and Moravcsik (1993) who argue that higher levels of internationalization provide, though an impetus for re-regulation, national governments with a greater scope for policymaking in the face of pressure from societal actors. Second, the role of non-governmental actors in governance, especially that of private firms and business associations, could increase while that of governments could decrease with the further internationalization of public policy. Such a scenario implies that governmental authority are unable to properly address issues which transcend borders leaving increasing room for other types of governance arrangements. Third, an increase in multi-level governance could lead to a decrease in authority for both public and non-governmental actors. It is possible to imagine such a situation if a regional or international level of governance becomes sufficiently strong to dwarf the state. Drache, for instance, argues that the Canadian state is to be overwhelmed by the NAFTA level of governance (2000).

Last, and this is the position that I adopt in this thesis, multi-level governance leads to an increase in policymaking capacity for both the public and non-governmental

actors. In order to fully participate in the internationalization of public policy, the state and its organs strengthen themselves to more effectively govern the national sphere. In Canada, the centralization and rationalization of authority in the financial services sector over the last decade demonstrates the increased strength of the government in policymaking (Coleman 2002a). In France, the creation of a new securities regulator, the AMF, in the Financial Safety Bill represents an attempt by the state to have a strong actor to regulate the domestic market, but also to participate effectively in EU-level and international negotiations. The role of non-governmental actors in governance, in terms of actual policymaking influence, also increases with increased multi-level governance. As agreements like the NAFTA and the GATS liberalize trade further in the financial services sector, firms seek to ensure that they be able to remain competitive both in domestic markets and international ones through favourable policies. In Canada, the participation of non-governmental actors in policymaking has increased starting with the reforms of 1992. In many ways, the policy agenda and policy options for Bill C8 were set by private sector actors and consumer groups. In France, the liberalization of the financial services sector since the reforms of the 1980s has expanded considerably the number of actors in the policy network. For instance, the government works in close cooperation with firms and business associations when elaborating the French position in EU negotiations. In other words, policymaking authority is not a zero-sum game in an internationalizing context.



A striking feature of multi-level governance especially as it gets to be more institutionalized is the autonomy that it allocates to each level of governance. In that sense, multi-level governance presents a different view of the world than the global governance approach that stresses interdependence between system actors. As just seen, multi-level governance also presents a different approach than that of liberals (or hyper-globalists) for whom the state is being threatened by the market. In a multi-level governance framework, both the state and the market represent 'legitimate' sources of authority that stretch from the local to the global. That being said, multi-level governance systems vary across regions and policy issues. This variations in the level of institutionalization of multi-level governance systems can be due to many factors including differing historical processes, political and economic choices, culture, etc.

#### *4) Conclusion*

A series of criticisms have been levied against the concept of multi-level governance. Jordan identifies five key areas of contention: 1) discussions of multi-level governance are not new; 2) theorists of multi-level governance do not propose a causal model; 3) the role of regions in governance is not adequately theorized; 4) the role of the international sphere is not well theorized; and, 5) the public\private interface in governance is not adequately explored (2001). The conceptualization and operationalization proposed in this thesis responds successfully to these criticisms. For

instance, as this study will show, causal models can be built based on the above operationalization of multi-level governance. The role of regions in governance activities is neither exaggerated or ignored in the proposed conceptualization. The same can be said for the international sphere. Their exact role in governance arrangements varies from policy field to policy field. Last, the relationship between the public and the non-governmental is taken into consideration in this model with the argument that the governance capacity of each at the domestic level is increased through multi-level governance because of the increasing complexity of policy problems.

The goal of this research is not only to identify the degree to which systems of multi-level governance in the financial services sector have developed in Canada and France, an argument to be continued later on in this thesis, but also to look at the modifications that these changes have brought on the way states make policy, and on the interaction between actors in such arrangements. Since our focus is on policymaking and its changing nature at the national level, Chapter Four delves into theories of public policy and how they can be adapted for situations of multi-level governance.

#### **Chapter Four - The Public Policy Process**

A theory of multi-level governance provides the macro foundation on which to study the evolving international environment. The proliferation of such systems affects in important ways the actors in the system, their preferences, policy options, and, thus, eventually policy decisions. As such, determining the nature of its effects also requires analysis at the micro and meso levels. The micro level represents the study of the public policy process. In other words, the focus is on the effects of the macro level, the elaboration of multi-level governance systems, on the micro level, the policy process in the financial services sector. How to link the macro and micro analysis is achieved through a variant of actor-centred institutionalism, the meso level. This chapter focusses on discussing appropriate ways to analyse the domestic policy process in the context of multi-level governance arrangements.

“Comparative public policy is the cross-national study of how, why, and to what effect government policies are developed” (Heidenheimer, Heclo, and Adams as quoted by Hancock 1983: 284). When studying public policy, scholars are not as interested in the legal process by which laws are made, as they are interested in how ideas come to be present on the political agendas, how policies are selected from diverse options, and how these policies are implemented. The fields of policy studies and comparative politics provide a variety of approaches to study the policy process. This thesis uses an institutionalist approach to the study of public policy, a choice elaborated upon in the first

part of this chapter. Second, the concept of policy networks is discussed. Last, the chapter offers an in-depth analysis of Fritz Scharpf's actor-centred institutionalism to conceptualize and operationalize the policy process.

### *1) Institutionalism and Public Policy*

Early institutionalists focussed on the machinery of the state, the institutions of governments, the bureaucracy, constitutions, and the actual law-making process. This approach to political inquiry was heavily contested during the behavioural revolution. In many ways, it was seen as too descriptive and not able to provide the causal-type model which became so popular during this period. Yet, as Miriam Smith argues, institutionalism never entirely disappeared in Canada (2002). By virtue of their field of study, federalist scholars, heavily present in the Canadian political science literature throughout the 1970s, focussed on the institutional characteristics of federations. It was not until the mid-1980s that political scientists again realized that 'institutions mattered'. If policy analysis is important in that "policies determine politics" (Lowi 1972: 299), then institutions become the conduits by which policies are made and politics is studied. The argument is not simply that institutions are important, but rather, that they provide a theoretical tool with which it is possible to understand the choices available and the decisions taken by political actors. March and Olsen see the following virtues to institutionalism:

The ideas deemphasize the dependence of the polity on society in favour of an interdependence between relatively autonomous social and political institutions; they deemphasize the simple primacy of micro processes and efficient histories in favour of relatively complex processes and historical inefficiency; they deemphasize metaphors of choice and allocative outcome in favour of other logics of action and the centrality of meaning and symbolic action (1984: 738).

In this sense, institutionalism has again become a dominant approach in the study of public policy.

For the purpose of this work, there are three broad schools of research within institutionalism: historical institutionalism, social institutionalism, and rational-choice institutionalism. Yet, these schools should not be seen as completely distinct from one another. More to the point, and as Immergut argues, the new institutionalism has core elements built around its rejection of behavioralism:

The first questions the assumption that political behavior reveals preferences. ... Second, the institutionalist approach views the summative of preferences – or, for that matter, the aggregation of individual behaviors into collective phenomena – as exceedingly problematic. ... The third institutionalist challenge is normative. If the institutionalists are correct, much or all of political behavior and collective decision making is an artifact of the procedures used to make decisions (1998 6-8).

In other words, behind all institutionalist approaches, institutions are seen as outlining possibilities for actions and structuring the conditions under which decisions can be taken.

In that sense, Scharpf defines institutions as:

... systems of rules that structure the courses of actions that a set of actors may choose. In this definition we would, however, include not only formal legal rules that are sanctioned by the court system and the machinery of the state but also social norms that actors will generally respect and whose violations will be

sanctioned by loss of reputation, social disapproval, withdrawal of cooperation or rewards, or even ostracism (1997: 38).

I argue that historical institutionalism helps provide a context for policy decisions. Social institutionalism highlights the link between public and non-governmental actors in the policymaking process. Rational-choice institutionalism, for its part, provides the researcher with the rules of the game by which policy decisions are made.

For André Lecours, it is not possible to synthesize historical, social, and rational-choice institutionalism (2002). For him, there are fundamental theoretical and methodological issues impeding synthesis. In contrast, I argue that it is possible and useful to utilize elements of all three approaches when studying public policy. By combining all three school of thoughts together, some of their distinct features in terms of policy analysis are lost. However, the researcher gains a more complete picture of how policy gets done.

It is necessary to elaborate on the three schools of institutionalism. Peters addresses historical institutionalism in the following way: “This group of scholars emphasize the role of institutional choices made early in the development of policy areas, or even political systems. The argument is that these initial choices (structural as well as normative) will have a pervasive effect on subsequent policy choices” (1996: 210). In this tradition that goes all the way back to Durkheim and Weber, actors’ interpretations are shaped by institutions, which by their very rule, shape policy possibilities. Once

created, institutions structure and limit policy options. Policymakers can only act incrementally since policy reversals are unlikely. The key to this approach, in its modern version often associated with the work of Kathleen Thelen and Sven Steinmo (1992), is that of path-dependency. Recent scholarship in this area also seeks to explain critical junctures in order to interpret institutional change and its impact (Thelen 1999).

Historical institutionalism has successfully been used by Paul Pierson, for instance, to explain “the path of European integration” (1996).

The major limitation of this approach, it is generally argued, is the difficulty it has in explaining significant policy changes. If early decisions in the history of the policy constrain future policy options, policy reversals, even in times of crisis, are hard to interpret. In that sense, historical institutionalism could not easily account for the liberalizing reform of the 1984 French Bank Act, since the same government, in the same mandate, had previously gone through the process of re-nationalising the country’s banks. Because of its belief in path-dependency, historical institutionalism becomes in some ways deterministic and no other outcome than the one that took place is seen as having been possible. Although Thelen argues that “...greater insight into the different types of reproduction mechanisms behind different institutional arrangements holds the key to understanding what particular kinds of external events and processes are likely to produce political openings that drive (path-dependent) institutional evolution and change” (1999 385), explaining policy reversals in this way only provides still an incomplete picture of

how policy gets done. Such an analysis may provide the impetus for change, but it does not explain, apart from a case by case basis, why change occurs in one circumstance but not in another. That being said, historical institutionalism draws the attention of scholars to the need for contextualizing policy decisions.

The second school of thought in this stream of policy studies is that of social institutionalism. Quoting from Guy Peters once again: “This form of the theory focusses on the relationship between state and society and public sector actors. For instance, it would look at policy network or epistemic communities and the formation of public policy” (1996: 211). The focus within this stream of the theory is on societal actors and the way in which they can influence and shape public policy. A longer discussion on policy networks is to follow in the next section. Suffice to say for the moment that, on its own, social institutionalism has problems explaining policy decisions. However, if the policy network approach is combined with a rational-choice framework, a model emerges that studies the interaction between decision-makers, whether from the public, private or civil society sector, as the critical element in explaining policy.

The third and last major school of thought is that of rational choice institutionalism. Scholars using this method pride themselves on offering a more meticulous and ‘scientific’ approach to policy studies. Peters addresses this theory in the following way: “[The] problem [addressed by this approach] concerns the difficulty of achieving an equilibrium in a world composed of rational individualists. The rules



imposed through institutions constrain individual maximizing behaviour and enable stable and predictable decision-making” (1996: 209). In this approach, policymakers are self-interested ‘rationalists’ who study diverse policy options and negotiate an acceptable decision for those involved in the process. In this theory, then, policy outcomes are often sub-optimal to ensure equilibrium. Institutions determine the rules by which negotiations take place. Where rational choice institutionalism is seen as particularly successful is in explaining a specific policy choice in a stable policy environment. The strength of this theory is said to lie in its method, which emphasizes the role of testable propositions. However, because of its focus on rational behaviour, this theory can have difficulty in explaining some of the normative aspects behind actors’ decisions. In other words, rational choice scholars usually ignore the motivations that lead to actors’ policy preferences, taking them as given. Rational choice institutionalism is also ahistorical eliminating from its study larger contexts in which policy choices are made.

Despite the obvious disagreements between historical, social, and rational-choice institutionalism, there is a certain level of complementarity between the three schools of thought. Such complementarity can be observed in that each school of thought contributes various elements in our understanding of the policy process. Historical institutionalism focusses on the historical and social context of the policymaking process and some of the normative elements which characterize policy decisions. Historical institutionalism can be said to provide the background to understand policy decisions

while a mixture of social and rational choice institutionalism actually provides the analysis of the process by which actors come to make these decisions. Thelen and Steinmo state:

... historical institutionalists would not have trouble with the rational choice idea that political actors are acting strategically to achieve their ends. But clearly it is not very useful simply to leave it at that. We need a historically based analysis to tell us what they are trying to maximize and why they emphasize certain goals over others (1992: 9).

More recently, Thelen points out that there are more points of tangency between interpretive and rational-choice institutionalism than is often assumed (1999). The argument is straightforward: even in an entirely rational-choice institutionalist framework, the context in which decisions are taken should not be ignored. Using key elements of Fritz Scharpf's actor-centred institutionalism, this thesis incorporates bits and pieces of historical, social and rational-choice institutionalism in its study of the French and Canadian financial services sector.

## *2) Knowledge-Based Approaches to Policymaking*

Prior to moving to a discussion of actor-centred institutionalism, it is necessary to further elaborate on the policy network approach and methodology in public policy studies. Institutionalism is the driving theory of this thesis in studying public policy processes. However, the policy network approach is what allows the researcher to delve into more precise explanations of the policy process by outlining who is involved, their

policy preferences, actual policy options, and in some ways the relationship between the involved players. The policy network is at the meso level of analysis and provides an opportunity to link multi-level governance systems with processes of domestic policymaking.

Another detour is, however, necessary before further exploring the policy network approach. It is first important to differentiate between knowledge-based approaches and power-based approaches to the study of public policy. Outlining the differences of these approaches clarifies the focus of the analysis provided in upcoming chapters. Knowledge-based approaches share a common characteristics, which is they concentrate on the role of ideas in the policy process. Although ideas play a key role in shaping policy, and the debates surrounding policy decisions, work in this area tends to minimize the role that power plays in eventually determining which ideas come to be turned into policies. In that sense, ideas, and the ability to communicate them, shapes the policy network. But on their own, separated from the variable of power, they have a hard time accounting for policy decisions.

Within the knowledge-based approach, three are seen as particularly relevant to the study of public policy. First, there is Sabatier and Jenkins-Smith's advocacy coalition framework (ACF) (1993). The general thrust of the ACF model is that policy comes about through debates in policy sub-systems. These sub-systems form around a particular issue-area and allow for debates between different advocacy coalitions. Advocacy

coalitions are identifiable by their distinct belief system (a normative core), policy proposals (a near core), and preferred policy instruments (secondary aspects). Members of a coalition can include bureaucrats and politicians, scholars, the media, traditional lobby groups, and even members of the general public. Policy change comes about through negotiations on near core and secondary beliefs. It is often facilitated by a policy broker and also involves the process of policy learning. For Sabatier and Jenkins-Smith: “Policy-oriented learning includes learning within a coalition’s belief system and learning across the belief systems of different coalitions” (1993: 48). Policy learning is key to resolving policy disputes and allowing for policy change. Institutions come into play as part of the stable policy parameters (which include such factors as a country’s constitution) and external system events (which include the socioeconomic conditions of a state as well as its governing coalition) that are to be taken into consideration when analysing policy. It would also be possible to see a coalition as a form of institution. The key variable, however, in studying public policy from this perspective is that of ideas since they are what differentiates policy sub-systems.

There are similarities between the ACF model and the policy network approach. In fact, a coalition and a network are close to being one and the same. The difference in the approaches lies in their focus. Whereas the ACF pays particular attention to the role of ideas in the policy process, the policy network approach, as it is to be applied in this thesis, concentrates more on actor interaction at a specific time. One of the problems with

idea-based explanations of policies is that it is difficult to make links between the elaboration of ideas, debates in the sub-system, and the adoption of a policy through the formal mechanisms of a state. It is clear that in a period of twenty years of policymaking, as is the focus of this research, ideas will have dramatically evolved as practices themselves have changed over time. That is both true of the Canadian and French financial services sector especially since internationalization grew rapidly and many new products emerged from the early 1980s to today. In that sense, tracing the evolution of beliefs and ideas within a coalition in this sector in one of our two states would certainly bring forth interesting information. However, this study has chosen to focus more in creating snapshots in time of how policies are made and then in comparing these snapshots. Thus, the focus is on the negotiation process leading to the final policy decision. In other words, particular attention is paid to the rules of negotiation by which decisions are taken. As a result, it will be possible to determine if those rules have changed because of multi-level governance.

The second knowledge-based approach to policy studies to be analyzed is Kingdon's garbage can model of policymaking (1984). From this theoretical standpoint, there are three streams in the policy process. There is the problem stream in which issues are identified as requiring a policy initiative. There is the policy stream in which diverse policy options are studied to solve the policy problem. Lastly, there is the policy window which refers to the proper time-frame by which to address a policy problem. It is only

when these three streams are coupled that policy is formed. In that instant, the role of policy entrepreneurs is determinant in pushing the policy through the apparatus of the state. This school is partly institutionalist in that the policy solution stream is seen as taking place within the bureaucracy and the interaction between government and societal actors. Although Kingdon is not interested in the origin of ideas, the way policy solutions are framed becomes important in coupling the streams of policymaking. Kingdon elaborated this model to study the policymaking process in the health and transportation departments of the United States' government. Though this model has been accepted as a way by which to study public policy in the United States, and across some states including Australia (Bakir 2003), it is hard to imagine how the garbage can model can be applied to policymaking in situations where authority and sovereignty are diffused as is the case in complex multi-level governance systems.

The third knowledge-based approach under scrutiny is that of Peter Hall's paradigm change (1993). Peter Hall is another author who seeks to explain policy by using ideas as a preponderant variable in his analysis. This author's analysis uses the concept of paradigms to explain the change from Keynesianism to monetarism in Britain from 1975 to 1980. For Peter Hall, there are three orders of policy change. First and second order changes imply modifications to settings of policy instruments and to instruments themselves. According to Hall, the British government tried these responses during the first few years of the Keynesian crisis. A third order change is much rarer and

implies a shift in the overall understanding of an issue-area, or policy paradigm, by a large segment of the population. A paradigm shift is partly brought about when experts in a policy field advance new ideas to identified problems within the old paradigm. In the example used by Hall, the network influencing British macroeconomic policy adopted monetarism to the detriment of Keynesianism because it saw the latter as now being ineffective in solving the economic problems of the country. Popular opinion also became favourable to monetarism as influenced by the press. The eventual result was a change in the governing coalition in Britain with the election of the Thatcher government, a coalition that firmly believed in supply-side economics. The French decision to move from a 'dirigiste' state in the financial services sector to liberalism over the course of the last twenty years could indeed be seen as a paradigm shift. Loriaux has already partly analysed such a shift (1991). Paradigms are useful in explaining the ideational context in which policies are made, eventually shaping the policy agenda and policy options. Similarly to the ACF model, however, it is difficult to trace a paradigm change and then to identify the effects of such a change on how policies are negotiated.

### *3) The Policy Network Approach*

In this section, the policy network approach is presented, analysing its advantages and its disadvantages, and how it is an appropriate instrument in this thesis for studying the policy process. The policy network model is seen as a power-based approach to

public policy since its interest lies, as previously mentioned, in the negotiation process within the network that leads to a particular policy decision. There are many definitions of a policy network. For instance, they can be discussed in the following way: "... les réseaux sont le résultat de la coopération plus ou moins stable, non hiérarchique, entre des organisations qui se connaissent et se reconnaissent, négocient, échantent des ressources et peuvent partager des normes et des intérêts" (Le Galès 1995: 14). Coleman defines a policy network as: "... a set of informal and formal interactions between a variety of usually collective public (state) and private actors, who have different, but interdependent interests" (2002b). Whichever definition one chooses to adopt, what matters is that using a policy network implies a major break from past ways to study public policy. Policy is not the sole result of decisions taken by organs of the states; they also reflect the management of diverse societal interests. Within this governance view, non-governmental actors can be heavily involved, not only as lobbyists, but as decision-makers in the policymaking process.

There are two ways of differentiating the effect of policy networks on the policy process. First, policy networks are defined in terms of the nature of the relationship between public and non-governmental actors. Here the categories of sectoral and state corporatism, pressure pluralism, clientelism, issue networks, and state directed networks are generally identified (Atkinson and Coleman 1989). In corporatist models of policymaking, decision-making power is shared between government and private or civil



society actors. In contrast, governmental offices hold the power to make policy decisions in state-directed network. Second, policy networks are differentiated based on their level of integration. From the traditional Marsh and Rhodes model, the continuum of networks is presented as moving from policy communities (which are the most closely-knit), to professional networks, intergovernmental networks, producer networks, and issue networks (where there is a large and varied membership) (1992). These networks differ in terms of their openness, size of the community, frequency of interaction among members, membership stability, density and structure of membership exchange (Coleman 2002b). Whereas both the Canadian and French policy networks in the financial services sector were policy communities twenty years ago, both networks have been enlarged considerably in recent years. The exact nature of the policy network, and of the relationship between public and non-governmental actors, in this model are seen as essential determinants of public policy.

The policy network concept was initially developed in the 1960s in the United States. Along with the British model which emerged in the 1980s, policy networks are said to focus on sub-sectoral politics. This literature elaborated a typology of networks as seen above. In the Anglo-Saxon version, policy networks are seen as an extension of the fragmentation of the state. However, as Thatcher notes, the actual way by which networks shape policy is unclear within this approach (1995). Moreover, and similar to the argument made with regard to the ACF model, this scholar argues that it is difficult to

distinguish network membership and existence. Also in criticism of the approach, policy networks have been described as simplified metaphors. Coleman answers such charges pointing out that enough sound research has been done using this approach to refute the metaphor criticism, while going further and arguing that even if only for descriptive purposes, the policy network approach remains strong (2002b). Blom-Hansen, on his part, argues that if policy networks are seen as institutions themselves, than institutional explanations can be provided to explain how networks rise, how they evolve, and how they persist over an extended period of time (1997). For instance, rational-choice explanations can be provided to explain actor participation in a network.

The interest of this research is more on an approach to policy networks developed in Germany by scholars such as Scharpf (1997) and Börzel (1998). Within this approach, networks are providers of governance. Börzel argues that:

... in an increasingly complex and dynamic environment, where hierarchical coordination is rendered difficult if not impossible and the potential for deregulation is limited because of the problems of market failure, increasingly governance becomes only feasible within policy networks, providing a framework for the efficient horizontal coordination of the interests and actions of public and private corporate actors, mutually dependent on their resources (1998: 262-63).

In this way, Börzel sees policy networks as a method of governance creating new polities for the management of society. In that sense, networks are a theoretical tool, not solely an analytical one. Börzel argues further that: "... policy networks only characterize a specific-form of public-private interaction in public policy (governance) namely the one

based on non-hierarchical co-ordination, opposed to hierarchy and market as two inherently distinct modes of governance” (1998: 255). Public and non-governmental actors thus reinforce each other in terms of governance capacity. As Le Galès argues, networks become a response to the public policy efficiency problem (1995). More broadly, the argument is that just as public policy is internationalizing, policy problems are getting so complex that they require public-private interaction. Governments do not have sufficient resources to elaborate and implement policies on their own, yet non-governmental actors do not want to carry full responsibility on most governance issues. For their part, Eising and Kohler-Koch argue that: “The core idea of network governance is that political actors consider problem-solving the essence of politics and that the setting of policy-making is defined by the existence of highly organised social sub-systems” (1999). This interdependence between public, private and civil society actors characterizes the view adopted in this thesis of the policy network approach.

In this way, using policy networks to study multi-level governance makes sense since it allows for an issue-oriented approach to policy-making, rather than a levels of governance approach which would strictly focus on the hierarchical division of power between levels of political authority. In other words, a governance network can be found between and across all levels of public and private authority to manage a political problem. Peterson and O’Toole Jr. state:

Network analysis offers leverage for understanding multi-level governance because actors that represent different levels, between which powers are divided in ways that are disputable, must cooperate and share resources to achieve common goals. Legislation at any levels is unlikely to achieve its stated goals unless it is shaped, moulded, and scrutinized by actors interacting across different levels (2001: 301).

Policy networks and multi-level governance have already been used jointly in EU research. For instance, Schmidt examines how national policy network structures mesh or clash with EU institutions, networks and styles of governance (1999). Also, epistemic communities, as elaborated by Haas (1992) and born out of the policy network concept, are now a mainstay of the international relations literature. These epistemic communities group experts from different states to seek solutions to internationalized policy issues. The policy network approach is justified in studying multi-level governance because it sees policies as the result of interaction between public and non-governmental actors from below, above and across levels of authority. In that sense, it provides a way to assess empirically how multi-level governance affects national policymaking.

#### *4) Actor-Centred Institutionalism*

In order to properly use the policy network approach, it is necessary to propose a method that allows clear links to be drawn from the network to policy decisions and policy outcomes. Fritz Scharpf's actor-centered institutionalism approach provides a way to do this by combining the policy network approach with a rational-model of decision-

making (1997). Actor-centered institutionalism, as Scharpf presents it, offers at its most general a “framework that conceptualizes policy processes driven by the interaction of individual and corporate actors endowed with certain capabilities and specific cognitive and normative orientations, within a given institutional setting and within a given external situation” (Scharpf 1997: 37). Actors in this model can either be individuals or collective actors (assumed to represent individuals’ views through a negotiation process that leads to an acceptable organizational position). Actor-centred institutionalism focusses on how actors come together to negotiate policy. Scharpf states: “... Institutions not only constrain feasible strategies, but they also constitute the important players of the game and shape their perceptions and valuations of outcomes in the payoff matrix. In short, the games that are in fact being played in policy processes are to a large extent defined by institutions” (1997: 40). Seeing actors as aggregate is similar to seeing the state as unified within the realist school of international relations. All of this being said, the key to the method, then, is in determining the actors involved in the policy process, their orientations and capabilities, and then the way in which decision-makers negotiate in order to obtain a policy.

Scharpf makes a differences between problem-oriented policy research and policy-oriented research. Actor-centred institutionalism focusses “on the institutions and actors through which problems are converted into policy outputs and outcomes that - in the light of substantive policy analysis - may be considered more or less effective policy solutions”

(1997: 195). In other words, the purpose of policy studies is not as much to analyse policy problems or the content of policies, for which specific technical knowledge is required, as it is to analyse the actors' interactions that lead to policy decisions. There are five steps to the actor-centred institutionalism method of studying public policy. The first step is that of identifying the policy problem. That problem comes from the policy environment, and could come in the form of feedback from earlier policies. Policy problems are wide-ranging in nature and to study them specifically would be part of what has just been termed problem-oriented policy research. In this thesis, the policy problem is identified but only analysed in the context of the negotiation that leads to the policy decision.

Second, the actors must be identified and assessed in terms of their orientations and capacities. The institutional setting shapes both of these variables. The perception of the policy problem as well as policy preferences determine actors' orientations. Resources, personnel, financial or otherwise, determine actors' capabilities.

Third, the researcher must identify the actor constellation. The actor constellation includes the players that are directly involved in making policy decisions. The distinction between the policy network and the constellation is important in that the network may be wide-ranging and inclusive of all of those with an interest in the policy field. It provides a forum for exchanging information and discussing issues of relevance for a group of organizations. The constellation, in contrast, is only composed of those with direct input

into policymaking. Not all members of the policy network are members of the actor constellation. Those that are part of the network but not of the constellation are at times referred to as the attentive public. The members of the constellation are often the result of the institutional setting.

Fourth, a researcher must look into the modes of interactions of the constellation. Understanding a policy decision requires studying the games within the constellation, acknowledging, once again, that this negotiation process takes place within a particular institutional setting. Note that this thesis will not propose a game-matrix by which to study actor interaction. Rather, it focusses on the modes of negotiations that characterize the policymaking process. Scharpf identifies four modes of interaction that can take place in the constellation: unilateral action, negotiated agreement, majority rule, or hierarchical direction (1997). Unilateral action involves an actor constellation where a single individual makes all policy decisions. Such a constellation is rare but could exist especially within a Westminster style system where a majority government has little to no barrier in implementing its desired policies. Negotiated agreements describe a situation where all individuals in the actor constellation have a policy veto. This is the other extreme on the spectrum across from unilateral action. It is just as rare but represents the current decision-making process, for instance, in the North Atlantic Treaty Organization. Majority rule refers to a situation where decisions are taken through a majority vote or through whatever voting procedure established by the constellation. The key is that

players do not have a veto within such a system so that the negotiation process is particularly important. Hierarchical direction refers to a single actor having a veto in the decision-making process, usually the government. Such a constellation, it is possible to argue, is the most common of policy environment since governments usually make the final policy decision. It is important to recognize that these rules are not necessarily formal, or written down, but more that they represent a pattern of established collaboration within the policy network and the actor constellation. Lastly, it is also important to note that each of the four modes of interactions represents the categories of a typology. That is, they present ideal-type pictures of policy environments. The realities of policymaking are generally more nuanced than the categories of this typology.

The question remains as to how to integrate the concept of multi-level governance with actor-centred institutionalism. The last element of the model is that of the policy outcome, or the policy decision. As explained previously then, this decision is the result of the games played in the constellation. But for those games to be understood, the researcher needs to understand the nature of the policy network. As such, the research question of this thesis is interested in how changes within the institutional setting and the policy environment affects all of the elaborated steps of the domestic policy process from problem-identification, to the actors involved, to the constellation, the mode of interaction, and the final policy outcome. Multi-level governance in this model is part of the institutional setting having an impact on the domestic policy process, but also it is a



variable that shapes the domestic policy environment. It is part of the institutional setting because it represents other levels of political and private authority. For instance, it is widely accepted in Canada that federalism affects policy discussions. As well, the EU, NAFTA, and other international organizations represent institutions in themselves (as negotiated by states) whose rules may constrain or facilitate policymaking. The EU changes dramatically the policy environment for all states in Europe. That is especially true as EU institutions are becoming more and more involved in a variety of policy fields. In that respect, multi-level governance as part of the institutional setting helps shape the policy environment. European states may adopt policies, for instance, simply to enter into EU negotiations in that policy field from a better bargaining position.

Though actor-centred institutionalism is a rational approach to the study of public policy, it does have some differences with rational-choice institutionalism. Most notably, while actors' preferences are determinant in shaping the policy process, they are not really given since collective actors may not always be as unified as assumed, or since orientation may change as a result of a change in perception or even institutional setting. As such, a lot of time is spent in this thesis in determining actors' orientations. One must be careful, however, in such research. Since policy processes must be assessed after the fact, it is dangerous to match orientations, and indeed the overall analysis of the process, with the actual events that took place. In other words, it is easy to fall into the trap of simply describing a case study without being able to draw lessons from it. The purpose of

studying the policy process is to provide obviously a better understanding of the process, so that better policies can come to be implemented (in Scharpf's terms, drawing the link between policy-oriented research and problem-oriented policy research). In that context, one must be able to offer some relevant generalizations when studying public policymaking. There is no real answer to this problem, only a good methodology and sound logic can prevent the most obvious of mistakes.

Having conceptualized and operationalized both the independent and dependent variable, it is now possible to turn to the analysis of our case studies.

## **Chapter 5 - Multi-Level Governance and the Canadian Financial Services Sector**

This thesis studies the internationalization of public policy by analysing the effects of multi-level governance systems on practices of domestic policymaking in the financial services sector. As such, it is necessary to evaluate how national authorities make policies in the context of the internationalization of financial markets and compare current practices with past ones. Prior to analysing the changes brought forth from multi-level governance on Canadian practices of policymaking in the financial services sector, I first offer a background description of the Canadian finance industry. It is argued that Canada has moved from a weak to a medium system of multi-level governance over recent years.

### *1) A Weak System of Multi-Level Governance (1867-1987)*

From the time of Confederation until 1987, Canada has operated within what has been termed in this thesis a weak system of multi-level governance. This system is based on the constitutional division of powers which allocates the responsibility to regulate what are known as chartered banks to the federal government and near-banks and investment services to the provinces. Provincial authorities can claim jurisdiction in traditional areas of the banking industry under the 'Property and Civil Rights' clause of section 92. In that sense, trust companies are a provincial responsibility because they offer 'estates' business and are operating 'trusts' which are both seen as aspects of private property. As for credit

unions and cooperatives, they were seen as being of local interest and thus their regulation was left to provincial authorities. Over the course of the twentieth century, credit unions, cooperatives and trusts across the country came to offer services which were similar to those of chartered banks and came to operate in several provinces. Banks were a federal responsibility but 'near banks' were under provincial jurisdiction. Some trust and loan companies did opt for federal charters because they were operating across provincial boundaries, but in those cases they were regulated both by the involved provinces and the federal government. Insurance companies are, by virtue of their operations, under provincial responsibility but are nonetheless influenced by many federal laws including those regarding the incorporation of businesses. Despite these apparent overlaps, the system was stable and the role of each level of government was agreed-upon in the first 120 years of Canadian history.

This delineation of power encouraged the creation of a financial services sector structured around four pillars: the banking sector, the trust and estates sector, the insurance sector, and the securities sector. The 'four pillars' system would remain a feature of the Canadian financial services sector until the legislative changes of 1987 and 1992 which allowed banks to operate through subsidiaries in the securities sector and the insurance sector, as well as to acquire trusts. Each of the four pillars were regulated and supervised by authorities at different levels of government. In that way, the sectors were

separated from one another. Cross-sectoral activities were difficult. For instance, banks were finally allowed, under restrictions, to offer mortgages starting in 1944 with expanded powers in 1954, 1967 and 1980, a service until then generally offered by trusts and mortgage loans companies. Although chartered banks always could operate across the country, provincially-regulated firms still face barriers today in operating across provincial borders. The purpose is not to present a static view of the Canadian financial services sector. However, as the official interviewed at the Office of the Superintendent of Financial Institutions (OSFI) mentioned, those involved in the finance industry prior to 1980 knew the rules inside and out, the rules were stable and reform did not seem as constant as it does today (2003).

During this period a capital markets-based system was elaborated in Canada. Zysman notes that: “This model places banks, firms and governments in distinct spheres from which they venture forth to meet as autonomous bargaining partners” (1983: 70). Although banks have played a critical role in Canada’s economic development, they are autonomous from outside intervention – an essential element of the capital markets-based system. Canadian governments, both federal and provincial authorities, minimally intervene in the activities of the finance sector, playing no role in credit allocation (with the possible exception of Québec), and ensuring that prices for credit are set competitively

and are not bureaucratically dictated. As well, in a capital markets-based system, securities markets play an important role in financing economic activity.

The role of private and civil society actors in governance is restrained during this era. For instance, the Canadian Bankers Association (CBA) was in charge of the payment system until 1980 when at that time the Canadian Payments Association (CPA) was formed. That being said, policymaking was bureaucratic and the preserve of governments well into the 1980s. The Department of Finance was considered to be well-staffed and well-funded so that it had the ability to make financial services sector policy independently of undue outside interference (Coleman 1996). In fact, only the large banks could claim a certain level of access to governmental authority during this period. This access, in part, is the result of the fact that they were the only completely federally-regulated industry in the financial services sector. For some, this meant that financial services sector policymaking in Canada was really banking policy. Mark Yakabuski of the Insurance Bureau of Canada (IBC) states:

We have had a financial sector that has been dominated by the banking sector. We have had financial policy dominated by the banking sector. For fifty years we had normally ten-year reviews of the Bank Act. We waited for almost fifty years before the Insurance Act was even reformed, because financial policy in this country was largely dominated by the agenda of the banking industry (Canada 2000).

For their part, civil society actors were practically non-existent at this time in the Canadian financial services sector. Quite obviously then, the policy network was reduced

in number demonstrating the closeness of policymaking during this period of weak multi-level governance.

Multi-level governance by definition also refers to the role of international arrangements in such systems. The world of international finance has seen tremendous change over the course of the last half century, as seen in Chapter Two. Some of these transformations include the elaboration and then collapse of the Bretton Woods monetary regime, the rise of the Euro-currency market starting in the late 1960s, the creation of other new financial products like derivatives, and finally the arrival of new technologies allowing the transfer of money and securities across the globe in a matter of seconds. As was seen though, it was not until the mid-1970s that emerged stronger regimes of governance with the Basel Concordat and in 1988 the Basel Capital Accord. In fact, until that period, finance was considered mostly a domestic policy field because of its importance to the domestic economy. As such, the international environment did not figure prominently in Canadian discussion about policy in the financial services sector during this historical period.

Based on the analysis above, I conclude that from 1867 to 1987, Canada had a weak system of multi-level governance in the finance sector with two levels of governments involved in the area but little cooperation between them, a minor technical role for private actors, and few international commitments.

*2) A Medium System of Multi-Level Governance (1987-)*

The elimination of the four pillars policy as well as the elaboration of regional and international governance arrangements has moved Canada into a medium system of multi-level governance in the financial services sector. By 1992, banks are able to own subsidiaries in the securities and insurance sectors, and they are given the green light to buy trusts. Banks are thus now operating subsidiaries which face different regulatory practices at the provincial level, while their core activity of banking is still regulated federally. The elimination of the four pillars policy renewed the debate about the supposed overlap and duplication present in the Canadian system. The interim report entitled *The Future Starts Now* from the House Committee on Finance in 1998 in response to that of the Task Force on the Future of the Canadian Financial Services Sector recognized once again the issue, especially in the securities sector:

...we suffer from a fragmented system of regulation of the securities industry. This fragmentation is problematic. Increasingly, the economy is turning directly to capital markets for the financing of business needs. As well, consumers are increasingly turning to those markets for savings opportunities. Here, the provinces are the regulators and a national market is still far from a reality. And as international co-operation becomes increasingly vital in a world of rapid globalization, the regulatory framework in Canada may be at a disadvantage. Our decentralised regulatory regime for investment securities makes our system expensive and fragmented (Canada 1998c).

Although by that time this type of reaction was not new, the significance of the problem is highlighted further by the internationalization of public policy. How could a truly



national and competitive marketplace exist in Canada when there remains a panoply of provincial rules? To attract investment and facilitate capitalization, the strengthening of a national market is particularly important in an era of economic globalization.

An important feature of the policy process in this period is its greater openness. As many in the financial services sector noted when interviewed, the dismantling of the four pillars was a turning point in terms of access to the policy process for private and civil society actors. In that sense, financial services sector reform is not solely decided by bureaucrats any longer, non-governmental actors are now much more involved in the orientation and content of policy. In fact, in Chapter Six I argue that non-governmental actors have obtained a policymaking role that they did not previously enjoy in the Canadian financial services sector, a reality not only for private firms and business associations as some would have expected but also for civil society actors.

The increased presence and participation of private actors is partially observable through the extensive networks of business associations that now exist in the Canadian financial services sector. There are some well-known organizations such as the CBA, the Investment Dealers Association of Canada (IDA), the IBC, the Insurance Brokers Association of Canada (IBAC), the Canadian Life and Health Insurance Association (CLHIA), or even the Canadian Institute of Chartered Accountants (CICA). Although this latter organization did not play a determinant role for Bill C8, it is a very important

player in the Canadian financial services sector modernizing accounting practices in the face of accounting scandals such as Enron and Worldcom in the United States. There are also some organizations which are somewhat less known such as the Interac Association of Canada which regulates interac transactions. There is also, for instance, the Canadian Capital Markets Association structuring Canada's move towards Straight-Through-Processing and T+1 in the securities industry. Consumer groups are also more involved in policymaking. For instance, 'Options consommateurs' and the Consumer Association of Canada (CAC) starting with the 1992 reforms have produced and disseminated a vast array of research especially on the practices of Canadian banks towards their customers.

The increase in the number of non-governmental players in the policymaking process is not by itself an indicator that these actors enjoy more powers in terms of decision-making. That being said, the intensity of the interaction between public and private authorities is now an un-mistakable feature of the Canadian scene. Most notably, non-governmental actors help elaborate the policy agenda and policy options to be addressed when elaborating a policy. In that sense, the increased presence of non-governmental actors in the policymaking process starting with the 1992 legislative reform represents a significant change in the Canadian financial services sector.

Canada is currently in a medium system of multi-level governance because of the increased role of transnational governance regimes in the financial services sector. As

mentioned in Chapter Two, of utmost importance in the banking sector is the Basel Capital Accord of 1988 which set capital standards to be followed by banks around the world. Since the end of the Bretton Woods Agreement and that of the gold standard before it, the Basel Accord represents the first real attempt to regulate international finance and monetary affairs at an international level. Although the Accord was to apply only to internationally active banks, it came to be applied universally and in Canada to all financial institutions insured by the Canadian Deposit Insurance Corporation (CDIC) and to central credit unions with lines of credit with the Bank of Canada. Since Canadian banks have always sought to play an international role, the rules established at Basel serve for them as well as other transnational players as a warrant of credibility as they conduct business worldwide. Canadian representation to Basel is ensured by the Bank of Canada and OSFI which then is in charge of implementing international standards domestically.

The Canada-US Free Trade Agreement was negotiated in the late 1980s and represents another step in the evolution of Canada's system of multi-level governance. The terms of this Agreement would in large parts be reproduced in the NAFTA that would add Mexico to the North American free trade zone a few years later. The NAFTA represents an attempt to eliminate trade barriers in the financial services industry across the continent. It is a traditional trade agreement whereby regulation and supervision of financial services firms remain a domestic jurisdiction. Unlike Europe where recent

integration efforts through the FSAP seek to produce a single European marketplace, the NAFTA is a more limited effort in the integration of the continent's financial services sector (McKeen, Porter and Roberge 2003). Of course, one of the striking features of the NAFTA compared to the EU is its lack of institutions with true policymaking capacity. The Financial Services Committee created by the NAFTA, as quickly mentioned in Chapter Two, has not played a critical governance role since its creation.

Agreement on financial services sector liberalization was achieved in the NAFTA even though each signatory's financial services sector was at a highly different level of development and of diverging size. The fear of an American invasion of the financial services marketplace was particularly real for Mexico (where by the late 1990s, and as a result of the Peso crisis, the country's major banks would either become US or European-owned), though historically this fear also existed in Canada, explaining in large part the government's attention to ensuring domestically-owned financial institutions. Also, and as noted by Canovas (1995), the political priorities of Mexico, as a developing state, differed sensibly from those of the United States and Canada. Nonetheless, NAFTA came into force in 1994 providing a new framework for the North American finance industry.

Chapter 11 on investment, chapter 14 on financial services, and chapter 20 on dispute resolution are usually considered the most relevant parts of the Agreement. Porter distinguishes four essential components of the free trade accord in regards to finance:

First, national firms are guaranteed the better of national treatment and most-favoured nation treatment in NAFTA partner markets. Second, consumers may purchase financial services from providers in other NAFTA countries, ... Third, rights regarding foreign ownership of financial firms are expanded and ensured, ... Fourth, the NAFTA decisively prohibits state measures to control inflows of foreign investment, ... (1997: 178).

Clearly, the most controversial aspect of the provisions is Chapter 11, measures on investment disputes in which investors can take states that interfere with their investments to a process of binding arbitration.

Despite its stated objectives, there are still important barriers to trade in the North American financial services sector. For McKeen, Porter and Roberge (2003), the current institutional arrangements present on the continent make it difficult to foresee in the near future further integration in the finance world. The three variables supporting this standpoint are the fractured nature of political authority in this policy field with jurisdictions in both Canada and the United States still divided between the central government and regional ones, so that neither state can claim even a true national marketplace across the whole spectrum of the finance industry. Second, there is no political push from political elites to favour further integration in the sector. Although private players across the continent seek greater market access throughout North America, their task is made difficult by the wide-range of still different regulatory structures across jurisdictions. Last, further integration in the financial services sector is made difficult by the unequal size of the partners involved. The size of the US market still raises concerns

about market invasion both in Mexico and Canada. Though some of these concerns have been overcome in the negotiation of the NAFTA, it is unclear how they would be addressed in highly focussed negotiations over regulatory and supervisory structure, the necessary next step in regional financial services sector integration.

As Gensey (2003) points out, Canada's experience in negotiating the NAFTA would prove to be a crucial asset in its negotiations of the GATS, another cornerstone of its multi-level governance regime in the financial services sector. Combined with efforts in the regulatory arena, the NAFTA and the GATS<sup>4</sup> create an ideology of liberalism in the financial services sector. Although the effects of these agreements on states' domestic policies are not always evident, the ideology that underpins them is creating an environment where national governments and firms try to put in place policies that make domestic institutions more competitive on the global stage. The creation of domestic competitive firms thus become a decisive impetus for policy.

The flexibility of this multi-level governance arrangement is apparent considering that neither the NAFTA or the GATS creates strong binding regimes in the financial services sector. That being said, Canada does tend to be in line with the many norms and standards elaborated by the various organizations at the international level. The largest

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<sup>4</sup>Please refer to Chapter Two for a further discussion of the GATS, and to Guy Gensey, *The Liberalization and Regulation of Trade in Financial Services: Exercising Domestic Regulatory Authority*, PhD. diss., Dalhousie University, 2003.

modification to the structure of the Canadian financial services sector which can at least partly be attributed to its international commitments lies in the role of foreign financial institutions in Canada. Foreign banks have been allowed to operate in Canada under subsidiary form since 1980 and all restrictions on their activities were lifted in 1993. The only thing a foreign bank cannot do in Canada is buy a domestic bank. In 1999, the Canadian government finally allowed foreign banks to open branches in Canada. Branches cannot take a deposit of under \$150, 000 but they have little to no lending restrictions. This change, argue government representatives, responds to issues of domestic competition, though it is clear that the new legislative provisions also fall within the liberalizing mind-set of the NAFTA and the WTO. The role of foreign firms in the securities sector was debated as early as the late 1960s, while the insurance sector has never faced the same type of restrictions against foreign ownership.

Last, Canada is not only on the receiving end of international trends in the financial services sector, it plays an important role in the construction of the international financial architecture. This is in part demonstrated through Canada's key role in pushing forth the negotiations on the GATS. It is also evidenced by the important role that Canada played in helping to restore confidence in financial markets following the Asian crisis of 1997 (Kirton 1999). Kirton states: "Canada's major role [in helping solve the Asian crisis] was driven by a recognition of its broad economic interests, domestic values,

and historic experience, and a systemic sense of responsibility as a member of the governing global concert institutionalized in the G7” (1999: 622). Paul Martin, as Minister of Finance, often spoke of the need to better regulate international finance and to ensure that there be good lines of communication open internationally to avoid crises like that of the late 1990s in the future. It is with that in mind that Canada played a preponderant role in the creation of the G20, an informal grouping of states from both the developed and developing world to monitor international economic and financial stability.

### *3) Conclusion*

Canada’s multi-level governance system is still in upheaval. Coleman notes that one of the actual effects of the breaking down of the four pillars is that it is slowly leading to a centralization of powers to the federal authority (2002a). There are few independent trusts in Canada with the majority of trusts business being done by the major banks. Credit unions and cooperatives are part of their provincial centrals which themselves help form the Credit Union Central of Canada (CUCC), a federally regulated body. Also, Bill C8 has measures to facilitate the provincial cross-border activities of co-operatives. There has also been discussions over the last five years about the creation of a national co-operative bank. Canada now has a centralized ombudsman service that is good for all of the financial services sector whether the complaint be against provincially-regulated or



federally-regulated firms. Last, there has been a rationalization of Canada's stock exchanges at the end of the 1990s. In this process, the Toronto Stock Exchange became the principal exchange for primary trading (the issuance of new securities), and secondary trading (the exchange of existing securities) in Canada with the Montréal Stock Exchange focusing on derivatives trading, and the Vancouver and Calgary Stock Exchanges becoming the Canadian Ventures Exchange (owned by the TSX). Recently, the Wise Persons Committee put together to study the future of the Canadian securities industry has come up in strong favour of the creation of a national securities commission (2003). In such a system of multi-level governance, the central authorities are to have clear responsibility over most of Canada's financial sector, letting the provinces regulate small parts of the industry as required for regional economic development.

The rationalization of authority in the finance industry is not in itself, especially taking into account international developments, a decrease in Canada's system of multi-level governance. The rationalization that is taking place in Canada is to ensure a more efficient regulatory regime. It seeks to provide a less costly approach to regulation, one that favours internationally competitive domestic institutions. It does highlight, however, how the federal government has strengthened its ability to regulate the financial services industries as a result of the internationalization of public policy. At the NAFTA level, Canadian firms are increasingly seeking to make a dent in the integrating American

marketplace. Internationally, the revised Capital Accord being negotiated and on the verge of being agreed to should strengthen the international regime in banking. In fact, the rationalization in the Canadian financial services sector may be a sign of the maturing of Canada's regime in this policy field.

Last, there is a certain disjuncture between Canada's international commitments and domestic policy issues. For instance, capital adequacy is subject to international negotiations, but consumer issues are domestic in scope. In that sense, it is not surprising that Canada seems to retain policymaking authority in this policy field, as I shall argue in Chapter Six, and that it does not appear overly constrained by the agreements of supra-national authorities. What is taking place then is the slow re-allocation of jurisdictional powers within the international polity. The reforms in the Canadian financial services sector over the last twenty years help situate the evolving authority of the Canadian state in this policy field.

In the next chapter, the focus of the analysis is narrowed to the two Canadian case studies selected for this research: the dismantling of the four pillars policy and Bill C8.

## **Chapter 6 - Policymaking in the Canadian Financial Services Sector: From the Dismantling of the Four Pillars Policy to Bill C8**

In this chapter, I offer a thorough comparison of our two Canadian case studies. I start by analysing the dismantling of the four pillars policy from 1987 and 1992. The policy process for Bill C8, the latest Canadian financial services sector reform is then studied. Greater time is spent on this case because of the novelty of the information and analysis provided. The comparison will focus on the four areas identified as having changed as a result of multi-level governance. First, I highlight how the discourse has been adapted from the end of the 1980s to the present to accommodate the rise of a stronger regime of multi-level governance. Second, I discuss how multi-level governance has affected policy options for both case studies. For Bill C8, there is a greater focus put not only on domestic competition but also on how open the Canadian market is to foreign firms, and how competitive Canadian firms are in the North American and global marketplace. Third, I analyse the actor constellation for both cases. I point out that the dismantling of the four pillars policy has merged the different policy communities in the Canadian financial services sector, a reality that is heightened during the Bill C8 process. The policy network in Canada is now quite large and open to a diversity of interest. I argue that while the mode of interaction in the constellation has not changed in the two case studies, the role of both public and private authorities has actually been strengthened through the increase in multi-level governance. That is, the Department of Finance has

the ability to play the role of final arbiter between the different interests which lay before it in the policy debate, but non-governmental actors were decisive in setting the policy agenda and policy options to be addressed in the negotiations leading to Bill C8.

*1) Case study 1: 1987-1992*

*- Breaking Down the Four Pillars Policy*

The period from 1987 to 1992 is key in the Canadian financial services sector. As was just discussed, it represents the transformation from a weak system of multi-level governance to a medium system of multi-level governance. It also represents the opening up of Canada's finance industry to the international financial environment. In other words, the Canadian financial services sector was in need of a legislative and regulatory overhaul in the light of changing domestic and international conditions. In that sense, and as will be seen in the upcoming chapters, this makes this period quite comparable to the 1984 French Bank Act.

The Royal Commission on Banking and Finance, usually referred to as the Porter Commission, initiated a twenty years process of change in the Canadian financial services sector. The report of the Commission, published in 1964, made two broad recommendations that would be the focus of governmental activity well into future decades. First, the Commission reported on the need for the uniform regulation of

financial institutions. This recommendation could never entirely be followed because of the constitutional division of powers in this policy field. Second, the Commission outlined competition as an objective of policy. Even in the 1960s, the market dominance of the chartered banks was evident and the Porter Commission proposed measures to ensure increased competition not only between banks but also across the industry pillars. The government proposed legislative changes both in 1967 and 1980 seeking to respond to the challenges laid out by the Porter Commission. For instance, in 1967 the government created the CDIC to protect consumers' deposits, also increasing competition in the banking industry.

The 1980 Bank Act brought forth three major changes. First, it created the CPA. Facilitating access to the payment system for banks as well as for near-banks was seen as one possible way by which to increase competition in the finance industry. The 1980 Bank Act also distinguished between Schedule I and Schedule II banks (a measure eliminated in Bill C8). Schedule I banks are the traditional chartered banks which had to be widely-owned, while Schedule II banks could be wholly-owned, however, they faced a different regulatory regime. The new system allowed foreign subsidiaries to operate in Canada as Schedule II banks. Third, the 1980 Bank Act lifted all remaining restrictions on banks selling mortgages and allowed banks to own mortgage loan companies, traditionally under provincial supervision. In 1980, the seeds to dismantle the four pillars

policy were first sown. As such, the 1980 Bank Act concluded the reform process that had started with the Porter Commission, but it also represented the beginning of the end for Canada's four pillars system.

The break-up of the four pillars continued throughout the 1980s to conclude with the 1992 revision of the Bank Act. Its first real blow came in 1987 when banks were allowed to own 100% of securities firms. The story behind the opening up of Canada's securities industry is well-documented in a doctoral dissertation by Stephen Harris entitled: *The Political Economy of the Liberalization of Entry and Ownership in the Canadian Investment Dealers Industry* (1995). In his thesis, Harris notes that the story behind the revamped ownership regime in the securities sector actually dates back to the late 1960s and is mired in the debate about the role of foreign financial services firms in Canada. Harris argues that the under-staffed Ontario Securities Commission was captured by the IDA throughout the 1970s preventing any change in the ownership regime of securities firms. However, with the arrival of a new Liberal government in Ontario in 1985, the influence of the IDA is said to diminish and in 1987 the Ontario government announced plans to let banks own a third of a securities firms. Meanwhile in Québec, a loophole in regulation allowed the provincial government to provide the Bank of Nova Scotia with permission to operate a securities subsidiary in the province. Under the premise of competitive federalism, and through negotiations with the provinces, the

federal government had no choice in 1987 but to allow chartered banks to own securities firms.

In addition to the changes talked about above, the government also announced in 1987 modifications to the country's regulatory structure. These changes, and those to follow in 1992, were partly brought about because of the volatility in the Canadian financial services sector during the 1980s. Throughout the decade, two chartered banks, 17 trust companies and 10 mortgage loans firms went bankrupt (Coleman 1996: 223). In fact, Canada was participating at this time in the Basel discussion on the issue of bank solvency and capitalization, eventually leading in 1988 to the Basel Capital Accord. The changes made to the national regulatory structure were threefold. First, the OSFI was created to replace the Inspector General of Banks and the Department of Insurance. The powers of OSFI were expanded over its predecessors as it gained the power to issue orders of compliance. Second, because of the bankruptcies faced in this period, the powers of the CDIC were expanded. Third, The Financial Institutions Supervisory Committee was created grouping the heads of OSFI, the CDIC, the Governor of the Bank of Canada, and the Deputy Minister of Finance. This inter-agency committee was to facilitate the exchange of information and ensure consultation on supervisory matters. These changes reflected the evolving and modernising structure of the Canadian financial services sector during this period.

If the four pillars policy started to crumble in 1987 as banks are allowed to own securities firms through subsidiaries, the policy would come to a definitive end in 1992. The 1992 legislative reform was the result of ten years of discussion and consultation brought forth by a series of factors including market evolution towards cross-sectoral activities, the need to modernize the trusts and loans as well as the insurance legislation, and the internationalization of markets. And, as just mentioned, in light of industry failures, the period also saw heavy debates about the nature of Canada's deposit insurance scheme (Daniels 1993). During the 1980s, the federal government and provincial authorities offered a series of alternatives to reform the Canadian finance industry. The nature of these proposals can be found through some of the many reports of the period including among others the federal Green Paper of 1985 and from Ontario the *Report of the Task Force on Financial Institutions* also from that year. By 1990, the federal Department of Finance issued a document entitled *Reform of Financial Institutions Legislation: Overview of Legislative Proposals* which would finally be the basis of the 1992 legislative changes.

The 1992 amendments have three main components. First, they expand the powers of financial institutions to enter into cross-sectoral activities through subsidiaries. In other words, banks were allowed to enter both the insurance and the trust sectors of the industry. Second, the ownership regime was changed to accommodate this important



transformation. Third, provisions are enacted to avoid self-dealing and conflict of interest that may arise out of the cross-sectoral activities of financial institutions. Out of these legislative changes came a commitment by the federal government and the provinces to harmonize and disentangle federal and provincial regimes of regulations.

During this period, Canada moved to a medium system of multi-level governance. The stable policy demarcation that existed in the first hundred and twenty five years of Canadian history came under stress from within with the breaking down of the four pillars and from the outside as international regimes governing finance were built and strengthened through the late 1980s and the 1990s. By 1996, the federal government felt it was necessary to assess the extensive changes that had taken place in the Canadian finance industry. It thus launched with the naming of the Task Force on the Future of the Canadian Financial Services Sector the policy process that would lead to Bill C8.

## *2) Case study 2: Bill C8*

### *- The Long Process*

The story of Bill C8 is one that takes five years of public and politicised debates. At the end, major changes are again brought forth in the Canadian financial services sector. I relate this story and the changes brought forth by the legislation prior to offering a thorough comparison of the two Canadian case studies.

As just mentioned, the story of Bill C8 started in 1996 when the federal government announced the creation of the Task Force on the Future of the Canadian Financial Services Sector. The Task Force was created because it was felt that no complete and thorough survey of the Canadian finance industry had been conducted since the Porter Commission and as such, it was the proper time to assess the vitality and the future of that industry. The creation of the Commission differed as a policy instrument from those used in the last round of reform for the dismantling of the four pillars policy. As seen, the 1980s saw a series of governmental discussion papers mostly initiated from inside government and meant to inspire reaction. The creation of a Commission favoured a broad and wide consultation process, allowing much more input earlier on in the policy process by non-governmental actors. After the 1992 legislative changes, the government needed this input to help it determine the future direction of the finance industry.

By law the government had to review the Bank Act by 1997, which it did but only making minor adjustments to the existing legislation. It was felt even prior to the 1997 revisions that a more thorough analysis was needed. The mandate of the Task Force is presented as follows:

The Task Force will inquire into public policies affecting the financial services sector and make recommendations to enhance: 1) the contribution of the sector to job creation, economic growth and the new economy; 2) competition, efficiency and innovation within the sector; 3) the international competitiveness of the sector in light of the globalization of financial services, while at the same time maintaining strong, vibrant domestic financial institutions; 4) the ability of the

sector to take full advantage of technological advances as they occur and to meet the competitive challenges resulting from the introduction of new technologies; and 5) the contribution of the sector to the best interests of Canadian consumers (Canada 1998e).

As can be seen, and similar to that of the Porter Commission, the mandate of the Task Force was wide-ranging, and one of its first tasks was indeed in delimiting its object of study. Jim Baillie was originally the chair of the Task Force though he was quickly replaced by Harold McKay. The Task Force travelled across the country and received hundreds of submissions from financial institutions, business associations, and consumer groups. Literally all interviewed in the policy network agreed that the Task Force provided to everyone whom wanted to involve themselves in the debate a chance to participate.

The final report of the McKay Task Force was submitted in September 1998. The report contained 124 recommendations. It was structured around four key themes: enhancing competition and competitiveness, empowering consumers, Canadians' expectations and corporate conduct, and, improving the regulatory framework. Similar to the Porter Commission here again, the overall message of the Task Force focussed heavily on increasing competition in the industry. For instance, it proposed a new ownership structure for banks where small-sized banks would no longer be required to be widely-held. Although widely-held requirements remained for the major banks, the proposal sought to increase entry in the Canadian banking sector. In that regard, the report also

suggested that foreign financial firms play a larger role in Canada to increase competition in the domestic market, especially for financing SMEs. As well, the report suggested that banks be allowed to sell insurance and lease vehicles in branches, measures that would not in the end be supported by the government. That being said, most of the recommendations of the McKay Task Force found their way into Bill C8. As evidenced throughout my interviews with members of the Canadian financial services sector, and through the transcripts of discussions in Parliamentary hearings on the work of the McKay Commission, there was quasi-unanimous support for the work that the Task Force achieved, though obviously not all members of the network agreed with all of the recommendations. Peter Nares (Executive Director, Self Employment Development Initiatives) is quoted in the interim report of the Standing House Committee on Finance on the work of the Task Force as stating: "As someone who works in the policy environment and has read many reports over many years of this work, I must say we found this report to be one of the better ones. It was balanced, clear and well written ..." (Canada 1998c). In fact, the report of the McKay Task Force alongside its research papers figured prominently on the bookshelves in many of the offices visited during the interview process.

By January 1998, the Bank of Montreal and the Royal Bank of Canada surprised the financial world and announced their plans to merge, soon to be followed by the

Canadian Imperial Bank of Commerce and the Toronto Dominion Bank. The merger debate was to permeate the policy process. Although the Task Force did not touch on the matter in its final report, many of the submissions it received following the announcements dealt directly or indirectly with the issue. Of note, in an interim report on the 'big shall not buy big' policy issued in July 1997, prior to the banks' announcements, and as asked by the Department of Finance, the McKay Task Force had already recommended that the policy traditionally in vigour in Canada not be applied indiscriminantly. The Standing House Committee of Finance and the Senate Banking Committee both held cross-country hearings on the work of the McKay Commission. Yet, their discussion was also heavily directed to the issue of the mergers. Although the banks tried to convince the government and the public that they needed to get bigger to be more competitive internationally and within North America, the issue became that of the quality of the services offered by Canadian banks, an oligopolistic industry, and whether in that sense 'bigger really meant better'. Services to low-income Canadians, to poor neighbourhoods and rural areas, service charges, and job cuts for employees of the banks all came to be critical in the debate.

The general argument of those opposed to the mergers was that as long as Canadian banks did not serve Canadian customers better, they should not be provided with the opportunity to merge. The debate was rerouted from an economic one to one

about the quality of services (Interview with the CCRC 2003). On the one side of the debate were the banks, on the others came consumer groups, SMEs, the property and casualty insurance industry, Liberal backbenchers (as demonstrated by the Ianno report of November 1998, signed by fifty MPs and four Senators and denouncing vehemently the mergers), and a great many ordinary Canadians.<sup>5</sup> The banks entered the debate with cockiness but as one observer points out: “The blockbuster announcement landed on a public whose deeply ingrained dislike of big banks was rivalled only by its hatred of Ottawa politicians” (Whittington 1999: 11). The banks lost the public opinion battle and Paul Martin, then Minister of Finance, eventually turned down the mergers arguing that they were not to take place until the end of the legislative reform process. It is possible to wonder whether the mergers would have been approved by Minister Martin if not for the spirited opposition that was organized in opposition to them. It is also possible that the mergers could have been approved if better communications had existed between the merging entities and the federal government. In other words, if Minister Martin had been

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<sup>5</sup>For an accurate depiction of the actors involved in the merger debate and their position, the most comprehensive sources are the evidence presented to the Standing House Committee on Finance, examination of the Report of the Task Force on the Future of the Canadian Financial Services Sector, Parliament 36, Session 1, in the period of September 21<sup>st</sup> 1998 to November 16<sup>th</sup> 1998; and, the Senate Committee on Banking, Trade and Commerce, examination of the present state of the financial system in Canada, Parliament 36, Session 1, in the period of September 28<sup>th</sup> 1998 to November 5<sup>th</sup> 1998.

pre-warned about the banks' intentions prior to them making a surprise announcement in January 1998, he may have been more favourable to their intentions.

On a more general level, the merger debate focussed attention on the Canadian finance industry. In that respect, the Standing Committee of the House on Finance and the Standing Committee of the Senate on Banking came to be important players in the policy process. Both issued reports commenting on the work of the McKay Commission approving most of its proposals. The preliminary report of the House Committee in response to the work of the McKay Task Force came out in December 1998. It was quickly followed by the final report of the Committee entitled *The Future Starts Now* in March 1999. The final report added very little to the one published just a few months prior, an interim report that was meant to be comprehensive in its outlook. The interim report is impressive in outlining the new international environment in which Canadian financial services firms now operate. On certain issues, Parliamentarians were very influential (Interviews with the Department of Finance 2003). As just mentioned, the lack of support for mergers from the Liberal caucus helps explain why the government turned down the merger proposals. Insurance brokers and the property and casualty insurance industry also heavily lobbied Parliament ensuring that the House Committee rejected proposals that would see banks retailing insurance in branches. Although Parliament played an important role in terms of those two policy issues, it would in the end generally

support, as to be expected, the stance and measures proposed by the Department of Finance.

It is finally in 1999 that the Government responded to the work of the McKay Commission and the proposals that came from Parliament. It issued a White Paper entitled *Reforming Canada's Financial Services Sector* which outlined its vision for the future of the Canadian financial services sector. Chapter One of the document states:

New information technology, globalization and demographic change are driving innovation and giving rise every day to new opportunities and demands in the Canadian financial services sector. The impacts of these changes on consumers, businesses and governments will continue to drive the evolution of the sector in the future (Canada 1999).

This quotation reaffirms the agreed upon context in which reform was taking place. In the White Paper, the government reiterated the four essential elements of public policy in this sector as outlined in the McKay report, with a particular focus on fostering efficiency and growth in the industry. In this document, the government responded to the recommendations made by the Task Force. As is meant to be the case, the White Paper became the reference for both the industry and government in assessing whether the measures that Bill C8 contained and the regulations that would further be derived from the legislation met the objectives set forth for the policy.

It was in the spring of 2000 that the Liberal government finally presented legislation (Bill C38) to Parliament. The length of the policy process up to this point is



easily explainable by the size of the legislation, among the largest bills ever presented in Canada. As well, the sheer size and complexity of the issues being studied required a great amount of time to be put into legislation. However, the Chrétien government went to election in the fall of 2000 and Bill C38 was not adopted. The government reintroduced the legislation in the winter and spring of 2001 as Bill C8. The new legislation was finally adopted in June of that year. Implementation of the policy began in October 2001. There actually are very few differences between Bill C38 and Bill C8.

Towards the end of the legislative process for Bill C8, there was a consensus that it was time for the legislation to be adopted. Outstanding issues were to be addressed in the next round of reform. It was now time to implement the many measures and changes that Bill C8 brought forth. Even in the case of those who did not agree with many facets of the legislation, it was understood that lobbying at that point was to have little success (Canada 2001c). No new changes were to be put into the legislation. The long five year policy process had finally reached its conclusion.

What this section has not sufficiently provided, except maybe in the case of the merger debate, is a picture of how politicised and emotionally charged were the five years of debate. Due to the charged nature of the debate, it is often assumed that the relationships between the actors involved, especially between the banks and the Department of Finance, were acrimonious. This assumption is based on the fact that the

Minister of Finance rejected the bank mergers when it is generally argued the banks were certain that in the end they could count on the support of the Minister (Whittington 1999). Though it is clear that the bank merger story drew bitterness from all sides, it is equally true that the process leading to Bill C8 was quite collaborative. In fact, among the members of the actor constellation and the policy network, there was general agreement on the way the policy process was conducted, and the consultation effort of the Department of Finance. In support of this argument, it may be relevant to note that the federal government re-adopted the Task Force strategy by naming in March 2003 Harold McKay to chair the Wise Persons Committee to study the future of the Canadian securities industry. For Bill C8, not all actors agreed with every single policy decision made. However, most involved players believed that they obtained a fair hearing from the Department of Finance. The professionalism and the good faith of the actors involved was never put into question.

*- The Legislation<sup>6</sup>*

Bill C8 makes some very important changes to the Bank Act. First, it followed the McKay report recommendation to modify the widely-held ownership rules. Previously,

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<sup>6</sup>The information for this section can be obtained in the legislative summary, Research Branch, Library of Parliament (Canada 2001a).

new banks were to become widely-owned after ten years of operation. As such, all chartered banks were to be widely-owned. With the new legislation, small banks with less than a billion in equity can be closely-held. Medium-sized banks under five billion in equity can also be closely-held. However, they must have a public float of 35 percent of their shares. Large-sized banks must be widely-held. Whereas before, no one individual could own more than 10 percent of a bank, that figure has been raised to 20 percent of voting shares upon approval of the Minister, and 30 percent of non-voting shares. The goal of these measures is to facilitate entry into the industry, assist the raising of funds by banks, and encourage competition in the marketplace.

Under the new legislation, banks are now also allowed to structure themselves under a holding company model. As can be seen by studying the submissions to the McKay Task Force and those to the ensuing Parliamentary hearings, allowing holding companies was an important suggestion of the CBA, but was even more strongly advocated by the National and the Laurentian Bank (Canada 1998b; Canada 1998d; Canada 1998-1997). Such a standpoint was adopted by these institutions since the Québec government had already allowed the Desjardins movement to adopt a conglomerate model. Such a measure, it is argued, provides more organizational flexibility to financial services firms, an advantage for possible domestic and international expansion. The ownership system described above has also been extended to include life

and health insurance companies, whose firms underwent a process of demutualization during this period.

Bill C8 also increases and clarifies the number of investment opportunities for banks, which until then faced strict restrictions on owning other businesses. Although this policy change is not often talked about, many in the banking industry believe it to be particularly important in ensuring the long-term competitiveness of Canadian banks (Confidential Interviews 2002-2003).

Some measures found in Bill C8 reflect directly the internationalization of markets and public policy in the financial services sector. Most notably, Bill C8 clarifies the arcane rules for the entry of foreign institutions in Canada. It was in 1999 that the government of Canada allowed foreign banks to establish branches in Canada, as opposed to a system whereby only subsidiaries could operate in the country. The rules for entry did, however, remain complex and were clarified in Bill C8. This clarification was strongly encouraged by foreign financial firms, including Wells Fargo which outlined in their different submissions how it had to negotiate one on one with OSFI in order to operate in Canada (Canada 1998d; Canada 1997-1998). The measures found in Bill C8 in this regard not only encourage foreign entry and competition, they were also taken in the hopes of facilitating sources of lending for small and medium-sized enterprises.

Compared to what one would believe from an hyper-globalist perspectives, Bill C8 is filled with consumer provisions. The legislation creates the Financial Consumer Association of Canada (FCAC). This organization takes over the consumer issue monitoring responsibilities of OSFI. This part of the bill has been criticised by some as simply adding another layer of bureaucracy in the regulation of the Canadian finance industry. The Canadian Community Reinvestment Coalition (CCRC) would have preferred for their part that the government allow the creation of an independent consumer protection agency financed by consumers themselves (Canada 2001c; Canada 2000; Canada 1998b; Canada 1998d; Canada 1997-1998). As well, emanating from Bill C8, the federal government and private sector actors agreed on the creation of the Financial Services OmbudsNetwork as providing a single window access to the industry's ombudsman services (The Ombudsman for Banking Services and Investments, the Canadian Life and Health Insurance OmbudService and the General Insurance OmbudService). The nature of ombudsman services provided to Canadians came to be a prominent issue in the debate that led to Bill C8 since many, including the CCRC, saw the banks' ombudsman office created in 1996 as a puppet of the industry (Canada 2001c; Canada 2000; Canada 1998b; Canada 1998d; Canada 1997-1998). Other consumer measures found in the legislation include: branch closure requirements, disclosure requirements, low-fee bank account requirements, and the prohibition of tied-selling. The

government also enshrined in law the requirements for banks to fill out on a yearly basis a public accountability statement, a measure borrowed from US states legislation. The number of consumer protection measures in the legislation have led the banks to call this the 'consumer round' of reform (Confidential Interviews 2002-2003).

The government made changes in three other areas. First, Bill C8 streamlines OSFI approval requirements. On many issues, if OSFI does not provide approval to a financial institution within thirty days, approval is deemed to have been granted. This forces OSFI to be more efficient. The number of Ministerial approvals has also been increased. The government has also made changes in regards to the payment system. It has opened the payment system to the insurance, mutual fund, and securities industries. It has also modified the structure of the CPA and clarified the mandate of the organization. Last, Bill C8 comprises a series of measures that are to facilitate the cross-provincial activities of the cooperative sector. During this period, the government held talks with elements of the cooperative movement to set up a national cooperative bank, however, the talks failed mostly because of the apathy of industry players (Confidential Interviews 2002-2003).

Bill C8 is often wrongly called the merger legislation. In fact, the legislation does not directly deal with bank mergers. It only does so in the annexed press release outlining the steps to be taken in the advent of merger proposals. The layout of the plan was similar

to the procedure that was followed in 1998. Based on the advice of OSFI, the Competition Bureau and Parliament, the Minister is to take the final decision in approving a merger proposal. The criteria for assessing merger proposals are not clearly laid out and at time of writing have been the subject of recent Parliamentary hearings and reports. Bill C8 does not allow or disallow mergers. More to the point, it ignores the issue.

There are three other highly contentious policy issues that have not found their way into the legislation. First, Canadian law still does not permit insurance retailing and vehicle leasing in bank branches. In that respect, there was a tremendously successful campaign by insurance brokers and the IBC (Interview with IBC 2002). It helped the insurance industry that this debate took place during that of the mergers so that it was a time when banks were often 'demonized'. Second, the CLHIA wanted important changes to be made to the Canadian deposit scheme. They argued that because the CDIC was public and Compcorp (the insurance deposit protection scheme) was private, it provided an unfair competitive advantage to the banking sector (Interview with the CHLIA 2002). The argument was rejected by the Department of Finance which argued that the current deposit protection arrangements worked fine and were not in need of any modification (Interview with the Department of Finance 2003). Third and last, the issue of duplication and overlap between federal institutions and between federal bodies and provincial counterparts was discussed but is not really addressed in the legislation. Although all

financial institutions deplore the regulatory cost of doing business in Canada, the federal government argues that there is actually little that it can do in this domain (Interview with the Department of Finance 2003). To be honest, the debate leading to Bill C8 demonstrates that all actors in the policy network have come to accept as 'normal' the duplication and the overlap in the Canadian system. In fact, this legislation, with the creation of the FCAC, can be said to increase the regulatory burden on Canadian financial institutions.

### *3) The Effects of Multi-Level Governance: Comparing Case Studies 1 and 2*

#### *- Changes in Discourse*

So, what have been the effects of multi-level governance on the domestic policy process in regards to Bill C8? And, how different is the policy process now in terms of multi-level governance than it was in the period from 1987 to 1992? In order to conduct this analysis, it is first necessary to analyse how the policy discourse has changed from the period 1987-1992 to that of the policy process for Bill C8.

The government's view of the financial services sector during the break up of the four pillars policy was still mostly national in scope. In its *Overview of Legislative Proposals* in 1990, the government focussed heavily on the way financial institutions should respond to the needs of Canadians:



These financial institutions fund the mortgages of Canadians, finance our automobile purchases, hold and invest our savings and make available the investment for new or expanded industries and businesses. Because they channel savings to finance economic growth, they must be sound, innovative, dynamic and internationally competitive (1990).

The discourse of the late 1980s did, however, also incorporate some of the elements that characterize the internationalization of public policy. In a report entitled *Globalization and Canada's Financial Markets* the Economic Council of Canada stated:

For Canadian-based financial institutions, the new frontier offers many new opportunities within a much more competitive environment. We realize that these institutions have been losing shares in some rapidly growing markets. We believe that strong Canadian-based institutions are important for our collective future. But we also believe that competition, not protectionism, is the best way to develop their strength. Hence, we suggest a further relaxation in the restrictions on foreign competition in the domestic market, and we propose other measures that have the potential to enable Canadian institutions to expand their markets, both in Canada and overseas. If implemented, these measures are likely to accelerate the restructuring of the financial-services industry. This restructuring is an essential prerequisite to remaining competitive in the marketplace of tomorrow (1989: 141).

In this instance, the focus had already moved beyond the domestic market to international ones, presaging a trend that would considerably be strengthened in the 1990s. That being said, the legislative revision of the 1987-1992 period is aimed at reforming the structure of the Canadian finance industry with international considerations not as clearly at the forefront of discussion as would be the case later on in the decade.

As the new millennium approached, the policy discourse came to be further influenced by the internationalization of policy as is evidenced in the debate that led to

Bill C8. The strengthening of multi-level governance systems through NAFTA, the GATS and Basel came in many ways to be seen as an impetus for legislative change. For instance, the CBA stated:

The task force has recognized the negative impacts of the overlap and duplication in Canada's regulatory structure. In our view, the task force's recommendations, such as provincial delegation to OSFI and harmonization of rules, constitute useful first steps but do not go far enough in streamlining the system. In our view, the key to addressing the issue of overlap and duplication in the Canadian regulatory system is to achieve what we call national regulation of all financial services for those provinces that choose to participate. It's interesting to note that internationally, through our trade obligations and NAFTA, WTO, and the free trade area of the Americas, Canada is moving toward a common market in financial services with our trading partners. Internally, however, we still face a welter of overlapping and conflicting provincial rules (Canada 1998d).

Although the complaint presented in the first part of the statement was nothing new, the reference to international regimes as a justification for reform was indeed a new element to appear in the process leading to Bill C8. For their parts, consumer groups throughout the debate made a point of highlighting how much freedom Canada retained in policymaking despite its international commitments (Canada 1998b; Canada 1998d). It is hard to say if the evolution in the discourse during the process for Bill C8 represented more of a perception by actors than a real change in their operational, day-to-day activities. Nonetheless, the perception as expressed through the debate reflected the image of a more internationalized policy area, which is then seen as affecting policy options.

*- Changes in Policy Options*

The increase in multi-level governance also influenced policy options. At the time of the 1987-1992 reform, the policy options on the table focussed on regulatory rationalization and corporate structures. In the case of the former, ways were studied to minimize the impact of the shared jurisdictional responsibility between the federal government and the provinces in the financial services sector. In the *Overview of Legislative Proposals*, the federal government stated:

Cooperation between federal and provincial authorities is the most responsible way of ensuring the stability and growth of our national and regional financial institutions by reducing the possibility of regulatory and supervisory duplication. The goal is to avoid, in practical terms and to the degree possible, the multiple regulation of federal and provincial institutions operating in several jurisdictions. The approach is designed to have financial institutions regulated where appropriate by their jurisdiction of incorporation (1990: 3).

Interestingly enough, interviews conducted in the late 1980s with representatives from the federal bureaucracy demonstrate that the formal centralization of power into the hands of the federal government was never an option that was considered by the Mulroney government of the time.<sup>7</sup> In terms of corporate structure, the Department of Finance sought heading into the 1992 reforms ways to allow banks to enter into the insurance and trusts markets without endangering the safety and soundness of the Canadian financial

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<sup>7</sup>The interviews were conducted by Dr. William D. Coleman with various members of the Canadian financial services sector policy network in 1987.

services industry. In the 1992 reform, the government would pay particular attention to the issue of self-dealing in order to minimize prudential risks.

The issues of domestic and international competitiveness played a much larger role in the debate that led to Bill C8 than was the case for the earlier round of reform. The core of the matter lay in fostering competition for the Canadian market and in making Canadian firms more competitive in the face of regionalization and globalization. As the internationalization of public policy continued to pressure the Canadian financial services sector, Bill C8 was to ensure that national firms be in a much better legislative and regulatory environment to compete domestically and internationally. For instance, the new ownership regime, the simplified entry requirements for foreign financial institutions, the facilitation of cross-provincial activities for credit unions, the increased investment capacities of banks, the regulatory streamlining, are all measures that aimed, at least in parts, to increase the competitiveness of the Canadian market. Some of those measures such as the new ownership regime, or the increased investment possibilities, are also intended to render Canadian banks more competitive on the global scene. There has been a shift in the minds of Canadian policymakers where protecting Canadian firms from foreign competition is not as critical an objective for policymakers as used to be in the past. Yvan Loubier of the Bloc Québécois states:

Earlier, Mr. Pillitteri asked why the Canadian market should be open to foreign banks? In my humble opinion, there are three good reasons. ... The first reason is

that being open to the world is always a good thing; it's a basic principle. The second is that for 10 years now, in all the trade negotiations that have gone on, whether under GATT, which became the WTO, or under the North American Free Trade Agreement, there has been a gradual increase in openness; clauses were adopted by member countries to open up the financial services market. The third is that you cannot have your cake and eat it too (Canada 1998d).

The last part of the comment refers to the idea that if Canadian banks are given the right to operate in foreign markets, reciprocity ought to be granted by Canadian policymakers. But for foreign firms to come into Canada, it was also perceived as important that the Canadian marketplace itself be competitive.

Multi-level governance has impacted the policy options for Bill C8 in other ways. For instance, the McKay Task Force report highlights the need to strengthen Canadian regulatory structure in the face of an increasingly regulated international environment (Canada 1998e: 176). In a presentation to the Senate Committee on Banking, the Royal Bank stated in terms of regulatory practices:

Our regulators are not just sitting north of the 49th parallel. They have a world view and are knowledgeable about what is going on around the world. They have a healthy exchange with regulators in the key trading countries for Canada. We have a much better understanding through the BIS. We have central bankers. We have regulators, such as the Superintendent of Financial Institutions, who get together on a regular basis with their counterparts (Canada 1998b).

The Senate Standing Committee also stated, for instance, in support of the widely-held ownership rule:

For decades, Canadian governments have believed that an integral element of maintaining stability of the financial system, and of helping to ensure that

financial institutions were responsive to the needs of Canadian consumers and businesses, was the requirement that the key financial institutions operating in Canada be controlled by Canadians. This consideration led to policies which originally restricted total foreign ownership in major financial institutions to 25 per cent and, in the 1960's, to the encouragement of major Canadian life insurance companies to become mutual companies, so that they would not be subject to takeover by foreign insurance companies. Today, in the post-NAFTA era, "national treatment" requires that Americans cannot be distinguished from Canadians with respect to ownership policies. Hence, this concern about major financial institutions being Canadian controlled is reflected in the widely held ownership rule – the 10 per cent rule – which applies to Canadian banks. There are conflict of interest reasons as well for the 10 per cent rule (Canada 1998a).

As such, it is also clear that policy options take increasingly account of the international regulatory and supervisory environment.

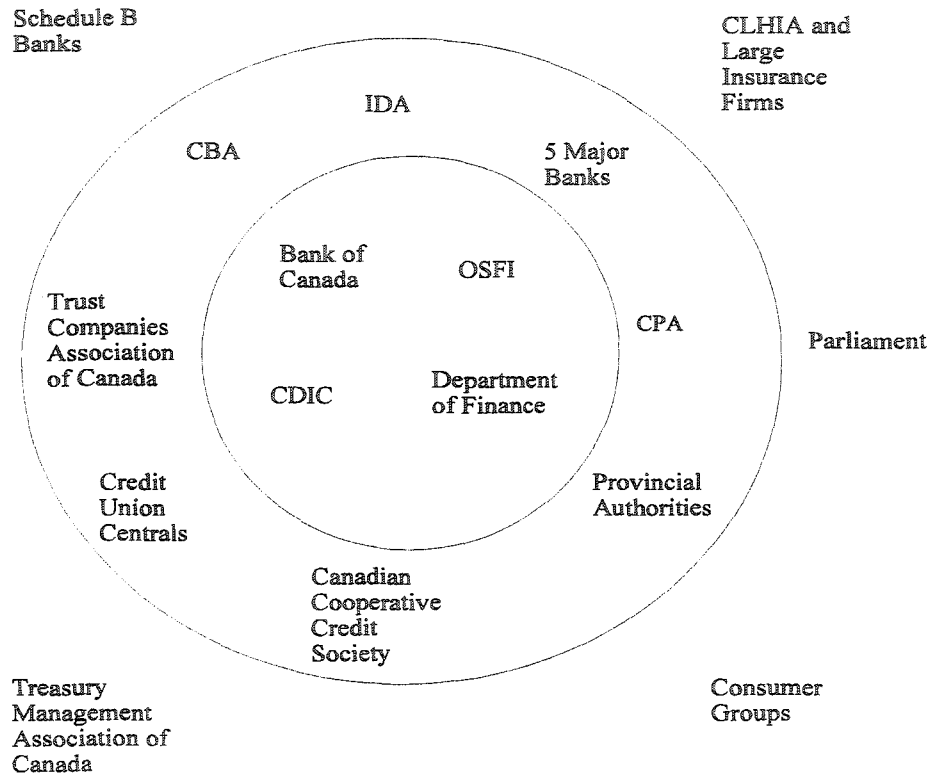
*- Changes in the Actor Constellation*

The increase in the institutionalization of multi-level governance has also led to changes in the composition of the actor constellation. In that context, the policymaking capacity of both public and non-governmental actors has increased. Up until the mid-1980s, it is remarkable how the actor constellation, and the policy network, had remained stable in the Canadian financial services sector (Coleman 1990). The constellation throughout the forty year period following World War Two was composed of the Department of Finance, the Inspector General of Banks, the Bank of Canada, the CBA and the major banks. The composition of the constellation meant that the policy process was closed and mostly bureaucratic in nature. The CBA and banks were consulted at the

time since jurisdictional powers of banking rested with federal authorities, but ultimate decisions resided with the federal Department of Finance.

The transformation from a weak to a medium system of multi-level governance, however, expanded considerably the number of players involved in the policymaking process. That is, as Canadian policy became financial services sector policy, and not only banking policy, the policy communities existing for each industry started to merge to form a larger policy network. The graph on the next page provides an illustration of the actor constellation and policy network in Canada at the time the four pillars policy was dismantled. The members of the actor constellation are those present within the two circles. Those outside of these circles were part of the attentive public. Thus, by the mid-1980s, the actor constellation expanded to include not only the Department of Finance, OSFI, the Bank of Canada, the CBA and chartered banks, but also, the CPA, the provincial authorities, the Trust Companies Association of Canada, the Canadian Cooperative Credit Society, and the provincial credit union centrals. The attentive public included the Finance Committees of the House of Commons and that of the Senate, schedule B banks, trust companies, the IDA, the CLHIA, the CAC, and the Treasury Management Association of Canada (Coleman 1990). For really the first time, many of the actors across the constellation and network were consulted and their input influenced policy decisions at the federal level. The fact of the matter is that by the late 1980s, the

**Canadian Financial Services  
Sector: Actor Constellation  
and Policy Network 1987-1992**



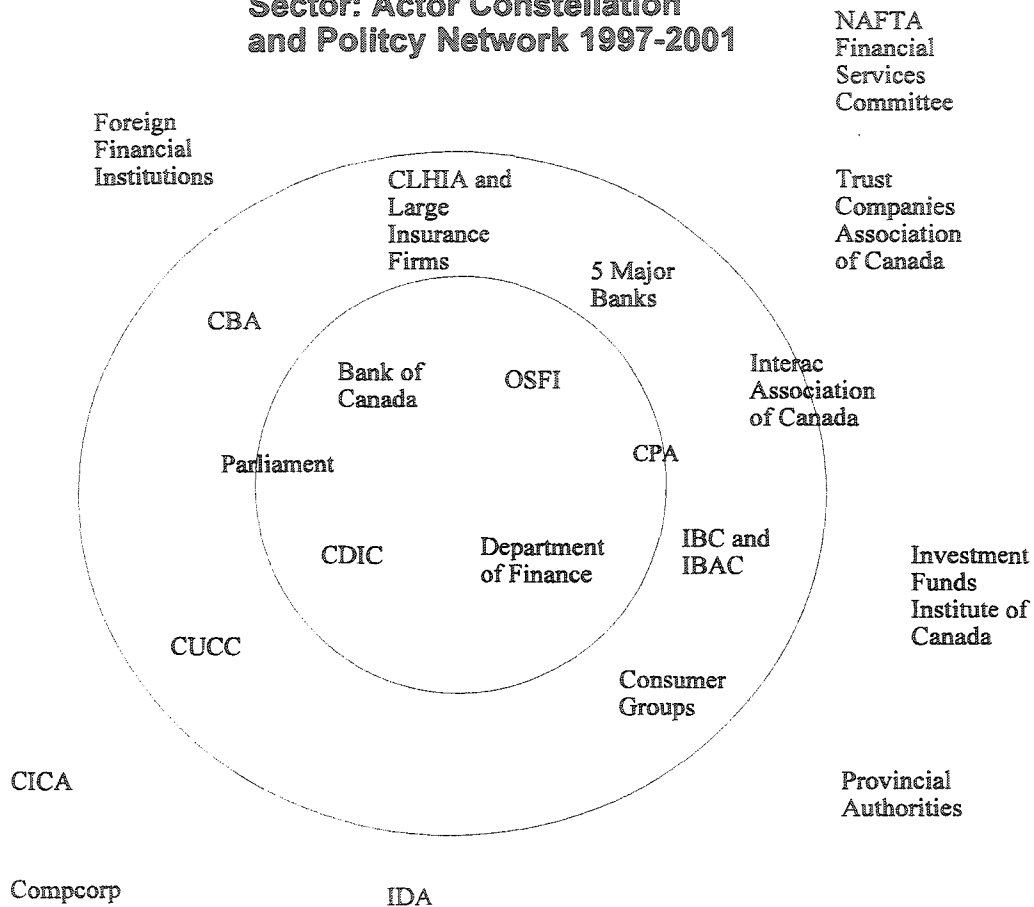
Canadian financial services sector had become more open than ever before and its debates were now much more public. Banks started to lose their privileged position with governmental authorities and became less influential in decision-making. It was not solely the banking industry that was consulted any longer, but the whole of the financial services sector.



That being said, the Department of Finance remained strong and held final veto over policy decisions. In that sense, the actor constellation operated under the rules of hierarchical direction. That is, while it is true that part of the policy agenda of the time was very much in reaction to pressures from the market to dismantle the four pillars segmentation, failures in the market as some firms went under, and debates within the provinces, the legislative changes in the end were the results of extensive consultations conducted by the federal government. Even in 1987 when the provinces allowed banks to own subsidiaries in the securities field, somewhat undermining federal authority, the strong and immediate reaction of the Minister and Department of Finance highlighted the traditionally-accepted central policymaking role enjoyed by the federal government (Harris 1995). The extensive use of consultation papers as a policy instrument prior to the reforms of 1992 indicate the control that the Department of Finance had over the policy options at this time. But the turmoil of the time can also be seen as a sign that the Department of Finance would not be able in the future to dictate the policy environment as it had in decades past.

The enlargement of the policy network at the federal level continued through the process for Bill C8. The graph on the following page provides an illustration of the actor constellation and policy network during this round of reform. The actor constellation has changed from what it was even ten years ago. The nature of the policy issues for this

**Canadian Financial Services  
Sector: Actor Constellation  
and Policy Network 1997-2001**



legislation has dropped some of the players that used to be in the actor constellation in 1992 to the rank of attentive public such as provincial authorities and the IDA since security sector issues were not addressed in the policy debate. Also, the dismantling of the four pillars has eliminated some actors almost altogether like the trust industry, and made some rise into the actor constellation such as large insurance firms and their

industry associations since this legislation modernized insurance legislation in ways not done in over fifty years. It can also be noted that the role of Parliament is perceived as more important for Bill C8 because its voice was preponderant on such issues as the mergers, and that of the retailing of insurances in branches.

The most dramatic change in the Canadian policy process has to be the involvement of consumer groups in the actor constellation and not solely in the attentive public, something that was unthinkable just a short while ago. These groups, whose powers should not be overstated and which are often disorganised and lacking in resources, have managed to become a noticeable actor in financial services sector policymaking. The reasons for their inclusion in the actor constellation and their increase participation in the policy process are diverse.

First and foremost, the policy field is much more publicised in Canada favouring the awareness of the general public. Second, and as stated before, groups like 'Options consommateurs' in Québec and the CAC have demonstrated the ability to produce sound research to be taken into account in policymaking. For instance, Robert R. Kerton of the CAC produced the working report on consumer protection for the Task Force on the Future of the Canadian Financial Services Sector. Last, it is important to note that the banks themselves have recognized the legitimacy of consumer groups. During my interviews with the banks, they referred to the work that they were doing alongside

consumer groups in the elaboration of clear language contracts. This is not to suggest that both sides enjoy a 'friendly' relationship. However, it does demonstrate the ever-increasing participation of consumer groups in the governance of the financial services sector in Canada.

Table 1 'Perspectives on Bill C8' presents all of the players present within the actor constellation and their position on the key measures found within the legislation.<sup>8</sup> Note that although the members of the Senior Advisory Committee, which groups high-ranking officials from the Department of Finance, OSFI, the CDIC and the Bank of Canada for policy discussions, are presented as one row in the table, they do not enjoy equal influence in the policy process. The process is heavily dominated by the Department of Finance, with a lot of input from OSFI.

The mode of interaction remains stable in Canada as that of hierarchical direction. In other words, the key policy decisions for Bill C8 were taken by the Department of Finance with input from its governmental partners. Banks in this period continued to lose influence as the composition of the constellation and network continued to expand. One

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<sup>8</sup>Data gathered from the evidence presented to the Standing House Committee on Finance, in consideration of Bill C38, Parliament 36, Session 2, in the period of September 28<sup>th</sup> 2000 to October 19<sup>th</sup> 2000, in consideration of Bill C8, Parliament 27, Session 1, in the period of March 1<sup>st</sup> 2001 to March 20<sup>th</sup> 2001; the Senate Committee on Banking, Trade and Commerce, in consideration of Bill C8, Parliament 37, Session 1, in the period of April 26<sup>th</sup> 2001 to May 30<sup>th</sup>; and, confidential interviews 2002-2003.

**Table 1 Perspectives on Bill C8**

	Ownership Structure	Bank Holding Companies	Foreign Banks	Consumer Provisions	Regulatory Changes	Payments System	Credit Unions	Merger Review
SAC	Based on Levels of Capitalization	Allows the creation of holding Companies	Clarifies Regulatory Environment	Creates the FCAC, Power to Enforce a National Ombudsman Office, Offers Measures to Render Banks More Accountable	Increased Ministerial Approval, and Streamlined OSFI Approval Process	Increased Access to the Payment System and CPA Governance Structure Changes	Facilitates Trans-Provincial Activities	Proposed Process in Press Release Annexed to the Bill
House and Senate	Support	Support	Support	Support	Mitigated Support	Support	Support	House Opposed to Mergers
CPA	NA	NA	NA	NA	NA	Mitigated Support for Increased Access, Strong Support for Governance Structure Changes	NA	NA
Banks (and CBA)	Support	Support (Strong Support from CBA and Smaller Firms)	Support	Opposed	Support for Approval Streamlining	Mitigated Opposition to Increased Access to CPA	NA	With Few Exceptions, Support Mergers and Would Like Simplification of the Process
Insurance Companies and Industry Associations (IBC, IBAC, CLHIA)	Support (Under Special Provisions for Demutualizing Firms)	Support	NA	NA	NA	Strong Support for Increased Access to the CPA	NA	Support for Mergers from Life and Health Industry, Opposition from P and C Industry, and Brokers
Credit Unions	NA	NA	NA	NA	Support for Approval Streamlining	NA	Support (Some Support for National COOP Banks)	NA
Consumer Groups; Canadian Federation of Independent Business	Support	Opposed	Opposed	Mitigated Support (Some Advocated an Independent Consumer Protection Organization)	NA	NA	Support	Strong Opposition

of the key facets of the process for Bill C8 was in how competing interests presented different viewpoints and policy options to reform the Canadian financial services sector. Banks thought they were over-burdened with regulations and wanted a framework that would allow them to internationalize further; consumer groups sought a policy that would render the banks more accountable; insurance firms thought the playing field was uneven and wanted more competitive balance between them and the banks. Greater efficiency and competition were the words of the day, but all actors had different views on how to achieve the perfect equilibrium. By opening up the policy process, there now appeared a multiplicity of policy concerns. The government, thus, sought to elaborate a policy that would 'satisfice' the majority of actors. It lifted a great deal of restrictions on bank activities, it offered many consumer-friendly provisions, and it matched part of the insurance regime to that of the banks giving them, for instance, access to the CPA. In that sense, Bill C8 is the ultimate compromise.

The policy process for Bill C8 demonstrates that states retain policymaking autonomy within the context of the internationalization of public policy. Many of the issues studied during this period cannot be traced to any international imperatives. The creation of the FCAC or the ombudsman policy are such measures. Even during the merger debate, many of the issues were of a domestic nature such as services to small communities, job losses, or services to low-income Canadians. When interviewed many

in the actor constellation pointed out quickly that Bill C8 primarily responded to domestic imperatives. Recognizing the autonomy of the national level in the policy process is not contradictory to the principles of multi-level governance. The theory elaborated in Chapter Three acknowledges the independence of the levels in making policy decisions.

At the same time, the analysis provided also testifies that multi-level governance affected in significant ways Bill C8. Most notably, changes in multi-level governance arrangements in the Canadian financial services sector have broadened the policy field. New issues appeared on the agenda changing the policy discourse and affecting the policy options under consideration. A great deal of attention was placed on issues of domestic and international competition. Changes in policy considerations led to the merger of pre-existing policy communities in each of the industry's pillars expanding the actor constellation and increasing the policymaking capacity of both the national government and non-governmental actors.

The federal government's capacity to make policies has not been diminished through further institutionalization of Canada's multi-level governance arrangement in the financial services sector. The refusal to allow bank mergers, as well as the many consumer friendly provisions found in Bill C8, are evidence of the leeway still enjoyed by the government versus private sector actors in decision-making. As noted in Chapter 5, the centralization of authority at the federal level in the financial services sector is also

increasing the capacity to act of the national government. That being said, the role of non-governmental actors in policymaking has also evolved. It is somewhat unclear whether the intensity of interactions between public and non-governmental actors increased from the 1992 legislative changes to Bill C8. It is clear, however, that non-governmental players in Canada do not play a simple lobbying role in policymaking. The government of Canada did not enter the round of reform for Bill C8 with a pre-determined policy agenda, and clear policy options on the table. Through consultations and as a result of the work of the McKay Commission, there came to be agreement within the actor constellation as to the issues that needed to be addressed in a legislative reform. Through this openness in setting the policy agenda and the policy options, private sector actors and consumer groups engaged the government into different scenarios for reforms. In the end, the mediating process conducted by government allowed for negotiations to be held between all players within the constellation. There are no clear winners and losers in Bill C8, rather the legislation represents the ultimate compromise between the different actors involved in the finance industry. As the range of policy issues to be addressed expanded as a result of changes in the multi-level governance system in Canada, so did the policymaking capacity of both public and non-governmental actors.



#### *4) Conclusion*

Foremost it is worthy to note again that the policy process in Canada is now much more open and democratic than was the case at the beginning of the 1980s, and even through the dismantling of the four pillars policy. Traditionally, banking and financial services sector policy in Canada, as in most other states, is conducted by the elites. It is a technically complicated policy area dominated by technocrats. Yet, over the course of the last twenty years, the finance industry, and banks in particular, have become a much more politicised topic in Canada. Canadians are much more informed and aware of the practices of Canadian banks and other actors in the finance industry. This awareness partly helps explain the strong popular opposition to bank mergers. The increased popular scrutiny is coupled with an increased media presence. Banks' quarter and yearly profits and losses are newsworthy items in Canada. It is easy to believe that the banks' substantial worth provide them with a pre-determined advantage in the policy process, especially in terms of the access it enjoys with politicians. At the same time, public scrutiny helps keep both bankers and politicians in check. Although the public may not be in tune with all the intricacies of the financial services sector business, and financial services sector policy, the process, at least, now has to be much more public. It is somewhat paradoxical that as the industry is becoming more and more complex, to the point of being hard to follow even for insiders, policy in the field is becoming more and

more open to public criticism and input. As one interviewee flatly put it: “The McKay Commission spoke to everyone and their dog!!!” (Interview with Task Force Representative 2002). The House and Senate Standing Committees held cross-country hearings on the McKay report and the merger issue. The adoption of Bill C8 was big time news. Increased scrutiny does not automatically lead to better public policy, but greater public input at least ensures a public debate on key policy issues.

The changing nature of the Canadian financial services sector marketplace, its increasing complexity, the internationalization of the finance industry, the ever-increasing pace of technological change, the democratization of the policy process, and the politicisation of the Canadian finance industry, are all factors that render policymaking in this field challenging. Bill C8 did leave many policy issues on the table. Canadian banks still want to merge, and the increase in competition expected as a result of Bill C8 may lead to an environment where this comes to be seen as a viable policy option. The issue of insurance and vehicle leasing in branches is not over. And changes to the deposit insurance scheme is still a possibility. New issues will also certainly creep up on the political agenda. Mitigating the difficulty of achieving reform in the future is the success of the policy process for Bill C8. Looking over at this process, what stays in an observer’s mind is the openness of the policy field, the heavily politicised debate, but nonetheless the conciliatory result.

In many ways, multi-level governance played an important role in both sets of reforms studied. The dismantling of the four pillars policy helped shift Canada from a weak to a medium system of multi-level governance. The debates surrounding Bill C8 were permeated by an evolving political environment characterized by the internationalization of financial services sector policy. The internationalization of markets and policy in the financial services sector is not about to be reversed. As such, it can be expected that the changes observed in the Canadian domestic policy process as a result of the increase in the institutionalization of multi-level governance will be accentuated in upcoming reform efforts.

## **Chapter 7 - Multi-Level Governance and the French Financial Services Sector**

This brief chapter offers a background to understanding the French financial services sector. It argues that France has moved from a medium system of multi-level governance in this field to a strong one over the course of the last twenty years.

### *1) A Medium System of Multi-Level Governance (1977-1989)*

By the late 1970s, France was already involved, through its participation in the EU, to a medium system of multi-level governance in the financial services sector. Europe's drive towards integration, as is well-known, started following the Second World War most notably with the creation of the European Steel and Coal Community, an organization founded by France, Germany, Belgium, Italy, Luxembourg and the Netherlands. The next step in the building of Europe was the signing of the Treaty of Rome establishing the European Economic Community in 1957. However, and as mentioned in Chapter Two, integration in the financial services sector only began with the First Banking Directive of 1977. The Directive established a licensing procedure for all banks within the Community and it created an Advisory Committee of bank supervisors and other specialists to discuss future possible changes to the Directive. As Coleman notes, this Committee was important in establishing a liberalizing mind set, one that would heavily be felt in France through the reforms in the financial services industry in

the 1980s (1993). Yet, until the mid-1980s, financial services sector activity in Europe remained mostly domestic taking place within national frameworks, with each state having its own policies, regulations, and currency.

In France, the financial services sector system remained mostly static following the Second World War. Nowhere was the idea that finance was subservient to general economic goals more evident than in pre-1984 France. Up until that point, France fulfilled all of the criteria of a credit-based financial system. In such a system, Zysman notes: “The borderline between public and private blurs, not simply because of political arrangements, but because of the very structure of the financial markets” (1983: 72). The focal point of a credit-based financial system is that banks are the major lenders of financial capital leaving little place for securities markets. A key element of the system is that the price of financial capital is often bureaucratically determined instead of market-driven. This is critical because it shows the central role that the French government played in determining the cost of obtaining credit. The notion of ‘dirigisme étatique’, which is often associated with the French state and its policy in the financial services sector, comes from the possibility for the government to direct financial activity to fulfill economic goals that it saw as essential to France’s industrial development.

Prior to the banking reforms of 1984, the best way to understand the French financial sector is to see it as a set of concentric circles in which the core was the

'Ministère des finances, de l'économie et du budget' (MEF), including the Treasury, and the 'Ministère de l'industrie'. In the circle just on the outside of the core, the para-public financial institutions were to be found. These included the 'Crédit national', 'Crédit agricole', and the 'Caisse de dépôts et consignation'. These financial services firms lent funds to borrowers, however, their money did not come from depositors but rather from what it could borrow from other financial institutions. This circle would have also included the nationalised public banks such as the 'Banque Nationale de Paris', the 'Crédit Lyonnais', and the 'Société Générale'. It is in the next circle that the private banks could be found. Finally, outside the circle is where the consumers and borrowers of credit were located. It is also where securities markets were to be found since they were almost non-existent in France at that time. Playing a small part in the 'dirigisme étatique' of the French financial sector, but one that is often mentioned, is also a system of 'pantouflage'. The term 'pantouflage' refers to the common background and common belief system shared by high-ranking officials in government and the private sector facilitating coordination and interaction between these actors. By the early 1970s, the problems of the French financial system became more and more evident mostly based on the fact that firms had difficulty raising capital, in what was termed an overdraft economy. Economic development was threatened unless major changes were made to the way the financial system operated.

*2) A Strong System of Multi-Level Governance (1989-)*

The process of European integration took giant leaps forward throughout the decades of the 1980s and 1990s with the elaboration of the Single Market Programme in 1986 and the signing of the Maastricht Treaty in 1992. In the financial services sector, this period represents a turning point for European states. It is during the Single Market Programme that two of the most important Directives for integration of the finance industry came to fruition, the Second Banking Directive and the Investment Services Directive. The latter establishes a 'passport' for banks operating in Europe whereby once recognized by one state, a firm is free to operate across Europe. The Investment Services Directive sought to establish a similar framework for the securities industry.

The Maastricht Treaty led to the creation of the European Central Bank, and the Euro. The elaboration of a single European currency furthered the drive for financial services sector integration in the EU. It is in fact seen as a catalyst to create a unified European marketplace. The process for financial services sector integration has been particularly evident in the securities industry. By the late 1990s, the European Commission elaborated the FSAP to foster integration. As McKeen, Porter, and Roberge state:

This plan [the FSAP] involves revamping the legislative apparatus, eliminating capital market fragmentation, allowing users and suppliers to exploit the single market with a high level of consumer protection, encouraging closer co-ordination of supervisory authorities and integrating the EU infrastructure into initiatives.

These goals are accomplished by a heterogeneous mix of measures including legislative to non-legislative measures (2003).

The timetable of the Plan is for all Directives (42 in total) to be in place by 2005.

To propose ways by which to implement the FSAP, the Commission established a committee of 'wise men' to determine the best way to head financial services sector integration in Europe. The *Final Report of the Committee of Wise Men on the Regulation of European Securities Markets*, referred to as the Lamfalussy report, published in the summer of 2001 established the roadmap as to how the EU was to implement liberalization of its securities sector, with a similar approach now being adopted for the banking and securities sectors. The report offered a four level approach to implementing the Community's action plan for the integration of securities markets. At the first level lies the European Commission, advised by the European Securities Committee, adopting formal proposals in regards to the regulation of securities markets. In this process, the Commission is to consult with Parliament and the European Council to ensure that they support envisaged proposals. At the second level, the European Securities Committee is in charge of the technical details for the implementation of Directives. At the third level, the Community of Securities Regulators (CESR) is in charge of implementing consistently across the Union the emitted Directives. The last and fourth level is that of enforcement of Community rules through national governments.



The FSAP has led to a legislative boom at the European level to foster financial services integration. By the end of 2002, over 70% of the measures proposed in the FSAP had been adopted (European Commission 2002). The most challenging of the Commission's proposal was a renegotiation of the Investment Services Directive. Financial services sector integration in Europe is not homogeneous. There remains national arbitrage through differing judicial systems and applications of EU Directives. Nevertheless, the quest for greater efficiencies in the continent's financial markets is well on its way. In that sense, it is impossible to speak of a state's national market in the financial services sector without understanding the European context in which domestic decisions are taken.

Last, it is important to note that the political integration being seen in Europe in the financial sector is taking place alongside moves by markets themselves to integrate across the continent. Some of the best examples of this are again found in regards to securities markets. Of particular importance, there is the creation of the Euronext exchange which started operation in June of 2001. Euronext represents the mergers of the Paris, Brussels, Amsterdam, and Lisbon stock exchanges into one fully computerized exchange. It has also acquired the LIFFE exchange located in London. Upon full completion of the integration process, Euronext is to be the largest European market for equities, bonds, derivatives, and commodities in Europe. The new Exchange explains the

reasons behind its creation as the result of a growing demand from market actors for an integrated European stock exchange, a favourable political environment to further consolidation in the European capital market, and, a desire to capitalize on greater liquidity and lower costs resulting from the introduction of the Euro (Euronext 2004).

Both in response and in anticipation of the process of financial services sector integration taking place in Europe, an overhaul of the French financial system started to take place in the second part of the 1980s. The reforms started in 1984 with a revised Bank Act and have continued ever since including a major revamping of that critical piece of legislation in 1996. The crux of the reforms of the 1980s sought to increase competition in the banking industry, increase the role of securities markets in financing the economy, and to restructure the regulatory authorities to face this transformed landscape. Of particular interest is the fact that the first steps in the liberalization efforts were carried out by a Socialist government, which in 1982 had re-nationalised all major banks. As Coleman notes, it is the structure itself of financial markets that came to be targeted during the 1980s (1996). The nature of the changes that took place in that decade is, however, debated. For Story and Walter:

At the root of the French problem of financial reconfiguration lay the continuity in the French financial system from the legislation of 1941 and 1945, a potent mixture of corporatism, nationalism, Marxism and liberalism. The mixture changed in kaleidoscopic ways, but the ingredients remained the same (1997: 19).

That being said, it seems more adequate to argue that the period of change from 1984 to 1989 represents a turning point for the French financial services sector.

The exact content of the reforms that took place in the 1980s will be discussed in the next chapter, however, it is possible to note immediately that out of the efforts of that period, for instance, grew a much stronger 'Place de Paris' today heavily involved in the process of European integration. As well, in 1999, the process of privatization came to a close with all of the banks that had been re-nationalized in the early 1980s returning to private-sector management. More astounding is the change in philosophy regarding the financial markets. Although French financial firms and their business associations may have been late in joining the band-wagon of European integration, they are now fully on board. They have embraced a more liberal approach to financial markets, one appreciative of risks and product innovation. Out of the common project to build a strong financial centre in Paris that can be competitive in an open Europe grew and strengthened a unity not often observed in policymaking between all of the actors present within the French financial services sector.

Over the course of the last twenty years, France has slowly moved away from the 'dirigisme étatique' that characterized its financial sector prior to the reforms to a more liberal approach to financial regulation. Whereas firms were protected by the French state before, in the 1980s and 90s, these same firms now faced newly liberalized and

competitive domestic, continental, and global markets. The thesis now turns to discussing in details financial services sector reform in France.

## **Chapter 8 - The French Financial Services Sector: From the 1984 Bank Act to the 2003 Financial Safety Bill**

This chapter studies the effects of multi-level governance on the French policymaking process in the financial services sector in regards to the recently adopted Financial Safety Bill. It compares this process to the one that led to the adoption of the 1984 Bank Act. Here again, greater time is spent speaking about the Financial Safety Bill because of the novelty of the information provided.

### *1) Case Study 3: The 1984 Bank Act*

#### *- The Need for Change*

The story of the 1984 Bank Act actually starts four years earlier when the Director of the Treasury, Jean-Yves Habérier, asked his advisors to offer a plan for reform of the French financial services sector. The French finance industry at that time was facing a series of challenges that needed to be addressed in modernising efforts. First, the system was seen as static, not having evolved since the end of the Second World War and therefore not adapted to the realities of the modern era (Coleman 1993). The system was segmented (similar to the concept of the four pillars in Canada) with the securities sector being underdeveloped. The reliance of the French economy on the banking sector created an overdraft economy leading to financing problems for French firms (Cerny 1989). In an overdraft economy, there is an over-reliance on the banking industry with under-

utilization of the securities industry as a means of financing economic activity. This leads to an under-capitalized economy, or, more bluntly put, a lack of funds for investment purposes. As well, the internationalization and the Europeanization of finance was creating a changing environment with new pressures for the newly elected Socialist government (Loriaux 1991). At the same time, the financial services sector proved to be a battleground between statist, Marxist, corporatist, and social market advocates (Fabra 1985). Such a lively debate partly helps in explaining the re-nationalization of most of the country's banks in 1982. By the end of that year, only the co-operative banks, one of the two savings-banks networks, foreign banks and a number of small firms remained privately-owned (Fabra 1985). Although in 1985, then Minister of Finance Pierre Bérégovoy stated that there was no contradiction between the re-nationalization of the early 1980s and the reforms undertaken first in 1984 because both sought to increase financing to SMEs (Comité pour l'histoire économique et financière de la France 1999), the reality is that only a few years after the nationalisations, the Socialists sought to render the financial markets more competitive and innovative. In other words, it embarked on a liberalization programme that has carried through to this day.

It took close to three years for the Treasury to elaborate a plan for reform. Once it did, the reform process came to create friction between the Treasury itself and the more conservative outlook proposed by the 'Banque de France' (Fabra 1985). If the reforms

that characterized the French financial services sector in the 1980s came to fruition in such a volatile political environment, it was the result of the power and vision of the Ministers of Finance Jacques Delors and then Pierre Bérégovoy (Comité pour l'histoire économique et financière de la France 1999). Almost all authors that have written on this period speak of the overall vision and perspicacity of those highly placed in the MEF. Such political will was particularly key in the reforms of the securities markets and in breaking the monopoly of the 'agents de change', the only ones until then allowed to operate on the securities markets. If the reforms were introduced bit by bit, it was so they would be manageable. The starting signal for the changes that took place in this decade was the 1984 Bank Act.

The Act in itself imposed four major changes on the French banking industry. The Act first offered a definition of banking. Prior to the reforms, there were thirty different statutes for credit institutions (Cassou 2001). Under these statutes, firms offered specific services dividing the industry itself. As a result of the Banking Act, almost all credit institutions became banks. Such a move then eliminated the cartelisation that had developed in the banking sector. As well, by proposing a definition of banking the French authorities were moving towards the universal bank model often associated with Germany. The second element of the Act was to impose a restructured, uniform, regulatory environment to regulate and supervise this revamped banking landscape.

Responsibility for policymaking was transferred to the 'Comité de la Réglementation Bancaire' to which the Minister was to be the chair and the governor of the central bank, the vice-chair. It also included representatives from the banking profession and some outside experts. The implementation of policy was given to a newly created 'Commission Bancaire' (CB) and the 'Comité des établissements de crédits'. Third, the Act required that banks belong to an association which itself must belong to the 'Association française des établissements de crédit' (AFEC). The government was to communicate to banks through this body and it requested that banks communicate with it through this peak association. Last, the Act proposed a series of measures to ensure the stability of credit firms and to remedy future possible difficulties. In that respect, it heightened the responsibility of shareholders and associates.

Although there was not unanimous support for the legislation at that time, Pierre-Henri Cassou notes that the Act led to an important process of restructuring in the banking industry (2001). The state slowly pulled out of the capital of banks; the sector has gone through a process of rationalization with many small-sized banks being bought out by larger firms; the banks themselves have rationalized their activities; the profession is now more open to new products and players; and, the banks have adapted to a Europeanizing marketplace. In that respect, the Act can be said to have achieved many of its main objectives.



The changes brought forth by the 1984 Bank Act must not be seen as being separate from the overall process of transformation in the French financial services sector at this time. The Mitterand government also brought forth a critical modernization of the securities industry during this period. The changes here were threefold: 1) the brokers, or 'agents de change' (who were the only ones allowed to operate on securities markets before the reform), saw their status changed to 'société de bourses', private commercial companies, which conserved their monopoly on transactions but could now also, under the Bank Act, become securities houses and operate on money markets; 2) stock exchange firms were able to expand their capital base by opening their ownership to other financial institutions; and 3) securities markets moved from being under direct state oversight to more of a self-regulatory model, based on the Anglo-American experience, with increased power granted to the 'Commission des opérations de bourse' (COB). As well, the government allowed new products such as futures to be sold in the marketplace. Here too, the government modernized the regulatory structure of the state.

Taking into account the changes in the banking and securities sectors, Coleman (1997) argues that by the late 1990s, France was well-suited based on the accomplished reform programme to face the changing European and global financial environment. It is now time to turn to our fourth case study to determine the extent to which

Europeanization in the finance industry has affected the French's policymaking process in this field.

*2) Case study 4: The Financial Safety Bill*

*- The Ever-Changing Story*

The most remarkable element in the story of the Financial Safety Bill is that it started off as a simple administrative reform of the country's securities regulators, but became quickly a much larger reform seeking to restore market confidence in French firms and financial services markets. In July of 2000, the then Minister of the Economy, Finance and Industry (MINEFI), Laurent Fabius, announced his plan to merge the COB, the 'Comité des Marchés Financiers' (CMF) and the 'Conseil de la discipline de la gestion financière' (CDGF) to form the 'Autorité des Marchés Financiers' (AMF) (*Le Monde* July 13<sup>th</sup> 2000). The announcement was a surprise for most, even in the financial services sector. The logic was simple, to clarify the French regulatory environment for domestic and foreign investors, and to have a unified voice in international forums. The timing of the announcement may be telling since in 1999 the COB had faced a difficult year with a tribunal suspending for a period of around six months its powers of sanctions because it deemed the organization's judiciary process in contravention of EU law (*Le Monde* March 22<sup>nd</sup> 1999). Also in 2000, two employees of the COB were fired for fraud

(*Le Monde* June 4<sup>th</sup> 2000). Although insiders say that the reform was not born out of those scandals (Confidential interviews 2002), it seems clear that at least the public reputation of the COB had been somewhat tarnished.

The Minister, in August of 2000, less than a month after announcing his plans, gave about two weeks to his officials to formalize the merger process (Confidential interviews 2002). By all accounts, those in charge at the MINEFI did a fantastic job of putting together a merger plan within the allotted time. However, it soon became clear to most that merging the COB and CMF was not to be as easy a task as expected. The CMF was a relatively new organization formed in 1996, a private body with a public mandate. Its board of directors was composed of representatives from the private sector, and its culture was said to be close to that of the market. The COB was a longstanding governmental body founded in 1969 subject to the realities of being a part of the bureaucracy. In very broad terms, the COB was in charge of market information, and the CMF regulated the users of financial markets. It made sense to merge the activities of the two organizations, whose efforts were complementary. The task, however, was not as simple as expected with different viewpoints expressed on how to achieve amalgamation by private actors, the CMF and even the COB (Confidential interviews 2002). What would be the moral personality of the new AMF? How would private actors be represented on its board? Would the board be composed of as many private as public

representatives? How much personnel did the AMF need and would there be loss of employment? If the new organization was to be a part of the bureaucracy, it would need to follow French bureaucratic guidelines for hiring, something seen as a disadvantage by many in the policy network. In other words, there soon came to be general agreement for the reform, though the form of the merged entity was being contested (Gailly 2002).

In the fall of 2000, it was proposed by Parliament that the legislative amendments needed to create the AMF be introduced within the then discussed New Economic Regulations (*Le Monde* October 1<sup>st</sup> 2000). That was rejected by the government as unpractical. The merger of the COB and CMF came to be seen as too complex to be simply a part of another bill. Plus, the discussions on the nature of the new entities were at the time not complete. It was not until the winter of 2001 that the government was ready to move forward with the merger plans. In February 2001, the government presented to Parliament the *Projet de loi portant réformes des autorités financières* that would create the AMF.

The logic of the new bill was expressed in its preamble. In it, the government highlighted that the proposed merger was meant to ensure the safety and soundness of the French finance industry in the face of the internationalization of the financial services sector. Also clearly presented in the preamble is the need for France to hold a coherent voice in the international arena. The French representation at regional and international

forums became a prominent issue as the Commission of the European Union had started to move forward with the FSAP. By March 2001, the EU had endorsed the Lamfalussy report and the comitology process that it proposed. Later that year, CESR was established seeking to increase coordination among states in the regulation of their securities sector, advise the European Commission on possible legislative proposals, and ensure the implementation of Community law (CESR 2003). Due to the importance of this body, the French government felt it was important to create a strong unified regulator that could participate coherently in CESR.

In the *Projet de loi portant réformes des autorités financières*, the government was equally to create the ‘Conseil national des assurances, du crédit et du titre’, merging its insurance regulators and increasing the collaboration of regulatory bodies from the insurance and banking sectors. This led the French government to argue that its reform followed the Australian Twin Peak model.<sup>9</sup> The choice was presented as being in contrast to the situation in Great Britain and the Financial Services Authority, which regulates all of the British financial services sector, but is seen as un-focussed and ineffective by the

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<sup>9</sup>In 1997, Australia introduced legislation that would effectively see prudential regulation in the hands of one regulator and market regulation under the guise of a separate regulator. Although the French model followed more closely the separation between industry pillars, or between the banking and securities industry, the CB (and the increased collaboration between it and the insurance regulator) is seen as playing the role of the prudential regulator, and the new AMF as that of the market regulator.

French authorities (Confidential Interviews 2002). However, the regulatory reform envisaged never became a priority for the government. After all, an election was just over a year away and it is impossible to get voters excited about regulatory reform in the financial services sector. When the government went to the polls in the Spring of 2002, the bill had not even gone through the first reading in either the House or Senate.

The adjournment of Parliament and a change in government with the defeat of the Socialists did not eliminate the impetus for reform. The new Minister of Finance, Francis Mer, reiterated early his approval of the proposed mergers between securities regulators and between the insurance regulators (*Le Monde* July 10<sup>th</sup> 2002). However, by this time the French economy was doing somewhat poorly, the scandal of Vivendi had come to the surface, and the ripples of the many corporate governance scandals in the United States were now felt in Europe. As well, by April 2002, the European Commission had partially revamped the mandate of its High Level Group of Company Law Experts to study the issue of corporate governance (High Level Group of Company Law Experts 2002). Whether or not the Group was to recommend European-wide corporate governance measure was at the time unclear.

In the summer of 2002, the MINEFI had started to work on a new bill that would not only merge regulators in the securities and insurance sectors, but that would also make adjustments to French practices of corporate governance in advance of possible European

discussions on the issue. During this time, the private sector, under the auspices of the 'Mouvement des entreprises de France' (MEDEF) and the 'Association Française des entreprises privés' (AFEP) produced the third in a series of corporate governance reports the Bouton report (2002), which followed the Vienot report of 1995 and Vienot 2 in 1999. The report was preventive in nature and sought to demonstrate to government that further legislation in the corporate governance field, after the New Economic Regulations, which had partly tackled that issue, was not necessary. The argument of private market actors was that French corporate law and corporate practices already held all the elements that would prevent scandals like that of Enron. The lobbying, as will be seen, partly worked since the legislation that emerged in February 2003 had few real corporate governance measures. Still the French government felt it particularly important to act. In *Les entretiens de la COB* Jean-François Lepetit, president of the COB stated:

Cette crise des marchés financiers a tout à la fois pour cause et pour conséquence une crise de confiance des acteurs, investisseurs, intermédiaires et émetteurs. Si cette confiance devait durablement faire défaut, c'est le bon fonctionnement des marchés qui serait en cause, compromettant celui de l'économie. Ceci n'est pas acceptable et j'ai le sentiment profond que cette situation impose l'instauration d'un nouveau contrat de confiance, entre tous les acteurs des marchés, y compris les régulateurs. Restaurer le pacte de confiance des marchés, voilà donc un objectif qui nous concerne tous, et qui mobilise actuellement les efforts des autorités politiques comme des régulateurs. Il reste beaucoup à faire encore (2002).

The contrast in position between public and private actors is here exemplified and highlights the mood in the actor constellation.

In September of 2002, the government started more or less officially its consultation on the Financial Safety Bill (*Le monde* September 2<sup>nd</sup> 2002). The bill, originally, had three main components. The first section of the bill dealt with the changes in the regulatory structure in the securities and insurance fields. This section was widely distributed, to the point that I obtained a copy of it in December of that year, prior to the bill being presented to Parliament in February 2003. The second and third part of the bill focussed on issues of corporate governance, the regulation of financial analysts, and the supervision of audits. Consultation on these parts was restricted to only a few key business associations (Confidential Interviews 2002) including the MEDEF, the AFEP, and the 'Banque d'investissements de marchés' (BIM) (which groups key individuals from the banking and insurance fields). Consultation was also likely undertaken with the 'Fédération bancaire française' (FBF), the 'Association française des établissements de crédits et des entreprises d'investissements' (AFECEI), and the 'Compagnie Nationale des Commissaires aux Comptes' (CNCC). It should be noted that since the consultations were not public, it is hard to know which organizations were consulted and which were left behind. That being said, the consultation on the second and third part of the bill focussed first on insiders prior to being broadened to the network.

The final version of the Financial Safety Bill was presented to Parliament in February 2003 to come into force on August 1<sup>st</sup> 2003. By that time, agreement had been



reached by all involved. The government was seen as having acted to restore confidence in the markets, and private actors were happy that corporate governance initiatives were kept to a minimum. The AMF, for its part, began operation in late 2003.

*- The Legislation<sup>10</sup>*

In the end, the Financial Safety Bill remains mostly focussed on administrative reform. First, the three securities regulators, the COB, the CMF, and the Conseil de discipline de la gestion financière are merged into one, the AMF. The powers of the AMF are made clear, especially in regards to its powers of sanction with the creation of a 'Commission des sanctions'. The board of the organization is structured so as to balance public and private interests. Last, the AMF is put in charge of overseeing the position of financial analysts. As well, the 'Commission de contrôle des assurances' (CCA) is merged with the 'Commission de contrôle des mutuelles et des institutions de prévoyance' (CCMIP) to form the 'Commission de contrôle des assurances, des mutuelles et des institutions de prévoyance'. Based on a 2001 accord with the CB, this new organization is also to work more closely with the banking regulator because of the ever-

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<sup>10</sup>For complete information on the Financial Safety Bill, please refer to the 'Assemblée nationale' website  
[http://www.assemblee-nationale.fr/12/dossiers/securite\\_financiere.asp](http://www.assemblee-nationale.fr/12/dossiers/securite_financiere.asp)

increasing interdependence between the banking and insurance fields. Also, the ‘Commission des établissements de crédits et des entreprises d’investissements’ (CECEI) loses its powers to approve bank mergers which is transferred to the Minister (which still must consult with the CECEI).

Second, the Financial Safety Bill creates a ‘Haut conseil du commissariat aux comptes’. This organization is responsible for overseeing the accounting profession and ensuring their independence from business. This measure is the only substantial one taken in the field of corporate governance, despite the stated purpose of the bill being to bring back confidence in the marketplace. By this time, however, the Winters report had already come out and it did not suggest any Pan-European measures in the field (High Level Group of Company Law Experts 2002). Some of the pressure to act in the corporate governance field had thus diminished. Last, the bill also contains measures to limit practices of ‘démarchage’ (a mixture of door to door selling and telemarketing). This has been a longstanding issue in regards to the French banking industry to protect consumers from over-aggressive banks. It is possible to question whether or not the legislation goes far enough to reassure the market and foreign investors. However, after three years of debate, it was felt that the proposed amendments could not be further delayed, especially in regards to the creation of the AMF, and that the French financial

services sector would be held back without the modernization brought forth by the Financial Safety Bill (Confidential Interviews 2002).

### *3) The Effects of Multi-Level Governance: Comparing Case Studies 1 and 2*

#### *- The Change in Discourse*

The discourse for the Banking Act of 1984 is still quite domestic in nature. The purpose of the legislation was to modernize the sector, and help the economy rebound from some of the problems it encountered in the first part of the 1980s including curbing some of the inflationary tendencies of the time. As Minister Bérégovoy stated to the president of the nationalised banks in September of 1984:

Si nous voulons gagner la lutte contre l'inflation, notre action doit concerner tous les secteurs sans exception. L'amélioration de l'efficacité du système bancaire est à cette égard essentielle. Elle constitue pour nous un objectif prioritaire dont j'attends qu'elle permette de réduire progressivement le coût du crédit sans affaiblir la situation financière de vos établissements (quoted in Comité pour l'histoire économique et financière de la France 1999: 64).

The rest of Pierre Bérégovoy's speech that day focussed on the need for the banks to be the motor of the economy, while remaining viable. It also took pains to highlight how banks ought to utilize some of the new technologies that are offered to the sector. In large part, the speech asks the directors of the nationalised banks to conduct their affairs more like that of the private sector than that of a traditionally bureaucratic government. In that

sense, the discourse through the 1980s is one of industry modernization for both banking and the securities sector.

The discourse, however, for the 2003 Financial Safety Bill is much more imbued with EU and international considerations. This is not surprising considering that the administrative reforms followed a trend observed elsewhere in the world, especially in Great Britain and Australia, and that the corporate governance discussions were the results in part of scandals in the United States and around the financial world. The international aspect of the legislative drive is evidenced early on in the preamble of the

*Projet de loi portant réformes des autorités financières:*

Les autorités de régulations financières doivent régulièrement s'adapter à des défis nouveaux: l'intégration des marchés financiers, la restructuration du paysage boursier, la concurrence croissante entre place financière, l'émergence des conglomérats financiers, l'interpénétration des activités de banque et d'assurance, l'arrivée de nouveaux acteurs notamment sur le web... (2001)

This quote also demonstrates the importance given to the issue of competitiveness of the 'Place de Paris' and of French firms when debating the Financial Safety Bill.

As well, all interviewed members of the actor constellation referred regularly to the policies of the EU when interviewed. Although there was an acknowledgment that French financial services actors were late in learning the importance of lobbying in Brussels versus British and German actors (Interview with PNB/Paribas 2002), they all now recognized that lobbying the Commission and the Council had to be an integral part

of their lobbying effort. The increasing role of the EU in the finance industry, as evident through the Banking and Investment Directives (in the process of being re-negotiated at this time) and the FSAP, has brought closer together all players within the actor constellation. The French financial services sector likes to come together and present what they perceive to be a unified voice to EU institutions. This is especially important to the MINEFI. As a representative of the Treasury stated when interviewed:

On a toujours sur les sujets européens arrêté la position française en fonction des intérêts des autorités publiques, en fonction de l'impact que pouvait avoir le texte sur notre propre droit, et de l'intérêt qu'il pouvait avoir pour les entreprises françaises. L'idée c'est de ne pas désavantager nos acteurs. Donc on a toujours travaillé avec eux main dans la main sur les sujets européens (Interview 2002).

French associations argue that the quantity of involvement when the Commission consults is important. That being said, it is also felt that presenting a coherent position, negotiated between all actors in the constellation, strengthens the French position. The Financial Safety Bill transposes only one Directive, in regards to the regulation of the insurance industry, from the EU into French law. However, the discourse while the bill was elaborated was heavily influenced by the Europeanizing context faced by the French financial services sector.

*- Changes in Policy Options*

As now stated on a few occasions, the policy options opened during the period 1984 to 1989 focussed on modernizing the banking and securities sector. It also addressed the state's role versus financial markets. In an editorial to the AGEFI in 1985, Minister Bérégovoy stated:

La France a une longue tradition de dirigisme et d'interventionnisme étatique. Les entreprises s'en plaignent; elles y trouvent souvent des protections qui les abritent d'une forte concurrence. Socialiste, l'idée que je me fais de la liberté s'accorde mal avec cette tradition. L'État doit édicter la règle générale qui organise – et permet – le fonctionnement des marchés. Il doit éviter de multiplier règlements et interventions qui répondent certes à des sollicitations légitimes mais créent autant de situations particulières qui finissent par se perpétuer au détriment de l'intérêt général (quoted in Comité pour l'histoire économique et financière de la France 1999: 77).

The policy options under scrutiny, thus, sought to liberalize a sector that had been somewhat heavily guided by governmental authority. Such a policy rationale is particularly helpful in understanding the measures taken to raise the place of securities markets in the French economy.

Yet at this time, France was already embroiled in a medium system of multi-level governance. The first banking directive had been signed in 1977 and had given rise to the Banking Advisory Committee. The pressure emanating from the EU at the time was thus one that favoured a more open banking and securities policy (Coleman 1993). Loriaux, for his part, argues further that many of the French decisions at this time are influenced by

France's overall monetary policy and the creation of a European monetary zone (1991).

Through its need to curb inflation and for credit to create economic development, the French decision-makers saw it as necessary to follow through on their modernization efforts.

The policy options opened to policymakers at the time of the Financial Safety Bill were in many ways impacted by France's participation in a strong multi-level governance system in the financial services sector. For instance, the creation of the AMF is clearly tied to the desire of the policy network to have one regulator speak for France at CESR, to the European Commission, and to other international financial institutions. Although the COB represented France in these forums, it needed to coordinate its efforts with the CMF. The representative that I interviewed at the COB stated:

Globalement, notre système est un peu compliqué, pour les Français déjà et pour les étrangers encore plus. Je pense que ça ne facilite pas du point de vue de l'industrie étrangère la perception du système de régulation française. Ensuite, c'est vrai que de plus en plus on va décider des choses de manière très technique et pointu au niveau communautaire. ... Et donc on a tout intérêt à ce qu'effectivement l'entité qui soit à CESR soit des plus représentatives possible de l'ensemble de la régulation financière. ... C'est la même chose aussi dans la Commission internationale des valeurs mobilières. Ça vous donne une visibilité très grande (Interview 2002).

CESR, for its part, makes it clear that it seeks to communicate with one interlocutor per state (Interview with CESR 2002). The creation of the AMF seeks to strengthen the 'Place de Paris' from both a domestic and an international point of view, rendering it

more attractive and thus more competitive to foreign investors. The French corporate governance strategy is also heavily influenced by the EU and international events. The strategy serves in the construction of a French position on this issue at a time when the EU was and could still be revisiting its corporate governance framework. As mentioned before, the Winters Report on corporate governance requested by the European Commission was hotly awaited during the time of the elaboration of the Financial Safety Bill. For French business, it was important to get the message through both its government and to EU authorities that French corporate law was extensive, that an Enron could not take place in France, and that a legal approach to the issue was not necessary. The Financial Safety Bill can be said to take account of this stance. Once again, if the corporate governance structure is to be too rigid, the French marketplace could be said to lose in competitiveness versus some of its more lax neighbours. In other words, the policy options for French policymakers in terms of whether or not to act on the corporate governance front are influenced in important ways by the internationalization of public policy.

*- Changes in the Actor Constellation*

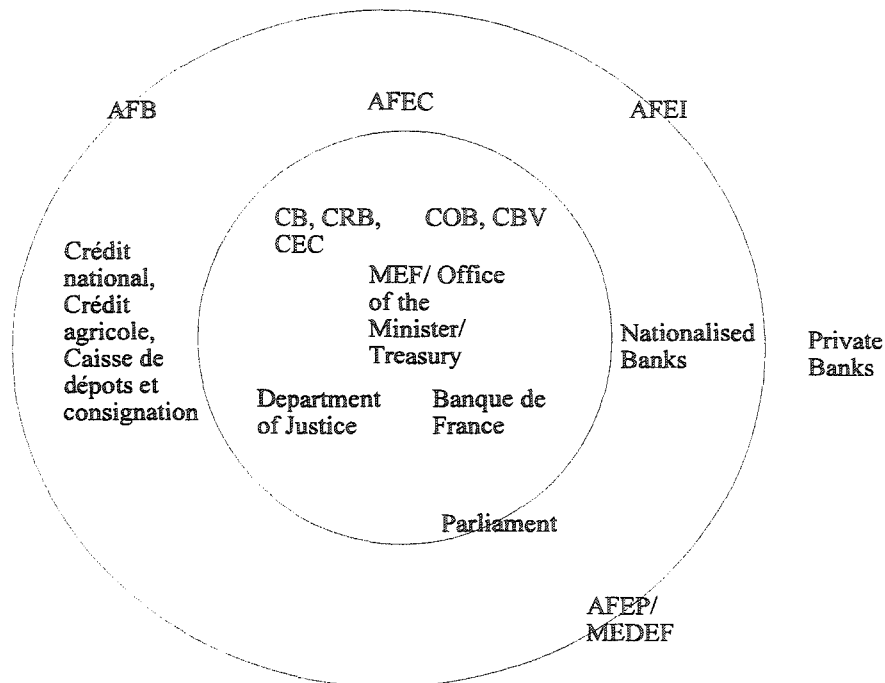
There is general agreement between observers that the state played a critical role in bringing forth the reforms of the 1980s in the French financial services sector. Cerny,



for instance, argues that through its liberalization efforts, the state sowed the seeds of its own future decline (1993), something later on in this chapter with which we disagree since the powers of the French government have not been diminished through multi-level governance. Coleman (1993) posits, for his part, that the state increased its authority over private sector actors through the reforms taking shape from 1984-1989. Key to his analysis is the idea that the 1984 Bank Act at the beginning of the process of change forced the banks to belong to the AFEC, re-balancing from the beginning the relationship between public and private actors. In other words, it is argued that in this period, France reformed its corporatist model of policymaking. Whereas the key players in policymaking have not changed, remaining the MEF, including the Treasury, the 'Banque de France' and key financial firms (now represented through the AFEC), their interactions came to be structured differently. A graphical representation of the actor constellation is provided on the following page.

In that sense, Coleman argues that the mode of interaction in the French banking policy network of the 1980s shifted from that of negotiated agreement where banks held a lot of sway over policy decisions to that of majority decision-making where the role of the banking sector in decision-making is reduced in that it must operate through the AFEC. In large parts then, the negotiations took place between the MEF and the central bank. The fact that the MEF played a critical role in bringing about a major systemic change

**French Financial Services  
Sector: Actor Constellation  
and Policy Network 1984-1989**



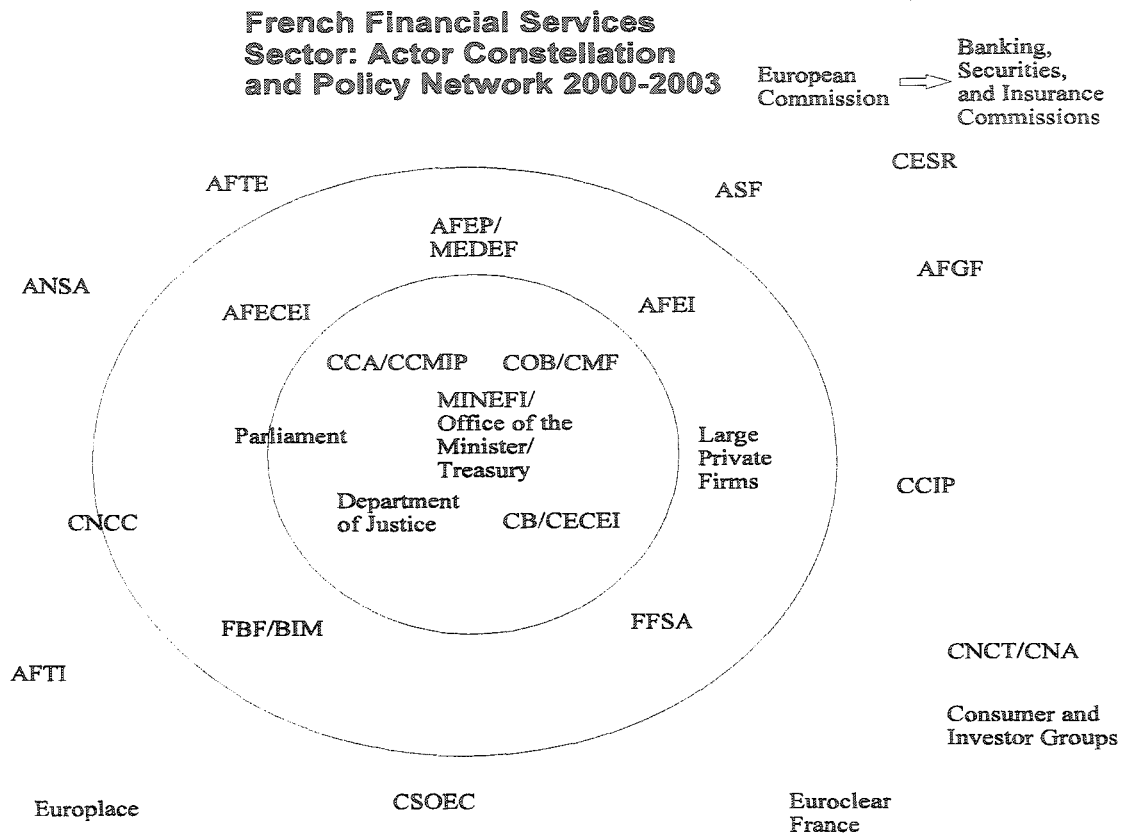
\* Organizations not mentioned in text: Commission des bourses de valeurs -CBV;  
Commission des établissements de crédits -CEC; Commission de la réglementation  
bancaire -CRB;

demonstrates the strength of the department during this time of reform. With hindsight, there is a feeling that the reforms of the period would not have been possible without the power exercised by key officials within the MEF. Whereas private actors were used to playing a key role in policymaking because of the importance of the banking sector to the

French economy and its close connection to governmental authorities prior 1984, the changes of the 1980s required the MEF to establish and follow through on a program of reform. This commitment started prior to the 1984 Bank Act and continued throughout the decade. All of this is not to say that industry representatives necessarily opposed the change. After all, there was some consensus on the need to modernize the French financial services sector. Moreover, the magnitude of this reform should not be underestimated. In that sense, it was through the elaboration of a clear vision and the will to commit to it by the MEF that the reform could be achieved.

It is somewhat paradoxical that the liberalization process in France was state-led. Yet, it is not surprising considering the role that the government believed it had in economic development. Through the re-emergence of the European polity at this time, the French government saw it as necessary to respond by modernizing and liberalizing its financial services sector.

The actor constellation and policy network have changed considerably for the Financial Safety Bill. As a result of the liberalization process that took place in France, the number of actors in French policymaking has substantially increased. The graph presented on the next page illustrates the actor constellation and the policy network in the French financial services sector at the time the Financial Safety Bill was developed. One of the striking elements in comparing the policy network and the actor constellation for



\* Organizations not mentioned in text: Association française des sociétés financières -ASF; Association nationale des sociétés par actions -ANSA; Chambre de commerce et de l'industrie de Paris -CCIP; Conseil supérieur de l'ordre des experts comptables -CSOEC; Fédération française des sociétés d'assurance; FFSA

both of our case studies is the greater number of private sector actors involved in policymaking by 2003. Standards set out by generalist organizations like the MEDEF and the APEF play an important role not only in the financial services sector but throughout the economy. The BIM groups the most important individuals in the French financial

services sector discussing the most important issues facing the industry on a regular basis. It is fair to say that the club is select and quite powerful. Even an organization like the 'Association française des professionnels des titres' is important in organizing seminars and disseminating information to the workers of the finance industry. Unlike Canada, on the other hand, consumer groups do not play a preponderant role in the French financial services sector. The increased presence of private sector actors in the constellation and network does not necessarily mean that public authorities have less power than before in making policy. It simply highlights the increasing complexity of the finance industry and the ever-increasing spider web of organizations that operate in this policy field.

For the administrative reform, the government sought input from all actors in the network. In fact, by the time of the Financial Safety Bill, there had been enough consultation that all actors in the constellation and most actors in the network approved of the mergers of regulatory authorities in the securities and insurance fields. As seen earlier, however, that consensus was built through a three year negotiations process. It was not that private sector actors were opposed to the mergers, rather, it was that they had concerns about the nature of the AMF and of the new insurance regulator. As for the entities being merged, it is hard to gauge their public reaction. On the securities side, it would seem that the CMF was reluctant to merge with the COB (Confidential Interviews 2002). However, the CMF avoided any public debate, supporting the plan of government

and bought into the argument that the merger strengthened the ability of regulators to play a positive role in market activities.

The government, however, faced stronger opposition regarding the issues of corporate governance and the regulation of financial analysts. The consultation effort was much more selective. The opposition of private sector actors to the corporate governance measures is well established through the two Vienot and the Bouton reports (2002). Private sector actors were clearly opposed to the government acting on these issues believing that French corporate law was sufficiently strong to avoid the problems encountered in the United States (Interview with among others ANSA 2002). In general, it opposed the creation of a 'Commissariat aux comptes' which it saw as redundant since the accounting profession was already self-regulating. The MINEFI saw this as a particularly important measure mostly to reassure foreign investors. Interestingly enough, the accounting profession, through the CNCC, seem to have been publicly very quiet during discussion of this bill. This does not mean that there was not behind the scenes cooperation between the accounting profession and the MINEFI. In September 2003, the President of the CNCC stated:

Je crois que nous avons su trouver, ensemble, les termes d'un projet de loi équilibré, et que ce pour qui nous concerne, nous avons trouvé avec votre Cabinet et la Direction des Affaires Civiles et du Sceau, des auditeurs attentifs au modèle de commissariat aux comptes français qui se devait d'être renforcé et non pas inutilement sanctionné ou réprimandé (Tudel 2003).

Put another way, the accounting profession demonstrated a certain maturity recognizing that pure self-regulation of the industry is not a viable option in a post-Enron world (Ricot 2003).

Although the Financial Safety Bill comprises some corporate governance measures, the lobbying effort of private sector actors seemed to have limited the scope of government intervention. During the winter 2002-2003, many thought that the government would intervene strongly in the corporate governance field to curb the feeling of there being unhealthy relationships in the management of French corporations (Confidential Interviews 2002). Although there is no way to know how extensive the government intervention was to be, it is clear that the end output, the Financial Safety Bill, does not put undue strain on private firms. It would, thus, seem that groups like the MEDEF, the AFEP, the BIM, and the CNCC possess relative influence within the actor constellation. It should be added however that in the fall of 2003, rumours started that the government intends to pursue further action regarding the issue of corporate governance. Only time will tell the nature and the extent of further possible state intervention in this regard.

Based on the previous analysis, the mode of interaction within the actor constellation in France has swung back to that of negotiated agreement. In the early French case study, the mode of interaction was that of majority decision-making. In a

negotiated agreement, all actors, private and public, have a policy veto, referring more to an informal norm than to a steadfast rule. For the Financial Safety Bill, the private sector played an important role in negotiating policy, more so than was the case in the reforms of the 1980s. Through the liberalization process, the private sector as a whole, not only the banks, has come to play a very prominent role in decision-making. The lines of communication between those in the constellation, and even the network, are now always open. As the representative from Euronext presented it: “In the financial services sector, everyone always talks to everyone” (Interview 2002). The new role of private sector actors in France was made obvious by their ability to minimize possible corporate governance measures, and the constant interaction between public and private authorities in elaborating French positions towards EU negotiations. The restricted consultation and negotiation demonstrate the workings of a negotiated agreement system. The members of the constellation negotiated a compromise that they could then present to the rest of the network. The argument in regards to multi-level governance is not that EU institutions participate or influence directly French policymaking. However, the EU has become such a prominent level of authority that identifying, protecting, and promoting national preferences requires collaboration and coordination throughout the constellation and network, thus the move from majority rule to negotiated agreement.



Such a movement of the pendulum towards negotiated agreement should not be seen, however, as a loss of power by statist authority. The creation of the AMF demonstrates the desire of the French government to retain a strong capacity to regulate financial markets. The strength of public authorities is also shown by the following quote from an interviewed representative of the CB on consultation and regulatory capture:

Je pense que la tendance quant même de front c'est que ces réglementations sont préparé de plus en plus avec ceux qui vont devoir l'appliquer. C'est l'idée que pour que l'application d'un texte fonctionne bien, il faut associer ceux qui vont avoir à respecter ce texte. ... Cela étant, on reste en France aussi très vigilant par rapport à ce que l'on appelle quelque fois, en anglais, le 'regulatory capture'. C'est à dire, ce risque qu'à force de consulter, on est dans la main des mieux organisés, donc, des lobbies professionnels qui peuvent se payer des cabinets d'avocats pour aller peigner toutes les lignes d'un projet de réglementation avec le risque dans ce cas-là que d'autres secteurs se trouvent finalement sacrifier aux intérêts d'une profession. Dans la conception française, la consultation de la profession, elle est tout à fait nécessaire mais une réglementation même professionnelle ne se résume pas à un dialogue avec les professionnels. Il y a aussi à prendre en compte, par exemple, les investisseurs, à prendre en compte aussi dans le domaine bancaire quels vont être les effets sur les clients des banques, quels vont être les effets sur les différents secteurs économiques. Et donc, le point de vue des autorités doit toujours être au-delà des seules réponses qui lui parviennent de la part des professionnels (2002).

One, therefore, should not see a shift away from majority decision-making to that of negotiated agreement as a loss of power by governmental authority. With increases in the elaboration of multi-level governance systems, powers of decision-making cannot be understood through a zero-sum game. Multi-level governance has led to increases in policymaking capacity for both the government and private sector actors. Though in this

case and unlike Canada, consumer groups and other civil society actors are not privy to the corridors of power.

#### *4) Conclusion*

The actor constellation and policy network in the French financial services sector are now much more open than they used to be at the time of the 1984 Bank Act. Unlike Canada though, consumer groups have not forged their way to the negotiation table. The MINEFI must send legislative proposals to the ‘Conseil national du crédit et du titre’ and the ‘Conseil national des assurances’ in the banking and insurance industries, however, the influence they enjoy along with other consumer groups is limited (though it is stronger in the banking field than it is in other sectors of the industry (Interview with PNB Paribas 2002)). Consumer and investor groups have certainly not played a key role in the overall debate about the Financial Safety Bill. That is partly explained by the fact that this legislation is a regulatory overhaul, not a priority topic for consumer groups, especially in the securities sector where such groups enjoy less clout. In Canada, consumer groups are seen as legitimate actors in the constellation. In France, there is a greater presence of private sector actors in policymaking, but not of consumer and civil society groups.

That being said, it would be incorrect to assume the rules of negotiated agreement in the actor constellation to equal the old system of ‘pantouflage’. During the interview

process for this thesis, the maxim of whom you know and whom you went to school with surfaced in only two of the discussions. That being said, it is also clear that the French financial services sector considers itself a community of experts, in international relations terms, an epistemic community. Those involved within that community have increased as a result of the expansion of the 'Place de Paris', but nonetheless the community remains opaque to outsiders. Many times during the interview process, I had the feeling of dealing with members of one large family. There is some bickering and infighting. Actors do not always agree on priorities or proper policy responses to diverse issues. But at the same time, there is a sense of unity among members of the constellation, and even network, as actors seek common ultimate objectives. These objectives are clear: to have one of the world's finest banking industry; to have a strong European and international 'Place de Paris'; and, to defend the French way at European and international negotiations.

There is another key comparison and conclusion to be drawn between the process that led to the 1984 Bank Act and that which led to the Financial Safety Bill. The 1984 Bank Act marked the beginning of a new era in the French financial services sector. It was the beginning of a well-managed, planned, reform process. The ultimate goals of modernising and liberalising the French finance industry, although not necessarily clear at the time because of the lingering presence of socialist ideals, are obvious now due to the nature of the reforms that took place in the banking and investment industries over a five

year period. The reforms of the 1980s were inclusive following a step by step approach that brought substantive changes to the whole of the industry. The process for the Financial Safety Bill, as was seen, was much more *ad hoc*. All the same, the bill is important because of its purpose, to reassure domestic and foreign investors of the soundness of the French marketplace. In many ways, the Financial Safety Bill is a response to European and international events. The major policy initiatives and debates in the financial services sector are now more and more taking place at a European level and international level. Through its overhauling of its regulatory bodies, the French government has partly decided how it was going to structure its participation within these new forums.

## **Conclusion - Retaining Domestic Autonomy**

Multi-level governance theory distinguishes itself from other theories of governance in international relations, or from the state market dichotomy traditionally present in the international political economy literature, by recognizing the autonomy of each level of political authority. As well, this thesis has shown that through the elaboration of multi-level governance systems, both public and non-governmental actors have gained in policymaking capacity. In this concluding chapter, I first do a comparative analysis of the effects of multi-level governance on the domestic policymaking process in Canada and France in the financial services sector. I note how the effects have been similar across both states, though they are somewhat more pronounced in France than Canada because of the higher institutionalization of the EU as compared to the NAFTA. The chapter then eliminates other possible explanations for the changes observed in the case studies. In the introduction, I argued that this thesis would be equally worthwhile for those interested in the evolution of the policy process in an internationalized environment, the elaboration of a theory of multi-level governance, the regulation of the financial services sector within that new context, and scholars focussing within the sub-field of international political economy. As such, this chapter offers conclusions in these different areas of interest.

*1) Comparing Across Systems of Multi-Level Governance*

In Chapter Three, multi-level governance was defined as *two or more levels of authority arranged vertically through formal or informal agreements, of public or private sources or both, established in a policy field so as to regulate activity in that field*. The chapter went on to provide a typology of multi-governance arrangements, from weak multi-level governance to medium and strong multi-level governance systems. In a weak multi-level governance arrangement, there were only two levels of political authority, a clear division of responsibility between levels of governance and minimal levels of private governance. This describes the Canadian financial services sector prior to 1987. In a medium system of multi-level governance, there are more than two levels of authority, with an increased international presence, duplication and overlap between levels of authority, and a more important governance role for non-governmental actors. This currently describes the Canadian financial system, and described the French environment at the time of the 1984 reform. In a strong system of multi-level governance, there are more than two levels of authority, duplication and overlap is diminished, and there is a greater role for private governance. Though France does not present fully all of those criteria, the ever-increasing powers of the EU leads one to suggest that this country is now involved in a strong system of multi-level governance in the financial services sector.

As was seen in our analysis of the Canadian and French cases, multi-level governance has four main effects on domestic policymaking. First, the discourse is altered to take account of the new possibilities and constraints inherent in participating in multi-level governance arrangements. One of the areas where this is particularly relevant in Canada is in the discussion surrounding domestic ownership of banks and the role of foreign financial services firms in the national economy. In France, any discussion of the financial services sector must take into account the EU reality. As mentioned in Chapter Eight, all interviews conducted for this research referred both to the French environment and the EU setting. Second, the policy options incorporate the reality of operating within a multi-level governance environment. Bill C8 focusses both on increasing domestic competition and the competitiveness of Canadian firms abroad, an inherent policymaking reality when operating within the context of the NAFTA and the GATS. In France, the AMF was created so as to better structure the French presence in supra-national institutions. As well, the desire of the government to legislate on corporate governance came partly as the result of its desire to prepare its position for possible EU discussion on the topic. Third, the members of the actor constellation change. In both states studied, there has been an increase in the number of players present in the actor constellation and policy network. In that context, the role of policymaking capacity of both public and non-governmental authorities has been strengthened over the course of the period studied for

this research. The policy process in Canada in the financial services sector remains government-led, yet the politicisation of the topic has led to increased participation by non-governmental actors from firms themselves, to business associations, and most notably to consumer groups. In France, the move from medium to strong multi-level governance has changed the rules of the actor constellation from that of majority rule back to that of negotiated agreement. That being said, the expansion of the French actor constellation and policy network has favoured private sector actors, not consumer and civil society groups which have still not been engaged in policymaking.

The observed effects of multi-level governance on practices of domestic policymaking have been slightly more evident in the case of the French Financial Safety Bill than they were in regards to Bill C8 in Canada. This conclusion is not surprising considering the expansion of EU powers over the last twenty years. The EU affects French policymaking more than the NAFTA affects Canada because its practices are more formalized, legalised, and institutionalized. Though it should be emphasized that the differences on the effects of multi-level governance are of degrees more than substance, that is the trends observed are similar though their intensity differ.

In Canada, Bill C8 is, in many ways, domestically-oriented. This can be seen through the legislation's emphasis on consumer issues. In France, the financial services sector is heavily embroiled with EU markets, policies and institutions. The Financial



Safety Bill is meant to ensure that the 'Place de Paris' remains strong and a competitor to other European financial centres, especially London. By having a powerful AMF and a 'Haut commissariat aux comptes', the French financial services sector is hoping to demonstrate that it is a sound environment for business. Plus, the AMF will make it easier for the French government to participate in CESR and in international instances of policymaking like IOSCO. The EU is increasingly institutionalized in the financial services sector. France supports and is affected by this Europeanizing trend. More to the point, EU institutions are increasingly involved in all aspects of the finance industry. The NAFTA, on the other hand, is not institutionally-based, it is a trade agreement, and it has not propelled forward financial services sector integration across the continent.

As such, there are differences across states, regions, and policy areas regarding the intensity of the effects of multi-level governance systems on practices of domestic policymaking. The impetus for financial services sector integration is much more important in Europe than it is in North America. As McKeen, Porter and Roberge show, such a reality defies traditional economic theory which would see the NAFTA region as more integrated because of the higher prominence of market actors in those states than across Europe (2003). With the creation of the Euro, there has been a great deal of activity moving Europe towards the creation of a unified capital market. Since the Financial Safety Bill focusses first and foremost on the creation of a new securities

regulator, it is not surprising that the policy process leading to the adoption of the bill was imbued with EU considerations. Political and institutional factors in North America seem to prevent further market and regulatory integration. In one of the interview I conducted, a representative from the Royal Bank stated: “One pressure that is there with us now, which has not really been addressed, and I think is going to require a next round, is the fact that we are integrating in a North American economic space and most of our policies and procedures and rules are still based on a Canada-centric model (2002). There is no model or plan to foster such integration. In fact, there does not seem to be a real political will to foster further financial services sector integration in North America (McKeen, Porter, and Roberge 2003).

Overall, the EU is increasingly integrated while the effects of the NAFTA on the financial services sector remains nebulous. Plus, there are indications of further integration in the EU in all areas of the finance industry. In North America on the other hand, further integration of financial markets does not seem imminent. In many ways, this discrepancy across financial services sector integration processes explains why multi-level governance affects French practices of policymaking more than it does in Canada.

If there is one key difference across Canadian and French policymaking practices, it is in relation to the role of non-governmental actors in decision-making. In Canada, as now stated on a few occasions, not only have private firms and associations gained access

to the actor constellation but so have consumer and civil society groups. Consumer groups are perceived as legitimate actors both by governments and private actors. In France, consumer groups are not involved in decision-making. Although the policymaking role of private sector actors has increased over recent years, consumer groups have not succeeded in being seen as important intermediaries in policymaking. Of note, the banking industry seems to come much more under the pressure of consumer groups. As such, it is less surprising in Canada to have found consumer groups in the constellation since Bill C8 deals at length with the banks, and also addresses specifically many consumer issues. In France, the securities sector was studied, a much more opaque industry. It is then less startling that consumer and investor groups have not been part of the policy discussion. If the policy studied in France would have been in the banking sector, it is possible that consumer groups would have played a more prominent role in policymaking. This observation supports the claim that the impact of multi-level governance can vary as a result of differences in the policy being studied.

Finally, it is worthwhile to note how multi-level governance has dramatically changed the overall context in which policy decisions at the national level are taken both in Canada and in France. Going back to the June 1997 discussion paper of the Task Force on the Future of the Canadian Financial Services Sector:

One of the major trends identified in Part I that must influence our views of the future of the financial services sector is increasing internationalization. This

creates great opportunities, but it also creates great challenges. We no longer have the luxury of dealing with an essentially Canadian industry. Many of the major financial institutions, whether based here or elsewhere, are truly international. This means that no one nation has the capability alone to apply meaningful regulation to the entire institution. Inter-national regulatory co-operation is essential, and numerous international groups have emerged or expanded to fill the need; the Bank for International Settlements (BIS), the International Organization of Securities Commissions (IOSCO), the Group of Thirty and others come to mind. We know that Canadian regulatory agencies are participating actively in the work of these groups (Canada 1998c: 55).

It is here important to remember that the financial services sector was highly protected and that policy in this field used to be very much domestically-oriented. The financial system is the crux of a state's economy and thus throughout modern history it has been important that the sector reflected the needs and the orientations of economic actors. This was particularly key in France as it sought to rebuild its economy and infrastructure following the end of the Second World War. In many ways, the system remained inflexible up until the mid-1980s. In Canada, where many sectors of the economy have always been closely tied to that of the United States, the financial services sector remains to this day very Canadian. One of the fundamental policy orientations of Canadian public policy in the financial services sector was and still is that it remains domestically-owned. Globalization has not yet altered the domestic ownership orientation of Canadian policy.

However, as trade internationalized further, and as interstate trading regime became increasingly legalized and formalized, the financial services sector needed to expand outside of the state setting, so did its supervisory and regulatory structure.

Internationally, finance is structured around the key organizations that were talked about in Chapter Two such as the BIS, the IOSCO, and the IMF. Regionally, NAFTA is the first trade agreement to focus on the financial services sector. With the FSAP, the EU hopes to offer an integrated European financial services sector to firms and investors over upcoming years. With such rapid changes just over the course of the last twenty years, it is no surprise that the internationalization of public policy in the financial services sector is affecting how states make decisions in this policy area.

## *2) Other Possible Explanations*

I do not claim that multi-level governance solely explains all of the changes observed across Canada and France. Globalization could also be offered as an explanation for the changes in policymaking practices, especially in terms of the changes in policy options and the increased role of the private sector in decision-making. However, an analysis focussing on globalization is limited in regards to Bill C8 and the Financial Safety Bill. If it were correct that the global neo-liberal agenda should be seen as the key independent variable for this work, then it would be expected that national governments would lose powers to private sector actors, especially multinational firms and business associations. But this did not happen either in Canada or in France. As well, an explanation based on globalization ignores the role that institutions born out of

both the domestic and multi-level governance context play in mediating the impact of neo-liberal constraints. Whether these international governance arrangements are the result of the neo-liberal global agenda or whether they generate such an agenda is an open question with no definitive answer. What is clear is that an analysis focussing on the neo-liberal global agenda would minimize the role of the EU and NAFTA in reshaping the world polity.

A globalization based analysis would also emphasize areas of convergence in policymaking practices and policies across states, since they are confronted by the same pressure. As was seen, this was not the case. The policy process in each state remains distinct (as can be seen by studying the rules present within the actor constellation for both countries), as is the content of their policy. The focus of policy discussion is different in Canada and in France. The French policy discourse is embroiled with that of the EU, an autonomous level of authority within a multi-level governance system. A global neo-liberal agenda could be seen as a determinant independent variable for this thesis, but making that argument ignores the roles of institutions both domestic, regional and international, in mediating the impact of the free-wheeling marketplace.

The changes in policymaking practices observed in this research could also be the result of policy feedback. The policy feedback process can be seen as ‘policies influencing politic’, and defined as “.. major public policies ... [that] constitute important

rules of the game, influencing the allocation of economic and political resources, modifying the costs and benefits associated with alternative political strategies, and consequently altering ensuing political developments (Pierson 1993: 596). In other words, the changes found within the late case studies could be the result of what the actor constellation learned in earlier instances of policymaking, and could also be the result of earlier policy decisions.

This variable can also be discarded as the main cause of change in decision-making practices. In Canada, this can be so because the process that led to Bill C8 was unique in its kind. The only possible comparison for the McKay Commission would be the Porter Commission more than thirty years prior. The report of the McKay Commission directed the agenda and policy options for Bill C8. The changes in the actor constellation, especially the inclusion of consumer groups and SMEs, could be seen as being the result of the changed, newly politicised, domestic environment. However, signs of the input of these new actors were present as early as for the 1992 revisions, which is when Canada moved from a weak to a medium system of multi-level governance. As for Bill C8, the changes in discourse and in the policy options studied can be traced, at least in parts, to the internationalizing policy environment. As well, multi-level governance systems in a way came to be a focal point for the new actors in the constellation. The CCRC, and other consumer groups, make a point of highlighting how the government still

retained capacity of action to protect consumers in the face of the GATS and NAFTA. In other words, policy learning in the actor constellation is a very partial explanation of the modifications in policymaking practices in Canada.

Policy feedback cannot be discarded as easily in France as in Canada as a variable explaining changes in policymaking practices. It is clear and well-documented that the liberalizing reform of the 1980s changed in important ways the nature of the French financial services sector. That being said, the focal point of this revamped constellation and network is as much the result of European integration as it is of French politics. I have clearly highlighted how the constellation seeks to act coherently on the European scene. The mode of interaction in the constellation is now that of negotiated agreement because of the importance that the actors place on acting as 'one' in European policy discussions. Also, the 'Place de Paris' sees itself as a key market and an important competitor in Europe. Although the changes in the policymaking practices can be in part attributed to the revisions that start with the 1984 Bank Act, the way in which the changes occurred, the structure of the changes, took place with the European polity in mind. Finally, the fact that there is continuity in the practices of French policymaking is consistent with multi-level governance in that institutional characteristics impact how states react to the internationalization of public policy.



Multi-level governance is not the only independent variable affecting this thesis' dependent variable. It is one, however, often neglected, critical as regionalization and policy internationalization continue to gain in prominence.

### *3) Multi-Level-Governance, Theory-Building, and Observations*

How does the above analysis, and that provided in the previous chapters assist in building a theory of multi-level governance? First, as states involve themselves more and more in multi-level governance systems, it becomes possible to foresee the impact this will have on domestic practices of policymaking. It can be expected that the policy discourse will take into account changes in the multi-level governance system and so will the policy options. Multi-level governance also helps in explaining changes in the actor constellation. In the context of the internationalization of public policy, I argue that both public and non-governmental actors have seen their policymaking capacity increase to account for widening policy considerations.

That being said, the changes brought forth by multi-level governance are mediated by a state's, or a sector's, institutional characteristics. For instance, the pluralist tradition in policymaking in North America helps explain why the mode of interaction in the Canadian actor constellation in the financial services sector is that of hierarchical direction. Broadly speaking, corporatist policymaking is more prevalent in Europe than in

North America. In that context, it is not surprising that France has a negotiated agreement mode of interaction in the finance industry. In other words, the level of institutionalization of the multi-level arrangements matter, and so does the institutional characteristics present within each of the levels separately. The fields of transportation, environment, or agricultural policies across European states are faced with the similar pressures of multi-level governance as is the financial services industry, yet how national actors in these sectors respond to these challenges could differ based on sectoral and domestic characteristics. As well, how North American states react to the challenges of internationalization in those sectors will differ from their European counterparts because of the institutional characteristics of their multi-level governance systems and their own domestic infrastructure.

States' power within the regional integration process, or internationally, may also be a mediating factor on the impact of multi-level governance. It is not clear if the results obtained for this thesis apply equally, for instance, to the United States. The results of this research are generalizable in terms of the pressures faced by national authorities in the form of multi-level governance systems, and trends in regards to impact, though there will be particularities to pay attention to from case to case. In that sense, multi-level governance does not imply convergence across states, or across policy sectors. Such an

argument, of course, is consistent with the elaborated theory of multi-level governance where levels of authority retain powers of autonomous policymaking.

The nature of the relationship between the levels of authority, such as between the state and regional integration blocs, or international organizations, has not been a central feature of this thesis. Regional and international organizations have not become members of actor constellations in either of the two states studied. That being said, organs of the EU are part of the French policy network, they are part of the attentive public, in the financial services sector. They do not seek, however, to have direct influence in the policy process. That is they cannot be seen as partaking in national politics, though they are conscious of each state's particular situation. The vertical arrow in terms of the relationship between the state and regional and international organization goes both upwards and downwards, once again recognizing the autonomy enjoyed by the different levels of authority.

Building on the work of federalism studies, one particular issue of interest is that of the division of power between the levels of authority. As pointed out in Chapter Three, how is authority divided when sovereignty is not delineated and power is not constitutionally divided? Authority is allocated *de facto* in multi-level governance systems, and not through constitutional means, although it could be argued that international treaties at the core of regional integration, or of international organizations,

represent external constitutions (Clarkson 1998). In this thesis, I observed that the state level retained autonomy in policymaking. This is even true in France despite the increasing role across many policy sectors, including that of the finance industry, of the EU. Although states can exercise policymaking power autonomously, national governments seem to be sharing that power increasingly with non-governmental actors. Governments cannot make policy in isolation away from the scrutiny of non-governmental players, or without taking into account the realities formed through multi-level governance regimes. Further work remains to determine how jurisdictional authority is divided in systems of multi-level governance.

#### *4) Changes in Policymaking Practices*

This research provides increased data on the internationalization of public policy. Since the policy network approach already sees the state as disaggregated, the greater input into policymaking from non-governmental actors is not in itself surprising. What is more striking is the extent of involvement and how that has changed over the course of the last twenty years. In the Canadian financial services sector, the CBA and some of the large banks were the only private actors with clear access to the Department of Finance well into the 1980s. In many ways, the same was true in regards to the French banking community. However, as the internationalization of public policy took shape, as policy

widened, and as the impact of earlier policies were felt, the actor constellations and policy networks in Canada and France also expanded. Of utmost importance of course is the inclusion of private actors within the constellation, and in Canada of consumer groups. Although their exact leverage remains unclear, the fact that they are perceived to be important interlocutors for the government and banks is a good sign for democracy and accountability in this policy field. In both Canada and France, however, the capacity of domestic public actors to regulate and supervise the finance industry has been strengthened. This is especially true as regulatory authorities, the OSFI and the AMF, represent powerful supervisory bodies in each of their respective states.

Key questions still abound based on the observations of this thesis. First and foremost, what explains the increase in policymaking authority for both public and non-governmental actors. Part of the explanation lies in the wide breadth of Bill C8 and the Financial Safety Bill. The first addressed issues of corporate ownership in the banking and insurance sectors, competitiveness, powers of regulatory authorities, and consumer protection. The latter dealt with the creation of new regulatory authorities in the securities and insurance fields, and issues of corporate governance. In both cases, broad spectrum of policy issues were addressed requiring input and the resources of a range of public and non-governmental actors.

In France, the resources of the MINEFI have always been strained with only a small office in charge of policymaking in the financial services sector. Interviews done for this research highlighted the fantastic job done by the MINEFI in regards to the Financial Safety Bill considering how they must work with the bare minimum. Most prominently, national governments are dependent on the information and research of non-governmental actors which they cannot produce any longer. In Canada, this is one factor that can be said to account for the creation of the McKay Commission. Also, a fierce research and information battle was underway in regards to the issue of bank mergers. Multi-level governance also requires a great deal of coordination from both public and private authorities. The French case demonstrates that domestic collaboration and coordination is an important factor in contributing effectively to supra-national levels of governance. National governments must also work collaboratively with international organizations to implement supra-national standards and norms.

One of the striking feature of this research is the cohesiveness in the actor constellation and policy network both in Canada and in France. In terms of Canadian policymaking, this observation is in direct contrast to the impression often given in the general public of the bickering to have taken place during the process for Bill C8. It is easy to find, especially throughout the merger debates, evidence of friction between government and financial services firms. It is also evident speaking to the representative

of the CCRC that this organization believes the policy process to be loaded in favour of Canada's five major banks (Interview with CCRC 2003). One possible interpretation of Bill C8 is that the policy decisions were taken mostly by the Minister, Paul Martin, for political reasons to the detriment of banks. However, when confronted with this point of view, even the banks disagreed with such an analysis. The fact of the matter is that due to the nature of the industry, there is constant interaction between the actors in the network and those in the constellation. In France, I used the image of an epistemic community to describe the actor constellation and policy network. In each state, the decisions taken may not please everyone, but because there is a need to constantly work together, it is important for the actors to collaborate. The costs of being left out of the constellation, or network, are much too high for any actor to consider any move that would threaten its relationships with any of the other actors. Friction in any policy process is normal, but that is a far cry from speaking about animosity.

The nature of the relationship between the actors that are part of the constellation is important in that the familiarity of the players can facilitate the negotiation of agreement. It is easier to obtain collaboration when there is a general belief that the process is fair and equitable. Restating what has been pointed out earlier, almost all actors in the Canadian financial services sector thought that the process for Bill C8 was good and should be imitated during further reform efforts. There is a sense that if one

makes a solid argument, it has a chance to impact policy. For instance, IBC and IBAC, as now often pointed out, were able through constant pressure to prevent legislation that would allow banks to retail insurance products. The observation is also important in Canada because of the politicised nature of the policy area. With such scrutiny being paid to policy in the financial services sector, the policy process could be expected to be acrimonious with agreement difficult to achieve. But most consumer and business association groups have been coopted in the process rendering negotiations easier. The argument on the compactness of the actor constellation and policy network also holds accurate for France, though agreement there is theoretically harder to obtain because the mode of interaction in the constellation is that of negotiated agreement in which all actors have a policy veto. In other words, the closeness of the players within the actor constellation and the mode of interaction within the constellation pull the policy process in contradictory direction. Whereas one renders negotiations more difficult, it is offset by the familiarity of the players involved.

Although this was not traced in this thesis, one of the key observations about the policy process in France is the change in norms and ideas about the financial services sector. By all account, the French financial services sector has lived through an incredible liberalization process since the reforms that started with the 1984 Bank Act. Through these reforms, especially those on the investment side, the 'Place de Paris' has been



considerably invigorated. It is clear that all business actors have embraced the image of a 'liberal' Europe. During the interview with the mutual funds industry association, its representatives made a point of highlighting how some of the products found on the French marketplace were innovative compared to their North American counterparts (Interview with AFGF 2002). The culture of a credit-based, overdraft economy build partly on practices of 'pantouflage', has almost entirely disappeared in a period of twenty years. Yet, the closeness of the actor constellation and policy network remain. As just pointed out, this factor helps in mitigating the difficulty of reaching an agreement based on the negotiated agreement mode of interaction currently in practice in the actor constellation.

##### *5) The International Political Economy Point of View*

There is one key point of analysis that can be drawn from an international political economy point of view, that is that states both help shape the international economic environment but are also subject to that environment. In this relationship, the arrows go both ways. Through the GATS, the EU and NAFTA the international context for the financial services sector has been changed and this has had observable effects on domestic politics. In France, Loriaux draws out how the evolving European and international monetary environment of the late 1970s and early 1980s partially brought forth the

liberalizing reforms of that period in France (1991). Similarly, the Financial Safety Bill responds to a global discussion on how best to regulate the financial services sector (with concurrent administrative reforms in Great Britain, Australia, and in many other parts of the world) and on corporate governance (with the Winters Report in the EU and other international efforts especially in the accounting field). In Canada, the large banks have clearly indicated their desire to increase their international participation. Some of the measures in Bill C8 aim to help Canadian firms be more competitive abroad. There is no direct cause and effect relationship between the internationalization of public policy and policy decisions. Many factors enter into the decision-making process. At the same time, the policy discourse on both sides of the Atlantic pays substantial attention to the international financial environment. If only in that way, the internationalization of financial markets is affecting domestic practices.

Pointing to the inverse relationship, that is domestic practices feeding into the international economic system, is more difficult based on the research conducted. In Europe, France is one of the three key states at the EU level with Great Britain and Germany in regards to financial services sector policy. In that sense, France cannot be said to be only subject to European policies. Canada, for its part, negotiated the NAFTA which came to be a model in the negotiation of the GATS agreement for the financial services sector (Gensey 2003). Of course, both Canada and France are involved in the

international regimes governing finance presented in Chapter Two. As pointed out in Chapter Five, some scholars have argued Canada to have played a determinant role in the restructuring of this regime following the Asian breakdown of 1997 (Kirton 1999). The reality is that the downwards and the upwards arrows represent different processes, one of international negotiation and input, versus that of domestic response and output. This thesis focussed on the latter part of this equation.

#### *6) Further Avenues of Research*

There are many possible further avenues of research based on the work and some of the conclusions of this research. First, multi-level governance theory requires further strengthening. How and why do multi-level governance systems rise? Although there is an important literature on regional integration, and integration in the EU, questions remain as to why regional integration efforts, or multi-level governance systems, take a particular form over another. Does multi-level governance rise in an *ad hoc* fashion or does it appear by design? Do multi-level governance systems represent a concerted response by states to globalization? Further work is also required on explaining how and why certain multi-level governance systems become more institutionalized than others.

Another interesting question in this area of research is just how effective are multi-level governance systems in solving policy issues. This thesis has argued that multi-level

governance is a problem-oriented theory, and a response by states to the internationalization of public policy. It remains unclear though whether these systems deal effectively with policy issues as they cross and transcend national borders. If not effective, what would make these systems more apt in solving these policy issues? Using knowledge from federalism and subsidiarity studies, as well as from the literature on international cooperation, it would also be worthwhile, as referred to earlier in this chapter, to identify how it is that power and policymaking authority is divided among the players of the multi-level governance regime. In a state, power is generally distributed, though it changes over time, by the constitution. However, multi-level governance systems are not necessarily based on a constitution or even core agreements or treaties like in the case of the EU. As such, how authority is divided remains nebulous. Establishing the division of power is also of importance in determining whether multi-level governance systems are effective. In that sense, establishing the changing role of each level in solving policy problems, their evolving policy and political responsibilities, is another area of research where further work is required.

It is equally fair to ask if multi-level governance systems are democratic. Although there has been an ample debate about the supposed democratic deficit in the EU, it is unclear how such a large institution can be rendered more democratic. Can the NAFTA be made more democratic, or how about the WTO? How are citizens to be more

involved within these regionalization and internationalization processes? These are important normative questions that require further theorizing and practical research.

As well, although this research has determined the impact of multi-level governance on domestic policymaking, it has done so in only two states. Expanding the analysis to other states, and other policy areas, could strengthen our knowledge of policymaking and multi-level governance. Canada and France were comparable because they were both medium-sized power in the financial services sector. It is possible to wonder if the impact of multi-level governance would be the same on large more powerful states. Is NAFTA impacting the United States in the same way and to the same extent as Canada? And, what about the impact of the EU on Great Britain? Although the results of this thesis are generalizable, they can be strengthened through further research efforts.

Last, this research has looked at multi-level governance from a state's point of view. It would be interesting to do further inquiries on private authority and multi-level governance. How is multi-level governance arranged on the private side? How is power shared and authority determined? How has the role of business associations, whether domestic, regional, or even international, changed as a result of multi-level governance? More and more work is being done on private governance and business associations, with a lot of it being in the financial services sector. Yet, that work remains somewhat

descriptive. There needs to be a framework for better understanding the different forms of private governance. Such work could then be integrated with current knowledge on multi-level governance.

### *7) Concluding Remarks*

Although the concept of globalization remains hotly contested, that of the internationalization of the economy and public policy is hardly debatable. Few can argue that most policy issues stretch above, below, and across traditional borders. This phenomenon, its cause and effects, has been understudied in the political science and international relations literature. Part of the problem lies in the difficulty of cutting across the sub-fields of the discipline. This thesis is part international relations, international political economy, regional studies, public policy, and comparative politics. Using the knowledge and methods of these sub-fields, it has elaborated the beginning of a theory of multi-level governance to account for the internationalization of public policy. One of the essential lessons to be drawn from this thesis is that cutting across the sub-fields of political science and international relations helps in studying and providing new insights into an evolving local, national, regional, and international political environment.

At the core of this thesis lies the following question: *How does multi-level governance assist in understanding the internationalization of contemporary public*

*policy?* Multi-level governance can be seen as providing a way by which to understand shifts in policymaking authority, vertical and horizontal sovereignty transfer, and studying anew the relationship between the public and the private. Studying Canada and France and focussing on the financial services sector, it is argued in this thesis that authority in this policy field is somewhat shifting upwards away from the state, and horizontally to non-governmental, whether private or civil society, actors. Yet, the state and national governments should not be seen as being gutted of their power. The state needs to be disaggregated. Governance and policymaking have become more and more the responsibility of the public and private spheres together. And as multi-level governance systems are created and become more institutionalized, governance responsibilities are more and more shared. Policy problems are increasingly complex to resolve, and more and more resources are required to do so, as such, they require vertical and horizontal cooperation. This is especially true in a field like the financial services sector which is so technical and more and more internationalized.

As the world has moved away from the Cold War era in international relations, and as it moves away from the traditional notions of the welfare state in domestic politics, a new encompassing theory must be provided to account for a transformed political order. This new order stretches from the very local to the global and requires new research and methodological tools. Based on the theoretical and empirical work done in this thesis, I

propose that a theory of multi-level governance be part of the new arsenal available to political scientists to account for an internationalized polity.



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